



STATE OF VERMONT
GENERAL ASSEMBLY

House Committee on Education
Rep. Heidi E. Scheuermann Testimony
Stowe Withdrawal from LSUU
February 1, 2022

Thank you Madam Chair and Members of the Committee for providing me this opportunity to speak with you today.

As many of you are aware, on May 11, 2021, by an overwhelming vote of 1,068-464, Stowe voted to withdraw from the Lamoille South Unified Union (LSUU) School District. On May 28, 2021, the Vermont Secretary of State's office sent a letter to the other two LSUU member towns, Elmore and Morristown, certifying the Stowe vote to withdraw. And, on December 7, 2021, both Elmore and Morristown ratified, by substantive margins, the withdrawal of Stowe from the Lamoille South Unified Union.

It has now been seven weeks, and this legal withdrawal of the Town of Stowe from LSUU is now in limbo as the State Board of Education has yet to take up the item.

I am asking this committee today to put into law language that clarifies that Stowe's withdrawal is permissible under the law, and that the State Board may legally approve it.

Neither H. 493, nor the language provided by the State Board of Education last week does this. In fact, both would essentially preclude the merger withdrawal, as voted upon in our communities, from taking place.

Background

I do not want to go into the specific details of how the LSUU merger came to be, but ultimately, on July 1, 2019, the Stowe School District and the Elmore-Morristown School District merged into the Lamoille South Unified Union School District.

Then, as mentioned before, on May 11, 2021, the Town of Stowe voted to withdraw, and on December 7, 2021, the two other member towns voted to ratify our withdrawal.

The withdrawal of Stowe from the LSUU is now in front of the State Board of Education for their approval, but they are not taking it up because they are unclear of if the vote was legal and, therefore, if they have the authority to approve it.

Why The Withdrawal is Legal – Vote on Record, Articles of Agreement, Disparate Treatment of Similarly Situated Towns

Once the Act 46 State Plan was approved (with the LSUU merger included) by the State Board of Education, the communities sued the State challenging the merger, but lost in court.

As that lawsuit made its way through the process, knowing the legal challenge might fail, the communities came together to prepare themselves for a merger.

And, when the legal challenge was defeated, the merged School Board brought the communities together to move forward so that we could merge seamlessly as of July 1, 2019.

As part of that seamless transition prior to July 1st, on February 26, 2019, the Lamoille South Unified Union Articles of Agreement were voted on and approved by the voters of all three communities.

Since our community's vote to withdraw, the Agency of Education has claimed we don't have the authority under Act 46 to withdraw from a Unified Union. Specifically, they have claimed we don't have the authority because 16 VSA, Section 724 states that a *"town or city corresponding to a preexisting school district that voted to form a UUSD may vote to withdraw after the first year of operation. In addition to withdrawal of one member, this also can be the first step taken to dissolve a UUSD."*

Referencing this language, the Agency has claimed that our withdrawal is not permitted because we didn't "vote to form" a Unified Union. But, in fact, we did.

- 1) Once we knew the merger was required, the voters of all three communities voted in favor of forming the Unified Union, by voting to approve on February 26, 2019 the Lamoille South Unified Union Articles of Agreement. The merged district would not have been formed, BUT FOR the vote to approve the Articles of Agreement.
- 2) Additionally, the Articles of Agreement that were voted on and approved by our three communities AND approved by the State Board of Education AND the Agency of Education makes clear the allowance of a withdrawal from the LSUU or a dissolution of it.
 - a. Articles of Agreement – Article 14 A ii a (Page 8)
The substance of the following Articles can be amended only by a majority of the voters of the New Union District present and voting at an annual or special meeting of the District warned to address this issue:

Article 1, Paragraph (C) (towns of residence for which New Union District is responsible); provided, however, that such amendment must proceed pursuant to 16 V.S.A. § 721 (addition of new member town) or § 724 (withdrawal by member town in year two or after).

Finally, our Stowe Town Attorney, in a letter to our Select Board in March 2021, made clear the following:

“It is our opinion that the use of the language “that voted” in Section 724(a) does not clearly preclude a vote by the voters of Stowe on the question of withdrawal from the Unified Union School District ... Lamoille South Unified Union District is subject to the statutory provisions of Title 16 which apply to Union and Unified School Districts and the Articles of Agreement. The Articles of Agreement of the Unified Union District permit one of the forming districts to seek withdrawal in year two or after the merger. See Article 14 A. ii. a. A change in the constituents of the Lamoille South UUSD may occur only by vote of the voters of the “New Union District present and voting at an annual or special meeting of the District warned to address” the question. For such a vote to occur, the proposed amendment to the constituent districts “must proceed pursuant to 16 VSA Section 721 (addition of new member town) or section 724 (withdrawal of member town in year two or after.”

“The potential for disparate treatment between similarly situated towns – i.e., towns that voluntarily merged may withdraw by vote while those mandated or forced to merge may not withdraw – supports the conclusion that a voter-approved withdrawal in a forced merger district should be legally valid.”

Once again, I am asking this committee today to include language in legislation to clarify in law that Stowe’s withdrawal is permissible under the law, and that the State Board may legally approve it.

Thank you very much for providing me this time to speak with you about this issue and for your serious consideration.