

Timing Considerations for Referenda on School Reorganization Plans

Under Section XXXX-36(8) of the school reorganization law, a referendum vote must be conducted on each reorganization plan. The referendum on reorganization plans submitted by December 15, 2007 and approved by the Commissioner must be conducted on January 15, 2008; the referendum on plans received or revised after December 15, 2007 must be conducted on June 10, 2008. Under Section XXXX-36(11), financial penalties apply to any school unit that fails to approve a reorganization at a referendum conducted on or before November 4, 2008.

Under applicable provisions of Maine law, approximately 60 days are required to conduct a referendum vote in a town meeting town or CSD and approximately 45 days are required to conduct a referendum in an SAD. Even more time may be required for preparation of ballots in municipalities that use voting machines; and more time may also be required in certain municipalities in order to comply with the applicable provisions of their local municipal charters.

Under Section XXXX-36(8) of the school reorganization law, a reorganization referendum must be conducted on January 15, 2008 on any school reorganization plan submitted to the Commissioner prior to December 15, 2007. This 30-day window between December 15 and January 15 does not provide sufficient time to conduct a referendum in accordance with all of the applicable statutory requirements.

As a result, school units planning to conduct a referendum on their reorganization plans on January 15, 2008 will be faced with two choices:

- 1) They can either submit their reorganization plan to the Commissioner early, on or about November 1, 2007, and request the Commissioner to approve the plan on or about November 15, 2007 instead of December 15, 2007; or
- 2) They can have the municipal officers in town meeting municipal school units and in CSDs file Orders with the Town Clerks by November 30, 2007 placing the referendum question on the ballot and have the ballots printed and distributed prior to December 14, 2007, even though those dates will occur before the Commissioner's deadline for approving the reorganization plans.

There is no other way that a referendum on a reorganization plan can be conducted on January 15, 2008 in compliance with all applicable statutory requirements. It may be necessary to start the referendum process even earlier in municipalities that use voting machines and require specially printed ballots, and in municipalities that must comply

with local charter provisions that require more time. Because of these timing issues, any school unit planning or hoping to conduct a reorganization referendum on January 15, 2008 should contact its counsel as soon as possible, but no later than November 1, 2007, to work out the timing sequence for conducting the referendum. A schedule showing the timing requirements for a January 15, 2008 referendum for town meeting towns, SADs and CSDs is included in these materials. For charter municipalities, it will also be necessary for legal counsel to review the provisions of the municipal charter to determine the applicable timelines for the referendum under the charter.

If a reorganization plan is received or revised after December 15, 2007, Section XXXX-36(8) requires that a referendum on the plan be conducted in conjunction with the State primary election on June 10, 2008. In order to conduct a referendum on June 10, 2008, it will be necessary for the reorganization plan to be approved by the Commissioner by the end of March or early in April, 2008. Because of the number of school referenda that will be conducted on June 10, 2008, both on school reorganization plans and on school budgets under the new school budget validation referendum process, school units should contact their counsel by March 1, 2008 concerning the timing of the referendum procedures and the preparation of warrants, ballots and other documents. We have included with these materials a timeline for conducting a referendum on June 10, 2008; a checklist of the information which will be required to prepare the notices, warrants, ballots and other documents for the referendum vote; and a form of Order to be filed with the Town Clerk by the municipal officers in order to place a question on the ballot for a town referendum.

