

MAINE STATE LEGISLATURE

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L.D. 1932

Date: 3-6-08

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "E" to S.P. 741, L.D. 1932, Bill, "An Act To Amend the Laws Regarding School Funding"

Amend the bill by inserting after section 3 the following:

'Sec. 4. 20-A MRSA c. 103-A, sub-c. 7 is enacted to read:

SUBCHAPTER 7

REORGANIZATION OF REGIONAL SCHOOL UNITS

§1516. Dissolution of a district

1. Ten percent petition. Upon receipt of a petition that seeks to dissolve a regional school unit and establishes 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 of the municipality within the regional school unit 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 regional school unit.

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

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 board of directors 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 article to be voted upon must be in substantially the following form:
"Article: Do you favor filing a petition for dissolution with the directors of regional school unit (name of regional school unit) and with the Commissioner of Education, authorizing the dissolution committee to expend \$ (insert amount) and authorizing the (municipal officers; i.e., selectmen, town council, etc.) to issue notes in the name of

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1 the (name of the municipality) or otherwise pledge the credit of the (name of the
2 municipality) in an amount not to exceed \$ (insert amount) for this purpose?

3 Yes No"

4 **3. Notice of vote; finding by commissioner.** If residents of a municipality within
5 the regional school unit vote favorably on a petition for dissolution, the clerk shall
6 immediately give written notices, by registered mail, to the secretary of the regional
7 school unit and the commissioner that must include:

8 A. The petition adopted by the voters, including the positive and negative votes cast;
9 and

10 B. An explanation by the municipal officers, stating to the best of their knowledge
11 the reason or reasons why the municipality seeks to dissolve the regional school unit.

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

14 A. The commissioner, after consultation with the regional school unit board of
15 directors, municipal officers of each municipality within the regional school unit and
16 representatives of the group that filed the petition with the municipality, shall direct
17 the municipal officers of each municipality to select representatives to a committee as
18 follows: one member from the municipal officers, the group filing the petition; and
19 one member from the general public; and one member from the group filing the
20 petition if the group is represented in the municipality, otherwise an additional one
21 member of the general public. The commissioner shall also direct the directors
22 representing each municipality to select one member of the board of directors who
23 represents that municipality to serve on the committee. The municipal officer and the
24 member of the board of directors shall serve on the committee only so long as they
25 hold their respective offices. Vacancies must be filled by the municipal officers and
26 board of directors. The chair of the board of directors shall call a meeting of the
27 committee within 30 days of the filing of the notice of the vote in subsection 3. The
28 chair of the board of directors shall open the meeting by presiding over the election of
29 a chair of the committee. The responsibility for the preparation of the agreement rests
30 with the committee, subject to the approval of the commissioner. The committee may
31 draw upon the resources of the department for information not readily available at the
32 local level and employ competent advisors within the fiscal limit authorized by the
33 voters. The agreement must be submitted to the commissioner within 90 days after
34 the committee is formed. Extensions of time may be granted by the commissioner
35 upon the request of the committee.

36 (1) The agreement must contain provisions to provide educational services for all
37 students in the regional school unit. The agreement must provide that during the
38 first year following the dissolution, students may attend the school they would
39 have attended if the regional school unit had not dissolved. The allowable tuition
40 rate for students sent from one municipality to another in the former regional
41 school unit must be determined under section 5805, subsection 1, except that it is
42 not subject to the state per pupil average limitation in section 5805, subsection 2.

43 (2) The agreement must establish the dissolution to take effect at the end of the
44 regional school unit's fiscal year.

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- 1 (3) The agreement must establish that the dissolution will not cause a need
2 within 5 years from the effective date of dissolution for school construction
3 projects that would be eligible for state funds. This limitation does not apply
4 when a need for school construction existed prior to the effective date of the
5 dissolution or when a need for school construction would have arisen even if the
6 regional school unit had not dissolved.

- 7 (4) The agreement must establish how transportation services will be provided.

- 8 (5) The agreement must provide for administration of the new administrative
9 units, which should not include the creation of new supervisory units if at all
10 possible.

- 11 (6) The agreement must make provision for the distribution of financial
12 commitments arising from outstanding bonds, notes and any other contractual
13 obligations that extend beyond the proposed date of dissolution.

- 14 (7) The agreement must make appropriate provision for the distribution of any
15 outstanding financial commitments to the superintendent of the regional school
16 unit.

