

18A:8-43
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2009 **CHAPTER:** 78

NJSA: 18A:8-43 (Clarifies the procedure for the elimination of non-operating school districts)

BILL NO: A4141 (Substituted for S3000)

SPONSOR(S) Burzichelli and Others

DATE INTRODUCED: June 22, 2009

COMMITTEE: **ASSEMBLY:** Education

SENATE: ---

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 25, 2009

SENATE: June 25, 2009

DATE OF APPROVAL: June 30, 2009

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Introduced bill enacted)

A4141

SPONSOR'S STATEMENT: (Begins on page 8 of original bill)	Yes
COMMITTEE STATEMENT:	
ASSEMBLY:	Yes
SENATE:	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	No

S3000

SPONSOR'S STATEMENT: (Begins on page 8 of original bill)	Yes
COMMITTEE STATEMENT:	
ASSEMBLY:	No
SENATE:	Yes
FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL NOTE:	No

(continued)

VETO MESSAGE:

No

GOVERNOR'S PRESS RELEASE ON SIGNING:

Yes 6-30-09

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

"Tiny school districts doomed merger law will affect 7 tri-county area towns," Courier Post, 7-1-09, p. A1

"Pemberton Borough School District is history," Burlington County Times, 7-1-09, p. 1

"School's out for non-operating districts in New Jersey," NewJerseyNewsroom.com, 7-1-09,

<http://www.newjerseynewsroom.com/state/schools-out-for-non-operating-districts-in-new-jersey/print>

"Branchville school district to close," New Jersey Herald, 7-1-09

"Teterboro, Rockleigh losing school districts," The Record, 7-1-09, p. L02

"Book closes on Shore districts without schools," Asbury Park Press, 7-1-09, p. A2

"Tax hikes possible as state acts to close no-school districts," The Star-Ledger, 7-1-09, p. 18

"Loch Arbour must pay higher school taxes," Asbury Park Press, 7-1-09, p. B1

LAW/RWH

ASSEMBLY, No. 4141

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED JUNE 22, 2009

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblywoman CELESTE M. RILEY

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Senators Whelan, Beach, O'Toole and Turner

SYNOPSIS

Clarifies the procedure for the elimination of non-operating school districts.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/26/2009)

A4141 BURZICHELLI, RILEY

2

1 AN ACT concerning non-operating school districts, supplementing
2 Title 18A of the New Jersey Statutes, and amending
3 N.J.S.18A:7-8.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. (New section) As used in this act:

9 “Non-operating district” means a school district that is not
10 operating schools on the effective date of P.L. , c. (C.)
11 (pending before the Legislature as this bill).

12

13 2. (New section) a. Except as otherwise provided in subsection
14 b. of this section, the executive county superintendent of schools
15 shall eliminate any non-operating district and merge that district
16 with the district with which it participates in a sending-receiving
17 relationship.

18 b. If a non-operating district is in a sending-receiving
19 relationship with more than one district or is in a sending-receiving
20 relationship with a district in need of improvement pursuant to the
21 “No Child Left Behind Act of 2001,” Pub.L.107-110, then the
22 executive county superintendent shall determine with which district
23 the non-operating district shall be merged. The determination shall
24 be based on the district that is able to accommodate the merger with
25 the least disruption to its finances and educational operations. In
26 making the determination the executive county superintendent shall
27 examine, but need not be limited to, the following factors: current
28 sending-receiving relationships; the quality and effectiveness of
29 educational programming and district operations; proximity of
30 school districts; transportation costs; school building capacity; and
31 special education needs.

32

33 3. (New section) The annual or special appropriations for a new
34 district established pursuant to section 2 of this act, excluding the
35 amounts to be raised for interest upon and the redemption of bonds
36 payable by the district, shall be apportioned among the constituent
37 districts of the new district in the first year of the merger in such
38 manner as the commissioner determines to be the least fiscally
39 disruptive. Thereafter the apportionment methodology shall be
40 determined pursuant to chapter 13 of Title 18A of the New Jersey
41 Statutes; however, if necessary, the commissioner may allow a five-
42 year phase-in of the apportionment methodology.

43 The amount to be raised for interest upon and the redemption of
44 bonds payable by the district for bonds issued prior to and after the
45 effective date of this act, shall be apportioned among the constituent

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 districts of the new district in such manner as the commissioner
2 determines to be the least fiscally disruptive. The commissioner
3 may allow a five-year phase-in of the apportionment methodology,
4 if necessary.

