

MINNESOTA STATUTES 1976

1841

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.03

CHAPTER 122

SCHOOL DISTRICTS, FORMATION AND ALTERATION

Sec.		Sec.	
	DEFINITIONS AND CLASSIFICATION		
122.01	Definitions.	122.355	Border districts; continued operation.
122.02	Classes, number.		INCLUSION OF ALL AREA IN INDEPENDENT OR SPECIAL DISTRICTS
122.03	Assignment of identification numbers.	122.41	Policy.
	ALTERATION OF DISTRICTS	122.43	Dissolution of districts not a part of independent districts.
122.21	Detachment and annexation of land.	122.44	Attachment to organized districts; procedure.
122.22	Dissolution and attachment.	122.45	Distribution and division of assets and liabilities; taxation.
122.23	Consolidation.	122.46	Officers and teachers, transitional provisions.
122.25	Common district to independent district.	122.47	Special school districts, application.
122.26	Special district to independent district.	122.48	Private schools.
	INCLUSION OF NONOPERATING DISTRICTS IN OTHER DISTRICTS	122.51	Appeal.
122.32	Remaining districts, action of county board; election.	122.52	Severability.
122.34	Private schools in nonoperating districts.	122.53	Adjusted maintenance cost per pupil.

DEFINITIONS AND CLASSIFICATION

- 122.01** Subdivision 1. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 2. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 3. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 4. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 5. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 6. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 7. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 8. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 9. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 10. MS 1953 [Repealed, 1955 c 862 s 14]

122.01 DEFINITIONS. For purposes of this chapter, the words defined in section 120.02, have the same meaning.

[Ex1959 c 71 art 3 s 1]

122.011-122.014 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

122.015 MS 1953 [Repealed, 1955 c 862 s 14]

122.016-122.019 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

122.02 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.02 CLASSES, NUMBER. School districts shall be classified as common, independent, or special districts, each of which is a public corporation. Each district shall be known by its classification and each shall be assigned a number by the commissioner so that its title will be school district number

[Ex1959 c 71 art 3 s 2; 1974 c 406 s 11]

122.021-122.029 MS 1957 [Repealed, 1959 c 71 art 8 s 26]

122.03 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.03 ASSIGNMENT OF IDENTIFICATION NUMBERS. Subdivision 1. The commissioner of education shall, by order, assign an identification number to each district. The assignment shall be made so that each classified district has an identification number which is exclusive to it in its classification.

Subd. 2. Upon making the assignment of an identification number, the commissioner of education shall forthwith notify the clerk of the district and the county auditors of the counties in which any part of the district lies of the identification number assigned. A certified copy of the order may be recorded in the office of the county recorder to show the new legal name of the district.

Subd. 3. From and after the making of the order, the legal identification of the district shall become and be as assigned. All records, correspondence, reports and ref-

MINNESOTA STATUTES 1976

122.21 SCHOOL DISTRICTS, FORMATION AND ALTERATION

1842

erences to the district shall thereafter refer to the district by its proper title as assigned.

Subd. 4. A number once assigned a district under section 122.02 or under any prior law, shall not be used again to identify any district in the same classification. As the need arises, and as required by law, as new districts are formed, the commissioner of education shall assign unused numbers as identification. When numbered districts are dissolved, the numbers assigned them will not be reassigned to any other district.

Subd. 5. [Repealed, 1961 c 562 s 15]

[1957 c 947 art 10 s 1; 1961 c 562 s 1,2; 1976 c 181 s 2]

122.031-122.039 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

122.04 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.041-122.049 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

122.05 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.051-122.059 MS 1957. [Repealed, Ex1959 c 71 art 8 s 26]

122.06 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.061 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

122.062 Subdivision 1. MS 1957 [Renumbered 122.03, subdivision 1]

Subd. 2. [Renumbered 122.03, subd 2]

Subd. 3. [Renumbered 122.03, subd 3]

Subd. 4. [Renumbered 122.03, subd 4]

Subd. 5. [Repealed, 1961 c 562 s 15]

122.07 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.08 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.09 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.10 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.11 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.11 MS 1974 [Repealed, 1975 c 162 s 42]

122.111 MS 1953 [Repealed, 1955 c 858 s 13]

122.12 MS 1953 [Repealed, 1955 c 858 s 13]

122.12 MS 1969 [Repealed, 1971 c 25 s 32]

122.13 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.14 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.15 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.16 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.17 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.18 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.19 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.20 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

ALTERATION OF DISTRICTS

122.21 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.21 DETACHMENT AND ANNEXATION OF LAND. Subdivision 1. The owner of land which adjoins any independent district, and whose land is not in a special district may petition the county board of the county in which the greater part of the area proposed for detachment and annexation lies to detach all or any part of his land together with the intervening lands as defined in subparagraph (b) below, from the district it now is in, and to attach it, together with such intervening land, to the adjoining district. For purpose of this section, land is adjoining a school district if:

(a) The boundary of the area proposed for detachment and annexation is the same as the district boundary to which attachment is sought at any point, including corners, or

MINNESOTA STATUTES 1976

1843

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.21

(b) The area proposed for detachment and annexation is separated at any point from the district to which annexation is sought by not more than one-half mile and the intervening land is vacant and unoccupied or is owned by one or more of the following: The United States, or the state of Minnesota or any of its political subdivisions, or an owner who is unknown or cannot be found or

(c) The area proposed by a land owner for detachment and annexation is adjoining (as defined in subparagraphs (a) and (b) above) any land proposed for detachment from and annexation to the same district in another pending petition.

