

MAINE STATE LEGISLATURE

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No. 1470

H.P. 1009

House of Representatives, April 18, 2017

An Act To Facilitate Voluntary Cooperation among School Systems

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

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative HUBBELL of Bar Harbor.

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

2 **Sec. 1. 20-A MRSA §1461-B, sub-§3, ¶B,** as enacted by PL 2009, c. 580, §5, is
3 amended to read:

4 B. A plan for an alternative organizational structure may include ~~a collaborative~~ an
5 agreement under chapter 114 113-B and must include an interlocal agreement under
6 Title 30-A, chapter 115. The plan must include procedures for conducting a
7 kindergarten to grade 12 budget approval pursuant to paragraph C.

8 **Sec. 2. 20-A MRSA c. 113-A,** as amended, is repealed.

9 **Sec. 3. 20-A MRSA c. 113-B** is enacted to read:

10 **CHAPTER 113-B**

11 **VOLUNTARY COOPERATION**

12 **§2521. Definitions**

13 As used in this chapter, unless the context otherwise indicates, the following terms
14 have the following meanings.

15 **1. Associate member.** "Associate member" means a signatory to a joint or
16 cooperative agreement under this chapter that is a nonvoting member of the governing
17 body of any legal entity established by the agreement and may include a publicly
18 supported secondary school, a special school district, the Maine School of Science and
19 Mathematics, the Maine Community College System, a community college, the
20 University of Maine System and a university within the University of Maine System.

21 **2. Party.** "Party" means a signatory to a joint or cooperative agreement under this
22 chapter that is a voting member of the governing body of any legal entity established by
23 the agreement and may include only school administrative units and career and technical
24 education regions.

25 **§2522. Joint exercise of powers**

26 Any power or powers, privileges or authority exercised or capable of exercise by a
27 party to an agreement under this chapter may be exercised and enjoyed jointly or
28 cooperatively with any other party.

29 **1. Agreement.** Two or more parties may enter into agreement with one another for
30 joint or cooperative action under this chapter. The governing bodies of the participating
31 parties must take appropriate action by resolution, order or other action under law before
32 any such agreement may become effective.

33 **2. Specifications.** An agreement under this chapter must specify the following:

34 A. Its purpose;

35 B. Its jurisdictional area;

- 1 C. Its duration;
- 2 D. The precise organization, composition and nature of any separate legal or
- 3 administrative entity created by the agreement together with the powers delegated to
- 4 that entity, including whether the entity has authority to undertake school
- 5 construction projects and issue bonds and notes;
- 6 E. The manner of financing the joint or cooperative undertaking and of establishing
- 7 and maintaining a budget for the undertaking;
- 8 F. The method to be used to partially or completely terminate the agreement and to
- 9 provide for the disposition of assets and liabilities upon termination;
- 10 G. The identity and role of any associate members under the agreement; and
- 11 H. Any other necessary and proper matters.

12 **3. Alternative agreement; additional items.** If an agreement under this chapter
13 does not establish a separate legal entity to conduct the joint or cooperative undertaking,
14 the agreement, in addition to the items listed in subsection 2, must contain the following:

- 15 A. It must provide for an administrator, fiscal agent or joint board responsible for
- 16 administering the joint or cooperative undertaking and managing its finances; and
- 17 B. It must provide the manner of acquiring, holding and disposing of any real and
- 18 personal property to be used in the joint or cooperative undertaking.

19 **4. School construction projects.** If an agreement under this chapter establishes a
20 separate legal entity to conduct the joint or cooperative undertaking and specifies that the
21 legal entity is granted authority to undertake school construction projects within the
22 meaning of section 15901, subsection 4, the agreement, in addition to the items listed in
23 subsection 2, must specify the method of calling and conducting a referendum of the
24 voters of the parties to authorize the school construction project. A referendum under this
25 subsection may be combined into a single question with a referendum under subsection 5
26 for the issuance of bonds or notes for the school construction project. Notwithstanding
27 the provisions of Title 30-A, section 2203, subsection 8, paragraph B, the governing body
28 of any separate legal entity established to conduct the joint or cooperative undertaking
29 that is granted the authority to undertake school construction projects has the authority to
30 condemn land for the construction or enlargement of school buildings and playgrounds in
31 accordance with the procedures and subject to the limitations of chapter 611. A separate
32 legal entity authorized to own school buildings or facilities or to undertake school
33 construction projects is authorized to conduct minor capital projects to repair, maintain
34 and improve its buildings and facilities.

