

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Facilitate Voluntary Cooperation among School Systems**

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

**Sec. 1. 20-A MRSA §1461-B, sub-§3, ¶B**, as enacted by PL 2009, c. 580, §5, is amended to read:

B. A plan for an alternative organizational structure may include a ~~collaborative~~ an agreement under chapter ~~H4~~113-B and must include an interlocal agreement under Title 30-A, chapter 115. The plan must include procedures for conducting a kindergarten to grade 12 budget approval pursuant to paragraph C.

**Sec. 2. 20-A MRSA c. 113-A**, as amended, is repealed.

**Sec. 3. 20-A MRSA c. 113-B** is enacted to read:

### **CHAPTER 113-B**

### **VOLUNTARY COOPERATION**

#### **§ 2521. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Associate member.** "Associate member" means a signatory to a joint or cooperative agreement under this chapter that is a nonvoting member of the governing body of any legal entity established by the agreement and may include a publicly supported secondary school, a special school district, the Maine School of Science and Mathematics, the Maine Community College System, a community college, the University of Maine System and a university within the University of Maine System.

**2. Party.** "Party" means a signatory to a joint or cooperative agreement under this chapter that is a voting member of the governing body of any legal entity established by the agreement and may include only school administrative units and career and technical education regions.

#### **§ 2522. Joint exercise of powers**

Any power or powers, privileges or authority exercised or capable of exercise by a party to an agreement under this chapter may be exercised and enjoyed jointly or cooperatively with any other party.

**1. Agreement.** Two or more parties may enter into agreement with one another for joint or cooperative action under this chapter. The governing bodies of the participating parties must take appropriate action by resolution, order or other action under law before any such agreement may become effective.

**2. Specifications.** An agreement under this chapter must specify the following:

A. Its purpose;

B. Its jurisdictional area;

C. Its duration;

D. The precise organization, composition and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to that entity, including whether the entity has authority to undertake school construction projects and issue bonds and notes;

E. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking;

F. The method to be used to partially or completely terminate the agreement and to provide for the disposition of assets and liabilities upon termination;

G. The identity and role of any associate members under the agreement; and

H. Any other necessary and proper matters.

**3. Alternative agreement; additional items.** If an agreement under this chapter does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement, in addition to the items listed in subsection 2, must contain the following:

A. It must provide for an administrator, fiscal agent or joint board responsible for administering the joint or cooperative undertaking and managing its finances; and

B. It must provide the manner of acquiring, holding and disposing of any real and personal property to be used in the joint or cooperative undertaking.

**4. School construction projects.** If an agreement under this chapter establishes a separate legal entity to conduct the joint or cooperative undertaking and specifies that the legal entity is granted authority to undertake school construction projects within the meaning of section 15901, subsection 4, the agreement, in addition to the items listed in subsection 2, must specify the method of calling and conducting a referendum of the voters of the parties to authorize the school construction project. A referendum under this subsection may be combined into a single question with a referendum under subsection 5 for the issuance of bonds or notes for the school construction project. Notwithstanding the provisions of Title 30-A, section 2203, subsection 8, paragraph B, the governing body of any separate legal entity established to conduct the joint or cooperative undertaking that is granted the authority to undertake school construction projects has the authority to condemn land for the construction or

enlargement of school buildings and playgrounds in accordance with the procedures and subject to the limitations of chapter 611. A separate legal entity authorized to own school buildings or facilities or to undertake school construction projects is authorized to conduct minor capital projects to repair, maintain and improve its buildings and facilities.

**5. Authority to issue bonds and notes.** If an agreement under this chapter establishes a separate legal entity to conduct the joint or cooperative undertaking and specifies that the legal entity is granted authority to issue school construction or minor capital project bonds or notes for the purpose of financing the joint or cooperative undertaking, the agreement, in addition to the items listed in subsections 2 and 4, must contain the following:

- A. The method of calling and conducting a referendum of the voters of the parties to authorize the issuance of bonds or notes;
- B. The method for issuing the bonds or notes of the legal entity;
- C. The method for assessing the debt service costs against the parties; and
- D. A description of the requirements for the bonds or notes, including amortization of principal, payment of principal and interest, duration of term and series obligations, redemption and signature requirements.

An agreement establishing a separate legal entity that is authorized to issue bonds and notes for school construction purposes may not include associate members. A separate legal entity that is authorized to issue bonds and notes under this chapter must be a quasi-municipal corporation within the meaning of Title 30-A, section 5701, and the provisions of that section are applicable to it. The governing body of a separate legal entity authorized to conduct a joint or cooperative undertaking under this chapter is authorized to issue notes in anticipation of taxes and revenues for current operating expenses that are payable within one month of the end of the fiscal year. A separate legal entity authorized to issue school construction or minor capital project bonds or notes by referendum under this chapter is authorized to issue notes in anticipation of those obligations for an aggregate term of up to 3 years from the date the first anticipation note is issued. All bonds and notes issued under this chapter are general obligations of the legal entity issuer, secured by its full faith and credit. The legal entity shall assess its parties a sufficient sum annually to pay its bonds and notes outstanding as they come due. A party's share of debt under this chapter must be counted toward that party's legal debt limit.

**6. Political subdivision and tax-exempt debt.** A separate legal entity established pursuant to an agreement under this chapter to conduct a joint or cooperative undertaking that is authorized to issue bonds and notes by the agreement constitutes a political subdivision and has authority to issue its debt on a tax-exempt basis.

**7. Liability.** An action is maintainable against any party whose default, failure of performance or other conduct has caused or contributed to the incurring of damage or liability by the other parties, either jointly or separately. A separate legal entity established to conduct a joint or cooperative undertaking under this chapter may sue or be sued.

