

MAINE STATE LEGISLATURE

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L.D. 1932

Date: 2-7-08

(Filing No. S-418)

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**STATE OF MAINE
SENATE
123RD LEGISLATURE
SECOND REGULAR SESSION**

SENATE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to S.P. 741,
L.D. 1932, Bill, "An Act To Amend the Laws Regarding School Funding"

Amend the amendment by inserting after the 2nd paragraph after the title the
following:

‘PART A’

Amend the amendment in section 14 in the first line (page 10, line 26 in amendment)
by striking out the following: "Act" and inserting the following: 'Part'

Amend the amendment by inserting after section 14 the following:

‘PART B

Sec. B-1. PL 2007, c. 240, Pt. XXXX, §36, sub-§11 is amended to read:

11. Result of disapproval at January 2008 referendum. A school administrative unit that rejects a proposed reorganization plan at the January 15, 2008 referendum or at a subsequent referendum on or before ~~November 4, 2008~~ January 15, 2009 may restart the process to form a regional school unit with the same or other school administrative units and may seek assistance from the Department of Education to prepare another reorganization plan.

A. Subsequent reorganization plans must meet the same requirements as for reorganization plans filed prior to the January 2008 referendum, except that the timelines are adjusted to reflect a July 1, 2009 reorganization date.

B. The penalties set forth in Title 20-A, section 15696 apply to any school administrative unit that fails to approve a reorganization plan on or before ~~November 4, 2008~~ January 15, 2009 and to implement that plan by July 1, 2009.

Sec. B-2. PL 2007, c. 240, Pt. XXXX, §36, sub-§12 is amended to read:

12. Reformulation of SAD as RSU. Not later than ~~December 1, 2008~~ February 15, 2009, the Commissioner of Education shall notify any school administrative district that has not voted to form a regional school unit on or before ~~November 4, 2008~~ January 15, 2009 that the school administrative district must be recreated as a regional school unit

1 under Title 20-A, chapter 103-A, effective July 1, 2009. Notwithstanding any other
2 provision of law, a school administrative district may be changed to a regional school unit
3 upon notice to the State Board of Education without dissolving the school administrative
4 district.

5 **Sec. B-2. PL 2007, c. 240, Pt. XXXX, §42, first ¶** is amended to read:

6 **Sec. XXXX-42. Transfer of property and assets; regional school units**
7 **approved after January 15, 2008.** This section applies to a regional school unit that
8 is approved after January 15, 2008 and before ~~November 5, 2008~~ January 16, 2009.

9 **Sec. B-3. PL 2007, c. 240, Pt. XXXX, §43** is amended to read:

10 **Sec. XXXX-43. Operational date and transfer of authority.**

11 **1. Operational date.** A regional school unit board of directors becomes operational
12 on the date set by the State Board of Education as provided in the Maine Revised
13 Statutes, Title 20-A, chapter 103-A.

14 **2. Transfer of governing authority; regional school units approved prior to**
15 **January 16, 2008.** This subsection applies to regional school units approved prior to
16 January 16, 2008. The regional school unit board of directors, on the date established in
17 subsection 1, shall assume responsibility for the management and control of the public
18 schools and programs within the school administrative units in existence prior to July 1,
19 2008 that are within the regional school unit. Those school administrative units in
20 existence prior to July 1, 2008, on the date established in subsection 1, have no further
21 responsibility for the operation or control of the public schools and programs within the
22 school administrative unit except those pursuant to section 1481.

23 **3. Transfer of governing authority; regional school units approved after**
24 **January 15, 2008.** This subsection applies to regional school units approved after
25 January 15, 2008 and before ~~November 5, 2008~~ January 16, 2009. The regional school
26 unit board of directors, on the date established in subsection 1, shall assume responsibility
27 for the management and control of the public schools and programs within the school
28 administrative units in existence prior to July 1, 2009 that are within the regional school
29 unit. Those school administrative units in existence prior to July 1, 2009, on the date
30 established in subsection 1, have no further responsibility for the operation or control of
31 the public schools and programs within the school administrative unit except those
32 pursuant to section 1481.

33 **4. Transfer of school accounts.** Notwithstanding Title 20-A, section 15004 or any
34 charter of a municipal school unit, school administrative district or community school
35 district, the balance remaining in the school accounts of the former municipal school unit,
36 school administrative district or community school district within the regional school unit
37 must be paid to the treasurer of the regional school unit and verified through the annual
38 audit process pursuant to Title 20-A, chapter 221, subchapter 2. The balance from each of
39 the former municipal school unit, school administrative district or community school
40 district must be used to reduce that unit's or district's local contribution to the regional
41 school unit. Payment may be made in equal monthly installments during the
42 implementation year.

