

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

order upon the recommendation of the State Budget Officer and approval of the Governor.

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

Effective June 8, 2001.

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## CHAPTER 375

### H.P. 977 - L.D. 1301

#### An Act to Implement Changes in Cost-sharing Agreements in School Districts

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Sec. 1. 20-A MRSA §1301, sub-§1,** as amended by PL 1993, c. 696, §1, is further amended to read:

**1. Methods of sharing costs.** The costs of operating a school administrative district ~~shall~~ must be shared among all municipalities within the district in one of the following ways.

A. Under a property valuation method, municipalities in a district shall share costs in the same proportion as each municipality's fiscal capacity as defined in section 15603, subsection 11-A is to the district's fiscal capacity.

B. Under an alternate plan approved by the state board and by a vote of the legislative bodies of the school administrative units forming the district and based on:

- (1) The number of resident pupils in each town;
- (2) The fiscal capacity of each member municipality as defined in section 15603, subsection 11-A; ~~or~~
- (3) Any combination of subparagraphs (1) and (2); or

(4) Any other factor or combination of factors that may, but need not, include subparagraphs (1) and (2).

~~C. Notwithstanding paragraphs A and B and for fiscal year 1992-93 only, the state valuation and resident pupil information used to calculate the shared cost for each municipality must be the same as the information used for fiscal year 1991-92.~~

D. Notwithstanding paragraphs A and B, Title 30-A, chapter 208-A or any other provision of law, the state valuation used to calculate the shared cost for each municipality in a district with a municipal incentive development zone must include the increase in equalized just value of all industrial and commercial property located in the zone over the assessed value.

**Sec. 2. 20-A MRSA §1301, sub-§3,** as amended by PL 1991, c. 379, is further amended to read:

**3. Amendment of cost-sharing formulas.** The cost-sharing formula may be amended as follows.

A. If requested by a written petition of at least 10% of the number of voters voting in the last gubernatorial election within the district, or if approved by a majority of the full board of directors, the board of directors shall hold ~~a~~ at least one meeting of municipal representatives to reconsider the method of sharing costs. The district shall give at least 15 days' notice to each municipality comprising the district of ~~that~~ any meeting.

B. Each member municipality ~~shall~~ must be represented at the meeting or meetings by 2 representatives chosen at large by its municipal officers, and one member of the district board of directors chosen by the municipality's directors.

B-1. Prior to the first meeting of municipal representatives pursuant to paragraph A, the district shall engage the services of a facilitator selected from the list maintained by the commissioner under subsection 4, paragraph C, subparagraph 1. The facilitator shall:

(1) At the first meeting, review and present data and information pertaining to sharing of costs within the district. Pertinent information may include, but is not limited to, the following:

(a) A description of the district's cost-sharing method, the elements involved in the calculation of each municipality's costs and a graphic depiction of

the current and historic distribution of costs in the district; and

(b) If withdrawal of one or more district members is under consideration, the financial and educational impact of the withdrawal;

(2) Solicit and prepare a balanced summary of the concerns of municipal officials, educators and the public about the current method of cost sharing; and

(3) Develop a plan of action for consideration by the municipal representatives that responds to the information collected and the concerns raised. The plan of action must include a list of expectations for the conduct of the parties, options for proceeding and an assessment of the likely success of those options.

C. A change in the method of sharing costs may only be approved by a majority vote of the municipal representatives present and voting.

C-1. If a majority of the representatives from each municipality meeting pursuant to paragraph A are unable to agree on a recommendation on what the cost-sharing method for the district should be, within 15 days following the last meeting a knowledgeable 3rd party must be selected in accordance with rules adopted pursuant to subsection 4, paragraph C. The district is responsible for compensating the 3rd party. The 3rd party shall:

(1) Prepare a written summary of the process to date, including an assessment of the fairness, accuracy and responsiveness of the recommendations of the facilitator engaged pursuant to paragraph B-1;

(2) Prepare an impartial recommendation regarding changing the method of cost sharing; and

(3) Present the summary and recommendations to the municipal representatives for their consideration.