Subd. 2. The petition shall contain:

(a) A correct description of the area proposed for detachment and annexation, together with such supporting data with regard to location and title to land as will establish facts conformable to subdivision 1.

(b) The reasons for the proposed change with facts showing that the granting of the petition will not reduce the size of any district to less than four sections, unless the district is not operating a school within the district.

(c) Consent to the petition, endorsed thereon at any time before the hearing by the board of the district from which the area is to be removed, if, at the time of the filing of the petition, any part of the area proposed for detachment is part of a district which maintains and operates a secondary school within the district.

(d) An identification of the district to which annexation is sought.

(e) Such other information as petitioners may desire to affix.

(f) An acknowledgment by the petitioner.

Subd. 3. The petition shall be filed with the auditor who shall present it to the county board at its next meeting. At the meeting, the county board shall fix a time and place for hearing the petition, which time shall be not more than 60 nor less than ten days from the date of the meeting. The auditor shall forthwith serve notice of the hearing on each district directly affected by the petition, by mail addressed to the clerk. If any area affected by the petition is in another county, he shall mail a notice of hearing to the auditor of such county. He shall also give one week's published notice of the hearing in the county wherein the hearing is to be held, and ten days' posted notice in each school district affected. Such posted and published notice may combine pending petitions. At the hearing on the petition, the county board shall receive and hear any evidence for or against the petition. The hearing may be adjourned from time to time.

Subd. 4. Within six months of the time when the petition was filed, the county board shall issue its order either granting or denying the petition, unless all or part of the land area described in the petition is included in a plat for consolidation which has been approved by the state board of education in which event, no order may be issued while consolidation proceedings are pending. No order shall be issued which results in attaching to a district any territory not adjoining that district, as defined in subdivision 1(a). No order shall be issued which reduces the size of any district to less than four sections unless the district is not operating a school within the district. The order may be made effective at a deferred date not later than July 1 next following its issuance. If the petition be granted, the auditor shall transmit a certified copy to the commissioner. Failure to issue an order within six months of the filing of the petition or termination of proceedings upon an approved consolidation plat, whichever is later, is a denial of the petition.

Subd. 5. Upon receipt by the commissioner of the order, he shall forthwith modify his records and any plats and petitions and proceedings involving districts affected by such order presently before him for action or record, to conform to the order.

Subd. 6. Upon the effective date of the order, the detachment and annexation ordered therein is effected, and all taxable property in the area so detached and annexed is taxable for payment of any school purpose obligations theretofore authorized by or outstanding against the district to which annexation is made. Such property is not by virtue of the order relieved from the obligation of any bonded debt theretofore incurred to which it was subject prior to the order.

[*Ex 1959 c 71 art 3 s 5; 1965 c 225 s 1; 1969 c 364 s 1; 1975 c 162 s 10, 41*]

122.22 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.22 DISSOLUTION AND ATTACHMENT. Subdivision 1. Any district may be dissolved and the territory be attached to other districts by proceeding in accordance with this section.

Subd. 2. Proceedings under this section may be instituted by:

(a) Resolution of the county board of the county containing the greatest land area of the district proposed for dissolution when such district has held no school within the district for two years and has made no provision for the education of its pupils for two years or when any district has had no children of school age for a period of five years.

(b) Petition executed by a majority of the resident freeholders of the district proposed for dissolution addressed to the county board of the county containing the greatest land area of the district.

(c) Certification by the clerk of the district proposed for dissolution to the county board of the county containing the greatest land area of the district to the effect that a majority of votes cast at an election were in favor of dissolving the district.

Subd. 3. A resolution adopted pursuant to subdivision 2(a) shall contain findings of necessary jurisdictional facts and shall set a date for hearing not less than ten nor more than 60 days from the date of the resolution.

Subd. 4. Petition executed pursuant to subdivision 2(b) shall be filed with the auditor and shall contain:

(a) A statement that petitioners desire proceedings instituted leading to dissolution of the district and other provisions made for the education of the inhabitants of the territory; and that petitioners are resident freeholders of the district.

(b) An identification of the district.

(c) The reasons supporting the petition which may include recommendations as to disposition of territory to be dissolved. Such recommendations are advisory in nature only and are not binding on any petitioners or county board for any purpose.

(d) The persons circulating the petition shall attach their affidavit swearing or affirming that the persons executing the petition are resident freeholders and that they signed in the presence of one of the circulators.

