

§3802. Education service center authorized

An education service center shall provide administrative and education functions in accordance with this chapter and shall function as an extension of the member school administrative units and associate members of the education service center. A member school administrative unit of the education service center cannot transfer the responsibility for providing the opportunity of a free public education to each of its students or a free, appropriate education to each of its students with a disability as required by this Title or by federal law. [PL 2019, c. 219, §3 (AMD).]

1. Geographic boundaries. The commissioner shall determine geographic areas for the establishment of each education service center. Membership in a particular education service center does not require the member to be physically located in the education service center's geographic boundary.

[PL 2019, c. 219, §3 (AMD).]

2. Members. Members in an education service center must be determined by interlocal agreement pursuant to Title 30-A, chapter 115 and may include the following types of school administrative units:

A. Community school districts pursuant to chapter 105; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

B. Municipal school units pursuant to chapter 111; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

C. Regional school units pursuant to chapter 103-A; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

D. School administrative districts pursuant to chapter 103; [PL 2019, c. 219, §3 (AMD).]

E. Schools established on tribal lands pursuant to Title 30, chapter 601; and [PL 2019, c. 219, §3 (AMD).]

F. Public charter schools as defined in chapter 112. [PL 2019, c. 219, §3 (NEW).]

[PL 2019, c. 219, §3 (AMD).]

3. Associate members. Associate members for an education service center may include the following through a contractual agreement or memorandum of understanding with the members of the education service center:

A. Career and technical education regions pursuant to chapter 313, subchapter 4; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

B. [PL 2019, c. 219, §3 (RP).]

C. Providers of child development services pursuant to chapter 303; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

D. Magnet schools pursuant to chapters 312 and 312-A; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

E. The Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf pursuant to chapter 304; [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

F. Providers of education in the unorganized territory pursuant to chapter 119; or [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

G. Municipalities and counties pursuant to Title 30-A. [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

[PL 2019, c. 219, §3 (AMD).]

4. Provision of services to or from other public entities or nonprofit entities. An education service center may provide services to or purchase services from other types of political subdivisions, public entities or nonprofit organizations or associations.

[PL 2019, c. 219, §3 (AMD).]

5. Purchase of services from another education service center. A member of an education service center may purchase services from another education service center if not provided by the member's education service center.

[PL 2019, c. 219, §3 (AMD).]

6. Validation. An education service center authorized and organized under this chapter is validated, confirmed, approved and declared legal in all respects, notwithstanding any defect or irregularity that may have occurred in the organization of the education service center or in the selection of the board of that education service center.

[PL 2019, c. 219, §3 (AMD).]

7. Political subdivision. An education service center is a political subdivision within the meaning of Title 5, section 19002, subsection 6 and a quasi-municipal corporation within the meaning of Title 30-A, section 5701, and all the provisions of those sections apply to it. Notwithstanding Title 30-A, section 2203, subsection 8, paragraph B, the members of an education service center may delegate eminent domain power to the education service center by agreement. An education service center is considered a tax-exempt governmental entity for the purposes of Title 36, section 1760, subsection 2.

[PL 2019, c. 219, §3 (AMD).]

8. Executive director; leadership services. An education service center shall employ an executive director or contract for leadership services, and the interlocal agreement under section 3801, subsection 3 must specify that the executive director or the provider of leadership services shall administer, in compliance with this chapter, the provisions of the interlocal agreement in the education service center.

[PL 2019, c. 219, §3 (AMD).]

9. Personnel. The executive director or the provider of leadership services of an education service center may employ a chief financial officer and may employ additional staff necessary or hire a fiscal agent to administer the functions assigned to the education service center through the provisions of the interlocal agreement under section 3801, subsection 3.

[PL 2019, c. 219, §3 (AMD).]

10. Balanced budget. An education service center must have a balanced budget and return excess funds to the members as prescribed by the interlocal agreement under section 3801, subsection 3.

[PL 2019, c. 219, §3 (AMD).]

11. Authority to borrow, expend and accept funds. An education service center may:

A. Borrow funds in anticipation of a member's payment of its share of the education service center budget; [PL 2019, c. 219, §3 (AMD).]

B. Expend available funds to pay debt service, security and maintenance costs; and [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

C. Accept and expend funds from state, federal and other sources and expend those funds on behalf of the members. [PL 2017, c. 284, Pt. VVVVV, §6 (NEW).]

[PL 2019, c. 219, §3 (AMD).]

12. Bonding authority; debt limitation; allocation and payment of approved debt. An education service center may issue bonds and notes for school construction purposes. For purposes of this section, "school construction purposes" includes minor capital costs relating to maintenance of a school's physical plant. The education service center board shall decide whether the issuance of bonds or notes by the education service center for school construction purposes is necessary. The board shall determine whether the issuance of bonds or notes is authorized, and, if so, the board shall issue the bonds or notes and administer the proceeds of, and the payment of principal of and interest on, those

bonds or notes after issuance. An education service center may issue bonds and notes for school construction purposes only under the provisions of the interlocal agreement under section 3801, subsection 3. Upon receiving authorization to issue bonds or notes under the election procedures of the interlocal agreement, the board shall follow the requirements of section 1490 for issuing bonds or notes of the education service center.

A. Indebtedness of an education service center for school construction purposes may not exceed 4% of the total state valuation of the participating municipalities. For purposes of this section, "participating municipalities" of an education service center includes all municipal school units that are members of the education service center and the municipalities constituting the other members of the education service center. The debt limitation is determined as of the date the state board issues a project concept approval or in the case of a nonstate funded project the date the commissioner approves the project under section 15905-A. Debt of an education service center is outside the debt limitations of its members and of municipalities constituting its members. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (NEW).]

