

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of H.P. 855, L.D. 1105)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1739

H.P. 1310

House of Representatives, June 8, 1983

Reported by Representative Locke from the Committee on Education and printed under Joint Rule 2.

Original bill presented by Representative Crouse of Washburn.
Cosponsored by Representative Locke of Sebec.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

AN ACT to Clarify the Education Laws.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, existing ambiguities in the education laws create confusion and uncertainty regarding the operation of school administrative units; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

1 Sec. 1. 20 MRSA §161, sub-§2, ¶¶A and B, as
2 repealed and replaced by PL 1981, c. 658, §1, are
3 amended to read:

4 A. The municipal officers in an ~~incorporated~~
5 ~~school district~~ a municipal corporation responsi-
6 ble for operating public schools, unless it has
7 been approved in accordance with section 853; or

8 B. The treasurer of a ~~school administrative dis-~~
9 ~~trict quasi-municipal corporation responsible for~~
10 operating public schools, unless it has been
11 approved by a majority ~~vote~~ of the full member-
12 ship of ~~the board of directors or its governing~~
13 body or, in the case of of a school administra-
14 tive district, a finance committee elected in ac-
15 cordance with section 306.

16 Sec. 2. 20 MRSA §226-A, sub-§2, ¶B, as amended
17 by PL 1979, c. 356, §2, is further amended to read:

18 B. The municipal officers of each municipality
19 within the district shall then cause the article
20 set out in subsection 1 to be placed on the bal-
21 lots for that municipality for the next ~~general~~
22 ~~or statewide special~~ election occurring at least
23 45 days after the date on which the municipal
24 officers received the notice required under para-
25 graph A.

26 Sec. 3. 20 MRSA §379, sub-§9, ¶¶A and B, as
27 enacted by PL 1979, c. 482, §3, are amended to read:

28 A. The format of the school budget may be deter-
29 mined by the voters of a community school dis-
30 trict by adoption of an appropriate warrant arti-
31 cle at a properly called meeting election held in
32 accordance with the procedure set forth in
33 section 4755, subsection 6.

34 B. An article dealing with the budget format may
35 be placed upon the next warrant before the voters
36 at a properly called election if authorized by a
37 majority vote of the school committee or if a
38 written petition of a number of voters equal to
39 at least 10% of the number of votes cast in the
40 last gubernatorial election in each town compris-

1 ing the district has been presented to the school
2 committee.

3 Sec. 4. 20 MRSA §4751, sub-§3, ¶J, as repealed
4 and replaced by PL 1981, c. 464, §27, is amended to
5 read:

6 J. An article in substantially the following
7 form is to be used when any municipality, School
8 Administrative District or community school dis-
9 trict is considering the appropriation of addi-
10 tional local funds under this subsection: Arti-
11 cle : To see what sum the municipality or
12 district shall appropriate from local leeway for
13 school purposes (~~recommended total~~ \$ 7
14 ~~local share~~ \$ 7 ~~state share~~ \$)7
15 and to see if the municipality or district shall
16 raise the local share of \$ (recommended
17 total \$, local share \$, state
18 share \$).

19 Sec. 5. 20-A MRSA §1051, sub-§1, as enacted by
20 PL 1981, c. 693, §§5 and 8, is amended to read:

21 1. Eligibility requirements. Only those persons
22 who hold a state certificate of superintendence
23 grade, issued in accordance with chapter 501, may be
24 eligible to become superintendents. Members of the
25 school board may not be eligible to become superin-
26 tendent in the school administrative unit which they
27 represent.

28 Sec. 6. 20-A MRSA §1055, sub-§1, ¶D, as enacted
29 by PL 1981, c. 693, §§5 and 8, is repealed and the
30 following enacted in its place:

31 D. Issue vouchers showing the correctness of
32 bills contracted on account of school appropria-
33 tions. A bill may not be allowed for payment by
34 the municipal officers, unless:

35 (1) They have been approved by the munici-
36 pal officers in a municipal corporation
37 responsible for operating public schools, or
38 have been approved in accordance with
39 section 2352; or

1 Sec. 9. 20-A MRSA §1251, sub-§3, ¶C, as enacted
2 by PL 1981, c. 693, §§5 and 8, is amended to read:

3 C. The directors shall serve their terms as
4 determined at the organizational meeting and an
5 additional period until the next regular election
6 of the municipalities. Thereafter, the direc-
7 tors' terms of office shall date from the time of
8 each municipality's regular election be estab-
9 lished in accordance with the provisions of
10 section 1003.

