

Potential Policy Considerations for General Assembly Relating to Potential Technical Amendment of 16 V.S.A. Chapter 11

References are to section numbers in bill draft, not current section numbers in Ch. 11

§ 701 – Policy: Possibly amend or update the policy statement, perhaps with a reference to the five goals identified by the Legislature in 2015.

§ 706(c)(3): This does not address the potential issues that might arise if an existing union elementary (or high) school district is considering merging with other districts to form a new union elementary (or high) school district responsible for more or fewer grades. The study group determined that this was likely to become too convoluted to warrant drafting new language to address a situation that was relatively unlikely to occur.

§ 707 – Approval of Study Committee Budget; Participation

1. General: Current statute requires vote of the electorate if study committee budget exceeds \$25,000, either when first proposed or after the study committee has begun meeting with a budget that is less than that amount. Possibly revisit the amount.
2. Subdivisions (c)(1) and (2); Additional Costs: Under which of the following scenarios should voter approval be required for additional costs? E.g.,
 - a. The total budget is likely to exceed \$X.
 - b. Any one district's budgeted amount is likely to exceed \$Y.
 - c. Any one district's budgeted amount increases by more than Z%.
 - d. Something else.
3. Subsection (a) (budget exceeding \$25,000) and (c) (additional costs): Consider whether votes should be (i) on the same day and/or (ii) by Australian ballot – neither is required under current law or proposed amendments.

§ 715(c)(1)(C) and (D) – District Clerk and Treasurer

1. Consider enabling language here (and elsewhere as appropriate) that would authorize appointment of the District Clerk and District Treasurer as per 17 V.S.A. §§ 2651e-2651f.
2. Consider authorizing the electorate here (and elsewhere as appropriate) to extend the current default one-year term length to, e.g., three years.
3. Consider whether Treasurer should – or need not – be a resident of the district.

§ 716(c) – Transitional Period

1. Subdivisions (c)(2) and (d)(2): The last couple of sentences of the current 16 VSA § 723 (beginning with “Within five days...”) identify who does what and how, both for assets and liabilities – should that be included in these subdivisions as well? And if so, is the division of labor/responsible party in the current § 723 correct? This is not really a policy decision, but it is something the study group didn’t consider in detail.
2. Subdivision (c)(4): Consider adding the following to the first phrase – *“If the trust allows or if approved by the voters of the union school district, ...”*

§ 717(b)(2) – Town District That Is A Member Of A UHSD Merges To Create A UESD & Thus Is Not Responsible For Any Grades:

Note: As used here, “discontinuation” means recognizing that the district still exists as an entity, even though it currently has no board or duties. In contrast, “dissolution” means that there is no longer a legal entity.

This new version of current law in subdivision (b)(2) is mostly the same as the current § 721c – except that § 721c makes discontinuation of the districts optional at any point in the future and this version causes the discontinuation to occur as a matter of law. This was done because § 721c as currently enacted is problematic on a practical level in at least two ways:

- If there is no vote to discontinue, but the district is no longer responsible for any grades, doesn’t have a board, etc, then – before there is a vote to discontinue – what does it mean to still be considered a district that has not been discontinued? What does being a district that has not been discontinued look like?
- How would the district discuss, warn, and vote on discontinuation in the future (as contemplated by the current law) when – as a practical matter – it would no longer have a school board?

There are at least three ways that this could be written:

- a. Language in current § 721c – discontinuation is optional by some affirmative action taken in the future.
- b. Language in draft 717(b)(2) – discontinuation occurs as a matter of law.
- c. Language could be drafted so that the district is dissolved as a matter of law (as with districts forming a UUSD).

§ 719 – SU Board Membership: 16 V.S.A. § 261(d) permits an SU board to ask the State Board for a waiver of, among other things, “board composition.” Consider whether there should be a more explicit, and possibly more expansive, provision in the new § 719, such as the following:

(c) If a supervisory union includes at least one district that is a unified union school district, then the State Board, on its own initiative or at the request of the board of the supervisory union or the board of one or more districts in the supervisory union, may at

any time adjust the supervisory union board representation required by section 266 of this title to more fairly and accurately reflect the relative number of students for which each district is responsible and the grades for which the district operates a school or schools.

§ 721 – Addition of New Member to an Existing Union School District

1. Subdivision (a)(1): Possibly add a statement regarding the type of information a district should consider and present when proposing to join an existing union school district.
2. Subdivision (b)(1): Same consideration, but for a union school district proposing to expand to include a new member.
3. Subdivisions (a)(4) and (b)(4): Under current law, if the action is initiated by the non-member school district, then the union school district board has the option – but is not required – to warn a vote of the electorate whether to accept the non-member district as a member. In contrast, if the action is initiated by the union school district, then the board of the non-member district is required to warn a vote of the electorate whether to join. That distinction is included here and may be one that the Legislature would like to reconsider.

§ 722 – Amendments

1. Subsection (c); Prior State Board Approval for Ceasing to Operate Grades: Consider adding a reference to what the SBE should consider before it grants approval.
2. Subsection (d); Adjustments to Board Membership: Should the union board present the newly calculated numbers to the voters for approval? If so, then replace “*shall amend ... without ...*” with something that either requires or explicitly authorizes the union board to do so.

§ 724 – Withdrawal of a Member District from a Union Elementary/High School District:

§ 725 – Withdrawal of Member Town from Unified Union School District

There are many practical and policy decisions for the Legislature to consider before amending the current 16 V.S.A. § 721a and 16 V.S.A. § 724. There is a place-holder for these two sections in the draft bill proposing primarily technical, process-related amendments to Ch. 11. The Agency is available to discuss the issues and potential solutions when the Legislature chooses to focus specifically on these sections.

