

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

Sec. 5. Adjustments to allocations. Allocations may be increased or adjusted by the State Budget Officer with the approval of the Governor to specifically cover those adjustments determined to be necessary under any salary plan approved by the Legislature and those reclassifications/range changes which have been approved by the Department of Personnel and submitted for legislative review prior to the effective date of this Act.

Allocations may also be increased or adjusted by the State Budget Officer, with the approval of the Governor, for the purpose of utilizing Personal Services allocations within the All Other expenditure category, in the Department of Corrections.

Sec. 6. Encumbered balances at year end. At the end of each fiscal year, all encumbered balances shall not be carried more than once.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1983.

Effective July 1, 1983.

CHAPTER 364

H.P. 1214 - L.D. 1610

AN ACT to Amend the Laws Pertaining to
Dissolution and Withdrawal from School
Administrative Districts and Community
School Districts.

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

Sec. 1. 20-A MRS §1403, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§1403. Dissolution of a district

1. Ten percent petition. Upon receipt of a petition of which seeks to dissolve a school administrative district 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 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 school administrative district.

A. At least 10 days before the election, a posted or otherwise advertised public hearing on the petition shall 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 state board. Voting in towns shall be conducted in accordance with Title 30, sections 2061 and 2062, even though if the town has towns have not accepted the provisions of Title 30, section 2061, and voting in cities shall be conducted in accordance with Title 21.

2. Form. The question to be voted upon shall be in substantially the following form:

"Article : Be it resolved by the residents of the Town of that a petition for dissolution be filed with the directors of School Administrative District No. and with the State Board of Education, that the dissolution committee be authorized to expend \$ and that the (municipal officers; i.e. selectmen, town council, etc.) be authorized to issue notes in the name of the Town of or otherwise pledge the credit of the Town of in an amount not to exceed \$ for this purpose?"

Yes No "

3. Notice of vote; finding by board. If residents of a participating municipality vote favorably on a petition for dissolution, the clerk shall immediately give written notices, by registered mail, to the secretary of the school administrative district, the state board and the commissioner which shall include:

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

B. An explanation by the municipal officers, stating to the best of their knowledge, the reason or reasons why the municipality seeks to dissolve the district.

4. Agreement for dissolution; notice; changes in agreement; final agreement. The agreement for dissolution shall comply with the following.

A. The commissioner, after consultation with the district board of directors, municipal officers of the participating municipalities, and repre-

representatives of the group which filed the petition with the municipality, shall direct the municipal officers of each municipality to select representatives to a committee as follows: One school director representing the municipality shall be selected by the directors representing that municipality; One member each from the municipal officers, the group filing the petition; and one member from the general public shall be selected by the municipal officers; and one member from the group filing the petition if the group is represented in the municipality, otherwise an additional one member of the general public. The commissioner shall also direct the directors representing each municipality to select one member of the board of directors who represents that municipality to serve on the committee. The municipal officer and the member of the board of directors shall serve on the committee only so long as they hold their respective offices. Vacancies will be filled by the municipal officers and board of directors. The chairman of the board of directors shall call a meeting of the committee within 30 days of the filing of the notice of the vote in subsection 3. The chairman of the board shall open the meeting by presiding over the election of a chairman of the committee. The responsibility for the preparation of the agreement shall rest with the committee, subject to the approval of the State Board of Education. The committee may draw upon the resources of the department for information not readily available at the local level and employ competent advisors within the fiscal limit authorized by the voters. The agreement shall be submitted to the state board and the commissioner within 90 days after the committee is formed. Extensions of time may be granted by the commissioner upon the request of the committee.

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

(2) The agreement shall establish the dis-

solution to take effect at the end of the district's fiscal year.

(3) The agreement shall establish that the dissolution will not cause a need within 5 years from the effective date of dissolution for school construction projects which would be eligible for state funds. This limitation does not apply where a need for school construction existed prior to the effective date of the dissolution or where a need for school construction would have arisen even if the district had not dissolved.

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

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

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

(7) The agreement shall make appropriate provision for the distribution of any outstanding financial commitments to the superintendent of the school administrative district.

(8) The agreement shall provide for the continuation and assignment of collective bargaining agreements as they apply to the new or reorganized school administrative unit for the duration of those agreements and shall provide for the continuation of representational rights.

(9) The agreement shall provide for the continuation of continuing contract rights under section 13201, subsection 2.

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

(11) The agreement shall provide for the transition of administration and governance of the schools to properly elected governing bodies of the newly created administrative units and shall provide that the governing bodies shall not be elected simultaneously

with the vote on the article to dissolve unless the state board finds there are extenuating circumstances which necessitate simultaneous elections.

