Bill as Introduced

HB 778-LOCAL - AS INTRODUCED

2003 SESSION

03-0530
08/09

HOUSE BILL ***778-LOCAL***

AN ACT relative to the city of Manchester school district.

SPONSORS: Rep. Infantine, Hills 54; Rep. Pepino, Hills 51; Rep. Vaillancourt, Hills 56; Rep. Hagan, Hills 50; Sen. Martel, Dist 18

COMMITTEE: Municipal and County Government

ANALYSIS

This bill enables the city of Manchester to incorporate the city of Manchester school district.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 778-LOCAL – AS INTRODUCED

03-0530
08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to the city of Manchester school district.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 City of Manchester. The city of Manchester shall constitute a single municipal corporation with powers for municipal and school purposes, including all the powers of a school district. All provisions of law or of the charter of said city affecting school districts or schools shall, so far as not inconsistent with this act, continue to apply to said city.

2 Indebtedness of Territorially Coextensive Subdivision. All indebtedness of any subdivision territorially coextensive with said city previously incurred for school purposes, in whatever form or however incurred, and all orders and votes authorizing the incurring of indebtedness or the issuance of bonds or notes or other obligations for school purposes by any such political subdivision are hereby confirmed, ratified and validated. The city treasurer is hereby authorized to reimburse the city treasury for any sums advanced therefrom temporarily to pay any portion of such indebtedness pending the receipt of proceeds of school bonds or notes which may be issued within said aggregate debt limit.

3 Effective Date. This act shall take effect upon its passage.

Amendments

Rep. Infantine, Hills. 54
March 17, 2003
2003-0752h
08/09

Amendment to HB 778-LOCAL

Amend the bill by replacing all after the enacting clause with the following:

1 Manchester School Department. The city of Manchester, New Hampshire may incorporate the school district as a department of the city and the mayor shall have control over the form and procedures for preparation and adoption of the school department budget, subject to a referendum provided for in section 2.

2 Referendum. The provisions of section 1 of this act shall take effect upon ratification by a 2/3 vote of the voters present and voting by ballot at the regular annual election in the city of Manchester, and the mayor shall certify within 10 days to the secretary of state the results of said referendum.

3 Effective Date. This act shall take effect upon its passage.

2003-0752h

AMENDED ANALYSIS

This bill enables the city of Manchester to incorporate the Manchester School District as a department of the city, subject to voter approval.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # 778 Local Date 3/3/03

Committee M & C G Relative to the City of Manchester School District

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
REP. RAY BUCKLEY	MANCHESTER		DIST 56		X
MARK V. Joyce	12 Cross St, Penacook		NH Sch. Adm. Assoc		X
Rick Trombly	103 No State St Concord		NH-NEA		X
Rep Jane L Langley	Rye			X	
~~Wilfred Dufresne~~	~~Portsmouth~~			X	
Sandra DuBiSz - Paradise	33 Kavin St.		School Bd Manch. NH		X
Russell Ouellette	351 Wayne St		Manchester 03102		X
Jon Gross	429 Medford St		M 03109		X
Frank C Munt	96 Hollis St.		Manchester 03101	✓	
Dave Wihby	540 Kearney Cir		manchester NH 03104	X	
Michael Garrity	6 Kendall Ave		Manchester, NH 03103	X	X
Kathleen Kelley	93 Allird Street		Manchester NH 03109		X

Fill in *ONLY* if *SPEAKING* on Bill

Bill # 778 Date 3/3/03

Committee M&C

I support the bill ____

I oppose the bill ✓

I have written testimony ____

(Number of copies) ____

Time needed to speak: 4 min

Name Kathryn Staub

Address 374 Laurel St
Manchester, NH

Phone 603 624-0249

Representing Man. Coalition for Qual Ed.

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 778-L

BILL TITLE: relative to the city of Manchester school district.

DATE: March 3, 2003

LOB ROOM: 301/308 **Time Public Hearing Called to Order:** 11:02 AM

Time Adjourned: 1:45 PM

(please circle if present)

Committee Members: Reps. Patten, Brundige, Lockwood, Twomby, Boyce, Dumaine, Stohl, Noyes, Buhlman, Doyle, C. Dunne, Dupuis, Gillick, Gould, M. Pappas, N. Johnson, M. Cooney, Davidson, Osborne, Schmidt, and Theberge.

Bill Sponsors: Rep. Infantine, Hills 54; Rep. Pepino, Hills 51; Rep. Vaillancourt, Hills 56; Rep. Hagan, Hills 50; Sen. Martel, Dist 18

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Infantine, Dist 54

Charter amendment Manchester approved. School board rejected. On ballot in November – voted yes 60.6% Simple majority required. 39 against legal action. Charter amendment judge said wasn't proper avenue of change. Ruled in favor of school board. Bill seeks to ratify vote taken. School Board worried Aldermen will micromanage school board. Aldermen believe school boards should be a department of city. Voters want this. Wording – amendment submitted to exactly mirror what voters voted on. $75,000 spent on lawsuit by city. Why was it the wrong way to do? Judge's own decision under (his own) advisement.

Rep. Vaillancourt, Dist 56

Ward 8 – Seven schools in his ward. 2001 ballot, Aldermen voted to send it to the people passed. About duplication of services, finance structure legal fees. Will of courts – have to ask the legislature that is why we are here. To allow the people of Manchester to vote on it again. Charter Commission meeting for new charter includes this in new charter. Other cities have this system? Nashua, yes. Berlin, yes. Not an attempt to take away services. Aldermen have power then to make policy?

Osborne – no safeguard to separate policy. Way schools are run.

Rep. Vaillancourt, Dist 56

Has not happened in other cities. Just a financial arrangement. Charter delegates running of schools to school board. Report as a bottom line budget. Not cirruculum, etc. Schools have to bond through city now and will with this bill.

Leslie Stuart, self

Opposed. 17,252 students, vice chair of school board. 70 different languages. 12 wards, 1 each. Two at large, Mayor chair. Six committees, 2-3 evenings/wk. Accept tuition students. Study of building needs. $70 million bond program. Goals: 1) reduce drop out - PASS program alternative; 2) No child left behind - work on reading increased. Read 180 transient population – need consistency across schools; and 3) tuition agreements.

Suggests budget to Aldermen. Aldermen suggest budget vote on bottomline budget. $6,100/student. Every other district spends more except Farmington. 55% of budget is school. Check and balance. 15 on board / 15 alderman.

What led to amendment to Charter computer system change HTE Fall 1998. July 1 to December – no financial reports. Created a deficit. Didn't save money – created chaos. When budget passed 1.4 million issue, health insurance flipped to school instead of town side. New administrative staff at school side. How would bill change? Don't agree. Ability to make educational decisions. Would municipal services be balanced on school budget. Nursing services contracted by school. Would aldermen want it done differently? Premature – before new charter impacts tuition communities. Puts decision making off balance if finances are separate from policy. Creates a problem.

Vote on ballot – no hearings on question. Question did not change how we operated; the bill does. 1999-2000, over budget. 2001-2002, surplus. Lose ability to make financial decisions on goals. No child, alternative school, etc.

Thomas Donovan, School Board Member, Ward 3

Opposed. 2001 – Financial Committee concerned about deficit. Thinks the vote represents dissatisfaction with deficit and anger between board and aldermen. Court settlement between aldermen to pay down deficit. 2003 deficit closed. New leadership – house cleaning, new superintendents, etc. HB 778 sledgehammer approach to previous problems. Concerns – fiscal. Aldermen have line item authority. Conflicts will arise. Local property tax – how affect bonds. Restructuring debt. DOE - $6,200/student. $7,232 average. Not a wasteful district. Board buys certain services from city; negotiate. Aldermen might impose expenses on school side budget; no negotiation. 1885, 1909 School Boards established. Not since 1920's has legislature been involved in this issue. Unconstitutional? Article 39, Part I. Changes in charter local vote be provided for. Need new vote.

Chris Herbert, School Board Member, Ward 4

Opposed. Chair building and sites committee. Building project committee. Three Aldermen and three school board members. Vote – misunderstood. Was not presented as abolishing school district. Not public. The work of very few people. Power grab. 40 million comes into Manchester because of Claremont. Aldermen want to suck back money bargaining with school board for dollars. You want this – I want that. We force aldermen to account for money now. If became a department they will have control. 1700 kids out-of-town students. $11 million. 700 below average before Claremont.

Attorney Brad Cook

Opposed. Former school board member. Bad bill. 1. As written – not what voters voted on. Declaratory judgments charter referred to as district and department; 2. Of amend – will do what they wanted to do; 3. Charter commission hasn't met yet – premature; 4. Trojan Horse of legislation – not clear what it is or what it will do.

Robert Shaw

Opposed. Former Mayor and former school board member. Never supported wholesale change of charter. Article 6 can set budget items for school. Section said can't; Article 6 says you can. Does not believe it is a power grab.

Michael Lopez, Alderman

Opposed. Bill different than what 12 aldermen signed.

Judith O'Brien, School Board, Ward 2

Opposed. Appointed by Alderman Gatsas due to vacancy. Former state board of education. Serves no purpose to educate students.

Michael LaClaire, Father

Highland Guffs Falls PTA – opposed. Quote Mr. Rodgers, "We live in a world where we have to work together... children are our future."

Michael Ludwell, Superintendent, Manchester School District

Opposed. Administratively, this bill would create havoc. Administration can not serve two masters.

Tom Adams, Director of the Amoskeag Region of NH NEA

Opposed. See written testimony.

Theodore Comstock, Attorney for NH School Board Association

Opposed. 1. Education essential service and a full-time job and "no child left behind" will probably take a lot of time. Education of disabled has become so specialized. Aldermen have their own functions to do. The issue is not duplication but specialization. 2. President – dangerous for us (legislature) to get involved in local issue. If this bill passed, it would be unique in the state. Need to look into this.