(e) The auditor shall present the petition to the county board at its next meeting. At that meeting, the county board shall determine a date for a hearing not less than ten nor more than 60 days from the date of that meeting.

Subd. 5. Certification executed pursuant to subdivision 2(c) shall be filed with the auditor and shall contain:

(a) A copy of the resolution initiating the election.

(b) A copy of the notice of election with an affidavit of publication or posting.

(c) The question voted on.

(d) The results of the election by number of votes cast for and number against the question.

(e) If an advisory ballot is taken on annexation, the question voted on and number of ballots cast for and against the proposal.

The auditor shall present the certification to the county board at its next meeting. At that meeting, the county board shall determine a date for a hearing not less than ten nor more than 60 days from the date of that meeting.

Subd. 6. When a hearing is ordered under this section, the auditor shall have ten days' posted notice of the hearing in the district proposed for dissolution, one week's published notice in the county, and ten days' mailed notice to the clerk of the district proposed for dissolution and to the clerk of each adjoining district and to the commissioner. If all or any part of the district proposed for dissolution or any adjoining district lies in another county, the auditor shall forthwith upon establishment of the hearing date, mail notice of the hearing to the auditor of each county so situated.

Subd. 7. No order dissolving a district may be issued by the county board if the district to be dissolved is included in a plat for consolidation which has been approved by the state board of education and upon which plat final action has not been taken unless all of the district to be dissolved and all of the district or districts to which attachment is proposed are included in the approved plat.

MINNESOTA STATUTES 1976

1845

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.22

Subd. 8. Within 90 days of the date set for the original hearing or within 30 days of the termination of a consolidation proceeding which stays the order under subdivision 7, the county board may issue its order:

(a) Dismissing the proceedings.

(b) Interlocutory in character, proposing the dissolution of the district and the annexation of the territory to adjoining districts, or the entire district as a unit may be attached to and become part of a district which maintains a secondary school located within the same high school area, and there is no intervening district maintaining a secondary school.

(c) If no order is issued within the limited time, the proceedings are dismissed.

Subd. 9. An interlocutory order issued under subdivision 8(b) shall contain:

(a) A statement that the dissolution of the district is proposed.

(b) A description, by words or plat or both showing proposed disposition of territory in district to be dissolved.

(c) A statement showing the proposed distribution of the current assets and liabilities of the district to be dissolved, real and personal. If the order provides for the transfer of an interest in real estate to a district, the order may also impose a dollar amount as a claim against that district in favor of other districts which claim shall be paid and enforced in the manner provided by law for the payment of judgments against a district.

(d) The outstanding bonded debt of the district to be dissolved.

(e) A proposed effective date of the order not later than July 1 next following its issuance but not less than 45 days from date of the order.

(f) Such other information as the county board may desire to include.

The auditor shall within ten days from its issuance serve a copy of the interlocutory order by mail upon the clerk of the district proposed for dissolution and upon the clerk of each district to which it is proposed to attach any territory by the order and upon the auditor of each other county in which all or any part of the district proposed for dissolution or any district to which it is proposed to attach territory lies, and upon the commissioner.

Subd. 10. Within 45 days of the date of the interlocutory order, any district to which attachment of territory is proposed may, by resolution of the board, request an election in the area proposed for attachment on the question of assumption of debt in connection with that interlocutory order, such resolution shall contain:

(a) A request that an election be held in the area proposed for attachment, authorizing proportionate assumption of debt, or some specified part thereof, of the district requesting the election, and

(b) The total bonded debt, authorized and outstanding of the district requesting election, and

(c) The assessed valuation of the district requesting election. A copy of the resolution shall forthwith, upon issuance, be served personally or by mail on the auditor of the county issuing the interlocutory order.

Failure to make and serve such resolution within 45 days of the date of the interlocutory order is a consent to the terms of the order and a waiver of the requirement of debt assumption by the territory proposed for attachment.

Subd. 11. If the proceedings were instituted by petition, under subdivision 2(b), or by election, under subdivision 2(c) and an advisory recommendation was made in the petition or an advisory ballot taken at the election, as to annexation requested, and if the interlocutory order makes a different provision for annexation than requested, then the interlocutory order must be approved by a majority of those voting on the question at an election to be called in the district to be dissolved, under subdivision 13, the question voted on shall be:

“Shall the interlocutory order of the county board of county, dated proposing the dissolution of this school district be approved?” Yes No

Subd. 12. If a resolution is made and served under provisions of subdivision 10 within the time allowed, the auditor shall so advise the board of the district proposed for dissolution. In such case, an election shall be held in the district to be dissolved on the question of debt assumption, or if the district to be dissolved is divided, the board

MINNESOTA STATUTES 1976

122.23 SCHOOL DISTRICTS, FORMATION AND ALTERATION

1846

shall, in such case, establish voting precincts in each area in which debt is proposed for assumption. The voters in such precincts shall vote on the question: "Shall the taxable property in the area proposed for attachment to school district number assume a proportionate share of the bonded debt of such district in accordance with the resolution of the board of such district, dated, and on file with the auditor of county?" Yes No

