

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 475

S.P. 178

In Senate, February 10, 2009

**An Act Regarding the Reorganization of Regional School Units and
Allowing a Municipality To Opt Out of an Existing School Structure**

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator ROSEN of Hancock.
Cosponsored by Senator RAYE of Washington and
Senator: WESTON of Waldo, Representatives: LANGLEY of Ellsworth, MARTIN of Eagle
Lake.

1 Be it enacted by the People of the State of Maine as follows:

2 Sec. 1. 20-A MRSA §1466 is enacted to read:

3 **§1466. Withdrawal of a single municipality from a regional school unit**

4 **1. Petition.** The residents of a municipality within a regional school unit may
5 petition to withdraw from the regional school unit in accordance with this subsection.

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

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

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

21 **2. Form.** The article to be voted upon must be in substantially the following form:

22 "Article: Do you favor filing a petition for withdrawal with the board of directors of
23 regional school unit (name of regional school unit) and with the Commissioner of
24 Education, authorizing the withdrawal committee to expend \$ (insert amount) and
25 authorizing the (municipal officers; i.e., selectpersons, town council, etc.) to issue
26 notes in the name of the (name of the municipality) or otherwise pledge the credit of
27 the (name of the municipality) in an amount not to exceed \$ (insert amount) for this
28 purpose?

29 Yes No"

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

34 A. The petition adopted by the voters, including the affirmative and negative votes
35 cast; and

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

1 **4. Agreement for withdrawal; notice; changes in agreement; final agreement.**
2 The agreement for withdrawal must comply with this subsection.

3 A. The commissioner shall direct the municipal officers of the petitioning
4 municipality to select representatives to a committee as follows: one member from
5 the municipal officers, one member from the general public and one member from
6 the group filing the petition. The commissioner shall also direct the directors
7 representing the petitioning municipality to select one member of the board of
8 directors who represents that municipality to serve on the committee. The municipal
9 officer and the member of the board of directors serve on the committee only so long
10 as they hold their respective offices. Vacancies must be filled by the municipal
11 officers and board of directors. The chair of the board of directors shall call a meeting
12 of the committee within 30 days of the filing of the notice of the vote in subsection 3.
13 The chair of the board of directors shall open the meeting by presiding over the
14 election of a chair of the committee. The responsibility for the preparation of the
15 agreement rests with the committee, subject to the approval of the commissioner. The
16 committee may draw upon the resources of the department for information not
17 readily available at the local level and employ competent advisors within the fiscal
18 limit authorized by the voters. The agreement must be submitted to the commissioner
19 within 90 days after the committee is formed. Extensions of time may be granted by
20 the commissioner upon the request of the committee.

21 (1) The agreement must contain provisions to provide educational services for all
22 students of the participating municipality within the regional school unit. The
23 agreement must provide that during the first year following the withdrawal,
24 students may attend the school they would have attended if the petitioning
25 municipality had not withdrawn. The allowable tuition rate for students sent
26 from one municipality to another in the former regional school unit must be
27 determined under section 5805, subsection 1, except that it is not subject to the
28 state per pupil average limitation in section 5805, subsection 2.

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

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

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

38 (5) The agreement must provide for administration of the new administrative
39 unit, which should not include the creation of new supervisory units if at all
40 possible.

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

1 (7) The agreement must provide appropriately for the distribution of any
2 outstanding financial commitments to the superintendent of the regional school
3 unit.

4 (8) The agreement must provide for the continuation and assignment of
5 collective bargaining agreements as they apply to the new or reorganized regional
6 school unit for the duration of those agreements and must provide for the
7 continuation of representational rights.

8 (9) The agreement must provide for the continuation of continuing contract
9 rights under section 13201.

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

12 (11) The agreement must provide for the transition of administration and
13 governance of the schools to properly elected governing bodies of the newly
14 created administrative unit and must provide that the governing body may not be
15 elected simultaneously with the vote on the article to withdraw unless the
16 commissioner finds there are extenuating circumstances that necessitate
17 simultaneous elections.

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

25 C. If the commissioner gives conditional approval of the agreement, the
26 commissioner shall notify the board of directors of the regional school unit and the
27 municipal officers by registered mail of the time and place of a public hearing at least
28 20 days prior to the date set for the hearing to discuss the merits of the proposed
29 agreement of withdrawal. The chair of the board of directors shall conduct the
30 hearing.

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

33 (2) Within 30 days following the hearing under this paragraph, the committee
34 shall forward the final agreement to the commissioner.

35 D. If the commissioner recommends changes to the agreement, the commissioner
36 shall:

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

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

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

1 **10. Cost of advisors.** The expense of employing competent advisors by the
2 municipality petitioning to withdraw must be borne by the municipality, and the expense
3 of employing competent advisors by the regional school unit must be borne by the
4 regional school unit with the municipality bearing its share according to the regional
5 school unit's cost-sharing agreement.

