

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 1810

(Filing No. S-540)

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STATE OF MAINE  
SENATE  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 682, L.D. 1810, Bill, "An Act to Provide for the Orderly Transfer of Contracts from Union Schools to Separate School Systems upon Dissolution"

Amend the bill by striking out the title and substituting the following:

'An Act to Provide for Dissolution of a Union School or Withdrawal from a Union School'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 20-A MRSA §§2103 and 2104 are enacted to read:

§2103. Dissolution of union school

1. Ten percent petition. On receipt of a petition to dissolve a union school and establish a maximum figure for the cost of preparing a dissolution agreement signed by 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 union school.

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

**COMMITTEE AMENDMENT**

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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 municipal school committees and the commissioner. Voting in towns must be conducted in accordance with Title 30-A, sections 2528 and 2529, even if the towns have not accepted the provisions of Title 30-A, section 2528, and voting in cities must be conducted in accordance with Title 21-A.

2. Form. The question to be voted on must be in substantially the following form.

"Article .....: Be it resolved by the residents of the Town of ..... that a petition for dissolution be filed with the school committees of Union School No. .... and with the commissioner, that the dissolution committee be authorized to expend \$..... and that the (municipal officers; i.e. selectmen, town council, etc.) be authorized to issue notes in the name of the Town of ..... or otherwise pledge the credit of the Town of ..... in an amount not to exceed \$ ..... for this purpose?"

Yes..... No....."

3. Notice of vote; finding by commissioner. If residents of a participating municipality vote favorably on a petition for dissolution, the clerk shall immediately give written notices, by registered mail, to the secretary of the municipal school committees and the commissioner that must 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 the municipality seeks to dissolve the union school.

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

A. After consultation with the school committees, municipal officers of the participating municipalities and representatives of the group that filed the petition with the municipality, the commissioner shall direct the municipal officers of each municipality to select representatives to a dissolution committee as follows: one member from the municipal officers; one member from the general public; and one member from the group filing the

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2 petition if the group is represented in the municipality,  
4 otherwise an additional member of the general public. The  
6 commissioner shall also direct the school committee  
8 representing each municipality to select one school  
10 committee member to serve on the committee. The municipal  
12 officer and the members of the school committees serve on  
14 the committee only as long as they hold their respective  
16 offices. Vacancies must be filled by the municipal officers  
18 and school committees. The school committee chair from the  
20 municipality where the petition has passed shall call a  
22 meeting of the committee within 30 days of the filing of the  
24 notice of the vote in subsection 3. The chair of that  
school committee shall open the meeting by presiding over  
the election of a chair of the committee. The  
responsibility for the preparation of the agreement rests  
with the committee, subject to the approval of the  
commissioner. The committee may draw on the resources of  
the department for information not readily available at the  
local level and employ competent advisors within the fiscal  
limit authorized by the voters. The agreement must be  
submitted to the commissioner within 90 days after the  
committee is formed. Extensions of time may be granted by  
the commissioner on the request of the committee. The  
agreement must:

26 (1) Contain provisions to provide educational services  
28 for all students in the union school. The agreement  
30 must provide that during the first year following the  
32 dissolution, students may attend the school they would  
34 have attended if the union school had not dissolved.  
The allowable tuition rate for students sent from one  
municipality to another in the former union school must  
be determined under section 5805, subsection 1, except  
that it is not subject to the state per pupil average  
limitation in section 5805, subsection 2;

36 (2) Provide that the dissolution take effect at the  
38 end of the union school's fiscal year;

40 (3) Establish that the dissolution may not cause a  
42 need within 5 years from the effective date of  
44 dissolution for school construction projects that would  
46 be eligible for state funds. This limitation does not  
48 apply when a need for school construction existed prior  
to the effective date of the dissolution or when a need  
for school construction would have arisen even if the  
union school had not dissolved;

50 (4) Establish how transportation services will be  
provided;

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- 2                   (5) Provide for administration of the new  
3                   administrative units, which should not include the  
4                   creation of new supervisory units if possible;
- 6                   (6) Provide for the distribution of financial  
7                   commitments arising from outstanding bonds, notes and  
8                   any other contractual obligations that extend beyond  
9                   the proposed date of dissolution;
- 10                   (7) Provide appropriately for the distribution of any  
11                   outstanding financial commitments to the superintendent  
12                   of the union school;
- 14                   (8) Provide for the continuation and assignment of  
15                   collective bargaining agreements as they apply to the  
16                   new or reorganized school administrative unit for the  
17                   duration of those agreements and provide for the  
18                   continuation of representational rights;
- 20                   (9) Provide for the continuation of continuing  
21                   contract rights under section 13201;
- 24                   (10) Provide for the disposition of all real and  
25                   personal property and other monetary assets; and
- 26                   (11) Provide for the transition of administration and  
27                   governance of the schools to properly elected governing  
28                   bodies of the newly created administrative units and  
29                   provide that the governing bodies may not be elected  
30                   simultaneously with the vote on the article to dissolve  
31                   unless the commissioner finds that extenuating  
32                   circumstances necessitate simultaneous elections.
- 34                   B. Within 60 days of the receipt of the agreement, the  
35                   commissioner shall either give it conditional approval or  
36                   recommend changes. The changes must be based on the  
37                   standards set forth in paragraph A and the commissioner's  
38                   findings of whether the contents of the agreement will  
39                   provide for appropriate educational and related services to  
40                   the students of the union school and for the orderly  
41                   transition of assets, governance and other matters related  
42                   to the union school.
- 44                   C. If the commissioner conditionally approves the  
45                   agreement, the commissioner shall notify the school  
46                   committees and the municipal officers by registered mail of  
47                   the time and place of a public hearing at least 20 days  
48                   prior to the date set for the hearing to discuss the merits  
49                   of the proposed agreement of dissolution. The chair of the  
50                   committee shall conduct the hearing.

