

CHAPTER 123

SCHOOL DISTRICTS; TEN OR MORE TOWNSHIPS; COUNTY UNITS;
UNORGANIZED TERRITORY**123.01 SCHOOL BOARDS IN DISTRICTS WITH TEN OR MORE TOWNSHIPS.**

HISTORY. 1861 c. 11 s. 9; 1862 c. 1 s. 7; G.S. 1866 c. 36 s. 7; 1877 c. 74 subc. 2 s. 2; G.S. 1878 c. 36 s. 20; 1881 c. 41 s. 6; 1885 c. 57 s. 1; G.S. 1894 s. 3678; 1899 c. 15; 1903 c. 38; R.L. 1905 s. 1311; 1909 c. 187 s. 1; G.S. 1913 s. 2718; G.S. 1923 s. 2802; M.S. 1927 s. 2802; 1939 c. 62 s. 3; 1941 c. 169 art. 4 s. 1.

This section, when construed in connection with other provisions of law, is not void because its meaning cannot be ascertained or because it is so incomplete that it cannot be carried into effect. *State ex rel v Reusswig*, 110 M 473; 126 NW 280.

123.02 MEMBERS OF SCHOOL BOARD; ANNUAL MEETING; ELECTIONS.

HISTORY. 1937 c. 221 s. 1; 1939 c. 62 s. 8; M. Supp. s. 2802-4c; 1941 c. 169 art. 4 s. 2.

Laws 1939, Chapter 62, repealed all acts or parts of acts inconsistent therewith, but Laws 1939, Chapter 107, relating to the Mankato school district and similar districts, prevails where inconsistent, because passed later. OAG April 18, 1939 (187a-6).

123.03 VACANCIES.

HISTORY. 1937 c. 221 s. 2; M. Supp. s. 2802-4d; 1941 c. 169 art. 4 s. 3.

123.04 ORGANIZATION.

HISTORY. 1937 c. 221 s. 3; M. Supp. s. 2802-4e; 1941 c. 169 art. 4 s. 4.

123.05 WHAT ARE SCHOOLS.

HISTORY. 1937 c. 221 s. 4; M. Supp. s. 2802-4f; 1941 c. 169 art. 4 s. 5.

123.06 TAX LIMITATIONS.

HISTORY. 1937 c. 221 s. 5; M. Supp. s. 2802-4g; 1941 c. 169 art. 4 s. 6.

123.07 SCHOOL DISTRICTS CONTINUE OPERATIONS.

HISTORY. 1937 c. 221 s. 6; M. Supp. s. 2802-4h; 1941 c. 169 art. 4 s. 7.

123.08 POWERS.

HISTORY. 1937 c. 221 s. 7; M. Supp. s. 2802-4i; 1941 c. 169 art. 4 s. 8.

123.09 COMMON SCHOOL DISTRICTS WITH TEN OR MORE TOWNSHIPS AND OVER 30 SCHOOLS; TRUSTEES; ELECTION; VACANCIES.

HISTORY. 1923 c. 143 s. 1; 1925 c. 48 s. 1; M.S. 1927 s. 2802-5; 1941 c. 169 art. 4 s. 9.

MINNESOTA STATUTES 1945 ANNOTATIONS

123.10 TEN OR MORE TOWNSHIPS

752

123.10 ANNUAL AND SPECIAL MEETINGS.

HISTORY. 1923 c. 143 s. 2; 1925 c. 48 s. 2; M.S. 1927 s. 2802-6; 1941 c. 169 art. 4 s. 10.

123.11 DIVISION OF DISTRICTS INTO PRECINCTS.

HISTORY. 1923 c. 143 s. 3; M.S. 1927 s. 2802-7; 1941 c. 169 art. 4 s. 11.

123.12 NOTICE OF SPECIAL ELECTIONS.

HISTORY. 1923 c. 143 s. 4; M.S. 1927 s. 2702-8; 1941 c. 169 art. 4 s. 12.

123.13 OFFICIALS OF SCHOOL ELECTIONS.

HISTORY. 1923 c. 143 s. 5; M.S. 1927 s. 2802-9; 1941 c. 169 art. 4 s. 13.

123.14 ELECTIONS TO CHANGE NUMBER OF TRUSTEES.

HISTORY. 1923 c. 143 s. 6; 1925 c. 48 s. 3; M.S. 1927 s. 2802-10; 1941 c. 169 art. 4 s. 14.