Linda Heath, Manchester Association of Principals

Opposed. State has favored the separation of schools and government and is concerned how "no child left behind" is going to impact schools and therefore requires specialized resources. This bill would strain resources.

Kathryn Staub, Manchester Coalition for Quality Education

Opposed. See written testimony. Passed out RSA 194-C:4 regarding the responsibilities of school board administration. She doesn't think the city really wants this responsibility. The city's charter is in flux right now. We don't know what the charter will say. People are frustrated by the poor performance of the schools and they don't listen to the citizens. Thinks there is hope in Manchester and this bill will not increase the quality of education in Manchester.

Russell Ouellette, School Committee Board, Ward 11

Opposed. Re-iterated the idea that education is a specialized function and merging the administration and the school board would not work.

Respectfully submitted,

Priscilla P. Lockwood

Priscilla P. Lockwood, Clerk
Municipal and County Government

Testimony

TITLE XV
EDUCATION

CHAPTER 194-C
SCHOOL ADMINISTRATIVE UNITS

Section 194-C:4

194-C:4 Superintendent Services. – Each school administrative unit or single school district shall provide the following superintendent services:

I. An educational mission which indicates how the interests of pupils will be served under the administrative structure.

II. Governance and organizational structure and delivery of administrative services including, but not limited to:

(a) Payroll, cash flow, bills, records and files, accounts, reporting requirements, funds management, audits, and coordination with the treasurer, and advisory boards on policies necessary for compliance with all state and federal laws regarding purchasing.

(b) Recruitment, supervision and evaluation of staff; labor contract negotiation support and the processing of grievances; arrangement for mediation, fact finding or arbitration; and management of all employee benefits and procedural requirements.

(c) Development, review and evaluation of curriculum, coordination of the implementation of various curricula, provisions of staff training and staff development, and development and recommendation of policies necessary for compliance relating to curriculum and instruction.

(d) Compliance with laws, regulations, and rules regarding special education, Title IX, the Americans with Disabilities Act, home education, minimum standards, student records, sexual harassment, and other matters as may from time to time occur.

(e) Pupil achievement assessment through grading and state and national assessment procedures and the methods of assessment to be used.

(f) The on-going assessment of district needs relating to student population, program facilities and regulations.

(g) Writing, receiving, disbursement, and the meeting of compliance requirements.

(h) Insurance, hearings, litigation, and court issues.

(i) School board operations and the relationship between the board and the district administration.

(j) The daily administration and provision of educational services to students at the school facility including, but not limited to, fiscal affairs; staff, student, parent, safety and building issues; and for dealing with citizens at large.

(k) Assignment, usage, and maintenance of administrative and school facilities.

(l) Designation of number, grade or age levels and, as applicable, other information about students to be served.

(m) Pupil governance and discipline, including age-appropriate due process procedures.

(n) Administrative staffing.

(o) Pupil transportation.

(p) Annual budget, inclusive of all sources of funding.

(q) School calendar arrangements and the number and duration of days pupils are to be served pursuant to RSA 189:1.

(r) Identification of consultants to be used for various services.

Source. 1996, 298:3, eff. Aug. 9, 1996.

Good morning Chairman Patten and committee members.

My name is Kathy Staub and I am a parent of two school-aged children and a resident of Manchester. I am the president of the Manchester Coalition for Quality Education, an organization of parents advocating for better schools. Even so, I am not your typical lobbyist, I've never been here before and I have never run for a political office in my life. So what brings me here on a weekday morning when most people like me are either at work or at home doing laundry.

I am here out of my concern over the piece off legislation that you are considering this morning, house bill 778, and the effect that it will have on our children and the quality of education in my community.

Although there is no stated purpose for this bill, the intent is to validate the amendments to our city charter that give control over school district finances to the city. According to the bill the sponsors want the City of Manchester to have "all the powers of a school district". I looked at RSA 194 to see just what those powers are. I find it difficult to believe that this is really what they want. They aren't interested in buying insurance, nor are they interested in buying vehicles to transport children, as far as building, purchasing, renting, or repairing school buildings they have spent years trying to avoid that responsibility, as well as the responsibility of providing our children with suitable furniture, books, maps, charts, apparatus and conveniences for schools. All they are really interested in is control of the money.

If you look at the charter amendments, the schools will continue to be administered by the school board, so the responsibility of providing our children with an education will continue to rest with the school board, but the financial means to do so will be under the control of the city finance officer.

What they are really after is a change in the laws governing superintendent services provided by SAU's. They want to be able to ignore the part of section II (a) that deals with cash flow and section (p) that gives the school district control of the Annual budget, inclusive of all sources of funding. That phrase, all sources of funding, is significant.

At this point our Aldermen appropriate only about a quarter of the money for our school budget. The state average for local tax contribution is about 41%. The state house of representatives appropriates about 60% of our school budget. Of that amount 42 million dollars or about 1/3 of our schools' annual operating budget comes from donor towns. I'd like you to note that the writers of this amendment removed the words "under the law in effect" from this section of the charter. State law was not considered when writing these amendments. I think that this committee needs to consider not just the people of Manchester but the interests of the good people of Meredith and Rye and Portsmouth and Moultonborough when looking at this legislation.

Another area of concern is the part of house bill 778 that reads "All provisions of law or of the charter of said school district affecting school districts or schools shall, so far as not inconsistent with this act, continue to apply to said city."

At the moment we have a charter commission working on a revision of the city charter. They have yet to consider the section on schools. If the revised charter reverses the amendment and is accepted by the voters will we have to come back here again next year and repeal this law or write a new one that supports the new charter. With our current charter in a state of flux I don't believe that passing a state law governing school finances would be a practical thing to do.

I could be here all day telling you about the personalities involved in this conflict, more than half of them have moved on at this point. I could try to explain why a referendum like this would get passed by the voters. I will tell you about that, people are frustrated by the poor performance of our schools and the school administration has historically been unresponsive to the community, so they get no public support. Some changes have been made in personnel and hopefully other things will change too.

In any event, I do not think this bill is expedient to legislate. The purpose of this legislation is to allow the city of Manchester to be exempted from state laws governing school finances. To send this bill forward you would have to believe that there is some compelling reason to believe that current law as it exists cannot be made to work in the city of Manchester. I do not believe that is the case, and if you agree I would like you to pass the word on to the attorney general's office. Because if we had no business passing these charter amendments, as Judge Mangones asserts, then why did the attorney general allow it to go on the ballot. I'm tired of my tax money going to lawyers. I want to be paying teachers.

Personally, as a parent and a citizen, my main concern is the ability of our schools to provide our children with a good education. I can't see any way that this bill will enhance the quality of education for the children of Manchester. In fact, it will only continue to divert attention and resources away from the challenges of creating successful schools in our community and that is why I'm here today instead of at home doing laundry.

Linda R. Heath
Henry Wilson School
160 Wilson St
Manchester, NH 03103

On behalf of the 47 members of the Association of Manchester Principals,
I would like to express our opposition to House Bill 778. This bill is contrary to the direction that the State has been moving over the past 100 years. The State has favored the separation of the education function from the body controlling local government. This bill could lose the importance of education by making schools in the City of Manchester just another city department, blurring the mandates governing education by state and federal governments.

This bill would blur the lines of authority in education in the city of Manchester, raising all sorts of legal questions, like who really would have power over education, over the Superintendent of Schools, over school finances, and over the intent of the City Charter in regard to education. Might the City's Yager – Decker Study of Salaries be applied to all school salaries, potentially grant large increases especially to those holding higher administrative positions?

Honorable legislators, in the light of No Child Left Behind and demands on the schools and in the State's uncertainty in regard to future funding of local

schools, THE CHILDREN OF MANCHESTER do not need this legislation. Whether by purpose or by accident passage of this bill would provoke countless legal entanglements which would drain precious resources from those who need them the most, the OVER 17,00O0 CHILDREN IN OUR MANCHESTER SCHOOLS. On behalf of our Association, I urge you to reject this legislation.

Thank you Madam Chair and Committee Members,

My name is Michael LaClaire, and I am a resident of the City Of Manchester. I come before you not only for myself, but also on behalf of the HGF PTA, for which I am also the President. We feel it would be in the best interest of our children that the "Manchester School District" should stand apart from and not become another City Department.

We also feel that the Educational decisions, financial or otherwise be left up to the educators. For that is their area of expertise. After all, you wouldn't go see a proctologist for a head cold would you? If it aint broke dont fix it! To me, it is still a little unclear as to why the City feels the need, and why they feel it is necessary for them to control the School District Budget or anything else concerning the School's.

So, we are in front of you today to give comments and observations on HB778-local. And just let me say this, that the language in paragraph 2 is atrocious. If you gave this to a layman, do you think he or she could read it? and understand it? and be able to make an informed decision, based on its explaination, I dont think so. You would need to have a law degree to decipher this Mumbo Jumbo.

Since it is considered a "Single School District" then the District would have to follow applicable State Law. Please refer to RSA:194. The City and School District also ended up in court, and on May 26th,1999 Chief Justice Nadeau made 12 primary rulings defining their relationship. The first ruling say's "The District is not a department of the city", and it goes on to explain it further.

(this next bit of information comes from Atty: Dean Eggert's testimony on January 29, 2003 at the charter commission hearing)

And I quote "the second decision that I do bring to your attention is the decision by Judge Mangones that in all candor is still pending in Superior Court, and that was his recent decision that the last effort to amend the Charter, to suggest that the School District would be a Department of the City VIOLATED the provisions of State Law with regard to how you'll go about a Charter Amendment.

So what does all this mean! We'll in my opinion, it means the City tried to circumvent "The proper legislative process". A process in which our founding fathers fought long and hard to establish. And you may ask, How did I reach this opinion? I refer you to the following.

(1) TITLE 3, Chapter 49-B:1 The last sentence sums it up.
(2) Article 39 of The NH State Constitution. I think it is explained in pretty simple terms (no big words were used)

So, what do we have here? Let me tell you.