Timeline for January 15, 2008 Referendum

1. Friday, November 30, 2007. (The December 1, 2007 statutory date falls on a Saturday; Friday, November 30, 2007 is the preceding business day.)
 - Last business day for proposed reorganization plans and alternative plans to be submitted to Commissioner of Education.
 - Last business day for municipal officers of town meeting municipal school units and member towns in CSDs to file Order with town clerk with wording of ballot article for January 15, 2008 referendum.
2. Thursday, December 13, 2007
 - Last business day for school boards of SADs and CSDs to sign election warrants for January 15, 2008 referendum.
 - Last business day for absentee ballots to be received from printer.
3. Friday, December 14, 2007. (The December 15, 2007 statutory date falls on a Saturday; Friday, December 14, 2007 is the preceding business day.)
 - Last business day for Commissioner of Education to approve reorganization plans or return them with specific suggestions for improvement.
 - Last business day for residents of CSDs and SADs to deliver election warrants and absentee ballots to town clerks.
 - Last business day for absentee ballots to be made available in town meeting municipal school units.
4. Saturday, January 5, 2008
 - Last day for public hearing on referendum article in town meeting municipal school units and CSDs.
 - Notice of public hearing must be posted seven days prior to the date of the public hearing.

5. Tuesday, January 8, 2008

- Last date for public hearing on referendum article in SADs. Notice of the public hearing must be posted seven days prior to the date of the hearing.
- Last date for posting warrants in town meeting municipal school units and member towns in CSDs and SADs.

6. Tuesday, January 15, 2008

Statutory referendum date.

CAUTIONS:

1. In municipalities that use voting machines, it may be necessary to provide the wording for the ballot to the printer several weeks in advance of the 30-day deadline for absentee ballots to be printed (i.e., several weeks prior to December 13, 2007).
2. In municipalities governed by town or city charter, there may be different timelines and procedures for calling the referendum, conducting public hearings and addressing other time-sensitive matters.
3. In a multi-town CSD or SAD, adequate time should be provided for the resident of the District to deliver warrants to the town clerks and for the municipal officers to meet and countersign the warrants. This may require that various actions be completed well ahead of the last day permitted by law.
4. School administrative units that expect to have reorganization plans approved by the Commissioner in time for a referendum on January 15, 2008 should submit their plans to the Commissioner well ahead of the December 1 (November 30) statutory deadline. They should also request a response from the Commissioner well ahead of the December 15 (December 14) statutory deadline. Unless the plans are submitted to and approved by the Commissioner before the statutory deadline, it will be almost impossible to conduct the January 15, 2008 referendum in accordance with all applicable legal requirements.

Submit
Plan by
April Foolsday

Timeline for June 10, 2008 Referendum

1. Friday, April 25, 2008.
 - Last business day for municipal officers of town meeting municipal school units and member towns in CSDs to file Order with town clerk with wording of ballot article for June 10 referendum.
2. Thursday, May 8, 2008
 - Last business day for school boards of SADs and CSDs to sign election warrants for June 10, 2008 referendum.
 - Last business day for absentee ballots to be received from printer.
3. Friday, May 9, 2008.
 - Last business day for residents of CSDs and SADs to deliver election warrants and absentee ballots to town clerks.
 - Last business day for absentee ballots to be made available in town meeting municipal school units.
4. Saturday, May 31, 2008
 - Last day for public hearing on referendum article in town meeting municipal school units and CSDs. Notices of public hearing must be posted seven days prior to the date of the public hearing.
5. Tuesday, June 3, 2008
 - Last date for public hearing on referendum article in SADs. Notice of the public hearing must be posted seven days prior to the date of the hearing.
 - Last date for posting warrants in town meeting municipal school units and member towns in CSDs and SADs.
6. Tuesday, June 10, 2008

Statutory referendum date.

CAUTIONS:

1. In municipalities that use voting machines, it may be necessary to provide the wording for the ballot to the printer several weeks in advance of the 30-day deadline for absentee ballots to be delivered (i.e., several weeks prior to Friday, May 9, 2007).
2. In municipalities governed by town or city charter, there may be different timelines and procedures for calling the referendum, conducting public hearings and addressing other time-sensitive matters.
3. In a multi-town CSD or SAD, adequate time should be provided for the resident of the District to deliver warrants to the town clerks and for the municipal officers to meet and countersign the warrants. This may require that various actions be completed well ahead of the last day permitted by law.

Note: This Order should be adopted by the Municipal Officers of town meeting municipal school units and member towns of CSDs. The Order should be filed with the Town Clerk at least 45 days before the date of the referendum. For a referendum on January 15, 2008, the Order should be filed with the Town Clerk by November 30, 2007. For a referendum on June 10, 2008, the Order should be filed with the Town Clerk by April 25, 2008.

