

CHAPTER 124

SCHOOL DISTRICTS; MEETINGS; ELECTIONS

124.01 ANNUAL MEETINGS OF COMMON SCHOOL DISTRICTS.

HISTORY. 1862 c. 1 s. 26; 1865 c. 14 s. 1; G.S. 1866 c. 36 s. 26; 1877 c. 74 subc. 2 s. 1; 1877 c. 74 subc. 7 s. 3; G.S. 1878 c. 36 ss. 19, 97; 1881 c. 41 s. 10; 1885 c. 57 s. 2; 1889 c. 166 s. 1; G.S. 1894 ss. 3677, 3794; 1897 c. 305; 1903 c. 38; R.L. 1905 ss. 1305, 1308; 1911 c. 244 s. 1; 1911 c. 357 s. 1; G.S. 1913 ss. 2710, 2713, 2715; G.S. 1923 ss. 2793, 2795, 2798; 1925 c. 147 s. 1; M.S. 1927 ss. 2793, 2795, 2798; 1929 c. 26; 1931 c. 390; 1937 c. 427 s. 1; M. Supp. s. 2793, 2798; 1941 c. 169 art. 5 s. 1.

The provisions of the Corrupt Practices Act cannot be applied to school district meetings. Their tenor from first to last indicates a contrary intention. *Mathison v Meyer*, 159 M 438, 441, 199 NW 173.

This section, giving a school district power to "repeal and modify" earlier proceedings, authorizes the calling of a special election to rescind authority previously given for an issue of bonds to the state; the bonds not having been issued and the matter being held in abeyance by the state board of investment pending the outcome of this litigation. *Ind. School District v Rosenow*, 185 M 261, 240 NW 649.

The statutes providing the procedure whereby municipalities, including school districts, may issue their bonds directly to the state, do not restrict the authority given by statute to school meetings to rescind previous action, the contract authorized thereby not having taken effect. *Ind. School District v Rosenow*, 185 M 261, 240 NW 649.

Where the electors fail at the annual meeting to fix the compensation of the school board members for the year, the board may call a special election for that purpose, but the electors cannot ratify salaries for years beyond the preceding year. OAG April 20, 1936 (768d-1).

The salary of the chairman and the treasurer of a common school district may be determined at the annual meeting without specifying that such action will be taken in the notice of the meeting, but the opposite is true as to increasing the compensation of the clerk. OAG Aug. 2, 1933.

The electors at the annual meeting may vote for the reimbursement of officers for expenses in successfully defending an action by a discharged teacher against them for damages. OAG Aug. 3, 1934 (768a).

Voters may provide for keeping the polls open from 1:00 P.M. to 8:00 P.M. and furnish the election officials with their supper. OAG March 28, 1935 (183h).

A bond election in a common school district may not be held outside the boundaries of the district. OAG March 3, 1939 (187B-1).

Laws 1933, Chapter 181, is unconstitutional in that it does not operate uniformly throughout the state and is special. *Hiler v City of East Grand Forks*, 189 M 622, 250 NW 580.

Purchase of additional lands adjoining present school site does not involve a "change of site" and such purchase may be made by the board without vote of electors. 1942 OAG 36, Mar. 7, 1941 (622-I-4).

Where in a school election the candidates did not file an affidavit, and the ballots were not printed, votes for Nellie Davis, Nellie Mann, and Mrs. Ray Davis, known to the election judges as the same person, may be counted for Mrs. Ray Davis. 1942 OAG 65, July 2, 1941 (184-E).

The tenure law is "wise legislation, promotive of the best interests not only of the teachers affected but of the schools as well"; and should be construed in har-

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mony with its well-understood purpose. State ex rel v Board, 213 M 569, 7 NW(2d) 544.

