

# MAINE STATE LEGISLATURE

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R.O.S.

L.D. 1397

DATE: 5.26.05

(Filing No. S-272)

EDUCATION AND CULTURAL AFFAIRS

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MINORITY

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 486, L.D. 1397, Bill, "An Act Regarding the Wells-Ogunquit Community School District"

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

'Sec. 1. P&SL 1979, c. 45, §6, sub-§3, as enacted by P&SL 1999, c. 83, §1, is amended to read:

3. For fiscal year 2002-03 and subsequent fiscal years, 66.7% of the total will be assessed between the towns in the same proportion as the state valuation of each town, for the year preceding the year to which the budget applies, bears to the total valuation for both towns and 33.3% of the total will be assessed in the same proportion as the average number of resident pupils of each town, as provided in subsection 1 for the year preceding the year to which the budget applies, bears to the total number of resident pupils for both towns.

Notwithstanding subsection 3, after fiscal year 2002-03, the towns may agree to change the formula for apportionment of kindergarten to grade 12 educational costs by separate majority vote in each town.

A withdrawal from the community school district must be authorized by special act of the Legislature upon such terms as are contained in that special act.

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Sec. 2. P&SL 1979, c. 45, §6, sub-§4 is enacted to read:

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4. It is the intent of the Legislature to provide full and adequate facilities for the settlement of the dispute between the Town of Ogunquit and the Town of Wells or their representatives, referred to in this subsection as "the parties," regarding the formula for computing each town's assessment for the total expenses of the Wells-Ogunquit Community School District. If, within 30 days of the effective date of this subsection, the towns are unable to agree to their mutual satisfaction on a change to the formula for apportionment of kindergarten to grade 12 education costs by separate majority vote in each town in accordance with subsection 3, then the formula for apportionment of these costs for fiscal year 2007-08 and subsequent fiscal years must be determined in accordance with the following.

A. Within 45 days of the effective date of this subsection, a knowledgeable 3rd party with expertise in education policy must be selected by the Commissioner of Education in accordance with the provisions in the Maine Revised Statutes, Title 20-A, section 1301, subsection 4, paragraph C. The knowledgeable 3rd party shall provide technical assistance to the parties, the mediators and the arbitrator in determining the most equitable method of computing each town's assessment for the total expenses of the community school district and shall also provide an impartial assessment of the education policy considerations for all kindergarten to grade 12 students residing within the Wells-Ogunquit Community School District.

B. Within 30 days of the selection of the knowledgeable 3rd party, the parties shall agree to a process to select a mediator or mediators to settle the dispute. The costs for mediation services and expenses incurred by the mediator or mediators may be shared equally by the parties. In addition to the 30 days referred to in this paragraph, the parties have 30 more days to select a mediator to their mutual satisfaction. The mediator or mediators selected shall exert every reasonable effort to encourage the parties to settle their dispute. If the parties, with or without the services of the mediator or mediators and the knowledgeable 3rd party, are able to agree to their mutual satisfaction on a formula for apportionment of kindergarten to grade 12 education costs, then that formula for apportionment of these costs must be in effect for fiscal year 2007-08 and subsequent fiscal years. If the parties, with or without the services of the mediator or mediators and the knowledgeable 3rd party, are unable to effect a settlement of their dispute within 45 days of the selection of the mediator or mediators, it is then the duty of the

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2 mediator or mediators to advise the parties of the  
3 arbitration proceeding, which will result in a binding  
4 determination of their dispute. At this time and within 15  
5 days after the 45-day period has ended, the mediator or  
6 mediators shall submit a written report to the Commissioner  
7 of Education stating the action or actions that have been  
8 taken and the results of their endeavors.

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10 C. Within 45 days of receiving the report of the mediator or  
11 mediators, the Commissioner of Education shall arrange for  
12 arbitration services and recommendations to be provided by  
13 the State Board of Arbitration and Conciliation to begin an  
14 arbitration proceeding, which will result in a binding  
15 determination of the dispute. The costs for arbitration  
16 services and expenses incurred by the arbitrator must be  
17 shared equally by the parties. If the dispute is not  
18 resolved by the parties themselves, the arbitrator shall  
19 meet with the parties either jointly or separately, make  
20 inquiries and investigations, hold hearings or take other  
21 steps considered appropriate in accordance with the rules  
22 and procedures of the State Board of Arbitration and  
23 Conciliation. All documentary evidence and other data  
24 considered relevant by the arbitrator may be received in  
25 evidence. The arbitrator shall make a binding determination  
26 for the apportionment of kindergarten to grade 12 education  
27 costs no later than November 30, 2006, and the formula for  
28 apportionment of these costs must be in effect for fiscal  
29 year 2007-08 and subsequent fiscal years. The results of  
30 all arbitration proceedings and the determination reached  
31 under this subsection must be filed with the Commissioner of  
32 Education simultaneously with the submission of the  
33 determination to the parties. In the event the parties  
34 settle their dispute during the arbitration proceeding, the  
35 arbitrator shall submit a report of the arbitration  
36 proceeding and the actions that have been taken to the  
37 Commissioner of Education not more than 5 days after the  
38 arbitration proceeding has terminated.