11 Sec. 10. 20-A MRSA §1255, sub-§10, ¶D, as
12 enacted by PL 1981, c. 693, §§5 and 8, is amended to
13 read:

14 D. The Except as provided in paragraph B, the
15 current board of directors shall serve until the
16 next annual municipal elections or until a date
17 established in accordance with section 1003, sub-
18 section 2.

19 Sec. 11. 20-A MRSA §1256, sub-§§1 and 3, as
20 enacted by PL 1981, c. 693, §§5 and 8, are amended to
21 read:

22 1. School district name. May select an unoffi-
23 cial name of for the district;

24 3. Operating schools. May operate elementary
25 sehoel units schools;

26 Sec. 12. 20-A MRSA §1305, sub-§1, ¶B, as enacted
27 by PL 1981, c. 693, §§5 and 8, is amended to read:

28 B. The municipal officers of each municipality
29 within the district shall then cause the article
30 to be placed on the ballots for that municipality
31 for the next ~~general~~ or statewide ~~speeial~~ elec-
32 tion occurring at least 45 days after the date on
33 which the municipal officers received the notice.

34 Sec. 13. 20-A MRSA §1307, sub-§3, as enacted by
35 PL 1981, c. 693, §§5 and 8, is amended to read:

36 3. Summary action. To summarize the action
37 taken on the school budget for the purposes of deter-

1 mining the district's state-local allocations state
2 and local cost sharing, the articles prescribed in
3 chapter 605 shall also be voted upon.

4 Sec. 14. 20-A MRSA §1310, sub-§1, as enacted by
5 PL 1981, c. 693, §§5 and 8, is amended to read:

6 1. Warrant. In accordance with the budget
7 approved by the voters at an annual budget meeting
8 and in substantially the same form as the warrant of
9 the Treasurer of State for taxes, the board of direc-
10 tors shall issue its warrants to the assessors of
11 each member municipality requiring ~~it~~ them to assess
12 upon the taxable estates within the municipality an
13 amount which is that municipality's share of the dis-
14 trict's costs.

15 Sec. 15. 20-A MRSA §1352, sub-§2, ¶¶A and E, as
16 enacted by PL 1981, c. 693, §§5 and 8, are amended to
17 read:

18 A. When a referendum is called for the purpose
19 of authorizing the issuance of bonds or notes for
20 capital outlay purposes, the articles shall be
21 substantially as follows.

22 (1) "Shall the school directors of School
23 Administrative District No.....be author-
24 ized to issue bonds or notes in the name of
25 this district for school construction pur-
26 poses in an amount not to exceed \$.....
27 to construct a
28 (elementary or secondary school)
29 to be located at
30 (specifically defined lot where
31 school is to be erected)

32 Yes No "

33 (2) "Shall the school director of School
34 Administrative District No.....be author-
35 ized to issue bonds or notes in the name of
36 this district for school construction or
37 minor capital projects in an amount not to
38 exceed \$.....for the purpose of.....
39?
40 (here state purpose of school construction
41 project)

1 A. The budget format may be determined by the
2 voters of a community school district by adoption
3 of an appropriate warrant article at a properly
4 called meeting election held in accordance with
5 the procedure set forth in section 15515, subsec-
6 tion 6.

7 B. An article dealing with the budget format may
8 be placed on the next warrant before the voters
9 at a properly called election if authorized by a
10 majority vote of the district school committee or
11 if a written petition of at least 10% of the
12 number of voters voting in the last gubernatorial
13 election of each municipality comprising the com-
14 munity school district has been presented to the
15 district school committee.

16 Sec. 18. 20-A MRSA §1702, sub-§2, ¶A, as enacted
17 by PL 1981, c. 693, §§5 and 8, is amended to read:

18 A. It shall have inscribed on its face the name
19 of the community school district, the date it was
20 issued, the amount of the bond or note and the
21 annual interest rate, payable semiannually. It
22 shall be in the form and be sold in the manner,
23 at public or private sale, as the district board
24 of trustees determine school committee determines
25 in accordance with state law.

26 Sec. 19. 20-A MRSA §2305, sub-§4, ¶A, as enacted
27 by PL 1981, c. 693, §§5 and 8, is amended to read:

28 A. By the school committee within 30 days. The
29 term of a member appointed by the school commit-
30 tee to fill a vacancy shall expire at the next
31 annual meeting; or

32 Sec. 20. 20-A MRSA §4001, sub-§3, ¶B, as enacted
33 by PL 1981, c. 693, §§5 and 8, is amended to read:

34 B. A lease of classroom space shall provide for
35 its exclusive use by the unit during the period
36 of instruction. A lease may provide for the
37 nonexclusive use of other property, but that
38 property may be used for housing only in emergen-
39 cies.

