

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1277

H. P. 1066

House of Representatives, March 12, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Locke of Sebec.

Cosponsor: Senator Carpenter of Aroostook.

STATE OF MAINE

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

AN ACT to Amend the Laws Governing School Administrative Districts.

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

Sec. 1. 20 MRSA § 222 7th to 23rd ¶¶, as amended, are repealed.

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

§ 222-A. Dissolution of a district

1. **10% petition.** Upon receipt of a petition of 10% of the number of voters in a municipality who voted at the last gubernatorial election, the municipal officers shall call and hold a special election in the manner provided for the calling and holding of town meetings or city elections to vote on the dissolution of the School Administrative District.

A. At least 10 days before the election a posted or otherwise advertised public hearing on the petition shall be held by the municipal officers.

B. The petition must be approved by secret ballot by a 2/3 vote of the voters present and voting before it may be presented to the board of directors and the state board. Voting in towns shall be conducted in accordance with Title 30, sections 2061 and 2062, even though the town has not accepted the provisions of Title 30, section 2061, and voting in cities shall be conducted in accordance with Title 21.

2. Form. The question to be voted upon shall be in the following form:

“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. _____ and with the State Board of Education?

Yes _____ No _____”

3. Notice of vote; finding by board. If residents of a participating municipality vote favorably on a petition for dissolution, the clerk shall forthwith give written notices, by registered mail, to the secretary of the School Administrative District, the State Board of Education and the commissioner which shall include:

- A. The petition adopted by the voters, including the positive and negative votes cast; and
- B. An explanation by the municipal officers, stating to the best of their knowledge, the reason or reasons why the municipality seeks to dissolve the district.

4. Agreement for dissolution; notice; changes in agreement; final agreement. The agreement for dissolution shall comply with the following.

A. The commissioner, or his designee, after consultation with the district board of directors, municipal officers of the participating municipalities and representatives of the group which filed the petition with the municipality, shall direct them to form a committee, consisting of members from the board of directors, municipal officers and representatives of the group which filed the petition, to prepare an agreement for dissolution. The agreement shall be submitted to the board and the commissioner within 60 days after the committee is formed.

- (1) The agreement shall contain provisions to provide educational services for all students in the district.
- (2) The agreement shall establish the dissolution to take effect at the end of the district’s fiscal year.
- (3) The agreement shall establish that the dissolution will not cause a need within 5 years from the effective date of dissolution for school construction projects which would be eligible for state funds and would not otherwise have occurred.
- (4) The agreement shall establish how transportation services will be provided.
- (5) The agreement shall provide for administration of the new administrative units, which should not include the creation of new supervisory units if at all possible.
- (6) The agreement shall provide for the distribution of financial

commitments, including collective bargaining contracts and outstanding bonds or notes.

(7) The agreement shall provide for the disposition of district property and facilities.

(8) The agreement shall provide for the transition of administration and governance of the schools to properly elected governing bodies of the newly created administrative units.

B. Within 60 days of the receipt of the agreement the board shall either give it conditional acceptance or recommend changes with the advice of the commissioner based upon the standards set forth in paragraph A.

C. If the board gives conditional approval of the agreement, the commissioner shall notify the directors and the municipal officers by registered mail of the time and place of a public hearing at least 20 days prior to the date set for the hearing, to discuss the merits of the proposed agreement of dissolution.

(1) The directors shall post a public notice in each municipality of the time and location of the hearing at least 10 days before the hearing.

(2) Within 30 days following the hearing the committee shall forward the final agreement to the commissioner and the board.

D. If the board recommends changes it will:

(1) Send the agreement back to the committee for necessary corrections and establish a maximum time within which to make the corrections; and

(2) Indicate that the corrected agreement shall go through the steps outlined in paragraphs A through C, or such other steps as the board deems appropriate.

5. Date of vote; notice; warrant; polling hours. The date and time for voting shall be established as follows.

A. The board shall determine the date upon which all municipalities shall vote upon the dissolution agreement submitted to them and shall attempt to coincide the vote with a statewide election.