39 **Sec. 3. P&SL 1979, c. 45, §6, as amended by P&SL 1999, c. 83,**  
40 **§1, is further amended by adding at the end 3 new paragraphs to**  
41 **read:**

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43 Notwithstanding subsection 3, after fiscal year 2002-03, the  
44 towns may agree to change the formula for apportionment of  
45 kindergarten to grade 12 education costs by separate majority  
46 vote in each town.

47  
48 Notwithstanding subsection 4, after fiscal year 2007-08, the  
towns may agree to change the formula for apportionment of

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kindergarten to grade 12 education costs by separate majority vote in each town.

A withdrawal from the community school district must be authorized by special act of the Legislature upon terms contained in that special act.

**Sec. 4. Wells-Ogunquit Community School District State Mandate Account.**

The Wells-Ogunquit Community School District State Mandate Account is established as an Other Special Revenue account in the Miscellaneous Acts and Resolves program within the Department of Administrative and Financial Services to receive money from gifts, grants, bequests and donations in addition to money appropriated or allocated by the State for the purpose of providing funds to pay 90% of the total costs associated with the mediation, arbitration and legal services necessary to resolve the issues concerning sharing the total expenses of the Wells-Ogunquit Community School District as required by this Act.

**Sec. 5. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES,  
DEPARTMENT OF**

**Miscellaneous Acts and Resolves**

Initiative: Authorizes the distribution of any funds received for the purpose of paying 90% of the total cost of a knowledgeable 3rd party with education policy expertise as well as the mediation, arbitration and legal services required to resolve the cost-sharing issues of the Wells-Ogunquit Community School District.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2005-06</b>	<b>2006-07</b>
All Other	\$72,000	\$0
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$72,000</b>	<b>\$0'</b>

**SUMMARY**

This amendment is the minority report of the Joint Standing Committee on Education and Cultural Affairs. The amendment strikes and replaces the bill to require that the Wells-Ogunquit Community School District address the dispute between the Town of Wells and the Town of Ogunquit over the cost-sharing formula for the school district as follows:

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1. The Commissioner of Education shall select a knowledgeable 3rd party with expertise in education policy to provide technical assistance to the parties, the mediators and the arbitrator in determining the most equitable method of computing each town's assessment for the total expenses of the community school district and to also provide an impartial assessment of the education policy considerations for all kindergarten to grade 12 students residing within the Wells-Ogunquit Community School District;

2. The Town of Wells and the Town of Ogunquit and their representatives shall enter into mediation to resolve their cost-sharing dispute;

3. If the 2 parties fail to agree upon a cost-sharing formula with the assistance of mediation and the knowledgeable 3rd party appointed by the Commissioner of Education, then the Commissioner of Education must arrange for an arbitration proceeding, which will result in a binding determination of the cost-sharing dispute between the Town of Wells and the Town of Ogunquit;

4. The arbitrator shall make a binding determination for the apportionment of kindergarten to grade 12 education costs, which must be in effect for fiscal year 2007-08 and subsequent fiscal years; and

5. The Town of Wells and the Town of Ogunquit must share equally in the costs of mediation and binding arbitration undertaken to resolve their cost-sharing dispute, and a state mandate account is established in the Department of Administrative and Financial Services to receive money from gifts, grants, bequests and donations in addition to money appropriated or allocated by the State for the purpose of providing funds to pay 90% of the total costs associated with the mediation, arbitration and legal services necessary to resolve the issues concerning the sharing of the total expenses of the Wells-Ogunquit Community School District.

**FISCAL NOTE REQUIRED**  
**(See attached)**

**COMMITTEE AMENDMENT**



# 122nd MAINE LEGISLATURE

LD 1397

LR 1197(02)

## An Act Regarding the Wells-Ogunquit Community School District

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

Fiscal Note Required: Yes

Minority Report

### Fiscal Note

#### Current Cost - State Mandate

	Current Cost - State Mandate		Projections	Projections
	2005-06	2006-07	2007-08	2008-09
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$72,000	\$0	\$0	\$0

#### State Mandate

##### New or Expanded Activity

Requiring the Town of Ogunquit and the Town of Wells to enter into mediation and, subsequently, binding arbitration if the two parties fail to come to an agreement on the cost-sharing issues of the Wells-Ogunquit Community School District is a mandate. The cost of this requirement is estimated to be approximately \$80,000.

##### Unit Affected

Municipality

##### Costs

\$80,000

#### Fiscal Detail and Notes

This bill establishes the Wells-Ogunquit CSD State Mandate account as a dedicated account in the Miscellaneous Acts and Resolves program within the Department of Administrative and Financial Services to receive funds for the purpose of paying 90%, estimated to be approximately \$72,000, of the total cost for a knowledgeable 3rd party with education policy expertise as well as for the mediation, arbitration and legal services required to resolve the cost-sharing issues of the Wells-Ogunquit Community School District. In a letter to the Joint Standing Committee on Educational and Cultural Affairs dated May 11, 2005, the Board of Selectmen of the Town of Ogunquit indicated that the Town would reimburse the State of Maine for any and all costs associated with the mediation and arbitration provisions of this legislation. If funds are not received from the Town of Ogunquit and General Fund appropriations or other funds are not provided sufficient to pay for at least 90% of the actual costs of this legislation, the Town of Ogunquit and the Town of Wells may not be required to implement this measure.

Additional costs to the Department of Administrative and Financial Services to administer and distribute funds in the Wells-Ogunquit CSD State Mandate account can be absorbed within existing budgeted resources.