6 **11. Determination of vote.** The town or city clerk shall, within 24 hours of
7 determination of the result of the vote in the municipality, certify the total number of
8 votes cast in the affirmative and the total number of votes cast in the negative on the
9 article to the commissioner.

10 **12. Determination of results; execution of agreement.** If the commissioner finds
11 that a majority of the voters voting on the article have voted in the affirmative, the
12 commissioner shall notify the municipal officers and the directors of the regional school
13 unit boards to take steps for the withdrawal in accordance with the terms of the agreement
14 for withdrawal.

15 **13. Recount; checklists and ballots; disputed ballots.** This subsection applies to
16 recounts, checklists, ballots and disputed ballots.

17 A. If, within 7 days of the computation and recording of the results of the voting, the
18 municipality requests to the commissioner in writing a recount of the votes, the
19 commissioner shall immediately cause the checklists and all the ballots cast in the
20 municipality to be collected and kept at the commissioner's office so they may be
21 recounted by the municipality.

22 B. The town or city clerk of the municipality is authorized to deliver the checklists
23 and ballots to the commissioner, notwithstanding any other provision of law to the
24 contrary.

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

26 **14. Execution of agreement; certified record; certificate of withdrawal.** When
27 the agreement for withdrawal has been put into effect by the municipality, the municipal
28 officers shall notify the commissioner by certified mail that the agreement of withdrawal
29 has been executed.

30 **15. Indebtedness; indebtedness defined; indebtedness after withdrawal.** This
31 subsection applies to outstanding indebtedness.

32 A. Whenever a municipality withdraws from a regional school unit having
33 outstanding indebtedness, the regional school unit remains intact for the purpose of
34 securing and retiring the indebtedness. The withdrawal agreement may provide for
35 alternate means for retiring outstanding indebtedness.

36 B. For the purposes of this subsection, "outstanding indebtedness" means bonds or
37 notes for school construction projects issued by the board of directors pursuant to the
38 authorization established under chapter 609 or Title 20, sections 3457 to 3460 or
39 obligations to the Maine School Building Authority pursuant to any contract, lease or
40 agreement made by the board of directors pursuant to approval of the contract, lease
41 or agreement in a meeting of the regional school unit, but does not include any

1 indebtedness of the municipality assumed by the regional school unit at the time of
2 formation nor any contract, lease or agreement of the Maine School Building
3 Authority to which by operation of law the regional school unit has become the
4 assignee.

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

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

11 18. Transfer of property. The board of directors may negotiate with the
12 withdrawal committee regarding an equitable division of the regional school unit's
13 property between the regional school unit and the municipality represented by the
14 committee and transfer title of the property to the municipality following withdrawal.
15 The board of directors shall determine that the regional school unit's educational program
16 will not be disrupted solely because of the transfer of any given property before it may
17 complete the transfer.

18 **Sec. 2. 20-A MRS §1467 is enacted to read:**

19 **§1467. Transfer of a municipality from one regional school unit to another**

20 1. Petition to commissioner. The boards of directors of 2 regional school units may
21 petition the commissioner by joint resolution to permit a municipality to transfer from
22 one regional school unit to another, as long as that municipality is being transferred to a
23 regional school unit contiguous to the municipality.

24 2. Transfer agreement. The boards of directors of the 2 regional school units and
25 the municipal officers of the municipality involved shall form a committee to prepare a
26 transfer agreement within 60 days after being authorized by the commissioner to prepare
27 the agreement. Extensions of time may be granted by the commissioner.

28 A. The committee shall consider the standards set forth in section 1466, subsection 4,
29 paragraph A in preparing the agreement.

30 B. The approval process for the agreement must follow the steps set forth in section
31 1466, subsections 4 to 16.

32 C. The following article must appear on the ballot when the transfer of a
33 municipality is considered under paragraph B.

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

39 Yes No"

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 secretaries of the regional school units 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 of the contract, lease or agreement in a
23 meeting of the regional school unit, but does not include any indebtedness of the
24 municipality assumed by the regional school unit at the time of formation nor any
25 contract, lease or agreement of the Maine School Building Authority to which by
26 operation of law the regional school unit has become the assignee.

27 **Sec. 3. 20-A MRS §1468** is enacted to read:

28 **§1468. State board review of commissioner's decisions**

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

33 **SUMMARY**

34 This bill enacts into law provisions regarding the reorganization of regional school
35 units. The new provisions are similar to the Maine Revised Statutes, Title 20-A, former
36 sections 1405 and 1406 and allow the withdrawal from a regional school unit of a
37 municipality and the transfer of a municipality out of one regional school unit into
38 another. The bill also includes provisions that formerly applied in this area of law
39 authorizing the State Board of Education to review decisions of the Commissioner of
40 Education and to make rules concerning the reorganization of the regional school units.