(1) We have a city goverment that did not follow the legislation process properly.

(2) We have them trying to get legislation passed when the matter is still unresolved and still pending in Superior Court.

(3) I have not been given nor have I seen any evidence that shows any reason why the City should have control. They are trying to fix something that is not even broke. They can't even manage to agree on disagreeing.

(4) If this Bill passes, would it make both sides come together? I don't think so, You think there is a tension convention now just wait and see what happens.

What this all boils down to is, "That It is Nothing more than a glorified sibling rivalry. Do you not agree that all this time and money could have been put to better use? I do!

Considering you will be talking to people who are more knowledgable, and better versed in the legal lingo I would like to leave you with This it is a quote from "Mister Rogers" who recently passed away.

"We live in a world in which we need to share responsibility, he said in 1994. It's easy to say 'it's not my child, not my community, not my world, not my problem.

And my response is " It is our child, it is our community, it is

our world, and it is our problem, So let's work together, for the people that this affects the most, is the children, they cannot fend for themselves, they look to us "the Adults". They deserve better, They deserve the very best we can possibly give them. "FOR THEY ARE, OUR FUTURE..... We have a duty to do what is right by our children, The responsilbility rests on our shoulders and our shoulders alone....

Thank You

March 1, 2003

Good Morning:

My name is Thomas L. Adams, Jr., the Director of the Amoskeag Region of NEA-NH, which represents more than 1,300 professional, technical and support staff employed by the Manchester School District through its affiliates the Manchester Education Association and the Manchester Education Support Personnel Association. Our affiliates oppose the enactment of HB 778-LOCAL for the following reasons:

- This proposal is undermines the structure that the legislature created for the management the State's educational policies through political subdivisions called School Districts and/or SAUs. This proposal creates an anomaly – a structure that incorporates the Manchester School District as a "department" of a municipal corporation, the City of Manchester.
- This bill subsumes of the functions of the Manchester School District under the City, which may subordinate the educational interests of the State to the City. This proposal is unnecessary to the extent that it broadens and strengthens the City's management of the daily operations of the School District. This proposed change is unnecessary for the School District's budget is already reviewed by the Board of Mayor and Aldermen. This Board must approve the bottom line of the School District's budget. This gives the City a fiscal oversight function of the School District's revenues and expenditures. It also allows the Board of Mayor and Aldermen to control the local economic contribution to the support of the School District, namely its property tax.

- This bill also adds an unnecessary conflict over the priority of needs of the City and the management of the schools. Merging personnel and finance functions will exacerbate the inherent conflict of interest between the City and the School District. Who controls the financial and personnel priorities for the District? The Superintendent? The School Board? The Mayor? The Mayor already has a vote on the School Board. Does he now become Chief Executive Officer of the School District?

In the past, when the School District was treated as a department of the City, education suffered. The District was unable to control its functions. The School District requested that our courts rule on whether the District had discretion in certain management areas, especially it finances. The court ruled that the School District does have separate functions apart from the City. This proposal will turn back the clock and will undermine the progress the School Board and its staff has made towards the achievement of a quality education for all students.

Respectfully submitted,

Thomas L. Adams, Jr.

CITY OF MANCHESTER
Board of Aldermen

February 18, 2003

State Representative Betsey Patten
Municipal and County Government Committee
New Hampshire House of Representatives
Legislative Office Building
Room 301
Concord, NH 03301

Representative Patten:

The undersigned Alderman of the city of Manchester hereby acknowledge, affirm and support the city of Manchester election results of ballot question 1 on November 6, 2001, which supports a charter amendment to read as follows:

"the charter of the city of Manchester, NH to provide that the city of Manchester shall constitute a single school district administered by the Board of School Committee as a department of the city of Manchester."

As you will note, the results of the November 6, 2001 constituted over 60% voter support of the proposed charter amendment.

Respectfully,

Frank C. Ward 3 — Ward 9 — Ward 5 — Ward 4 — Ward 1 — Ward 7 — Ward 6 — Ward 10 — 12

One City Hall Plaza, Manchester, NH 03101 Phone (603) 624-6455 Fax (603) 624-6481
www.ci.manchester.nh.us

The E
The U

Editorials

Honor the voters' wishes

Revoke the school board's spending privileges

MANCHESTER VOTERS sent the Board of School Committee a message in the fall of 2001. The message was: "You have proven that you cannot be trusted with our money, therefore we are giving control of the schools' purse to the Board of Mayor and Aldermen." Not only did the school board not get the message; since then they have provided further proof that the voters were right.

Today the House Municipal and County Government Committee will hear House Bill 778, introduced by Manchester Rep. Will Infantine. The bill would put into law the structural change voters approved a year and a half ago but which the school board has so far successfully halted in the courts. That is, it would move control of school finances from the school board to the aldermen.

As if to illustrate just how irresponsible they are with taxpayer money, the school board thus far has spent $74,870 in legal fees to fight the structural change approved directly by the voters in 2001. This is after the board plunged the schools into debt and had to be forced by court order to stop squandering money.

School board members will testify against the bill today. We bet they won't mention their profligate spending that prompted the voters to take away their fiduciary powers.

Members of the committee should know that the residents of Manchester want this change. They are like a person who finally, reluctantly takes the car keys from a drunk family member after bailing him out of jail one too many times. The school board has given ample proof that it has a money problem. The only way to solve that is to take away its allowance. The voters of Manchester already have voted to do this. Legislators should honor their wishes.

THE STATE OF NEW HAMPSHIRE
Northern District of Hillsborough County

300 Chestnut Street
Manchester, NH 03101 2490
603 669-7410

RECEIVED
OCT 25 2002
CITY SOLICITOR'S OFFICE

THOMAS I ARNOLD III ESQ
CITY SOLICITOR'S OFFICE
ONE CITY HALL PLAZA
MANCHESTER NH 03101

- 01-E-0149 City of Manchester School District, et al v. City of Manch

You are hereby notified that on October 23, 2002, the following order is entered in the above matter:

RE: MOTIONS FOR SUMMARY JUDGMENT:

(see copy of order attached hereto)

(Mangones, J.)

10/24/2002
Date

/s/ John Safford
Clerk of Court

cc: Dean Eggert, Esq.

THE STATE OF NEW HAMPSHIRE
SUPERIOR COURT

HILLSBOROUGH, SS.
NORTHERN DISTRICT

01-E-0149

THE CITY OF MANCHESTER SCHOOL DISTRICT
AND
SCHOOL ADMINISTRATIVE UNIT #37

v.

THE CITY OF MANCHESTER

ORDER ON PARTIES' MOTIONS FOR SUMMARY JUDGMENT

The plaintiff, Manchester School District and School Administrative Unit #37 ("District"), brings a motion for summary judgment seeking to declare unlawful certain amendments to the City of Manchester's Charter ("Charter"), which have endeavored to make the District a department of the City. The defendant, the City of Manchester ("City"), objects and brings a motion for summary judgment requesting that the Court uphold the Charter amendments permitting the City to create a school department.

For the purposes of this motion, the Court finds the following facts. On May 24, 1999 the Superior Court, Nadeau, J., entered an order in the matter of City of Manchester School District and SAU #37 v. City of Manchester (No. 98-E-458) ("Order") in which the District had petitioned the Court for an order seeking determination of District's structural relationship with the City of Manchester. After a review of the powers granted to the District and the City in the Charter, and after a review of relevant State law, the Court concluded that the Manchester School District was not a municipal department of the City of Manchester. The provisions of that Order are incorporated herein by reference.

As a result of Court's determination, the City proposed an amendment to its Charter which would permit the City to create a municipal department for operation of the school district. On November 6, 2001 the voters of the City of Manchester passed an amendment to the Charter providing that the School District shall be deemed a department of the City and that the mayor and alderman may provide additional procedures for administering the budget of the school department. Both parties now seek a declaratory judgment to determine the lawfulness of the City's amendment to the Charter.

In order to prevail on summary judgment, the moving party must "show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." RSA 491:8-a, III. A fact is "material" if it affects the outcome of the litigation. Horse Pond Fish and Game Club v. Cormier, 133 N.H. 648, 653 (1990). In considering a party's motion for summary judgment, the Court examines the evidence submitted and makes all necessary

inferences from the evidence in the light most favorable to the non-moving party. Gould v. George Brox, Inc., 137 N.H. 85, 87 (1993). "The non-moving party may not rest on mere allegations or denials in [his] pleadings,...[the] response...must set forth specific facts showing that there is a genuine issue for trial." RSA 491:8-IV. "To the extent that the non-moving party either ignores or does not dispute facts set forth in the moving party's affidavits, they are deemed to be admitted for the purposes of the motion." New Hampshire Division of Human Services v. Allard, 141 N.H. 672, 674 (1997).

In support of its motion, the City argues that the amendment at issue does not countermand Superior Court's prior decision, and that City of Manchester voters were free to respond to the Court's decision by enacting a charter amendment to authorize the City to create a school department. As a result of the amendment that has been passed, the City has sought to restructure the District to operate as a department of the City. Under the proposed new organization, the School District budget would be determined and administered by the mayor. In addition, certain financial and budget management matters of the District would be under the control or supervision of the City treasurer.

The School District asserts that Court's earlier decision constitutes the current law of this case. The District submits that the City may not assume control of the District as a department under the procedures adopted by the City. Further, the District asserts that the function of the District must remain the same. All that has changed, according to the District, is the name. The Court must

determine whether either the amended Charter itself or current general law confers the power upon the City to create a department for the school.

The Court begins by examining the Court's earlier Order. The earlier Order had concluded that pursuant to the language of the City Charter and pursuant to State law, the School District is not a municipal department of the City. The Order provides that the District's specific functions characterize it as a separate entity from the City and that the District is an independent governmental entity, although the Order recognized that the District was not a fully autonomous entity.

It bears noting that, generally speaking, a school district is recognized as a body corporate and politic separate and distinct from municipality which it may serve.

