

MAINE STATE LEGISLATURE

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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 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

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J.S. McCarthy Co., Inc.
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1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 24, 1983.

CHAPTER 485

H.P. 1310 - L.D. 1739

AN ACT to Clarify the Education Laws.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, existing ambiguities in the education laws create confusion and uncertainty regarding the operation of school administrative units; and

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

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

Sec. 1. 20 MRSA §161, sub-§2, ¶¶A and B, as repealed and replaced by PL 1981, c. 658, §1, are amended to read:

A. The municipal officers in an ~~incorporated school district~~ a municipal corporation responsible for operating public schools, unless it has been approved in accordance with section 853; or

B. The treasurer of a ~~school administrative district~~ quasi-municipal corporation responsible for operating public schools, unless it has been approved by a majority ~~vote~~ of the full membership of ~~the board of directors or its governing body~~ or, in the case of a school administrative district, a finance committee elected in accordance with section 306.

Sec. 2. 20 MRSA §226-A, sub-§2, ¶B, as amended by PL 1979, c. 356, §2, is further amended to read:

B. The municipal officers of each municipality

within the district shall then cause the article set out in subsection 1 to be placed on the ballots for that municipality for the next general or statewide special election occurring at least 45 days after the date on which the municipal officers received the notice required under paragraph A.

Sec. 3. 20 MRSA §379, sub-§9, ¶¶A and B, as enacted by PL 1979, c. 482, §3, are amended to read:

A. The format of the school budget may be determined by the voters of a community school district by adoption of an appropriate warrant article at a properly called meeting election held in accordance with the procedure set forth in section 4755, subsection 6.

B. An article dealing with the budget format may be placed upon the next warrant before the voters at a properly called election if authorized by a majority vote of the school committee or if a written petition of a number of voters equal to at least 10% of the number of votes cast in the last gubernatorial election in each town comprising the district has been presented to the school committee.

Sec. 4. 20 MRSA §4751, sub-§3, ¶J, as repealed and replaced by PL 1981, c. 464, §27, is amended to read:

J. An article in substantially the following form is to be used when any municipality, School Administrative District or community school district is considering the appropriation of additional local funds under this subsection: Article : To see what sum the municipality or district shall appropriate from local leeway for school purposes (~~recommended total \$~~ 7 ~~local share \$~~ 7 ~~state share \$~~)7 and to see if the municipality or district shall raise the local share of \$ (recommended total \$, local share \$, state share \$).

Sec. 5. 20-A MRSA §1051, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Eligibility requirements. Only those persons who hold a state certificate of superintendence grade, issued in accordance with chapter 501, may be eligible to become superintendents. Members of the school board may not be eligible to become superintendent in the school administrative unit which they represent.

Sec. 6. 20-A MRSA §1055, sub-§1, ¶D, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

D. Issue vouchers showing the correctness of bills contracted on account of school appropriations. A bill may not be allowed for payment by the municipal officers, unless:

(1) They have been approved by the municipal officers in a municipal corporation responsible for operating public schools, or have been approved in accordance with section 2352; or

(2) In a quasi-municipal corporation responsible for operating public schools, it has been approved by a majority of the full membership of its governing body or, in the case of a school administrative district, a finance committee elected in accordance with section 1256.

Sec. 7. 20-A MRSA §1202, sub-§4, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. At least 1/2 of the total number of municipal officers and school committee members eligible to vote at the joint meeting shall be present to constitute a quorum. If there is no quorum, those present shall report to the state board that a quorum was not present and request the state board to issue a new notice.

Sec. 8. 20-A MRSA §1202, sub-§6, ¶¶B and D, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

B. "Article : To see if the municipality will vote to approve the allocation of representation ~~with~~ within the district on the Board of School Directors as recommended by the school committees and municipal officers as follows: The total number of directors shall be _____."
(number)

D. If the state board has authorized an alternative method of sharing costs, the municipality shall vote on the following article.

Article : To see if the costs of operating
" _____ Community School District"
{name}
"School Administrative District _____"
(number)

shall be shared among the towns of _____

(naming them)

in accordance with (per pupil, state valuation, a combination thereof or any other formula authorized by the Legislature).

Sec. 9. 20-A MRSA §1251, sub-§3, ¶C, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

C. The directors shall serve their terms as determined at the organizational meeting and an additional period until the next regular election of the municipalities. Thereafter, the directors' terms of office shall ~~date from the time of each municipality's regular election~~ be established in accordance with the provisions of section 1003.