5

6 4. (New section) Notwithstanding the provisions of P.L.2007,
7 c.260 (C.18A:7F-43 et al.) to the contrary, for the purposes of
8 calculating State school aid, both the former non-operating district
9 and the district with which it is merged pursuant to the provisions of
10 section 2 of this act shall continue to be considered separate school
11 districts.

12

13 5. (New section) a. If the district with which the non-operating
14 district is merged is a Type II district without a board of school
15 estimate, except as otherwise provided in this subsection, the new
16 district established pursuant to section 2 of this act shall have a
17 board of education with the same number of members as the board
18 of education of the district with which the non-operating district has
19 been merged. The members of the board of education of the district
20 with which the non-operating district has been merged shall
21 continue in office as members of the first board of education of the
22 new district until the expiration of the respective terms for which
23 they were elected.

24

25 In any year in which the term of a member of the board of
26 education of the new district expires, his successor shall be elected
27 at-large by the voters of the new district.

28

29 The executive county superintendent shall, not later than 30 days
30 after the merger of the districts, appoint one member of the board of
31 education of the former non-operating district to the board of the
32 new district, who shall serve until the first Monday succeeding the
33 first annual school election in which a member of the board of
34 education of the new district is elected at-large; except that if the
35 former non-operating district had representation on the board of
36 education of the district with which it has been merged pursuant to
37 section 2 of P.L.1995, c.8 (C.18A:38-8.2), then that representative
38 shall be the person appointed by the executive county
39 superintendent. The member appointed by the executive county
40 superintendent shall be a voting member of the board.

41

42 b. If the district with which the non-operating district is merged
43 is a Type I district, the new district shall have a board of education
44 with the same number of members as the board of education of the
45 district with which the non-operating district has been merged plus
46 one additional member. The mayor or other chief executive officer
47 of the municipality in which the former non-operating district is
48 located shall appoint the one additional member.

49

50 c. If the district with which the non-operating district is merged
51 is a regional district, the former non-operating district shall be
52 treated as a constituent district of the regional district and the

A4141 BURZICHELLI, RILEY

4

1 membership of the board of education of the new district shall be in
2 accordance with the provisions of chapter 13 of Title 18A of the
3 New Jersey Statutes.

4

5 6. (New section) In the event that nonpublic school students
6 who reside in a municipality that comprises the new district were
7 not eligible for pupil transportation services pursuant to
8 N.J.S.18A:39-1 prior to the effective date of P.L. , c. (C.)
9 (pending before the Legislature as this bill), then any nonpublic
10 school student in that municipality shall be ineligible for pupil
11 transportation services following the merger pursuant to section 2
12 of this act.

13

14 7. (New section) a. The board of education of the district with
15 which the non-operating district is merged shall cause a final audit
16 of the non-operating district's accounts and financial transactions to
17 be made by a public school accountant pursuant to N.J.S.18A:23-1
18 et seq., and shall provide for the liquidation of the assets of the non-
19 operating district. The non-operating district shall be responsible
20 for the costs of the final audit which shall be payable from the
21 district's accounts prior to the liquidation of the assets. Upon
22 completion of the liquidation, any cash balances, including any
23 remaining reserve balances, shall be paid to the municipal
24 governing body of the municipality in which the former non-
25 operating district is located, and any indebtedness shall be the
26 responsibility of that municipal governing body.

27 b. Upon the elimination of a non-operating district pursuant to
28 section 2 of this act, the books, documents, and records of that
29 district shall be turned over to the board of education of the new
30 district.

31 c. Upon the elimination of a non-operating district pursuant to
32 section 2 of this act, the municipal governing body of the
33 municipality in which the former non-operating district is located
34 shall take title to and control of all school grounds and buildings,
35 unless the deed on the school grounds and building directs
36 otherwise, and the furnishings and equipment therein, situated in
37 the municipality.

38

39 8. (New section) Unless otherwise provided in this act, a new
40 district formed pursuant to section 2 of this act shall be governed by
41 the provisions of chapter 13 of Title 18A of the New Jersey
42 Statutes.

43

44 9. (New section) Nothing in this act shall be construed to
45 prohibit an executive county superintendent from including a
46 former non-operating district in the consolidation plan submitted by
47 the executive county superintendent to the commissioner pursuant
48 to subsection h. of N.J.S.18A:7-8.

