
MEMORANDUM

TO: State Board of Education
FROM: Donna Russo-Savage
SUBJECT: H. 727 as Enacted – Union School Districts
DATE: May 17, 2022

On May 11, 2022, both Chambers of the Vermont General Assembly approved the Committee of Conference report on H. 727, “an act relating to the exploration, formation, and organization of union school districts and unified union school districts.” The bill is currently among those the Office of Legislative Counsel is preparing for transmission to the Governor. Its terms will be in effect on the day of the Governor’s signature.

Chair Olsen asked us to provide a brief overview of the new law.

Secs. 1-3 – 16 V.S.A. Chapter 11

16 V.S.A. Chapter 11 was originally enacted in the late 1960s to govern the exploration, formation, and operation of union high school districts. The Legislature has made few amendments in the intervening decades.

In 2015, only about 20 percent of all Vermont school districts were union school districts of any type and only two of those districts operated all grades, PreK-12 (“UUSDs”). In contrast, approximately half of all school districts in the state are now union school districts and the vast majority of them are UUSDs. As a result, over 40 percent of all current Vermont school districts seek operational guidance from decades-old statutes that do not apply to their organizational structure.

More than three-quarters of H. 727 consists of sections that replace the current Chapter 11 with new statutes that are more complete and better organized, and that provide information specific to the distinct structures of UUSDs and union elementary / high school districts.

Sec. 1. Moves two sections from the current Chapter 11 that do not concern union school districts to Chapter 9.

Sec. 2. Repeals the remaining sections of Chapter 11 on the effective date of the act.

Sec. 3. Inserts a new “Chapter 11. Union School Districts” into Title 16, organized as follows:

Subchapter 1. General Provisions [§§ 701-703]

Subchapter 2. Exploration, Formation, and Organization

Article 1. Process [§§ 706-715]

Article 2. Transition to Full Operations [§§ 716-719]

Article 3. Changes in Union District Membership and Other Amendments to Articles of Agreement [§§ 721-725]

Subchapter 3. Unified Union School Districts

Article 1. UUSDs – Boards and Board Members [§§ 729-733]

Article 2. UUSDs – Officers, Annual Meetings, & Special Meetings [§§ 735-743]

Subchapter 4. Union Elementary School Districts & Union High School Districts [§ 745]

Article 1. UE/HSDs – Boards and Board Members [§§ 747-751]

Article 2. UE/HSDs – Officers, Annual Meetings, & Special Meetings [§§ 753-760]

Subchapter 5. Districts Formed Pursuant to Prior Laws [§§ 763-764]

The new Chapter 11 provides additional detail without substantially changing current law and practice, with the following exceptions:

§§ 724 (UUSD) and 725 (UE/HSD) – withdrawal from a union school district

The new process governing withdrawal from a UUSD can be summarized as follows:

Subsection (b) – Voters wishing to withdraw from a UUSD and create an independent town school district for all grades, PreK-12, submit to the UUSD Board petitions signed by at least five percent of the voters of each member town. The petitions name three individuals residing in the petitioning town who will serve on a withdrawal study committee. Within 30 days of receipt, the UUSD Board recognizes the study committee as a public body subject to open meeting laws, etc., and appoints a liaison subcommittee from among the UUSD board members.

Subsection (c) – The withdrawal study committee evaluates the strengths and weakness of the current unified system and the educational and financial advantages and disadvantages of withdrawing or not withdrawing on the students and taxpayers residing in the petitioning town and in the other towns. It also considers the potential source of SU services (e.g., special education, transportation, business).

Subsection (d) – If the analysis leads the withdrawal study committee to propose withdrawal, then the committee prepares a report outlining its analysis, its proposed financial terms of withdrawal, and its plan to transition from membership in a UUSD to operation of an independent school district.

Subdivisions (e)(1)-(2) – The Secretary of Education reviews the report and any report offered by the UUSD liaison subcommittee, and transmits the report(s) together with a recommendation to the State Board. The State Board considers the submissions, provides the study committee and liaison subcommittee an opportunity to be heard, and may ask for additional investigation and amendments to the report.