B. For purposes of determining a debt limitation under this subsection, debt approved for state subsidy is excluded. However, in cases in which one or more participating municipalities receive an adjustment for the minimum state allocation pursuant to section 15689, subsection 1, each outstanding state-subsidized debt allocable to a participating municipality that does not receive an adjustment for the minimum state allocation pursuant to section 15689, subsection 1 is excluded from the debt limitation, but only the state reimbursable portion of each outstanding state-subsidized debt allocable to a participating municipality that receives an adjustment for the minimum state allocation pursuant to section 15689, subsection 1 is excluded. [PL 2019, c. 336, §1 (NEW).]

C. For purposes of determining the debt limitation exclusion under paragraph B, when at least one participating municipality receives an adjustment for the minimum state allocation pursuant to section 15689, subsection 1, each issue of debt approved for purposes of state subsidy is allocated in proportion to the fiscal capacities of the education service center members. In the case of each education service center member that is a regional school unit, school administrative district or community school district, the amount of each fiscal capacity allocation under this subsection is allocated to the municipalities constituting the member in proportion to the municipalities' pupil counts in accordance with section 15688, subsection 2. For each participating municipality that receives an adjustment for the minimum state allocation pursuant to section 15689, subsection 1, the state reimbursable portion of an outstanding state-subsidized debt allocable to that participating municipality is the product of the amount of that education service center's debt allocated to the participating municipality under this section and the member's state share percentage, as defined in section 15672, subsection 31. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (NEW).]

D. For purposes of determining a debt limitation under this subsection, a certificate from the commissioner that a project qualifies for state school construction aid, as to the amount of debt that qualifies for that aid, as to the allocation of the debt to the members of the education service center, as to the allocation of debt to any participating municipality and as to the state share percentage for any participating municipality that receives an adjustment for the minimum state allocation pursuant to section 15689, subsection 1 is conclusive evidence of the facts stated in the certificate. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (NEW).]

E. The commissioner shall determine the state allocation for debt service costs by allocating the principal and interest payments for each debt approved for purposes of state subsidy among the members of the education service center in proportion to the members' fiscal capacities. The adjustment for debt service under section 15689, subsection 2 applies to the debt service allocated to participating municipalities under this subsection. Each member's state allocation for debt service costs must be paid by the commissioner as provided by section 15907. The principal and

interest payments on debt approved for purposes of state subsidy must be shared by the members of the education service center in accordance with the commissioner's allocation under this paragraph notwithstanding the cost-sharing formula of the education service center. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (NEW).]

[PL 2019, c. 219, §3 (AMD); PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §1 (AMD).]

12-A. General obligation debt; assessment and collection; withdrawal. In the case of an education service center authorized to issue bonds or notes under the terms of an interlocal agreement, the following provisions apply.

A. Bonds and notes issued by an education service center are general obligations of the education service center. The provisions of sections 15695 and 15695-A apply, including provisions for the assessment and collection of taxes, the levy of ad valorem taxes without limit as to rate or amount upon all taxable property within the education service center and the rights and protection of bondholders. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §2 (NEW).]

B. An education service center board shall include in each budget an amount sufficient to pay debt service on approved bonds or notes. The cost-sharing, assessment and payment process under section 3801, subsection 3, paragraph A, subparagraph (4) must include determining debt service amounts, except that the principal and interest payments on debt approved for purposes of state subsidy are shared by the members of the education service center in accordance with the commissioner's allocation under subsection 12. The school budget of each member must include an amount that is its share of the education service center costs, including debt service costs. Each member shall raise and assess a sufficient amount for its share of annual debt service not paid from other sources and may collect those amounts in the manner provided by law for school taxes. If the treasurer of a member fails to timely pay any installment by the date required, the education service center has the same rights and remedies of enforcement, including interest, court costs and attorney's fees, and the court has the same powers, as is provided for enforcement of regional school unit installments under section 1489, subsection 6. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §2 (NEW).]

C. Whenever a member withdraws from an education service center having outstanding indebtedness, including bonds, notes and lease-purchase agreements, the education service center remains intact for purposes of securing and retiring the indebtedness. A withdrawal agreement may provide for alternate means for retiring outstanding indebtedness. [PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §2 (NEW).]

[PL 2019, c. 219, §12 (REV); PL 2019, c. 336, §2 (NEW).]

13. Withdrawal from education service center. If a single school administrative unit applies to withdraw, it must demonstrate to the commissioner that the school administrative unit's withdrawing is in the best interests of the withdrawing school administrative unit and of any of the remaining member school administrative units of the education service center.

[PL 2019, c. 219, §3 (AMD).]

14. Dissolution of education service center. An education service center may not be dissolved unless it applies to the commissioner for approval and:

A. All member school administrative units apply to transfer to another education service center; or [PL 2019, c. 219, §3 (AMD).]

B. If all the member school administrative units of an education service center apply to dissolve the education service center, they demonstrate to the commissioner that it is in the best interests of the member school administrative units of the education service center to dissolve the education service center. [PL 2019, c. 219, §3 (AMD).]

[PL 2019, c. 219, §3 (AMD).]

15. Reporting requirements. An education service center must meet state and federal reporting requirements on behalf of each member school administrative unit.

[PL 2019, c. 219, §3 (AMD).]

SECTION HISTORY

PL 2017, c. 284, Pt. VVVVV, §6 (NEW). PL 2019, c. 219, §3 (AMD). PL 2019, c. 219, §12 (REV). PL 2019, c. 336, §§1, 2 (AMD).

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