1 10. N.J.S.18A:7-8 is amended to read as follows:

2 18A:7-8. Each executive county superintendent shall:

3 a. Visit and examine from time to time all of the schools under
4 his general supervision and exercise general supervision over them
5 in accordance with the rules prescribed from time to time by the
6 State board;

7 b. Keep himself informed as to the management, methods of
8 instruction and discipline and the courses of study and textbooks in
9 use, the condition of the school libraries, and the condition of the
10 real and personal property, particularly in respect to the
11 construction, heating, ventilation and lighting of school buildings,
12 in the local districts under his general supervision, and make
13 recommendations in connection therewith;

14 c. Advise with and counsel the boards of education of the local
15 districts under his general supervision and of any other district of
16 the county when so requested, in relation to the performance of
17 their duties;

18 d. Promote administrative and operational efficiencies and cost
19 savings within the school districts in the county while ensuring that
20 the districts provide a thorough and efficient system of education;

21 e. Based on standards adopted by the commissioner,
22 recommend to the commissioner, who is hereby granted the
23 authority to effectuate those recommendations, that certain school
24 districts be required to enter arrangements with one or more other
25 school districts or educational services commissions for the
26 consolidation of the district's administrative services;

27 f. Recommend to the commissioner the elimination of laws the
28 executive county superintendent determines to be unnecessary State
29 education mandates, other than the categories of laws set forth in
30 section 3 of P.L.1996, c.24 (C.52:13H-3);

31 g. **[Have the authority to eliminate]** Eliminate districts located
32 in the county that are not operating schools on the effective date of
33 [sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.)] P.L. __,
34 c. (C.) (pending before the Legislature as this bill), in
35 accordance with a plan and schedule included in the plan submitted
36 to and approved by the commissioner **[no later than one year**
37 **following the effective date of sections 42 to 58 of P.L.2007, c.63**
38 **(C.18A:7-11 et al.)]**;

39 h. No later than three years following the effective date of
40 sections 42 to 58 of P.L.2007, c.63 (C.18A:7-11 et al.), recommend
41 to the commissioner a school district consolidation plan to eliminate
42 all districts, other than county-based districts and other than
43 preschool or kindergarten through grade 12 districts in the county,
44 through the establishment or enlargement of regional school
45 districts. After the approval of the plan by the commissioner, the
46 executive county superintendent shall require each board of
47 education covered by a proposal in the plan to conduct a special
48 school election, at a time to be determined by the executive county

1 superintendent, and submit thereat the question whether or not the
2 executive county superintendent's proposal for the regionalization
3 of the school district shall be adopted. The question shall be
4 deemed adopted if it receives a vote in accordance with the
5 provisions of N.J.S.18A:13-5. If the question is adopted by the
6 voters, then the regional district shall be established or enlarged in
7 accordance with chapter 13 of Title 18A of the New Jersey Statutes;

8 i. Promote coordination and regionalization of pupil
9 transportation services through means such as reviewing bus routes
10 and schedules of school districts and nonpublic schools within the
11 county;

12 j. Review and approve, according to standards adopted by the
13 commissioner, all employment contracts for superintendents of
14 schools, assistant superintendents of schools, and school business
15 administrators in school districts within the county, prior to the
16 execution of those contracts;

17 k. Request the commissioner to order a forensic audit and to
18 select an auditor for any school district in the county upon the
19 determination by the executive county superintendent, according to
20 standards adopted by the commissioner, that the accounting
21 practices in the district necessitate such an audit;

22 l. Review all school budgets of the school districts within the
23 county, and may, pursuant to section 5 of P.L.1996, c.138
24 (C.18A:7F-5), disapprove a portion of a school district's proposed
25 budget if he determines that the district has not implemented all
26 potential efficiencies in the administrative operations of the district
27 or if he determines that the budget includes excessive non-
28 instructional expenses. If the executive county superintendent
29 disapproves a portion of the school district's budget pursuant to this
30 paragraph, the school district shall deduct the disapproved amounts
31 from the budget prior to publication of the budget, and during the
32 budget year the school district shall not transfer funds back into
33 those accounts;