35 **5. Authority to issue bonds and notes.** If an agreement under this chapter
36 establishes a separate legal entity to conduct the joint or cooperative undertaking and
37 specifies that the legal entity is granted authority to issue school construction or minor
38 capital project bonds or notes for the purpose of financing the joint or cooperative
39 undertaking, the agreement, in addition to the items listed in subsections 2 and 4, must
40 contain the following:

1 A. The method of calling and conducting a referendum of the voters of the parties to
2 authorize the issuance of bonds or notes;

3 B. The method for issuing the bonds or notes of the legal entity;

4 C. The method for assessing the debt service costs against the parties; and

5 D. A description of the requirements for the bonds or notes, including amortization
6 of principal, payment of principal and interest, duration of term and series
7 obligations, redemption and signature requirements.

8 An agreement establishing a separate legal entity that is authorized to issue bonds and
9 notes for school construction purposes may not include associate members. A separate
10 legal entity that is authorized to issue bonds and notes under this chapter must be a quasi-
11 municipal corporation within the meaning of Title 30-A, section 5701, and the provisions
12 of that section are applicable to it. The governing body of a separate legal entity
13 authorized to conduct a joint or cooperative undertaking under this chapter is authorized
14 to issue notes in anticipation of taxes and revenues for current operating expenses that are
15 payable within one month of the end of the fiscal year. A separate legal entity authorized
16 to issue school construction or minor capital project bonds or notes by referendum under
17 this chapter is authorized to issue notes in anticipation of those obligations for an
18 aggregate term of up to 3 years from the date the first anticipation note is issued. All
19 bonds and notes issued under this chapter are general obligations of the legal entity
20 issuer, secured by its full faith and credit. The legal entity shall assess its parties a
21 sufficient sum annually to pay its bonds and notes outstanding as they come due. A
22 party's share of debt under this chapter must be counted toward that party's legal debt
23 limit.

24 **6. Political subdivision and tax-exempt debt.** A separate legal entity established
25 pursuant to an agreement under this chapter to conduct a joint or cooperative undertaking
26 that is authorized to issue bonds and notes by the agreement constitutes a political
27 subdivision and has authority to issue its debt on a tax-exempt basis.

28 **7. Liability.** An action is maintainable against any party whose default, failure of
29 performance or other conduct has caused or contributed to the incurring of damage or
30 liability by the other parties, either jointly or separately. A separate legal entity
31 established to conduct a joint or cooperative undertaking under this chapter may sue or be
32 sued.

33 **8. Liberal construction.** It being the intent of the Legislature to avoid the
34 proliferation of inflexible enabling laws, this chapter must be liberally construed toward
35 that end.

36 **9. Limitation.** Notwithstanding any other provision of this chapter:

37 A. No powers, privileges or authority may be jointly or cooperatively exercised
38 unless each type of power, privilege or authority exercised is capable of being
39 exercised by at least one of the parties within the entire jurisdictional area of an
40 agreement under this chapter, or by each of the several parties within each of their
41 several jurisdictions if all of the several jurisdictions make up the total jurisdictional
42 area of the agreement; and

1 B. No essential legislative power may be delegated to a joint authority or separate
2 legal entity created by an agreement under this chapter.

3 **§2523. Types of joint or cooperative undertaking**

4 1. Authorized types. The types of joint or cooperative undertaking authorized by
5 this chapter include, without limitation, the following:

6 A. System administration;

7 B. School administration;

8 C. Instructional services;

9 D. Special education programs;

10 E. Gifted and talented programs;

11 F. Advanced placement courses;

12 G. Career and technical education programs;

13 H. Extracurricular and cocurricular programs;

14 I. Public preschool programs and 2-year kindergartens;

15 J. Alternative education programs;

16 K. Online and distance learning programs;

17 L. Adult education programs;

18 M. Postsecondary options;

19 N. Staff training and professional development;

20 O. Technology and technology support services;

21 P. Accounting, payroll and financial management;

22 Q. Purchasing or contracting for goods or services;

23 R. Transportation, bus routing and vehicle maintenance;

24 S. Food service;

25 T. Energy management and facilities maintenance;

26 U. Acquisition, renovation, equipping and construction of school facilities;

27 V. Leasing and lease purchasing of school equipment and financing of energy
28 conservation and combined energy conservation and air quality improvements under
29 section 15915; and

30 W. Employment of personnel for any authorized purpose.

31 **§2524. Financial reporting and state subsidy**

32 Expenses incurred under an agreement under this chapter must be allocated to the
33 parties to the agreement in accordance with the cost-sharing provisions of the agreement

1 and must be treated as educational expenses of each party for purposes of reporting to the
2 department and for purposes of calculating state education subsidies to that party.