1 Sec. 21. 20-A MRSa §4008, sub-§2, as enacted by
2 PL 1981, c. 693, §§5 and 8, is amended to read:

3 2. Privileged communication. A school counselor
4 may not be required, except as provided by this
5 section, to divulge or release information gathered
6 during a counseling relation with a client or with
7 the parent ~~or~~, guardian or a person or agency having
8 legal custody of a minor client. A counseling rela-
9 tion and the information resulting from it shall be
10 kept confidential consistent with the professional
11 obligations of the counselor.

12 Sec. 22. 20-A MRSa §5001, sub-§2, as enacted by
13 PL 1981, c. 693, §§5 and 8, is amended to read:

14 2. Exceptions. Compulsory attendance shall not
15 apply to the following:

16 A. Persons who graduate from high school before
17 their 17th birthday;

18 B. Persons who have:

19 (1) Reached the age of 15 or completed the
20 9th grade;

21 (2) Permission to leave school from their
22 parent or legal guardian;

23 (3) Permission to leave school from the
24 school board or its designee; and

25 (4) Agreed in writing with their parent or
26 legal guardian and the school board or its
27 designee to meet annually until their 17th
28 birthday to review their educational needs;

29 C. Students who obtain equivalent instruction in
30 an approved private school shall be credited with
31 attendance at a private school only if a certifi-
32 cate showing their names, residence and attend-
33 ance at the school, signed by the person or per-
34 sons in charge of the school, has been filed with
35 the school officials of the administrative unit
36 in which the students reside;

1 D. Equivalent instruction is as follows:

2 (1) A child shall be excused from attending
3 a public day school if he obtains equivalent
4 instruction in a private school or in any
5 other manner arranged for by the school com-
6 mittee or the board of directors and if the
7 equivalent instruction is approved by the
8 commissioner; and

9 (2) If any request to be excused is denied
10 by a local school committee or board of
11 directors, an appeal may be filed with the
12 commissioner. The commissioner shall review
13 the request to be excused to determine
14 whether the local school committee or board
15 of directors has been correct in its finding
16 that no equivalent instruction is available.
17 If the commissioner finds that equivalent
18 instruction is available to the child, he
19 shall approve the request to be excused; ~~or~~

20 E. Children shall be credited with attendance at
21 a private school only if a certificate showing
22 their names, residence and attendance at the
23 school, signed by the person or persons in charge
24 of the school, has been filed with the school
25 officials of the administrative unit in which the
26 children reside; or

27 F. A person whose absence is excused under
28 section 5002 or 5051.

29 Sec. 23. 20-A MRSA §5401, sub-§13, ¶B, as
30 enacted by PL 1981, c. 693, §§5 and 8, is amended to
31 read:

32 B. Authorization by the unit's legislative gov-
33 erning body shall be required for contracts
34 existing beyond one year.

35 Sec. 24. 20-A MRSA §5804, sub-§1, as enacted by
36 PL 1981, c. 693, §§5 and 8, is amended to read:

37 1. Public schools. The maximum tuition payments
38 shall not exceed the receiving school administrative
39 ~~units~~ unit's per student cost for the preceding year

1 as ~~approved~~ calculated by the commissioner. The
2 school board of the sending unit may vote to pay a
3 higher tuition rate.

4 Sec. 25. 20-A MRSA §7503, sub-§1, as enacted by
5 PL 1981, c. 693, §§5 and 8, is amended to read:

6 1. Authority to establish. The Governor Baxter
7 School for the Deaf, established by Private and Spe-
8 cial Law 1897, chapter 446, and by Private and Spe-
9 cial Law 1953, chapter 44, shall be devoted to the
10 education and instruction of deaf ~~exceptional~~ stu-
11 dents.

12 Sec. 26. 20-A MRSA §8301, sub-§§3 and 5, as
13 enacted by PL 1981, c. 693, §§5 and 8, are amended to
14 read:

15 3. Vocational center. "Vocational center" means
16 facilities or programs providing vocational education
17 to secondary students. A center shall be governed by
18 a single school administrative unit. It may serve
19 students from other affiliated school administrative
20 units. It may include satellite center facilities
21 and programs.

22 5. Vocational region. "~~Vocational region~~" means
23 facilities or programs providing vocational education
24 to secondary school students. A vocational region is
25 comprised of all the school administrative units
26 within the geographical boundaries established in
27 section 8451. A region shall be governed by a
28 cooperative board formed in accordance with section
29 8452.