C-2. At an advertised public hearing, the municipal representatives shall solicit public input on the 3rd party's recommendation for cost sharing required under paragraph C-1 and any alternative method or methods proposed by municipal representatives.

D. If a change in the cost-sharing method is approved by this meeting a majority of the municipal representatives meeting pursuant to

paragraph A, the change shall must be submitted to the voters at a district meeting. It shall be-~~come~~ becomes effective when approved by a majority vote of the district in a district referendum called and held for this purpose in accordance with sections 1351 to 1354, except that, if the proposed change is an alternative cost-sharing plan under subsection 1, paragraph B, subparagraph 4, the change must be approved by a majority of voters voting in a referendum in each municipality in the district instead of in a district referendum.

E. Assessments made by the school board thereafter shall must be made in accordance with the new method of sharing costs.

F. The secretary of the district shall notify the state board that the district has voted to change its method of sharing costs. The state board shall issue an amended certificate of organization showing this new method of sharing costs.

**Sec. 3. 20-A MRSA §1301, sub-§4** is enacted to read:

**4. Departmental assistance.** The department shall provide the following services relating to changing district cost-sharing methods:

A. The provision of information and data relating to cost sharing, including, but not limited to, a description of a district's method of cost sharing, the total assessment, the per pupil cost and mils raised for education for district members and the calculation of member costs. The information must be district-specific, comprehensive, easily understood by the general public, presented in graphic and spreadsheet format and available over the Internet. Written copies of the information described and additional information requested must be provided by the department upon receipt of a written request from a district school board or the legislative body of any municipality member of a district;

B. The provision of professional evaluation and assistance to districts and member municipalities considering changes in cost-sharing methods; and

C. The establishment and maintenance of lists of qualified, available individuals to assist districts considering changes in cost-sharing methods as follows:

(1) Facilitators as required in subsection 3, paragraph B-1; and

(2) Knowledgeable 3rd parties as required in subsection 3, paragraph C-1.

In establishing the lists, the department shall seek input from the Maine Municipal Association and Maine School Management Association or successor organizations. The department may adopt rules to define the qualifications, responsibilities and selection of individuals on the lists. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 4. 20-A MRSA §1704, sub-§1,** as amended by PL 1993, c. 696, §2, is further amended to read:

**1. Formula.** A community school district shall share its costs among the member municipalities on the basis of:

A. The number of resident pupils in each municipality;

B. The fiscal capacity of each member municipality as defined in section 15603, subsection 11-A;

C. ~~In accordance with any~~ Any combination of paragraphs A and B; ~~or~~

D. ~~In accordance with any~~ Any other formula authorized by the Legislature; ~~or~~

E. Any other factor or combination of factors that may, but need not, include paragraphs A and B.

~~Notwithstanding paragraphs A to D and for fiscal year 1992-93 only, the state valuation and resident pupil information used to calculate the shared cost for each municipality must be the same as the information used for fiscal year 1991-92.~~

Notwithstanding paragraphs A to D, Title 30-A, chapter 208-A or any other provision of law, the state valuation used to calculate the shared cost for each municipality in a community school district with a municipal incentive development zone must include the increase in equalized just value of all industrial and commercial property located in the zone over the assessed value.

**Sec. 5. 20-A MRSA §1704, sub-§2,** as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

**2. Amendment of formula.** The procedure for amending the cost-sharing formula ~~shall be~~ is as follows.

A. When requested by a written petition of at least 10% of the number of voters voting for the gubernatorial candidates in the last gubernatorial election in the municipalities comprising the

community school district, the district school committee shall give at least 15 days' notice to each member municipality of a meeting or meetings to determine the necessity of reconsidering the method of sharing costs.

B. Each member municipality ~~shall~~ must be represented by 2 representatives chosen by its municipal officers and one member of the district school committee chosen by the committee members from that municipality at the meeting or meetings to determine the necessity of reconsidering the method of sharing costs. A change in the method of sharing costs ~~shall first~~ must be approved by a vote of a majority of those present and voting.