B. Within 60 days of the receipt of the agreement, the state board shall either give it conditional ~~acceptance~~ approval or recommend changes with the advice of the commissioner. The changes shall be based upon the standards set forth in paragraph A and the board's findings of whether the contents of the plan will provide for appropriate educational and related services to the students of the district and for the orderly transition of assets, governance, and other matters related to the district.

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

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

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

D. If the state board recommends changes it shall:

(1) Send the agreement back to the committee for necessary corrections and establish a maximum time within which to make the corrections; and

(1-A) Establish a maximum time within which to make the corrections; and

(2) Indicate that the corrected agreement shall go through the steps outlined in paragraphs A to E, or such other steps as the board deems appropriate be returned to the state board for conditional approval before it goes to public hearing as set forth in paragraph C.

5. Date of vote; notice; warrant; polling hours.
The date and time for voting shall be established as follows.

A. The state board shall determine the date upon which all municipalities shall vote upon the dissolution agreement submitted to them. The election shall be held as soon as practicable and the state board shall attempt to set the date of the vote to coincide with a statewide election.

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

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

D. In the respective warrants, the municipal officers shall direct that the polls shall be open at 10 o'clock in the forenoon and shall remain open until 8 o'clock in the afternoon.

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

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

B. Except as otherwise provided in this section, the voting at the meetings held in towns shall be conducted in accordance with Title 30, sections 2061 and 2062, even ~~though~~ if the ~~town~~ has towns have not accepted the provisions of Title 30, section 2061.

C. The voting at the meeting held in cities shall be conducted in accordance with Title 21.

7. Article. The article shall be in the following form.

"Article : Shall School Administrative District No. be dissolved subject to the terms and conditions of the dissolution agreement dated 19 ?

Yes

No

"

8. Ballots; posting of agreement. The dissolution agreement need not be printed on the ballot. Copies of the agreement shall be posted in each participating municipality in the same manner as specimen ballots are posted under Title 30, chapter 207.

9. Restriction on dissolution petitions. No participating municipality within a district which has voted on dissolution may petition for dissolution within 2 years after the date of the district vote on the dissolution:

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

B. A district vote on a dissolution agreement if the agreement received less than 45% of the votes cast.

10. Costs of dissolution agreements. Costs incurred shall comply with the following: If the school administrative district votes to permit dissolution, then the district shall reimburse the petitioning municipality for the authorized expenses incurred by the dissolution committee. If the district votes not to permit dissolution, then the district will not be required to reimburse the petitioning municipality for those expenses.

A- The expense of employment of competent advisers in preparing the agreement of dissolution shall be paid by the state board.

B- If the school administrative district votes not to permit dissolution, the municipality petitioning for dissolution shall reimburse the state board for expenses. If the school administrative district votes to permit dissolution, the school administrative district shall reimburse the state board for the expenses.

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

12. Determination of results; notification of state board; execution of agreement. Determination of results shall comply with the following.

A. Upon receipt of the results of the voting

from all municipalities, the board of directors shall meet and shall compute and record the total number of votes cast in the municipalities ~~within the school administrative district~~ in the affirmative and the ~~total number of votes cast~~ in the negative on the dissolution article submitted.

B. The board of directors shall notify the state board by ~~certified~~ registered mail or by hand delivery of the results of the vote.

C. If the state board finds that a majority of the voters voting on the article have voted in the affirmative, it shall notify the directors of the district to ~~execute immediately~~ take steps to dissolve the district in accordance with the terms of the agreement for dissolution.

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

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

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

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

14. Execution of agreement; certified record; certificate of withdrawal. When the agreement for dissolution has been ~~executed~~ put into effect by the directors of the school administrative district, the directors shall notify the state board by certified mail that the agreement of dissolution has been executed.

A. A complete certified record of the transaction involved in the dissolution shall be filed with the state board.

B. The state board shall immediately issue a certificate of dissolution to be sent by certified mail for filing with the directors of the

school administrative district and shall file a copy in the office of the Secretary of State.

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

A. Whenever a district having outstanding indebtedness dissolves, the district shall remain intact for the purpose of securing and retiring the indebtedness; the dissolution agreement may provide for alternate means for retiring outstanding indebtedness.

B. "Outstanding indebtedness" means bonds or notes for school construction projects issued by the board of directors pursuant to the authorization established under chapter 609 or Title 20, sections 3457 to 3460 or obligations to the Maine School Building Authority pursuant to any contract, lease or agreement made by the board of directors pursuant to approval thereof in a district meeting of the school administrative district, but does not include any indebtedness of any municipality assumed by the school administrative district at the time of formation nor any contract, lease or agreement of the Maine School Building Authority to which by operation of law the school administrative district has become the assignee.

