

The First Significant School Regionalization Legislation in Nearly Three Decades

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The first significant step in helping school districts explore regionalization was taken on March 4, 2021 by New Jersey Senate President Stephen M. Sweeney through the introduction of much-needed legislation. The legislation provides the resources and guidance necessary for districts to make informed decisions and execute their visions for how their children are educated and their tax dollars are spent. Porzio, Bromberg & Newman's Education Law Team has been at the forefront of regionalization, assisting various communities with implementing their education missions. "When we helped the communities of Lambertville, West Amwell, and Stockton form the South Hunterdon Regional School District in 2014, the last regional school district formed in New Jersey, we knew this had the potential to be a model for other communities throughout the State" said Kerri A. Wright, co-chair of Porzio Bromberg & Newman's Education Law Team. "Since that time, other communities have taken notice of South Hunterdon's ability to improve its educational offerings, while keeping its tax rate in check. However, this process was extremely arduous and complex, with many issues that Senator Sweeney's proposed legislation seeks to address."

"Recently we have been chosen to work on projects involving the possible consolidation of Salem County's 14 school districts; the possible K-12 regionalization of the constituent districts of Pinelands Regional School District; the possible K-12 regionalization of Highlands, Atlantic Highlands and Sea Bright; and the possible reconfiguration of the Roosevelt Public School District, wherein we will help all of these communities explore and better understand the financial, demographic and educational impacts of their various options" said Vito A. Gagliardi, Jr., Managing Principal at Porzio and co-chair of the Education Law Team. "We have been happy to work with Senator Sweeney to provide input on meaningful legislation that not only will help these communities reach their ultimate goal, but impact countless other communities who previously lacked the ability or funding to even explore the possibility of forming a regional school district."

To accomplish its lofty goals, the proposed legislation: (1) provides funding and removes procedural road blocks in order for communities to perform feasibility studies; (2) modifies the criteria for regionalization proposals to be approved by the Commissioner of Education; and (3) provides financial incentives for Districts exploring and moving forward with regionalization.

Removal of Procedural Road Blocks

The proposed legislation establishes a grant program for cost reimbursement of conducting school district regionalization feasibility studies. Indeed, one of the first major steps for any community considering regionalization is to analyze the educational, demographic, and financial impact on each community. This is accomplished by preparing a feasibility study. For example, to facilitate this study, the constituent districts of South Hunterdon created a regionalization committee and retained the Porzio firm, which has experts with whom it works in the fields of education, school finance, and school demography. While the study was authored by experts in these respective fields, to be comprehensive, the study also included a legal analysis that evaluated, among other things, the impact dissolution or regionalization would have on existing and future contracts. For South Hunterdon, the authors of the feasibility study recommended that the limited-purpose (grades 7-12) regional district be dissolved and a new K-12 regional district be created in its place. The study outlined the educational and financial benefits of this recommended course of action. The feasibility study, and additional analysis provided to the regionalization committee, also included a recommendation for a new tax allocation method.

The bill's grant program would be run by the Division of Local Government Services. To be eligible for the grant, the proposal to be studied must meet the following criteria:

- Does not have a segregative effect on the school districts seeking consolidation or on the State public school system as a whole;
- To the maximum extent practicable, leads to the establishment of a regional school district with a student population that is representative of a cross section of the State's school age population, including racial and economic factors;
- Consolidates school districts which are in close geographic proximity of each other;
- To the maximum extent practicable, reduces transportation time and distance traveled by students;
- Possesses the potential for improved efficiency and cost savings;
- Possesses the potential to advance an enhanced learning environment for participating districts;
- Coordinates curriculum across schools and grades throughout the proposed regional school district school district; and
- Reflects a documented commitment from the affected boards of education to make good faith efforts to implement the recommendations of the feasibility study that promote efficiency and quality of education.

Boards approved under the grant program would be reimbursed up to an amount or percentage to be annually determined by the Division of Local Government Services.

"Making educated and informed decisions are incredibly important for communities as they decide how their tax dollars are to be spent and their children educated" noted Gagliardi. "Previously, roadblocks frequently prevented this from occurring. The proposed legislation removes these hurdles by providing resources to communities seriously exploring regionalization." The proposed legislation further provides that the cost of any election held to determine the creation or expansion of a regional school district will be borne by the Department of Education, so long as the referendum stems from a feasibility study conducted through this grant process.