123.15 LAWS APPLICABLE.

HISTORY. 1923 c. 143 s. 7; M.S. 1927 s. 2802-11; 1941 c. 169 art. 4 s. 15.

123.16 SCHOOL BOARDS HAVE RIGHTS OF BOARDS OF INDEPENDENT SCHOOL DISTRICTS.

HISTORY. 1913 c. 465 s. 1; G.S. 1913 s. 2725; G.S. 1923 s. 2803; M.S. 1927 s. 2803; 1941 c. 169 art. 4 s. 16.

The effect of Laws 1913, Chapter 465 (123.16) relating to the powers of school boards in common school districts having ten or more townships, giving them the powers of independent school districts, is not to make such districts subject to Laws 1915, Chapter 111 (124.12) providing for the election of officers and for voting upon the issuance of bonds, and requiring the establishment of precincts, in independent school districts having four or more villages. *Reid v School District*, 152 M 304, 188 NW 319.

A common school district with more than ten townships is not limited to a 30 mills levy for school maintenance, but is limited to an eight mills rate for building and equipment. OAG Oct. 10, 1935 (519m).

A superintendent may be employed at a meeting other than the organization meeting of the new board, and the new board can abrogate the contract with an attorney or physician made by the old board. OAG Sept. 4, 1936 (768k-1).

123.17 COMPENSATION OF OFFICERS.

HISTORY. 1911 c. 148 s. 1; 1913 c. 445 s. 1; G.S. 1913 s. 2719; 1941 c. 169 art. 4 s. 17.

123.18 COMPENSATION FOR EXPENSES.

HISTORY. 1911 c. 148 s. 2; G.S. 1913 s. 2720; 1941 c. 169 art. 4 s. 18.

123.19 TAX LEVY.

HISTORY. 1911 c. 148 s. 3; G.S. 1913 s. 2721; 1941 c. 169 art. 4 s. 19.

123.20 PUBLICATION OF PROCEEDINGS.

HISTORY. 1911 c. 361 s. 1; 1913 c. 353 s. 1; G.S. 1913 s. 2722; 1941 c. 169 art. 4 s. 20.

123.21 MEANING OF PROCEEDINGS.

HISTORY. 1911 c. 361 s. 2; G.S. 1913 s. 2723; 1941 c. 169 art. 4 s. 21.

123.22 PUBLIC EXAMINER TO MAKE ANNUAL INSPECTION.

HISTORY. 1911 c. 361 s. 3; G.S. 1913 s. 2724; 1941 c. 169 art. 4 s. 22.

123.23 FORMATION OF COUNTY SCHOOL DISTRICTS.

HISTORY. 1929 c. 9 s. 1; 1931 c. 31 s. 1; 1933 c. 30; M. Supp. s. 2780-8; 1941 c. 169 art. 4 s. 23.

The school board of a county district organized under this act may, without submitting the matter to the electors, fix school house sites, build school houses, change sites, sell sites and buildings, and levy tax. OAG Sept. 10, 1929.

The state is liable for tuition where high school pupils residing in Lake County, organized into a county district under this law, attend high school at Ely in St. Louis county, though Lake county has a high school. OAG Dec. 9, 1929.

A county school district receiving funds from a dissolved school district has authority to apply the funds received in paying off outstanding bonds of the dissolved district only in so far as trust funds represent levies for the purpose of paying off such bonds. OAG Nov. 26, 1934 (159a-15).

123.24 COUNTY SCHOOL BOARD; ELECTIONS; TERMS.

HISTORY. 1929 c. 9 s. 2; 1935 c. 362 ss. 1, 2; M. Supp. ss. 2780-9, 2780-21, 2780-22; 1941 c. 169 art. 4 s. 24.

123.25 ELECTION DISTRICT.

HISTORY. 1929 c. 9 s. 5; M. Supp. s. 2780-12; 1941 c. 169 art. 4 s. 25.

123.26 MEETINGS AND ORGANIZATION OF BOARD.

HISTORY. 1929 c. 9 s. 2; 1935 c. 362 s. 3; M. Supp. ss. 2780-9, 2780-23; 1941 c. 169 art. 4 s. 26.

123.27 DUTIES OF BOARD.

HISTORY. 1929 c. 9 ss. 3, 4; 1931 c. 31 s. 2; M. Supp. ss. 2780-10, 2780-11; 1941 c. 169 art. 4 s. 27.

Procedure to be followed by the board created under this act in selling abandoned school houses and sites, suggested. OAG July 3, 1930.

