

The Details of the Regionalization

One of the attorneys involved in the South Hunterdon regionalization explains the all-important technical details that helped ensure its success

Created in 2014, the South Hunterdon Regional School District is New Jersey's newest regional school district. Prior to its creation, the communities of Lambertville, West Amwell, and Stockton were educationally served by three K-6 elementary school districts and a limited-purpose regional district serving students in grades 7-12 — four school districts overseeing the education of roughly 1,000 students in grades K-12.

South Hunterdon is one of a handful of regional school districts that has been created since 1993, when the Legislature last made substantive changes to the regionalization statutes to attempt to encourage the creation of regional school districts in New Jersey. But since 1993 only one regional district has been created. Why haven't more districts regionalized in the last quarter century?

The Importance of Tax Allocation The answer, in large part, is based upon the tax allocation method used to support the operation of those regional districts. If communities cannot be guaranteed tax savings, they often are loathe to give up local control over their schools. While there are often educational benefits to regionalization, many districts do not find those benefits attractive enough to part with their local control if the tax savings are not substantial — or if any one of the communities that must vote to approve regionalization would see a tax increase.

Nevertheless, in some cases, educational benefits and not tax savings drive the desire for regionalization. That was the case for South Hunterdon. The constituent communities of South Hunterdon

found the educational benefits to regionalization so compelling, they dissolved their then-existing regional district, dissolved their local elementary districts, and united to form a new K-12 regional school district.

The Feasibility Study From a legal perspective, one of the first major steps in this re-organization was to analyze the available educational options through the preparation of a feasibility study. A feasibility study is statutorily required in order to move forward with such a change to the governmental structure of a school district.

To facilitate this study, the constituent districts of South Hunterdon created a regionalization committee, which retained the law firm of Porzio, Bromberg, & Newman, P.C. Porzio has experts with whom it works in the fields of education, school finance, and school demography. Each of these areas is required to be analyzed in the feasibility study. While the study was authored by experts in these respective fields, to be comprehensive, the study also included a legal analysis that evaluated, among other things, the impact dissolution or regionalization would have on existing and future contracts, including collective bargaining agreements, and the proposed governance structure of any new district(s).

For South Hunterdon, the authors of the feasibility study recommended that the limited-purpose (grades 7-12) regional district be dissolved and a new K-12 regional district be created in its place. The study outlined the educational and financial benefits of this recommended course of action. There were many reasons to create a

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At a Hunterdon County School Boards Association meeting in February, left to right, Dan Seiter, member, South Hunterdon Regional Board of Education; Dr. Louis Muenker, South Hunterdon superintendent; and Kerri A. Wright and Vito A. Gagliardi Jr., both of Porzio Bromberg & Newman, P.C.

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new K-12 regional, instead of simply expanding the then-existing regional, not the least of which was the termination of all then-existing contracts, including all collective bargaining agreements (CBAs). This approach would allow the new district to negotiate new contracts, rather than be obligated to expand upon those then in place, which could have been quite costly (particularly in the areas of salaries and benefits).

The analysis of the CBAs and other contracts is very complicated and very fact-specific. Indeed, even after the process was complete and the new regional created, it took the new board of education more than a year to finalize the process of recognizing new bargaining units and negotiating new CBAs (the teacher's unit alone went from four units, and four agreements, to one of each).

The feasibility study, and additional analysis provided to the regionalization committee, included a recommendation for a new tax allocation method. Indeed, it was this selection of a new method — one that would be beneficial to all constituent communities — that supported the recommendation to create a new district.

If a limited-purpose regional district is expanded to include additional grades, all then-current contracts would remain in place as would the then-current tax allocation method. For most regional school districts in New Jersey (all but three or four) that would mean continuing the likely disproportionate 100 percent equalized property valuation formula thrust upon all regional school districts by the Legislature in 1975.

Financial Analysis and Advisability Report The financial experts retained by the Porzio team determined that the most equitable tax allocation method for the South Hunterdon regional district would be one based 57 percent on equalized

property value and 43 percent on pupil enrollment. The operative statute, *N.J.S.A. 18A:13-34*, permits districts to select any combination of those two factors. This determination was made using an intricate algorithm developed by the experts to identify the most appropriate tax allocation method, one most likely to benefit all three communities. While tax savings alone did not drive this process for South Hunterdon, an equitable tax allocation method was certainly a critical aspect to gaining support from all three communities.

Upon review and consideration of the feasibility study, the regionalization committee accepted the recommendation and looked to Porzio to guide it through the process. The next step was having a majority of the constituent school districts and a majority of the constituent municipal governing bodies pass resolutions requesting that the Hunterdon Executive County Superintendent conduct an investigation into the dissolution of the regional district and issue an advisability report. This report, by law, is non-binding. It is advisory only. Nevertheless, it is a required step in this process.

Once the advisability report was issued, any constituent district or municipality could petition the commissioner of education for authorization to conduct a referendum on the dissolution of the then-regional district. The current process is slightly different from that in place while South Hunterdon was going through this process. At the time, the petition was filed with the New Jersey Commissioner of Education who then convened a board of review. The board of review received information from the parties and interested members of the public, held a public hearing, and made a determination on the request for authorization to conduct a referendum. In 2015, the law changed. The decision is now made directly by the commissioner.

Public Referendum Porzio facilitated the filing of a petition and all appearances before, and requirements of, the board of review. The board of review granted the petition and directed the executive county superintendent to select a date for the public referendum. The law requires that this referendum be scheduled for a special election; it cannot be placed on the ballot on a general or primary election date. Moreover, due to an outdated statutory structure, there was only one date all year (the fourth Tuesday in September) when this special election could be held. A request was

made, and denied, to have the referendum held in conjunction with the general election in order to avoid the cost of a special election. The cost was borne by the then-existing regional district and the election held in each of the three communities.

In order to satisfy various legal requirements, two questions were required: one for dissolution of the old regional and one for creation of the new regional school district. Porzio pioneered a process, and obtained the necessary New Jersey Department of Education (NJDOE) approvals, so that the first question on dissolution would be contingent on passage of the second question for creation of a new regional district. Without this process and approval from the NJDOE, the communities, theoretically, could have been left with dissolution of their old regional and no new regional — an outcome that was unacceptable to the communities' leaders. This required careful counsel in the drafting of the questions and a significant grassroots effort to educate voters.

Results In 2013 these strategies succeeded and the new South Hunterdon Regional School District was created. In order to pass, the question on dis-

solution had to be approved by a majority of voters in two of the three communities (i.e., a majority of the constituent districts) and by a majority of the overall votes cast in all three communities. The question on creation of a new regional had to be approved by a majority of voters in each of the three communities in order to pass. If any one of the three communities failed to approve the question on creation of a new district, the entire endeavor would have failed.

This process was successful in large part due to the efforts of many community members and leaders who had a vested interest in seeing increased educational opportunities and efficiencies come to South Hunterdon. According to Daniel Seiter, president of the old regional board, chair of the regionalization committee, and the new regional board's inaugural president, "The key to the success of our precedent-setting effort was teamwork. Our school and municipal officials, working with our educational leaders and the team from Porzio, led to a seamless transition into a new educational structure which benefits our communities and the students we serve."

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