Subd. 13. If an election is required under subdivision 11 or 12, then upon the expiration of the 45 day period allowed in subdivision 10 or upon receipt of a demand for election on the question of debt assumption from each district to which it is proposed to attach territory, whichever is sooner, the auditor shall forthwith set a date and call the election by filing a written order therefor, and serving a copy thereof personally or by mail on the clerk of the district in which the election is to be held, which date shall be not less than 15 nor more than 30 days after the date of the order, upon which date a special election shall be held in the district proposed for dissolution. The auditor shall cause notice of such election to be posted and published according to law. Upon receipt of such notice, the board shall conduct the election.

Subd. 14. The results of each election shall be certified by the board to the auditor. If a majority of all votes cast on each question at the election approve the interlocutory order and favor the assumption of the debt, the interlocutory order becomes final and effective as of the date of the election or the date specified in the order whichever is later. Each person served with the interlocutory order shall be so notified.

Subd. 15. If a majority of votes cast at an election held on any resolution are in the negative on the issue of debt assumption, the auditor shall forthwith certify such results to the clerk of the district which made the resolution voted upon. The district making the resolution under subdivision 10 may then within ten days make and serve upon the auditor a resolution of its board withdrawing its objection to the interlocutory order and consenting to its terms and consenting to the attachment of territory without debt assumption and cancelling its resolution under subdivision 10. The auditor shall present the resolution to the county board at its next meeting and at that meeting the county board may order its interlocutory order made final and effective.

Subd. 16. If a majority of votes cast at an election held on any resolution are in the negative on the issue of debt assumption, and if the resolution of waiver provided for in subdivision 15 is not filed within the time prescribed, or if a majority of votes cast on the question of approval of the interlocutory order are in the negative, the proceedings are dismissed and terminated and the interlocutory order becomes void and of no further effect for any purpose.

Subd. 17. [Repealed, 1975 c 162 s 42]

Subd. 18. The bonded debt of a district dissolved under provisions of this section shall be paid according to levies made therefor under provision of chapter 475. The obligation of the taxable property in the dissolved district with reference to the payment of such bonded debt is not affected by this section.

Subd. 19. [Repealed, 1975 c 162 s 42]

[*Ex 1959 c 71 art 3 s 6; 1969 c 364 s 2; 1974 c 406 s 12; 1975 c 162 s 41*]

122.23 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.23 CONSOLIDATION. Subdivision 1. Common or independent districts or parts thereof, or any combination of the foregoing may consolidate into a single independent district by proceedings taken in accordance with this section. The proposed new district must contain at least 18 sections of land. A proposed new district must be composed of contiguous areas unless an entire district is to be part of a district which maintains a secondary school and there is no district intervening which maintains a secondary school.

Subd. 2. Upon a resolution of a school board in the area proposed for consolidation or upon receipt of a petition therefor executed by 25 percent of the voters resident in the area proposed for consolidation or by 50 such voters, whichever is lesser, the county auditor of the county which contains the greatest land area of the proposed new district shall forthwith cause a plat to be prepared. The resolution or petition shall show the approximate area proposed for consolidation. If more than one request for a plat is received by a county auditor and the requests involve parts of identical districts, he shall forthwith prepare a plat which in his opinion best serves

MINNESOTA STATUTES 1976

1847

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.23

the educational interests of the inhabitants of the districts or areas affected. The plat shall show:

(a) Boundaries of the proposed district, as determined by the county auditor, and present district boundaries,

(b) The location of school buildings in the area proposed as a new district and the location of school buildings in adjoining districts,

(c) Other pertinent information as determined by the county auditor.

Subd. 2a. The county auditor of the county containing the greatest land area of the area proposed to be consolidated shall perform the duties provided by this section.

Subd. 3. A supporting statement to accompany the plat shall be prepared by the county auditor. The statement shall contain:

(a) The assessed valuation of property in the proposed district,

(b) If a part of any district is included in the proposed new district, the assessed valuation of the property and the approximate number of pupils residing in the part of the district included shall be shown separately and the assessed valuation of the property and the approximate number of pupils residing in the part of the district not included shall also be shown,

(c) The reasons for the proposed consolidation, "including a statement that at the time the plat is submitted to the state board of education, no proceedings are pending to dissolve any district involved in the plat unless all of the district to be dissolved and all of each district to which attachment is proposed is included in the plat,"

(d) A statement showing that the jurisdictional fact requirements of subdivision 1 are met by the proposal,

(e) Any other information the county auditor desires to include,

(f) The signature of the county auditor.

Subd. 4. The county auditor shall submit the plat and supporting statement to the commissioner and a true copy of each to the auditor of each county containing any land area of the proposed new district.

