

§1506. Debt liability

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Existing debt" means any bond, note, loan agreement, lease-purchase agreement or other debt instrument issued prior to July 1st of the first operational year of the new unit for the purposes of funding public schools and career and technical education regions, or for refinancing such debt, that remains outstanding at the time of a reorganization pursuant to this chapter. "Existing debt" does not include routine payables or commercial contract obligations. [PL 2007, c. 668, §22 (AMD).]

B. "Original education unit" means:

- (1) A previous education unit that has existing debt;
- (2) A municipality that has existing debt incurred on behalf of a previous education unit; or
- (3) A previous education unit within a career and technical education region as defined by section 8301-A that has existing debt. [PL 2007, c. 668, §23 (AMD).]

C. "New unit" means a regional school unit created or established pursuant to this chapter. [PL 2007, c. 240, Pt. XXXX, §13 (NEW).]
[PL 2007, c. 668, §§22, 23 (AMD).]

2. Liability remains with original unit. Existing debt held by an original education unit remains the obligation of that original education unit after reorganization pursuant to this chapter. An original education unit may not be finally dissolved while any existing debt held by the original education unit remains outstanding. All aspects of an original education unit's administrative or political organization may be merged into a new unit or otherwise modified to accomplish the purposes of this chapter but its existing debt and its right to secure payment of such debt from income streams that existed at the time of the issuance of such debt may not be affected or altered except as authorized by this section.

A. A new unit may agree to pay the existing debt of an original education unit that is included within the new unit. If the new unit pays the existing debt, the original education unit is relieved of paying that debt, but, in the event that the new unit fails to pay any amount of the existing debt, the original education unit remains responsible for the deficiency. The original education unit shall ensure that timely payments of existing debt are made, regardless of whether the new unit has agreed to make the debt payments. An original education unit may contract with a new unit for the administration of, transfer or delegate to and a new unit may accept and exercise on behalf of the original education unit for the remaining term of any existing debt all those powers and duties reasonable and necessary for the payment of existing debt of the original education unit. [PL 2007, c. 240, Pt. XXXX, §13 (NEW).]

B. Notwithstanding any other provision of law or any provision of any trust agreement, a new unit may use any sinking fund or other money set aside by the original education unit to pay an existing debt to pay that debt. [PL 2007, c. 240, Pt. XXXX, §13 (NEW).]

C. A new unit may issue bonds or other debt instruments for the purpose of refinancing or retiring the existing debt of an original education unit. The issuance of such bonds or other debt must be in accordance with applicable procedural requirements, including the procedural requirements of section 1490. [PL 2007, c. 240, Pt. XXXX, §13 (NEW).]
[PL 2007, c. 240, Pt. XXXX, §13 (NEW).]

3. No impact on state debt subsidies. A change in any administrative or political organization resulting from the creation of a new unit may not affect any state subsidy with respect to existing debt or the relative portion of any such debt paid or reimbursed by the State except as provided in this subsection.

A. The original education unit may continue to pay its existing debt obligations in due course as though no new unit had been created and its choice to do so may not reduce or otherwise affect the level of state assistance or subsidy with respect to that existing debt. [PL 2007, c. 240, Pt. XXXX, §13 (NEW).]

B. If the original education unit and the new unit choose to refinance the existing debt, the state subsidy or assistance with respect to the debt must be determined as of the date of the new issuance and must be based on that refinancing and not on any previous subsidy or assistance calculation related to the existing debt. [PL 2007, c. 240, Pt. XXXX, §13 (NEW).]

[PL 2007, c. 240, Pt. XXXX, §13 (NEW).]

4. Debt of original education units. After July 1st of the first operational year of the new unit for each original education unit with existing debt that has reorganized into a new unit, if the new unit has not agreed to assume liability to pay that existing debt, the regional school unit board shall serve as agent for purposes of that existing debt and has full authority to:

A. Sue and be sued in the name of the original education unit with respect to the existing debt; [PL 2011, c. 691, Pt. A, §18 (RPR).]

B. Determine the debt service due each fiscal year on any existing debt; [PL 2011, c. 691, Pt. A, §18 (RPR).]

C. As applicable, allocate to each member of the original education unit the member's share of the annual debt service for the existing debt of the original education unit in addition to each member's share of costs of the new unit; [PL 2011, c. 691, Pt. A, §18 (RPR).]

D. Collect the allocation for debt service on the existing debt from the original education unit or, as applicable, from each member of the original education unit in addition to each member's share of costs of the new unit; [PL 2011, c. 691, Pt. A, §18 (RPR).]

E. Pay the debt service on the existing debt of the original education unit when due; and [PL 2011, c. 691, Pt. A, §18 (RPR).]

F. Take all other actions necessary and proper with respect to the existing debt. [PL 2011, c. 691, Pt. A, §18 (RPR).]

Allocations between members of the original education unit to pay the debt service for the existing debt must be made on the basis of the cost-sharing formula of the original education unit in effect on July 1, 2007, as applied to the year of allocation. In the case of state-subsidized debt service, the provisions of subsection 3 apply. Amounts to pay the debt service on the existing debt of the original education units must be included in the budget that the regional school unit board of a new unit submits for approval. If the original education unit is divided between different new units that have not agreed to assume liability to pay the existing debt, the commissioner shall require that the reorganization plan of one of those new units provide for that new unit to serve as agent for purposes of the existing debt of the original education unit. That new unit, as agent, has the authority provided by this subsection, except that the new unit shall notify the other new units containing members of the original education unit of the amounts they must assess and collect from their members who were members of the original education unit, and those other new units shall perform the functions in paragraphs C and D with respect to their members, and shall pay the appropriate amounts over to the new unit serving as agent.

[PL 2011, c. 691, Pt. A, §18 (RPR).]

5. Bonds to complete school construction and renovation. If the legislative body of an original education unit has authorized the issuance of bonds for a school construction project or a minor capital project, but that original education unit has not yet issued all of the authorized permanent bonds for that project, the board of the new unit that includes all the members of the original education unit shall issue bonds or notes necessary to finance the completion of that project and to refund temporary notes that the original education unit issued in anticipation of permanent bonds for that project. No further action

by the legislative body of the new unit is required. The bonds at any time outstanding for the project may not exceed the amount authorized by the legislative body of the original education unit except to the extent necessary to refund temporary notes on a current basis. Bonds or notes issued by the regional school unit board to complete projects of an original education unit and to refund temporary project notes of an original education unit must be issued in the name of the original education unit and otherwise must be in the form and be subject to the procedural requirements provided by section 1490 except as provided by this subsection. Upon issuing debt in accordance with this subsection, the regional school unit board shall serve as agent of the original education unit for purposes of that debt and has the same authority as is provided in subsection 4 for existing debt.

[PL 2007, c. 240, Pt. XXXX, §13 (NEW).]

SECTION HISTORY

PL 2007, c. 240, Pt. XXXX, §13 (NEW). PL 2007, c. 668, §§22-24 (AMD). PL 2007, c. 695, Pt. A, §22 (AMD). PL 2011, c. 691, Pt. A, §18 (AMD).

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