Subdivision (e)(3) – The State Board issues an advisory opinion regarding whether withdrawal is in the best interests of the State, the region, the students, and the school districts and whether it aligns with the educational and policy goals set out in the (new) § 701. Regardless of whether the opinion contains a positive or negative recommendation, the State Board provides a preliminary assessment of the most feasible options for the provision of SU services if the voters approve withdrawal.

Subdivision (f)(1) – If the State Board issues a positive advisory opinion, then the voters in each town within the UUSD, including the petitioning town, vote on the same day. Withdrawal is approved only if the vote is in the affirmative in each town.

Subdivision (f)(2) – If the State Board issues a negative advisory opinion, then the voters in the petitioning town vote whether to approve withdrawal. If in the affirmative, then the voters in each of the other towns in the UUSD vote whether to ratify withdrawal. Withdrawal is approved only if the vote is in the affirmative in each town.

Subsection (g) – On the day they vote whether to withdraw, the voters residing in the petitioning town elect individuals to serve on the school board if withdrawal is approved.

Subsection (h) – If the voters approve withdrawal, then the State Board makes certain declarations to enable the new district to perform the transitional duties necessary to assume full responsibility for the education of resident students. The Board also determines or sets a schedule to determine how the new district will obtain SU services.

Subsection (i) – The Secretary of State certifies the change in membership of the UUSD.

Subsection (j) – Voters cannot access the withdrawal process during the first year of a newly-formed or newly-adjusted UUSD’s existence. If an action to withdraw is unsuccessful, then the voters must wait two years before initiating a new action to withdraw.

The process is identical in both § 724 and § 725, and differs only where necessary to address the uniquely different structures of a UUSD and a UE/HSD. Both are drafted so that they apply both to voter-created union school districts and to those created by the State Board.

§ 741 – votes counted within 24 hours after the polls close and other provisions

§ 742– commingling ballots before counting

For all types of voting within a UUSD, the ballots are commingled before counting except if (i) Vermont law explicitly permits or requires a different method; (ii) the ballots were cast to elect board members under the “proportional to town population” model of representation (where votes are cast solely in the candidate’s town of residence so there are no ballots to commingle); or (iii) articles of agreement initially approved by voters by July 1, 2019 explicitly direct that votes are counted in each town before the total votes are calculated. The time within which votes may be counted is extended to 24 hours after polls close and the UUSD clerk has the authority to appoint board members who are not on the ballot to aid in the counting.

Secs. 4-7 – Ongoing Withdrawal Actions

The Legislature enacted session law applicable to each of the four towns that have taken any step towards withdrawal under the pre-H. 727 version of § 724 (“former § 724”) and that have proposed operational dates of July 1, 2023 or after. The Legislature did not require these towns to begin the process anew under the newly enacted § 724, but rather requires that each town provides a status report regarding its ability to satisfy the sole criterion of the former § 724 and that the State Board issues an advisory opinion regarding the new district’s ability to be fully operational on the effective date. In addition, Sections 4, 6, and 7 provide the towns an opportunity to postpone the operational date (and thus the dates of reporting and review). Finally, the sections grant the towns an “off-ramp” that simplifies the process to rejoin the UUSD if they decide not to become operational as a separate town school district.¹

The sections share common elements and process points, but they differ in order to accommodate each town’s unique circumstances. The information below sets out the basic timeline and elements of each section separately despite the similarity.

Although the session law itself does not explicitly name the towns, the legislators regularly identified the town to which they intended each section to apply. Accordingly, the towns are identified below.