124.02 ANNUAL ELECTION OF INDEPENDENT SCHOOL DISTRICTS.

HISTORY. 1865 c. 8 s. 6; G.S. 1866 c. 36 s. 57; 1877 c. 74 subc. 2 s. 1; 1877 c. 74 subc. 7 s. 3; G.S. 1878 c. 36 ss. 19, 97; 1881 c. 21 s. 10; 1885 c. 57-s. 2; 1889 c. 166 s. 1; G.S. 1894 ss. 3677, 3794; 1897 c. 305; R.L. 1905 ss. 1305, 1314; G.S. 1913 ss. 2710, 2733; G.S. 1923 ss. 2793, 2806; 1925 c. 147 s. 1; M.S. 1927 ss. 2793, 2806; 1931 c. 390; 1937 c. 427 s. 1; 1939 c. 62 ss. 1, 5; M. Supp. s. 2806; 1941 c. 169 art. 5 s. 2.

Where six members of the board were present and the vote was three favorable and two negative, the sixth member not voting, the teacher was elected. 1940 OAG 49, June 27, 1940 (161a-16b).

124.03 CHANGE IN TIME OF HOLDING ANNUAL MEETING.

HISTORY. 1933 c. 84; 1939 c. 62 s. 2; M. Supp. s. 2793-1; 1941 c. 169 art. 5 s. 3.

When the board of canvassers has performed its duty and proclaimed the result of the vote and has adjourned, there cannot thereafter be any re-canvass of the votes by them. The board is functus officio. 1940 OAG 70, June 1, 1940 (28c-7).

124.04 ELECTION OF OFFICERS IN SPECIAL SCHOOL DISTRICTS.

HISTORY. 1929 c. 92; M. Supp. s. 2807-1; 1941 c. 169 art. 5 s. 4.

124.05 CANDIDATES FOR SCHOOL DISTRICT OFFICES; BALLOTS.

HISTORY. 1917 c. 384; G.S. 1923 s. 1799; 1925 c. 295; M.S. 1927 s. 2799; 1941 c. 169 art. 5 s. 5.

The provision of this section relating to the preparation of ballots by the clerk for the annual school district elections is directly merely, and voters at such elections using other ballots properly marked were not to be disfranchised. *Grimrud v Johnson*, 162 M 98, 202 NW 72. See *Conlon v Ind. School District*, 162 M 511, 202 NW 73.

At a school district election where official ballots were used and such ballots contain two names and only two are to be elected, the ballot if cast should be counted as cast for the two named, even though no cross-mark appears in the square following the names. *Adams v McMullen*, 184 M 602, 239 NW 594.

Where the ballots at a school district election contained two names and only two were to be elected, and another name was written or pasted on, and there was no cross-mark, the ballot could only be counted in favor of the person whose name was written or pasted on. *Adams v McMullen*, 184 M 602, 239 NW 594.

Depositing an application in the post-office does not constitute filing within the statutory period of time. OAG July 14, 1937 (184j).

When the last day of filing, as computed under rules of law, falls on a legal holiday, the last day for filing is the preceding secular day. OAG July 6, 1938 (622i-8).

One whose name has been filed as a candidate by others may withdraw his name. OAG June 5, 1933.

One vote for one candidate where two officers are to be chosen must be counted. OAG June 2, 1939 (187a).

An agreement that of the six directors of a school district, three should be residents of a village and three residents of the district outside the village, is not legal. OAG July 15, 1931.

Unofficial ballots used at a school election whether properly marked or not, should not be counted. 1942 OAG 67, June 4, 1941.

124.06 NOMINATION OF CANDIDATES IN DISTRICTS EMPLOYING ONLY ONE TEACHER.

HISTORY. 1941 c. 169 art. 5 s. 6.

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124.07 SPECIAL SCHOOL MEETINGS IN COMMON SCHOOL DISTRICTS.

HISTORY. 1861 c. 11 ss. 12, 13, 28; 1862 c. 1 s. 18; G.S. 1866 c. 36 s. 18; 1877 c. 74 subc. 2 s. 20; G.S. 1878 c. 36 s. 38; G.S. 1894 s. 3704; R.L. 1905 s. 1306; 1913 c. 142 s. 1; G.S. 1913 s. 2711; G.S. 1923 s. 2794; M.S. 1927 s. 2794; 1941 c. 169 art. 5 s. 7.

