



# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

---

Legislative Document

No. 1470

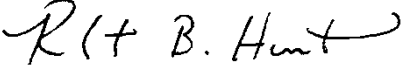
H.P. 1009

House of Representatives, April 18, 2017

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

---

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

  
ROBERT B. HUNT  
Clerk

Presented by Representative HUBBELL of Bar Harbor.

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

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

4 B. A plan for an alternative organizational structure may include ~~a collaborative~~ an  
5 agreement under chapter 114 113-B and must include an interlocal agreement under  
6 Title 30-A, chapter 115. The plan must include procedures for conducting a  
7 kindergarten to grade 12 budget approval pursuant to paragraph C.

8 **Sec. 2. 20-A MRSA c. 113-A**, as amended, is repealed.

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

10 **CHAPTER 113-B**

11 **VOLUNTARY COOPERATION**

12 **§2521. Definitions**

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

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

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

25 **§2522. Joint exercise of powers**

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

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

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

34 A. Its purpose;

35 B. Its jurisdictional area;

- 1           C. Its duration;
- 2           D. The precise organization, composition and nature of any separate legal or
- 3           administrative entity created by the agreement together with the powers delegated to
- 4           that entity, including whether the entity has authority to undertake school
- 5           construction projects and issue bonds and notes;
- 6           E. The manner of financing the joint or cooperative undertaking and of establishing
- 7           and maintaining a budget for the undertaking;
- 8           F. The method to be used to partially or completely terminate the agreement and to
- 9           provide for the disposition of assets and liabilities upon termination;
- 10          G. The identity and role of any associate members under the agreement; and
- 11          H. Any other necessary and proper matters.

12           **3. Alternative agreement; additional items.** If an agreement under this chapter

13           does not establish a separate legal entity to conduct the joint or cooperative undertaking,

14           the agreement, in addition to the items listed in subsection 2, must contain the following:

- 15           A. It must provide for an administrator, fiscal agent or joint board responsible for
- 16           administering the joint or cooperative undertaking and managing its finances; and
- 17           B. It must provide the manner of acquiring, holding and disposing of any real and
- 18           personal property to be used in the joint or cooperative undertaking.

19           **4. School construction projects.** If an agreement under this chapter establishes a

20           separate legal entity to conduct the joint or cooperative undertaking and specifies that the

21           legal entity is granted authority to undertake school construction projects within the

22           meaning of section 15901, subsection 4, the agreement, in addition to the items listed in

23           subsection 2, must specify the method of calling and conducting a referendum of the

24           voters of the parties to authorize the school construction project. A referendum under this

25           subsection may be combined into a single question with a referendum under subsection 5

26           for the issuance of bonds or notes for the school construction project. Notwithstanding

27           the provisions of Title 30-A, section 2203, subsection 8, paragraph B, the governing body

28           of any separate legal entity established to conduct the joint or cooperative undertaking

29           that is granted the authority to undertake school construction projects has the authority to

30           condemn land for the construction or enlargement of school buildings and playgrounds in

31           accordance with the procedures and subject to the limitations of chapter 611. A separate

32           legal entity authorized to own school buildings or facilities or to undertake school

33           construction projects is authorized to conduct minor capital projects to repair, maintain

34           and improve its buildings and facilities.

35           **5. Authority to issue bonds and notes.** If an agreement under this chapter

36           establishes a separate legal entity to conduct the joint or cooperative undertaking and

37           specifies that the legal entity is granted authority to issue school construction or minor

38           capital project bonds or notes for the purpose of financing the joint or cooperative

39           undertaking, the agreement, in addition to the items listed in subsections 2 and 4, must

40           contain the following:

1           A. The method of calling and conducting a referendum of the voters of the parties to  
2           authorize the issuance of bonds or notes;

3           B. The method for issuing the bonds or notes of the legal entity;

4           C. The method for assessing the debt service costs against the parties; and

5           D. A description of the requirements for the bonds or notes, including amortization  
6           of principal, payment of principal and interest, duration of term and series  
7           obligations, redemption and signature requirements.

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

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

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

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

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

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

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

3           **§2523. Types of joint or cooperative undertaking**

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

6           A. System administration;

7           B. School administration;

8           C. Instructional services;

9           D. Special education programs;

10          E. Gifted and talented programs;

11          F. Advanced placement courses;

12          G. Career and technical education programs;

13          H. Extracurricular and cocurricular programs;

14          I. Public preschool programs and 2-year kindergartens;

15          J. Alternative education programs;

16          K. Online and distance learning programs;

17          L. Adult education programs;

18          M. Postsecondary options;

19          N. Staff training and professional development;

20          O. Technology and technology support services;

21          P. Accounting, payroll and financial management;

22          Q. Purchasing or contracting for goods or services;

23          R. Transportation, bus routing and vehicle maintenance;

24          S. Food service;

25          T. Energy management and facilities maintenance;

26          U. Acquisition, renovation, equipping and construction of school facilities;

27          V. Leasing and lease purchasing of school equipment and financing of energy  
28          conservation and combined energy conservation and air quality improvements under  
29          section 15915; and

30          W. Employment of personnel for any authorized purpose.

31          **§2524. Financial reporting and state subsidy**

32          Expenses incurred under an agreement under this chapter must be allocated to the  
33          parties to the agreement in accordance with the cost-sharing provisions of the agreement

1 and must be treated as educational expenses of each party for purposes of reporting to the  
2 department and for purposes of calculating state education subsidies to that party.

3 **§2525. Existing agreements**

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

10 **§2526. Approval by commissioner**

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

20 **§2527. Filing of agreement**

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

24 **§2528. Interlocal agreements**

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

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

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

34 **2. Use of fund.** The department shall award grants from the fund to school  
35 administrative units, municipalities, counties and groups of 2 or more such entities,  
36 including such groups that have entered into a ~~collaborative~~ an agreement pursuant to  
37 chapter 444 113-B, to fund the costs of implementing changes in governance,  
38 administrative structures or policies that result in the creation of consolidated school  
39 administrative units; purchasing alliances; innovative, autonomous public schools,

1 teacher-led schools, innovative public school districts or innovative public school zones;  
2 regional delivery of collaborative programs and educational services; or collaborations of  
3 municipal-school service delivery or support systems, with the purpose of improving  
4 educational opportunity and student achievement. Grants must be used to implement  
5 changes that will be sustained by the school administrative unit, municipality or county  
6 without the need for additional grants from the fund or other sources.

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

9 **1-A. Interpretation.** The statewide assessment program results may be interpreted  
10 in a manner that takes into account the particular role within a school administrative unit  
11 of regional special education or regional alternative education programs or schools  
12 approved by the commissioner in accordance with chapter ~~113-A~~ 113-B or section 7253.  
13 For these programs or schools, the results may be interpreted by assigning the student and  
14 the scores of the student to the school in the community where the student resides. The  
15 commissioner shall adopt rules to implement this subsection. Rules adopted pursuant to  
16 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter  
17 2-A.

## 18 SUMMARY

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