Sec. 4. [Ripton]

- July 1, 2022 – The Ripton School Board votes whether to maintain the 2023 operational date or postpone it to 2024 and notifies the State Board of its decision
- On or before the July 2022 or 2023 State Board meeting, depending on the decision regarding the operational date – The Ripton School Board submits a written status report to the State Board regarding the actions it has taken and will take in order to assume full responsibility on its chosen operational date
- [Date not specified, but as a practical matter no later than its August meeting] – The State Board reviews the report, offers the parties an opportunity to be heard, and issues a written advisory opinion regarding whether the Ripton School District will be prepared to assume full responsibility on its chosen operational date
- If the State Board deems preparedness to be unlikely, then the Ripton School Board:
 - Posts the State Board’s advisory opinion on its website
 - Schedules the content for public discussion at a regular or special meeting
 - Either continues to take all actions necessary to proceed or, on its own motion or at the request of five percent of the voters, warns a vote of the electorate to ask the State Board to reverse its withdrawal declaration
 - The vote must occur by October 1 preceding the operational date

¹ Without the “off-ramp,” the withdrawing town could again become a member of the UUSD only if, after analysis, the voters in the withdrawing town and, subsequently, the voters in each of the other towns in the UUSD voted independently in favor of a proposal to add the town to the UUSD (16 V.S.A. § 721).

- If the voters approve the question, then the State Board reverses its earlier declarations and Ripton remains within the UUSD

Sec. 5. [Stowe]

- Sec. 5 states that, for purposes of the section and notwithstanding any other provision of law to the contrary, Stowe (which is a State Board-created UUSD) may proceed pursuant to the former § 724
- On or before September 2022 State Board meeting – The self-selected representatives of Stowe and the UUSD Board submit (i) a report explaining how the current plan of withdrawal conforms to or differs from the “alternative governance proposal” submitted in 2018 and (ii) a plan, with a timeline, detailing the actions they have taken and will take in order to assume full responsibility on the chosen operational date
- The State Board reviews the report, offers the parties an opportunity to be heard, and issues a written advisory opinion regarding the district’s and SU’s preparedness to assume full responsibility on the operational date
- Regardless of whether it deems preparedness to be likely or unlikely, the State Board makes certain declarations necessary under the former § 724 to create the new district and enable it to perform transitional duties to assume full responsibility for the education of resident students, including:
 - Election of board members for the new district
 - Negotiation of the financial terms of withdrawal by the new district’s board and the UUSD Board per the former § 724
 - Approval, per the former § 724, of the negotiated terms of withdrawal by the voters in the remaining towns
 - Preparation by the new district’s board of a proposed budget for the first operational year
 - Approval of the proposed budget by the new district’s voters
- If the State Board determines that preparedness is unlikely, then the new Stowe School Board:
 - Posts the State Board’s advisory opinion on its website
 - Schedules the content for public discussion at a regular or special meeting
 - Either continues to take all actions necessary to proceed or, on its own motion or at the request of five percent of the voters, warns a vote of the electorate to ask the State Board to reverse its withdrawal declaration – the same “off-ramp” as described in Sec.4
 - If the voters approve the question, then the State Board reverses its earlier declarations and Stowe remains within the UUSD

Sec. 6. [Lincoln]

- July 1, 2022 – The self-selected representatives of Lincoln vote whether to maintain the proposed operational date or postpone it by one year, and notify the State Board of the decision
- On or before the July 2022 or 2023 State Board meeting, depending on the decision regarding the operational date – The self-selected representatives submit a written report to the State Board regarding the analysis they have performed and the actions they / the future board have taken and will take to enable a new Lincoln School District to assume full responsibility on the chosen operational date
- September 1, 2022 or 2023 – The State Board reviews the submissions, offers the parties an opportunity to be heard, and issues a written advisory opinion regarding whether a new Lincoln School District will be prepared to assume full responsibility on the chosen operational date
- Regardless of whether it deems preparedness to be likely or unlikely, the State Board makes certain declarations necessary under the former § 724 to create the new district and enable it to perform transitional duties to assume full responsibility for the education of resident students, including:
 - Election of board members for the new district
 - Negotiation of the financial terms of withdrawal by the new district’s board and the UUSD board per the former § 724
 - Approval, per the former § 724, of the negotiated terms of withdrawal by the voters in the remaining towns
 - Preparation by the new district’s board of a proposed budget for the first operational year
 - Approval of the proposed budget by the new district’s voters
- If the State Board determines that preparedness is unlikely, then the board of the new school district:
 - Posts the State Board’s advisory opinion on its website
 - Schedules the content for public discussion at a regular or special meeting
 - Either continues to take all actions necessary to proceed or, on its own motion or at the request of five percent of the voters, warns a vote of the electorate to ask the State Board to reverse its withdrawal declaration – the same “off-ramp” as described in Sec.4
 - If the voters approve the question, then the State Board reverses its earlier declarations and Lincoln remains within the UUSD