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(1) The school committees 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.

D. If the commissioner recommends changes the commissioner shall:

(1) Send the agreement back to the committee for necessary corrections;

(2) Establish a maximum time within which to make the corrections; and

(3) Indicate that the corrected agreement must be returned to the commissioner for conditional approval before a public hearing is held as set forth in paragraph C.

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

A. The commissioner shall determine the date upon which all municipalities must vote upon the dissolution agreement submitted to them. The election must be held as soon as practicable and the commissioner shall attempt to set the date of the vote to coincide with a statewide election.

B. At least 35 days before the date set in paragraph A, the school committee shall give written notice by registered or certified mail to the town or city clerk of each municipality that has 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 commissioner. No other date may be used.

D. In the respective warrants, the municipal officers shall direct that the polls open at 10 a.m. and remain open until 8 p.m.

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

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

6           B. Except as otherwise provided in this section, the voting  
8           at the meetings held in towns must be conducted in  
10          accordance with Title 30-A, sections 2528 and 2529, even if  
          the towns have not accepted the provisions of Title 30-A,  
          section 2528.

12          C. The voting at the meetings held in cities must be  
14          conducted in accordance with Title 21-A.

16          7. Dissolution article. The dissolution article must be in  
          the following form.

18           "Article .....: Shall School Union No. .... be  
20           dissolved subject to the terms and conditions of the  
          dissolution agreement dated ..... 19....?  
22           Yes ..... No ....."

24          8. Ballots: posting of agreement. The dissolution  
26          agreement need not be printed on the ballot. Copies of the  
28          agreement must be posted in each participating municipality in  
          the same manner as specimen ballots are posted under Title 30-A,  
          section 2528.

30          9. Restriction on dissolution petitions. No participating  
32          municipality within a union school may petition for dissolution  
          within 2 years after the date of:

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

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

40          10. Cost of dissolution agreements. If the union school  
42          votes to permit dissolution, the union must reimburse the  
44          petitioning municipality for the authorized expenses incurred by  
          the dissolution committee. If the union votes not to permit  
          dissolution, the union is not required to reimburse the  
          petitioning municipality for those expenses.

46          11. Determination of vote. The town and city clerks shall,  
48          within 24 hours of determination of the result of the vote in  
50          their respective municipalities, certify the total number of  
          votes cast in the affirmative and the total number of votes cast

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2 in the negative on the dissolution article as described in  
subsection 7 to the school committee.

4 12. Determination of results; notification of commissioner;  
execution of agreement. Determination of result must comply with  
6 the following.

8 A. On receipt of the results of the voting from all  
municipalities, the school committees from the participating  
10 municipalities shall meet together and compute and record  
the total number of votes cast in the municipalities in the  
12 affirmative and in the negative on the dissolution article  
as described in subsection 7.

14 B. The school committees shall notify the commissioner by  
16 registered mail or by hand delivery of the results of the  
vote.

18 C. If the commissioner finds that a majority of the voters  
20 voting on the dissolution article have voted in the  
affirmative, the commissioner shall notify the school  
22 committees of the union to take steps to dissolve the union  
in accordance with the terms of the agreement for  
24 dissolution.

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

30 A. If, within 7 days of the computation and recording of  
the results of the voting from all municipalities, the  
32 municipal officers of any participating municipality request  
to the commissioner in writing a recount of the votes in the  
34 union, the commissioner shall immediately cause the  
checklists and all the ballots cast in all of the  
36 participating municipalities to be collected and kept at the  
commissioner's office for recount by interested  
38 municipalities.

40 B. The town clerks of the participating municipalities are  
authorized to deliver the checklists and ballots to the  
42 commissioner, notwithstanding any other provision of law.

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

46 14. Execution of agreement; certified record; certificate  
48 of withdrawal. When the agreement for dissolution has been put  
in effect by the school committees of the union school, the  
50 director of each school committee shall notify the commissioner



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2 by certified mail that the agreement of dissolution has been  
executed.

4 A. A complete certified record of the transaction involved  
in the dissolution must be filed with the commissioner.

6 B. The commissioner shall immediately issue a certificate  
8 of dissolution to be sent by certified mail for filing with  
10 each school committee and shall file a copy in the office of  
the Secretary of State.