- 17 (8) The agreement must provide for the assumption and assignment of all
18 obligations, duties, liabilities and rights related to collective bargaining as
19 described in this section. Immediately following the dissolution, each municipal
20 school unit shall assume all of the obligations, duties, liabilities and rights of the
21 regional school unit for all purposes under Title 26, chapter 9-A with respect to
22 the employees who are transferred and assigned to the municipal school unit.
23 Notwithstanding any other provision of law, the responsibilities of a municipal
24 school unit include:
 - 25 (a) Continued recognition of all bargaining agents that represented any
26 bargaining units of employees who were employed by the regional school
27 unit and any successor or successors to such bargaining agents that are
28 created as a consequence of the dissolution of the regional school unit and the
29 division of the regional bargaining unit into municipal school unit bargaining
30 units; and
 - 31 (b) Assumption and continued observance of all collective bargaining
32 agreements between such bargaining agents and the regional school unit,
33 which agreements continue in effect for the remainder of their unexpired
34 terms unless the bargaining agent and a municipal school unit mutually agree
35 otherwise.

- 36 (9) The agreement must provide for the transfer and assignment of teachers and
37 other school employees as described in this section. Except as limited by
38 division (a), all teachers and school employees who are employed by the regional
39 school unit on the effective date of the dissolution must be immediately
40 transferred to and employed by a municipal school unit. Each municipal school
41 unit shall assume all of the legal obligations and duties that the regional school
42 unit owed to its employees, including but not limited to those obligations and

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1 duties arising under federal law, state law, collective bargaining agreements and
2 individual employment contracts. It is the intent of this chapter to neither
3 decrease nor increase the rights and benefits of transferred employees or the
4 employers. The municipal school units shall also maintain and honor any
5 agreements, contracts or policies regarding the rights and benefits of retirees and
6 former employees of the regional school unit that is dissolved.

7 (a) Teachers or other employees whose employment terminates by
8 application of law or contract or by action of the regional school unit before
9 the effective date of the dissolution may not be transferred.

10 (b) Teachers and other employees who are transferred from the regional
11 school unit to an individual municipal school unit prior to the completion of
12 the applicable probationary period for their position have the length of their
13 probationary period calculated from the date of their most recent date of
14 employment by the regional school unit.

15 (10) The agreement must provide for the disposition of all real and personal
16 property and other monetary assets.

17 (11) The agreement must provide for the transition of administration and
18 governance of the schools to properly elected governing bodies of the newly
19 created administrative units and must provide that the governing bodies may not
20 be elected simultaneously with the vote on the article to dissolve unless the
21 commissioner finds there are extenuating circumstances that necessitate
22 simultaneous elections.

23 B. Within 60 days of the receipt of the agreement, the commissioner shall either give
24 it conditional approval or recommend changes. The changes must be based upon the
25 standards set forth in paragraph A and the commissioner's findings of whether the
26 contents of the plan will provide for appropriate educational and related services to
27 the students of the regional school unit and for the orderly transition of assets,
28 governance and other matters related to the regional school unit.

29 C. If the commissioner gives conditional approval of the agreement, the
30 commissioner shall notify the board of directors and the municipal officers by
31 registered mail of the time and place of a public hearing at least 20 days prior to the
32 date set for the hearing to discuss the merits of the proposed agreement of dissolution.
33 The chair of the board of directors shall conduct the hearing.

34 (1) The board of directors shall post a public notice in each municipality of the
35 time and location of the hearing at least 10 days before the hearing.

36 (2) Within 30 days following the hearing, the committee shall forward the final
37 agreement to the commissioner.

38 D. If the commissioner recommends changes, the commissioner shall:

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

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

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1 (3) Indicate that the corrected agreement must be returned to the commissioner
2 for conditional approval before it goes to public hearing as set forth in paragraph
3 C.

4 **5. Date of vote; notice; warrant; polling hours.** The date and time for voting is as
5 set forth in this subsection.

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

10 B. At least 35 days before the date set in paragraph A, the board of directors shall
11 give written notice by registered or certified mail to the town or city clerk of each
12 municipality having a right to vote on the dissolution agreement.

13 C. The town or city clerk shall immediately notify the municipal officers upon
14 receipt of the notice, and the municipal officers shall meet and immediately issue a
15 warrant for a special town meeting or city election, as the case may be, to be held on
16 the date designated by the commissioner. No other date may be used.

17 D. In the respective warrants, the municipal officers shall direct that the polls open at
18 10 a.m. and remain open until 8 p.m.

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

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

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

26 C. The voting at the meeting held in cities must be conducted in accordance with
27 Title 21-A.

28 **7. Article.** The article to be voted on must be in the following form.
29 "Article: Do you favor the dissolution of regional school unit (name of regional
30 school unit) subject to the terms and conditions of the dissolution agreement dated
31 (insert date)?

32 Yes No"

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

36 **9. Restriction on dissolution petitions.** A municipality within a regional school
37 unit may not petition for dissolution within 2 years after the date of:

38 A. A municipal vote on a petition for dissolution if the petition received less than
39 60% of the votes cast; or

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1 B. A regional school unit vote on a dissolution agreement if the agreement received
2 less than 45% of the votes cast.

