

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 854, L.D. 1104)

2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 1610

8 H.P. 1214

House of Representatives, May 16, 1983

9 Reported by Representative Small from the Committee on Education and
10 printed under Joint Rule 2.

11 Original bill presented by Representative Randall of East Machias.
Cosponsored by Representative Locke of Sebec.

EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-THREE
17

18 AN ACT to Amend the Laws Pertaining to
19 Dissolution and Withdrawal from School
20 Administrative Districts and Community
21 School Districts.
22

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

25 Sec. 1. 20-A MRSA §1403, as enacted by PL 1981,
26 c. 693, §§5 and 8, is amended to read:

27 §1403. Dissolution of a district

28 1. Ten percent petition. Upon receipt of a
29 petition of which seeks to dissolve a school adminis-
30 trative district and establishes a maximum figure for
31 the cost of preparing a dissolution agreement signed
32 by 10% the number of voters in a municipality who
33 voted at the last gubernatorial election, the munici-
34 pal officers shall call and hold a special election,

1 in the manner provided for the calling and holding of
2 town meetings or city elections, to vote on the dis-
3 solution of the school administrative district.

4 A. At least 10 days before the election, a
5 posted or otherwise advertised public hearing on
6 the petition shall be held by the municipal offi-
7 cers.

8 B. The petition must be approved by secret bal-
9 lot by a 2/3 vote of the voters present and
10 voting before it may be presented to the board of
11 directors and the state board. Voting in towns
12 shall be conducted in accordance with Title 30,
13 sections 2061 and 2062, even though if the town
14 has towns have not accepted the provisions of
15 Title 30, section 2061, and voting in cities
16 shall be conducted in accordance with Title 21.

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

19 "Article : Be it resolved by the residents of
20 the Town of that a petition
21 for dissolution be filed with the directors of
22 School Administrative District No. and
23 with the State Board of Education, that the dis-
24 solution committee be authorized to expend
25 \$ and that the (municipal officers; i.e.
26 selectmen, town council, etc.) be authorized to
27 issue notes in the name of the Town of
28 or otherwise pledge the
29 credit of the Town of in an
30 amount not to exceed \$ for this purpose?

31 Yes No "

32 3. Notice of vote; finding by board. If resi-
33 dents of a participating municipality vote favorably
34 on a petition for dissolution, the clerk shall
35 immediately give written notices, by registered mail,
36 to the secretary of the school administrative dis-
37 trict, the state board and the commissioner which
38 shall include:

39 A. The petition adopted by the voters, including
40 the positive and negative votes cast; and

1 B. An explanation by the municipal officers,
2 stating to the best of their knowledge, the
3 reason or reasons why the municipality seeks to
4 dissolve the district.

5 4. Agreement for dissolution; notice; changes in
6 agreement; final agreement. The agreement for disso-
7 lution shall comply with the following.

8 A. The commissioner, after consultation with the
9 district board of directors, municipal officers
10 of the participating municipalities, and repre-
11 sentatives of the group which filed the petition
12 with the municipality, shall direct the municipal
13 officers of each municipality to select repre-
14 sentatives to a committee as follows: One school
15 director representing the municipality shall be
16 selected by the directors representing that
17 municipality; One member each from the municipal
18 officers; the group filing the petition; and one
19 member from the general public shall be selected
20 by the municipal officers; and one member from
21 the group filing the petition if the group is
22 represented in the municipality, otherwise an ad-
23 ditional one member of the general public. The
24 commissioner shall also direct the directors
25 representing each municipality to select one
26 member of the board of directors who represents
27 that municipality to serve on the committee. The
28 municipal officer and the member of the board of
29 directors shall serve on the committee only so
30 long as they hold their respective offices.
31 Vacancies will be filled by the municipal offi-
32 cers and board of directors. The chairman of the
33 board of directors shall call a meeting of the
34 committee within 30 days of the filing of the
35 notice of the vote in subsection 3. The chairman
36 of the board shall open the meeting by presiding
37 over the election of a chairman of the committee.
38 The responsibility for the preparation of the
39 agreement shall rest with the committee, subject
40 to the approval of the State Board of Education.
41 The committee may draw upon the resources of the
42 department for information not readily available
43 at the local level and employ competent advisors
44 within the fiscal limit authorized by the voters.
45 The agreement shall be submitted to the state

1 board and the commissioner within 90 days after
2 the committee is formed. Extensions of time may
3 be granted by the commissioner upon the request
4 of the committee.