B. At least 35 days before the date set in paragraph A, the board of directors shall give written notice by registered or certified mail to the town or city clerk of each municipality having a right to vote on the dissolution agreement.

C. The town or city clerk shall immediately notify the municipal officers upon receipt of the notice, and the municipal officers shall meet and immediately issue a warrant for a special town meeting or city election, as the case may be, to be held on the date designated by the board. No other date shall be used.

D. In the respective warrants, the municipal officers shall direct that the polls shall be open at 10 o'clock in the forenoon and shall remain open until 8 o'clock in the afternoon.

6. Public hearing; voting procedures. The following requirements apply to the voting procedure.

A. At least 10 days before the election a posted or otherwise advertised public hearing on the dissolution question shall be held by the municipal officers.

B. Except as otherwise provided in this section, the voting at the meetings held in towns shall be conducted in accordance with Title 30, sections 2061 and 2062, even though the town has not accepted the provisions of Title 30, section 2061.

C. The voting at the meetings held in cities shall be conducted in accordance with Title 21.

7. Article. The article shall be in the following form.

“Article: Shall School Administrative District No. _____ be dissolved subject to the terms and conditions of the dissolution agreement dated _____ 19____? ”

Yes _____ No _____ ”

8. Ballots; posting of agreement. The dissolution agreement need not be printed on the ballot. Copies of the agreement shall be posted in each participating municipality in the same manner as specimen ballots are posted under Title 30, chapter 207.

9. Restriction on dissolution petitions. No participating municipality within a district which has voted on dissolution may petition for dissolution within 2 years after the date of the district vote on the dissolution.

10. Costs of dissolution agreements and reimbursement. Costs incurred shall comply with the following.

A. The expense of employment of competent advisors in preparing the agreement of dissolution shall be paid by the board.

B. If the School Administrative District votes not to permit dissolution, the municipality petitioning for dissolution shall reimburse the board for expenses. If the School Administrative District votes to permit dissolution, the School Administrative District shall reimburse the board for the expenses.

11. Determination of vote. The town and city clerks shall, within 24 hours of determination of the result of the vote in their respective municipalities, certify the total number of votes cast in the affirmative and the total number of votes cast in the negative on the article to the board of directors.

12. Determination of results; notification; execution of agreement. Determination of results shall comply with the following.

A. Upon receipt of the results of the voting from all municipalities the board of directors shall meet and shall compute and record the total number of votes

cast in the municipalities within the School Administrative District in the affirmative and the total number of votes cast in the negative on the article submitted.

B. The board of directors shall notify the State Board of Education by certified mail of the results of the vote.

C. 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 execute forthwith the terms of the agreement for dissolution.

13. Recount; checklists and ballots; disputed ballots. The following provisions apply to recounts, checklists, ballots and disputed ballots.

A. If, within 7 days of the computation and recording of the results of the voting from all municipalities, the municipal officers of any participating municipality request to the commissioner in writing a recount of the votes in the district, the commissioner shall immediately cause the check lists and all the ballots cast in all of the participating municipalities to be collected and kept at the commissioner's office so they may be recounted by interested municipalities.

B. The town clerks of the participating municipalities are authorized to deliver the check lists and ballots to the commissioner, notwithstanding any other provision of law to the contrary.

C. The commissioner shall resolve any question with regard to disputed ballots.

14. Execution of agreement; certified record; certificate of withdrawal. When the agreement for dissolution has been executed by the directors of the School Administrative District, the directors shall notify the board by certified mail that the agreement of dissolution has been executed.

A complete certified record of the transaction involved in the dissolution shall be filed with the board.

The board shall forthwith issue a certificate of dissolution to be sent by certified mail for filing with the directors of the School Administrative District and shall file a copy in the office of the Secretary of State.

15. Indebtedness; indebtedness defined; indebtedness after dissolution. The following provisions apply to outstanding indebtedness.