3 10. Costs of dissolution agreements. If the regional school unit votes to permit
4 dissolution, then the regional school unit shall reimburse the petitioning municipality for
5 the authorized expenses incurred by the dissolution committee. If the regional school unit
6 votes not to permit dissolution, then the regional school unit will not be required to
7 reimburse the petitioning municipality for those expenses.

8 11. Determination of vote. The town and city clerks shall, within 24 hours of
9 determination of the result of the vote in their respective municipalities, certify the total
10 number of votes cast in the affirmative and the total number of votes cast in the negative
11 on the article to the board of directors.

12 12. Determination of results; notification of commissioner; execution of
13 agreement. Determination of results must comply with the following.

14 A. Upon receipt of the results of the voting from all municipalities, the board of
15 directors shall meet and shall compute and record the total number of votes cast in the
16 municipalities in the affirmative and in the negative on the article.

17 B. The board of directors shall notify the commissioner by registered mail or by
18 hand delivery of the results of the vote.

19 C. If the commissioner finds that a majority of the voters voting on the article have
20 voted in the affirmative, the commissioner shall notify the directors of the regional
21 school unit to take steps to dissolve the regional school unit in accordance with the
22 terms of the agreement for dissolution.

23 13. Recount; checklists and ballots; disputed ballots. The following provisions
24 apply to recounts, checklists, ballots and disputed ballots.

25 A. If, within 7 days of the computation and recording of the results of the voting
26 from all municipalities, the municipal officers of any participating municipality
27 request to the commissioner in writing a recount of the votes in the regional school
28 unit, the commissioner shall immediately cause the checklists and all the ballots cast
29 in all of the participating municipalities to be collected and kept at the commissioner's
30 office so they may be recounted by interested municipalities.

31 B. The town clerks of the participating municipalities are authorized to deliver the
32 checklists and ballots to the commissioner, notwithstanding any other provision of
33 law to the contrary.

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

35 14. Execution of agreement; certified record; certificate of withdrawal. When
36 the agreement for dissolution has been put into effect by the directors of the regional
37 school unit, the directors shall notify the commissioner by certified mail that the
38 agreement of dissolution has been executed.

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

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1 B. The commissioner shall immediately issue a certificate of dissolution to be sent
2 by certified mail for filing with the directors of the regional school unit and shall file
3 a copy in the office of the Secretary of State.

4 **15. Indebtedness; indebtedness defined; indebtedness after dissolution.** The
5 following provisions apply to outstanding indebtedness.

6 A. Whenever a regional school unit having outstanding indebtedness dissolves, the
7 regional school unit remains intact for the purpose of securing and retiring the
8 indebtedness. The dissolution agreement may provide for alternate means for retiring
9 outstanding indebtedness.

10 B. For the purposes of this subsection, "outstanding indebtedness" means bonds or
11 notes for school construction projects issued by the board of directors pursuant to the
12 authorization established under chapter 609 or Title 20, sections 3457 to 3460 or
13 obligations to the Maine School Building Authority pursuant to any contract, lease or
14 agreement made by the board of directors pursuant to approval thereof in a meeting
15 of the regional school unit, but does not include any indebtedness of any municipality
16 assumed by the regional school unit at the time of formation nor any contract, lease
17 or agreement of the Maine School Building Authority to which by operation of law
18 the regional school unit has become the assignee.

19 **16. General purpose aid.** When a regional school unit dissolves, the general
20 purpose aid for the individual municipalities must be computed in accordance with
21 chapter 606-B.

22 **17. Committee recall.** If the commissioner determines that the dissolution
23 committee has failed to comply with the requirements of this section, the commissioner
24 may authorize the municipal officers and the board of directors of the regional school unit
25 to recall their representatives and to appoint new representatives to the committee.

26 **§1517. Withdrawal of a single municipality from a regional school unit**

27 **1. Petition.** The residents of a municipality within a regional school unit may
28 petition to withdraw from the regional school unit as follows.

29 A. Ten percent of the number of voters in the municipality who voted at the last
30 gubernatorial election must sign the petition to withdraw from the regional school
31 unit.

32 B. At least 10 days before the special election called pursuant to this paragraph, the
33 municipal officers of the municipality within the regional school unit shall hold a
34 posted or otherwise advertised public hearing on the petition and shall call and hold
35 the special election, in the manner provided for the calling and holding of town
36 meetings or city elections to vote on the withdrawal of the regional school unit.

37 C. The petition to withdraw from the regional school unit must be approved by secret
38 ballot by a majority vote of the voters present and voting before it may be presented
39 to the board of directors and the commissioner. Voting in towns must be conducted in
40 accordance with Title 30-A, sections 2528 and 2529, even if the towns have not
41 accepted the provisions of Title 30-A, section 2528, and voting in cities must be
42 conducted in accordance with Title 21-A.