5 (1) The agreement shall contain provisions
6 to provide educational services for all stu-
7 dents in the district. The agreement shall
8 provide that during the first year following
9 the dissolution, students may attend the
10 school they would have attended if the dis-
11 trict had not dissolved. The allowable
12 tuition rate for students sent from one
13 municipality to another in the former school
14 administrative district shall be determined
15 under section 5805, subsection 1, except
16 that it shall not be subject to the state
17 per pupil average limitation in section
18 5805, subsection 2.

19 (2) The agreement shall establish the dis-
20 solution to take effect at the end of the
21 district's fiscal year.

22 (3) The agreement shall establish that the
23 dissolution will not cause a need within 5
24 years from the effective date of dissolution
25 for school construction projects which would
26 be eligible for state funds. This limita-
27 tion does not apply where a need for school
28 construction existed prior to the effective
29 date of the dissolution or where a need for
30 school construction would have arisen even
31 if the district had not dissolved.

32 (4) The agreement shall establish how
33 transportation services will be provided.

34 (5) The agreement shall provide for admin-
35 istration of the new administrative units,
36 which should not include the creation of new
37 supervisory units if at all possible.

38 (6) The agreement shall make provision for
39 the distribution of financial commitments
40 arising from outstanding bonds, notes and
41 any other contractual obligations that

1 extend beyond the proposed date of dissolution.
2

3 (7) The agreement shall make appropriate
4 provision for the distribution of any out-
5 standing financial commitments to the super-
6 intendent of the school administrative dis-
7 trict.

8 (8) The agreement shall provide for the
9 continuation and assignment of collective
10 bargaining agreements as they apply to the
11 new or reorganized school administrative
12 unit for the duration of those agreements
13 and shall provide for the continuation of
14 representational rights.

15 (9) The agreement shall provide for the
16 continuation of continuing contract rights
17 under section 13201, subsection 2.

18 (10) The agreement shall provide for the
19 disposition of all real and personal prop-
20 erty and other monetary assets.

21 (11) The agreement shall provide for the
22 transition of administration and governance
23 of the schools to properly elected governing
24 bodies of the newly created administrative
25 units and shall provide that the governing
26 bodies shall not be elected simultaneously
27 with the vote on the article to dissolve
28 unless the state board finds there are
29 extenuating circumstances which necessitate
30 simultaneous elections.

31 B. Within 60 days of the receipt of the agree-
32 ment, the state board shall either give it condi-
33 tional acceptance approval or recommend changes
34 with the advice of the commissioner. The changes
35 shall be based upon the standards set forth in
36 paragraph A and the board's findings of whether
37 the contents of the plan will provide for appro-
38 prate educational and related services to the
39 students of the district and for the orderly
40 transition of assets, governance, and other mat-
41 ters related to the district.

1 C. If the state board gives conditional approval
2 of the agreement, the commissioner shall notify
3 the directors and the municipal officers by
4 registered mail of the time and place of a public
5 hearing at least 20 days prior to the date set
6 for the hearing, to discuss the merits of the
7 proposed agreement of dissolution. The chairman
8 of the board of directors will conduct the hear-
9 ing.

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

14 (2) Within 30 days following the hearing,
15 the committee shall forward the final agree-
16 ment to the commissioner and the state
17 board.

