

Act 153 Recommendations

Recommendations for amendments to Vermont Act 153 of 2010 and for implementation support by the Vermont Department of Education and other organizations.

These recommendations were developed by a task force of representatives of Vermont's superintendents, directors of special education and school business officials.

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Task Force Participants

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Introduction

The goal of the Act 153 Task Force was to review Act 153 in its entirety and develop recommendations for amendments to the law and for improving the implementation supports that are being provided by the Vermont Department of Education and other agencies.

The recommendations incorporated within this report were developed over two day-long sessions with subsequent review by members using electronic communications.

The Task Force conducted its work in the five steps outlined below:

- 1) A “table-top” review of Act 153 in its entirety.
- 2) An in-depth section by section review and discussion of the Act including suggestions by Task Force members for improving the Act.
- 3) Development of consensus around the recommendations for improvements to Act 153.
- 4) Discussion (and development of consensus) related to suggestions for implementation supports related to the Act.
- 5) Development and review of this report. (via electronic communications)

The Task Force recommendations are organized in two sections.

The first section contains recommendations that would require amendments to the law. The second section addresses implementation supports that would require action by the Department of Education, State Board of Education and/or other entities, but would not require amendments to the law.

Recommendations for Changes to Act 153

1) Repeal Section 2-C which requires supervisory union boards to vote on “whether to perform a more comprehensive analysis of merger . . .” and report the results of the vote to the Commissioner of Education on or before October 1, 2012.

Rationale: The merger provisions of Act 153 are intended to be voluntary. To require supervisory union voting action related to merger analysis sends a conflicting message. Boards are fully aware of Act 153 and can respond to the law appropriately without a requirement for voting action.

2) Establish merger incentives that are more easily understood by school officials, voters and the public-at-large. This could be accomplished by establishing a direct cash incentive as an alternative to the tax rate incentive. In certain districts, the tax rate incentive will be preferable and should be retained as an option.

Rationale: As school district officials and members of the public consider mergers, the complexity of the tax rate incentives and the percent increase/decrease tax rate feature

complicates the ability to understand Act 153's funding incentives. A simple cash incentive would be more easily understood and presented.

3) Make consulting services reimbursement grants available for forms of school district and supervisory union mergers in addition to the Regional Education Districts (REDs) contemplated under Act 153. For example, the merger of supervisory unions or the creation of unified unions that do not have the scale required by Act 153 should also be considered for consulting services reimbursement grants.

Rationale: Act 153 has inspired discussions for mergers that extend beyond the REDs envisioned within the Act. In some regions of the State, supervisory union mergers are being contemplated. Additionally, school district officials are considering merger activities that do not fulfill the Act 153 minimum size requirements. School districts that are considering revisions to governance structures with the objectives of better opportunities for students and increased efficiencies should be eligible for consulting services reimbursements.

4) Act 153 and School Choice: Amend Act 153 to provide merger incentives when two contiguous mergers are completed together that, in total, meet the 4 district/1250 ADM standard. This would allow several districts with choice and several districts without choice to merge into two distinct Regional Education Districts (the fewest number possible that preserve historic school choice opportunities) presumably within the same supervisory union.

For example, if a supervisory union was comprised of 3 districts with school choice and 3 without, RED incentives would be provided if the like-districts merged, reducing the number of districts in the supervisory union from 6 to 2.

Rationale: Concerns about forfeiting historic school choice opportunities in districts within supervisory unions that also serve districts without choice are impeding RED merger explorations. This dynamic is considered impossible to overcome within current RED incentive eligibility guidelines. In order to preserve historic choice opportunities and make progress in facilitating voluntary mergers, merger incentives should be available when districts within a supervisory union (or districts coming together from more than one supervisory union) are reduced to the least number possible through mergers of "like" districts.

5) Amend Act 153 to provide merger incentives when a union school district is formed that includes all grades not currently served by an existing union district within a particular supervisory union (e.g., forming a new K-6 union school district in a supervisory union that already has a 7-12 union district).

Rationale: In some supervisory unions with union high schools, some of the districts may wish to pursue merger, while others do not. If these districts belong to the union high school, a RED merger is not achievable. This amendment would provide incentives for the formation of a union elementary school among willing participants, while leaving alone those districts that choose not to participate.

Please note: Fulfilling this recommendation (5) may require consideration and/or resolution of special circumstances where member districts of a union school district *may* send certain grades to the union school but are not required to do so.

6) Amend Act 153 to provide options to districts following a 706f merger vote where some, but not all, *necessary* districts voted in favor of merger. Following the unsuccessful vote, the districts that affirmatively voted to merge could:

a) Petition the State Board of Education to approve the merger with only those districts that did vote affirmatively, and/or

b) Petition the State Board of Education to approve an expedited planning phase and merger vote by the electorates of those districts that voted affirmatively to merge.

Rationale: If the minimum size requirements can be fulfilled by districts wishing to pursue merger, those districts should be considered for support in RED formation, regardless of whether one or more districts initially considered for RED formation rejects the proposal. Because this action is not fully consistent with the original RED proposal, it should occur after consideration and approval by the state board and/or after a re-vote by the electorate in the districts that voted to proceed with merger.

