



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5355

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

105 ILCS 5/5-1

from Ch. 122, par. 5-1

Amends the Trustees of Schools Article of the School Code. Provides that the school board of a school district in a Class II county school unit may, by proper resolution, withdraw from the jurisdiction and authority of the trustees of schools and the township treasurer of a township in which all or any part of the school district is located. Requires the school board to elect or appoint its own school treasurer. Thereafter, provides that the trustees of schools shall no longer have or exercise any powers and duties with respect to the school district or the school district's business, operations, or assets; requires the township trustees to transfer and deliver to the school board all books and records relating to the school district's business and affairs; and provides that legal title to school buildings and school sites located within the school district shall be deemed transferred by operation of law to and shall vest in the school board. Effective immediately.

LRB101 16920 CMG 66319 b

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 5-1 as follows:

6 (105 ILCS 5/5-1) (from Ch. 122, par. 5-1)

7 Sec. 5-1. County school units.

8 (a) The territory in each county, exclusive of any school
9 district governed by any special act which requires the
10 district to appoint its own school treasurer, shall constitute
11 a county school unit. County school units of less than
12 2,000,000 inhabitants shall be known as Class I county school
13 units and the office of township trustees, where existing on
14 July 1, 1962, in such units shall be abolished on that date and
15 all books and records of such former township trustees shall be
16 forthwith thereafter transferred to the county board of school
17 trustees. County school units of 2,000,000 or more inhabitants
18 shall be known as Class II county school units and shall retain
19 the office of township trustees unless otherwise provided in
20 subsection (b) or (c).

21 (b) Notwithstanding subsections (a) and (c), the school
22 board of any elementary school district having a fall, 1989
23 aggregate enrollment of at least 2,500 but less than 6,500

1 pupils and having boundaries that are coterminous with the
2 boundaries of a high school district, and the school board of
3 any high school district having a fall, 1989 aggregate
4 enrollment of at least 2,500 but less than 6,500 pupils and
5 having boundaries that are coterminous with the boundaries of
6 an elementary school district, may, whenever the territory of
7 such school district forms a part of a Class II county school
8 unit, by proper resolution withdraw such school district from
9 the jurisdiction and authority of the trustees of schools of
10 the township in which such school district is located and from
11 the jurisdiction and authority of the township treasurer in
12 such Class II county school unit; provided that the school
13 board of any such school district shall, upon the adoption and
14 passage of such resolution, thereupon elect or appoint its own
15 school treasurer as provided in Section 8-1. Upon the adoption
16 and passage of such resolution and the election or appointment
17 by the school board of its own school treasurer: (1) the
18 trustees of schools in such township shall no longer have or
19 exercise any powers and duties with respect to the school
20 district governed by such school board or with respect to the
21 school business, operations or assets of such school district;
22 and (2) all books and records of the township trustees relating
23 to the school business and affairs of such school district
24 shall be transferred and delivered to the school board of such
25 school district. Upon the effective date of this amendatory Act
26 of 1993, the legal title to, and all right, title and interest

1 formerly held by the township trustees in any school buildings
2 and school sites used and occupied by the school board of such
3 school district for school purposes, that legal title, right,
4 title and interest thereafter having been transferred to and
5 vested in the regional board of school trustees under P.A.
6 87-473 until the abolition of that regional board of school
7 trustees by P.A. 87-969, shall be deemed transferred by
8 operation of law to and shall vest in the school board of that
9 school district.

10 Notwithstanding subsections (a) and (c), the school boards
11 of Oak Park & River Forest District 200, Oak Park Elementary
12 School District 97, and River Forest School District 90 may, by
13 proper resolution, withdraw from the jurisdiction and
14 authority of the trustees of schools of Proviso and Cicero
15 Townships and the township treasurer, provided that the school
16 board shall, upon the adoption and passage of the resolution,
17 elect or appoint its own school treasurer as provided in
18 Section 8-1 of this Code. Upon the adoption and passage of the
19 resolution and the election or appointment by the school board
20 of its own school treasurer: (1) the trustees of schools in the
21 township or townships shall no longer have or exercise any
22 powers or duties with respect to the school district or with
23 respect to the school business, operations, or assets of the
24 school district; (2) all books and records of the trustees of
25 schools and all moneys, securities, loanable funds, and other
26 assets relating to the school business and affairs of the

1 school district shall be transferred and delivered to the
2 school board; and (3) all legal title to and all right, title,
3 and interest formerly held by the trustees of schools in any
4 common school lands, school buildings, or school sites used and
5 occupied by the school board and all rights of property and
6 causes of action pertaining to or constituting a part of the
7 common school lands, buildings, or sites shall be deemed
8 transferred by operation of law to and shall vest in the school
9 board.