30 Sec. 27. 20-A MRSA §8403, sub-§1, as enacted by
31 PL 1981, c. 693, §§5 and 8, is amended to read:

32 1. Financial responsibility for vocational
33 satellite program. The school board responsible for
34 operating the vocational satellite program shall
35 assume full financial responsibility for paying the
36 operating costs of that program. It shall receive
37 the state subsidy for the program and tuition income.
38 ~~These programs shall be financed through available~~
39 ~~funds.~~

1 Sec. 28. 20-A MRSA §8403, sub-§3, as enacted by
2 PL 1981, c. 693, §§5 and 8, is repealed and the fol-
3 lowing enacted in its place:

4 3. Employment of teachers. The superintendent
5 operating a vocational satellite program shall, in
6 consultation with the director of the vocational cen-
7 ter, employ teachers in accordance with the proce-
8 dures established in section 13201.

9 Sec. 29. 20-A MRSA §15511, sub-§3, ¶J, as
10 enacted by PL 1981, c. 693, §§5 and 8, is amended to
11 read:

12 J. An article in substantially the following
13 form shall be used when a municipality, school
14 administrative district or community school dis-
15 trict is considering the appropriation of local
16 leeway funds:

17 "Article : To see what sum the munici-
18 pality or district shall appropriate from
19 local leeway for school purposes (Recom-
20 mended total \$, local share \$, state
21 share \$), and to see ~~if~~ what sum the
22 municipality or district shall raise as the
23 local share ~~of~~ \$ (recommended total
24 \$, local share \$, state share
25 \$)."

26 Emergency clause. In view of the emergency cited
27 in the preamble, sections 1 to 4 of this Act shall
28 take effect when approved. Sections 5 to 29 of this
29 Act shall take effect on July 2, 1983.

30 STATEMENT OF FACT

31 This new draft makes the following changes in the
32 bill.

33 The changes in sections 1 and 6 allow the super-
34 intendent to poll the members of a school board in
35 order to ratify payment of a bill rather than call a
36 meeting and hold a formal vote.

37 The change in sections 3 and 18 just add a "the"
38 before the word voters.

1 Section 5 cross references the authority to issue
2 certificates.

3 Section 7 corrects grammar.

4 Section 8 changes the word "with" to "within" and
5 replaces the erroneous reference to "community school
6 district" with "school administrative district."

7 Section 9 incorporates changes from the last
8 session and clarifies that school boards in school
9 administrative districts fall under the general rule
10 for all school boards in establishing the date new
11 members take office.

12 Section 10 clarifies the exception to the general
13 provision.

14 Section 11 corrects grammar.

15 Section 13 clarifies that the reference is to
16 state and local cost sharing, which includes both the
17 unit's state-local allocation and local leeway and
18 not just the state and local allocation portion.

19 Section 14 corrects grammar.

20 Section 15 clarifies that the article can apply
21 also to "minor capital costs" and adds a clarifying
22 preposition.

23 Section 16 changes the headnote.

24 Section 18 corrects an erroneous reference to
25 "board of trustees" and replaces it with the correct
26 reference to "school committee."

27 Section 19 clarifies that a committee member
28 appointed by a school committee to fill a vacancy
29 only serves until the next election.

30 Section 20 clarifies that the restriction on
31 exclusive use only applies to periods of instruction
32 and that the facility may be used for other purposes
33 outside of school hours.

1 Section 21 clarifies that the confidentiality
2 protection covers "a person or agency having legal
3 custody."

4 Section 22 corrects ,a duplication between the
5 existing paragraphs C and E and adds a new paragraph
6 cross referencing exemptions provided in sections
7 5002 and 5051.

8 Section 23 corrects an erroneous reference to
9 "legislative body" and replaces it with "governing
10 body."

11 Section 24 corrects a grammatical error and
12 changes the word "approved" to "calculated."

13 Section 25 changes the language back to the exact
14 phraseology of Title 20.

15 Section 26 adds the words "or program" to the
16 definition of vocational centers and goes back to the
17 description of "vocational regions" used in Title 20.

18 Section 27 removes an unnecessary sentence in
19 subsection 1.

20 Section 28 specifies that the superintendent of
21 the school unit in which the vocational satellite
22 program is located has the authority to hire the per-
23 sonnel required to run the satellite program. It
24 also specifies that the procedure for hiring voca-
25 tional satellite personnel is the same as that for
26 hiring regular teachers in the school administrative
27 unit.

28 Section 29 clarifies the form of the article to
29 be voted on. By recommending a funding level, rather
30 than stipulating a level, it allows the voters at the
31 meeting to amend the level up or down.

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