

18A:38-8.1

**LEGISLATIVE HISTORY CHECKLIST**  
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(Schools--sending--receiving)

**NJSA:** 18A:38-8.1

**LAWS OF:** 1995 **CHAPTER:** 8

**BILL NO:** S151

**SPONSOR(S):** Martin and others

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:** **ASSEMBLY:** ---

**SENATE:** Education

**AMENDED DURING PASSAGE:** Yes Amendments during passage  
Third reprint enacted denoted by superscript numbers

**DATE OF PASSAGE:** **ASSEMBLY:** September 12, 1994

**SENATE:** June 13, 1994

**DATE OF APPROVAL:** January 12, 1995

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes Also attached: statement,  
with floor amendments,  
5-23-94

**COMMITTEE STATEMENT:** **ASSEMBLY:** No

**SENATE:** Yes

**FISCAL NOTE:** No

**VETO MESSAGE:** Yes

**MESSAGE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

**REPORTS:** No

**HEARINGS:** No

See newspaper clipping--attached:  
"Not all keen on new law," 1-19-95, Home News.

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[THIRD REPRINT]

SENATE, No. 151

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Senators MARTIN, CAFIERO, Gormley,  
Assemblymen DeCroce, Impreveduto, Assemblywoman Murphy,  
Assemblymen Frelinghuysen, Gaffney, LoBiondo and Gibson

1 AN ACT concerning boards of education of school districts  
2 involved in sending-receiving relationships and supplementing  
3 chapter 38 of Title 18A of the New Jersey Statutes.

4

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

7 1. In addition to the members of the board of education of a  
8 Type I and Type II school district provided by law, in a school  
9 district which is receiving pupils from another district or districts  
10 pursuant to N.J.S.18A:38-8, there shall be an additional member  
11 <sup>3</sup>[or members]<sup>3</sup> as provided pursuant to section 2 of this act to  
12 represent the board of education of each sending district. Any  
13 additional member shall be a member of the board of education  
14 of <sup>1</sup>[the] a<sup>1</sup> sending district designated annually by the board of  
15 that district and shall be eligible to vote on <sup>3</sup>[all<sup>1</sup>] the  
16 following<sup>3</sup> matters before the receiving district board of  
17 education <sup>1</sup>[. If the receiving school district is providing only  
18 high school education to the pupils of the sending district, then  
19 the additional board member or members shall only vote on  
20 matters relating to the provision of that high school education;  
21 except that, the additional member or members shall be eligible  
22 to vote on the annual budget prepared by the receiving school  
23 district pursuant to the provisions of chapter 22 of Title 18A of  
24 the New Jersey Statutes. If the receiving school district is  
25 providing elementary and high school education to the pupils of  
26 the sending district, then the additional board member or  
27 members shall be eligible to vote on all matters before the  
28 receiving district board of education. In the event that a  
29 receiving district board of education disputes the eligibility of a  
30 member or members of the sending district board to vote on a  
31 matter under consideration by the receiving board, the county  
32 superintendent or superintendents of each county in which the  
33 districts are situate shall determine the eligibility of that  
34 member to vote] <sup>2</sup>[except those matters pertaining exclusively to  
35 the grades of the receiving district in which no students from the  
36 sending district are enrolled including, but not limited to, matters  
37 of facilities, personnel and programs]<sup>2 3</sup>:

38 a. Tuition to be charged the sending district by the receiving  
39 district;

40 b. New capital construction to be utilized by sending district  
41 pupils;

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SED committee amendments adopted May 16, 1994.

<sup>2</sup> Senate floor amendments adopted May 23, 1994.

<sup>3</sup> Senate amendments adopted in accordance with Governor's  
recommendations October 27, 1994.