Subd. 5. Upon receipt of a plat and the supporting statement, each auditor shall immediately notify his respective county board. After such notification, and during the pendency of proceedings under the plat and supporting statement or for a period of six months, whichever is shorter, no action may be taken by the county board under any other law to modify the boundary of any district if any part of the district is included in an area proposed for consolidation.

Subd. 6. The state board shall, upon receipt of a plat, forthwith examine it and approve, modify or reject it. Prior thereto the state board or a member thereof or the commissioner or assistant commissioner as designated by the state board shall conduct a hearing at the nearest county seat in the area upon reasonable notice to the affected districts and county boards if requested within 20 days after submission of the plat. Such a hearing may be requested by the board of any affected district, a county board of commissioners, or the petition of 20 resident voters living within the area proposed for consolidation. It shall endorse thereon its reasons for its actions and within 60 days of the date of the receipt of the plat, it shall return it to the county auditor who submitted it. He shall furnish a copy of that plat, and the supporting statement and his endorsement to the auditor of each county containing any land area of the proposed new district. If land area of a particular county was included in the plat, as submitted by the county auditor, and all of such land area is excluded in the plat as modified and approved, the state board shall also furnish a copy of the modified plat, supporting statement, and his endorsement to the auditor of such county.

Subd. 7. Upon receipt of an approved plat, the county auditor shall forthwith notify the board of any district, all or part of whose land is included in the proposed new district.

Subd. 8. The board of any independent district maintaining a secondary school, the board of any common district maintaining a secondary school, all or part of whose land is included in the proposed new district, shall, within 45 days of the approval of the plat by the state board, either adopt or reject the plan as proposed in the approved plat. If the board of any such district entitled to act on the petition rejects the proposal, the proceedings are terminated and dismissed. If any board fails to act on

the plat within the time allowed, the proceedings are terminated.

Subd. 9. If the approved plat contains land area in more than one independent district maintaining a secondary school, or common district maintaining a secondary school, and if each board entitled to act on the plat approves the plat, each such board shall cause notice of its action to be published at least once in its official newspaper. If five percent of the resident freeholders of any such district shall petition the clerk of the district, within 30 days after the publication of such notice, for an election on the question, the consolidation shall not become effective until approved by a majority vote in such district at an election held in the manner provided in subdivisions 11, 12 and 13.

Subd. 10. If an approved plat contains land area in any district not entitled to act on approval or rejection of the plat by action of its board, the plat may be approved by the residents of such land area within 60 days of approval of plat by the state board in the following manner:

A petition calling upon the county auditor to call and conduct an election on the question of adoption or rejection of the plat may be circulated in such land area by any person residing in such areas. Upon the filing of such petition with the county auditor, executed by at least 25 percent of the resident freeholders in each district or part of a district contained in such land area, the county auditor shall forthwith call and conduct a special election of the electors resident in the whole land area on the question of adoption of the plat. For the purposes of this section, the term "electors resident in the whole land area" means and shall be construed to include any person or persons residing on any remaining portion of land, a part of which is included in the consolidation plat. Any freeholder owning land included in such plat who lives upon land adjacent or contiguous to that part of his land included in such plat shall be included and counted in computing the 25 percent of the resident freeholders necessary to sign such petition and shall also be qualified to sign such petition. Failure to file such petition within 60 days of approval of plat by the state board terminates the proceedings.

Subd. 11. Upon an election becoming callable under provisions of subdivision 10, the county auditor shall give ten days' posted notice of election in the area in which the election is to be held and also if there be a newspaper published in the area, one week's published notice shall be given. The notice shall specify the time, place and purpose of the election.

Subd. 12. The county auditor shall determine the date of the election, the number of boundaries of voting precincts, and the location of the polling places where voting shall be conducted, and the hours the polls will be open. He shall provide official ballots which shall be used exclusively and shall be in the following form:

For consolidation

Against consolidation

He shall appoint three election judges for each polling place who shall act as clerks of election. The county may pay these election judges not to exceed \$1 per hour. The ballots and results shall be certified to the county auditor who shall canvass and tabulate the total vote cast for and against the proposal.

Subd. 13. If a majority of the votes cast on the question at the election approve the consolidation, and if the necessary approving resolutions of boards entitled to act on the plat have been adopted, the county auditor shall, within ten days of the election, issue his order setting a date not later than July 1 next following the election for the effective date of the change. He shall mail or deliver a copy of such order to each auditor holding a copy of the plat and to the clerk of each district affected by the order and to the commissioner. If the election fails, the proceedings are terminated and the county auditor shall so notify the commissioner and the auditors and the clerk of each school district affected.

Subd. 14. Upon receipt of the order creating a new district, the commissioner shall forthwith, by order, assign an identification number to the new district and shall mail a copy of his order to the county auditor and to each auditor who holds a copy of the plat. If all of the territory in one and only one independent district maintaining a secondary school is included in the new independent district created pursuant to consolidation, and if the commissioner finds that it is more practical and reasonable and in the interest of efficiency and economy of operation to so do, he may assign to the new district the same number as previously held by the included independent district.

