

# MAINE STATE LEGISLATURE

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2003

L.D. 203

DATE: 5-19-03

(Filing No. H-460)

MINORITY  
EDUCATION AND CULTURAL AFFAIRS

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 162, L.D. 203, Bill, "An Act to Establish the Full Right of Petition and Redress in Local School Board Decisions"

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

'An Act To Provide the Voters of a Municipal School Unit with the Full Right of Petition and Redress in Local School Committee Decisions'

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

'Sec. 1. 20-A MRSA §1005 is enacted to read:

§1005. Direct initiative of school committee policies by voters or people's veto of school committee policies

The voters of a municipal school unit may seek to establish a petition procedure for a direct initiative of school committee policies or for a people's veto of school committee policies in accordance with this section and pursuant to the provisions for adopting or amending a municipal charter under Title 30-A, chapter 111 and pursuant to any local municipal charter provisions established for amending the municipal charter.

1. Petition by voters. By written petition filed with the municipal officers in accordance with Title 30-A, section 2104, the registered voters of a municipal school unit may present a proposed amendment to the municipal charter to:

COMMITTEE AMENDMENT

2 A. Provide a process for the direct initiative of school  
3 committee policies in which registered voters may present to  
4 the school committee for its adoption any proposed rule,  
5 ordinance or other statement of school committee policy,  
6 except that this proposed rule, ordinance or other statement  
7 may not pertain to staffing, salary or any other personnel  
8 matters or any budgetary matters; and

9  
10 B. Provide a process for the people's veto of school  
11 committee policies in which the registered voters of a  
12 municipal school unit may request that one or more rules,  
13 ordinances or other statements of school committee policy or  
14 part thereof, except for rules, ordinances or other  
15 statements of school committee policy or part thereof that  
16 pertains to staffing, salary or any other personnel matters  
17 or any budgetary matters, approved by the school committee  
18 but not then in effect, be referred to the voters of the  
19 municipal school unit for their approval.

20 2. Petition procedures. The following procedures apply for  
21 a petition filed by voters pursuant to subsection 1 to invoke a  
22 municipal charter process for the purposes of establishing the  
23 procedures for direct initiatives of school committee policies or  
24 for people's vetoes of school committee policies:

25 A. The petition procedures and the submission of a petition  
26 to voters of a municipality that seek to invoke a municipal  
27 charter process for the direct initiative of school  
28 committee policies or for the people's veto of school  
29 committee policies must follow the procedures described in  
30 Title 30-A, sections 2104 and 2105:

31 B. Notwithstanding Title 30-A, section 2105, the question  
32 to be submitted to the voters must be in substance as  
33 follows:

34 "Should the voters of \_\_\_\_\_ school unit be allowed to  
35 decide school unit policy through direct initiative and  
36 people's veto?";

37 C. The municipal charter provisions related to the  
38 authority to provide for the direct initiative of school  
39 committee policies or for the people's veto of school  
40 committee policies must be in conformity with all applicable  
41 state laws and provide:

42 (1) That the registered voters of the municipal school  
43 unit have the power to propose any school policy,  
44 except a policy appropriating money, involving any bond  
45 ordinance, authorizing the levy of taxes or dealing  
46 with the school unit's property.

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with the selection, removal or discipline of school personnel, and to adopt or reject the same at the polls; and

(2) That the registered voters of the municipal school unit have the power to approve or reject at the polls a school policy passed by the school committee or submitted to a vote of the registered voters of the school unit, except a policy appropriating money, involving any bond ordinance, authorizing the levy of taxes or dealing with the selection, removal or discipline of school personnel, and to adopt or reject the same at the polls;

D. The municipal charter provision must contain language requiring that school policy initiative or referendum processes be substantially in the same form as the initiative or referendum process requirements of municipal ordinances within the municipality and as governed by all applicable state law or local municipal charter, whichever governs the municipality. The rights and responsibilities of the school committee are the same as the municipal officers with regard to consideration of a certified initiative or referendum petition; and

E. A school policy proposed by initiative or the subject of a referendum petition must be submitted to the voters in the municipal school unit at the next regularly scheduled municipal election as long as the election is not less than 30 days nor more than 6 months from the date on which the school committee takes its final vote on the policy. The school committee may, in its discretion, provide for a special election within this period of time.

3. Emergency override provision. The school committee has the power to override any school policy adopted, amended or rejected by the voters of the municipal school unit as long as:

A. The school committee declares that an emergency exists such that the adoption, amendment or rejection of the school policy jeopardizes the health, safety or welfare of students in academic or extracurricular programs or places the municipal school unit in substantial and persistent violation of federal or state law;

B. The override is made on an individual case-by-case basis in the application of the school policy; and

C. The override is approved by a 2/3 vote of the school committee members present and voting.'

**SUMMARY**

This amendment is the minority report of the Joint Standing Committee on Education and Cultural Affairs. The amendment strikes and replaces the bill title and the bill to limit the right of petition and redress in local school board decisions to the voters in a municipality that has a municipal school unit. Under this amendment, the right of petition and redress in local school committee decisions is a local option available to the voters in a municipality that has a municipal school unit form of school governance. The amendment proposes the following provisions to accomplish this purpose:

1. It provides that the voters in a municipality that also has a municipal school unit may use the provisions of the Maine Revised Statutes, Title 30-A, chapter 111 to adopt or amend a municipal charter to establish a direct initiative and people's veto process regarding the establishment, amendment or repeal of a limited scope of school committee policies;

2. It provides that the direct initiative and people's veto process regarding school committee policies may not apply to policies that pertain to staffing, salary or any other personnel matters or any budgetary matters; and

3. It provides an emergency override provision for the school committee of a municipal school unit. The school committee has the power to override any school policy adopted, amended or rejected by the voters of the municipal school unit provided that the school committee declares an emergency, that such override is approved on an individual case-by-case basis in the application of the school policy and that such override is approved by a 2/3 vote of the school committee members present and voting.

**FISCAL NOTE REQUIRED**  
(See attached)

**121st Maine Legislature  
Office of Fiscal and Program Review**



**LD 203**

**An Act to Provide the Voters of a Municipal School Unit with the Full  
Right of Petition and Redress in Local School Committee Decisions**

**LR 1042(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**  
**Committee: Education and Cultural Affairs**

**Fiscal Note Required: Yes**

**Fiscal Note**

Current Cost - State Mandate

**State Mandate**

**New or Expanded Activity**

This legislation adds to the type of issues that a municipality is required to address through an initiated petition process to amend its municipal charter. Although the procedure to amend a municipal charter is established in 30-A MRSA c. 111, requiring a municipality to utilize the process for issues related to changes in school board policies other than staffing, salary, and other personnel matters or any budgetary matters is an expanded activity for the municipality and is a state mandate.

**Unit Affected**

Municipality

**Costs**

Significant