1 c. Appointment, transfer or removal of teaching staff directly  
2 providing services to pupils of the sending district; and

3 d. Addition or deletion of curricular and extracurricular  
4 programs involving pupils of the sending district<sup>3</sup> .<sup>1</sup>

5 2. A school district which is sending pupils to another school  
6 district pursuant to N.J.S.18A:38-8 shall have representation on  
7 the board of education of the receiving school district as follows:

8 a. <sup>1</sup>(1)<sup>1</sup> If the pupils of the sending district comprise less than  
9 <sup>2</sup>[10] <sup>3</sup>[<sup>7.5</sup><sup>2</sup>] <sup>10</sup><sup>3</sup> percent of the <sup>2</sup>[resident] total<sup>2</sup> enrollment <sup>1</sup>of  
10 the pupils in the grades<sup>1</sup> of the receiving district <sup>1</sup>in which the  
11 pupils of the sending district will be enrolled<sup>1</sup>, the sending  
12 district shall have no representation on the receiving district  
13 board of education.

14 <sup>1</sup>[b.] (2)<sup>1</sup> If the pupils of the sending district comprise  
15 <sup>2</sup>[between 10 and <sup>1</sup>[20] <sup>19</sup><sup>1</sup>] at least <sup>3</sup>[<sup>7.5</sup><sup>2</sup>] <sup>10</sup><sup>3</sup> percent of the  
16 <sup>2</sup>[resident] total<sup>2</sup> enrollment <sup>1</sup>of the pupils in the grades<sup>1</sup> of the  
17 receiving district <sup>1</sup>in which the pupils of the sending district will  
18 be enrolled<sup>1</sup>, the sending district shall have one representative on  
19 the receiving district board of education.

20 <sup>2</sup>[<sup>1</sup>[c.] (3)<sup>1</sup> If the pupils of the sending district comprise  
21 <sup>1</sup>[more than 25] between 20 and 29<sup>1</sup> percent of the resident  
22 enrollment <sup>1</sup>of the pupils in the grades<sup>1</sup> of the receiving district  
23 <sup>1</sup>in which the pupils of the sending district will be enrolled<sup>1</sup>, the  
24 sending district shall have two representatives on the receiving  
25 district board of education.

26 <sup>1</sup>(4) If the pupils of the sending district comprise between 30  
27 and 39 percent of the resident enrollment of the pupils in the  
28 grades of the receiving district in which the pupils of the sending  
29 district will be enrolled, the sending district shall have three  
30 representatives on the receiving district board of education.

31 (5) If the pupils of the sending district comprise between 40  
32 and 49 percent of the resident enrollment of the pupils in the  
33 grades of the receiving district in which the pupils of the sending  
34 district will be enrolled, the sending district shall have four  
35 representatives on the receiving district board of education.

36 (6) If the pupils of the sending district comprise between 50  
37 and 59 percent of the resident enrollment of the pupils in the  
38 grades of the receiving district in which the pupils of the sending  
39 district will be enrolled, the sending district shall have five  
40 representatives on the receiving district board of education.

41 (7) If the pupils of the sending district comprise between 60  
42 and 69 percent of the resident enrollment of the pupils in the  
43 grades of the receiving district in which the pupils of the sending  
44 district will be enrolled, the sending district shall have six  
45 representatives on the receiving district board of education.

46 (8) If the pupils of the sending district comprise between 70  
47 and 79 percent of the resident enrollment of the pupils in the  
48 grades of the receiving district in which the pupils of the sending  
49 district will be enrolled, the sending district shall have seven  
50 representatives on the receiving district board of education.

