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An Act To Preserve School Choice Rights

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

Whereas, this legislation must take effect immediately to allow regional school units that pay tuition for their students to a public school or a private school approved for tuition purposes under the Maine Revised Statutes, Title 20-A, chapter 219 to preserve the school choice opportunities guaranteed to these students pursuant to Title 20-A, section 1451, subsection 7 beginning with the 2009-2010 school year; 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 §1451, sub-§7, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

7. School choice. The preservation of opportunities for choice of schools, including the continuation of the option of attending public school in another school administrative unit or a private school approved for tuition purposes pursuant to chapter 219 at the expense of the regional school unit for those students who reside in a municipality that was a member of a previous education unit in which school choice was available to students who resided in the previous education unit; and

Sec. 2. 20-A MRSA §1461-A, sub-§5 is enacted to read:

5. Assumption of obligation for preserving opportunities for choice of schools.

On the operational date established pursuant to section 1463, subsection 1, a regional school unit board of directors shall assume the financial expense and obligations for preserving opportunities for choice of schools for students who reside in a municipality that was a member of a previous education unit in which school choice was available to students who resided in the previous education unit. Notwithstanding any other provision of law, the responsibilities of the regional school unit include:

A. The assumption and continued observance of any contract for school privileges pursuant to chapter 115 for the remainder of the unexpired term of the contract unless the parties mutually agree to renegotiate the contract; and

B. The negotiation of a new contract for school privileges pursuant to chapter 115 upon the expiration of an existing agreement.

Sec. 3. 20-A MRSA §1479, sub-§2, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

2. Contracts for secondary school programs. In addition to the provisions for a secondary school facility set forth in subsection 1, a regional school unit ~~may~~shall contract with a nearby regional school unit or with a private school approved for tuition purposes for all or some of its secondary school students in order to preserve the opportunities for choice of schools pursuant to section 1451, subsection 7. The contract may run from a period of 2 to 10 years. The contract must also comply with section 2703 and may provide for the formation of a joint committee in accordance with section 2704. A regional school unit in which a previous education unit has contracted for secondary school programs is bound by the terms of that contract, unless otherwise negotiated by the parties.

Sec. 4. 20-A MRSA §1479, sub-§3, ¶B, as amended by PL 2007, c. 668, §11, is further amended to read:

B. The regional school unit ~~may~~shall negotiate a new contract pursuant to chapter 115 to preserve the opportunities for choice of schools for students who reside in the municipalities that composed the previous education unit after the municipality's inclusion in the regional school unit.

Sec. 5. 20-A MRSA §1479, sub-§5, as amended by PL 2007, c. 668, §13, is further amended to read:

5. Additional expense. In a regional school unit where some but not all of the students are attending school pursuant to this section, the ~~sending municipality~~regional school unit is responsible for the additional tuition expense ~~as calculated in accordance with this subsection~~for a student who resides in the regional school unit but who attends school in another regional school unit.

A. ~~For each secondary school student who attends a public school in another school administrative unit, the sending municipality in a regional school unit is responsible for an amount equal to the difference in tuition in cases when it exceeds the amount of the regional school unit's tuition rate calculated in accordance with section 5805.~~

B. ~~For each secondary school student who attends a private school approved for tuition purposes subject to the provisions of chapter 219, the sending municipality in a regional school unit is responsible for an amount equal to the difference in tuition in cases when it exceeds the amount of the regional school unit's tuition rate calculated in accordance with section 5805.~~

~~Municipalities exercising school choice pursuant to this section are responsible for a local contribution in accordance with section 15688 and the additional expense calculated in accordance with this subsection.~~

The additional expense of preserving opportunities for choice of schools must be shared among all municipalities within the regional school unit by the same local share percentages for each municipality resulting from the determination of the local contribution under section 15688.

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

SUMMARY

This bill clarifies the obligation and financial responsibility of regional school unit boards of directors for preserving the opportunities for choice of schools for students who reside in a municipality in a regional school unit that was a previous education unit that sent students to another school administrative unit. The bill provides that when one or more member municipalities continue to send students to a school outside of the new regional school unit, the regional school unit is responsible for the tuition expenses for the students who are educated outside of the regional school unit.