ORDER

Voted: That it be and is hereby Ordered that the Question set forth below be placed on the ballot of a Special Town Referendum of the Town of _____ to be held on _____, and that an attested copy of this Order be placed on file with the Town Clerk of the Town of _____:

Question 1: Do you favor approving the school administrative unit reorganization plan prepared by the (insert name) Reorganization Planning Committee to reorganize (insert names of affected school administrative units) into a regional school unit, with an effective date of _____?

☐ Yes

☐ No

"Explanation:

A "YES" vote means that you approve of the (municipality or school administrative unit) joining the proposed regional school unit, which will be provided with the following incentives:

More favorable consideration in approval and funding of school construction projects; and

Eligibility for additional financial support for reorganization costs.

A "NO" vote means that you do not approve of the (municipality or school administrative unit) joining a regional school unit, which will result in the existing (municipality or school administrative unit) receiving the following penalties:

Less favorable consideration in approval and funding of school construction projects; and

A reduction in state funding of education costs in an amount estimated to be \$_____ for school year 2010 and \$_____ for school year 2011, with the possibility of ongoing penalties for continued failure to join an approved regional

school unit. Reductions in state education funding will likely result in an increased mill rate expectation to meet the local share of education costs."

Dated: _____ at _____

A majority of the Municipal Officers of
the Town of _____

Information Required to Prepare Referendum Documents for Municipal School Unit

Note: Additional information may be needed in charter municipalities.

1. Date of Meeting of Municipal Officers to sign Order to be filed with Town Clerk placing article on the ballot (at least 45 days before referendum):

2. Date of Meeting of Municipal Officers to sign warrants (at least 8 days before public hearing which must be held at least 10 days before the date of referendum).

3. Date of Referendum: _____
4. Polling times and polling locations (including addresses) in the town:

5. Date, place and time of public hearing, to occur at least 10 days prior to the referendum date:

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6. Name of Town Clerk:

7. In most towns, but not all, the Town Clerk posts the warrants. In cases where a person other than the Town Clerk posts warrants in that town, please provide the name of that individual. Please also state whether that individual acts as a resident of the town or as the Town Constable:

8. Name of person who will post Notices of Public Hearing:

9. Number of Municipal Officers (i.e., Board of Selectmen):

10. Name of Reorganization Planning Committee stated as follows:
_____ Reorganization Planning Committee.
11. Correct legal names of all school administrative units to be included in Regional School Unit:

Such as:
- a) Town of _____ School Department
 - b) Maine School Administrative District No. _____
 - c) _____ Community School District
 - d) _____, created by Chapter ____ of the Private and Special Laws of _____, as amended.
12. Estimated reduction in State funding of education costs of municipal school unit under 20-A M.R.S.A. §15696 for failure to join an approved regional school unit:

\$ _____ for fiscal year 2010 and \$ _____ for fiscal year 2011.
13. Operational date of proposed Regional School Unit:

July 1, 2008 *or* July 1, 2009

Information Required to Prepare Referendum Documents for SAD

1. Date of Board Meeting to sign warrants (more than 30 days and preferably 35-45 days before referendum date): _____

2. Date of Referendum: _____

3. Polling times and polling locations (including addresses) in each town of the district:

4. Date(s), place(s) and time(s) of public hearing(s) (you may hold one consolidated hearing or a separate hearing in each town), to occur at least 7 days prior to the referendum date:

5. Name of each Town Clerk:

6. In most towns, but not all, the Town Clerk posts the warrants. In cases where a person other than the Town Clerk posts warrants in that town, please provide the name of that individual. Please also state whether that individual acts as a resident of the town or as the Town Constable:

7. Name of District resident who will deliver warrants to each Town and who will post Notices of Public Hearing:

8. Number of SAD Board Members:

9. Town where SAD Board will meet to sign warrants:

10. Number of municipal officers in each member town: _____
11. Name of Reorganization Planning Committee stated as follows:
_____ Reorganization Planning Committee.
12. Correct legal names of all school administrative units to be included in Regional School Unit:
Such as:
- a) Town of _____ School Department
 - b) Maine School Administrative District No. _____
 - c) _____ Community School District
 - d) _____, created by Chapter ____ of the Private and Special Laws of _____, as amended.
13. Estimated reduction in State funding of education costs for SAD under 20-A M.R.S.A. §15696 for failure to join an approved regional school unit:
\$_____ for fiscal year 2010 and \$_____ for fiscal year 2011.
14. Operational date of proposed Regional School Unit:
July 1, 2008 or July 1, 2009

Information Required to Prepare Referendum Documents for CSD

1. Date of CSD School Committee Meeting to sign warrants (more than 30 days and preferably 35-45 days before referendum date):

2. Date of Referendum: _____

3. Polling times and polling locations (including addresses) in each town of the district:

4. Date(s), place(s) and time(s) of public hearing(s) (you may hold one consolidated hearing or a separate hearing in each town), to occur at least 10 days prior to the referendum date:

5. Name of each Town Clerk:

6. In most towns, but not all, the Town Clerk posts the warrants. In cases where a person other than the Town Clerk posts warrants in that town, please provide the name of that individual. Please also state whether that individual acts as a resident of the town or as the Town Constable:

7. Name of District resident who will deliver warrants to each Town and who will post Notices of Public Hearing: _____
8. Number of CSD School Committee Members: _____
9. Town where CSD School Committee will meet to sign warrants: _____
10. Number of municipal officers in each member town: _____
11. Name of Reorganization Planning Committee stated as follows:
_____ Reorganization Planning Committee.
12. Correct legal names of all school administrative units to be included in Regional School Unit:
Such as:
a) Town of _____ School Department
b) Maine School Administrative District No. _____
c) _____ Community School District
d) _____, created by Chapter ____ of the Private and Special Laws of _____, as amended.
13. Estimated reduction in State funding of education costs for each member town in CSD under 20-A M.R.S.A. §15696 for failure to join an approved regional school unit:
\$_____ for fiscal year 2010 and \$_____ for fiscal year 2011.*
14. Operational date of proposed Regional School Unit:
July 1, 2008 or July 1, 2009

***CAUTION:**

It will be necessary to obtain clarification from the Department of Education whether the penalties will be assessed against the CSD or each member municipality in the CSD in the event of disapproval of the plan. The answer to this question may turn on whether or not CSDs are eliminated as a form of school entity as of July 1, 2009 under 20-A M.R.S.A. §1, subsection 26.

IMPLEMENTING THE COST CENTER SUMMARY BUDGET FORMAT AND THE BUDGET VALIDATION REFERENDUM

The School Reorganization Law requires that Maine school administrative units use the cost center summary budget format as the format in which their budgets are presented to the legislative body for approval and the budget validation referendum procedure as the procedure by which their budgets are approved. These budget requirements begin January 1, 2008, so they apply to the budget for the 2008-09 fiscal year. The requirements apply not just to regional school units, but also to school administrative district budgets, community school district budgets and municipal school units. See School Reorganization Law at §1305-C (SAD budgets must follow the same budget requirements as regions); §1701-C (CSD budgets also); and §2307 (municipal school budgets also).

1. Cost Center Summary Budget Format

A. Budget Articles

The warrant presented to the budget meeting for approval of the budget must include articles for each of the following expenditure categories:

1. Regular instruction.
2. Special education.
3. Career and technical education.
4. Other instruction, including summer school and extracurricular instruction.
5. Student and staff support.
6. System administration.
7. School administration.
8. Transportation and buses.
9. Facilities maintenance.
10. Debt service and other commitments.
11. All other expenditures, including school lunch.

Additionally, the warrant must include articles for the following revenue sources:

1. Total education costs funded by the EPS allocation.
2. Non-state funded debt service costs approved by the legislative body.
3. Additional local funds, if any.