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1 **2. Form.** The article to be voted upon must be in substantially the following form:
2 "Article: Do you favor filing a petition for withdrawal with the directors of regional
3 school unit (name of regional school unit) and with the Commissioner of Education,
4 authorizing the withdrawal committee to expend \$ (insert amount) and authorizing
5 the (municipal officers; i.e., selectmen, town council, etc.) to issue notes in the name
6 of the (name of the municipality) or otherwise pledge the credit of the (name of the
7 municipality) in an amount not to exceed \$ (insert amount) for this purpose?

8 Yes No"

9 **3. Notice of vote; finding by commissioner.** If residents of the municipality vote
10 favorably on a petition for withdrawal, the clerk shall immediately give written notices,
11 by registered mail, to the secretary of the regional school unit and the commissioner that
12 must include:

13 A. The petition adopted by the voters, including the positive and negative votes cast;
14 and

15 B. An explanation by the municipal officers, stating to the best of their knowledge
16 the reason or reasons why the municipality seeks to withdraw from the regional
17 school unit.

18 **4. Agreement for withdrawal; notice; changes in agreement; final agreement.**
19 The agreement for withdrawal must comply with the following.

20 A. The commissioner shall direct the municipal officers of the petitioning
21 municipality to select representatives to a committee as follows: one member from
22 the municipal officers, the group filing the petition; and one member from the general
23 public; and one member from the group filing the petition if the group is represented
24 in the municipality, otherwise an additional one member of the general public. The
25 commissioner shall also direct the directors representing the petitioning municipality
26 to select one member of the board of directors who represents that municipality to
27 serve on the committee. The municipal officer and the member of the board of
28 directors serve on the committee only so long as they hold their respective offices.
29 Vacancies must be filled by the municipal officers and board of directors. The chair
30 of the board of directors shall call a meeting of the committee within 30 days of the
31 filing of the notice of the vote in subsection 3. The chair of the board of directors
32 shall open the meeting by presiding over the election of a chair of the committee. The
33 responsibility for the preparation of the agreement rests with the committee, subject
34 to the approval of the commissioner. The committee may draw upon the resources of
35 the department for information not readily available at the local level and employ
36 competent advisors within the fiscal limit authorized by the voters. The agreement
37 must be submitted to the commissioner within 90 days after the committee is formed.
38 Extensions of time may be granted by the commissioner upon the request of the
39 committee.

40 (1) The agreement must contain provisions to provide educational services for all
41 students in the regional school unit. The agreement must provide that during the
42 first year following the withdrawal, students may attend the school they would
43 have attended if the petitioning municipality had not withdrawn. The allowable
44 tuition rate for students sent from one municipality to another in the former

1 regional school unit must be determined under section 5805, subsection 1, except
2 that it is not subject to the state per pupil average limitation in section 5805,
3 subsection 2.

4 (2) The agreement must establish the withdrawal to take effect at the end of the
5 regional school unit's fiscal year.

6 (3) The agreement must establish that the withdrawal will not cause a need
7 within 5 years from the effective date of withdrawal for school construction
8 projects that would be eligible for state funds. This limitation does not apply
9 when a need for school construction existed prior to the effective date of the
10 withdrawal or when a need for school construction would have arisen even if the
11 municipality had not withdrawn.

12 (4) The agreement must establish how transportation services will be provided.

13 (5) The agreement must provide for administration of the new municipal
14 administrative unit, which should not include the creation of new supervisory
15 units if at all possible.

16 (6) The agreement must make provision for the distribution of financial
17 commitments arising from outstanding bonds, notes and any other contractual
18 obligations that extend beyond the proposed date of withdrawal.

19 (7) The agreement must make appropriate provision for the distribution of any
20 outstanding financial commitments to the superintendent of the regional school
21 unit.

22 (8) The agreement must provide for the assumption and assignment of all
23 obligations, duties, liabilities and rights related to collective bargaining as
24 described in this section. Immediately following the withdrawal, the municipal
25 school unit shall assume all of the obligations, duties, liabilities and rights of the
26 regional school unit for all purposes under Title 26, chapter 9-A with respect to
27 the employees who are transferred and assigned to the municipal school unit.
28 Notwithstanding any other provision of law, the responsibilities of the municipal
29 school unit include:

30 (a) Continued recognition of all bargaining agents that represented any
31 bargaining units of employees who were employed by the regional school
32 unit and any successor or successors to such bargaining agents that are
33 created as a consequence of the withdrawal of the municipality from the
34 regional school unit and the division of the regional bargaining unit; and

35 (b) Assumption and continued observance of all collective bargaining
36 agreements between such bargaining agents and the regional school unit,
37 which agreements continue in effect for the remainder of their unexpired
38 terms unless the bargaining agent and the municipal school unit mutually
39 agree otherwise.

