

1 S.122

2 Introduced by Committee on Education

3 Date:

4 Subject: Education; increased flexibility for school district mergers

5 Statement of purpose of bill as introduced: This bill proposes to: (1) provide
6 greater flexibility for school district consolidation by providing tax incentives
7 for a side-by-side regional educational district structure where one side does
8 not operate all elementary and secondary grades; (2) provide greater flexibility
9 for school district consolidation by providing tax incentives for a side-by-side
10 regional educational district structure where three or more school districts
11 merge and the newly merged district, together with a preexisting district, are
12 members of the same supervisory union at the completion of the process;
13 (3) provide greater flexibility for school district consolidation by providing tax
14 incentives for a side-by-side regional educational district structure where four
15 or more school districts merge into two new districts and the newly merged
16 districts, together with a preexisting district, are members of the same
17 supervisory union at the completion of the process; (4) provide greater
18 flexibility for a school district that meets certain conditions to withdraw from a
19 union high school district without approval by the remaining members of the
20 union high school district; (5) extend the final date for voter approval of a
21 merger and the date by which a school district is required to make a

1 governance proposal to the Secretary of Education for a school district that has
2 previously had a merger proposal rejected by voters or wishes to add a new
3 school district as a member of its study committee; (6) provide transition
4 facilitation grants to all school districts that consolidate into a preferred
5 governance structure and to a district that has consolidated and, at the request
6 of the State Board of Education, merges with another district; (7) allow fees for
7 consulting services to be used for the cost of community outreach when a study
8 committee is recommending consolidation; (8) require the State Board of
9 Education to act on applications for supervisory union adjustments within 75
10 days of receipt; and (9) make certain technical and clarifying changes.

11 An act relating to increased flexibility for school district mergers

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 * * * Findings * * *

14 Sec. 1. FINDINGS

15 (a) 2015 Acts and Resolves No. 46 established a multi-year, phased process
16 that provides multiple opportunities for school districts to unify existing
17 governance units into more “sustainable governance structures” designed to
18 meet the General Assembly’s identified educational and fiscal goals while
19 recognizing and reflecting local priorities. It has been the General Assembly’s

1 intent to revitalize Vermont's small schools – to promote equity in their
2 offerings and stability in their finances – through these changes in governance.

3 (b) As of Town Meeting Day 2017, voters in 96 Vermont towns have voted
4 to merge 104 school districts into these slightly larger, more sustainable
5 governance structures, resulting in the creation of 20 new unified union
6 districts (serving prekindergarten–grade 12 students). As a result,
7 approximately 60 percent of Vermont's school-age children live or will soon
8 live in districts that satisfy the goals of Act 46.

9 (c) These slightly larger, more flexible unified union districts have begun to
10 realize distinct benefits, including the ability to offer kindergarten–grade 8
11 choice among elementary schools within the new district boundaries; greater
12 flexibility in sharing students, staff, and resources among individual schools;
13 the elimination of bureaucratic redundancies; and the flexibility to create
14 magnet academies, focusing on a particular area of specialization by school.

15 (d) Significant areas of the State, however, have experienced difficulty
16 satisfying the goals of Act 46. The range of complications is varied, including
17 operating or tuitioning models that differ among adjoining districts, geographic
18 isolation due to lengthy driving times or inhospitable travel routes between
19 proposed merger partners, and greatly differing levels of debt per equalized
20 pupil between districts involved in merger study committees. This act is
21 designed to make useful changes to the merger time lines and allowable

1 governance structures under Act 46 without weakening or eliminating the
2 Act's fundamental phased merger and incentive structures and requirements.

3 * * * Side-by-Side Structures * * *

4 Sec. 2. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

5 Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION

6 DISTRICT INCENTIVES

7 (a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) ~~of No.~~
8 ~~153 of the Acts of the 2009 Adj. Sess. (2010)~~ that requires a single regional
9 education district ("RED") to have an average daily membership of at least
10 1,250 or result from the merger of at least four districts, or both, two or more
11 new districts shall be eligible jointly for the incentives provided in ~~Sec. 4 of~~
12 No. 153, Sec. 4 if:

13 * * *

14 (3) ~~one of the new districts provides education in all elementary and~~
15 ~~secondary grades by operating one or more schools and the other new district~~
16 ~~or districts pay tuition for students in one or more grades; each new district has~~
17 a model of operating schools or paying tuition that is different from the model
18 of the other, which may include:

19 (A) operating a school or schools for all resident students in
20 prekindergarten through grade 12;

1 (A) geographically isolated, due to lengthy driving times or
2 inhospitable travel routes between the Existing District's school or schools and
3 the nearest school in which there is excess capacity as determined by the State
4 Board of Education;

5 (B) structurally isolated, because all adjoining school districts have
6 operating or tuitioning models that differ from the Existing District; or

7 (C) unable to reach agreement to consolidate with one or more other
8 adjoining school districts because the school districts that adjoin the Existing
9 District have greatly differing levels of indebtedness per equalized pupil, as
10 defined in 16 V.S.A. § 4001(3), from that of the Existing District as
11 determined by the State Board of Education.

12 (3) The Merged District and the Existing District each has a model of
13 operating schools or paying tuition that is different from the model of the
14 other. These models are:

15 (A) operating a school or schools for all resident students in
16 prekindergarten through grade 12;

17 (B) operating a school or schools for all resident students in some
18 grades and paying tuition for resident students in the other grades; or

19 (C) operating no schools and paying tuition for all resident students
20 in prekindergarten through grade 12.

1 (4) The Three-by-One Side-by-Side Structure meets all criteria for RED
2 formation other than the size criterion of 2010 Acts and Resolves No. 153,
3 Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as
4 provided in this section.

5 (5) The districts seeking approval of their proposed Three-by-One Side-
6 by-Side Structure demonstrate in their report presented to the State Board that
7 this structure is better suited to them than a governance structure described in
8 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in
9 Sec. 2 of that Act.

10 (6) The districts proposing to merge into the Merged District receive
11 final approval from their electorate for the merger proposal on or before
12 November 30, 2017, and the Merged District becomes fully operational on or
13 before July 1, 2019.

14 (b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4
15 shall be available to the Merged District and shall not be available to the
16 Existing District.

17 (c) The Existing District shall be exempt from the requirement under 2015
18 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal
19 to the Secretary of Education and State Board of Education and from the State
20 Board's plan.

1 Sec. 4. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;
2 REGIONAL EDUCATION DISTRICT INCENTIVES

3 (a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that
4 requires a single regional education district (RED) to have an average daily
5 membership of at least 1,250 or result from the merger of at least four districts,
6 or both, two or more new districts shall be eligible for the incentives provided
7 in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015
8 Acts and Resolves No. 46 if:

9 (1) Each new district is formed by the merger of at least two existing
10 districts (each a Merged District) and, together with an existing (Existing
11 District), are members of the same supervisory union following the merger
12 (Two-by-Two-by-One Side-by-Side Structure).

13 (2) As of March 7, 2017 (Town Meeting Day), the Existing District is
14 either:

15 (A) geographically isolated, due to lengthy driving times or
16 inhospitable travel routes between the Existing District's school or schools and
17 the nearest school in which there is excess capacity as determined by the State
18 Board of Education;

19 (B) structurally isolated, because all adjoining school districts have
20 operating or tuitioning models that differ from the Existing District; or

1 (C) unable to reach agreement to consolidate with one or more other
2 adjoining school districts because the school districts that adjoin the Existing
3 District have greatly differing levels of indebtedness per equalized pupil, as
4 defined in 16 V.S.A. § 4001(3), from that of the Existing District as
5 determined by the State Board of Education.

6 (3) Each Merged District and the Existing District has a model of
7 operating schools or paying tuition that is different from the model of each
8 other. These models are:

9 (A) operating a school or schools for all resident students in
10 prekindergarten through grade 12;

11 (B) operating a school or schools for all resident students in some
12 grades and paying tuition for resident students in the other grades; or

13 (C) operating no schools and paying tuition for all resident students
14 in prekindergarten through grade 12.

15 (4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria
16 for RED formation other than the size criterion of 2010 Acts and Resolves
17 No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and
18 otherwise as provided in this section.

19 (5) The districts seeking approval of their proposed Two-by-Two-by-
20 One Side-by-Side Structure demonstrate in their report presented to the State
21 Board that this structure is better suited to them than a governance structure

1 described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set
2 forth in Sec. 2 of that act.

3 (6) Each Merged District has the same effective date of merger.

4 (7) The districts proposing to merge into each Merged District receive
5 final approval from their electorate for the merger proposal on or before
6 November 30, 2017, and each Merged District becomes fully operational on or
7 before July 1, 2019.