18 D. If the state board recommends changes it
19 shall:

20 (1) Send the agreement back to the commit-
21 tee for necessary corrections and ~~establish~~
22 ~~a maximum time within which to make the cor-~~
23 ~~rections; and~~

24 (1-A) Establish a maximum time within which
25 to make the corrections; and

26 (2) Indicate that the corrected agreement
27 shall ~~go through the steps outlined in para-~~
28 ~~graphs A to C, or such other steps as the~~
29 ~~board deems appropriate~~ be returned to the
30 state board for conditional approval before
31 it goes to public hearing as set forth in
32 paragraph C.

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

36 A. The state board shall determine the date upon
37 which all municipalities shall vote upon the dis-
38 solution agreement submitted to them. The elec-
39 tion shall be held as soon as practicable and the

1 state board shall attempt to set the date of the
2 vote to coincide with a statewide election.

3 B. At least 35 days before the date set in para-
4 graph A, the board of directors shall give writ-
5 ten notice by registered or certified mail to the
6 town or city clerk of each municipality having a
7 right to vote on the dissolution agreement.

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

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

19 6. Public hearing; voting procedures. The fol-
20 lowing requirements apply to the voting procedures.

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

25 B. Except as otherwise provided in this section,
26 the voting at the meetings held in towns shall be
27 conducted in accordance with Title 30, sections
28 2061 and 2062, even ~~though~~ if the ~~town has~~ towns
29 have not accepted the provisions of Title 30,
30 section 2061.

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

33 7. Article. The article shall be in the follow-
34 ing form.

35 "Article : Shall School Administrative Dis-
36 trict No. be dissolved subject to the
37 terms and conditions of the dissolution agreement
38 dated 19 ?

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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.

A. A municipal vote on a petition for dissolution if the petition received less than 60% of the votes cast; or

B. A district vote on a dissolution agreement if the agreement received less than 45% of the votes cast.

10. Costs of dissolution agreements. Costs incurred shall comply with the following. If the school administrative district votes to permit dissolution, then the district shall reimburse the petitioning municipality for the authorized expenses incurred by the dissolution committee. If the district votes not to permit dissolution, then the district will not be required to reimburse the petitioning municipality for those expenses.

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

B. If the school administrative district votes not to permit dissolution, the municipality petitioning for dissolution shall reimburse the state board for expenses. If the school administrative district votes to permit dissolution, the school administrative district shall reimburse the state board for the expenses.

1 11. Determination of vote. The town and city
2 clerks shall, within 24 hours of determination of the
3 result of the vote in their respective municipali-
4 ties, certify the total number of votes cast in the
5 affirmative and the total number of votes cast in the
6 negative on the article to the board of directors.

7 12. Determination of results; notification of
8 state board; execution of agreement. Determination
9 of results shall comply with the following.

10 A. Upon receipt of the results of the voting
11 from all municipalities, the board of directors
12 shall meet and shall compute and record the total
13 number of votes cast in the municipalities ~~within~~
14 ~~the school administrative district~~ in the affirm-
15 ative and ~~the total number of votes cast~~ in the
16 negative on the dissolution article ~~submitted~~.

17 B. The board of directors shall notify the state
18 board by ~~certified~~ registered mail or by hand
19 delivery of the results of the vote.

20 C. If the state board finds that a majority of
21 the voters voting on the article have voted in
22 the affirmative, it shall notify the directors of
23 the district to ~~execute immediately~~ take steps to
24 dissolve the district in accordance with the
25 terms of the agreement for dissolution.

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

29 A. If, within 7 days of the computation and
30 recording of the results of the voting from all
31 municipalities, the municipal officers of any
32 participating municipality request to the commis-
33 sioner in writing a recount of the votes in the
34 district, the commissioner shall immediately
35 cause the checklists and all the ballots cast in
36 all of the participating ~~municipalities~~ municipal-
37 ities to be collected and kept at the commis-
38 sioner's office so they may be recounted by inter-
39 ested municipalities.