B-1. Prior to the first meeting of member municipalities pursuant to paragraph A, the district shall engage the services of a facilitator selected from the list maintained by the commissioner under subsection 3, paragraph C. The facilitator shall:

(1) At the first meeting, review and present data and information pertaining to sharing of costs within the district. Pertinent information may include, but is not limited to, the following:

(a) A description of the district's cost-sharing method, the elements involved in the calculation of each municipality's costs and a graphic depiction of the current and historic distribution of costs in the district; and

(b) If withdrawal of one or more district members is under consideration, the financial and educational impact of the withdrawal;

(2) Solicit and prepare a balanced summary of the concerns of municipal officials, educators and the public about the current method of cost sharing; and

(3) Develop a plan of action for consideration by the municipal representatives that responds to the information collected and the concerns raised. The plan of action must include a list of expectations for the conduct of the parties, options for proceeding and an assessment of the likely success of those options.

B-2. If a majority of the representatives from each municipality meeting pursuant to paragraph A are unable to agree on a recommendation on what the cost-sharing method for the district should be, within 15 days following the last

meeting a knowledgeable 3rd party must be selected in accordance with rules adopted pursuant to subsection 3, paragraph C. The district is responsible for compensating the 3rd party. The 3rd party shall:

(1) Prepare a written summary of the process to date, including an assessment of the fairness, accuracy and responsiveness of the recommendations of the facilitator engaged pursuant to paragraph B-1;

(2) Prepare an impartial recommendation regarding changing the method of cost sharing; and

(3) Present the summary and recommendations to the municipal representatives for their consideration.

B-3. At an advertised public hearing, the municipal representatives shall solicit public input on the 3rd party's recommendation for cost sharing required under paragraph B-2 and any alternative method or methods proposed by municipal representatives.

C. Municipal approval shall must be in the same manner as the original formula was adopted when the community school district was formed, except that, if the proposed change is an alternative cost-sharing plan under subsection 1, paragraph E, the change must be approved by a majority of voters voting in a referendum in each municipality. The total vote cast in each of the member municipalities shall must be at least 20% of the number of votes cast in each of the member municipalities in the last gubernatorial election.

D. A change in the cost-sharing formula shall be is effective at the start of the next fiscal year which starts at least 90 days after the voters have approved it.

**Sec. 6. 20-A MRSA §1704, sub-§3** is enacted to read:

**3. Departmental assistance.** The department shall provide the following services relating to changing district cost-sharing methods:

A. The provision of information and data relating to cost sharing, including, but not limited to, a description of a district's method of cost sharing, the total assessment, the per pupil cost and mills raised for education for district members and the calculation of member costs. The information must be district-specific, comprehensive, easily understood by the general public, presented in graphic and spreadsheet format and

available over the Internet. Written copies of the information described and additional information requested must be provided by the department upon receipt of a written request from a district school board or the legislative body of any municipality member of a district;

B. The provision of professional evaluation and assistance to districts and member municipalities considering changes in cost-sharing methods; and

C. The establishment and maintenance of lists of qualified, available individuals to assist districts considering changes in cost-sharing methods as follows:

(1) Facilitators as required in subsection 2, paragraph B-1; and

(2) Knowledgeable 3rd parties as required in subsection 2, paragraph B-2.

In establishing the lists, the department shall seek input from the Maine Municipal Association and Maine School Management Association or successor organizations. The department may adopt rules to define the qualifications, responsibilities and selection of individuals on the lists. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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## CHAPTER 376

S.P. 448 - L.D. 1502

### An Act Regarding Contracts for Energy Conservation and Air Quality Improvements in School Buildings

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

**Whereas,** the Legislature created a school renovation fund to provide funds for improvements to school buildings, with priority being given to projects that affect critical health and safety needs such as air quality; and

**Whereas,** current law is unclear on the competitive bidding requirements for performance contracts for energy conservation and air quality improvements in public school buildings; and