Sec. 10. 20-A MRSA §1255, sub-§10, ¶D, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

D. The Except as provided in paragraph B, the current board of directors shall serve until the next annual municipal elections or until a date established in accordance with section 1003, subsection 2.

Sec. 11. 20-A MRSA §1256, sub-§§1 and 3, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

1. School district name. May select an unofficial name ~~of~~ for the district;

3. Operating schools. May operate elementary ~~school units~~ schools;

Sec. 12. 20-A MRSA §1305, sub-§1, ¶B, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

B. The municipal officers of each municipality within the district shall then cause the article to be placed on the ballots for that municipality for the next ~~general or~~ statewide ~~special~~ election occurring at least 45 days after the date on which the municipal officers received the notice.

Sec. 13. 20-A MRSA §1307, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

3. Summary action. To summarize the action taken on the school budget for the purposes of determining ~~the district's state-local allocations~~ state and local cost sharing, the articles prescribed in chapter 605 shall also be voted upon.

Sec. 14. 20-A MRSA §1310, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Warrant. In accordance with the budget approved by the voters at an annual budget meeting and in substantially the same form as the warrant of the Treasurer of State for taxes, the board of directors shall issue its warrants to the assessors of each member municipality requiring ~~it~~ them to assess upon the taxable estates within the municipality an amount which is that municipality's share of the district's costs.

Sec. 15. 20-A MRSA §1352, sub-§2, ¶¶A and E, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

A. When a referendum is called for the purpose of authorizing the issuance of bonds or notes for capital outlay purposes, the articles shall be substantially as follows.

(1) "Shall the school directors of School Administrative District No.....be authorized to issue bonds or notes in the name of this district for school construction purposes in an amount not to exceed \$..... to construct a
(elementary or secondary school)
to be located at
(specifically defined lot where school is to be erected)

Yes No "

(2) "Shall the school director of School Administrative District No.....be authorized to issue bonds or notes in the name of this district for school construction or minor capital projects in an amount not to exceed \$.....for the purpose of.....
.....?
(here state purpose of school construction project)

Yes No "

(3) "Shall the school directors of School Administrative District No..... be authorized to use the bond issue or notes in an amount not to exceed \$..... which was voted by the district on.....
(date)
to construct a
(elementary or secondary school)

to be located at?
(specifically define lot where
school is to be located)

Yes No "

E. When a referendum is called for the purpose of authorizing the school board to contract for the schooling of secondary pupils, the article shall be as follows.

"Shall the school directors of School Administrative District No..... be authorized to contract in the name of this district with
.....
(Name of Administrative Unit or Academy)
for the schooling of secondary pupils for a term ofyears?

Yes No "

Sec. 16. 20-A MRSA §1404, sub-§4, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

4. State board. The state board shall carry out its duties under sections 1403 and 1602 regarding the dissolution of a school administrative district and the creation of a new community school district, except that the municipal officers and the board of directors shall be responsible for developing a plan to provide for the continuity of the educational program for each municipality to be included within the dissolution agreement.

Sec. 17. 20-A MRSA §1701, sub-§9, ¶¶A and B, as enacted by PL 1983, c. 693, §§5 and 8, are amended to read:

A. The budget format may be determined by the voters of a community school district by adoption of an appropriate warrant article at a properly called meeting election held in accordance with the procedure set forth in section 15515, subsection 6.

B. An article dealing with the budget format may be placed on the next warrant before the voters at a properly called election if authorized by a majority vote of the district school committee or if a written petition of at least 10% of the number of voters voting in the last gubernatorial election of each municipality comprising the community school district has been presented to the district school committee.

Sec. 18. 20-A MRSA §1702, sub-§2, ¶A, as enacted

by PL 1981, c. 693, §§5 and 8, is amended to read:

A. It shall have inscribed on its face the name of the community school district, the date it was issued, the amount of the bond or note and the annual interest rate, payable semiannually. It shall be in the form and be sold in the manner, at public or private sale, as the district board of trustees determine school committee determines in accordance with state law.

Sec. 19. 20-A MRSA §2305, sub-§4, ¶A, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

A. By the school committee within 30 days. The term of a member appointed by the school committee to fill a vacancy shall expire at the next annual meeting; or

Sec. 20. 20-A MRSA §4001, sub-§3, ¶B, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

B. A lease of classroom space shall provide for its exclusive use by the unit during the period of instruction. A lease may provide for the nonexclusive use of other property, but that property may be used for housing only in emergencies.