Please note: Option a) would require an amendment to Title 16 to allow the State Board of Education to reconfigure school district boundaries exclusively under the conditions stated above.

7) Protecting Schools from Closure - with respect to protecting schools from closure:

- **Retain provisions of the law assuring that a school will not be closed for a period of four years after the formation of the RED.**
- **Amend Act 153 to explicitly state that Articles of Agreement can specify that a school will not be closed for a period set forth in the Articles.**
- **In the absence of a protective Article of Agreement, a proposal developed for the closing of a school (by the RED Board) must include a cost-benefit analysis, a plan for educating students in the grades currently served by the school and must be the subject of a minimum of two public hearings.**

Rationale: Act 153 includes a four-year protection against school closure in the event of voluntary merger. RED Articles of Agreement - duly approved - should be able to include extensions to the four year period for an affected school or schools.

In the absence of such protections, the decision to close a school should reside with the RED Board with the caveat that the RED Board must make a public case for school closure in the form of a cost-benefit analysis, a plan for the education of students served by the school proposed for closure and provide for ample opportunity for community input.

8) Amend Title 16 Section 706c to have the report of a 706b study committee sent back to the school boards of participating districts for consideration and formal action before submission to the State Board of Education.

Rationale: Experience with RED and other forms of merger proposals shows that the disposition of a local school board related to a merger proposal can be an indicator of voter reaction and community acceptance. Subjecting the merger proposals to action by the affected boards is a pragmatic step that may 1) save time and resources by providing a gauge of community support and/or 2) serve as a mechanism to gain additional public input with respect to the proposal.

9) Amend Act 153 to provide that Vermont school districts participating in interstate school districts are eligible to receive merger incentives.

Rationale: School districts situated along the Vermont border whose best, and in some cases only, option for merger exists with districts in an adjoining state should be eligible to receive merger incentives.

Recommendations for Implementation Supports

10) The Department of Education should convene a work group comprising Department of Education staff, local school administrators and board representatives to work out details associated with the implementation of 16 VSA Section 261a (6) related to delivery of special education services at the supervisory union level.

The delivery of special education at the supervisory union level should be an area of specific attention with respect to waiver eligibility.

Rationale: Among the Task Force, there was broad agreement that the delivery of special education services by the supervisory union was the area that will require greatest implementation assistance and technical support. The Task Force did not have sufficient time to undertake a full review and address of the issues associated with special education delivery and has therefore identified the topic as in need of special attention.

The Task Force does not support repeal of the requirement for delivery of special education services at the supervisory union nor does it support further postponement of the implementation deadline for delivery of services at the supervisory union level.

11) The Department of Education should establish an Act 153 Attorneys' Advisory Council. The Council would work to reconcile and expedite legal determinations regarding questions associated with the implementation of Act 153 and related matters.

The Council should include legal counsel at the Vermont Department of Education, a representative of the General Assembly's Legislative Counsel assigned to education legislation, private attorneys and the Associate Director for Legal Services at the Vermont School Boards Association.

Rationale: Task Force members reported hearing about and experiencing conflicting legal opinions related to Act 153 implementation questions. These conflicting opinions, while not surprising during the early phases of Act 153 implementation, create impediments to timely

decision making on the part of the local school officials contemplating merger activities.

12) The DOE should revise the Act 153 merger template to include delineation of improved student opportunities and outcomes resulting from the proposed merger.

Rationale: The first finding in Section 1 of Act 153 states “the voluntary merger of Vermont’s education governing units will support: (A) increased educational opportunities for all students, including the effective use of technology to expand those opportunities;” It would be useful and instructive to school officials and voters considering voluntary mergers if the template included an emphasis on student opportunities.

13) The Vermont Department of Education and the State Board of Education should conduct a statewide summit on Act 153.

Rationale: The summit would serve as a forum for conveying information about the implementation of Act 153, for restating the rationale behind the law, for providing case studies on Act 153 activities that have occurred so far and for sharing perspectives from state and local officials.

14) The Department of Education should strengthen its technical support resources by supplementing supports provided by Act 153 Coordinator Vaughn Altemus with immediate access to reliable, one-stop shopping advice on technical and legal issues for local school officials.

Rationale: Local school officials would benefit from stronger, more systemic supports as they contemplate and pursue Act 153 related activities.

Note:

In the course of Act 153 review and discussions, two ancillary recommendations were discussed and supported by Task Force members. Those recommendations are:

- 1) That the Department of Education and State Board should review research-based guidelines for staffing levels for specific special education functions and promote those guidelines for use by school districts and supervisory unions.
- 2) That Title 16 should be amended to allow supervisory unions to own property and to borrow money. These abilities would support efforts to create efficiencies through the development of systems to service member districts within a supervisory union.

Please contact Jeff Francis at the Vermont Superintendents Association with questions and/or comments related to these recommendations – email jfrancis@vtvsa.org - telephone 802 229-5834

Business Managers and Directors of Special Education can contact their Association representatives indicated on the cover page of this report.