1 B. The town clerks of the participating municipi-
2 palities are authorized to deliver the checklists
3 and ballots to the commissioner, notwithstanding
4 any other provision of law to the contrary.

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

7 14. Execution of agreement; certified record;
8 certificate of withdrawal. When the agreement for
9 dissolution has been executed put into effect by the
10 directors of the school administrative district, the
11 directors shall notify the state board by certified
12 mail that the agreement of dissolution has been exe-
13 cuted.

14 A. A complete certified record of the trans-
15 action involved in the dissolution shall be filed
16 with the state board.

17 B. The state board shall immediately issue a
18 certificate of dissolution to be sent by certi-
19 fied mail for filing with the directors of the
20 school administrative district and shall file a
21 copy in the office of the Secretary of State.

22 15. Indebtedness; indebtedness defined;
23 indebtedness after dissolution. The following provi-
24 sions apply to outstanding indebtedness.

25 A. Whenever a district having outstanding
26 indebtedness dissolves, the district shall remain
27 intact for the purpose of securing and retiring
28 the indebtedness; the dissolution agreement may
29 provide for alternate means for retiring out-
30 standing indebtedness.

31 B. "Outstanding indebtedness" means bonds or
32 notes for school construction projects issued by
33 the board of directors pursuant to the authoriza-
34 tion established under chapter 609 or Title 20,
35 sections 3457 to 3460 or obligations to the Maine
36 School Building Authority pursuant to any con-
37 tract, lease or agreement made by the board of
38 directors pursuant to approval thereof in a dis-
39 trict meeting of the school administrative dis-
40 trict, but does not include any indebtedness of

1 any municipality assumed by the school adminis-
2 trative district at the time of formation nor any
3 contract, lease or agreement of the Maine School
4 Building Authority to which by operation of law
5 the school administrative district has become the
6 assignee.

7 16. General purpose aid. When a school adminis-
8 trative district dissolves the general purpose aid
9 for the individual municipalities shall be computed
10 in accordance with chapter 605.

11 17. Committee recall. If the state board deter-
12 mines that the dissolution committee has failed to
13 comply with the requirements of this section, it may
14 authorize the municipal officers and the district's
15 board of directors to recall their representatives
16 and to appoint new representatives to the committee.

17 Sec. 2. 20-A MRSA §1404, sub-§6, as enacted by
18 PL 1981, c. 693, §§5 and 8, is amended to read:

19 6. Outstanding indebtedness of school adminis-
20 trative district; liability of individual municipali-
21 ties. If the school administrative district is dis-
22 solved and the ensuing community school district does
23 not include all grades kindergarten through grade 12,
24 each member municipality shall be individually liable
25 for any outstanding indebtedness which the school
26 administrative district had relative to the grades
27 which will be operated exclusively by that municipal-
28 ity or as otherwise provided for in the dissolution
29 agreement.

30 Sec. 3. 20-A MRSA §1405, as enacted by PL 1981,
31 c. 693, §§5 and 8, is repealed and the following
32 enacted in its place:

33 §1405. Withdrawal of a single municipality from a
34 school administrative district

35 1. Petition. The residents of a participating
36 municipality within a school administrative district
37 composed of 3 or more municipalities may petition to
38 withdraw from the district in the same manner as they
39 would petition for the dissolution of a school admin-
40 istrative district in accordance with section 1403,

1 except that only a simple majority vote of those
2 casting valid ballots in the municipality is required
3 before the petition may be presented to the board of
4 directors and to the state board.