34 m. Permit a district to submit to the voters a separate proposal
35 or proposals for additional funds pursuant to paragraph (9) of
36 subsection d. of section 5 of P.L.1996, c.138 (C.18A:7F-5), only if:
37 (1) the district provides the executive county superintendent with
38 written documentation that the district has made efforts to enter into
39 shared arrangements with other districts, municipalities, counties,
40 and other units of local government for the provision of
41 administrative, business, purchasing, public and nonpublic
42 transportation, and other required school district services; (2) the
43 district certifies and provides written documentation that the district
44 participates in on-going shared arrangements; or (3) the district
45 certifies and provides written documentation that entering such
46 shared arrangements would not result in cost savings or would
47 result in additional expenses for the district;

1 n. Promote cooperative purchasing within the county of
2 textbooks and other instructional materials;

3 o. Coordinate with the Department of Education to maintain a
4 real time Statewide and district-wide database that tracks the types
5 and capacity of special education programs being implemented by
6 each district and the number of students enrolled in each program to
7 identify program availability and needs;

8 p. Coordinate with the Department of Education to maintain a
9 Statewide and district-wide list of all special education students
10 served in out-of-district programs and a list of all public and private
11 entities approved to receive special education students that includes
12 pertinent information such as audit results and tuition charges;

13 q. Serve as a referral source for districts that do not have
14 appropriate in-district programs for special education students and
15 provide those districts with information on placement options in
16 other school districts;

17 r. Conduct regional planning and identification of program
18 needs for the development of in-district special education programs;

19 s. Serve as a liaison to facilitate shared special education
20 services within the county including, but not limited to direct
21 services, personnel development, and technical assistance;

22 t. Work with districts to develop in-district special education
23 programs and services including providing training in inclusive
24 education, positive behavior supports, transition to adult life, and
25 parent-professional collaboration;

26 u. Provide assistance to districts in budgetary planning for
27 resource realignment and reallocation to direct special education
28 resources into the classroom;

29 v. Report on a regular basis to the commissioner on progress in
30 achieving the goal of increasing the number of special education
31 students educated in appropriate programs with non-disabled
32 students;

33 w. Render a report to the commissioner annually on or before
34 September 1, in the manner and form prescribed by him, of such
35 matters relating to the schools under his jurisdiction as the
36 commissioner shall require; and

37 x. Perform such other duties as shall be prescribed by law.

38 Any budgetary action of the executive county superintendent
39 under this section may be appealed directly to the commissioner,
40 who shall render a decision within 15 days of the receipt of the
41 appeal. If the commissioner fails to issue a decision within 15 days
42 of the filing of an appeal, the budgetary action of the executive
43 county superintendent shall be deemed approved. The
44 commissioner shall by regulation establish a procedure for such
45 appeals.

46 Nothing in this section shall be construed or interpreted to
47 contravene or modify the provisions of the "New Jersey Employer-
48 Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), or

1 to limit or restrict the scope of negotiations as provided pursuant to
2 law, or to require an employer to enter into a subcontracting
3 agreement which affects the employment of any employee in a
4 collective bargaining unit represented by a majority representative
5 during the time that an existing collective bargaining agreement
6 with the majority representative is in effect.

7 Nothing in this section is intended to interfere with a school
8 district's ability to provide a thorough and efficient education.

9 (cf: P.L.2007, c.63, s.49)

10
11 11. This act shall take effect immediately.

12
13
14 SPONSOR'S STATEMENT

15
16 Pursuant to N.J.S.18A:7-8 the executive county superintendent
17 of schools has the authority to eliminate districts that are not
18 operating schools. This bill clarifies the procedure under which
19 these non-operating districts will be eliminated and merged into
20 existing school districts.

21 The bill provides that the executive county superintendent will
22 merge non-operating districts with the district with which they
23 participate in a sending-receiving relationship, except in certain
24 circumstances. In the case of non-operating districts that are in a
25 sending-receiving relationship with more than one district or are in
26 a sending-receiving relationship with a district that is in need of
27 improvement pursuant to the "No Child Left Behind Act of 2001,"
28 then the executive county superintendent will make a determination
29 as to which district the non-operating district will be merged based
30 on the district that is able to accommodate the merger with the least
31 disruption to its finances and educational operations.