> School districts, like counties and towns, are political sub-divisions of the state made for the convenient administration of the government. Like towns, they are municipal corporations. Every municipal corporation has two characteristics, at least, common to every other. First, each has a definite territory, assigned by special or general legislative act, which is its field for administrative action. Second, in order that administrative action may be more convenient, each is given a corporate identity.

Clough v. Osgood, 87 N.H. 444, 447 (1935) (citations omitted). As noted in Union School District v. District No. 20, 71 N.H. 269 (1902), addressing issues concerning school districts located within the City of Concord:

> So far as appears, and as we take the fact to be, each district has "a special, independent, and complete organization, and officers of its own having exclusive authority for the superintendence and government of its schools and the administration of all its school

> affairs," and is a distinct and separate organization and corporation, not merely as to each other, but as to the city of Concord.

Generally speaking, also, management of school district affairs is independent from management of municipal government matters.

> The members of the district school board are officials of the school district, they elect all teachers, prescribe the regulations for the management, classification and discipline of the schools and have the duty to provide, at district expense, education to all pupils residing in the district. The long and short of the matter is that the school board is the managing board of the school district.

Ashley v. Rye School District, 111 N.H. 54, 55 (1971) (citations and quotations omitted).

The amended Charter does not change the powers granted to the District regarding the functions, powers, limitations, and responsibilities of the District. Judge Nadeau's order had stated that those specific functions make the District a separate. These functions include the ability to sue and be sued, hold and dispose of real and personal property, make contracts, transfer funds among items in the school budget, elect school board members, hold separate budget hearings, resolve its own conflict of interest questions among members and administer, expend and account for funds. The new amendment does not appear to confer new powers upon the City which would change the District's status as a separate entity as determined in the earlier Order. This Court finds that the Charter amendment did not create a create a school department which is a substitute for the separate entity that is the District. The amendment, as

enacted, did not have the effect of transfering the School District's autonomy to the municipality.

Next, the Court reviews whether there are any general laws which would permit the power conferred in the amendment. The State Constitution grants the City the power to create a charter to form a government. Article 39 of the New Hampshire Constitution confers the power upon a municipality "to adopt or amend their charters or forms of government in any way which is not in conflict with general law." N.H. Const. Art, 39. The New Hampshire legislature has also enacted RSA 49-B, a narrowly tailored home rule statute which provides a procedural framework through which cities may amend certain forms of their government. New Hampshire, however, is not a municipal home rule state as that term is customary understood in municipal law. See Loughlin, 13 NEW HAMPSHIRE PRACTICE, LOCAL GOVERNMENT LAW, §§61-63.

"If possible, a statute will be interpreted with the presumption that the legislature intended to confine its action within constitutional bounds." State v. Millette, 112 N.H. 458 (1972) (citing State v. Lapointe, 81 N.H. 227 at 228 (1924). In addition, a statute must be construed as part of and in harmony with the law of which it forms a part. Id. The Court has held that Article 39 of the New Hampshire Constitution does not provide or suggest that the towns, cities or other subdivisions of this State have the right to exercise supreme legislative authority. Girard v. Allenstown, 121 N.H. 268 (1981). RSA ch. 49-B was intended to provide a statutory framework by which the cities and towns may amend their actual form of government and grants only the power necessary to

carry out such changes. Id. RSA 49-B:8 provides that the municipalities' exercise of power to amend a charter is limited to statutory provisions in which the legislature, "has power to confer upon it, which is not denied either expressly or by clear implication, and exercise any power or function granted to the municipality by the Constitution, General Law, or Charter."

The City cites RSA 49-C:21 and RSA 198:4-b as express authority to create a school department. RSA 49-C:21, states "[t]he city shall have departments, divisions, and bureaus as may be established by the charter". RSA 198:4-b states: "Every school district by an article in the warrant, and the governing body of a city upon recommendation of the school board, when in operation of the schools is by a department of the city, may establish a contingency fund...". Further, the City refers to other municipalities that have been permitted to fully integrate their school districts as departments of the City. The City appears to read these home rule issues too broadly.

General laws limit the ability of the City to merge with the District or to be more greatly involved in the governance of the District. RSA 194-C provides that superintendent services are separate legal organizations, with distinguishable procedures, functions, and powers from the city. See RSA 194-C. RSA 194-C:1 confers authority to school administrative units by recognizing them as corporations with power to sue, be sued, to hold and dispose of real and personal property, and to make contracts.

The City refers to other municipalities which have created school departments. In each of these situations, the cities merged their school districts

by special legislative acts. See NH Law 1923 Ch. 227:2; NH Law 1889-1891 Ch. 241:4; and NH Session law 1903-105 Ch. 212. RSA 49-C:21 and RSA 198:4-b are only applicable to cities, who by a specific legislative act, have organized the District as a City department. The Court concludes that a specific legislative act must be in effect for a City to create a school department in derogation of general law on the issue.

The Court concludes that the laws of this State do not authorize the Charter amendment which has been adopted concerning the authority to the City to substantively create a school department. The City, also, may not alter the fiscal and administrative autonomy of the District in the fashion which the City has sought. The City of Manchester's motion for summary judgment [26] is denied and the City of Manchester School District's motion for summary judgment [25] is granted.

SO ORDERED.

10-23-02
Date

Philip P. Mangones
Presiding Justice

Exhibit A

Proposed amendment to the City Charter --

The proposed change would:

Amend the Charter of the City of Manchester, New Hampshire to provide that the school district shall be a department of the city and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget.

The text of the proposed amendment is as follows:

Article IV. School and School Committee, Section 4.01 School District shall be amended to read as follows:

> The City of Manchester, a municipal corporation, shall continue to constitute a single school district, administered by the board of school committee as a department of the City of Manchester. Wherever this charter refers to the school district, school district shall also mean school department. Except as otherwise provided in this charter the board of mayor and aldermen and the school committee shall continue to exercise such power in relation thereto as these respective bodies exercised at the time of the adoption of this charter.

Article VI Budgets and Appropriations Section 6.03 (a) Budget Formulation Submission and

EXHIBIT D

QUESTION 1

SHALL THE CITY OF MANCHESTER, NEW HAMPSHIRE APPROVE THE CHARTER AMENDMENT SUMMARIZED BELOW?

SUMMARY/EXPLANATION: To amend the Charter of the City of Manchester, New Hampshire to provide that the City of Manchester, a municipal corporation, shall constitute a single school district, administered by the Board of School Committee as a department of the City of Manchester and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget. If you favor this proposal, vote YES; if you do not favor it, vote NO.

YES ○ NO ○

QUESTION 2

SHALL THE CITY OF MANCHESTER, NEW HAMPSHIRE APPROVE THE AMENDMENT OF THE CHARTER TO PROVIDE FOR THE ADJUSTMENT OF THE BOUNDARIES OF THE CITY'S 12 WARDS AS SUMMARIZED AND EXPLAINED BELOW?

SUMMARY/EXPLANATION: Section 5.33 of the City Charter describes the perimeter boundaries of the 12 wards that make up the City of Manchester. The proposed changes adjust these ward boundary lines to account for population changes identified in the 2000 census and in accordance with the principle of "one man/one vote". In addition to adjusting the ward boundaries, the proposed amendment provides that a list of all roads and streets contained in each ward shall be kept current and on file in the Office of the City Clerk. If you favor this proposal, vote YES; if you do not favor it, vote NO.

YES ○ NO ○

YOU HAVE NOW COMPLETED VOTING

N. H. Laws of 1923

CHAPTER 227.

AN ACT EMPOWERING THE CITY OF NASHUA TO INCUR DEBTS TO THE AMOUNT OF SIX PER CENT. OF ITS VALUATION.

SECTION
1. Nashua authorized to incur debts not exceeding 6% of assessed valuation; school debts.
2. City to constitute a single corporation; with powers for municipal and school purposes and all powers of a school district.
3. Prior indebtedness for school purposes ratified; city treasurer to reimburse city treasury for advances.
4. Repealing clause; takes effect on passage.

Be it enacted by the Senate and House of Representatives in General Court convened:

Nashua authorized to incur debts not exceeding 6% of assessed valuation; school debts.

SECTION 1. The city of Nashua may at any time have and incur debt for all purposes including school purposes to an amount not exceeding in the aggregate six per cent. of its last assessed valuation, *provided, however,* that in ascertaining the amount of such debt so to be compared with said six per cent., indebtedness lawfully incurred outside of said limit shall not be considered and deductions may be made as specified in chapter 129, Laws of 1917 and acts in amendment thereof and in addition thereto. So long as the aggregate net debt of said city for school purposes and all other purposes shall not exceed said limit of six per cent. the city may incur school debt in excess of the limit of two per cent. imposed upon school districts by said chapter 129, Laws of 1917.

Except as herein provided all indebtedness of said city, whether or not incurred for school purposes, shall be subject to chapter 43, Laws of 1895 as amended and to said chapter 129, Laws of 1917 and acts in amendment thereof and in addition thereto.

City to constitute a single corporation; with powers for municipal and school purposes and all powers of a school district.

SECT. 2. Said city shall constitute a single municipal corporation with powers for municipal and school purposes, including all the powers of a school district. All provisions of law or of the charter of said city affecting school districts or schools shall, so far as not inconsistent herewith, continue to apply to said city.

Prior indebtedness for school purposes ratified; city treasurer to reimburse city treasury for advances.

SECT. 3. All indebtedness of any governmental subdivision territorially coextensive with said city hitherto incurred for school purposes, in whatever form or however incurred, and all orders and votes authorizing the incurring or indebtedness or the issuance of bonds or notes or other obligations for school purposes by any such subdivision are hereby confirmed, ratified and validated. The city treasurer is hereby authorized to reimburse the city treasury for any sums advanced therefrom temporarily to pay any portion of such indebtedness pending the receipt of proceeds of school bonds or notes which may be issued within said aggregate debt limit.