MINNESOTA STATUTES 1976

1849

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.23

Subd. 15. If no district is divided by virtue of the proceedings, all of the assets, real and personal, of the districts involved and all legally valid and enforceable claims and contract obligations of the districts pass to the new district. If a district is divided by virtue of the proceedings, upon receipt of the order of the commissioner, the auditor of the county containing the greatest land area of the new district shall present a copy of the plat and supporting statement and orders issued in the proceedings to the commissioner, together with such information as is available to him concerning the assets and liabilities not secured by bonds of each district, any part of which is included in the newly created district. Thereafter within 30 days the commissioner shall issue his order providing for a division of the assets and liabilities of the districts involved and apportioning and dividing these assets and liabilities according to such terms as he may deem just and equitable. In making this division of assets and liabilities, the commissioner may consider the amount of bonded debt to be assumed by property in each area under the provisions of this section. If the order of consolidation transfers any real estate interest to the new district or to another district, the order apportioning assets and liabilities may impose a dollar claim on the district receiving the real estate in favor of any other district involved in an amount not exceeding the reasonable value of the real estate interest involved, which claim shall be paid in the manner provided by law for the enforcement of judgments.

Subd. 16. As of the effective date of the consolidation, all the taxable property in the newly created district is taxable for the payment of any bonded debt theretofore incurred by any component district in the proportion which the assessed valuation of that part of a pre-existing district which is included in the newly created district bears to the assessed valuation of the entire pre-existing district as of the time of the consolidation. This apportionment shall be made by the county auditor and shall be incorporated as an annex to the order of the county board dividing the assets and liabilities of the component parts. This subdivision shall not relieve any property from any tax liability for payment of any bonded obligation but taxable property in the newly created district becomes primarily liable for the payment of bonded debts to the extent of the proportion stated. The board of the newly created district, when constituted as provided in subdivision 17, may provide for an election of that district on the issuance of bonds, and may issue and sell bonds authorized at such an election, or bonds authorized at an election previously held in any pre-existing district wholly included within the newly created district, or bonds for a purpose for which an election is not required by law. Such actions may be taken at any time after the date of the county auditor's order issued under subdivision 13, and before or after the date upon which the consolidation becomes effective for other purposes, and taxes for the payment of any such bonds shall be levied upon all taxable property in the newly created district; except that no bonds shall be delivered to purchasers until 30 days after the date of the county auditor's order. If within this period a notice of appeal from the county auditor's order to the district court is filed in accordance with section 127.25, no bonds shall be delivered by the newly created district to purchasers until and unless the county auditor's order is affirmed by final order of the district court in such special proceeding, and a period of 30 days from the service of such final order expires without an appeal to the supreme court being commenced or, if an appeal is taken, the order is affirmed by the supreme court; except that if all of the territory of one and only one independent district maintaining a secondary school is included in the newly created district, and if the assessed valuation of taxable property in such territory comprises 90 percent or more of the assessed valuation of all taxable property in the newly created district, the board may issue, sell, and deliver any bonds voted by the pre-existing independent district and any bonds voted or otherwise authorized by the newly created district, notwithstanding the pendency of any such appeal, and such bonds shall be paid by the levy of taxes upon the property within the territory of the pre-existing independent district and within such other areas, if any, as may be finally determined to be properly included within the newly created district. In any election held in the newly created district as authorized in the preceding sentence, all qualified electors residing within the area of that district as defined in the county auditor's order shall be entitled to vote, but the votes cast by residents of former districts or portions of former districts included in such area, other than the independent district maintaining the secondary school, shall be received and counted separately; and the bonds shall not be issued and sold unless authorized by a majority of the votes cast thereon by electors of the independent district maintaining the secondary school, and also by a majority of the votes cast thereon by electors residing within the entire area of the newly created district.

MINNESOTA STATUTES 1976

122.23 SCHOOL DISTRICTS, FORMATION AND ALTERATION

1850

Subd. 17. If all of the territory of one and only one independent district maintaining a secondary school is included in the new independent district, the board of that previously existing independent district shall assume the duties and responsibilities of the board of the newly organized district for the balance of the term to which the members were elected. At the next annual school election the successors to the members whose terms then expire shall be elected by the legally qualified voters of the newly organized district. Thereafter, board members shall be elected according to the election procedure established for the election of board members in independent districts.

Subd. 18. (a) If no board is provided for under the foregoing provision, upon receipt of the assigned identification number, the county auditor shall determine a date, not less than 20 nor more than 60 days from the date of the receipt by him of the assigned identification number, upon which date shall be held a special election in the district for the purpose of electing a board of six members for terms as follows: two until July following the next annual election, two until the expiration of one year from said July 1, and two until the expiration of two years from said July 1, to hold office until a successor is elected and qualifies according to provisions of law governing the election of board members in independent districts.

(b) The county auditor shall give ten days' posted notice of election in the area in which the election is to be held and also if there be a newspaper published in the proposed new district, one weeks' published notice shall be given. The notice shall specify the time, place and purpose of the election.

