

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 858

H. P. 703

House of Representatives, February 12, 1981

Referred to the Committee on Education. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Leighton of Harrison.

Cosponsors: Representative Post of Owl's Head, Representative A. Brown of Gorham and Representative Hutchings of Lincolnville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Permitting School Administrative Districts to Dissolve and Municipalities to Detach Including those Having Outstanding Indebtedness.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 20 MRSA § 222, as last amended by PL 1977, c. 690, § 2, is repealed.

Sec. 2. 20 MRSA § 222-A is enacted to read:

§ 222-A. Additions and dissolutions

1. Municipality joining district. The residents of and the territory within any municipality not originally in an administrative district may be included by proceeding as follows: The school committee of the municipality wishing to join with an existing School Administrative District may file an application with the State Board of Education on a form to be prepared by the board. The board shall receive the application, make a study of the necessity for joining this municipality with an existing School Administrative District and recommend an agreement by which the municipality may become a member, and the agreement may contain a new method of sharing costs among the member municipalities of the district in accordance with the alternatives outlined in section 305. The article set out in section 215 authorizing units to vote on alternate methods of sharing costs shall be used if the agreement recommended by the board contains a provision for using

one of the alternate methods of sharing costs set out in section 305. This agreement shall be forwarded to the secretary of the School Administrative District and to the clerk of the municipality desiring to join the district. Within 45 days after receipt of the agreement by the clerk of the municipality desiring to join the district, the municipality, at a regular or special town meeting or city election, shall vote on the agreement in the following form: Article : Shall the municipality vote to join School Administrative District No..... as a participating municipality of the district subject to the terms and conditions of the agreement prepared by the State Board of Education dated, 19...Yes.....No..... (A copy of the agreement must be posted with each warrant which directs the citizens to vote upon the question.)

2. Vote; election of directors. The election of the director or directors and the vote on the acceptance or rejection of the agreement shall be conducted on the same day. The election of the director or directors shall follow the procedures used in the election of municipal officials by the unit at its regular town meeting. The vote on the acceptance or rejection of the agreement shall be called using the same methods as the unit in conducting its business at regular or special town meetings. If a unit is organized under a special legislative charter, that unit shall call a referendum following the procedures outlined in its charter.

3. Vote by district. The town clerk of the municipality desiring admission shall send a certified copy of the results of the vote to the secretary of the School Administrative District. If the board of directors finds that the vote was in the affirmative the directors shall call a district meeting within 45 days in accordance with section 225 to vote upon the following article: Article : Shall the district vote to admit the municipality of.....into School Administrative District No.....as a participating municipality of the district subject to the terms and conditions of the agreement prepared by the State Board of Education dated....., 19.... Yes.... No.... (A copy of the agreement must be posted with each warrant which directs the citizens to vote upon the question.)

4. Certification of results; findings. The clerks of all the municipalities voting on the questions in subsection 3 shall forward to the State Board of Education a certified report of the total number of affirmative and negative votes cast on the questions in subsection 3. Upon receipt of the results of the voting from all municipalities, the board shall meet, compute and record the results of the voting and shall notify by registered mail the town clerk of the municipality seeking to join the School Administrative District and the secretary of the School Administrative District of the results of the vote. If the board finds that a majority of the voters voting on the question in the district and a majority of the voters voting on the question in the municipality desiring to join the district favor admission of the municipality into the district, the board shall make a finding to that effect and record the same upon its records. The board shall, after making its findings, issue an amended certificate for School Administrative District No.which shall be filed in the same manner as the original certificate. The issuance of the amended certificate by the board shall be conclusive evidence of the admittance of that municipality to the School Administrative District.

5. District joining another district. Whenever one School Administrative District wishes to join with another School Administrative District the following procedure shall be used: The board of school directors of each district wishing to merge shall file an application with the State Board of Education on a form to be prepared by the board. The board shall receive the applications, make a study of the necessity for joining the districts together and recommend an agreement by which the districts may join together. This agreement shall be forwarded to the secretary of each School Administrative District. Within 45 days after receipt of the agreement the board of directors in each district shall call a district meeting in accordance with section 225 to vote upon the following article:

Article : To see if District No.will vote to join District No. in a merger to form a larger district under the terms and conditions as set out by the State Board of Education in the agreement prepared by the board dated, 19... . Yes.... No... . The secretary of each School Administrative District shall file a return with the State Board of Education immediately following the votes in the School Administrative Districts on the question of merger. If the board finds that a majority of the voters voting on the question in each district has voted in favor of the merger, the board shall make a finding to the effect and record the same upon its records. The board shall, after making its findings, issue a new certificate for the enlarged School Administrative District and shall number the same, which certificate shall be filed in the same manner as the original certificates of the merged School Administrative Districts. The issuance of the certificate by the board shall be conclusive evidence of the merger of the School Administrative Districts.