There is no limit on the number of elections that may be had for a change of site on proper petition to the clerk. OAG July 8, 1929.

A site and building bonds may be stated as one proposition on a ballot. OAG Oct. 7, 1936 (159a-3).

A notice of a special meeting for the purpose of discussing the matter of acquiring and improving certain lands to be used as playgrounds was not sufficiently specific to authorize the voters to vote at the meeting as to whether or not the school board should purchase lands. OAG June 22, 1937 (161a-16).

A school site may be designated by the electors at a special school meeting, if such action is specified in the notice of the meeting; and where a petition signed by 23 freeholders and voters requesting the call of a special meeting is filed, it is the duty of the clerk to call such a meeting without waiting for action on that petition by the board, but the clerk cannot insert in the notice of the meeting a specification of business not included in the petition, and where the petition specifies a particular site for a school another site cannot be selected at the special meeting. Where the petition requested the calling of a special meeting, the meeting is to be of a deliberative character and must be held at some one place. OAG Jan. 10, 1930.

Voters may reconsider their vote at the same meeting. OAG June 15, 1935 (161a-16).

See, An Outline of Municipal Bond Procedure in Minnesota. 20 MLR 583.

Election proceeding relative to the issue of bonds. 20 MLR 590.

124.08 SPECIAL SCHOOL ELECTION IN INDEPENDENT SCHOOL DISTRICTS.

HISTORY. 1941 c. 169 art. 5 s. 8.

124.09 POWERS OF ANNUAL MEETINGS OR ELECTIONS.

HISTORY. 1861 c. 11 s. 27; 1862 c. 1 s. 26; 1865 c. 14 s. 1; G.S. 1866 c. 36 ss. 18, 26; 1877 c. 74 subc. 2 s. 1; G.S. 1878 c. 36 s. 19; 1889 c. 166 s. 1; G.S. 1894 s. 3677; 1903 c. 38; R.L. 1905 s. 1308; 1911 c. 249 s. 1; G.S. 1913 s. 2715; G.S. 1923 s. 2798; M.S. 1927 s. 2798; 1929 c. 26; M. Supp. s. 2798; 1941 c. 169 art. 5 s. 9.

The electors of a common school district have authority to designate a site, direct the erection of a new school house, and provide funds therefor. When this is done, it becomes the duty of the school board to carry into effect such instructions. *State ex rel v Anderson*, 164 M 134, 204 NW 925.

Where a school house site has once been designated and is situate within one-quarter mile from the center of the district, it cannot be changed unless at least a majority of the legal voters in the district who have resided therein for at least six months prior to such vote, and two-thirds of the voters so qualified who are present and voting, vote in favor of such change; these acts must be concurrent before such change can be lawfully effectuated. *Stadtler v School District*, 61 M 259, 63 NW 638.

The failure to register the voters does not invalidate an election. OAG Aug. 30, 1934 (187a-9).

The school board may not maintain two different voting places. OAG March 28, 1935 (183h).

One school treasurer may resign at the annual school meeting and his successor may be elected at the same meeting. OAG July 11, 1939 (161a-24).

Where an officer was elected at an annual school election by viva voce and not by ballot as required by law, another officer could be elected to fill the office at the

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next annual election without the necessity of the institution of removal proceedings of the de facto officer. OAG Aug. 21, 1933.

When it is not permissible to receive nominations from the floor, making of all nominations does not affect the validity of an election where the names of those orally nominated are written on the ballots by electors. OAG March 27, 1935 (184j).

Where bonds have been voted for the building of a new junior high school without the designation of a site, the board of education has no power to fix the site, but must proceed under this section by submitting the same to the electors. OAG Jan. 10, 1930.

A vote of three-fifths of the electors of more than one year residence is necessary to change the site on which a school building now stands. OAG July 8, 1929.

Where a motion to move the school house was passed, and immediately following a motion to reconsider prevailed, the question of moving the school house could be again voted on at the same meeting. OAG March 15, 1933.