32 In a new district that is formed after a merger, the annual
33 appropriations, excluding amounts to be raised for interest upon and
34 redemption of bonds, will be apportioned among the constituent
35 districts of the new district in the first year of the merger in such
36 manner as the Commissioner of Education determines to be the
37 least fiscally disruptive. Following that first year the apportionment
38 methodology will be determined in accordance with the statutes
39 governing the apportionment of costs in regional school districts,
40 however the commissioner may allow a five-year phase-in of the
41 apportionment methodology. In the case of the amounts that need
42 to be raised for interest upon and the redemption of bonds for bonds
43 issued prior to or after the bill's effective date, those amounts shall
44 be apportioned among the constituent districts of the new district in
45 the manner that the commissioner determines to be the least fiscally
46 disruptive. The commissioner may allow for a five-year phase-in of
47 this apportionment methodology.

1 Under the bill's provisions, State school aid in the new district
2 will be calculated as if the former non-operating district and the
3 district with which it was merged continue as two separate school
4 districts.

5 If a non-operating district is merged with a Type II school
6 district without a board of school estimate, the board of education
7 of the new district will initially consist of the members of the board
8 of the district with which the non-operating district was merged,
9 who will serve until the expiration of the respective terms for which
10 they were elected; and, in addition, a representative of the board of
11 the former non-operating district, who will serve in a temporary
12 position that will be in existence only until the first annual school
13 election in which the first at-large member is elected to the board.
14 At that first election, and every election following, any vacant
15 positions on the board will be filled by members elected at-large by
16 the voters in the new district.

17 If a non-operating district is merged with a Type I district, the
18 new district will have a board of education with the same number of
19 members as the board of education of the district with which the
20 non-operating district has been merged plus one additional member.
21 The additional member will be appointed by the mayor or other
22 chief executive officer of the municipality of the former non-
23 operating district.

24 If the non-operating district is merged with a regional district,
25 the former non-operating district will be treated as a constituent
26 district of the regional district and the membership of the board will
27 be in accordance with the regional school district statutes on board
28 membership.

29 If nonpublic school pupils residing in a municipality that
30 comprises the new district were not eligible for pupil transportation
31 services prior to effective date of this bill, then any nonpublic
32 school pupil residing in that municipality after the merger will also
33 be ineligible for pupil transportation services.

34 The bill includes provisions for the transfer of any cash balances
35 after the liquidation of the non-operating district's assets to the
36 municipal governing body of the municipality in which the former
37 non-operating district is located. The municipality would also take
38 title and control of all school grounds and buildings, unless the deed
39 on the school grounds and buildings directs otherwise, and the
40 furnishings and equipment therein, situated in the municipality.
41 The books, documents, and records of the non-operating district
42 would be turned over to the board of education of the new district.

43 Unless otherwise provided for in the bill, the new district will be
44 governed by the provisions of law applicable to regional school
45 districts.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4141

STATE OF NEW JERSEY

DATED: JUNE 22, 2009

The Assembly Education Committee reports favorably Assembly Bill No. 4141.

Pursuant to N.J.S.18A:7-8 the executive county superintendent of schools has the authority to eliminate districts that are not operating schools. This bill clarifies the procedure under which these non-operating districts will be eliminated and merged into existing school districts.

The bill provides that the executive county superintendent will merge non-operating districts with the district with which they participate in a sending-receiving relationship, except in certain circumstances. In the case of non-operating districts that are in a sending-receiving relationship with more than one district or are in a sending-receiving relationship with a district that is in need of improvement pursuant to the "No Child Left Behind Act of 2001," then the executive county superintendent will make a determination as to which district the non-operating district will be merged based on the district that is able to accommodate the merger with the least disruption to its finances and educational operations.

In a new district that is formed after a merger, the annual appropriations, excluding amounts to be raised for interest upon and redemption of bonds, will be apportioned among the constituent districts of the new district in the first year of the merger in such manner as the Commissioner of Education determines to be the least fiscally disruptive. Following that first year the apportionment methodology will be determined in accordance with the statutes governing the apportionment of costs in regional school districts, however the commissioner may allow a five-year phase-in of the apportionment methodology. In the case of the amounts that need to be raised for interest upon and the redemption of bonds for bonds issued prior to or after the bill's effective date, those amounts shall be apportioned among the constituent districts of the new district in the manner that the commissioner determines to be the least fiscally disruptive. The commissioner may allow for a five-year phase-in of this apportionment methodology.

Under the bill's provisions, State school aid in the new district will be calculated as if the former non-operating district and the district with which it was merged continue as two separate school districts.