51 (9) If the pupils of the sending district comprise between 80  
52 and 89 percent of the resident enrollment of the pupils in the  
53 grades of the receiving district in which the pupils of the sending  
54 district will be enrolled, the sending district shall have eight  
55 representatives on the receiving district board of education.<sup>2</sup>

1 b. If the total number of pupils of two or more sending  
2 districts<sup>3</sup>, which do not qualify for representation under  
3 subsection a. of this section,<sup>3</sup> comprise<sup>2</sup> [the] at least<sup>3</sup> [7.5<sup>2</sup>]  
4 15<sup>3</sup> percent of the<sup>2</sup> [resident] total<sup>2</sup> enrollment of the pupils in  
5 the grades of the receiving district in which the pupils of the  
6 sending districts will be enrolled,<sup>2</sup> [pursuant to one of the  
7 paragraphs of subsection a. of this section, and the sending  
8 districts do not qualify individually for a representative,]<sup>2</sup> they  
9 shall have collectively<sup>2</sup> [the number of representatives]<sup>3</sup> [one  
10 representative<sup>2</sup>] two representatives<sup>3</sup> on the receiving district  
11 board of education<sup>2</sup> [specified in the paragraph]<sup>2</sup>. The annual  
12 designation of the<sup>3</sup> [representative] representatives, in the event  
13 more than two districts collectively qualify under this  
14 subsection,<sup>3</sup> <sup>2</sup>[or representatives]<sup>2</sup> shall be rotated among the  
15 boards of education of the sending districts according to a  
16 schedule determined by the joint agreement of the boards.

17 c. Notwithstanding the provisions of subsections a. and b. of  
18 this section, the number of representatives designated by the  
19 sending districts<sup>2</sup> to be additional members<sup>2</sup> shall not  
20 <sup>3</sup>[constitute a majority of the<sup>2</sup> original<sup>2</sup> board members of the  
21 receiving district] exceed three additional members on a  
22 receiving board with originally nine or more members, two  
23 additional members on a receiving board with originally seven or  
24 eight members, and one additional member on a receiving board  
25 with originally less than seven members<sup>3</sup>. In the event that this  
26 restriction results in an unequal representation of sending  
27 districts, the annual designation of the representative or  
28 representatives shall be rotated among the boards of education of  
29 the sending districts according to a schedule determined by the  
30 joint agreement of the boards.<sup>1</sup>

31 <sup>2</sup>d. A representative of a sending district board of education  
32 shall be designated at the meeting of the board which is closest in  
33 time to the annual organizational meeting of the receiving  
34 district board of education and shall serve a one-year term  
35 beginning with the organizational meeting of the receiving  
36 district board. The representative shall be subject to the rules  
37 and procedures of the receiving district board of education.

38 e. The calculation of percentages required under this section  
39 shall be based on the number of pupils reported as of October 15  
40 of each year.<sup>2</sup>

41 <sup>2</sup>3. The provisions of this act shall not apply to sending and  
42 receiving relationships which are established exclusively for the  
43 purposes of special education.<sup>2</sup>

44 <sup>3</sup>[<sup>2</sup>4. The State Board of Education shall promulgate rules and  
45 regulations pursuant to the "Administrative Procedure Act,"  
46 P.L.1968, c.410 (C.52:14B-1 et seq.) which are necessary to  
47 effectuate the provisions of this act.<sup>2</sup>]<sup>3</sup>

48 <sup>2</sup>[3.] <sup>3</sup>[5.<sup>2</sup>] 4.<sup>3</sup> This act shall take effect immediately.

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52  
53 Provides for additional members on receiving board of education  
54 to represent board of education of the sending district.

1 c. If the pupils of the sending district comprise more than 25  
2 percent of the resident enrollment of the receiving district, the  
3 sending district shall have two representatives on the receiving  
4 district board of education.

5 3. This act shall take effect immediately.

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8 *Sponsor's* STATEMENT  
9

10 This bill provides for additional members on the board of  
11 education of a school district which is a receiving district  
12 involved in a sending-receiving relationship. The additional  
13 members are to represent the board of education of the sending  
14 district, shall be designated annually by the board of the sending  
15 district, and shall be eligible to vote on matters before the  
16 receiving district board of education. If the receiving district is  
17 providing only high school education to the pupils of the sending  
18 district, then the additional member or members shall only vote  
19 on matters relating to the provision of that high school  
20 education. The bill does stipulate however, that in addition to  
21 voting on matters relating to high school education, the members  
22 representing the sending district shall also be eligible to vote on  
23 the annual budget prepared for the receiving school district.