6. Dissolution or detachment.

A. When the residents of a participating municipality desire to petition for dissolution of a School Administrative District or to petition for detachment from a School Administrative District, the petition shall become effective when approved by a majority vote of the legal voters in the municipality present and voting at a special meeting. A municipality as referred to in this section includes cities, towns, plantations and village corporations. Except as otherwise provided, the voting at special meetings held in towns shall be held and conducted in accordance with Title 30, sections 2061 to 2064, even though the town has not accepted the provisions of section 2061, and the voting at meetings in cities shall be held and conducted in accordance with Title 21. The questions to be voted upon shall be in one of the following forms:

Article : Be it resolved by the residents of the Town of..... that a petition for dissolution be filed with the directors of School Administrative District No. Yes No

Article : Be it resolved by the residents of the Town of that a petition for detachment be filed with the directors of School Administrative District No. Yes No

B. After residents of a participating municipality have voted on a petition for dissolution or detachment, the clerk thereof shall immediately give written notice by registered mail to the school directors and the State Board of Education of the results of the total number of votes cast. If the State Board of Education finds that a majority of the voters voting on the petition have voted in the affirmative, the board shall make a finding of fact to that effect and record it in its records.

C. The State Board of Education, after consultation with the district board of directors and municipal officers of the participating municipalities, shall prepare an agreement for dissolution or detachment, as the case may be.

D. Whenever a School Administrative District having outstanding indebtedness is dissolved or a municipality is detached therefrom, the municipalities involved shall continue to pay their portion of the indebtedness as though remaining in the district and the payments are debt service costs for state subsidy purposes and shall be considered as previously approved by the State Board of Education until the indebtedness is redeemed. For the purposes of dissolution or detachment, outstanding indebtedness is defined as bonds or notes for capital outlay purposes issued by the school directors pursuant to approval thereof in a district meeting of the School Administrative District, or obligations to the Maine School Building Authority pursuant to any contract, lease or agreement made by the school directors pursuant to approval thereof in a district meeting of that School Administrative District or to which by operation of law the School Administrative District has become the assignee, but does not include any outstanding indebtedness of an administrative unit from which a municipality has detached or dissolved which is incurred subsequent to the date of the certificate of dissolution or detachment, nor any contract, nor any lease or agreement to which by operation of law the School Administrative District is the assignee. The method of redeeming outstanding indebtedness shall be included in the agreement of dissolution or detachment.

E. If in any year, the Legislature fails to provide sufficient funds to finance any or all outstanding indebtedness as defined in paragraph D, the debt service costs of the outstanding indebtedness for that year shall be the responsibility of the administrative unit to which it was assigned under paragraph G and this provision shall be included in the agreement for dissolution or detachment. Upon proof of payment by the responsible administrative unit, the administrative unit may increase its operating costs for that year in the amount so made for unit allocation and subsidy purposes. Notwithstanding any law to the contrary, all assets assigned in a dissolution or detachment agreement under paragraph G shall remain the responsibility of the administrative unit to which assigned. An administrative unit as referred to in this section includes all municipal or quasi-municipal corporations responsible for operating public schools.

F. If any administrative unit will be without adequate and sufficient facilities subsequent to dissolution of a School Administrative District or detachment

therefrom, the dissolution or detachment agreement shall include the manner by which the administrative unit shall make use of the educational facilities located within another administrative unit which previously comprised the former School Administrative District involved. It shall be the duty of any school committee, community school committee or board of school directors to accept tuition pupils from any administrative unit which was part of the former School Administrative District.

G. The State Board of Education, after consultation with the school directors and municipal officers of the participating municipalities, shall determine a fair and equitable redistribution of all district assets. The redistribution procedure and assignments shall be included in the agreement for dissolution or detachment.

H. The agreement for dissolution or detachment shall be submitted by the State Board of Education to the directors of the School Administrative District and the municipal officers of the participating municipalities meeting in joint session with a representative of the State Board of Education. The State Board of Education shall notify the directors and municipal officers by registered mail of the time and place of the joint session, which shall be held within the district involved, and shall include in the notice a copy of the proposed dissolution or detachment agreement. The notice shall be mailed at least 10 days prior to the date set for the joint session. The municipal officers and school directors may offer suggestions for change in the agreement. The State Board of Education shall note and consider the suggestions in preparing the final agreement to be submitted.