In addition to expenditure and revenue articles, the warrant must include a budget summary article to authorize the total school unit expenditures for the school budget.

B. Other Budget Information

The cost center summary budget format also requires that the school board provide the following supporting data and informational content:

1. Other optional local data showing the amount and percentage of changes proposed in the state allocation, the local share and the total school budget and related information determined appropriate by the school board.
2. Expenditure data in cost center summary budget format for a high performing school unit of a size and demographic profile determined by the Department of Education that is comparable to the school unit.
3. For fiscal year 2008-09, data to document state and local savings from the reorganization to a regional school unit and the resulting mill rate reduction for each municipality.
4. "[A] reasonably detailed breakdown for each major subcategory within each budget category." School Reorganization Law at §1485(2).

It is not entirely clear whether extensive supporting data and detailed informational subcategories must be provided within the limited physical parameters of the budget meeting warrant. Perhaps that budget information may be provided to the voters by means of a separate document attached to the warrant, or perhaps by separate means altogether, such as through a detailed budget document distributed prior to and at the budget meeting. The Department of Education is required to adopt rules "defining and establishing the content of those informational subcategories." School Reorganization Law at §1485(2).

C. Transfer Authority

The cost center summary budget format does not make provision for a warrant article to transfer funds between budget cost center lines. Instead, the statute itself provides that the school board may transfer an amount of not more than 5% of the total appropriation for any cost center to another cost center or among other cost centers without voter approval. School Reorganization Law at §1485(4). Thus, the school board

has some authority to make transfers necessary to address financial needs that were not reflected in the original budget plan.

2. Budget Validation Referendum Process

A. Allow Sufficient Time

In order to plan properly to conduct a budget validation referendum, it is necessary to allow sufficient time for both the budget meeting and a subsequent validating referendum. Additional time is required if the budget does not pass at the first validation referendum and needs to be resubmitted to another budget meeting and a second referendum. For that reason, it is worth considering whether the first validation referendum should be scheduled well before the state-wide June referendum date. That way, if the budget is not approved at the first referendum, sufficient time may exist for the budget to be approved after the second budget meeting and validation referendum, and before commencement of the next fiscal year.

B. The Budget Meeting

The procedures for a budget validation referendum depend on whether the referendum is conducted, on the one hand, by a region, SAD or CSD or, on the other hand, by a municipal school unit. In either case, the budget is first submitted to a "budget meeting."

In the case of a school district or region, the school board will approve the budget and will issue a warrant to call a district (or region) budget meeting. The warrants for the budget meeting must be signed by a majority of the school board and attested by a district (or region) resident who will post the warrants. The resident must post at least one warrant for the budget meeting in each voting district within each municipality at least 7 days before the meeting.

In the case of a municipal school unit, it appears that the "budget meeting" is the meeting of that body authorized to finally approve the budget. In a town meeting town, and in some charter municipalities, that body is the town meeting. In those cases, the budget meeting is called by a warrant issued by the municipal officers. In town meeting towns, the warrant must be posted at least 7 days before the town meeting. In most charter municipalities, however, the town or city council approves the budget. In those cases, the "budget meeting" appears to be the council meeting at which the council approves the budget.

C. Calling the Validation Referendum

The budget validation referendum must be held on or before the 10th business day following the scheduled date of the school unit's budget meeting. A public hearing is not required. As with the budget meeting, the procedures to call the validation referendum depend on the type of school administrative unit.

In the case of a region, an SAD or a CSD, the school board should sign the warrant for the validation referendum at the same board meeting at which it signs the budget meeting warrant. A separate validation referendum warrant is needed for each town in the district or region. The warrants for the validation referendum must be distributed to the town clerks at least 14 days prior to the budget validation referendum date, and at least 7 days before the meeting. The school board must sign a sufficient number of warrants for each town in the district or region to be able to post multiple copies; for there to be additional copies for municipal and school administrative unit record keeping; and for copies on which the returns of posting may be completed.