UUSDs

§ 729(c) – Majority of Quorum Necessary for Action – UUSDs: Current laws define quorum and require that a majority of a quorum is necessary for action. Current § 706n(c) indicates that for articles that can be amended by the board (rather than by the voters), the articles can be drafted to allow amendment only if approved by something greater than a majority of the

board. In addition, some current voter-approved articles of agreement require more than a majority of a quorum in other instances – especially, e.g., as a first step before asking the town voters if they approve closure of a school building. The second sentence in (c) as drafted confirms these current restrictions contained in the initial voter-approved articles and would permit the restrictions to be included in the articles for any new merger in the future or to be added by the voters as an amendment to any articles. Consider how broad this ability to require more than a majority should be.

§ 730(c) – Bond by Board Members – UUSDs: Current law requires school board members to give a bond, “conditioned upon the faithful performance of their duties.” The current statute is outdated per Tim Vincent at VSBIT. The proposed language is based on information he provided.

[text of current § 706q(b)]

(b) Before entering upon the duties of their office, the board of school directors shall give a blanket bond and the treasurer shall give a personal bond to the district, conditioned upon the faithful performance of their duties. The treasurer’s bond shall be in such sum as the board of school directors shall require. The board of school directors’ bond shall be in such sum as shall be required by the Secretary of Education. When a board of school directors or treasurer for 10 days neglects to give a bond as required, the office shall become vacant.

§ 731(a)(4) – Vacancies in ALL Seats – UUSDs: Current 16 V.S.A. § 424(c) requires the SOS to call the election. Subsection (c) already applies here because the statutes do not address it specifically for USDs, so (a)(4) is added as a reminder.

§ 732(c) – Budgets – UUSDs: For new UUSDs without an approved budget in first year of operation, consider replacing 16 V.S.A. § 566 borrowing authority in subsection (c) with a default budget (e.g., total of previous year’s budgets plus 1%).

§ 735(f) – Bond by Treasurer – UUSDs: See comment under § 730(c) above.

§ 741 – Counting Australian Ballots – UUSDs

1. Subdivision (a)(2); Commingled, Counting by Local BCA: This is current language from 16 V.S.A. § 711e(d) – the local BCA can count number of ballots but cannot count them for purposes of determining how town residents voted. Consider whether this should be changed in any way.
2. Subdivision (a)(3); Representatives of BCA Count Ballots at Central Location under UUSD Clerk’s Supervision: Consider whether the UUSD clerk should have authority to appoint current board members who are not on the ballot so that there are more people available for the counting.

3. Subdivision (a)(4); Counting Commingled Ballots: This draft extends the time for counting to address the concern of travelling to a central location late at night on bad roads in inclement weather. The Secretary of State's Office supports this concept.

UESDs / UHSDs

§ 747 – Majority of Quorum Necessary for Action – UESDs / UHSDs: See comment under § 729(c) above.

§ 748(c) – Bond by Board Members – UESDs / UHSDs: See comment under § 730(c) above.

§ 749(a)(4) – Vacancy when a Town is a Member of Both a UESD & a UHSD (and so there is no member district board): There is nothing in current law that addresses this situation. This is based on the recent session law for UUSD vacancies.

§ 749(a)(5) – Vacancies in ALL Seats – UESDs / UHSDs: See comment under § 731(a)(4) above.

§ 750(c) – Budgets – UESDs / UHSDs: See comment under § 732(c) above.

§ 753(f) – Bond by Treasurer – UESDs / UHSDs: See comment under § 730(c) above.

§ 759(a)(2) – (a)(4) – Counting Australian Ballots – UESDs/UHSDs: See comments under § 741 above.

General

Current § 711c – Tuition Rates: The current Ch. 11 includes the following section:

§ 711c. Tuition rate for union school district

Any student, a resident of a nonmember town may, in the discretion of the board of union school directors, be admitted equally with participating member students; provided, however, that the tuition paid is a rate not greater than the calculated net cost per pupil as defined under section 825 of this title.

Although it provides useful information, it is not included in the current draft for several reasons:

- a. The current § 711c does not require anything different of USDs than the statutes require of all school districts. E.g.:
 - § 825 (referenced in § 711c) prohibits all school districts that operate schools from charging tuition that exceeds the calculated net cost per pupil.
 - § 1093, entitled “Nonresident students” and which also applies to all school districts, states:

A school board may receive into the schools under its charge nonresident students under such terms and restrictions as it deems best, and money received for the instruction of the students shall be paid into the school fund of the district.

- b. The proposed revisions to Chapter 11 provide guidance for the election and operation of USD school boards and for activities related to USD

- officers/meetings/voting etc. They do not include more general obligations of a USD.
- c. Similarly, the current Chapter 11 does not repeat that a USD must, e.g., have hazing harassment, and bullying policies, but rather relies on the general statutes to govern USDs as well as town school districts.
 - d. Unlike some of the process provisions that are repeated in the proposed Ch. 11 and which do not differ from what is required in the general education laws, including this statute doesn't appear to clarify any confusion that might specifically arise in a USD.

Fines for Failure to Perform Duties: The current Ch. 11 includes fines for failure to perform certain duties – \$20 for failure to warn a meeting (§706p(d)); \$10 for failure to turn over documents to a successor (§ 706s); and \$20 for a district clerk's failure to keep records of votes and proceedings (§ 706v). These are not included in the draft because each is included in general education laws: §§ 472(c), 474, and 496 respectively.