If a non-operating district is merged with a Type II school district without a board of school estimate, the board of education of the new district will initially consist of the members of the board of the district with which the non-operating district was merged, who will serve until the expiration of the respective terms for which they were elected; and, in addition, a representative of the board of the former non-operating district, who will serve in a temporary position that will be in existence only until the first annual school election in which the first at-large member is elected to the board. At that first election, and every election following, any vacant positions on the board will be filled by members elected at-large by the voters in the new district.

If a non-operating district is merged with a Type I district, the new district will have a board of education with the same number of members as the board of education of the district with which the non-operating district has been merged plus one additional member. The additional member will be appointed by the mayor or other chief executive officer of the municipality of the former non-operating district.

If the non-operating district is merged with a regional district, the former non-operating district will be treated as a constituent district of the regional district and the membership of the board will be in accordance with the regional school district statutes on board membership.

If nonpublic school pupils residing in a municipality that comprises the new district were not eligible for pupil transportation services prior to effective date of this bill, then any nonpublic school pupil residing in that municipality after the merger will also be ineligible for pupil transportation services.

The bill includes provisions for the transfer of any cash balances after the liquidation of the non-operating district's assets to the municipal governing body of the municipality in which the former non-operating district is located. The municipality would also take title and control of all school grounds and buildings, unless the deed on the school grounds and buildings directs otherwise, and the furnishings and equipment therein, situated in the municipality. The books, documents, and records of the non-operating district would be turned over to the board of education of the new district.

Unless otherwise provided for in the bill, the new district will be governed by the provisions of law applicable to regional school districts.

S3000 WHELAN, BEACH

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1 to limit or restrict the scope of negotiations as provided pursuant to
2 law, or to require an employer to enter into a subcontracting
3 agreement which affects the employment of any employee in a
4 collective bargaining unit represented by a majority representative
5 during the time that an existing collective bargaining agreement
6 with the majority representative is in effect.

7 Nothing in this section is intended to interfere with a school
8 district's ability to provide a thorough and efficient education.

9 (cf: P.L.2007, c.63, s.49)

10
11 11. This act shall take effect immediately.

12
13
14 SPONSOR'S STATEMENT

15
16 Pursuant to N.J.S.18A:7-8 the executive county superintendent
17 of schools has the authority to eliminate districts that are not
18 operating schools. This bill clarifies the procedure under which
19 these non-operating districts will be eliminated and merged into
20 existing school districts.

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22 merge non-operating districts with the district with which they
23 participate in a sending-receiving relationship, except in certain
24 circumstances. In the case of non-operating districts that are in a
25 sending-receiving relationship with more than one district or are in
26 a sending-receiving relationship with a district that is in need of
27 improvement pursuant to the "No Child Left Behind Act of 2001,"
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29 as to which district the non-operating district will be merged based
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31 disruption to its finances and educational operations.

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44 be apportioned among the constituent districts of the new district in
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46 disruptive. The commissioner may allow for a five-year phase-in of
47 this apportionment methodology.

S3000 WHELAN, BEACH

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1 Under the bill's provisions, State school aid in the new district
2 will be calculated as if the former non-operating district and the
3 district with which it was merged continue as two separate school
4 districts.

5 If a non-operating district is merged with a Type II school
6 district without a board of school estimate, the board of education
7 of the new district will initially consist of the members of the board
8 of the district with which the non-operating district was merged,
9 who will serve until the expiration of the respective terms for which
10 they were elected; and, in addition, a representative of the board of
11 the former non-operating district, who will serve in a temporary
12 position that will be in existence only until the first annual school
13 election in which the first at-large member is elected to the board.
14 At that first election, and every election following, any vacant
15 positions on the board will be filled by members elected at-large by
16 the voters in the new district.

17 If a non-operating district is merged with a Type I district, the
18 new district will have a board of education with the same number of
19 members as the board of education of the district with which the
20 non-operating district has been merged plus one additional member.
21 The additional member will be appointed by the mayor or other
22 chief executive officer of the municipality of the former non-
23 operating district.

24 If the non-operating district is merged with a regional district,
25 the former non-operating district will be treated as a constituent
26 district of the regional district and the membership of the board will
27 be in accordance with the regional school district statutes on board
28 membership.

29 If nonpublic school pupils residing in a municipality that
30 comprises the new district were not eligible for pupil transportation
31 services prior to effective date of this bill, then any nonpublic
32 school pupil residing in that municipality after the merger will also
33 be ineligible for pupil transportation services.