The board has the duty to furnish school facilities. The children may be instructed in their own neighborhood, transported to a nearby school, or boarded. They may even anticipate for the benefit of families about to move into the neighborhood. 1942 OAG 42, Oct. 28, 1942 (169-B).

123.28 COMPENSATION OF BOARD MEMBERS; CLERK; TREASURER.

HISTORY. 1929 c. 9 s. 6; 1937 c. 297 s. 1; M. Supp. s. 2780-13; 1941 c. 169 art. 4 s. 28; 1945 c. 194 s. 1.

123.29 OFFICE OF COUNTY SUPERINTENDENT ABOLISHED.

HISTORY. 1929 c. 9 s. 7; M. Supp. s. 2780-14; 1941 c. 169 art. 4 s. 29.

123.30 COUNTY ATTORNEY TO SERVE AS ATTORNEY FOR BOARD.

HISTORY. 1929 c. 9 s. 8; M. Supp. s. 2780-15; 1941 c. 169 art. 4 s. 30.

MINNESOTA STATUTES 1945 ANNOTATIONS

123.31 TEN OR MORE TOWNSHIPS

754

The Lake county school district cannot employ legal services other than that of the county attorney. OAG Nov. 6, 1936 (159b-10).

This section does not authorize an increase in the salary of the county attorney but merely enables the county board to grant him extra compensation for legal services performed for the county board of education in addition to the salary limitations in section 388.17. OAG July 22, 1937 (125a-13).

123.31 COUNTIES MAY PAY BONDS OF DISSOLVED DISTRICTS.

HISTORY. 1935 c. 6; M. Supp. s. 2780-17a; 1941 c. 169 art. 4 s. 30.

123.32 INDEMNITY FOR SCHOOL OFFICERS IN CASE OF ACCIDENTS.

HISTORY. 1935 c. 15 ss. 1, 2; M. Supp. ss. 2780-17b, 2780-17c; 1941 c. 169 art. 4 s. 32.

Statutes providing for the indirect assumption of liability. 26 MLR 856.

123.33 COUNTY BOARD OF EDUCATION FOR UNORGANIZED TERRITORY.

HISTORY. 1921-c. 328 s. 1; G.S. 1923 s. 2850; 1927 c. 21; M.S. 1927 s. 2850; 1931 c. 155; M. Supp. s. 2850; 1941 c. 169 art. 4 s. 33.

The unorganized territory in each county is a school district within the meaning of section 290.62. OAG June 6, 1934 (531i).

123.34 MEMBERS.

HISTORY. 1921 c. 328 ss. 2, 3; G.S. 1923 ss. 2851, 2852; M.S. 1927 ss. 2851, 2852; 1941 c. 169 art. 4 s. 34; 1945 c. 494 s. 1.

The bond of the county treasurer covers his duties as treasurer of the county board of education. OAG May 9, 1929.

123.35 VACANCIES IN BOARDS OF EDUCATION.

HISTORY. 1921 c. 328 s. 23; G.S. 1923 s. 2870-1; 1925 c. 220; M.S. 1927 s. 2870-1; 1941 c. 169 art. 4 s. 35.

123.36 MEETINGS.

HISTORY. 1921 c. 328 s. 5; G.S. 1923 s. 2854; M.S. 1927 s. 2854; 1941 c. 169 art. 4 s. 36.

123.37 BOARD TO FURNISH SCHOOL FACILITIES.

HISTORY. 1921 c. 328 ss. 3, 8; G.S. 1923 ss. 2852, 2857; M.S. 1927 ss. 2852, 2857; 1941 c. 169 art. 4 s. 37.

123.38 TAX LEVY.

HISTORY. 1921 c. 328 s. 7; G.S. 1923 s. 2856; M.S. 1927 s. 2856; 1941 c. 169 art. 4 s. 38.

123.39 POWERS AND DUTIES SAME AS INDEPENDENT AND CONSOLIDATED DISTRICTS.

HISTORY. 1921 c. 328 s. 9; G.S. 1923 s. 2858; M.S. 1927 s. 2858; 1941 c. 169 art. 4 s. 39.

Board may sell unused school property without a vote of the electors. 1940 OAG 48, March 8, 1940 (622i-7).

MINNESOTA STATUTES 1945 ANNOTATIONS

755

TEN OR MORE TOWNSHIPS 123.43

123.40 DUTIES OF CLERK.

HISTORY. 1921 c. 328 s. 6; G.S. 1923 s. 2855; M.S. 1927 s. 2855; 1941 c. 169 art. 4 s. 40.

