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

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

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

Whereas, certain school administrative units that have formed alternative organizational structures may be subject to statutory penalties; 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-A MRSA §1461, sub-§3, ¶B, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

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

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

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

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

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

(d) Transportation;

(e) Population density; or

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

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

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

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

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

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

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

§ 15696. Penalties for nonconforming school administrative units

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUMMARY

This bill authorizes school administrative units to submit alternative plans if they have formed alternative organizational structures but have not approved a school reorganization plan. This bill also eliminates penalties that would otherwise apply to such school administrative units.