Example of special legislative act - (1923)

SECT. 4. All acts and parts of acts inconsistent with this act are hereby repealed, and this act shall take effect upon its passage. Repealing clause; takes effect on passage.

[Approved May 4, 1923.]

CHAPTER 228.

AN ACT AUTHORIZING THE TOWN OF ALTON TO VOTE TO EXEMPT FROM LOCAL TAXES A PROPOSED DAM ON MERRYMEETING RIVER.

SECTION
1. Alton authorized to exempt from local taxation a proposed dam on Merrymeeting River.
SECTION
2. Takes effect on passage.

Be it enacted by the Senate and House of Representatives in General Court convened:

SECTION 1. That the town of Alton, by major vote of those present and voting at any annual meeting, or at any special meeting called for the purpose, may exempt from local taxes for such period as may be voted, not exceeding ten years, the dam proposed to be constructed on Merrymeeting River in Alton in the vicinity of the site of the Wentworth dam, so called. *Provided* that when said dam is used for commercial purposes, said exemption shall cease. Alton authorized to exempt from local taxation a proposed dam on Merrymeeting River.

SECT. 2. This act shall take effect upon its passage. Takes effect on passage.

[Approved May 4, 1923.]

CITY OF MANCHESTER
Office of the City Clerk

3 pages – original Charter Amendment

Leo R. Bernier
City Clerk

Carol A. Johnson
Deputy City Clerk

Paula L-Kang
Deputy Clerk
Administrative Services

Matthew Normand
Deputy Clerk
Licensing & Facilities

Patricia Piecuch
Deputy Clerk
Financial Administration

March 23, 2001

Philip McLaughlin
Attorney General
33 Capitol Street
Concord, NH 03301

Dear Mr. McLaughlin:

Please be advised that in action taken by the Board of Mayor and Aldermen, at a meeting held on March 20, 2001, it was voted to approve placing the enclosed Charter amendment question on the November 6, 2001 Municipal General Election Ballot.

Pursuant to statute, could you please review this and issue an opinion.

Sincerely,

Leo R. Bernier
Leo R. Bernier
City Clerk

Enclosure

To the Board of Mayor and Aldermen of the City of Manchester:

Gentlemen:

I, the undersigned, being in the minority vote of the Committee on Bills on Second Reading, respectfully recommend after due and careful consideration, that the proposed amendments to the City Charter, as enclosed herein and incorporated by reference, be placed on the ballot of the Municipal General Election to be held on November 6, 2001.

Respectfully submitted,

David Wihby

David Wihby
Alderman – Ward 1

At a meeting of the Board of Mayor and Aldermen held 3/20/2001 on a motion by Ald. Cashin duly seconded by Ald. Wihby the report of the Committee was accepted and its recommendations

(adopted) ~~(failed)~~ with caveat that the attornies from both sides be allowed to work out an agreement on financial and administrative issues amenable to the School District and EMA by 8/1/200 and if such agreement is reached, the action is intended to be rescinded.

City Clerk

Proposed amendment to the City Charter --

The proposed change would:

Amend the Charter of the City of Manchester, New Hampshire to provide that the school district shall be a department of the city and that the mayor shall have control over the form and procedures for preparation and adoption of the school department budget.

The text of the proposed amendment is as follows:

Article IV. School and School Committee, Section 4.01 School District shall be amended to read as follows:

> The City of Manchester, a municipal corporation, shall continue to constitute a single school district, administered by the board of school committee as a department of the City of Manchester. Wherever this charter refers to the school district, school district shall also mean school department. Except as otherwise provided in this charter the board of mayor and aldermen and the school committee shall continue to exercise such power in relation thereto as these respective bodies exercised at the time of the adoption of this charter.

Article VI. Budgets and Appropriations, Section 6.03 (a) Budget Formulation, Submission and Message shall be amended to read as follows:

> The mayor shall establish the form and organization of procedures for preparation and adoption of the annual budget, including the school department budget, the capital improvement budget, and other budget instruments and plans for future fiscal periods as the mayor deems appropriate and which shall conform to all city ordinances concerning budgets and fiscal matters. Such procedures shall require that all budgets include all proposed expenditures according to general objects of expenditure and the proposed use and all anticipated revenue.

Article VI. Budget and Appropriations, Section 6.06 School District Budget shall be amended to read as follows:

> The school committee shall prepare and submit its budget proposal. The budget shall be subject to the approval of the board of mayor and aldermen. The budget shall be submitted in accordance with the budget form, organization of procedures and schedule established by the mayor under Section 6.03(a). The board of mayor and aldermen shall accept such budget as submitted, or reject it and return it to the school committee along with the explanation for rejection and the maximum dollar amount which the board of mayor and aldermen will approve. The school committee shall then submit a revised
> budget, which shall not exceed the maximum dollar amount established by the board of mayor and aldermen. The school committee shall administer, expend and account for the funds approved by the board of mayor and aldermen and shall have the exclusive authority to transfer funds among line items in the school budget.

Article VI. Budgets and Appropriations, Section 6.08 shall be amended to read as follows:

> The board of mayor and aldermen may provide by ordinance any additional procedures for administering of the budget, including the budget of the school department.

1 page

ATTORNEY GENERAL

STATE OF NEW HAMPSHIRE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

PHILIP T. McLAUGHLIN
ATTORNEY GENERAL

STEVEN M. HOURAN
DEPUTY ATTORNEY GENERAL

April 9, 2001

Leo R. Bernier
City Clerk
City of Manchester
One City Hall Plaza
Manchester, NH 03101

Re: Proposed Charter Amendment

Dear Mr. Bernier:

We have reviewed the proposed charter amendment submitted to this office on or about March 26, 2001. Based on our review of the documents submitted, including the opinions of counsel, we do not object to the proposed charter amendment pursuant to RSA 49-B:5-a, II.

If you have any questions, please feel free to contact me.

Very truly yours,

Suzanne M. Gorman
Senior Assistant Attorney General
Civil Bureau

cc: Barbara T. Reid, Assistant Commissioner
Department of Revenue Administration
William M. Gardner, Secretary of State

From: "Thomas Arnold" <TARNOLD@ci.manchester.nh.us>
To: <sgorman@doj.state.nh.us>
Date: 4/5/01 1:16PM
Subject: Opinion letter on proposed charter amendment 8 pages

I have attached this offices opinion letter regarding the proposed amendments to the City Charter. The original is coming via U.S. mail.
Please let me know if you have any questions

Thanks
Tom Arnold
624-6523

April 5, 2001

Philip T. McLaughlin, Attorney General
Office of the Attorney General
33 Capitol Street
Manchester, NH 03301-6397

Re: **Statutory review (RSA 49-B:5-a) of proposed amendment of the Manchester City Charter**

Dear Attorney General:

As you are, pursuant to RSA 49-B:5-a, presently reviewing a proposed amendment to the Manchester City Charter, please accept this letter as this office's opinion that the proposed amendment is "consistent with the general laws of this state." RSA 49-B:5-a I. As I have a copy of a letter from Dean Eggert, School District Council, to you, I will also respond to certain arguments made by Mr. Eggert.

The intent of the proposed amendment, as set forth in the proposed amendment to Charter § 4.01, is to provide that the municipal corporation is the school district with the Board of School Committee administering the District as a department of the City. The Board of Mayor and Aldermen, in proposing this amendment to the Charter, is not attempting to remove any statutory authority accorded to the Superintendent or the Board of School Committee. Rather, the Board of Mayor and Aldermen wishes to eliminate the duplication of certain administrative functions while leaving the Board of School Committee in full control of its budget.

While Mr. Eggert cites RSA 194:1 and RSA 194:2 for the proposition that the School District is a distinct legal entity, nothing in RSA Chapter 194 precludes the establishment of a single municipal corporation of which the School District is a part. Mr. Eggert also quotes Judge Nadeau's decision in City of Manchester School District v. City of Manchester 98-C-458, Hillsborough County Superior Court, Northern Judicial District, (Nadeau, P.J. May 26, 1999) ("A close inspection of the powers granted to the District and City in the 1996 Charter, and a review of sate law, supports the conclusion that the District is not a City department for several reasons.") for the proposition that the School District must exist as a separate legal entity. Judge Nadeau did not so rule. While Judge Nadeau did state that review of the Manchester City Charter and state law supported the conclusion that the School District is not a City department he did not rule that the School District must be a separate corporation. Rather as state law provides, see RSA 198:4-b ("Every School District annually by an article in the Warrant, and the governing body of a City upon recommendation of the School Board, when the operation of the schools is by a department of the city ...") a school district may be a city department.

Like wise no where in RSA chapter 194-C is it required that a school administrative unit be a separate legal entity. RSA 194-C:1 mirrors RSA 194:2 and provides that school administrative units shall be corporations chapter 194-C does not require it be a corporation separate and district from the city.

Clearly establishing one municipal corporation comprised of both the City and the School District is consistent with both RSA chapters 194 and 194-C.

Nor is having a single municipal corporation with the School District as a department inconsistent with RSA 49-C. RSA 49-C:2 provides ". . . any municipality . . . shall . . . enjoy all the rights, immunities, powers and privileges and be subject to all duties and liabilities now incumbent upon them as a municipal corporation . . . ". RSA 49-C:21 provides "The City shall have departments, divisions and bureaus as may be established by charter or as the elected body may establish by ordinance." RSA49-C:34 goes on to say, in part, "All general laws relative to the government of cities shall remain in force so far as the same can be applies consistently with the intents and purposes of this charter." RSA 49-C has no provision that is inconsistent with having a single municipal corporation with the schools being a department thereof.

Dean Eggert argues that the election of the Board of School Committee members is inconsistent with the School District being a department of the City as a department head is appointed by the Board of Mayor and Aldermen. There is no provision in the general law of the state to support Mr. Eggert's argument. To the contrary there is nothing inconsistent in having an elected department head. Many municipalities, including Manchester have elected department heads in the form of the Commissioner of Welfare while other department heads are appointed by the executive or legislative body. There are municipalities in New Hampshire with elected chiefs of police or fire chiefs. That is certainly not inconsistent with having police or fire as a department of such a municipality.