A school district may rescind its action to change the school house site by a three-fifths vote. OAG Nov. 22, 1933.

A vote of the electors in favor of issuing bonds to be used for the erection of a new school building may be rescinded by a subsequent vote to remodel and repair the old building instead. OAG March 16, 1931.

Petition to rescind the action of the district and the board in designating a parcel as a site for building an addition to the present high school building and to designate a present grade school site as a site for a new combined grade and high school building to be erected thereon did not involve a change of site, but did involve the establishment of an additional high school, requiring the voting thereon to be by ballot. OAG Feb. 23, 1938 (622i-6).

Where the lease of the land on which a school building stands is canceled, the school board cannot move the building to another location without calling a special election. OAG Oct. 2, 1931.

Where the high school burned, a vote of a majority of the electors was necessary to authorize a new building on a different site owned by the district. OAG April 26, 1929.

Where a school house has been completely destroyed by fire, the site on which it stood may be changed without the necessity of a three-fifths vote of the electors. OAG May 26, 1939 (622i-4).

A change in boundaries is not a change in site. 1942 OAG 36, March 7, 1941 (622-I-4).

124.10 ADDITIONAL POWERS OF MEETINGS IN COMMON SCHOOL DISTRICTS.

HISTORY. 1877 c. 74 subc. 2 ss. 1, 2; G.S. 1878 c. 36 ss. 19, 20; 1881 c. 41 s. 6; 1885 c. 57 s. 1; 1889 c. 166 s. 1; G.S. 1894 ss. 3677, 3678; R.L. 1905 ss. 1309, 1313; G.S. 1913 ss. 2716, 2732; G.S. 1923 ss. 2800, 2805; M.S. 1927 s. 2800, 2805; 1941 c. 169 art. 5 s. 10.

A school district cannot, by a vote of the electors, close the school and transport the pupils to another district where the board refuses to so do. OAG June 10, 1931.

A member of a board of education of a school district may sell textbooks to the pupils providing the district does not undertake in any way to furnish such textbooks. OAG Aug. 1, 1931.

Management of the affairs of a school district is vested in the school board. The school meeting has no veto or control of the board's action in administrative matters. If the board fails to carry out the wishes of the voters, the only remedy is political. 1942 OAG 59, Oct. 3, 1941 (180).

124.11 SPECIAL SCHOOL ELECTIONS IN CITIES OF FOURTH CLASS.

HISTORY. 1925 c. 10 ss. 1 to 4; M.S. 1927 ss. 2801-1 to 2801-4; 1941 c. 169 art. 5 s. 11.

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124.12 ELECTIONS IN DISTRICTS CONTAINING TWO OR MORE VILLAGES.

HISTORY. 1911 c. 111 s. 1 to 6; 1923 c. 433 s. 1; 1941 c. 169 art. 5 s. 12.

124.13 ACCEPTANCE AND OATH OF OFFICE.

HISTORY. 1862 c. 1 ss. 8, 9; G.S. 1866 c. 36 ss. 8, 9; 1877 c. 74 subc. 2 s. 4; G.S. 1878 c. 36 s. 22; G.S. 1894 s. 3680; R.L. 1905 s. 1318; G.S. 1913 s. 2744; G.S. 1923 s. 2813; M.S. 1927 s. 2813; 1941 c. 169 art. 5 s. 13.

A director of an independent school district who has taken an oath of office need not take a second oath when chosen as treasurer by the members of the school board. *Ind. School District v Integrity Mutual Casualty Co.* 171 M 376, 214 NW 258.

The acceptance of office need not be under oath, but the office is vacant if an oath of office is not signed and duly acknowledged. OAG Sept. 15, 1939 (768G).

One having knowledge of his election as clerk and demanding possession of the records and books from the incumbent was not entitled to the office where he did not qualify as required by this section, with the result that a special election was called in which another person received the highest number of votes. OAG Aug. 31, 1939 (162d).

The chairman of the school board who failed to qualify by taking oath did not gain the right to hold office by reason of acting as chairman for 13 months. OAG Oct. 12, 1933.