10 Notwithstanding subsections (a) and (c), the respective
11 school boards of Berwyn North School District 98, Berwyn South
12 School District 100, Cicero School District 99, and J.S. Morton
13 High School District 201 may, by proper resolution, withdraw
14 from the jurisdiction and authority of the trustees of schools
15 of Cicero Township and the township treasurer, provided that
16 the school board shall, upon the adoption and passage of the
17 resolution, elect or appoint its own school treasurer as
18 provided in Section 8-1 of this Code. Upon the adoption and
19 passage of the resolution and the election or appointment by
20 the school board of its own school treasurer: (1) the trustees
21 of schools in the township shall no longer have or exercise any
22 powers or duties with respect to the school district or with
23 respect to the school business, operations, or assets of the
24 school district; (2) all books and records of the trustees of
25 schools and all moneys, securities, loanable funds, and other
26 assets relating to the school business and affairs of the

1 school district shall be transferred and delivered to the
2 school board; and (3) all legal title to and all right, title,
3 and interest formerly held by the trustees of schools in any
4 common school lands, school buildings, or school sites used and
5 occupied by the school board and all rights of property and
6 causes of action pertaining to or constituting a part of the
7 common school lands, buildings, or sites shall be deemed
8 transferred by operation of law to and shall vest in the school
9 board.

10 Notwithstanding subsections (a) and (c) of this Section and
11 upon final judgment, including the exhaustion of all appeals or
12 a settlement between all parties, regarding claims set forth in
13 the case of Township Trustees of Schools Township 38 North,
14 Range 12 East v. Lyons Township High School District No. 204
15 case N. 13 CH 23386 pending in 2018 in the Circuit Court of
16 Cook County, Illinois, County Department, Chancery Division,
17 and all related pending claims, the school board of Lyons
18 Township High School District 204 may commence, by proper
19 resolution, to withdraw from the jurisdiction and authority of
20 the trustees of schools of Lyons Township and the township
21 treasurer, provided that the school board shall, upon the
22 adoption and passage of the resolution, elect or appoint its
23 own school treasurer as provided in Section 8-1 of this Code.
24 Upon the adoption and passage of the resolution and the
25 election or appointment by the school board of its own school
26 treasurer commencing with the first day of the succeeding

1 fiscal year, but not prior to July 1, 2019: (1) the trustees of
2 schools in the township shall no longer have or exercise any
3 powers or duties with respect to the school district or with
4 respect to the school business, operations, or assets of the
5 school district; (2) all books and records of the trustees of
6 schools and all moneys, securities, loanable funds, and other
7 assets relating to the school business and affairs of the
8 school district shall be transferred and delivered to the
9 school board, allowing for a reasonable period of time not to
10 exceed 90 days to liquidate any pooled investments; and (3) all
11 legal title to and all right, title, and interest formerly held
12 by the trustees of schools in any common school lands, school
13 buildings, or school sites used and occupied by the school
14 board and all rights of property and causes of action
15 pertaining to or constituting a part of the common school
16 lands, buildings, or sites shall be deemed transferred by
17 operation of law to and shall vest in the school board. The
18 changes made to this Section by this amendatory Act of the
19 100th General Assembly are prospective only, starting from the
20 effective date of this amendatory Act of the 100th General
21 Assembly, and shall not affect any legal action pending on the
22 effective date of this amendatory Act of the 100th General
23 Assembly in the Illinois courts in which Lyons Township High
24 School District 204 is a listed party.

