

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

*Community School Districts Cost Sharing
Education Community School District Cost Sharing
Mr. Const Art Green's*

JOSEPH E. BRENNAN
ATTORNEY GENERAL

20 APR 3 11



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

May 9, 1978

The Honorable Lawrence P. Greenlaw, Jr.
State Representative
State House
Augusta, Maine 04333

Re: Cost Sharing in Community School Districts

Dear Representative Greenlaw:

The following is a response to your letter of April 27, 1978, which raises several questions regarding the cost-sharing agreements in Community School Districts. In reviewing these agreements, it should be remembered that the cost-sharing formula approved under §361 raises a constitutional problem in light of Article 9, Section 8, of the Maine Constitution which requires that "all taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof." The problem was the subject of my letter of March 23, 1978, to you. Of course, if the proposed constitutional amendment to exempt per pupil cost-sharing formula from the general constitutional prohibition is approved at the November referendum, then the concerns expressed in that earlier letter would no longer apply.

Although five questions have been identified in your letter, the primary concerns raised appear to be whether a CSD may change its cost-sharing agreement and, if it may, what steps should it follow to effect that change. My answer is based upon the premise that the constitutional amendment is approved in November thereby eliminating the problem set forth in my March 23 letter.

It is my opinion that a CSD formed after February 1, 1972, may amend its cost-sharing agreement. The law authorizes a CSD formed after February 1, 1972, to share its costs on the basis of state valuation (20 MRSA §355) or on the basis of pupil enrollment (20 MRSA §361).

20 MRSA §355 states that costs shall be shared on the basis of state valuation or in accordance with §361 if §361 has been approved by the voters. 20 MRSA §361 authorizes "Any community school district organized after February 1, 1972,...(to) share the costs among the member municipalities on the basis of the number of resident pupils in each municipality on October 1st in the year preceding the budget meeting if the education of the pupils is the responsibility of the community school districts."

Although the Legislature authorized cost sharing on the basis of pupil enrollment, it did not establish a procedure to follow if a CSD wished to elect the pupil enrollment cost-sharing formula. However, since the Legislature has expressed its intent in §355 that an eligible CSD shall have the option of sharing its costs either on the basis of state valuation or on the basis of per pupil costs, then an eligible CSD should be able to amend its cost-sharing formula in accordance with the steps spelled out in §351 relative to other changes in the district's agreement. It should be noted, though, that in 1973 the Legislature enacted 20 MRSA §360-A which specifically requires a CSD formed after March 28, 1973, to vote on whether it would adopt the per pupil cost-sharing formula authorized under §361.

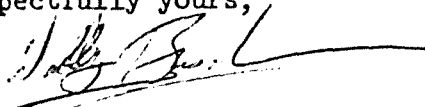
A CSD which intends to reconsider its cost-sharing agreement should first seek approval from the State Board of Education to amend its cost-sharing agreement. This requirement is set forth under §351 relative to the creation of a CSD and to proposed changes to the size of a CSD. The CSD's board of trustees and school committee should file the request with the State Board of Education on behalf of the inhabitants of the member towns. Section 351 refers to the inhabitants of the towns making their requests to the State Board; however, the practical route would be for the school committee and the board of trustees to present the request on behalf of the inhabitants.

Once the CSD has received approval from the State Board, meetings should be called in each of the member towns as set forth in §351 to consider the question of whether the cost-sharing agreement should be changed. A single article to repeal and replace the cost-sharing agreement is all that should be necessary to accomplish the stated purpose.

A majority vote from each member municipality would be necessary to effect the change. 20 MRSA §351, 2nd par. The results of the voting must be certified to the State Board of Education for final approval.

I trust the above answers the many questions you raised in your letter. If there are further concerns in this area, please feel free to contact me.

Respectfully yours,



WALDEMAR G. BUSCHMANN
Assistant Attorney General

WGB:js

CC: H. Sawin Millett, Jr.
James J. Vickerson, Jr.