In a municipal school unit, the validation referendum warrant is signed by the municipal officers. "Notwithstanding any other law, municipal school budgets must follow the same school budget requirements" as regions. School Reorganization Law at §2307. Therefore, it appears that the requirements of general municipal statutes or of charters that are not the same as the School Reorganization Law do not apply to the municipality's budget validation referendum. Therefore, the budget validation referendum warrant should be posted no later than 14 days before the referendum election and 7 days before the budget meeting.

D. Consolidated Warrants

The School Reorganization Law provides that a consolidated warrant for the budget meeting and the validation referendum may be used. In districts and regions, the school board should take care to deliver a consolidated warrant at least 14 days before the budget meeting. That way, the consolidated warrant can be countersigned by the municipal officers in time to be posted at least 7 days before the budget meeting.

E. Printed Information

The school board must provide printed information to be displayed at polling places to assist voters in voting. The information is limited to the total amounts proposed by the regional school unit board for each "cost center summary budget category article," the amount approved at the regional school unit budget meeting, and a summary of the total authorized expenditures. Additionally, whenever applicable, this notice must include "a statement that the amount approved at the regional school unit budget meeting includes locally raised funds over and above the regional school unit's local contribution

to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act." School Reorganization Law at §1486(2). Thus, if the budget includes non-state funded debt service or additional local funds, this statement must be included.

F. Absentee Ballots

Absentee ballots for the budget validation referendum must be delivered at least 7 days before the date of the budget meeting. Absentee ballots for the validation referendum may not be processed or counted by the municipal clerks unless they are received after the conclusion of the budget meeting and before the close of the polls for the validation referendum.

G. Referendum Question

If the school budget does not exceed the maximum state and local spending target, the article to be voted upon at the budget validation referendum is as follows:

Do you favor approving the [name of school unit] budget for the upcoming school year that was adopted at the latest [regional/district/municipal] school unit budget meeting?

If the school budget exceeds the maximum state and local spending target, the article to be voted upon, which includes local funds in addition to those representing the regional school unit's local contribution to the EPS allocation, must be in the following form:

Do you favor approving the [name of school unit] budget for the upcoming school year that was adopted at the latest [regional/district/municipal] school unit budget meeting and that includes locally raised funds that exceed the required local contribution as described in the Essential Programs and Services Funding Act?

*A "YES" vote allows additional funds to be raised for K-12 public education.
A "NO" vote means additional funds cannot be raised for K-12 public education.*

H. If the Referendum Fails

If the article presented at the referendum vote does not pass, the board must hold another budget meeting at least 10 days after the referendum vote to vote on another budget approved by the school board. The budget approved at the second budget meeting must then be submitted to the voters for validation at a second referendum conducted

within 10 days of the second budget meeting. This process must be repeated until a budget is approved at a budget meeting and is validated at a referendum.

I. Reconsidering the Budget Validation Referendum

Every three years the voters of a regional school unit are to consider whether the budget validation referendum process will be continued. In the applicable year, the budget validation referendum must include a separate question for the voters to indicate whether they wish to continue the process for an additional three years or discontinue the process.

School Consolidation Overview

Revised 9/24/07

Numbers in parentheses refer to page numbers in "School Consolidation 2007" by Spencer, Smith, Stockmeyer

Notice of Intent Phase
Due August 31, 2007 (pp. 7-15)

Analyze pros and cons of possible partnerships (pp. 18-19)

File Notice of Intent 8/31/07 choosing: (p. 7)

OR

Form RSU with 1 or more other units

Create a regionalization planning committee (RPC) (p. 25)

Governance (pp. 28-29)

Local School Committees (pp. 32, 29)

Property (pp. 30-32)

Debt (pp. 32-34)

RPC and school boards
act in good
faith and with

File an Alternative Plan
(pp. 8-9)

SAU has > 2500 Students (p. 8)

SAU has 1200-2500 Students (p. 8)

Efficient, high performing SAU (p. 8)

Efficient, high performing SAU (p. 8)

No regionalization planning committee required

Create plan to maintain