5 2. Procedure. The steps set forth in section
6 1403 for dissolution apply to the withdrawal of a
7 member municipality from a school administrative dis-
8 trict, except that:

9 A. The responsible committee for preparing the
10 withdrawal agreement shall be limited to indi-
11 viduals from the municipality;

12 B. Instead of a district election, a municipal
13 election shall be conducted and a 2/3 vote of
14 those casting valid ballots in the municipality
15 is required before it may withdraw;

16 C. Wherever there is reference in section 1403
17 to the term "dissolution," or other terms not
18 consistent with withdrawal, the term "withdrawal"
19 or other appropriate language shall be substi-
20 tuted;

21 D. All public hearings required under section
22 1403 shall be conducted by the municipal offi-
23 cers; and

24 E. A municipality may not petition for with-
25 drawal within 2 years after the date of:

26 (1) A municipal vote on a petition for
27 withdrawal if the petition received less
28 than 45% of the votes cast; or

29 (2) A municipal vote on a withdrawal agree-
30 ment if the agreement received less than 60%
31 of the votes cast.

32 3. Cost of advisors. The expense of employing
33 competent advisors by the municipality petitioning to
34 withdraw shall be borne by the municipality and the
35 expense of employing competent advisors by the dis-
36 trict shall be borne by the district with the muni-
37 cipality bearing its share according to the district's
38 cost-sharing agreement.

1 4. State board recommended dissolution. The
2 state board's responsibilities to initiate dissolution
3 proceedings are as follows.

4 A. If a member town representing more than 50%
5 of the total population in a district votes to
6 withdraw from the district, then the state board
7 shall analyze the educational impact of the
8 town's withdrawal upon the district. The board
9 shall utilize departmental staff in carrying out
10 its responsibility under this subsection. The
11 district's board of directors and the municipal
12 officers from the remaining towns shall be con-
13 sulted.

14 B. If the state board finds that it is imprac-
15 tical for the remaining towns to continue as a
16 district, then it shall initiate the dissolution
17 process set out in section 1403 by having the
18 district submit the following article to the
19 voters at a district meeting called in accordance
20 with sections 1351 to 1354.

21 "Article : Be it resolved by the voters of
22 School Administrative District No. that a
23 dissolution committee be appointed and authorized
24 to expend \$, and the directors of School
25 Administrative District No. be authorized
26 to issue notes or otherwise pledge the credit of
27 School Administrative District No. in an
28 amount not to exceed \$ for this purpose?

29 Yes No "

30 C. If the voters approve the article by a major-
31 ity vote of those voting and present, then the
32 rest of the dissolution process set forth in
33 section 1403 shall apply except:

34 (1) A 2nd member from the general public
35 shall be selected by the municipal officers
36 to fill the position on the dissolution com-
37 mittee normally held by a representative of
38 the group which would have filed the disso-
39 lution petition; and

1 (2) Costs of preparing a dissolution agree-
2 ment shall be borne solely by the district.

3 5. Transfer of property. The district's board
4 of directors may negotiate with the withdrawal com-
5 mittee regarding an equitable division of the dis-
6 trict's property between the district and the munici-
7 pality represented by the committee and transfer
8 title of the property to the municipality following
9 withdrawal. The board of directors shall determine
10 that the district's educational program shall not be
11 disrupted solely because of the transfer of any given
12 property before it may complete the transfer.

13 Sec. 4. 20-A MRSA §1406, sub-§2, as enacted by
14 PL 1981, c. 693, §§5 and 8, is amended to read:

15 2. Transfer agreement. The boards of directors
16 of the 2 districts and the municipal officers of the
17 municipality involved shall form a committee to pre-
18 pare the a transfer agreement within a period of 60
19 days after being authorized notified by the commis-
20 sioner to prepare the agreement. Extensions of time
21 may be granted by the commissioner.

22 A. The committee shall consider the standards
23 set forth in section 1403, subsection 4, para-
24 graph A in preparing the agreement.

25 B. The approval process for the agreement shall
26 follow the steps set forth in section 1403, sub-
27 section 4 to subsection 16.

28 C. The following question shall appear on the
29 ballot when the transfer of a municipality is
30 considered.

31 "Article : Shall School Administrative Dis-
32 trict No. vote to permit the municipality of
33 to transfer into School
34 Administrative District No. as a parti-
35 cipating municipality of that district subject to
36 the terms and conditions of the agreement of
37 transfer approved by the State Board of Education
38 dated 19 ?"