A. Whenever a district having outstanding indebtedness dissolves, the district shall remain intact for the purpose of securing and retiring the indebtedness; the dissolution agreement may provide for alternate means for retiring outstanding indebtedness.

B. Outstanding indebtedness is defined as bonds or notes for school construction projects, as defined in section 3471, issued by the board of directors

pursuant to the authorization established under sections 3457 to 3461 or sections 3471 to 3477, or obligations to the Maine School Building Authority pursuant to any contract, lease or agreement made by the board of directors pursuant to approval thereof in a district meeting of the School Administrative District, but shall not include any indebtedness of any municipality assumed by the School Administrative District at the time of formation nor any contract, lease or agreement of the Maine School Building Authority to which by operation of law the School Administrative District has become the assignee.

16. General purpose aid. When a School Administrative District dissolves, the general purpose aid for the individual municipalities shall be computed in accordance with chapter 515.

Sec. 3. 20 MRSA § 222-B is enacted to read:

§ 222-B. Reorganization of a School Administrative District as a community school district

1. Petition for reorganization. The residents of a municipality within a School Administrative District may petition for dissolution of the School Administrative District and reorganization as a community school district, which will operate grades 9 to 12 and any combination of other grades K to 8 in accordance with sections 371 to 382, in the manner authorized by section 222-A for dissolution of a district. The articles to be voted upon shall clearly set forth that a community school district will be formed upon the dissolution of the School Administrative District.

2. Vote required. If the State Board of Education is petitioned pursuant to the authority of subsection 1, the board of directors of the School Administrative District shall require the member municipalities of the district to vote on an article which shall be substantially as follows.

“Article: Shall School Administrative District No. _____ be dissolved subject to the terms and conditions of the dissolution agreement dated _____ 19____, and the towns of _____ form a community school district to be known as ‘ _____ Community School District,’ which shall be responsible for the operation of grades _____? Yes _____ No _____”

3. Governing body of community school district. A School Administrative District which dissolves and simultaneously forms a new community school district pursuant to this section shall have a single governing body which shall consist of a school committee performing all of the duties of the school committee and the board of trustees set forth in chapter 12.

4. Findings by State Board of Education dissolution plan. The board shall carry out its duties under sections 222-A and 371 regarding the dissolution of a School Administrative District and the creation of a new community school

district except that the municipal officers and board of directors shall be responsible for developing a plan to provide for the continuity of the educational program for each municipality to be included within the dissolution agreement.

5. Outstanding indebtedness of the School Administrative District and liability of the community school district. If a School Administrative District is dissolved and a community school district is formed, the community school district shall become liable for the School Administrative District's outstanding indebtedness as defined in section 222-A, except as otherwise provided for in subsection 6.

6. Outstanding indebtedness of School Administrative District; liability of individual municipalities. If the School Administrative District is dissolved and the ensuing community school district does not include K to 12, each member municipality shall be individually liable for any outstanding indebtedness which the School Administrative District had relative to the grades which will be operated exclusively by that municipality or as otherwise provided for in the dissolution agreement.

7. General purpose aid. When a School Administrative District dissolves and a new community school district is formed, the general purpose aid for the community school district and the individual municipalities shall be computed in accordance with chapter 515.

8. Rules and regulations. The commissioner is authorized to adopt rules or regulations to coordinate the dictates of section 222-A and 371 in carrying out the reorganization process.

Sec. 4. 20 MRSA § 222-C is enacted to read:

§ 222-C. Withdrawal of a single municipality from a School Administrative District

The residents of a participating municipality within a School Administrative District may petition to withdraw from the School Administrative District in the same manner as they would petition for the dissolution of a School Administrative District in accordance with section 222-A, except that only a simple majority vote is required. The steps set forth in section 222-A for dissolution would apply to the withdrawal of a member municipality from a School Administrative District, except that the responsible committee for preparing the withdrawal agreement will be limited to individuals from that municipality. Instead of a district election, a municipal election shall be conducted and a 2/3 majority vote of the voters of the municipality may withdraw. Wherever there is reference in the provisions of section 222-A to the term "dissolution," the term "withdrawal" or appropriate similar language shall be substituted.