12 15. Indebtedness; indebtedness defined; indebtedness after  
dissolution. Whenever a union school having outstanding  
14 indebtedness dissolves, the union remains intact for the purpose  
of securing and retiring the indebtedness. The dissolution  
16 agreement may provide for alternate means for retiring  
outstanding indebtedness. For the purposes of this section,  
18 "outstanding indebtedness" means bonds or notes for school  
construction projects issued by the school committees pursuant to  
20 the authorization established under chapter 609 or Title 20,  
sections 3457 to 3460 or obligations to the Maine School Building  
22 Authority pursuant to any contract, lease or agreement made by  
the school committees pursuant to approval thereof in a union  
24 meeting of the union school, but does not include any  
indebtedness of any municipality assumed by the union school at  
26 the time of formation nor any contract, lease or agreement of the  
Maine School Building Authority to which by operation of law the  
28 union school has become the assignee.

30 16. General purpose aid. When a union school dissolves the  
general purpose aid for the individual municipalities must be  
32 computed in accordance with chapter 605.

34 17. Committee recall. If the commissioner determines that  
the dissolution committee has failed to comply with the  
36 requirements of this section, the commissioner may authorize the  
municipal officers and the union's school committees to recall  
38 their representatives and to appoint new representatives to the  
committee.

40 §2104. Withdrawal from union school

42 1. Petition. The residents of a participating municipality  
44 within a union school may petition to withdraw from the union in  
the same manner as they would petition for the dissolution of a  
46 union school in accordance with section 2103, except that only a  
simple majority vote of those casting valid ballots in the  
48 municipality is required before the petition may be presented to  
the school committee and to the commissioner.

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2. Procedure. The steps set forth in section 1403 for dissolution apply to the withdrawal of a member municipality from a union school, except that:

A. The responsible committee for preparing the withdrawal agreement must be limited to individuals from the municipality;

B. Instead of a union-wide election, a municipal election must be conducted in the municipality petitioning to withdraw and a 2/3 vote of those casting valid ballots in the municipality is required before it may withdraw;

C. Wherever there is reference in section 1403 to the term "dissolution" or other terms not consistent with withdrawal, the term "withdrawal" or other appropriate language must be substituted;

D. All public hearings required under section 1403 must be conducted by the municipal officers; and

E. A municipality may not petition for withdrawal within 2 years after the date of:

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

(2) A municipal vote on a withdrawal agreement if the agreement received less than 60% of the votes cast.

3. Cost of advisors. The expense of employing competent advisors by the municipality petitioning to withdraw must be borne by the municipality and the expense of employing competent advisors by the union must be borne by the union with the municipality bearing its share according to the union's cost-sharing agreement.

4. Commissioner-recommended dissolution. The commissioner's responsibilities to initiate dissolution proceedings are as follows.

A. If a member town in a union school votes to withdraw from the union, the commissioner shall determine the educational impact of the town's withdrawal upon the union. The union's school committees and the municipal officers from the remaining towns must be consulted.

B. If the commissioner finds that it is impractical for the remaining towns to continue as a union, the commissioner

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2 must initiate the dissolution process set out in section  
4 1403 by having the union submit the following article to the  
voters at a union meeting called in accordance with sections  
1351 to 1354.

6 "Article .....: Be it resolved by the voters of Union  
8 School No. .... that a dissolution committee be appointed  
and authorized to expend \$..... and the school  
10 committees of Union School No. .... be authorized to  
12 issue notes or otherwise pledge the credit of Union School  
No. .... in an amount not to exceed \$..... for  
this purpose?

14 Yes ..... No ....."

16 C. If the voters approve the article by a majority vote of  
18 those present and voting, the rest of the dissolution  
process set forth in section 1403 applies except:

20 (1) A 2nd member from the general public must be  
22 selected by the municipal officers to fill the position  
24 on the dissolution committee normally held by a  
representative of the group that would have filed the  
dissolution petition; and

26 (2) Costs of preparing a dissolution agreement must be  
28 borne solely by the union school.

30 5. Transfer of property. The union's school committees may  
32 negotiate with the withdrawal committee regarding an equitable  
division of the union school's property between the union and the  
34 municipality represented by the committee and transfer title of  
36 the property to the municipality following withdrawal. The  
school committees must determine that the union's educational  
program may not be disrupted solely because of the transfer of  
any given property before the union's school committees may  
complete the transfer.

FISCAL NOTE

42 The costs associated with the review and approval of  
44 petitions for union school dissolutions can be absorbed within  
existing resources of the Department of Education.

46 The additional local costs of holding public hearings and  
48 elections represent a state mandate which must be reimbursed  
pursuant to the Maine Revised Statutes, Title 30-A, section  
5684. The General Fund appropriations required to reimburse  
50 these costs can not be estimated at this time.'

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### STATEMENT OF FACT

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The original bill established a process for the assignment of teachers and the protection of collective bargaining rights upon dissolution of a union school.

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This amendment replaces the original bill and establishes a process for dissolution of a union school and for withdrawal by a municipality from a union school that parallels the dissolution and withdrawal provisions for school administrative districts and consolidated school districts.

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Reported by Senator Estes for the Committee on Education.  
Reproduced and Distributed Pursuant to Senate Rule 12.  
(2/6/92) (Filing No. S-540)