Sec. 21. 20-A MRSA §4008, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Privileged communication. A school counselor may not be required, except as provided by this section, to divulge or release information gathered during a counseling relation with a client or with the parent ~~or~~, guardian or a person or agency having legal custody of a minor client. A counseling relation and the information resulting from it shall be kept confidential consistent with the professional obligations of the counselor.

Sec. 22. 20-A MRSA §5001, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Exceptions. Compulsory attendance shall not apply to the following:

A. Persons who graduate from high school before their 17th birthday;

B. Persons who have:

(1) Reached the age of 15 or completed the 9th grade;

(2) Permission to leave school from their parent or legal guardian;

(3) Permission to leave school from the school board or its designee; and

(4) Agreed in writing with their parent or legal guardian and the school board or its designee to meet annually until their 17th birthday to review their educational needs;

C. Students who obtain equivalent instruction in an approved private school shall be credited with attendance at a private school only if a certificate showing their names, residence and attendance at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the students reside;

D. Equivalent instruction is as follows:

(1) A child shall be excused from attending a public day school if he obtains equivalent instruction in a private school or in any other manner arranged for by the school committee or the board of directors and if the equivalent instruction is approved by the commissioner; and

(2) If any request to be excused is denied by a local school committee or board of directors, an appeal may be filed with the commissioner. The commissioner shall review the request to be excused to determine whether the local school committee or board of directors has been correct in its finding that no equivalent instruction is available. If the commissioner finds that equivalent instruction is available to the child, he shall approve the request to be excused; or

E. Children shall be credited with attendance at a private school only if a certificate showing their names, residence and attendance at the school, signed by the person or persons in charge of the school, has been filed with the school officials of the administrative unit in which the children reside; or

F. A person whose absence is excused under section 5002 or 5051.

Sec. 23. 20-A MRSA §5401, sub-§13, ¶B, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

B. Authorization by the unit's legislative governing body shall be required for contracts existing beyond one year.

Sec. 24. 20-A MRSA §5804, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Public schools. The maximum tuition payments shall not exceed the receiving school administrative ~~units~~ unit's per student cost for the preceding year as approved calculated by the commissioner. The school board of the sending unit may vote to pay a higher tuition rate.

Sec. 25. 20-A MRSA §7503, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Authority to establish. The Governor Baxter School for the Deaf, established by Private and Special Law 1897, chapter 446, and by Private and Special Law 1953, chapter 44, shall be devoted to the education and instruction of deaf ~~exceptional~~ students.

Sec. 26. 20-A MRSA §8301, sub-§§3 and 5, as enacted by PL 1981, c. 693, §§5 and 8, are amended to read:

3. Vocational center. "Vocational center" means facilities or programs providing vocational education to secondary students. A center shall be governed by a single school administrative unit. It may serve students from other affiliated school administrative units. It may include satellite center facilities and programs.

5. Vocational region. "~~Vocational region~~" means ~~facilities or programs providing vocational education to secondary school students.~~ A vocational region is comprised of all the school administrative units within the geographical boundaries established in section 8451. A region shall be governed by a cooperative board formed in accordance with section 8452.

Sec. 27. 20-A MRSA §8403, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

1. Financial responsibility for vocational satellite program. The school board responsible for operating the vocational satellite program shall assume full financial responsibility for paying the operating costs of that program. It shall receive the state subsidy for the program and tuition income. ~~These programs shall be financed through available funds.~~

Sec. 28. 20-A MRSA §8403, sub-§3, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

3. Employment of teachers. The superintendent operating a vocational satellite program shall, in consultation with the director of the vocational center, employ teachers in accordance with the procedures established in section 13201.

Sec. 29. 20-A MRSA §15511, sub-§3, ¶J, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

J. An article in substantially the following form shall be used when a municipality, school administrative district or community school district is considering the appropriation of local leeway funds:

"Article : To see what sum the municipality or district shall appropriate from local leeway for school purposes (Recommended total \$, local share \$, state share \$), and to see ~~if~~ what sum the municipality or district shall raise as the local share ~~of~~ \$ (recommended total \$, local share \$, state share \$)."

Emergency clause. In view of the emergency cited in the preamble, sections 1 to 4 of this Act shall take effect when approved. Sections 5 to 29 of this Act shall take effect on July 2, 1983.

Effective June 24, 1983, unless otherwise indicated.

CHAPTER 486

H.P. 1313 - L.D. 1742

AN ACT to Debar from State Contracts
Employers Guilty of Serious, Willful and
Repeated Violations of Safety Standards.

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

26 MRSA §1402 is enacted to read:

§1402. Debarment from state contracts

1. Definitions. As used in this section, unless