Sec. 5. 20 MRSA § 222-D is enacted to read:

§ 222-D. Transfer of a municipality from one School Administrative District to another

1. Petition to board. The board of directors of 2 School Administrative

Districts may petition the commissioner by joint resolution to permit a municipality to transfer from one School Administrative District to another, provided that municipality is being transferred to a district contiguous to the municipality.

2. Transfer agreement. The boards of directors of the 2 districts and the municipal officers of the municipality involved shall prepare the agreement within a period of 60 days after being authorized by the commissioner to prepare the agreement. Extensions of time may be granted by the commissioner.

A. The committee shall consider the standards set forth in section 222-A, subsection 4, paragraph A in preparing the agreement.

B. The approval process for the agreement shall follow the steps set forth in section 222-A, subsection 4 to subsection 16.

C. The following question is to appear on the ballot when the 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.)

D. The article must be approved by a majority of voters voting in the district and by a majority of votes in the municipality to be transferred before the agreement will become effective.

E. A complete certified record of the transaction involved in the transfer shall be filed with the board. The board shall issue forthwith a certificate of transfer to the secretary of each School Administrative District by registered mail to be filed with the directors of the districts involved and shall file a copy of the certificate of transfer in the office of the Secretary of State.

3. Outstanding indebtedness. Whenever a municipality, or a part of a municipality, is detached from a district having outstanding indebtedness, the municipality or part of a municipality shall remain as part of the district from which it was detached for the purposes of paying its proper portion of such indebtedness until the same shall be redeemed. The municipality or part of a municipality shall not be part of the district from which it was detached for the purpose of any outstanding indebtedness incurred subsequent to the date of the certificate of transfer.

Sec. 6. 20 MRSA § 222-E is enacted to read:

§ 222-E. Closing an elementary school

An elementary school in a member municipality of a School Administrative District may not be closed unless the voters in the member town vote on the following article in accordance with the procedures set forth in section 225.

**“Article : Shall the board of directors of School Administrative District
No. _____ be authorized to close _____ ?
(name of school)**

Yes _____ No _____”

The election shall be conducted only within that member municipality and the costs of the election shall be borne by the district.

1. Expense of keeping the school open. If the voters vote to keep the school open the member municipality shall be liable for any additional expense for operating costs, transportation costs and minor capital costs as defined in section 4743 which exceed by 10% the expense of the district for the operating costs, transportation costs, and minor capital costs as compared on a per pupil basis in the base year. Any additional costs which must be borne by the member municipality must be part of the article presented to the voters at the meeting to determine whether the school should remain open.

Sec. 7. 20 MRSA § 226-A, sub-§ 1, as amended by PL 1979, c. 356, § 1, is further amended to read:

1. Petition for local vote on budget items. When requested by 10% of the number of voters voting for the gubernatorial candidates at the last statewide election in all the municipalities comprising a School Administrative District, the board of directors shall cause the following article to be voted on by the voters of the member municipalities:

“Shall District No. _____ vote to require that the voting at future district budget meetings and special district budget meetings held between July 2, 1978 and July 1, 1982 be done within each member municipality of the district?”

Sec. 7-A. 20 MRSA § 226-A, sub-§§ 3 and 4, as amended by PL 1979, c. 356, § 3, are repealed.

Sec. 8. 20 MRSA § 226-A, sub-§ 5, first sentence, as amended by PL 1979, c. 356, § 3, is further amended to read:

Following notification of authorization from the commissioner pursuant to subsection 4 the board of directors' declaration that the article has passed, the

board of directors of a School Administrative District shall cause the voting at all future district budget meetings and special district budget meetings held between July 2, 1978 and July 1, 1982.

Sec. 9. 20 MRSA § 303-A is enacted to read:

§ 303-A. School Administrative District community councils

Each municipality located within a School Administrative District may choose to form a school community council to operate within that community.