8 (b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4
9 shall be available to each Merged District and shall not be available to the
10 Existing District.

11 (c) The Existing District shall be exempt from the requirement under 2015
12 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal
13 to the Secretary of Education and State Board of Education and from the State
14 Board's plan.

15 * * * Withdrawal from Union School District * * *

16 Sec. 5. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION
17 SCHOOL DISTRICT

18 (a) Notwithstanding any provision of 16 V.S.A. § 721a to the contrary, a
19 school district may withdraw from a union high school district without
20 approval by the remaining members of the union high school district upon the
21 following conditions:

1 (1) The school district proposing to withdraw from the union high
2 school district operates a school or schools for all resident students in
3 prekindergarten through grade 6 and pays tuition for resident students in grade
4 7 through grade 12.

5 (2) At least one year has elapsed since the union high school district
6 became a body politic and corporate as provided in 16 V.S.A. § 706g.

7 (3) A majority of the voters of the school district proposing to withdraw
8 from the union high school district present and voting at a school district
9 meeting duly warned for that purpose votes to withdraw from the union high
10 school district. The clerk of the school district shall certify the vote to the
11 Secretary of State, who shall record the certificate in his or her office and shall
12 give notice of the vote to the Secretary of Education and to the other members
13 of the union high school district.

14 (4) The State Board approves the withdrawal based on a
15 recommendation from the Secretary of Education.

16 (5) The withdrawal process is completed on or before July 1, 2019.

17 (b) In making his or her recommendation, the Secretary of Education shall
18 assess whether:

19 (1) students in the withdrawing school district would attend a school that
20 complies with the rules adopted by the State Board pertaining to educational
21 programs; and

1 (2) it is in the best interests of the State, the students, and the districts
2 remaining in the union high school district for the union to continue to exist.

3 (c) The State Board shall:

4 (1) consider the recommendation of the Secretary and any other
5 information it deems appropriate;

6 (2) hold a public meeting within 60 days of receiving the
7 recommendation of the Secretary, and provide due notice of this meeting to the
8 Secretary and all members of the union high school district;

9 (3) within 10 days of the meeting, notify the Secretary and all members
10 of the union high school district of its decision;

11 (4) if it approves the withdrawal, declare the membership of the
12 withdrawing school district in the union high school district terminated as of
13 July 1 immediately following, or as soon after July 1 as the financial
14 obligations of the withdrawing school district have been paid to, or an
15 agreement has been made with, the union high school district in an amount to
16 satisfy those obligations; and

17 (5) file the declaration with the Secretary of State, the clerk of the
18 withdrawing school district, and the clerk of the union high school district
19 concerned.

20 Sec. 6. REPEAL

21 Sec. 5 of this act is repealed on July 2, 2019.

1 Sec. 8. TIME EXTENSION FOR VOTE OF ELECTORATE

2 Notwithstanding any provision of law to the contrary, the date by which a
3 qualifying district must receive final approval from the electorate for its merger
4 proposal is extended from July 1, 2017 to November 30, 2017. A qualifying
5 district is a district that:

6 (1) proposed a school district consolidation plan under 2010 Acts and
7 Resolves No. 153., as amended, or 2012 Acts and Resolves No. 156, as
8 amended, which was rejected by voters; or

9 (2) is a member of a study committee formed under 16 V.S.A. § 706
10 that provides to the Secretary a declaration that another school district wants to
11 join the district's study committee, signed by each member of the study
12 committee and the district that proposes to join the study committee.

13 * * * Grants and Fee Reimbursement * * *

14 Sec. 9. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

15 Sec. 7. SCHOOL DISTRICTS CREATED AFTER DEADLINE FOR
16 ACCELERATED ACTIVITY; TAX INCENTIVES; SMALL
17 SCHOOL SUPPORT; JOINT CONTRACT SCHOOLS

18 * * *

19 (b) A newly formed school district that meets the criteria set forth in
20 subsection (a) of this section shall receive the following:

21 * * *

1 Sec. 10. 2012 Acts and Resolves No. 156, Sec. 9, is amended to read:

2 Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;
3 MERGER; SCHOOL DISTRICTS; SUNSET

4 (a) From the ~~education fund~~ Education Fund, the ~~commissioner of~~
5 ~~education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid
6 by a study committee established under 16 V.S.A. § 706 for legal and other
7 consulting services necessary to analyze the advisability of creating a union
8 school district or a unified union school district, ~~and~~ to prepare the report
9 required by 16 V.S.A. § 706b, and to conduct community outreach, including
10 communications with voters. Community outreach materials shall be limited
11 to those that are reasonably designed to inform, educate, and explain to the
12 electorate a study committee's position on the matter.