Attorney Eggert argues that the proposed charter amendment is internally inconsistent with the balance of the charter. Attorney Eggert goes on to note that "Judge Nadeau enumerated several reasons why the District is not a department of the City." While Judge Nadeau, on pages 6 and 7 of his opinion, does list a number of reasons why the school district is not a department of the City it is clear that he does so in the context of interpreting the present charter to arrive at and support his ultimate decision that the School District is not a department of the City. Clearly, the a adoption of an amendment to the city charter that explicitly provides that the municipal corporation is the school district, and that the District is operated as a city department by the Board of School Committee, would make it unnecessary to look at other provisions of the city charter, as Judge Nadeau did, in an attempt to determine whether the school district is or is not a City department. (see also Laws of the State of New Hampshire 1868, Chapter 24). Attorney Eggert also states "That Attorney General is encouraged to note that such an amendment is likely to create confusion between the District's fiscal autonomy under state law and the stated intent of the Board of Mayor and Aldermen." Attorney Eggerts statement, even if it were true, does not go to the power of the people of Manchester to provide that the School District and the City shall be a single municipal corporation with the School district being a part thereof by amending the City charter as provided for in RSA 49-B and 49-C.

The proposed charter amendment does not violate the state constitution. While Part I, Article 39 does contain the language quoted by Attorney Eggert the clear import of Part I, Article 39 is to allow a change in the charter or form of government of a particular city or town "to become effective only upon the approval of the voters of each such city

or town on a referendum". The City of Manchester has always followed this mandate, even prior to the enactment of Part I, Article 39 on November 11, 1996. In so far as Part I, Article 39 does require that "The legislature may by general law authorize cities and towns to adopt or amend their charters or forms of government in any way which is not in conflict with general law ..." the proposed amendment does not conflict with any part of the general laws as set forth above.

Even if you accept Attorney Eggerts assertion that the budget authority of the City over a School District should be narrowly construed the proposed charter amendment does not violate such a prescription.

The Manchester City Charter provides that the Board of Mayor and Aldermen set the maximum dollar amount of the School District Budget (Article VI, Sec. 606) see also City of Manchester School District v City of Manchester, Hillsborough County Superior Court, Northern Judicial District, 98-E-0458 (Nadeau, P.J. May 26, 1999) pages 13, 18. If the Board of Mayor and Aldermen is to meaningfully exercise its power to set the maximum dollar amount of the School District budget it must receive budget and expenditure information from the School District in an appropriate format so that the Board of Mayor and Aldermen may analyze school district information in a manner consistent with its budgetary process and then set a maximum dollar amount for the school department budget that will fulfill the school departments reasonable needs. The proposed amendments to Charter Section Article VI, Sec. 6.03, Article VI Sec. 6.06 and Article VI, Sec. 608 formalize the Mayor's ability to request financial information from the school district at a time and in a format that will allow the Board of Mayor and Aldermen to give it meaningful consideration as part of the Board's budget process. The

proposed charter amendments to not extend to the City authority over school district finances. The Board of Mayor and Aldermen must still appropriate the school district budget as a single line item (Manchester City Charter Article VI, Sec. 6.04 (c) (copy attached). The School District retains its exclusive authority to transfer funds among line items in the school budget (Proposed charter amendment, Article VI, Sec. 6.06).

As the New Hampshire Supreme Court observed in Franklin v Hinds, 101 N.H. 344, 345 (1958). "The degree of control to be exercised by either school board members or municipal officers must be ascertained by reference to statutory and charter provisions." The proposed amendments to the Manchester City Charter are intended to clarify the relationship between the City and the School District by providing that the City and School District shall be one municipal corporation with the School District as a department of the City administered by the Board of School Committee. As the Board of School Committee retains its fiscal and administrative authority the proposed amendments are in compliance with the general laws of the state.

Very truly your,

Thomas I. Arnold, III
Deputy City Solicitor

TIA/hms

SECTION 6.04 BUDGET ADOPTION.

(a) *Notice and hearing.* The board of mayor and aldermen shall publish a copy of the proposed budget, a notice stating the times and place where copies of the message and budget are available for inspection by the public, and the time and place for a public hearing on the mayor's budget as submitted, at least one week in advance of the public hearing.

(b) *Amendment before adoption.* After the public hearing, the board of mayor and aldermen may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for an estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than total estimated income and provided that no consolidation of city departments shall be accomplished solely in the budget process without separate and specific additional action by the board of mayor and aldermen. If amendments are made to the budget submitted by the mayor, a second public hearing may be held providing public comment on the changes made, prior to the final adoption of the budget.

(c) *Adoption.* The board of mayor and aldermen shall adopt the budget on or before the second Tuesday in June of the fiscal year currently ending. Such adoption shall include such appropriation and revenue ordinances as shall be required to fund the budget adopted. The power of the mayor to veto acts of the board shall apply to the entire budget or any line item thereof stating the specific reasons for the objection and the proposed alternatives to the item vetoed, subject to the power of the board of aldermen to override. In the event of the exercise of a line item veto all portions of the budget not so vetoed shall be passed. (As used herein "line item" shall mean any object of expenditure listed in the budget.) The school department budget shall constitute a single line item. Action by the board of aldermen on any veto shall be completed by June 30. The final adoption of the budget shall require, subject to the veto powers of the mayor, the vote of eight members of the board of aldermen.

(d) If the board of mayor and aldermen shall fail to adopt appropriation resolutions for the ensuing fiscal year as provided herein, the budget as originally submitted by the mayor shall become the budget.

WADLEIGH, STARR & PETERS, P.L.L.C.

THEODORE WADLEIGH (Of Counsel)
WILLIAM C. TUCKER
EUGENE M. VAN LOAN III
JOHN E. FIUBERG, Sr.
JAMES C. WHEAT
JOHN A. LASSEY
RONALD J. LAJOIE
KATHLEEN N. SULLIVAN
JEFFREY H. KARLIN
DONALD J. PERRAULT
MARC R. SCHEER
GREGORY G. PETERS

Attorneys At Law
95 Market Street
Manchester, New Hampshire 03101
Telephone (603) 669-4140
Facsimile (603) 669-6018

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PAUL L. APPLE
JENNIFER L. MURPHY
TODD J. HATHAWAY
STEPHEN L. BOYD

February 21, 2003

Dr. Michael Ludwell
Manchester School District
196 Bridge Street
Manchester, NH 03104

Re: Legal Fees; Docket No. 01-E-0149

Dear Dr. Ludwell:

This letter will serve to confirm that the School District's legal fees in the case of the Manchester School District v. The City of Manchester, Docket No. 01-E-0149 from its inception (April 2001) through February 1, 2003 total $74,870.09. These fees also include the following:

1. Litigating enforcement issues from Declaratory Judgment I;

2. Negotiation of the partial settlement of the Declaratory Judgment I issues;

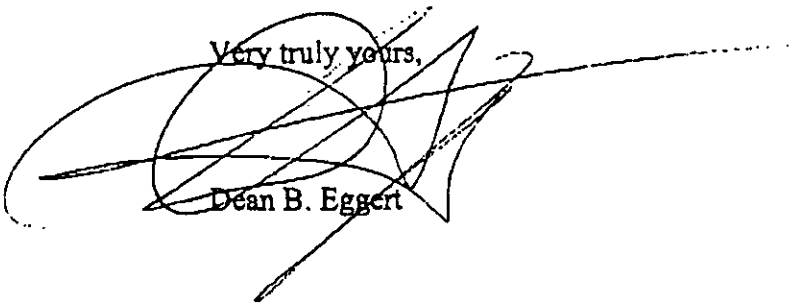
3. Negotiation between the City and District; and

4. Litigation of the proposed and subsequently adopted Charter Amendments.

The City has consistently opposed this litigation over the past three years, including the City's recent Motion to Reconsider Judge Mangones' decision in favor of the District. Therefore,

I anticipate that there will be some additional expenses associated with defending that motion.

Very truly yours,



Dean B. Eggert

/ajm

CITY OF MANCHESTER
Board of Aldermen

February 18, 2003

State Representative Betsey Patten
Municipal and County Government Committee
New Hampshire House of Representatives
Legislative Office Building
Room 301
Concord, NH 03301

Representative Patten:

The undersigned Alderman of the city of Manchester hereby acknowledge, affirm and support the city of Manchester election results of ballot question 1 on November 6, 2001, which supports a charter amendment to read as follows:

"the charter of the city of Manchester, NH to provide that the city of Manchester shall constitute a single school district administered by the Board of School Committee as a department of the city of Manchester."

As you will note, the results of the November 6, 2001 constituted over 60% voter support of the proposed charter amendment.