25 Notwithstanding subsections (a) and (c), the school board
26 of a school district in a Class II county school unit may

1 withdraw from the jurisdiction and authority of the trustees of
2 schools of a township in which all or a part of the school
3 district is located and from the jurisdiction and authority of
4 the township treasurer by proper resolution, provided that the
5 school board of the school district shall, upon the adoption
6 and passage of the resolution, thereupon elect or appoint its
7 own school treasurer as provided in Section 8-1. Upon the
8 adoption and passage of a resolution and the election or
9 appointment by the school board of its own school treasurer:
10 (1) the trustees of schools shall no longer have or exercise
11 any powers and duties with respect to the school district
12 governed by the school board or with respect to the school
13 business, operations, or assets of the school district; and (2)
14 all books and records of the township trustees relating to the
15 school business and affairs of the school district shall be
16 transferred and delivered to the school board of the school
17 district. Upon withdrawal, the legal title to and all right,
18 title, and interest formerly held by the township trustees in
19 any school buildings and school sites used and occupied by the
20 school board of the withdrawing school district for school
21 purposes, that legal title, right, title, and interest
22 thereafter having been transferred to and vested in the
23 regional board of school trustees under Public Act 87-473 until
24 the abolition of that regional board of school trustees by
25 Public Act 87-969, shall be deemed transferred by operation of
26 law to and shall vest in the school board of that school

1 district.

2 (c) Notwithstanding the provisions of subsection (a), the
3 offices of township treasurer and trustee of schools of any
4 township located in a Class II county school unit shall be
5 abolished as provided in this subsection if all of the
6 following conditions are met:

7 (1) During the same 30 day period, each school board of
8 each elementary and unit school district that is subject to
9 the jurisdiction and authority of the township treasurer
10 and trustees of schools of the township in which those
11 offices are sought to be abolished gives written notice by
12 certified mail, return receipt requested to the township
13 treasurer and trustees of schools of that township of the
14 date of a meeting of the school board, to be held not more
15 than 90 nor less than 60 days after the date when the
16 notice is given, at which meeting the school board is to
17 consider and vote upon the question of whether there shall
18 be submitted to the electors of the school district a
19 proposition to abolish the offices of township treasurer
20 and trustee of schools of that township. None of the
21 notices given under this paragraph to the township
22 treasurer and trustees of schools of a township shall be
23 deemed sufficient or in compliance with the requirements of
24 this paragraph unless all of those notices are given within
25 the same 30 day period.

26 (2) Each school board of each elementary and unit

1 school district that is subject to the jurisdiction and
2 authority of the township treasurer and trustees of schools
3 of the township in which those offices are sought to be
4 abolished, by the affirmative vote of at least 5 members of
5 the school board at a school board meeting of which notice
6 is given as required by paragraph (1) of this subsection,
7 adopts a resolution requiring the secretary of the school
8 board to certify to the proper election authorities for
9 submission to the electors of the school district at the
10 next consolidated election in accordance with the general
11 election law a proposition to abolish the offices of
12 township treasurer and trustee of schools of that township.
13 None of the resolutions adopted under this paragraph by any
14 elementary or unit school districts that are subject to the
15 jurisdiction and authority of the township treasurer and
16 trustees of schools of the township in which those offices
17 are sought to be abolished shall be deemed in compliance
18 with the requirements of this paragraph or sufficient to
19 authorize submission of the proposition to abolish those
20 offices to a referendum of the electors in any such school
21 district unless all of the school boards of all of the
22 elementary and unit school districts that are subject to
23 the jurisdiction and authority of the township treasurer
24 and trustees of schools of that township adopt such a
25 resolution in accordance with the provisions of this
26 paragraph.

1 (3) The school boards of all of the elementary and unit
 2 school districts that are subject to the jurisdiction and
 3 authority of the township treasurer and trustees of schools
 4 of the township in which those offices are sought to be
 5 abolished submit a proposition to abolish the offices of
 6 township treasurer and trustee of schools of that township
 7 to the electors of their respective school districts at the
 8 same consolidated election in accordance with the general
 9 election law, the ballot in each such district to be in
 10 substantially the following form:

 OFFICIAL BALLOT

Shall the offices of township	
treasurer and	YES
trustee of	-----
schools of Township	NO
Range	be abolished?

19 (4) At the consolidated election at which the
 20 proposition to abolish the offices of township treasurer
 21 and trustee of schools of a township is submitted to the
 22 electors of each elementary and unit school district that
 23 is subject to the jurisdiction and authority of the
 24 township treasurer and trustee of schools of that township,
 25 a majority of the electors voting on the proposition in
 26 each such elementary and unit school district votes in

1 favor of the proposition as submitted to them.

