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Legislative Document

No. 783

H.P. 534

House of Representatives, February 28, 2013

**An Act To Change the Voting Requirements for the Withdrawal of
a Municipality from a Regional School Unit**

(EMERGENCY)

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MALABY of Hancock.
Cosponsored by Senator BURNS of Washington and
Representatives: DUNPHY of Embden, GUERIN of Glenburn, JOHNSON of Greenville,
LIBBY of Waterboro, LUCHINI of Ellsworth, SANDERSON of Chelsea, SIROCKI of
Scarborough, TURNER of Burlington.

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

3 **Whereas,** the changes made by this legislation could affect the makeup of regional
4 school units; and

5 **Whereas,** it is imperative that this legislation take effect as soon as possible for
6 regional school units to have sufficient time to implement these changes prior to the
7 beginning of the next school year; and

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

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

13 **Sec. 1. 20-A MRSA §1466, sub-§4, ¶A,** as enacted by PL 2009, c. 580, §9, is
14 amended to read:

15 A. The commissioner shall direct the municipal officers of the petitioning
16 municipality to select representatives to a withdrawal committee as follows: one
17 member from the municipal officers, one member from the general public and one
18 member from the group filing the petition. The commissioner shall also direct the
19 directors of the regional school unit board representing the petitioning municipality to
20 select one member of the regional school unit board who represents that municipality
21 to serve on the withdrawal committee. The municipal officer and the member of the
22 regional school unit board serve on the withdrawal committee only so long as they
23 hold their respective offices. Vacancies must be filled by the municipal officers and
24 the regional school unit board. The chair of the regional school unit board shall call a
25 meeting of the withdrawal committee within 30 days of the notice of the vote in
26 subsection 3. The chair of the regional school unit board shall open the meeting by
27 presiding over the election of a chair of the withdrawal committee. The
28 responsibility for the preparation of the agreement rests with the withdrawal
29 committee, subject to the approval of the commissioner. The withdrawal committee
30 may draw upon the resources of the department for information not readily available
31 at the local level and employ competent advisors within the fiscal limit authorized by
32 the voters. The agreement must be submitted to the commissioner within 90 days
33 after the withdrawal committee is formed. Extensions of time may be granted by the
34 commissioner upon the request of the withdrawal committee.

35 If after 90 days of its formation, the withdrawal committee has been unable to reach
36 an agreement for withdrawal with the regional school unit, it shall report such failure
37 in writing to the commissioner. Within 7 days of receipt of the notice of failure, the
38 commissioner shall appoint a facilitator to oversee negotiations for withdrawal
39 between the withdrawal committee and the regional school unit. The facilitated
40 negotiation discussions must be concluded within 30 days of the facilitator's
41 appointment by the commissioner. If agreement between the withdrawal committee
42 and the regional school unit is reached, the withdrawal committee shall forward the

1 agreement to the commissioner for action under paragraph B. If an agreement has
2 not been reached, the withdrawal committee shall submit its proposed terms of
3 withdrawal to the commissioner who shall act on it pursuant to paragraph B.

4 (1) The agreement must contain provisions to provide educational services for all
5 students of the petitioning municipality within the regional school unit. The
6 agreement must provide that during the first year following the withdrawal
7 students may attend the school they would have attended if the petitioning
8 municipality had not withdrawn. The allowable tuition rate for students sent from
9 one municipality to another in the former regional school unit must be
10 determined under section 5805, subsection 1, except that it is not subject to the
11 state per pupil average limitation in section 5805, subsection 2.

12 (2) The agreement must establish that the withdrawal takes effect at the end of
13 the regional school unit's fiscal year.

14 (3) The agreement must establish that the withdrawal will not cause a need
15 within 5 years from the effective date of withdrawal for school construction
16 projects that would be eligible for state funds. This limitation does not apply
17 when a need for school construction existed prior to the effective date of the
18 withdrawal or when a need for school construction would have arisen even if the
19 municipality had not withdrawn.

20 (4) The agreement must establish how transportation services will be provided.

21 (5) The agreement must provide for administration of the new administrative
22 unit, which should not include the creation of new supervisory units if at all
23 possible.