1. Vote to establish council. Each municipality within a School Administrative District may vote to create a school community council at a legally called town meeting or city election held at least 90 days prior to the annual town meeting or city election. An article to create a school community council shall be placed on the municipal warrant and voted upon in accordance with the procedures set forth in Title 21 or Title 30, as appropriate to the municipality, for placing articles on the municipality warrant.

2. Representation of council; term of office. The council shall consist of a minimum of 5 members of which one member ex officio shall be a municipal official appointed by the governing body of the municipality, one member ex officio to be a member of the board of directors from the municipality and the remaining members to be elected at large at the next annual town meeting or city election.

A. If the council is to consist of more than 5 members, the voters must authorize a larger council either at the time of the creation of the council or at another regular town meeting or city election.

B. Each member shall serve for one year.

3. Powers and duties of council. The council shall serve as an advisory body to the board of directors of the School Administrative District regarding shared community use and maintenance of elementary school facilities, buses, and such, located within the municipality.

4. Petition to commissioner. Whenever it is determined that the voters within the municipality have voted in the affirmative to form a school community council, the board of directors shall notify the commissioner of that fact and shall request authorization from the commissioner to have a school community council for that municipality to operate through December 31, 1986.

5. Selection of councils by commissioner. The commissioner shall, following the receipt of requests for authorization to operate a school community council, select up to 5 School Administrative Districts to form school community councils. He shall notify the boards of directors in those districts where the authorized councils may operate once he has made the selections.

6. Report. The board of directors and the school community councils operating under the authority of this section shall submit a written report to the

commissioner no later than December 31, 1985 setting forth their evaluation of the effectiveness of the school community councils.

7. **Noninterference.** This section is not intended to interfere with or otherwise disrupt other types of school community organizations which may provide similar services within the districts.

8. **Effective date.** This section is repealed on January 1, 1987.

Sec. 10. 20 MRSA § 305, first ¶, last sentence, as amended by PL 1975, c. 510, § 11, is further amended to read:

If a budget for the operation of the School Administrative District is not approved prior to ~~June 1st~~ July 1st, the budget is submitted by the school directors for operational expenses, reserve fund and ~~capital outlay purposes~~ **school construction projects** shall be automatically considered the budget approved for operational expenses in the ensuing year, and the other amounts submitted for payment of bonds falling due and interest thereon, including temporary loans for capital purposes and rentals and other charges provided in any contract, lease or agreement with the Maine School Building Authority, shall be added together and the total amount assessed as follows.

Sec. 10-A. 20 MRSA § 305, 2nd ¶, as last amended by PL 1977, c. 690, § 5-A, is further amended to read:

The directors shall thereupon issue their warrants, in substantially the same form as the warrant of the Treasurer of State for taxes, to the assessors of each participating municipality, requiring them to assess upon the taxable polls and estates within ~~said the~~ municipality an amount in proportion to the total sum required each year as that municipality's state valuation bears to the total state valuation of all the participating municipalities; or requiring them to assess each municipality in accordance with ~~Alternate Method A or Alternate Method B of this section if either method~~ **an approved cost-sharing plan** if it has been adopted by vote of the units and has been certified by the commissioner. Such assessments shall be limited to those appropriations approved by the voters as being necessary to cover expenditures within the limitations set by this Title ~~and Title 36~~. Alternate methods of sharing costs among the member municipalities of a School Administrative District may be used if certified in accordance with the following procedures. The municipal officers and school committee members of a proposed School Administrative District may petition the State Board of Education on forms prepared by the board for permission to share costs among the member municipalities of the proposed district ~~using either Alternate Method A or Alternate Method B of as authorized by this section~~. Upon approval of the State Board of Education, the municipalities of the proposed School Administrative District shall vote upon the approved method of sharing costs ~~in accordance with Alternate Method A or Alternate Method B as approved~~.

