



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1730

Introduced 2/17/2021, 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.

LRB102 11850 CMG 17186 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
16 be forthwith thereafter transferred to the county board of
17 school trustees. County school units of 2,000,000 or more
18 inhabitants shall be known as Class II county school units and
19 shall retain the office of township trustees unless otherwise
20 provided in 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
23 relating to the school business and affairs of such school
24 district shall be transferred and delivered to the school
25 board of such school district. Upon the effective date of this
26 amendatory Act of 1993, the legal title to, and all right,

1 title and interest formerly held by the township trustees in
2 any school buildings and school sites used and occupied by the
3 school board of such school district for school purposes, that
4 legal title, right, title and interest thereafter having been
5 transferred to and vested in the regional board of school
6 trustees under P.A. 87-473 until the abolition of that
7 regional board of school trustees by P.A. 87-969, shall be
8 deemed transferred by operation of law to and shall vest in the
9 school board of that 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,
13 by 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
5 and 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.
13 Morton High School District 201 may, by proper resolution,
14 withdraw from the jurisdiction and authority of the trustees
15 of schools of Cicero Township and the township treasurer,
16 provided that the school board shall, upon the adoption and
17 passage of the resolution, elect or appoint its own school
18 treasurer as provided in Section 8-1 of this Code. Upon the
19 adoption and passage of the resolution and the election or
20 appointment by the school board of its own school treasurer:
21 (1) the trustees of schools in the township shall no longer
22 have or exercise any powers or duties with respect to the
23 school district or with respect to the school business,
24 operations, or assets of the school district; (2) all books
25 and records of the trustees of schools and all moneys,
26 securities, loanable funds, and other assets relating to the

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

10 Notwithstanding subsections (a) and (c) of this Section
11 and upon final judgment, including the exhaustion of all
12 appeals or a settlement between all parties, regarding claims
13 set forth in the case of Township Trustees of Schools Township
14 38 North, Range 12 East v. Lyons Township High School District
15 No. 204 case N. 13 CH 23386 pending in 2018 in the Circuit
16 Court of Cook County, Illinois, County Department, Chancery
17 Division, and all related pending claims, the school board of
18 Lyons Township High School District 204 may commence, by
19 proper resolution, to withdraw from the jurisdiction and
20 authority of the trustees of schools of Lyons Township and the
21 township treasurer, provided that the school board shall, upon
22 the adoption and passage of the resolution, elect or appoint
23 its own school treasurer as provided in Section 8-1 of this
24 Code. 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)
11 all legal title to and all right, title, and interest formerly
12 held by the trustees of schools in any common school lands,
13 school buildings, or school sites used and occupied by the
14 school 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
2 of 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
14 (2) all books and records of the township trustees relating to
15 the school business and affairs of the school district shall
16 be 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
24 until the abolition of that regional board of school trustees
25 by Public Act 87-969, shall be deemed transferred by operation
26 of 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
8 of each elementary and unit school district that is
9 subject to the jurisdiction and authority of the township
10 treasurer and trustees of schools of the township in which
11 those offices are sought to be abolished gives written
12 notice by certified mail, return receipt requested to the
13 township treasurer and trustees of schools of that
14 township of the date of a meeting of the school board, to
15 be held not more than 90 nor less than 60 days after the
16 date when the notice is given, at which meeting the school
17 board is to consider and vote upon the question of whether
18 there shall be submitted to the electors of the school
19 district a proposition to abolish the offices of township
20 treasurer and trustee of schools of that township. None of
21 the 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
24 of this paragraph unless all of those notices are given
25 within 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
3 schools of the township in which those offices are sought
4 to be abolished, by the affirmative vote of at least 5
5 members of the school board at a school board meeting of
6 which notice is given as required by paragraph (1) of this
7 subsection, adopts a resolution requiring the secretary of
8 the school board to certify to the proper election
9 authorities for submission to the electors of the school
10 district at the next consolidated election in accordance
11 with the general election law a proposition to abolish the
12 offices of township treasurer and trustee of schools of
13 that township. None of the resolutions adopted under this
14 paragraph by any elementary or unit school districts that
15 are subject to the jurisdiction and authority of the
16 township treasurer and trustees of schools of the township
17 in which those offices are sought to be abolished shall be
18 deemed in compliance with the requirements of this
19 paragraph or sufficient to authorize submission of the
20 proposition to abolish those offices to a referendum of
21 the electors in any such school district unless all of the
22 school boards of all of the elementary and unit school
23 districts that are subject to the jurisdiction and
24 authority of the township treasurer and trustees of
25 schools of that township adopt such a resolution in
26 accordance with the provisions of this paragraph.

1 district votes in favor of the proposition as submitted to
2 them.

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

1 those elementary and unit school districts.

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

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

1 until the proceedings detailed in paragraphs (1) through
2 (3) of this subsection and the conditions set forth in
3 this paragraph are met.

4 If the proposition to abolish the offices of township
5 treasurer and trustee of schools of a township is deemed to
6 have passed at the consolidated election as provided in this
7 subsection, those offices shall be deemed abolished by
8 operation of law effective on January 1 of the calendar year
9 immediately following the calendar year in which that
10 consolidated election is held, provided that if after the
11 election, the trustees of schools by resolution elect to
12 abolish the offices of township treasurer and trustee of
13 schools effective on July 1 immediately following the
14 election, then the offices shall be abolished on July 1
15 immediately following the election. On the date that the
16 offices of township treasurer and trustee of schools of a
17 township are deemed abolished by operation of law, the school
18 board of each elementary and unit school district and the
19 school board of each high school district that is subject to
20 the jurisdiction and authority of the township treasurer and
21 trustees of schools of that township at the time those offices
22 are abolished: (i) shall appoint its own school treasurer as
23 provided in Section 8-1; and (ii) unless the term of the
24 contract of a township treasurer expires on the date that the
25 office of township treasurer is abolished, shall pay to the
26 former township treasurer its proportionate share of any

1 aggregate compensation that, were the office of township
2 treasurer not abolished at that time, would have been payable
3 to the former township treasurer after that date over the
4 remainder of the term of the contract of the former township
5 treasurer that began prior to but ends after that date. In
6 addition, on the date that the offices of township treasurer
7 and trustee of schools of a township are deemed abolished as
8 provided in this subsection, the school board of each
9 elementary school, high school and unit school district that
10 until that date is subject to the jurisdiction and authority
11 of the township treasurer and trustees of schools of that
12 township shall be deemed by operation of law to have agreed and
13 assumed to pay and, when determined, shall pay to the Illinois
14 Municipal Retirement Fund a proportionate share of the
15 unfunded liability existing in that Fund at the time these
16 offices are abolished in that calendar year for all annuities
17 or other benefits then or thereafter to become payable from
18 that Fund with respect to all periods of service performed
19 prior to that date as a participating employee in that Fund by
20 persons serving during those periods of service as a trustee
21 of schools, township treasurer or regular employee in the
22 office of the township treasurer of that township. That
23 unfunded liability shall be actuarially determined by the
24 board of trustees of the Illinois Municipal Retirement Fund,
25 and the board of trustees shall thereupon notify each school
26 board required to pay a proportionate share of that unfunded

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

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

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

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

1 Code.

2 Notwithstanding Section 2-3.25g of this Code, a waiver of
3 a mandate established under this Section may not be requested.

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

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.