24 The bill further provides that if the receiving district is  
25 providing elementary and high school education to the pupils of  
26 the sending district, then the members representing the sending  
27 district shall be eligible to vote on all matters before the  
28 receiving board. In the event that a receiving district disputes  
29 the eligibility of a member of the sending board to vote on a  
30 particular matter under consideration by the receiving board,  
31 then the county superintendent or superintendents of each county  
32 in which the districts are situate shall determine the eligibility of  
33 that member to vote.

34 The bill establishes a schedule of representation by a sending  
35 district on the receiving district board of education according to  
36 the percentage of the resident enrollment of the receiving  
37 district which the pupils of the sending district comprise.

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43 Provides for additional members on receiving board of education  
to represent board of education of the sending district.

SENATE EDUCATION COMMITTEE

STATEMENT TO

**SENATE, No. 151**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 16, 1994

The Senate Education Committee favorably reports Senate Bill No. 151 with committee amendments.

This bill, as amended, provides for additional members on the board of education of a school district which is a receiving district involved in a sending-receiving relationship. The additional members would be members of the board of the sending district who are designated annually by the board. An additional member would be eligible to vote on all matters before the receiving district board of education, except those matters pertaining exclusively to the grades of the receiving district in which no students from the sending district are enrolled including, but not limited to, matters of facilities, personnel and programs.

The bill establishes a schedule of representation by a sending district on the receiving district board of education according to the percentage of the resident enrollment of the pupils in the grades of the receiving district in which the pupils of the sending district will be enrolled. If the percentage is between 10 and 19 percent, the sending district would have one representative on the receiving district board of education. An additional member would be appointed for each percentage increase of 10 percent. If two or more sending districts have a total number of pupils which meets the percentage requirements in the bill, and they do not qualify individually for a representative, they may collectively have the number of representatives specified, and the annual designation of the representative would be rotated among the boards of the sending districts. The bill provides, however, that the representatives of the sending districts may not constitute a majority of the board members of the receiving district.

The committee amended the bill to clarify the voting rights of the sending representatives, remove the role of the county superintendent in resolving disputes over voting eligibility, revise the schedule of representation, and provide for shared representation among small sending districts.

This bill was pre-filed for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

STATEMENT TO

[FIRST REPRINT]

SENATE, No. 151

with Senate Floor Amendments  
(Proposed by Senator Martin)

DATED May 23, 1994

STATEMENT

These amendments provide that 1) the sending district representatives will vote on all matters before the receiving district board; 2) the number of pupils in the receiving district will be based on total enrollment by grade; 3) a sending district with at least 7.5 per cent of the pupils or two or more sending districts with 7.5 per cent of the pupils collectively will have one representative; 4) the sending representative's term will begin with the organizational meeting of the receiving district and the rules and procedures of that district will apply to the receiving district member; 5) enrollment numbers will be determined as of October 15 each year; 6) the provisions will not apply to sending and receiving relationships which are exclusively for special education; and 7) the State board will promulgate the necessary rules and regulations.

SENATE BILL NO. 151  
(SECOND REPRINT)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 151 (Second Reprint) with my recommendations for reconsideration.

Summary of Bill

This bill provides that school districts that send pupils to attend the schools of another district will be entitled to representation on the board of education of the receiving district. Each sending district will be entitled to membership on the board of education of the receiving district according to the percentage of its pupils attending the schools of the receiving district in relation to the total enrollment in the grades of the receiving district in which the pupils of the sending district are enrolled, to be determined as follows:

Less than 7.5%- no representation;  
7.5% or above- one member; and  
Two or more districts that collectively  
have at least 7.5% shall rotate one member.