Sec. 11. 20 MRSA § 305, 5th ¶, **Alternate Method A**, as amended by PL 1973, c. 571, § 23, is repealed and the following enacted in its place:

The State Board of Education may approve any cost-sharing plan among the member towns which has as its basis:

1. **Number of resident pupils.** The number of resident pupils in each town;
2. **State valuation.** The state valuation of each member town's real property as set in the calendar year prior to the district's fiscal year; or
3. **Other.** Any combination of subsections 1 and 2.

Sec. 11-A. 20 MRSA § 305, 6th ¶, Alternate Method B, as last amended by PL 1979, c. 638, is repealed.

Sec. 12. 20 MRSA § 309, as amended by PL 1971, c. 611, §§ 6 and 7, is repealed and the following enacted in its place:

§ 309. Shared service agreements funded with local revenues

The school committees or board of directors of 2 or more administrative units may file an application to the commissioner for the purpose of entering a shared service agreement to carry out a specified educational function.

1. **Application.** The application shall be in a form and containing such information as required by the commissioner including, but not limited to, the following information:

- A. The specific services to be provided and numbers of students to be served;
- B. The cost estimate for services or operational budget;
- C. The method of providing services and the designation of personnel to be employed;
- D. The method of sharing costs among the units; and
- E. The identification of the sharing units and the designation of the unit which shall administer the agreement.

2. **Approval.** The commissioner shall either approve or reject the application based upon the conditions set forth in subsection 1.

3. **School committee or board of directors approval.** If the commissioner approves the shared service agreement, it shall be subject to a majority vote of the school committee or board of directors of each administrative unit involved in the agreement before the agreement becomes effective.

4. **Duration of agreement.** An agreement which has been ratified is valid for the fiscal year beginning July 1st following the ratification vote and ending June 30th of the next calendar year.

5. **State-local allocation.** Expenses incurred under the agreement may be reported as an operating cost in addition to the items listed in section 4743, subsection 16.

6. Sharing of costs. Cost for carrying out the agreement shall be shared in accordance with the terms of the agreement, but costs of administration of the agreement shall not exceed 10% of the total budget of the agreement.

7. Renewal of agreement. A cooperative agreement may only be renewed upon reapplication to the commissioner and ratification by a majority of the members of each board of directors or school committee involved in the agreement.

STATEMENT OF FACT

This bill repeals current language regarding the dissolution of School Administrative Districts and adds new language to allow districts to be more flexible and more responsive to the expectations of the communities which make up the School Administrative Districts.

Section 2 of the bill establishes the procedure for the dissolution of the district and requires more public input into the dissolution process than currently mandated. It also allows a district to dissolve regardless of whether there is outstanding indebtedness. Finally it requires the agreement for dissolution to be drafted by the member municipalities rather than by the State Board of Education.

Section 3 creates a method for reorganizing the School Administrative District as a community school district. This would allow SAD's to dissolve and for the communities to remain intact as a single school system for the purpose of educating secondary school students while allowing each municipality to operate its own elementary schools.

Section 4 authorizes the withdrawal of a single municipality from an SAD, which may not be done under current law.

Section 5 authorizes the transfer of a municipality from one School Administrative District to another and is primarily a redraft of current law found in Title 20, section 222.

Section 6 would allow a municipality to keep an elementary school open, but be responsible for additional operating expenses should the district have voted to close it.

Sections 7, 7-A and 8 eliminate the expiration date applicable to the alternate method for the approval of a budget within a School Administrative District and make the alternate method available to all School Administrative Districts. The alternate method calls for a district-wide referendum to approve the budget.

Section 9 allows individual communities to initiate community councils to act as advisory bodies to the board of directors of a School Administrative District. This is a pilot proposal and up to 5 School Administrative Districts may participate.

Sections 10, 10-A, 11 and 11-A amend the cost-sharing formulas for School Administrative Districts so that member municipalities may share their costs solely on the basis of resident pupils in each town, solely on the basis of state valuation or in accordance with any combination of resident pupils and state valuation.

Section 12 authorizes and encourages shared service agreements between administrative units to carry out specified educational functions.