Sec. 7. [Starksboro]

- Background – UUSD voters residing in Starksboro voted on May 10 to withdraw from the UUSD pursuant to the former § 724, and the vote will be final upon expiration of the 30-day reconsideration period
- Within 90 days² after town clerks receive notice that the Starksboro vote is final – The UUSD voters in the other towns vote whether to ratify Starksboro’s withdrawal³
- Within 30 days after the ratification votes are final – The self-selected representatives of Starksboro vote whether to have the State Board review the proposal in 2022 or in 2023, and notify the State Board of the decision and the proposed operational date
- The State Board, in consultation with the self-selected representatives, determines the date of State Board review
- Before the identified date of State Board review – The self-selected representatives submit a written report to the State Board regarding the analysis they have performed and the actions they / the future board have taken and will take to enable a new Starksboro School District to assume full responsibility on the chosen operational date
- Within 90 days of the identified date of State Board review – The State Board reviews the submissions, offers the parties an opportunity to be heard, and issues a written advisory opinion regarding whether a new Starksboro School District will be prepared to assume full responsibility on the chosen operational date
- Regardless of whether it deems preparedness to be likely or unlikely, the State Board makes certain declarations necessary under § 724 to create the new district and enable it to perform transitional duties to assume full responsibility for the education of resident students, including:
 - Election of board members for the new district
 - Negotiation of the financial terms of withdrawal by the new district’s board and the UUSD board per the former § 724
 - Approval, per the former § 724, of the negotiated terms of withdrawal by the voters in the remaining towns
 - Preparation by the new district’s board of a proposed budget for the first operational year
 - Approval of the proposed budget by the new district’s voters
- If the State Board determines that preparedness is unlikely, then the board of the new school district:

² The former § 724 does not establish a deadline by which the voters in the other towns must hold the ratification vote.

³ Per the former § 724, withdrawal proceeds only if the voters in each town approve it.

- Posts the State Board’s opinion on its website
- Schedules the content for public discussion at a regular or special meeting
- Either continues to take all actions necessary to proceed or, on its own motion or at the request of five percent of the voters, warns a vote of the electorate to ask the State Board to reverse its withdrawal declaration – the same “off-ramp” as described in Sec.4
 - If the voters approve the question, then the State Board reverses its earlier declarations and Starksboro remains within the UUSD

Sec. 8 – Temporary Moratorium on Union School Building Closures

Section 8 imposes a two-year moratorium on union school district school building closures. Closure is defined as ceasing to use the building for direct education of a majority of the grades used on or before July 1, 2022. Exceptions to the moratorium:

- If the closure has already been factored into the FY2023 budget
- If the closure is necessary to protect the health and safety of the students
- If the district cannot adequately staff the building
- If the closure is approved by the voters living in the town where the building is located

Sec. 9 – Report on Union School Building Closures

Section 9 requires the Agency of Education to consult with a number of identified entities and the public and submit a written report to the Legislature by September 1, 2023 that addresses a list of questions regarding school building closure.

Sec. 10 – Annual Report on Union School District Withdrawal

Section 10 requires the Agency of Education to report annually by January 15 regarding the withdrawal actions reviewed during the preceding year.

Secs. 11-12 – Employee Transition

Sections 11 and 12 add a new § 1804 to Title 16 that governs the transition of employees after a member has withdrawn from a union school district. This process is similar to that already provided in statute in connection with the creation of new union school districts. The new section applies to any new district with an operational date of July 1, 2023 or after, regardless of whether the withdrawal occurred under the former § 724 or the new law.

Sec. 13 – Effect Date

All provisions in the act are effective on the date of the Governor’s signature.