1 **5. Transfer of teachers and employees.** Except as limited by paragraph A, for
2 regional school units approved prior to January 16, 2008, all teachers and school
3 employees who are employed by a participating school administrative unit on June 30,
4 2008 must be transferred to and employed by the regional school unit as of July 1, 2008.
5 Except as limited by paragraph A, for regional school units approved after January 15,
6 2008 and before ~~November 5, 2008~~ January 16, 2009, all teachers and school employees
7 who are employed by participating school administrative units on June 30, 2009 must be
8 transferred and employed by the regional school unit as of July 1, 2009. Except as
9 limited by paragraph B, the regional school unit shall assume all of the legal obligations
10 and duties that the participating school administrative units owed to their employees,
11 including but not limited to those obligations and duties arising under federal law, state
12 law, collective bargaining agreements and individual employment contracts. It is the
13 intent of this Part to neither decrease nor increase the rights and benefits of transferred
14 employees or the employer. The regional school unit shall also maintain and honor any
15 agreements, contracts or policies regarding the rights and benefits of retirees and former
16 employees created by a participating school administrative unit that is dissolved as a
17 result of its inclusion within a regional school unit.

18 A. For regional school units approved prior to January 16, 2008, teachers or other
19 employees whose employment terminates by application of law or contract or by
20 action of a participating school administrative unit before July 1, 2008 may not be
21 transferred. For regional school units approved after January 15, 2008 and before
22 ~~November 5, 2008~~ January 16, 2009, teachers or other employees whose employment
23 terminates by application of law or contract or by action of a participating school
24 administrative unit before July 1, 2009 may not be transferred.

25 B. Teachers and other employees who are transferred to the regional school unit
26 prior to the completion of the applicable probationary period for their position have
27 the length of their probationary period calculated from the date of their most recent
28 date of employment by the participating school administrative unit.

29 **6. Collective bargaining.** The following provisions apply:

30 A. On July 1, 2008 for regional school units approved prior to January 16, 2008 and
31 on July 1, 2009 for regional school units approved after January 15, 2008 and before
32 ~~November 5, 2008~~ January 16, 2009, the regional school unit board of directors shall
33 assume all of the obligations, duties, liabilities and rights of the participating school
34 administrative units for all purposes under Title 26, chapter 9-A. The regional
35 school unit is considered a single employer. Notwithstanding any other provision of
36 law, the responsibilities of the regional school unit include:

37 (1) Continued recognition of all bargaining agents that represented any
38 bargaining units of employees who were employed by a participating school
39 administrative unit, pending completion of merger proceedings described in this
40 section;

41 (2) Assumption and continued observance of all collective bargaining
42 agreements between such bargaining agents and a participating school
43 administrative unit, which agreements continue in effect for the remainder of
44 their unexpired term unless the bargaining agent and regional school unit
45 mutually agree otherwise; and

(3) Collective bargaining for an initial or successor collective bargaining agreement in any bargaining unit in which a collective bargaining agreement is not in effect on the operational date and for any interim agreement that may be required to align expiration dates in a regional school unit-wide bargaining unit, as described in this subsection.

B. As early as possible but no later than August 31, 2011 for regional school units approved prior to January 15, 2008 and no later than August 31, 2012 for regional school units approved after January 15, 2008 and before ~~November 2, 2008~~ January 16, 2009, all bargaining units must be structured on a regional school unit-wide basis. Bargaining units that existed in the participating school administrative units shall merge in accordance with the procedures and criteria in this section. Merger into regional school unit-wide bargaining units is not subject to approval or disapproval of employees.

(1) Merger into regional school unit-wide bargaining units must be completed according to the schedule contained in this subsection, and no later than the latest expiration date of any collective bargaining agreement that was in effect on the operational date, which covered any employees in the merged unit.

(2) There must be one unit of teachers and, to the extent they are currently included in bargaining units, other certified professional employees, excluding principals and other administrators.

(3) Any additional bargaining units in a regional school unit must be structured as follows:

(a) In the initial establishment of such units, units must be structured primarily on the basis of the existing pattern of organization, maintaining the grouping of employee classifications into bargaining units that existed prior to the creation of the regional school unit and avoiding conflicts among different bargaining agents to the extent possible.