(c) The county may pay the election judges not to exceed \$1 per hour for their services.

(d) Any person desiring to be a candidate for a school election shall file an application with the county auditor to have his name placed on the ballot for such office, specifying the term for which the application is made. The application shall be filed not less than 12 days before the election.

(e) The county auditor shall prepare, at the expense of the county, necessary ballots for the election of officers, placing thereon the names of the proposed candidates for each office. The ballots shall be marked and signed as official ballots and shall be used exclusively at the election. The county auditor shall determine the number of voting precincts and the boundaries of each. He shall determine the location of polling places and the hours the polls shall be open. He shall appoint three election judges for each polling place who shall act as clerks of election. Election judges shall certify ballots and results to the county auditor for tabulation and canvass.

(f) Upon canvass and tabulation by the county auditor he shall issue a certificate of election to the candidate for each office who received the largest number of votes cast for the office. He shall deliver such certificate to the person entitled thereto by registered mail, and each person so certified shall file an acceptance and oath of office with the county auditor within 30 days of the date of mailing of the certificate. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but such filing may be made at any time before action to fill vacancy has been taken.

(g) The board of each district included in the new enlarged district shall continue to maintain school therein until July 1 next following, but such boards shall have power and authority only to make such contracts and to do such things as are necessary to maintain properly the schools for the period they may be in session prior to said first day of July.

(h) It shall be the immediate duty of the newly elected board of the new enlarged district, when the members thereof have qualified and the board has been organized, to plan for the maintenance of the school or schools of the new district for the next school year and to enter into the necessary contracts for the employment of personnel, purchase of equipment and supplies, and other acquisition and betterment purposes and when authorized by the voters to issue bonds under the provisions of chapter 475; and on said July 1 to assume the full duties of the care, management and control of the new enlarged district. The board of the new enlarged district shall give due consideration to the feasibility of maintaining such existing attendance centers and of establishing such other attendance centers, especially in rural areas, as will afford equitable and efficient school administration and assure the convenience and welfare of the pupils residing in the enlarged district.

MINNESOTA STATUTES 1976

1851

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.26

Subd. 19. In case of the consolidation of two or more districts or parts of districts into a larger district, any portions or parts of divided districts which have less than four sections of land shall be attached to one or more adjoining districts by the board of county commissioners upon due notice and hearing.

The county auditor shall give ten days' posted notice of the hearing in the area to be attached and shall deliver a copy of the notice of hearing to the clerk of each district adjoining the area at least 30 days prior to the date set for the hearing. If any adjoining district by resolution of its board, a copy of which is served on the county board before the hearing, demands that area to be attached assume a proportionate share of the bonded debt of the demanding district, then if the order of the county board attaches any land area to such district, the taxable property in such area assumes its proportionate share of the authorized and outstanding bonded debt of the district to which it is attached.

[*Ex1959 c 71 art 3 s 7; 1963 c 549 s 1; 1965 c 525 s 1; 1967 c 495 s 1; 1969 c 364 s 3-6; 1974 c 406 s 13; 1975 c 162 s 11,41; 1976 c 271 s 35*]

122.24 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.24 MS 1969 [Repealed, 1971 c 98 s 1]

122.25 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.25 COMMON DISTRICT TO INDEPENDENT DISTRICT. Subdivision 1. If six or more resident freeholders of a common district desire to change the organization of their district to an independent district, they may call for a vote upon the question at the next annual meeting by filing a petition therefor with the clerk. In the notice for the meeting, the clerk shall include a statement that the question will be voted upon at the meeting.

Subd. 2. At the annual meeting, if a majority of the votes cast on the question favors the conversion to an independent district, a board of six members shall be elected. Nominations may be made from the floor of the meeting and election shall be by secret ballot. All board members elected at this meeting shall serve for terms expiring on the third Tuesday in May next following the election on which date a regular annual election shall be held in the manner provided by law. At this first annual election for independent districts, six directors shall be elected, two to hold office until July 1 following the next annual election, two to hold office until the expiration of one year from said July 1 and two to hold office until the expiration of two years from said July 1; the time which each director shall hold office being designated on the ballot.

Subd. 3. If the organization of the district is changed from common to independent at the meeting, the clerk shall forthwith notify the auditor and the commissioner.

Upon receipt of such notification, the commissioner shall forthwith assign a new identification number to the district and shall notify the auditor and the clerk of the district thereof.

Subd. 4. As of the date of election, if a majority of votes cast on the question favor the conversion to an independent district, the classification of the district is changed from common to independent. Title to all the property, real and personal, of the common district passes to the independent district and all current outstanding contractual obligations, including the bonded indebtedness, if any, of the common district, together with any legally valid and enforceable claims against the common district are imposed on the independent district.

Subd. 5. Upon receipt of the identification number from the commissioner, the clerk of the district shall record such change of number with the county recorder in any county in which the common district owns any real estate.