2 If in each elementary and unit school district that is
3 subject to the jurisdiction and authority of the township
4 treasurer and trustees of schools of the township in which
5 those offices are sought to be abolished a majority of the
6 electors in each such district voting at the consolidated
7 election on the proposition to abolish the offices of township
8 treasurer and trustee of schools of that township votes in
9 favor of the proposition as submitted to them, the proposition
10 shall be deemed to have passed; but if in any such elementary
11 or unit school district a majority of the electors voting on
12 that proposition in that district fails to vote in favor of the
13 proposition as submitted to them, then notwithstanding the vote
14 of the electors in any other such elementary or unit school
15 district on that proposition the proposition shall not be
16 deemed to have passed in any of those elementary or unit school
17 districts, and the offices of township treasurer and trustee of
18 schools of the township in which those offices were sought to
19 be abolished shall not be abolished, unless in each of those
20 elementary and unit school districts remaining subject to the
21 jurisdiction and authority of the township treasurer and
22 trustees of schools of that township proceedings are again
23 initiated to abolish those offices and all of the proceedings
24 and conditions prescribed in paragraphs (1) through (4) of this
25 subsection are repeated and met in each of those elementary and
26 unit school districts.

1 Notwithstanding the foregoing provisions of this Section
2 or any other provision of the School Code, the offices of
3 township treasurer and trustee of schools of a township that
4 has a population of less than 200,000 and that contains a unit
5 school district and is located in a Class II county school unit
6 shall also be abolished as provided in this subsection if all
7 of the conditions set forth in paragraphs (1), (2), and (3) of
8 this subsection are met and if the following additional
9 condition is met:

10 The electors in all of the school districts subject to
11 the jurisdiction and authority of the township treasurer
12 and trustees of schools of the township in which those
13 offices are sought to be abolished shall vote at the
14 consolidated election on the proposition to abolish the
15 offices of township treasurer and trustee of schools of
16 that township. If a majority of the electors in all of the
17 school districts combined voting on the proposition vote in
18 favor of the proposition, then the proposition shall be
19 deemed to have passed; but if a majority of the electors
20 voting on the proposition in all of the school district
21 fails to vote in favor of the proposition as submitted to
22 them, then the proposition shall not be deemed to have
23 passed and the offices of township treasurer and trustee of
24 schools of the township in which those offices were sought
25 to be abolished shall not be abolished, unless and until
26 the proceedings detailed in paragraphs (1) through (3) of

1 this subsection and the conditions set forth in this
2 paragraph are met.

3 If the proposition to abolish the offices of township
4 treasurer and trustee of schools of a township is deemed to
5 have passed at the consolidated election as provided in this
6 subsection, those offices shall be deemed abolished by
7 operation of law effective on January 1 of the calendar year
8 immediately following the calendar year in which that
9 consolidated election is held, provided that if after the
10 election, the trustees of schools by resolution elect to
11 abolish the offices of township treasurer and trustee of
12 schools effective on July 1 immediately following the election,
13 then the offices shall be abolished on July 1 immediately
14 following the election. On the date that the offices of
15 township treasurer and trustee of schools of a township are
16 deemed abolished by operation of law, the school board of each
17 elementary and unit school district and the school board of
18 each high school district that is subject to the jurisdiction
19 and authority of the township treasurer and trustees of schools
20 of that township at the time those offices are abolished: (i)
21 shall appoint its own school treasurer as provided in Section
22 8-1; and (ii) unless the term of the contract of a township
23 treasurer expires on the date that the office of township
24 treasurer is abolished, shall pay to the former township
25 treasurer its proportionate share of any aggregate
26 compensation that, were the office of township treasurer not

1 abolished at that time, would have been payable to the former
2 township treasurer after that date over the remainder of the
3 term of the contract of the former township treasurer that
4 began prior to but ends after that date. In addition, on the
5 date that the offices of township treasurer and trustee of
6 schools of a township are deemed abolished as provided in this
7 subsection, the school board of each elementary school, high
8 school and unit school district that until that date is subject
9 to the jurisdiction and authority of the township treasurer and
10 trustees of schools of that township shall be deemed by
11 operation of law to have agreed and assumed to pay and, when
12 determined, shall pay to the Illinois Municipal Retirement Fund
13 a proportionate share of the unfunded liability existing in
14 that Fund at the time these offices are abolished in that
15 calendar year for all annuities or other benefits then or
16 thereafter to become payable from that Fund with respect to all
17 periods of service performed prior to that date as a
18 participating employee in that Fund by persons serving during
19 those periods of service as a trustee of schools, township
20 treasurer or regular employee in the office of the township
21 treasurer of that township. That unfunded liability shall be
22 actuarially determined by the board of trustees of the Illinois
23 Municipal Retirement Fund, and the board of trustees shall
24 thereupon notify each school board required to pay a
25 proportionate share of that unfunded liability of the aggregate
26 amount of the unfunded liability so determined. The amount so