(b) In the event of a dispute regarding the classifications to be included within a regional school unit-wide bargaining unit, the current bargaining agent or agents or the regional school unit may petition the Maine Labor Relations Board to determine the appropriate unit in accordance with this section and Title 26, section 966, subsections 1 and 2.

(4) When there is the same bargaining agent in all bargaining units that will be merged into a regional school unit-wide bargaining unit, the units must be merged as of the operational date, and the regional school unit shall recognize the bargaining agent as the representative of the merged unit.

(5) When all bargaining units that will be merged into a regional school unit-wide bargaining unit are represented by separate local affiliates of the same state labor organization, the units must be merged as of the operational date. The identity of the single affiliate that will be designated the bargaining agent for the merged unit must be selected by the existing bargaining agents and the state labor organization. Upon completion of the merger and designation of the bargaining agent and notification by the state organization to the regional school unit, the regional school unit shall recognize the designated bargaining agent as the

representative of employees in the merged unit. If necessary, the parties will then execute a written amendment to any collective bargaining agreement then in effect to change the name of the bargaining agent to reflect the merger.

(6) Where there are bargaining units that will be merged into a regional school unit-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be merged as of the operational date as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for merger of separate local affiliates of the same state labor organization described in subparagraph (5) must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent election must be conducted by the Maine Labor Relations Board pursuant to subparagraph (8).

(7) When there are unexpired collective bargaining agreements with different expiration dates in the merged bargaining units described in subparagraphs (4), (5) and (6), all contracts must be honored to their expiration dates unless mutually agreed to otherwise by the public employer and the bargaining agent. Collective bargaining agreements must be bargained on an interim basis in any merged bargaining unit so that all collective bargaining agreements expire on the same date.

(8) When bargaining units with different bargaining agents must be merged into a single regional school unit-wide bargaining unit pursuant to this subsection, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967, except as modified in this subparagraph.

(a) A petition for an election to determine the bargaining agent must be filed with the Maine Labor Relations Board by any of the current bargaining agents or the regional school unit.

(b) The petition must be filed not more than 90 days prior to the expiration date of the agreement having the latest expiration date among the bargaining units that will be merged into the regional school unit-wide bargaining unit.

(c) The election ballot may contain only the names of the bargaining agents of bargaining units that will be merged into the regional school unit-wide bargaining unit and the choice of "no representative," but no other choices. No showing of interest is required from any such bargaining agent other than its current status as representative.

(d) The obligation to bargain with existing bargaining agents continues from the operational date until the determination of the bargaining agent of the regional school unit-wide bargaining unit under this subsection; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond the expiration date of the agreement having the latest expiration date among the bargaining units that will be merged into the regional school unit-wide bargaining unit that was in effect on the operational date.

(e) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the regional school unit-wide bargaining unit filed pursuant to this subsection.

(f) The bargaining units must be merged into a regional school unit-wide bargaining unit as of the date of certification of the results of the election by the Maine Labor Relations Board, or the expiration of the collective bargaining agreements in the unit, whichever occurs later.

C. After the merger of bargaining units into a regional school unit-wide bargaining unit, the bargaining agent of a regional school unit-wide bargaining unit and the regional school unit shall engage in collective bargaining for a collective bargaining agreement for the regional school unit-wide bargaining unit. In the collective bargaining agreement for each regional school unit-wide bargaining unit, the employment relations, policies, practices, salary schedules, hours and working conditions throughout the regional school unit must be made uniform and consistent as soon as practicable.

(1) In the event that the parties are unable to agree upon an initial regional school unit-wide collective bargaining agreement, they must use the dispute resolution procedures pursuant to Title 26, section 965 to resolve their differences.

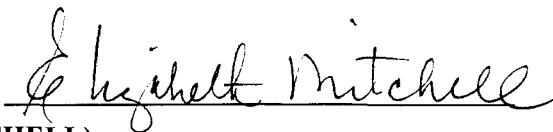
7. Superintendent contracts. The contracts between the superintendents and school administrative units within the regional school unit are transferred to the regional school unit board of directors. The regional school unit board of directors shall determine the superintendents' duties within the regional school unit.'

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

Under the existing law governing the reorganization of school administrative units, a referendum must be held on a proposed reorganization by November 4, 2008. This amendment changes the deadline by which a referendum must be held to January 15, 2009 and changes dates that are linked to the referendum date by the same amount of time.

SPONSORED BY:



(Senator MITCHELL)

COUNTY: Kennebec