34 The bill includes provisions for the transfer of any cash balances
35 after the liquidation of the non-operating district's assets to the
36 municipal governing body of the municipality in which the former
37 non-operating district is located. The municipality would also take
38 title and control of all school grounds and buildings, unless the deed
39 on the school grounds and buildings directs otherwise, and the
40 furnishings and equipment therein, situated in the municipality.
41 The books, documents, and records of the non-operating district
42 would be turned over to the board of education of the new district.

43 Unless otherwise provided for in the bill, the new district will be
44 governed by the provisions of law applicable to regional school
45 districts.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3000

STATE OF NEW JERSEY

DATED: JUNE 22, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3000.

Senate Bill No. 3000 clarifies the procedure under which non-operating districts will be eliminated and merged into existing school districts.

Under current law, the executive county superintendent of schools has the authority to eliminate districts that are not operating schools. This bill provides that the executive county superintendent will merge non-operating districts with the district with which they participate in a sending-receiving relationship, except in certain circumstances. In the case of non-operating districts that are in a sending-receiving relationship with more than one district or are in a sending-receiving relationship with a district that is in need of improvement pursuant to the "No Child Left Behind Act of 2001," then the executive county superintendent will make a determination as to which district the non-operating district will be merged based on the district that is able to accommodate the merger with the least disruption to its finances and educational operations.

In a new district that is formed after a merger, the annual appropriations, excluding amounts to be raised for interest upon and redemption of bonds, will be apportioned among the constituent districts of the new district in the first year of the merger in such manner as the Commissioner of Education determines to be the least fiscally disruptive. Following that first year the apportionment methodology will be determined in accordance with the statutes governing the apportionment of costs in regional school districts, however the commissioner may allow a five-year phase-in of the apportionment methodology. In the case of the amounts that need to be raised for interest upon and the redemption of bonds for bonds issued prior to or after the bill's effective date, those amounts shall be apportioned among the constituent districts of the new district in the manner that the commissioner determines to be the least fiscally disruptive. The commissioner may allow for a five-year phase-in of this apportionment methodology.

Under the bill's provisions, State school aid in the new district will be calculated as if the former non-operating district and the district with which it was merged continue as two separate school districts.

If a non-operating district is merged with a Type II school district without a board of school estimate, the board of education of the new district will initially consist of the members of the board of the district with which the non-operating district was merged, who will serve until the expiration of the respective terms for which they were elected; and, in addition, a representative of the board of the former non-operating district, who will serve in a temporary position that will be in existence only until the first annual school election in which the first at-large member is elected to the board. At that first election, and every election following, any vacant positions on the board will be filled by members elected at-large by the voters in the new district.

If a non-operating district is merged with a Type I district, the new district will have a board of education with the same number of members as the board of education of the district with which the non-operating district has been merged plus one additional member. The additional member will be appointed by the mayor or other chief executive officer of the municipality of the former non-operating district.

If the non-operating district is merged with a regional district, the former non-operating district will be treated as a constituent district of the regional district and the membership of the board will be in accordance with the regional school district statutes on board membership.

If nonpublic school pupils residing in a municipality that comprises the new district were not eligible for pupil transportation services prior to effective date of this bill, then any nonpublic school pupil residing in that municipality after the merger will also be ineligible for pupil transportation services.

The bill includes provisions for the transfer of any cash balances after the liquidation of the non-operating district's assets to the municipal governing body of the municipality in which the former non-operating district is located. The municipality would also take title and control of all school grounds and buildings, unless the deed on the school grounds and buildings directs otherwise, and the furnishings and equipment therein, situated in the municipality. The books, documents, and records of the non-operating district would be turned over to the board of education of the new district.

Unless otherwise provided for in the bill, the new district will be governed by the provisions of law applicable to regional school districts.

FISCAL IMPACT:

This bill does not have an impact on State expenditures. The legislation stipulates that, for the purposes of determining State school aid in the newly merged school districts, State aid will be calculated as if the constituent school districts are separate districts. Such an approach ensures that total State aid does not change.

The elimination of non-operating districts may yield savings at the district level by obviating the need for the administrative costs incurred by the non-operating districts. Budgeted administrative expenditures for FY 2009 in the non-operating districts totaled \$1.2 million. This figure represents the potential savings and assumes that other costs typically incurred by non-operating districts, such as transportation, will not change after the districts are merged.