An unorganized school district is required to print its financial statement, but is not controlled by any provision as to independent school districts, and the charge therefor is limited to the general provision for legal notices under section 331.08, which would be 90 cents per folio. OAG Aug. 17, 1939 (277e).

123.41 COMPENSATION.

HISTORY. 1921 c. 328 s. 4; 1923 c. 12 s. 1; G.S. 1923 s. 2853; 1925 c. 220; M.S. 1927 s. 2853; 1941 c. 169 art. 4 s. 41; 1945 c. 323 s. 1.

Within this section, the word "schools" means schools where instruction is given, and it does not include buildings owned by the territory and insured and kept for possible future use but not used. *Ostrander v Fogarty*, 186 M 554, 244 NW 56.

The statute fixing the compensation of the treasurer is not unconstitutional as special legislation because based upon the number of schools within the territory. *Ostrander v Fogarty*, 186 M 554, 244 NW 56.

Unpaid non-negotiable school district warrants wrongfully issued by the district treasurer to which the district has a good defense of right of set-off do not constitute a present liability as against the surety on the treasurer's official bond. *County Board v Fogarty*, 191 M 10, 252 NW 668.

A deputy sheriff cannot serve as clerk of a school board and receive pay for both positions. OAG July 30, 1931.

It is not legal to pay the clerk and the treasurer at the end of their term since there can be no accurate basis for determining compensation until financial statement first Monday in August. OAG April 6, 1939 (768d-4).

Where there is a change of officers during the school year, each officer is entitled to compensation based upon the disbursements made during his incumbency, with proper adjustments if total amount exceeds maximum. OAG April 6, 1939 (768d-4).

The personal representatives of a deceased officer are entitled to receive the compensation due him at the time of his death. OAG April 6, 1939 (768d-4).

County superintendent may collect back salary as clerk of unorganized territory in the amount of one per cent of all moneys expended by the county board of education of such territory, and the only limitations would be the general statute of limitations on civil claims, which would bar recovery on any claim over six years old. OAG June 28, 1939 (162B).

123.42 DISSOLVED DISTRICT MAY BECOME UNORGANIZED TERRITORY.

HISTORY. 1877 c. 74 subc. 1 s. 17; G.S. 1878 c. 36 s. 17; 1881 c. 51 s. 1; G.S. 1894 s. 3675; 1897 c. 252; R.L. 1905 s. 1288; G.S. 1913 s. 2685; G.S. 1923 s. 2753; M.S. 1927 s. 2753; 1941 c. 169 art. 4 s. 42.

123.43 DISSOLUTION OF COMMON OR INDEPENDENT DISTRICTS.

HISTORY. 1921 c. 328 s. 14; G.S. 1923 s. 2863; 1925 c. 222 s. 1; M.S. 1927 s. 2863; 1929 c. 15; M. Supp. s. 2863; 1941 c. 169 art. 4 s. 43.

The conditions mentioned in the proviso must be coexistent before the county board may automatically dissolve the district. OAG June 2, 1932.

When a district is dissolved, it becomes unorganized territory, and need not be consolidated with an existing district immediately upon its dissolution. OAG Aug. 4, 1938 (166f-7).

MINNESOTA STATUTES 1945 ANNOTATIONS

123.44 TEN OR MORE TOWNSHIPS

756

123.44 HEARING; NOTICES.

HISTORY. 1921 c. 328 s. 15; G.S. 1923 s. 2864; M.S. 1927 s. 2864; 1941 c. 169 art. 4 s. 44.

123.45 HEARING; PROCEDURE.

HISTORY. 1921 c. 328 s. 16; G.S. 1923 s. 2865; M.S. 1927 s. 2865; 1941 c. 169 art. 4 s. 45.

123.46 OLD DISTRICTS DISSOLVED; DISPOSITION OF PROPERTY.

HISTORY. 1921 c. 328 s. 17; G.S. 1923 s. 2865a; M.S. 1927 s. 2865a; 1941 c. 169 art. 4 s. 46.

Money belonging to a dissolved district at the time of its dissolution is credited to the account of the unorganized district to be used for the purpose of paying the debts of the dissolved district in so far as possible. OAG Feb. 8, 1934.