Additionally, the bill provides that representatives from two or more sending districts which each meet the 7.5% threshold may not collectively form a majority of the board.

The representatives will be designated by the board of education of the sending district and will be in addition to the existing number of board members of the receiving district. Under the bill, the sending district representative will be eligible to vote on all matters before the receiving board, including the annual budget. The bill also requires the Department of Education to adopt regulations to implement the statute.



Recommended Action

The goal of this bill, to provide the sending district with a voice on the receiving district board of education, is laudable. I am encouraged by the Legislature's recognition of the merits of regionalization by establishing a formal line of communication between the districts. Such communication will foster an atmosphere of trust and cooperation between the respective boards of education.

Although the goals of the legislation are meritorious, certain concerns have been identified. First, I am advised by my Chief Counsel that the bill may provide disproportionate representation to the sending district, in contravention of the Constitutional rights of the voters in the receiving district. In addition, the bill authorizes the sending district representative to vote on all matters before the receiving board including matters that do not affect the sending district.

To address these concerns, I am recommending that the representation of the sending districts be revised in terms of the number of representatives and their respective voting rights so as not to unfairly dilute the authority of the receiving district's board of education. I have also been advised by the Department of Education that regulations are not necessary to implement the legislation.

Therefore, I recommend that each sending district be entitled to membership on the board of education of the receiving district according to the percentage of its pupils attending the schools of the receiving district in relation to the total enrollment in the grades of the receiving district in which the pupils of the sending district are enrolled, to be determined as follows:

Less than 10% - no representation;  
10% or above - one member; and  
Two or more sending districts that collectively have  
at least 15% shall have two members.

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

3

Additionally, under my recommendations, there would be no more than three additional members on a receiving district board with originally nine or more members, no more than two additional members on a receiving board with originally seven or eight members, and no more than one additional member on a receiving board with originally less than seven members.

The voting rights of the sending district representative shall also be limited to matters concerning the tuition to be charged the sending district by the receiving district; new capital construction to be utilized by sending district pupils; the appointment, transfer or removal of teaching staff directly providing services to sending district pupils; and the addition or deletion of curricular and extracurricular programs involving sending district pupils.

These changes will ensure that the sending districts have a voice on the receiving district's board of education. Importantly, my recommendations also observe the Constitutional requirements and equitable considerations that are associated with this issue.

For these reasons, I herewith return Senate Bill No. 151 (Second Reprint) and recommend that it be amended as follows:

- Page 1, Section 1, Line 11: Delete "or members"
- Page 1, Section 1, Line 15: Delete "all" and insert "the following"
- Page 1, Section 1, Line 36: Insert ": a. Tuition to be charged the sending district by the receiving district; b. New capital construction to be utilized by sending district pupils; c. Appointment, transfer or removal of teaching staff directly providing services to pupils of the sending district; d. Addition or deletion of curricular and extracurricular programs involving pupils of the sending district"
- Page 1, Section 2, Line 41: Delete "7.5" and insert "10"
- Page 2, Section 2, Line 5: Delete "7.5" and insert "10"

STATE OF NEW JERSEY  
EXECUTIVE DEPARTMENT

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Page 2, section 2, Line 47: Delete "comprise at least 7.5" and insert ", which do not qualify for representation under subsection a. of this section, comprise at least 15"

Page 2, section 2, Line 53: Delete "one representative" and insert "two representatives"

Page 3, section 2, Line 1: Delete "representative" and insert "representatives, in the event more than two districts collectively qualify under this subsection,"

Page 3, section 2, Line 7-9: Delete "constitute a majority of the original board members of the receiving district" and insert "exceed three additional members on a receiving board with originally nine or more members, two additional members on a receiving board with originally seven or eight members and one additional member on a receiving board with originally less than seven members"

Page 3, section 4: Delete in entirety

Page 3, section 5: Renumber as section 4

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Peter Verniero

Chief Counsel to the Governor