40 (9) The agreement must provide for the continuation or transfer and assignment
41 of teachers and other school employees as described in this section. Except as

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1 limited by division (a), all teachers and school employees who are employed by
2 the regional school unit on the effective date of the withdrawal must be either
3 continued in employment by the regional school unit or immediately transferred
4 to and employed by the withdrawing municipal school unit. The withdrawing
5 municipal school unit shall assume all of the legal obligations and duties that the
6 regional school unit owed to its employees, including but not limited to those
7 obligations and duties arising under federal law, state law, collective bargaining
8 agreements and individual employment contracts. It is the intent of this chapter to
9 neither decrease nor increase the rights and benefits of transferred employees or
10 the employer. The municipal school unit shall also maintain and honor any
11 agreements, contracts or policies regarding the rights and benefits of retirees and
12 former employees of the regional school unit.

13 (a) Teachers or other employees whose employment terminates by
14 application of law or contract or by action of the regional school unit before
15 the effective date of the withdrawal may not be transferred or continued.

16 (b) Teachers and other employees who are transferred from the regional
17 school unit to an individual municipal school unit prior to the completion of
18 the applicable probationary period for their position have the length of their
19 probationary period calculated from the date of their most recent date of
20 employment by the regional school unit.

21 (10) The agreement must provide for the disposition of all real and personal
22 property and other monetary assets.

23 (11) The agreement must provide for the transition of administration and
24 governance of the schools to properly elected governing bodies of the newly
25 created municipal administrative unit and must provide that the governing body
26 may not be elected simultaneously with the vote on the article to withdraw unless
27 the commissioner finds there are extenuating circumstances that necessitate
28 simultaneous elections.

29 B. Within 60 days of the receipt of the agreement, the commissioner shall either give
30 it conditional approval or recommend changes. The changes must be based upon the
31 standards set forth in paragraph A and the commissioner's findings of whether the
32 contents of the plan will provide for appropriate educational and related services to
33 the students of the municipality and the regional school unit and for the orderly
34 transition of assets, governance and other matters related to the municipality and the
35 regional school unit.

36 C. If the commissioner gives conditional approval of the agreement, the
37 commissioner shall notify the board of directors and the municipal officers by
38 registered mail of the time and place of a public hearing at least 20 days prior to the
39 date set for the hearing to discuss the merits of the proposed agreement of
40 withdrawal. The chair of the board of directors shall conduct the hearing.

41 (1) The board of directors shall post a public notice in each municipality of the
42 time and location of the hearing at least 10 days before the hearing.

1 (2) Within 30 days following the hearing, the committee shall forward the final
2 agreement to the commissioner.

3 D. If the commissioner recommends changes, the commissioner shall:

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

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

6 (3) Indicate that the corrected agreement must be returned to the commissioner
7 for conditional approval before it goes to public hearing as set forth in paragraph
8 C.

9 **5. Date of municipal election; notice; warrant; polling hours.** The date and time
10 for voting is as set forth in this subsection.

11 A. The commissioner shall determine the date upon which the petitioning
12 municipality must vote upon the agreement submitted to them. The election must be
13 held as soon as practicable and the commissioner shall attempt to set the date of the
14 vote to coincide with a statewide election.

15 B. At least 35 days before the date set in paragraph A, the commissioner shall give
16 written notice by registered or certified mail to the town or city clerk of the
17 municipality petitioning to withdraw.

18 C. The town or city clerk shall immediately notify the municipal officers upon
19 receipt of the notice, and the municipal officers shall meet and immediately issue a
20 warrant for a special town meeting or city election, as the case may be, to be held on
21 the date designated by the commissioner. No other date may be used.

22 D. In the respective warrants, the municipal officers shall direct that the polls open at
23 10 a.m. and remain open until 8 p.m.

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

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

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

31 C. The voting at the meeting held in cities must be conducted in accordance with
32 Title 21-A.

33 **7. Article.** The article to be voted on must be in the following form.

34 "Article: Do you favor the withdrawal of the (name of municipality) from the
35 regional school unit (name of regional school unit) subject to the terms and
36 conditions of the withdrawal agreement dated (insert date)?