16. General purpose aid. When a school administrative district dissolves the general purpose aid for the individual municipalities shall be computed in accordance with chapter 605.

17. Committee recall. If the state board determines that the dissolution committee has failed to comply with the requirements of this section, it may authorize the municipal officers and the district's board of directors to recall their representatives and to appoint new representatives to the committee.

Sec. 2. 20-A MRSA §1404, sub-§6, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

6. Outstanding indebtedness of school administrative district; liability of individual municipalities. If the school administrative district is dissolved and the ensuing community school district does not include all grades kindergarten through grade 12, each member municipality shall be individually liable for any outstanding indebtedness which the school administrative district had relative to the grades which will be operated exclusively by that municipality or as otherwise provided for in the dissolution agreement.

Sec. 3. 20-A MRSA §1405, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

§1405. Withdrawal of a single municipality from a school administrative district

1. Petition. The residents of a participating municipality within a school administrative district composed of 3 or more municipalities may petition to withdraw from the district in the same manner as they would petition for the dissolution of a school administrative district in accordance with section 1403, except that only a simple majority vote of those casting valid ballots in the municipality is required before the petition may be presented to the board of directors and to the state board.

2. Procedure. The steps set forth in section 1403 for dissolution apply to the withdrawal of a member municipality from a school administrative district, except that:

A. The responsible committee for preparing the withdrawal agreement shall be limited to individuals from the municipality;

B. Instead of a district election, a municipal election shall be conducted and a 2/3 vote of those casting valid ballots in the municipality is required before it may withdraw;

C. Wherever there is reference in section 1403 to the term "dissolution," or other terms not consistent with withdrawal, the term "withdrawal" or other appropriate language shall be substituted;

D. All public hearings required under section 1403 shall be conducted by the municipal officers; and

E. A municipality may not petition for withdrawal within 2 years after the date of:

(1) A municipal vote on a petition for withdrawal if the petition received less than 45% of the votes cast; or

(2) A municipal vote on a withdrawal agreement if the agreement received less than 60% of the votes cast.

3. Cost of advisors. The expense of employing competent advisors by the municipality petitioning to withdraw shall be borne by the municipality and the

expense of employing competent advisors by the district shall be borne by the district with the municipality bearing its share according to the district's cost-sharing agreement.

4. State board recommended dissolution. The state board's responsibilities to initiate dissolution proceedings are as follows.

A. If a member town representing more than 50% of the total population in a district votes to withdraw from the district, then the state board shall analyze the educational impact of the town's withdrawal upon the district. The board shall utilize departmental staff in carrying out its responsibility under this subsection. The district's board of directors and the municipal officers from the remaining towns shall be consulted.

B. If the state board finds that it is impractical for the remaining towns to continue as a district, then it shall initiate the dissolution process set out in section 1403 by having the district submit the following article to the voters at a district meeting called in accordance with sections 1351 to 1354.

"Article : Be it resolved by the voters of School Administrative District No. that a dissolution committee be appointed and authorized to expend \$, and the directors of School Administrative District No. be authorized to issue notes or otherwise pledge the credit of School Administrative District No. in an amount not to exceed \$ for this purpose?

Yes _____ No _____ "

C. If the voters approve the article by a majority vote of those voting and present, then the rest of the dissolution process set forth in section 1403 shall apply except:

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

(2) Costs of preparing a dissolution agreement shall be borne solely by the district.

5. Transfer of property. The district's board of directors may negotiate with the withdrawal com-

issue immediately a certificate of transfer to the secretary of each school administrative district by registered mail to be filed with the directors of the districts involved and shall file a copy of the certificate of transfer in the office of the Secretary of State.

Sec. 5. 20-A M RSA §1407, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

§1407. Closing an elementary school

1. Vote; costs of election. An elementary school in a member municipality of a school administrative district may not be closed unless the voters in the member town vote on the following article in accordance with the procedure set forth in sections 1351 to 1354.

"Article : Shall the board of directors of School Administrative District No. be authorized to close ?
(name of school)

Yes No "

(The election shall be conducted only within that member municipality and the costs of the election shall be borne by the district.)

2. Expense of keeping the school open. If the voters vote to keep the school open, the member municipality shall be liable for any additional expense for operating costs, transportation costs, and minor capital costs as defined in section 15503, which exceed by 10% the expense of the district for the operating costs, transportation costs, and minor capital costs as compared on a per pupil basis in the base year. The determination of costs shall be subject to the approval of the commissioner. Any additional costs which must be borne by the member municipality shall be part of the article presented to the voters at the meeting to determine whether the school should remain open.

Effective September 23, 1983.

CHAPTER 365

H.P. 306 - L.D. 365

AN ACT Regulating the Activities of Political Action Committees.