Respectfully,

Frank C. Mark. Ward 3 WARD 9
Ward 5 Ward 4
Dave Wihby WARD 1
Ward 7
Ward 6
Ward 10
12

One City Hall Plaza, Manchester, NH 03101 Phone (603) 624-6455 Fax (603) 624-6481
www.ci.manchester.nh.us

OFFICIAL RESULTS

City of Manchester - Non-Partisan Municipal General Election

November 6, 2001

	WARD 1	WARD 2	WARD 3	WARD 4	WARD 5	WARD 6	WARD 7	WARD 8	WARD 9	WARD 10	WARD 11	WARD 12	
R													
A. Baines*	1602	1073	703	784	736	1420	872	1306	1074	1203	693	875	1
d H. Girard	1073	789	534	512	517	1014	661	1024	781	853	619	810	
	2675	1862	1237	1296	1253	2434	1533	2330	1855	2056	1312	1685	
ARE COMMISSIONER													
Gonzalez	1224	869	593	535	403	1002	607	967	778	859	513	764	
. Martineau*	1310	923	582	692	750	1291	877	1277	1006	1117	750	854	1
	2534	1792	1176	1227	1153	2293	1484	2244	1784	1976	1263	1618	
RMEN AT-LARGE													
Dykstra	917	703	483	407	413	893	501	876	587	594	408	554	
D. Hirschmann	788	412	201	249	213	514	298	555	415	404	324	720	
el "Mike" Lopez*	1221	940	584	538	578	1092	674	1041	893	1219	712	741	1
P. O'Neil"	1320	988	583	752	713	1341	954	1255	1013	992	547	627	1
	4246	3043	1851	1946	1917	3840	2427	3727	2908	3209	1991	2642	
OL BOARD AT-LARGE													
rd E. Cook	1347	710	425	383	334	769	433	737	616	624	342	520	
elyn Domainguo	812	546	402	345	333	728	471	1042	586	627	418	570	
en Kelley*	1044	610	553	566	536	1104	644	869	724	868	534	674	
J. McDonough*	1055	906	508	666	648	1092	795	1017	878	1097	589	707	
	4258	2772	1888	1960	1851	3869	2540	3665	2804	3376	1883	2471	
TION 1													
(SCHOOL QUESTION)	1503	1019	641	640	666	1378	790	1390	986	961	723	906	
	957	726	396	529	424	891	508	842	600	695	446	539	
	2460	1745	1037	1169	1090	2269	1305	2232	1586	1656	1169	1445	
TION 2													
(REDISTRICTING BOUNDARIES)	1995	1419	842	935	791	1366	990	1750	1210	1237	922	1157	
	429	319	190	222	274	904	297	473	369	395	229	291	
	2424	1738	1032	1157	1065	2270	1287	2223	1579	1632	1151	1448	

* Denotes winner of race

FEB-12-2003 15:15 CITY CLERK OFFICE 6036246481 P.02

Election Result Totals

November 6, 2001

Question 1
School Question

For	11,603	60.6%
Against	7,553	39.4%
Total	19,156	

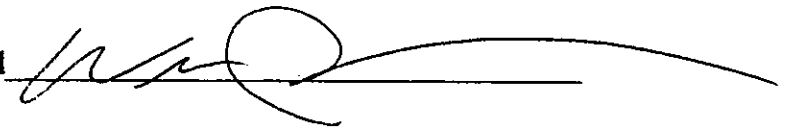
Vote for Mayor

Baines	12,321	57.3%
Girard	9,187	42.7%
Total	21,508	

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed 

Representative(Print) WILLIAM INFANTINE

District 54

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Rep Sandra Reeves

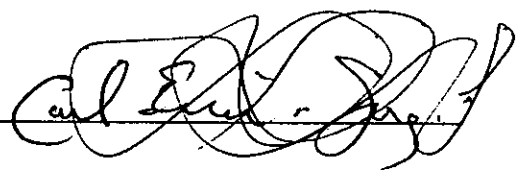
Representative(Print) SANDRA REEVES

District 4/9

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed 

Representative(Print) CARLOS GONZALEZ

District 49

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Steve Vaillancourt

Representative(Print) STEVE VAILLANCOURT

District 56

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed _____

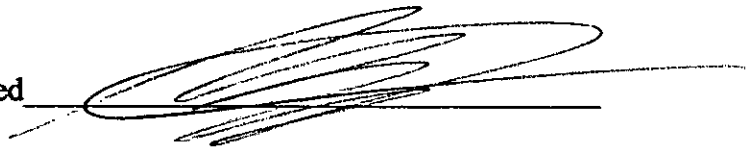
Representative(Print) William Beaton

District 49

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed 

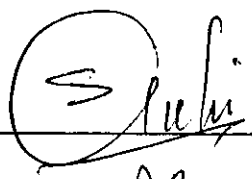
Representative(Print) Gary Greenberg

District 50 WARD - 2 - 3 - 10 - 11

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed  Rep.

Representative(Print) SAGHIR A. TAHIR

District 50, HILLSBOROUGH COUNTY

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed J Gail Barry

Representative(Print) J. GAIL BARRY

District 35

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Vivian J Desmarais

Representative(Print) VIVIAN J DESMARAIS

District 53

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed _____

Representative(Print) Leo Pepino

District 51

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed _____

Representative(Print) BERNARD LUEBKERT

District 54

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Maurice L. Pilotte

Representative(Print) MAURICE L. PILOTTE

District 55

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed _____

Representative(Print) Benjamin C. Baroody

District Hills 54

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Paul A Brassard

Representative(Print) Paul A. Brassard

District 50

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Francis B Sullivan

Representative(Print) Francis Sullivan

District 53

2/20/02

RE: House Bill 778-L

I, the undersigned House Representative hereby support House Bill 778-L relative to the City of Manchester, NH School District.

Signed Eric Palange

Representative(Print) Eric Palange

District 52

The E
The U

Editorials

Honor the voters' wishes

Revoke the school board's spending privileges

MANCHESTER VOTERS sent the Board of School Committee a message in the fall of 2001. The message was: "You have proven that you cannot be trusted with our money, therefore we are giving control of the schools' purse to the Board of Mayor and Aldermen." Not only did the school board not get the message; since then they have provided further proof that the voters were right.

Today the House Municipal and County Government Committee will hear House Bill 778, introduced by Manchester Rep. Will Infantine. The bill would put into law the structural change voters approved a year and a half ago but which the school board has so far successfully halted in the courts. That is, it would move control of school finances from the school board to the aldermen.

As if to illustrate just how irresponsible they are with taxpayer money, the school board thus far has spent $74,870 in legal fees to fight the structural change approved directly by the voters in 2001. This is after the board plunged the schools into debt and had to be forced by court order to stop squandering money.

School board members will testify against the bill today. We bet they won't mention their profligate spending that prompted the voters to take away their fiduciary powers.

Members of the committee should know that the residents of Manchester want this change. They are like a person who finally, reluctantly takes the car keys from a drunk family member after bailing him out of jail one too many times. The school board has given ample proof that it has a money problem. The only way to solve that is to take away its allowance. The voters of Manchester already have voted to do this. Legislators should honor their wishes.

Call on the carpet

Questions remain on Barrington billing scandal

BARRINGTON SELECTMEN voted in December to hire a private investigations company to trail a town employee suspected of defrauding the town. Ironically, one of the selectmen is now suspected of possible unethical behavior. The company [illegible] they hired was owned by one of their own? If not, why not?

Also, selectmen hiring private investigators to spy on town employees is suspicious in itself. Aren't the local police capable of investigating employees suspected of criminal behavior? We would hope the Bar-

TITLE XV
EDUCATION

CHAPTER 194
SCHOOL DISTRICTS

General Powers and Duties

Section 194:3

194:3 Powers of Districts. – School districts may raise money, as required by law, or, in addition thereto:

I. To procure land for lots for schoolhouses and school administrative unit facilities, and for the enlargement of existing lots;

II. To build, purchase, rent, repair, or remove schoolhouses and outbuildings, buildings to be used for occupancy by teachers in the employ of such school district, and buildings to be used for educational administration including office facilities for school administrative units;

III. To procure insurance against such risks of loss, cost or damage to itself, its employees or its pupils as its school board may determine;

IV. To provide group plan life, accident, medical, surgical and hospitalization insurance benefits, or any combinations of such benefits, for all regular employees of the district and their dependents, the cost thereof to be borne in whole or in part by the district;

V. To plant and care for shade and ornamental trees upon schoolhouse lots;

VI. To provide suitable furniture, books, maps, charts, apparatus and conveniences for schools;

VII. To purchase vehicles for the transportation of children;

VIII. To provide for health and sanitation;

IX. To provide for adult high school diploma and continuing education programs; and

X. To pay debts.

Source. RS 71:1. 1845, 224. CS 75:1. 1853, 1435. 1862, 2619:1, 2. GS 78:18; 80:1. GL 86:18; 88:1. 1889, 82:1. PS 89:3. 1911, 46:1. 1913, 51:1. 1921, 85, IV:3. PL 119:3. RL 138:3. 1951, 211:1. RSA 194:3. 1959, 164:1. 1967, 267:1; 449:1. 1975, 363:2. 1979, 459:4, eff. Aug. 24, 1979.

The Edito

The Union Leader o Man

Editorials

School budget shuffle

Put Manchester's school budget where it belongs

FRESHMAN state Rep. Will Infantine of Manchester wants to put the Manchester school budget where it belongs: under the direction of city aldermen. Of course, the Manchester school board is opposed, and continues to insult the voters and the taxpayers with its opposition.

Infantine has said he will introduce a bill in the Legislature that will give aldermen control of school finances. Infantine is getting off to a good start in the House by making this his first public issue. Not only is it a good idea, but it has the strong backing of Manchester residents, who voted last year to give aldermen control of school budgets.

The voters' wishes were rebuffed by the school board, which challenged the results of the referendum in court and won. School Board Chairman Leslie Stewart insulted voters with her comment in Friday's Union Leader, in which she said, "I have to wonder if the voters did really understand the ballot question." That's right, you're all too dense to understand, and you should leave these complex school funding issues to the school board, which has spent itself into a deficit out of which it is still climbing.

Stewart also said school finances should be left under the school board's control because, "We've shown as a board and a district, at least these past couple of years, we're absolutely responsible in handling our funds."

Yeah, because the board is operating under the terms of a legal settlement that requires it to be fiscally responsible. Before that, the board ran up a deficit of more than $3 million.

School finances belong under the direction of the aldermen. Rep.-elect Infantine's bill would put them there if it passes, and we hope it does.

Unfunded mandates

They go far beyond No Child Left Behind

SCHOOL administrators in New Hampshire are angry at the federal government. They say tricts will have to comply with the No Child Left Behind Act. School administrators estimate it will cost school districts an additional $575

Tiny envelo

THE TREE IS UP, battle of the lights ra Big, colored ones ("th my used to have") ha over the tiny white v year in a row. But aft blown fuses (I swear Chinese are going to try, through cheapo ones retreated, leavi the only alternative.