3 **§2525. Existing agreements**

4 A shared service agreement established in accordance with former chapter 113,
5 cooperative agreement established in accordance with former chapter 113-A or interlocal
6 agreement established in accordance with Title 30-A, chapter 115 between 2 or more
7 school administrative units or career and technical education regions established prior to
8 the effective date of this chapter may remain in effect and may be extended or modified
9 by the parties to that agreement.

10 **§2526. Approval by commissioner**

11 If an agreement under this chapter establishes a separate legal entity, the agreement
12 must be submitted to the commissioner for approval before becoming effective. The
13 commissioner shall approve any agreement submitted for approval under this section,
14 unless the commissioner finds that the agreement does not comply with any law
15 regarding matters within the commissioner's jurisdiction. The commissioner shall detail
16 in writing, addressed to the governing bodies of the parties concerned, the specific
17 respects in which the proposed agreement substantially fails to meet the requirements of
18 law. Failure to disapprove an agreement submitted under this chapter within 30 days of
19 its submission constitutes approval of the agreement.

20 **§2527. Filing of agreement**

21 Before becoming effective, an agreement under this chapter must be filed with the
22 secretary of each participating party, with the secretary or clerk of each associate member
23 and with the commissioner.

24 **§2528. Interlocal agreements**

25 Nothing contained in this chapter may be construed to prevent a school
26 administrative unit or career and technical education region from entering into an
27 interlocal agreement in accordance with Title 30-A, chapter 115 with other school
28 administrative units, career and technical education regions, local and county
29 governments, state government agencies and instrumentalities or other authorized
30 entities.

31 **Sec. 4. 20-A MRSA c. 114**, as amended, is repealed.

32 **Sec. 5. 20-A MRSA §2651, sub-§2**, as amended by PL 2015, c. 251, §4, is
33 further amended to read:

34 **2. Use of fund.** The department shall award grants from the fund to school
35 administrative units, municipalities, counties and groups of 2 or more such entities,
36 including such groups that have entered into a ~~collaborative~~ an agreement pursuant to
37 chapter 444 113-B, to fund the costs of implementing changes in governance,
38 administrative structures or policies that result in the creation of consolidated school
39 administrative units; purchasing alliances; innovative, autonomous public schools,

1 teacher-led schools, innovative public school districts or innovative public school zones;
2 regional delivery of collaborative programs and educational services; or collaborations of
3 municipal-school service delivery or support systems, with the purpose of improving
4 educational opportunity and student achievement. Grants must be used to implement
5 changes that will be sustained by the school administrative unit, municipality or county
6 without the need for additional grants from the fund or other sources.

7 **Sec. 6. 20-A MRSA §6202, sub-§1-A**, as amended by PL 2009, c. 154, §3, is
8 further amended to read:

9 **1-A. Interpretation.** The statewide assessment program results may be interpreted
10 in a manner that takes into account the particular role within a school administrative unit
11 of regional special education or regional alternative education programs or schools
12 approved by the commissioner in accordance with chapter ~~113-A~~ 113-B or section 7253.
13 For these programs or schools, the results may be interpreted by assigning the student and
14 the scores of the student to the school in the community where the student resides. The
15 commissioner shall adopt rules to implement this subsection. Rules adopted pursuant to
16 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
17 2-A.

18 SUMMARY

19 This bill enacts chapter 113-B in the Maine Revised Statutes, Title 20-A to facilitate
20 voluntary collaboration and cooperation among school administrative units and career
21 and technical education regions. It repeals chapter 113-A, "Regional Education
22 Cooperatives," and chapter 114, "Regional Collaboration," and enacts a statute modeled
23 on Title 30-A, chapter 115, "Interlocal Cooperation." Under this new chapter, school
24 administrative units and career and technical education regions are authorized to exercise
25 any of their powers on a joint or cooperative basis, including the undertaking of joint
26 school construction projects and the issuance of bonds or notes.