37 Yes No"

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- 1 **8. Ballots; posting of agreement.** The withdrawal agreement need not be printed on
2 the ballot. Copies of the agreement must be posted in the municipality in the same
3 manner as specimen ballots are posted under Title 30-A, section 2528.
- 4 **9. Restriction on withdrawal petitions.** A municipality within a regional school
5 unit may not petition for withdrawal within 2 years after the date of:
- 6 **A.** A municipal vote on a petition for withdrawal if the petition received less than
7 45% of the votes cast; or
- 8 **B.** A municipal vote on a withdrawal agreement if the agreement received less than
9 60% of the votes cast.
- 10 **10. Cost of advisors.** The expense of employing competent advisors by the
11 municipality petitioning to withdraw must be borne by the municipality and the expense
12 of employing competent advisors by the regional school unit must be borne by the
13 regional school unit with the municipality bearing its share according to the regional
14 school unit's cost-sharing agreement.
- 15 **11. Determination of vote.** The town and city clerks shall, within 24 hours of
16 determination of the result of the vote in the municipality, certify the total number of
17 votes cast in the affirmative and the total number of votes cast in the negative on the
18 article to the commissioner.
- 19 **12. Determination of results; execution of agreement.** If the commissioner finds
20 that a majority of the voters voting on the article have voted in the affirmative, the
21 commissioner shall notify the municipal officers and the directors of the regional school
22 unit to take steps for the withdrawal in accordance with the terms of the agreement for
23 withdrawal.
- 24 **13. Recount; checklists and ballots; disputed ballots.** The following provisions
25 apply to recounts, checklists, ballots and disputed ballots.
- 26 **A.** If, within 7 days of the computation and recording of the results of the voting, the
27 municipality requests to the commissioner in writing a recount of the votes, the
28 commissioner shall immediately cause the checklists and all the ballots cast in the
29 municipality to be collected and kept at the commissioner's office so they may be
30 recounted by the municipality.
- 31 **B.** The town or city clerk of the municipality is authorized to deliver the checklists
32 and ballots to the commissioner, notwithstanding any other provision of law to the
33 contrary.
- 34 **C.** The commissioner shall resolve any question with regard to disputed ballots.
- 35 **14. Execution of agreement; certified record; certificate of withdrawal.** When
36 the agreement for withdrawal has been put into effect by the municipality, the municipal
37 officers shall notify the commissioner by certified mail that the agreement of withdrawal
38 has been executed.
- 39 **15. Indebtedness; indebtedness defined; indebtedness after withdrawal.** The
40 following provisions apply to outstanding indebtedness.

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1 A. Whenever a municipality withdraws from a regional school unit having
2 outstanding indebtedness, the regional school unit remains intact for the purpose of
3 securing and retiring the indebtedness. The withdrawal agreement may provide for
4 alternate means for retiring outstanding indebtedness.

5 B. For purposes of this subsection, "outstanding indebtedness" means bonds or notes
6 for school construction projects issued by the board of directors pursuant to the
7 authorization established under chapter 609 or Title 20, sections 3457 to 3460 or
8 obligations to the Maine School Building Authority pursuant to any contract, lease or
9 agreement made by the board of directors pursuant to approval thereof in a meeting
10 of the regional school unit, but does not include any indebtedness of the municipality
11 assumed by the regional school unit at the time of formation nor any contract, lease
12 or agreement of the Maine School Building Authority to which by operation of law
13 the regional school unit has become the assignee.

14 **16. General purpose aid.** When a municipality withdraws from a regional school
15 unit, the general purpose aid for the municipality must be computed in accordance with
16 chapter 606-B.

17 **17. Committee recall.** If the commissioner determines that the withdrawal
18 committee has failed to comply with the requirements of this section, the commissioner
19 may authorize the municipal officers to appoint new representatives to the committee.

20 **18. Commissioner recommended dissolution.** The commissioner's responsibilities
21 to initiate dissolution proceedings are as follows.

22 A. If a municipality representing more than 50% of the total population in a regional
23 school unit votes to withdraw from the district, then the commissioner shall analyze
24 the educational impact of the withdrawal upon the regional school unit. The regional
25 school unit's board of directors and the municipal officers from the remaining
26 municipalities must be consulted.

27 B. If the commissioner finds that it is impractical for the remaining municipalities to
28 continue as a regional school unit, then the commissioner shall initiate a dissolution
29 process by having the regional school unit submit the following article to the voters at
30 a regional school unit meeting.

31 "Article: Do you favor appointment of a dissolution committee for the dissolution
32 of regional school unit (name of regional school unit) by the Commissioner of
33 Education, authorizing the dissolution committee to expend \$ (insert amount)
34 and authorizing the (municipal officers; i.e., selectmen, town council, etc.) to
35 issue notes in the name of the (name of the municipality) or otherwise pledge the
36 credit of the (name of the municipality) in an amount not to exceed \$ (insert
37 amount) for this purpose?

38 Yes No"

39 C. If the voters approve the article by a majority vote of those voting and present,
40 then the rest of the dissolution process set forth in section 1516 applies except:

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

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1 (2) Costs of preparing a dissolution agreement must be borne solely by the
2 regional school unit.