24 (6) The agreement must make provision for the distribution of financial
25 commitments arising from outstanding bonds, notes and any other contractual
26 obligations that extend beyond the proposed date of withdrawal.

27 (7) The agreement must provide appropriately for the distribution of any
28 outstanding financial commitments to the superintendent of the regional school
29 unit.

30 (8) The agreement must provide for the continuation and assignment of
31 collective bargaining agreements as they apply to the new or reorganized regional
32 school unit for the duration of those agreements and must provide for the
33 continuation of representational rights.

34 (9) The agreement must provide for the continuation of continuing contract
35 rights under section 13201.

36 (10) The agreement must provide for the disposition of all real and personal
37 property and other monetary assets.

38 (11) The agreement must provide for the transition of administration and
39 governance of the schools to properly elected governing bodies of the newly
40 created administrative unit and must provide that the governing body may not be
41 elected simultaneously with the vote on the article to withdraw unless the

1 commissioner finds there are extenuating circumstances that necessitate
2 simultaneous elections.

3 **Sec. 2. 20-A MRSA §1466, sub-§9**, as repealed and replaced by PL 2011, c. 678,
4 Pt. J, §1, is amended to read:

5 **9. Required vote.** Before the municipality may withdraw from the regional school
6 unit, the withdrawal agreement must be approved by a majority vote of those casting
7 valid votes in the municipality, ~~and the total number of votes cast for and against~~
8 ~~withdrawal at the municipal vote must equal or exceed 50% of the total number of votes~~
9 ~~east in the municipality for Governor at the last gubernatorial election.~~

10 ~~This subsection is repealed January 1, 2015.~~

11 **Sec. 3. 20-A MRSA §1466, sub-§9-A**, as enacted by PL 2011, c. 678, Pt. J, §2,
12 is repealed.

13 **Sec. 4. 20-A MRSA §1466, sub-§9-B**, as enacted by PL 2011, c. 678, Pt. J, §3, is
14 repealed.

15 **Sec. 5. 20-A MRSA §1466, sub-§10, ¶B**, as enacted by PL 2009, c. 580, §9, is
16 amended to read:

17 B. A municipal vote on a withdrawal agreement if the agreement received less than
18 ~~60%~~ 50% of the votes cast.

19 **Sec. 6. 20-A MRSA §1466, sub-§13**, as amended by PL 2011, c. 678, Pt. J, §4, is
20 further amended to read:

21 **13. Determination of results; execution of agreement.** If the commissioner finds
22 that a majority of the voters voting on the article has voted in the affirmative ~~and the total~~
23 ~~number of votes cast for and against the article equal or exceed 50% of the total number~~
24 ~~of votes cast in the municipality for Governor at the last gubernatorial election,~~ the
25 commissioner shall notify the municipal officers and the regional school unit board to
26 take steps for the withdrawal in accordance with the terms of the agreement for
27 withdrawal.

28 ~~This subsection is repealed January 1, 2015.~~

29 **Sec. 7. 20-A MRSA §1466, sub-§13-A**, as enacted by PL 2011, c. 678, Pt. J, §5,
30 is repealed.

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

33 SUMMARY

34 Under current law, until January 1, 2015, a municipality that wishes to withdraw
35 from a regional school unit must approve that withdrawal by a majority vote, with the
36 total number of votes cast at least equal to 50% of the total number of votes cast in that

1 municipality for Governor in the last gubernatorial election. If the municipality is part of
2 a school administrative district that was reformulated as a regional school unit pursuant to
3 the school consolidation laws, a 2/3 approval is needed. Beginning January 1, 2015, any
4 withdrawal must be approved by 2/3 of the voters, without any requirement regarding the
5 total number of votes cast.

6 This bill allows a municipality to withdraw from a regional school unit by a majority
7 vote and eliminates the requirement regarding the total number of votes cast.

8 This bill requires that a facilitator to oversee negotiations be appointed if, after 90
9 days of its formation, the withdrawal committee that is selected by the municipality
10 seeking to withdraw from the regional school unit fails to reach an agreement with the
11 regional school unit.