New Criteria for Regionalization

The proposed legislation also provides a new mechanism for school districts wishing to withdraw from an existing regional or consolidated school district and join or form another regional school district. The new mechanism allows the Commissioner of Education to approve the withdrawal if the proposed plan meets the following criteria:

- Does not increase or exacerbate the segregation of students by racial, socio-economic, disability, or English Language Learner status;
- Consolidates school districts that are in close geographic proximity of each other;
- To the maximum extent practicable, reduces student seat time and transportation costs;
- Possesses the potential for improved efficiency and cost savings;
- Possesses the potential to advance an enhanced learning environment for participating school districts;
- Coordinates curriculum across schools and grades throughout the proposed regional school district; and
- Reflects a documented commitment from the affected boards of education to make good faith efforts to implement practices that promote efficiency and quality of education.

This alternative method of withdrawal does not require the affirmative vote of the public in each of the constituent members of the existing regional district. In addition, to minimize the impact on the prior district, the proposed legislation requires the departing district to make "transition" payments to its former district for five years. The transition payments are calculated as a percentage of the savings that the leaving district would receive by joining the new regional school district, with the amount being phased-out incrementally over the five year period.

Financial Incentives

The proposed legislation also provides several significant financial incentives for those districts exploring regionalization. One significant incentive provides financial relief to districts with a positive State aid differential and scheduled reductions in their State aid amount (i.e., those districts affected by what commonly has been referred to as "S-2"). The proposed legislation phases out the reduction of Adjustment Aid for a longer period, from four years to eight years, for districts participating in a regionalization study. In particular, any school district participating in a study may elect to receive State aid equal to the district's State aid in the prior school year minus a percentage of the State aid differential according to the following schedule: 30% in the 2021-2022 school year; 37% in the 2022-2023 school year; 46% in the 2023-2024 school year; 55% in the 2024-2025 school year; 65.5% in the 2025-2026 school year; 76% in the 2026-2027 school year; 88% in the 2027-2028 school year; and 100% in the 2028-2029 school year.

For regional school districts that are created, the proposed legislation allows these newly-formed regional school districts through the 2028-2029 school year to receive State aid in an amount that is the greater of either: (1) the amount of State school aid that the newly-created regional school district would receive as a regional school district; or (2) the sum of the amount of State aid received by each school district constituting the newly-created regional school district prior to the creation of the regional school district.

Another financial incentive to forming a regional school district under the proposed legislation is that, during the first two years of a newly-formed regional school district, the district would be permitted to increase its general fund tax levy in an amount equal to the school district's apportionment as calculated under current law governing school district regionalization and that does not exceed its local share. This provision helps these districts account for additional start-up costs that result from forming a new school district.

Finally, a major misconception that often confuses districts seeking to regionalize is the challenge associated with having to merge various collective negotiation agreements from the previously existing districts and what happens in the intervening years before new agreements can be negotiated. "When forming the South Hunterdon Regional School District, we had countless meetings with the various negotiation committees from each of the former schools' unions in order to create one consolidated collective bargaining agreement. This process was long and complex, but we worked through it successfully" said Wright. "Senator Sweeney's legislation clarifies some of these issues." The proposed legislation clarifies that the salary guide and terms and conditions of employment of the largest constituent school district -- determined by number of teaching staff members -- (whether established through a collective bargaining agreement or past practice) remains in place after three years or until a successor agreement is negotiated, whichever occurs first. This provides clear guidance on this issue and, hopefully, reduces any confusion residents or school employees may have during this process.

Conclusion

The proposed legislation has widespread support. It is incredibly bold and encouraging for any school district considering different partners or structures. Indeed, it is the first major piece of legislation in the State of New Jersey in nearly thirty years that is designed to encourage districts to form or expand regional school districts. However, as with any bill, it is subject to revisions, requires an affirmative vote from both the Senate and Assembly, and must be signed by the Governor before it can become a law. We will continue to provide updates as this bill progresses.

