

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1226

H.P. 846

House of Representatives, March 26, 2009

**An Act To Eliminate the Opt-out Penalty for Consolidation of
Schools if a School Administrative Unit Forms an Alternative
Organizational Structure**

(EMERGENCY)

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLARK of Millinocket.

1 **Emergency preamble. Whereas, acts and resolves of the Legislature do not**
2 **become effective until 90 days after adjournment unless enacted as emergencies; and**

3 **Whereas, current law provides that, beginning July 1, 2009, penalties are imposed**
4 **on school administrative units that have formed alternative organizational structures but**
5 **are not conforming units under the laws governing school administrative unit**
6 **reorganization; and**

7 **Whereas, certain school administrative units that have formed alternative**
8 **organizational structures may be subject to statutory penalties; and**

9 **Whereas, in the judgment of the Legislature, these facts create an emergency within**
10 **the meaning of the Constitution of Maine and require the following legislation as**
11 **immediately necessary for the preservation of the public peace, health and safety; now,**
12 **therefore,**

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

14 **Sec. 1. 20-A MRSA §1461, sub-§3, ¶B, as enacted by PL 2007, c. 240, Pt.**
15 **XXXX, §13, is amended to read:**

16 **B. In order for the plan to be approved by the commissioner, the governing bodies of**
17 **school administrative units shall work within the following parameters.**

18 (1) **The proposed regional school unit must serve not fewer than 2,500 students,**
19 **except where circumstances relating to the following factors justify an exception:**

20 (a) **Geography, including physical proximity and the size of the current**
21 **school administrative unit;**

22 (b) **Demographics, including student enrollment trends and the composition**
23 **and nature of communities in the regional school unit;**

24 (c) **Economics, including existing collaborations to be preserved or enhanced**
25 **and opportunities to deliver commodities and services to be maximized;**

26 (d) **Transportation;**

27 (e) **Population density; or**

28 (f) **Other unique circumstances including the need to preserve existing or**
29 **developing relationships, meet the needs of students, maximize educational**
30 **opportunities for students and ensure equitable access to rigorous programs**
31 **for all students; or**

32 (g) **The school administrative units have formed an alternative**
33 **organizational structure.**

34 **When circumstances justify an exception to the size requirement of 2,500**
35 **students, the unit must serve as close to 2,500 students as possible and in no case,**
36 **except for coastal islands and, schools operated by tribal school committees and**
37 **units that have formed an alternative organizational structure, may it serve fewer**
38 **than 1,200 students.**

1 (2) The plan must provide comprehensive programming for all students from
2 kindergarten to grade 12 and must include at least one publicly supported
3 secondary school.

4 (3) The plan must be consistent with the policies set forth in section 1451.

5 (4) The plan may not displace teachers or students or close any schools existing
6 and operating during the school year immediately preceding reorganization,
7 except as permitted under section 1512.

8 **Sec. 2. 20-A MRSA §15696**, as amended by PL 2007, c. 668, §§39 to 41 and c.
9 695, Pt. A, §23, is further amended to read:

10 **§15696. Penalties for nonconforming school administrative units**

11 **1. Authorized adjustments.** Notwithstanding any other provision of this Title,
12 except for school administrative units that file alternative plans pursuant to Public Law
13 2007, chapter 240, Part XXXX, section 36, subsection 2-A, the following adjustments to
14 the calculation of subsidy under chapter 606-B are required beginning July 1, 2009 for a
15 school administrative unit that is not a conforming school administrative unit:

16 A. The school administrative unit is eligible for only 50% of the minimum state
17 allocation under section 15689, subsection 1;

18 B. The school administrative unit's total cost of education is reduced by adjusting the
19 cost component for system administration under section 15680, subsection 1,
20 paragraph A by half;

21 C. The school administrative unit is not eligible for a transition adjustment under
22 section 15686 or any comparable year-over-year transition amount;

23 D. The school administrative unit receives less favorable consideration for approval
24 and funding for school construction pursuant to rules of the state board; and

25 E. The school administrative unit's full-value education mill rate pursuant to section
26 15671-A is increased by 2% for the purpose of calculating the school administrative
27 unit's required contribution to meet the local share of education costs established
28 pursuant to section 15688, subsection 3-A.

29 **Sec. 3. PL 2007, c. 240, Pt. XXXX, §36, sub-§2-A** is enacted to read:

30 **2-A. Formation of alternative organizational structure.** Notwithstanding
31 subsection 2, paragraph B, a school administrative unit that has formed an alternative
32 organizational structure pursuant to Title 20-A, section 1, subsection 26, paragraph C
33 may file a notice of intent to submit an alternative plan.

34 **Sec. 4. PL 2007, c. 240, Pt. XXXX, §36, sub-§6, ¶A** is amended to read:

35 A. The proposed regional school unit must serve not fewer than 2,500 students,
36 except where circumstances relating to the following factors justify an exception:

37 (1) Geography, including physical proximity and the size of the current school
38 administrative unit;

- 1 (2) Demographics, including student enrollment trends and the composition and
2 nature of communities in the regional school unit;
- 3 (3) Economics, including existing collaborations to be preserved or enhanced and
4 opportunities to deliver commodities and services to be maximized;
- 5 (4) Transportation;
- 6 (5) Population density, including the rural nature of our communities;
- 7 (6) Other unique circumstances including the need to preserve existing or developing
8 relationships, meet the needs of students, maximize educational opportunities for
9 students and ensure equitable access to rigorous programs for all students; or
- 10 (7) If, after performing due diligence to develop a regional plan that meets the 2,500
11 students enrollment requirement, a school administrative unit is unable to achieve the
12 enrollment goal due to the decision of geographically proximate school
13 administrative units to participate in a different regional unit; or
- 14 (8) If a school administrative unit has formed an alternative organizational structure
15 pursuant to Title 20-A, section 1, subsection 26, paragraph C.

16 When circumstances justify an exception to the requirement of 2,500 students, the unit
17 must serve at least 1,200 students, except for offshore islands and schools operated by
18 tribal school committees and units that have formed alternative organizational structures
19 pursuant to Title 20-A, section 1, subsection 26, paragraph C, which may serve fewer
20 than 1,200 students.

21 **Sec. 5. PL 2007, c. 240, Pt. XXXX, §36, sub-§11,** as amended by PL 2007, c.
22 668, §47, is further amended to read:

23 **11. Result of disapproval at January 2008 referendum.** A school administrative
24 unit that rejects a proposed reorganization plan at the January 15, 2008 referendum or at a
25 subsequent referendum on or before January 30, 2009 may restart the process to form a
26 regional school unit with the same or other school administrative units and may seek
27 assistance from the Department of Education to prepare another reorganization plan.

28 A. Subsequent reorganization plans must meet the same requirements as for
29 reorganization plans filed prior to the January 2008 referendum, except that the
30 timelines are adjusted to reflect a July 1, 2009 reorganization date. School
31 administrative units that file alternative plans pursuant to subsection 2-A are exempt
32 from this requirement.

33 B. The Except for school administrative units that file alternative plans pursuant to
34 subsection 2-A, the penalties set forth in Title 20-A, section 15696 apply to any
35 school administrative unit that fails to approve a reorganization plan on or before
36 January 30, 2009 and to implement that plan by July 1, 2009.

37 **Emergency clause.** In view of the emergency cited in the preamble, this
38 legislation takes effect when approved.

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SUMMARY

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This bill authorizes school administrative units to submit alternative plans if they

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have formed alternative organizational structures but have not approved a school

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reorganization plan. This bill also eliminates penalties that would otherwise apply to

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such school administrative units.