3 **19. Transfer of property.** The board of directors may negotiate with the
4 withdrawal committee regarding an equitable division of the regional school unit's
5 property between the regional school unit and the municipality represented by the
6 committee and transfer title of the property to the municipality following withdrawal. The
7 board of directors shall determine that the regional school unit's educational program may
8 not be disrupted solely because of the transfer of any given property before it may
9 complete the transfer.

10 **§1518. Transfer of a municipality from one regional school unit to another**

11 **1. Petition to commissioner.** The boards of directors of 2 regional school units may
12 petition the commissioner by joint resolution to permit a municipality to transfer from
13 one regional school unit to another, as long as that municipality is being transferred to a
14 regional school unit contiguous to the municipality.

15 **2. Transfer agreement.** The boards of directors of the 2 regional school units and
16 the municipal officers of the municipality involved shall form a committee to prepare a
17 transfer agreement within 60 days after being notified by the commissioner to prepare the
18 agreement. Extensions of time may be granted by the commissioner.

19 A. The committee shall consider the standards set forth in section 1516, subsection 4,
20 paragraph A in preparing the agreement.

21 B. The approval process for the agreement must follow the steps set forth in section
22 1516, subsection 4 to subsection 16 except as modified in this section.

23 (1) The agreement must provide for the assumption and assignment of all
24 obligations, duties, liabilities and rights related to collective bargaining as
25 described in this section. Immediately following the transfer of the municipality,
26 the regional school unit to which the municipality has transferred shall assume all
27 of the obligations, duties, liabilities and rights of the former regional school unit
28 for all purposes under Title 26, chapter 9-A with respect to the employees who
29 are transferred and assigned from one regional school unit to another.
30 Notwithstanding any other provision of law, the responsibilities of the regional
31 school unit include:

32 (a) Continued recognition of all bargaining agents that represented any
33 bargaining units of employees who were employed by the regional school
34 unit from which the municipality transferred and any successor or successors
35 to such bargaining agents that are created as a consequence of the withdrawal
36 of the municipality from the regional school unit and the division of the
37 regional bargaining unit; and

38 (b) Assumption and continued observance of all collective bargaining
39 agreements between such bargaining agents and the regional school unit,
40 which agreements continue in effect for the remainder of their unexpired
41 terms unless the bargaining agent and the regional school unit mutually agree
42 otherwise.

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1 As early as possible after the transfer of the municipality from one regional
2 school unit to another, all bargaining units in the regional school unit to which
3 the municipality has been transferred must be structured on a regional school
4 unit-wide basis. Bargaining units that existed in the municipality that has been
5 transferred and bargaining units that exist in the regional school unit to which the
6 municipality has transferred shall merge in accordance with the procedures and
7 criteria in section 1464.

8 (2) The agreement must provide for the continuation or transfer and assignment
9 of teachers and other school employees as described in this section. Except as
10 limited by division (a), all teachers and school employees who are employed by
11 the regional school unit on the effective date of the transfer of the municipality
12 from one regional school unit to another must be either continued in employment
13 by the regional school unit from which the municipality has transferred or
14 immediately transferred to and employed by the regional school unit to which the
15 municipality has transferred. The regional school unit to which the municipality
16 has transferred shall assume all of the legal obligations and duties that the
17 regional school unit from which the municipality has transferred owed to its
18 employees, including but not limited to those obligations and duties arising under
19 federal law, state law, collective bargaining agreements and individual
20 employment contracts. It is the intent of this chapter to neither decrease nor
21 increase the rights and benefits of transferred employees or the employer. The
22 regional school unit to which the municipality has transferred shall also maintain
23 and honor any agreements, contracts or policies regarding the rights and benefits
24 of retirees and former employees of the regional school unit from which the
25 municipality has transferred.

26 (a) Teachers or other employees whose employment terminates by
27 application of law or contract or by action of the regional school unit before
28 the effective date of the transfer of the municipality may not be transferred or
29 continued.

30 (b) Teachers and other employees who are transferred from one regional
31 school unit to another regional school unit prior to the completion of the
32 applicable probationary period for their position have the length of their
33 probationary period calculated from the date of their most recent date of
34 employment by the regional school unit from which the municipality has
35 transferred.

36 C. The following article shall appear on the ballot when the transfer of a
37 municipality is considered.

38 "Article: Do you favor permitting the (name of municipality) to transfer from
39 regional school unit (name of regional school unit) into regional school unit
40 (name of regional school unit) as a participating municipality of that regional
41 school unit subject to the terms and conditions of the agreement of transfer
42 approved by the Commissioner of Education dated (insert date)?