I. Within 60 days of the receipt of the petition by a municipality for detachment from a School Administrative District, the State Board of Education shall forward the prepared agreement to the participating municipalities. The State Board of Education shall submit the agreement by registered or certified mail directly to the town or city clerk of the municipality which is to vote on the detachment agreement. The town or city clerk shall immediately notify the municipal officers upon receipt of the agreement and the municipal officers shall meet within 10 days and immediately issue a warrant for a special town meeting or city election, as the case may be, which shall be held within 30 days from receipt by the clerk of the agreement. Except as otherwise provided, the voting at meetings shall be by secret ballot and shall be held and conducted as provided in paragraph A. The detachment question to be voted upon shall be in the following form:

Article : To see if the residents of.....will vote to detach from School Administrative District No.subject to the terms and conditions of the detachment agreement prepared by the State Board of Education dated....., 19.... . Yes.....No.....

J. Within 60 days of the receipt of the petition for dissolution of a School Administrative District, the State Board of Education shall forward the

prepared agreement to the school directors and participating municipalities. The State Board of Education shall submit the agreement by registered or certified mail which shall be sent directly to the town or city clerk of each municipality having a right to vote on the dissolution agreement. The town or city clerks shall immediately notify the municipal officers upon receipt of the agreement and the municipal officers shall meet within 10 days to determine the date upon which all the participating municipalities shall vote on the dissolution agreement submitted and to issue respective warrants for special town meetings or city elections, as the case may be, to be held within 30 days from receipt of the agreement. In the respective warrants, the municipal officers shall direct that the polls be open at 8 a.m. and remain open until 8 p.m. Except as otherwise provided, the voting at special meetings shall be held and conducted in the same manner as provided in paragraph A. The dissolution question to be voted upon shall be in the following form:

Article : To see if the residents of School Administrative District No. will vote to dissolve School Administrative District No. subject to the terms and conditions of the dissolution agreement prepared by the State Board of Education dated....., 19.... . Yes..... No.....

K. The dissolution or detachment agreement need not be printed on a ballot. Copies of the agreement must be posted in each participating municipality in the same manner as a specimen ballot must now be posted under Title 30, chapter 207, and copies made available to any interested member of the public.

L. No participating municipality within a district which has voted on dissolution or detachment may petition for dissolution or detachment within 6 months after the last vote on dissolution or detachment.

M. The town or city clerks shall, within 24 hours of determination of the results of the vote in their respective municipalities, certify the results of the total number of votes cast on the article and so notify the State Board of Education. Upon receipt of the results of the voting from all the municipalities in a dissolution agreement or a municipality in a detachment agreement, the board shall meet, compute and record the total number of votes cast on the article submitted. The board shall notify the directors of the district by registered mail of the results of the vote. If the State Board of Education finds that a majority of the voters voting on the article have voted in the affirmative, it shall notify the directors of the district to forthwith execute the terms of the agreement for dissolution or detachment, as the case may be.

N. If within 7 days of the computation and recording of the results of the voting for dissolution or detachment the municipal officers of any participating municipality request in writing a recount of the votes, the State Board of Education shall forthwith cause the check lists and all ballots cast in all of the participating municipalities to be collected and kept at the board office so they may be recounted by interested municipalities. The town and city clerks of the participating municipalities are authorized to deliver the check lists and ballots

to the board, notwithstanding any other provision of the law to the contrary. The board shall resolve any question with regard to disputed ballots.

O. When the agreement for dissolution or detachment has been executed by the directors of the School Administrative District, the directors shall notify the State Board of Education by registered mail that the agreement of dissolution or detachment has been executed. A complete certified record of the transaction involved in the dissolution or detachment shall be filed with the State Board of Education and the board shall forthwith issue a certificate of dissolution or detachment sent by registered mail to be filed with the school directors, and a copy recorded in the office of the Secretary of State.

P. After a School Administrative District has dissolved or a municipality has detached therefrom, the Commissioner of Education shall determine what proportion of the district's previous 2 years expenditures is to be assigned each municipality for the purpose of computing future unit allocation and state subsidy.

Q. Upon dissolution of a School Administrative District or a municipal detachment therefrom, the terms of the school directors elected from the participating municipalities shall continue. The respective directors shall immediately become the school committee in a municipality which has detached or in each municipality if the district has dissolved and shall remain the school committee of their respective municipality until such time as the municipality makes provision in its charter for the revised operation of its schools which provision shall be enacted by the municipality within 6 months from the date of the execution of the agreement for dissolution or detachment. The school committee shall carry out all business of their schools as provided by the law pertaining to public schools. Any municipality which has dissolved or detached shall have at least 3 members on its school committee and in case any municipality fails to carry the sufficient number of members after dissolution or detachment the municipal officers shall fill the vacancies and the person so chosen shall serve until a successor is elected and qualified at the next regular municipal election. A school committee shall be a continuing body, the terms of its members not expiring at the same time and a majority holding over each year. Special exceptions may be approved by the Commissioner of Educational and Cultural Services upon the advice and consent of the State Board of Education.