39 Yes No "

1 (A copy of the agreement shall be posted with
2 each warrant which directs the citizens to vote
3 upon the question.)

4 D. The article must be approved by a majority of
5 votes cast in ~~the district~~ both districts and by
6 a majority of votes cast in the municipality to
7 be transferred before the agreement may take
8 effect.

9 E. A complete certified record of the trans-
10 action involved in the transfer shall be filed
11 with the state board. The state board shall
12 issue immediately a certificate of transfer to
13 the secretary of each school administrative dis-
14 trict by registered mail to be filed with the
15 directors of the districts involved and shall
16 file a copy of the certificate of transfer in the
17 office of the Secretary of State.

18 Sec. 5. 20-A MRSA §1407, as enacted by PL 1981,
19 c. 693, §§5 and 8, is amended to read:

20 §1407. Closing an elementary school

21 1. Vote; costs of election. An elementary
22 school in a member municipality of a school adminis-
23 trative district may not be closed unless the voters
24 in the member town vote on the following article in
25 accordance with the procedure set forth in sections
26 1351 to 1354.

27 "Article : Shall the board of directors of
28 School Administrative District No. be
29 authorized to close ?
30 (name of school)

31 Yes No "

32 (The election shall be conducted only within that
33 member municipality and the costs of the election
34 shall be borne by the district.)

35 2. Expense of keeping the school open. If the
36 voters vote to keep the school open, the member
37 municipality shall be liable for any additional
38 expense for operating costs, transportation costs,

1 and minor capital costs as defined in section 15503,
2 which exceed by 10% the expense of the district for
3 the operating costs, transportation costs, and minor
4 capital costs as compared on a per pupil basis in the
5 base year. The determination of costs shall be sub-
6 ject to the approval of the commissioner. Any addi-
7 tional costs which must be borne by the member munic-
8 ipality shall be part of the article presented to the
9 voters at the meeting to determine whether the school
10 should remain open.

11 STATEMENT OF FACT

12 This new draft requires maximum cost to be part
13 of petition. It also requires that the initial arti-
14 cle on dissolution (withdrawal) contain a maximum
15 amount of money that the dissolution committee is
16 authorized to spend. A positive vote on the article
17 is also a vote to raise and appropriate this money.

18 The new draft provides for each community
19 involved in a dissolution to have an equal number of
20 members on the dissolution committee. It also states
21 that members of the dissolution committee who are
22 municipal officers and directors of the School Admin-
23 istrative District serve on the committee only so
24 long as they hold their respective offices. Finally,
25 it limits the employment of competent advisors to the
26 fiscal limit authorized by the voters.

27 The new school committee shall not be elected at
28 the same time as the dissolution vote unless the
29 state board determines there are extenuating circum-
30 stances which necessitate simultaneous elections.

31 Changes in the agreement made by the state board
32 shall be based on the board's findings of whether the
33 contents will provide for appropriate educational and
34 related services.

35 On dissolution, the chairman of the board of
36 directors will conduct all public hearings.

37 The new draft clarifies the requirement that an
38 agreement receive conditional approval from the state
39 board before it goes to a public hearing. This re-

1 stricts a municipality that has voted unsuccessfully
2 on a petition for dissolution from being able to
3 submit another petition for a period of 2 years.

4 The new draft places the burden of paying for
5 competent advisors on the town petitioning for disso-
6 lution.

7 If a successful vote on dissolution occurs, the
8 district will reimburse the petitioning municipality
9 for its expenses. This gives the state board the
10 authority to take whatever action is necessary to get
11 an agreement to the voters, if the board determines
12 that the dissolution committee has failed to comply
13 with the statutes.

14 The new draft requires that all public hearings
15 on withdrawal will be conducted by the municipal
16 officers and grants the state board the authority to
17 determine if the towns remaining in a district after
18 the withdrawal of the largest municipality should
19 continue as a district.

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