43 Yes No"

HOUSE AMENDMENT

R. 018

HOUSE AMENDMENT "E" to S.P. 741, L.D. 1932

1 A copy of the agreement must be posted with each warrant that directs the citizens to
2 vote upon the question.

3 D. The article must be approved by a majority of votes cast in both regional school
4 units and by a majority of votes cast in the municipality to be transferred before the
5 agreement may take effect.

6 E. A complete certified record of the transaction involved in the transfer must be
7 filed with the commissioner. The commissioner shall issue immediately a certificate
8 of transfer to the secretary of the regional school unit by registered mail to be filed
9 with the boards of directors of the regional school units involved and shall file a copy
10 of the certificate of transfer in the office of the Secretary of State.

11 **3. Outstanding indebtedness.** Whenever a municipality, or a part of a municipality,
12 is detached from a regional school unit having outstanding indebtedness, the municipality
13 or part of a municipality remains as part of the regional school unit from which it was
14 detached for the purposes of paying its proper portion of the indebtedness until the
15 indebtedness is redeemed. The municipality or part of a municipality is not part of the
16 regional school unit from which it was detached for the purpose of any outstanding
17 indebtedness incurred subsequent to the date of the certificate of transfer.

18 For purposes of this subsection, "outstanding indebtedness" means bonds or notes for
19 school construction projects issued by the board of directors pursuant to the authorization
20 established under chapter 609 or Title 20, sections 3457 to 3460 or obligations to the
21 Maine School Building Authority pursuant to any contract, lease or agreement made by
22 the board of directors pursuant to approval thereof in a meeting of the regional school
23 unit, but does not include any indebtedness of the municipality assumed by the regional
24 school unit at the time of formation nor any contract, lease or agreement of the Maine
25 School Building Authority to which by operation of law the regional school unit has
26 become the assignee.

27 **§1519. State board review of commissioner's decisions**

28 A regional school unit or other interested party may request that the state board
29 reconsider decisions made by the commissioner under this subchapter. The state board
30 has the authority to overturn decisions made by the commissioner. In exercising this
31 power, the state board is limited by this subchapter.

32 **§1520. Rules**

33 The state board may adopt rules to carry out this subchapter. Rules adopted pursuant
34 to this section are routine technical rules in accordance with Title 5, chapter 375,
35 subchapter 2-A.'

36 Amend the bill by inserting after section 11 the following:

37 **'Sec. 12. Withdrawal of municipality from proposed regional school unit.**
38 Notwithstanding the Maine Revised Statutes, Title 20-A, section 1517, the residents of a
39 municipality that is part of a school administrative unit may use the procedures set forth
40 in Title 20-A, section 1517 to withdraw from a proposed regional school unit prior to the
41 formation of the regional school unit.'

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

3 **SUMMARY**

4 This amendment incorporates the substance of Senate Amendment "B" (S-420). It
5 enacts into law provisions regarding reorganization of regional school units. The new
6 provisions are similar to the Maine Revised Statutes, Title 20-A, former sections 1403,
7 1405 and 1406 and allow the dissolution of regional school units, the withdrawal from a
8 regional school unit by a municipality and the transfer by a municipality out of one
9 regional school unit into another. The amendment includes provisions that formerly
10 applied in this area of law authorizing the State Board of Education to review decisions of
11 the Commissioner of Education and to make rules concerning the reorganization of the
12 regional school units.

13 This amendment clarifies that the procedures set forth for withdrawal from a regional
14 school unit are available to a municipality prior to the formation of the regional school
15 unit.

16 The amendment also makes technical corrections to align the employment and
17 collective bargaining provisions of the bill, which apply in the event of dissolution of a
18 regional school unit or withdrawal or transfer of a single municipality from a regional
19 school unit, with the employment and collective bargaining provisions enacted in Public
20 Law 2007, chapter 240, Part XXXX and codified in the Maine Revised Statutes, Title 20-
21 A, sections 1463 and 1464.

22 **FISCAL NOTE REQUIRED**

23 (See attached)

24 **SPONSORED BY:** 

25 (Representative PRATT)

26 **TOWN: Eddington**



Approved: 03/06/08 *mac*

123rd MAINE LEGISLATURE

LD 1932

LR 3324(42)

An Act To Amend the Laws Regarding School Funding

Fiscal Note for House Amendment "E"

Sponsor: Rep. Pratt of Eddington

Fiscal Note Required: Yes

Fiscal Note

Potential future biennium cost increase - General Fund

Fiscal Detail and Notes

Allowing for the dissolution of a regional school unit (RSU) or the withdrawal of a regional school unit member from an RSU may increase the total cost of K-12 public education in future biennia due to less savings being achieved versus what was anticipated in Public Law 2007, chapter 240, Part XXXX. The amount can not be determined at this time.