1 paid to the Illinois Municipal Retirement Fund by each of those
2 school districts shall be credited to the account of the
3 township in that Fund. For each elementary school, high school
4 and unit school district under the jurisdiction and authority
5 of a township treasurer and trustees of schools of a township
6 in which those offices are abolished as provided in this
7 subsection, each such district's proportionate share of the
8 aggregate compensation payable to the former township
9 treasurer as provided in this paragraph and each such
10 district's proportionate share of the aggregate amount of the
11 unfunded liability payable to the Illinois Municipal
12 Retirement Fund as provided in this paragraph shall be computed
13 in accordance with the ratio that the number of pupils in
14 average daily attendance in each such district for the school
15 year last ending prior to the date on which the offices of
16 township treasurer and trustee of schools of that township are
17 abolished bears to the aggregate number of pupils in average
18 daily attendance in all of those districts as so reported for
19 that school year.

20 Upon abolition of the offices of township treasurer and
21 trustee of schools of a township as provided in this
22 subsection: (i) the regional board of school trustees, in its
23 corporate capacity, shall be deemed the successor in interest
24 to the former trustees of schools of that township with respect
25 to the common school lands and township loanable funds of the
26 township; (ii) all right, title and interest existing or vested

1 in the former trustees of schools of that township in the
2 common school lands and township loanable funds of the
3 township, and all records, moneys, securities and other assets,
4 rights of property and causes of action pertaining to or
5 constituting a part of those common school lands or township
6 loanable funds, shall be transferred to and deemed vested by
7 operation of law in the regional board of school trustees,
8 which shall hold legal title to, manage and operate all common
9 school lands and township loanable funds of the township,
10 receive the rents, issues and profits therefrom, and have and
11 exercise with respect thereto the same powers and duties as are
12 provided by this Code to be exercised by regional boards of
13 school trustees when acting as township land commissioners in
14 counties having at least 220,000 but fewer than 2,000,000
15 inhabitants; (iii) the regional board of school trustees shall
16 select to serve as its treasurer with respect to the common
17 school lands and township loanable funds of the township a
18 person from time to time also serving as the appointed school
19 treasurer of any school district that was subject to the
20 jurisdiction and authority of the township treasurer and
21 trustees of schools of that township at the time those offices
22 were abolished, and the person selected to also serve as
23 treasurer of the regional board of school trustees shall have
24 his compensation for services in that capacity fixed by the
25 regional board of school trustees, to be paid from the township
26 loanable funds, and shall make to the regional board of school

1 trustees the reports required to be made by treasurers of
2 township land commissioners, give bond as required by
3 treasurers of township land commissioners, and perform the
4 duties and exercise the powers of treasurers of township land
5 commissioners; (iv) the regional board of school trustees shall
6 designate in the manner provided by Section 8-7, insofar as
7 applicable, a depository for its treasurer, and the proceeds of
8 all rents, issues and profits from the common school lands and
9 township loanable funds of that township shall be deposited and
10 held in the account maintained for those purposes with that
11 depository and shall be expended and distributed therefrom as
12 provided in Section 15-24 and other applicable provisions of
13 this Code; and (v) whenever there is vested in the trustees of
14 schools of a township at the time that office is abolished
15 under this subsection the legal title to any school buildings
16 or school sites used or occupied for school purposes by any
17 elementary school, high school or unit school district subject
18 to the jurisdiction and authority of those trustees of school
19 at the time that office is abolished, the legal title to those
20 school buildings and school sites shall be deemed transferred
21 by operation of law to and invested in the school board of that
22 school district, in its corporate capacity under Section
23 10-22.35B of this Code, the same to be held, sold, exchanged
24 leased or otherwise transferred in accordance with applicable
25 provisions of this Code.

26 Notwithstanding Section 2-3.25g of this Code, a waiver of a

1 mandate established under this Section may not be requested.

2 (Source: P.A. 100-374, eff. 8-25-17; 100-921, eff. 8-17-18.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.