**8. Liberal construction.** It being the intent of the Legislature to avoid the proliferation of inflexible enabling laws, this chapter must be liberally construed toward that end.

**9. Limitation.** Notwithstanding any other provision of this chapter:

A. No powers, privileges or authority may be jointly or cooperatively exercised unless each type of power, privilege or authority exercised is capable of being exercised by at least one of the parties within the entire jurisdictional area of an agreement under this chapter, or by each of the several parties within each of their several jurisdictions if all of the several jurisdictions make up the total jurisdictional area of the agreement; and

B. No essential legislative power may be delegated to a joint authority or separate legal entity created by an agreement under this chapter.

### **§ 2523. Types of joint or cooperative undertaking**

**1. Authorized types.** The types of joint or cooperative undertaking authorized by this chapter include, without limitation, the following:

- A. System administration;
- B. School administration;
- C. Instructional services;
- D. Special education programs;
- E. Gifted and talented programs;
- F. Advanced placement courses;
- G. Career and technical education programs;
- H. Extracurricular and cocurricular programs;
- I. Public preschool programs and 2-year kindergartens;
- J. Alternative education programs;
- K. Online and distance learning programs;
- L. Adult education programs;
- M. Postsecondary options;
- N. Staff training and professional development;
- O. Technology and technology support services;

- P. Accounting, payroll and financial management;
- Q. Purchasing or contracting for goods or services;
- R. Transportation, bus routing and vehicle maintenance;
- S. Food service;
- T. Energy management and facilities maintenance;
- U. Acquisition, renovation, equipping and construction of school facilities;
- V. Leasing and lease purchasing of school equipment and financing of energy conservation and combined energy conservation and air quality improvements under section 15915; and
- W. Employment of personnel for any authorized purpose.

### **§ 2524. Financial reporting and state subsidy**

Expenses incurred under an agreement under this chapter must be allocated to the parties to the agreement in accordance with the cost-sharing provisions of the agreement and must be treated as educational expenses of each party for purposes of reporting to the department and for purposes of calculating state education subsidies to that party.

### **§ 2525. Existing agreements**

A shared service agreement established in accordance with former chapter 113, cooperative agreement established in accordance with former chapter 113-A or interlocal agreement established in accordance with Title 30-A, chapter 115 between 2 or more school administrative units or career and technical education regions established prior to the effective date of this chapter may remain in effect and may be extended or modified by the parties to that agreement.

### **§ 2526. Approval by commissioner**

If an agreement under this chapter establishes a separate legal entity, the agreement must be submitted to the commissioner for approval before becoming effective. The commissioner shall approve any agreement submitted for approval under this section, unless the commissioner finds that the agreement does not comply with any law regarding matters within the commissioner's jurisdiction. The commissioner shall detail in writing, addressed to the governing bodies of the parties concerned, the specific respects in which the proposed agreement substantially fails to meet the requirements of law. Failure to disapprove an agreement submitted under this chapter within 30 days of its submission constitutes approval of the agreement.

### **§ 2527. Filing of agreement**

Before becoming effective, an agreement under this chapter must be filed with the secretary of each participating party, with the secretary or clerk of each associate member and with the commissioner.

### **§ 2528. Interlocal agreements**

Nothing contained in this chapter may be construed to prevent a school administrative unit or career and technical education region from entering into an interlocal agreement in accordance with Title 30-A, chapter 115 with other school administrative units, career and technical education regions, local and county governments, state government agencies and instrumentalities or other authorized entities.

**Sec. 4. 20-A MRSA c. 114**, as amended, is repealed.

**Sec. 5. 20-A MRSA §2651, sub-§2**, as amended by PL 2015, c. 251, §4, is further amended to read:

**2. Use of fund.** The department shall award grants from the fund to school administrative units, municipalities, counties and groups of 2 or more such entities, including such groups that have entered into a ~~collaborative~~ collaborative agreement pursuant to chapter ~~H4~~113-B, to fund the costs of implementing changes in governance, administrative structures or policies that result in the creation of consolidated school administrative units; purchasing alliances; innovative, autonomous public schools, teacher-led schools, innovative public school districts or innovative public school zones; regional delivery of collaborative programs and educational services; or collaborations of municipal-school service delivery or support systems, with the purpose of improving educational opportunity and student achievement. Grants must be used to implement changes that will be sustained by the school administrative unit, municipality or county without the need for additional grants from the fund or other sources.

**Sec. 6. 20-A MRSA §6202, sub-§1-A**, as amended by PL 2009, c. 154, §3, is further amended to read:

**1-A. Interpretation.** The statewide assessment program results may be interpreted in a manner that takes into account the particular role within a school administrative unit of regional special education or regional alternative education programs or schools approved by the commissioner in accordance with chapter ~~H3-A~~113-B or section 7253. For these programs or schools, the results may be interpreted by assigning the student and the scores of the student to the school in the community where the student resides. The commissioner shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

## SUMMARY

This bill enacts chapter 113-B in the Maine Revised Statutes, Title 20-A to facilitate voluntary collaboration and cooperation among school administrative units and career and technical education regions. It repeals chapter 113-A, "Regional Education Cooperatives," and chapter 114, "Regional Collaboration," and enacts a statute modeled on Title 30-A, chapter 115, "Interlocal Cooperation." Under this new chapter, school administrative units and career and technical education regions are authorized to exercise any of their powers on a joint or cooperative basis, including the undertaking of joint school construction projects and the issuance of bonds or notes.