R. When a School Administrative District dissolves or a municipality detaches therefrom, the general purpose aid for any administrative unit shall be computed in accordance with the laws used for the financing of public schools in the State.

7. District transfer. The State Board of Education is authorized to prepare agreements permitting municipalities to transfer from one School Administrative District to another, provided these transfers are requested by joint resolution of at least a majority of the directors of the districts involved. A municipality may

only transfer to a district contiguous to it. The board shall prepare the agreement within 60 days after the receipt of the resolution and such necessary extension of time as may be granted by a majority of the directors of the districts involved. The board is authorized to employ competent advisors in preparing such an agreement. The board may designate a committee comprised of at least 4 members of the board to represent the board at a meeting with at least a majority of the directors of the districts involved held for the purpose of discussing proposed terms of the agreement of transfer. The committee shall give at least 10 days' notice of the time and place of the joint meeting with the directors, which notice shall be forwarded to the secretaries of the School Administrative Districts by registered mail. After the joint meetings, the committee shall notify the directors by registered mail of the time and place of a final meeting to discuss the agreement. The notice shall be mailed at least 10 days prior to the date set for the joint session. The agreement of the board shall not be valid unless approved at annual or special district elections called for that purpose by an affirmative vote of a majority of voters in each district involved. The board shall determine the date upon which district elections shall be held. The board shall give written notice by registered or certified mail, at least 10 days before the date so set, which notice shall be sent directly to the secretaries of the districts. Except for the time periods in subsection 2, paragraphs A and C, the procedure for holding district meetings shall be as specified in section 225. These district elections shall be held within 45 days of the date of the final joint meeting of directors and the committee. The following question is to be used when a transfer of a municipality is considered.

Article : Shall the district vote to permit the municipality of..... to transfer into School Administrative District No. as a participating municipality of that district subject to the terms and conditions of the agreement of transfer prepared by the State Board of Education dated....., 19... . Yes..... No..... (A copy of the agreement must be posted with each warrant which directs the citizens to vote upon the question.)

The return and counting of votes shall be processed pursuant to section 225. Upon receipt of the results of the voting in the districts from each secretary thereof, the board shall meet, compute and record the total number of votes cast in the districts, the total number of affirmative votes and the total number of votes cast in the negative on the article. If the board finds that a majority of the voters voting on the article in each district have voted in the affirmative, it shall notify the directors of each district by registered mail of the results of the vote and to forthwith comply with the terms of the agreement of transfer. Any recounts of the votes in the districts, requested by the municipal officers of any participating municipality of the districts, shall be conducted pursuant to the procedure specified in this section. When the agreement of transfer has been complied with by the directors of the districts, they shall notify the board by registered mail. A complete certified record of the transaction involved in the transfer shall be filed with the board and the board shall forthwith issue a certificate of transfer, which shall be sent to each secretary by registered mail to be filed with the directors of

the districts involved, and a copy shall be filed in the office of the Secretary of State.

Whenever a municipality or a part of a municipality is transferred from a district having outstanding indebtedness, the municipality or part of the municipality shall remain as part of the district from which transferred for the purpose of paying its proper portion of indebtedness until the same is redeemed, but the municipality or part of the municipality shall not be part of the district from which transferred for the purpose of any outstanding indebtedness incurred subsequent to the date of the certificate of transfer. Outstanding indebtedness, as used in this paragraph, means the indebtedness defined in this section. That municipality or part of the municipality shall be a part of the district or municipality to which transferred for all purposes.

8. **Deposit for dissolution.** Any municipality initiating proceedings for the dissolution of a School Administrative District must deposit to the credit of the State Board of Education a sum of money to pay the cost of the dissolution proceedings, the amount of money to be determined by the board. If the district is dissolved, the amount of money so set aside shall be returned to the petitioning municipality. If the district is not dissolved, the unused portion, if any, of the fund shall be returned to the petitioning municipality.

Sec. 3. **Effective date.** This Act shall take effect on July 1, 1982.

STATEMENT OF FACT

The purpose of this bill is to permit the dissolution of School Administrative Districts or the detachment of municipalities from them, in situations where the district has an existing outstanding indebtedness.