Not that it matters. tain family members enough lights on the you could see a whol one of our trees.

The cards have bee dressed. Now if they will mail them before had them almost all last week, waxing se radio played carols a of "Let It Snow."

Writing cards, espe from long ago or far little joys of the seas what he was dreamin wrote, "with every C write."

But Irving forgot had I finished my w cards on the kitchen Claus decided it was

The text of the proposed amendment is as follows:

Article IV. School and School Committee, Section 4.01 School District shall be amended to read as follows:

> The City of Manchester, a municipal corporation, shall continue to constitute a single school district, administered by the board of school committee as a department of the City of Manchester. Wherever this charter refers to the school district, school district shall also mean school department. Except as otherwise provided in this charter the board of mayor and aldermen and the school committee shall continue to exercise such power in relation thereto as these respective bodies exercised at the time of the adoption of this charter.

Article VI. Budgets and Appropriations, Section 6.03 (a) Budget Formulation, Submission and Message shall be amended to read as follows:

> The mayor shall establish the form and organization of procedures for preparation and adoption of the annual budget, including the school department budget, the capital improvement budget, and other budget instruments and plans for future fiscal periods as the mayor deems appropriate and which shall conform to all city ordinances concerning budgets and fiscal matters. Such procedures shall require that all budgets include all proposed expenditures according to general objects of expenditure and the proposed use and all anticipated revenue.

Article VI. Budget and Appropriations, Section 6.06 School District Budget shall be amended to read as follows:

> The school committee shall prepare and submit its budget proposal. The budget shall be subject to the approval of the board of mayor and aldermen. The budget shall be submitted in accordance with the budget form, organization of procedures and schedule established by the mayor under Section 6.03(a). The board of mayor and aldermen shall accept such budget as submitted, or reject it and return it to the school committee along with the explanation for rejection and the maximum dollar amount which the board of mayor and aldermen will approve. The school committee shall then submit a revised
> budget, which shall not exceed the maximum dollar amount established by the board of mayor and aldermen. The school committee shall administer, expend and account for the funds approved by the board of mayor and aldermen and shall have the exclusive authority to transfer funds among line items in the school budget.

Article VI. Budgets and Appropriations, Section 6.08 shall be amended to read as follows:

> The board of mayor and aldermen may provide by ordinance any additional procedures for administering of the budget, including the budget of the school department.

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 778-L

BILL TITLE: **relative to the city of Manchester school district.**

DATE: March 18, 2003

LOB ROOM: 301

Amendments:

Sponsor: Rep. Infantine	OLS Document #:	2003	0752h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

Motions: (OTP) OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Pappas Amendment

Seconded by Rep. Boyce

Vote: 13-1 (Please attach record of roll call vote.)

Motions: OTP, (OTP/A) ITL, Interim Study (Please circle one.)

Moved by Rep. Pappas

Seconded by Rep. Gillick

Vote: 11-3 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: No

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Priscilla P. Lockwood, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 178-L **Title:** Cemend & Main. Sch Dist.

PH Date: 3/3/03 **Exec Session Date:** 3/18/03

Motion: OTP **Amendment #:** 2003-0752h

MEMBER	YEAS	NAYS
Patten. Betsey L. Chairman	13	
Brundige. Robert W. V Chairman	1	
Lockwood. Priscilla P	2	
Twomblv. James E	3	
Bovce. Laurie J	4	
Dumaine. Dudlev Daniels	5	
Pappas. Marc	6	
Dunne. Christopher H	absent	
Stohl. Eric G	7	
Noves. Richard A	8	
Buhlman. David L	absent	
Dovle. Christopher L	absent	
Dupuis. Roland L	9	
Gillick. Thomas J	10	
Gould. Kenneth H	11	
Johnson. Nancv K	absent	
Coonev. Marv R	absent	
Davidson. Robert A	absent	
Osborne. Jessie L		1
Schmidt. Peter B	12	
Theberge. Robert L	absent	
TOTAL VOTE:	13	1

Printed: 1/6/2003

OFFICE OF THE HOUSE CLERK 2003 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 778-L **Title:** Manchester Sch. Dist.

PH Date: 3/3/03 **Exec Session Date:** 3/18/03

Motion: OTP-A **Amendment #:** 2003-0752h

MEMBER	YEAS	NAYS
Patten. Betsey L. Chairman	11	
Brundige. Robert W. V Chairman	1	
Lockwood. Priscilla P	2	
Twomblv. James E	3	
Bovce. Laurie J		1
Dumaine. Dudlev Daniels	4	
Pappas. Marc	5	
Dunne. Christopher H	absent	
Stohl. Eric G	6	
Noves. Richard A	7	
Buhlman. David L	absent	
Dovle. Christopher L	absent	
Dupuis. Roland L	8	
Gillick. Thomas J	9	
Gould. Kenneth H	10	
Johnson. Nancv K	absent	
Coonev. Marv R	absent	
Davidson. Robert A	absent	
Osborne. Jessie L		2
Schmidt. Peter B		3
Theberge. Robert L	absent	
TOTAL VOTE:	11	3

Printed: 1/6/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 778-L**

TITLE: relative to the city of Manchester school district.

DATE: March 20, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill is simply enabling legislation that would allow the City of Manchester to put a referendum question on the ballot allowing the citizens of Manchester to decide whether or not to return the school district to a city department. The referendum question would need to be passed by a two-thirds super majority, which will clearly state the will of the people of Manchester. In a previous referendum on this issue, 61% of the citizens of Manchester voted to return the school district to a department of city government. However, because the city did not first obtain permission from the legislature, the initiative was deemed invalid. This bill is not unlike similar legislation that was passed three years ago, in which the City of Nashua sought to return control of its school district to a city department. It should be noted that in addition to the majority of Manchester's legislative delegation, twelve of the fourteen city aldermen whole-heartedly support the goal of this legislation.

Vote 11-3.

Rep. Marc P. Pappas
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

Municipal and County Government

HB 778-L, relative to the city of Manchester school district. **OUGHT TO PASS**

Rep. Marc P. Pappas for Municipal and County Government: This bill is simply enabling legislation that would allow the City of Manchester to put a referendum question on the ballot allowing the citizens of Manchester to decide whether or not to return the school district to a city department. The referendum question would need to be passed by a two-thirds super majority, which will clearly state the will of the people of Manchester. In a previous referendum on this issue, 61% of the citizens of Manchester voted to return the school district to a department of city government. However, because the city did not first obtain permission from the legislature, the initiative was deemed invalid. This bill is not unlike similar legislation that was passed three years ago, in which the City of Nashua sought to return control of its school district to a city department. It should be noted that in addition to the majority of Manchester's legislative delegation, twelve of the fourteen city aldermen whole-heartedly support the goal of this legislation. **Vote 11-3.**

COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 778**

TITLE: relative to the city of Manchester school district.

DATE: March 20, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill is simply enabling legislation that would allow the City of Manchester to put a referendum question on the ballot allowing the citizens of Manchester to decide whether or not to return the school district to a city department. The referendum question would need to be passed by a two-thirds super majority, which will clearly state the will of the people of Manchester. In a previous referendum on this issue, 61% of the citizens of Manchester voted to return the school district to a department of city government. However, because the city did not first obtain permission from the legislature, the initiative was deemed invalid. This bill is not unlike similar legislation that was passed three years ago, in which the City of Nashua sought to return control of its school district to a city department. It should be noted that in addition to the majority of Manchester's legislative delegation, twelve of the fourteen city aldermen whole-heartedly support the goal of this legislation.

Vote 11-3.

Rep. Marc P. Pappas
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

bkp

COMMITTEE REPORT

COMMITTEE: **Municipal and County Government**

BILL NUMBER: **HB 778**

TITLE: relative to the city of Manchester school district.

DATE: March 20, 2003 CONSENT CALENDAR YES ☐ NO ☒

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill is simply enabling legislation that would allow the City of Manchester to put a referendum question on the ballot allowing the citizens of Manchester to decide whether or not to return the school district to a city department. The referendum question would need to be passed by a two-third S super majority, which will clearly state the will of the people of Manchester. In a previous referendum on this issue, 61% of the citizens of Manchester voted to return the school district to a department of city government. However, because the city did not first obtain permission from the legislature, the initiative was deemed invalid. This bill is not unlike similar legislation that was passed three years ago, in which the City of Nashua sought to return control of its school district to a city department. It should be noted that in addition to the majority of Manchester's legislative delegation, twelve of the fourteen city aldermen whole-heartedly support the goal of this legislation.

Vote 11-3.

Rep. Marc P. Pappas
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

bdp

USE ANOTHER REPORT FOR MINORITY REPORT

Disko, Katherine

From: Marc Pappas [marcpappas@yahoo.com]
Sent: Thursday, March 20, 2003 8:45 AM
To: Disko, Katherine
Subject: Re: E-mail address...

HB778

This bill is simply enabling legislation that would allow the city of Manchester to put a referendum question on the ballot allowing the citizens of Manchester to decide whether or not to return the school district to a city department. In a previous referendum on this issue, 61% the citizens of Manchester voted to return the school district to a department of city government. However, because the city did not first obtain permission from the legislature, the initiative was deemed invalid. This bill is not unlike similar legislation that was past 3 years ago, in which the city of Nashua sought to return control of its school district to a city department. It should be noted that in addition to a majority of Manchester's legislative delegation, twelve of the fourteen city alderman whole heartedly support the goal of this legislation.

(1) the referendum question would need to be passed by a 2/3 ~~Majority~~ Super majority which will clearly ~~so~~ state the will of the people of Manchester.

Rep. Marc Pappas
NH House of Representatives

Do you Yahoo!?
Yahoo! Platinum - Watch CBS' NCAA March Madness, live on your desktop!