

# MAINE STATE LEGISLATURE

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May 8, 1980

Rep. Judith Curtis  
Box 206  
Milbridge, Maine 04658

Dear Representative Curtis:

Your opinion request of March 14, 1980, raised the following questions.

QUESTIONS:

1. Whether 20 M.R.S.A. §379 applies regardless of whether it had been voted upon by the towns in accordance with the 3rd Article set forth in 20 M.R.S.A. §371.2(B)?
2. Whether any action or vote of a school committee pursuant to 20 M.R.S.A. §379 would be legal if the committee had not been formed in accordance with 20 M.R.S.A. §372.2(C)?
3. Whether 20 M.R.S.A. §382 applies when member towns of a community school district have not voted to make any change in their organization and the provisions of 20 M.R.S.A. §§371 to 382 conflict with the votes of the member towns when the community school district was originally formed?

ANSWERS:

1. The budgets of community school districts will be prepared solely by the community school districts' school committees, as set forth in 20 M.R.S.A. §379, regardless of whether there has been any vote taken by the towns in accordance with the 3rd Article set forth in 20 M.R.S.A. §371.2(B).

The 109th Legislature enacted Public Law 1979, Chapter 482, "An Act Altering the Organization and Governance of Community School Districts", which repeals 20 M.R.S.A., Chapter 11, §§351 through 365, and enacts Chapter 12, §§371 through 382, as of July 1, 1980. Accordingly, the general law governing all community school districts as of July 1, 1980, is found in §§371 through 382.

Since the Legislature repealed all of Chapter 11 (P.L. 1979, c. 482, §1) and authorized the Department of Educational and Cultural Services to "promulgate rules and regulations . . . to assist community school districts in their transition from

operating under the provisions of Title 20, Chapter 11, to operating under the provisions of Title 20, Chapter 12," it is apparent that the Legislature intended that existing community school districts organized under the provisions of Chapter 11 be governed by the provisions of Chapter 12 after June 30, 1980.<sup>1</sup>

Significantly, the Legislature has indicated that those community school districts which were formed under Private and Special Acts of the Legislature will be exempt from the provisions of §§371 through 382 to the extent that those provisions "conflict with the provisions of any Private and Special Act of the Legislature which created (the) community school district." When that provision is coupled with the authorization given to the Department of Educational and Cultural Services to "promulgate rules and regulations consistent with this Act and with the Maine Administrative Procedure Act, Title 5, Chapter 375, to assist community school districts in their transition from operating under the provisions of Title 20, Chapter 11 to operating under the provisions of Title 20, Chapter 12." (emphasis supplied), it becomes clear that districts not created by private acts are to operate under Chapter 12.

Therefore, as of July 1, 1980, community school districts will be governed by the procedures set forth in §§371 through 382 of Title 20. In particular, the school committee will be the party responsible for preparing the district's budget as set forth in 20 M.R.S.A. §379.

2. Any actions taken by the school committee pursuant to 20 M.R.S.A. §379 after June 30, 1980, will be legal and binding on the district regardless of whether the committee had been formed in the manner specified in 20 M.R.S.A. §372.2(C).

When a new district is formed after July 1, 1980, a meeting of the board of trustees is required to

"determine the representation of each town on the community school district's school committee, which representation shall be in approximately the same ratio to the total membership of the committee as the town's latest Federal Decennial Census is to the latest Federal Decennial Census of the member towns; Federal Estimated Census figures shall be used if they are more recent than the Federal Decennial Census figures;

(1) Requests for petitions for reapportionment shall be made in the manner provided for School Administrative Districts under section 301."

Although the one-man, one-vote principle set forth in §372.2(C) is applicable to all community school districts, it is not necessary that each community school

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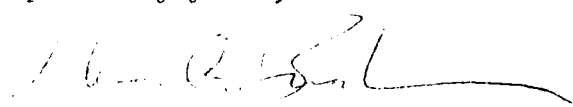
<sup>1</sup>The Department did not promulgate any rules and regulations since the superintendents of the affected districts and Departmental personnel agreed that Chapter 12 contained all the information and guidance that was needed for the districts to be able to continue to function in an orderly manner after June 30, 1980.

district in existence on July 1, 1980, have selected or established its school committee in accordance with the procedures of 20 M.R.S.A. §372.2(C). Rather, if the one-man, one-vote principle is not being adhered to in any given district, then there should be a petition to reapportion the representation on the district's school committee in accordance with 20 M.R.S.A. §301. Therefore, the school committees of the various community school districts will be the legally constituted school committees of those districts on July 1, 1980, and are authorized to fulfill the duties assigned to them by the Legislature including the provisions of 20 M.R.S.A. §379.

3. By its express terms, 20 M.R.S.A. §382 will apply only to community school districts which were formed under Private and Special Acts of the Legislature and will not apply to community school districts which were formed in accordance with the general laws. Since there are only three community school districts which were formed under Private and Special Acts of the Legislature - Mt. Desert Regional School District, Boothbay-Boothbay Harbor Community School District, and Wells-Ogunquit Community School District - it is not possible to respond to the general question which you have raised. However, if any of these three Districts have specific problems relative to the application of the general laws to the governance of their Districts, then those specific questions should probably be addressed to the Commissioner of the Department of Educational and Cultural Services.

Should you have any further questions regarding this matter, please feel free to contact us.

Respectfully yours,



Waldemar G. Buschmann  
Assistant Attorney General

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