123.47 OUTSTANDING OBLIGATIONS OF DISSOLVED DISTRICTS.

HISTORY. 1921 c. 328 s. 18; G.S. 1923 s. 2866; 1925 c. 287 s. 1; M.S. 1927 s. 2866; 1931 c. 155; 1941 c. 169 art. 4 s. 47.

The unorganized territory in each county is a school district within the meaning of section 290.62. OAG June 6, 1934 (531i).

Where school districts were dissolved and made part of the unorganized territory of the county, the county board of education could not use the money received from the March apportionment of personal property tax money toward the payment of obligations of the dissolved districts. OAG April 6, 1932.

Where an independent school district has been dissolved and attached to the unorganized territory, the governing board for which has taken over assets, leaving the liquidation of debts to be taken care of by the county auditor from future taxes levied and collected, any tax levied for the payment of bonds must be applied to that payment, but if the money was derived from a levy for general purposes, it should be applied toward payment of the oldest outstanding obligations. OAG Nov. 13, 1934 (159c-9).

123.48 ORGANIZATION OF SCHOOL DISTRICTS.

HISTORY. 1921 c. 328 s. 10; G.S. 1923 s. 2859; M.S. 1927 s. 2859; 1941 c. 169 art 4 s. 48.

123.49 ANNEXATION OF UNORGANIZED DISTRICTS TO ADJOINING DISTRICTS.

HISTORY. 1935 c. 363 s. 1; M. Supp. s. 2768-5; 1941 c. 169 art. 4 s. 49.

123.50 ANNEXATION; SPECIAL ELECTIONS.

HISTORY. 1935 c. 363 s. 2; M. Supp. s. 2768-6; 1941 c. 169 art. 4 s. 50.

123.51 CONVEYANCE AND CONTROL OF ASSETS AFTER ANNEXATION.

HISTORY. 1935 c. 363 s. 3; M. Supp. s. 2768-7; 1941 c. 169 art. 4 s. 51.

123.52 UNORGANIZED TERRITORY MAY ISSUE BONDS.

HISTORY. 1921 c. 328 s. 19; G.S. 1923 s. 2867; M.S. 1927 s. 2867; 1933 c. 431 s. 1; Ex. 1934 c. 45 s. 1; 1937 c. 259 s. 1; M. Supp. s. 2867; 1941 c. 169 art. 4 s. 52.

In any proceeding under the declaratory judgment act to determine the validity of the right of a school district to issue bonds, the case lacks the essential element

MINNESOTA STATUTES 1945 ANNOTATIONS

757

TEN OR MORE TOWNSHIPS 123.57

of controversy, there being no adverse party. Any opinion written would be advisory only and without force. County Board v Borgen, 192 M 519, 257 NW 92.

Laws Ex. 1933, Chapter 45, is constitutional, and the county board of education for unorganized townships may sell bonds to the federal government. County Board v Borgen, 193 M 525, 259 NW 67.

The power conferred by this section to pay judgments impliedly authorizes the board to sue and be sued. OAG April 8, 1930.

The exception to this section created by Laws 1937, Chapter 259, applies to unorganized territory in Cass county. OAG May 20, 1937 (159a-5).

Unorganized territory in each county is a school district and consequently entitled to its ratio of the proceeds of the income tax. 1934 OAG 803 (531i).

123.53 TAX LEVY FOR BONDS AND INTEREST.

HISTORY. 1921 c. 328 s. 20; G.S. 1923 s. 2868; M.S. 1927 s. 2868; 1941 c. 169 art. 4 s. 53.

123.54 COUNTY BOARD OF EDUCATION MAY ISSUE REFUNDING BONDS IN CERTAIN CASES.

HISTORY. 1931 c. 140; 1933 c. 80; 1937 c. 374 s. 1; M. Supp. s. 2870-2; 1941 c. 169 art. 4 s. 54.

123.55 NEW COUNTIES; DIVISION OF ASSETS.

HISTORY. 1921 c. 328 s. 11; G.S. 1923 s. 2860; M.S. 1927 s. 2860; 1941 c. 169 art. 4 s. 55.

123.56 FAILURE TO APPORTION; PROCEDURE.

HISTORY. 1921 c. 328 s. 12; G.S. 1923 s. 2861; M.S. 1927 s. 2861; 1941 c. 169 art. 4 s. 56.

123.57 COUNTY OFFICIALS TO CARRY OUT TERMS OF AGREEMENT.

HISTORY. 1921 c. 328 s. 13; G.S. 1923 s. 2862; M.S. 1927 s. 2862; 1941 c. 169 art. 4 s. 57.