13 * * *

14 Sec. 11. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

15 Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE
16 STRUCTURES; PROPOSAL; FINAL PLAN

17 * * *

18 (d) A school district that has received or is eligible to receive tax incentives
19 under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or
20 2015 Acts and Resolves No. 46, and that, at the request of the State Board,
21 agrees by vote of its electorate to merge with another school district, shall

1 receive a supplemental Transitional Facilitation Grant of \$10,000.00 to defray
2 the costs of integration. Notwithstanding any provision to the contrary in
3 16 V.S.A. § 4025, the Secretary of Education shall pay the board of the school
4 district the supplemental Transition Facilitation Grant from the Education
5 Fund.

6 * * * Applications for Adjustments to Supervisory Union Boundaries * * *

7 Sec. 12. 16 V.S.A. § 261 is amended to read:

8 § 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY
9 UNIONS

10 (a) The State Board shall review on its own initiative or when requested as
11 per subsection (b) of this section and may regroup the supervisory unions of
12 the State or create new supervisory unions in such manner as to afford
13 increased efficiency or greater convenience and economy and to facilitate
14 prekindergarten through grade 12 curriculum planning and coordination as
15 changed conditions may seem to require.

16 (b)(1) Any school district that has so voted at its annual school district
17 meeting, if said meeting has been properly warned regarding such a vote, may
18 request that the State Board adjust the existing boundaries of the supervisory
19 union of which it is a member district.

20 (2) Any group of school districts that have so voted at their respective
21 annual school district meeting, regardless of whether the districts are members

1 of the same supervisory union, may request that the State Board adjust existing
2 supervisory union boundaries and move one or more nonrequesting districts to
3 a different supervisory union if such adjustment would assist the requesting
4 districts to realign their governance structures into a unified union school
5 district pursuant to chapter 11 of this title.

6 (3) The State Board shall ~~give timely consideration to requests~~ act on a
7 request made pursuant to this subsection within 75 days of receipt of the
8 request and may regroup the school districts of the area so as to ensure
9 reasonable supervision of all public schools therein.

10 * * *

11 * * * Technical Corrections; Clarifications * * *

12 Sec. 13. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

13 Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL
14 EDUCATION DISTRICT INCENTIVES

15 * * *

16 (b) This section is repealed on July 1, ~~2017~~ 2019.

17 Sec. 14. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

18 Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

19 * * *

20 (d) This section is repealed on July 1, ~~2017~~ 2019.

1 Sec. 15. AVAILABILITY OF TAX AND OTHER INCENTIVES

2 The tax and other incentives under 2010 Acts and Resolves No. 153, as
3 amended, and 2012 Acts and Resolves No. 156, as amended, shall be available
4 only if the new governance structure formed under those acts becomes fully
5 operational on or before July 1, 2019.

6 Sec. 16. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

7 Sec. 23. DECLINING ENROLLMENT; TRANSITION

8 (a) If a district's equalized pupils in fiscal year 2016 do not reflect any
9 adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 22 of this act shall apply
10 to the district in fiscal year 2017 and after.

11 (b) If a district's equalized pupils in fiscal year 2016 reflect adjustment
12 pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of
13 § 4010(f) as amended by this act:

14 (1) in fiscal year 2017, the district's equalized pupils shall in no case be
15 less than 90 percent of the district's equalized pupils in the previous year; and

16 (2) in fiscal year 2018, the district's equalized pupils shall in no case be
17 less than 80 percent of the district's equalized pupils in the previous year.

18 (c) Notwithstanding the provisions of subsections (a) and (b) of this
19 section, if a district is actively engaged in merger discussions with one or more
20 other districts regarding the formation of a regional education district (RED) or
21 other form of unified union school district pursuant to 16 V.S.A. chapter 11,

1 then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after,
2 and each of the dates in subsection (b) of this section shall be adjusted
3 accordingly. A district shall be “actively engaged in merger discussions”
4 pursuant to this subsection (c) if on or before July 1, 2016, it has formed a
5 study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22
6 of this act shall apply to the district, the district’s equalized pupil count shall be
7 calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

8 * * * Effective Date * * *

9 Sec. 17. EFFECTIVE DATE

10 This act shall take effect on passage.