[*Ex1959 c 71 art 3 s 9; 1976 c 181 s 2*]

122.26 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.26 SPECIAL DISTRICT TO INDEPENDENT DISTRICT. Subdivision 1. If the people of a special district containing less than 400,000 inhabitants or not located in a county containing more than 5,000 square miles desire to change their organization to an independent district they may proceed in accordance with this section.

Subd. 2. The board of any special district, upon filing of a petition with the clerk of the district executed by qualified voters of the district, stating upon each page of the petition on which signatures appear that they favor the conversion, and in number

MINNESOTA STATUTES 1976

122.26 SCHOOL DISTRICTS, FORMATION AND ALTERATION

1852

not less than five percent of the number of voters at the preceding district general election shall, or the board on its own motion may, by resolution order a vote to be taken on the question of such conversion at the next election occurring in such district or at a special election called for the purpose at the request of the board. The election notice shall specify the question to be voted on and shall be given one week's published notice and ten days' posted notice in the district. The petition shall be accompanied by the affidavit of the persons circulating it, swearing or affirming that the persons executing the petition were qualified voters of the district, and that the petition was signed in the presence of one of the circulators.

Subd. 3. If a majority of the votes cast at the election on the question approve the proposed conversion, the clerk of the district shall forthwith certify the results to the commissioner who shall, by order, assign an identification number to the district and determine a date not later than July 1 next following the election for the effective date of the change.

Subd. 4. Upon conversion, the district shall continue to be governed by the board until the next annual election for independent districts, at which election, seven board members shall be elected, three for a one-year term, two for a two-year term, and two for a three-year term, and all until successors are elected and qualified. Provided, however, that in districts which are converted and lie wholly or partly within a city of the first class, the election procedure shall be as follows:

In such districts, there shall be seven board members elected for a six-year term at the same time as the municipal elections are held, and the terms shall commence as of the same date as for independent districts generally. All candidates for board members shall file for office in the manner provided for municipal officers and a number of candidates equal to twice the number of board vacancies shall be nominated at the municipal primary election. All provisions of law relating to such municipal elections shall apply to school elections. In such districts, which had seven members on the board, such board shall continue to hold office until the expiration of their terms, and until their successors are elected and qualify. In such districts which had nine members on their board, the members shall continue to hold office until their successors are elected and qualify under the following procedure:

As of June 30, following the first school election occurring after the conversion, the terms of office of the six members with the shortest time left to serve shall expire and there shall be elected at such school election two members for a four-year term, and two members for a six-year term, and, as of June 30, following the next school election occurring thereafter, the terms of the last three members of the prior board shall expire, and three members shall be elected at such election for a six-year term.

Subd. 5. If a district is divided into separate election districts at the time of its conversion under this section, the board, before the election of the new board, may, by resolution, provide for election districts for the election of the new board, specifying the terms as one, two, or three years, to which members from each election district (or at large district) shall be elected at the first election. Such election districts shall continue thereafter until changed pursuant to law. In the event the resolution is not adopted, providing for such districts, the members of the new board shall be elected at large.

Subd. 6. Converted districts shall contract with the cities in which located for such facilities as are furnished by the civil service bureau, and unless the board and city governing body each adopt a resolution declaring that a particular function would be most efficiently and effectively handled separately, the board shall contract on a pro rata cost basis with the city for such facilities and services as are provided by the purchasing department, comptroller, legal department and election and other services supplied by such cities, provided, however, that the board may contract for other legal services when the interests of such district and such city are in conflict in any legal matter and provided further that such board may contract for architectural services for the planning and construction of new school buildings when funds have been made available for construction of such school buildings.

Subd. 7. If a majority of votes cast on the question favor the conversion to an independent district, the special district is dissolved and a new independent district is created, effective as of the date determined by the commissioner in accordance with subdivision 3. Title to all of the property, real and personal, of the dissolved district passes to the independent district and all current outstanding contractual obligations, including the bonded indebtedness, if any, of the special district, together with any le-

MINNESOTA STATUTES 1976

1853

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.26

gally valid and enforceable claims against the dissolved district are imposed on the new independent district.

Subd. 8. As of the effective date of a conversion under this section, the organization, operation, maintenance and conduct of the affairs of the converted district shall be governed by general laws relating to independent districts; except as otherwise provided in Extra Session Laws 1959, Chapter 71, and all special laws and charter provisions relating only to the converted district are repealed, except Laws 1957, Chapter 264, and Laws 1917, Chapter 166, which shall continue to apply only to the school districts to which such acts applied prior to the effective date of Extra Session Laws 1959, Chapter 71, whether or not such districts are converted; provided further, where an existing pension law is applicable to employees of a special district such law shall continue to be applicable in the same manner and to the same extent to employees of the successor district, general laws applicable to independent school districts wholly or partly within cities of the first class shall not be applicable to any special district after conversion thereof to an independent district, the provision of the statute applicable only to teachers retirement fund associations in cities of the first class, limiting the amount of annuity to be paid from public funds, limiting the taxes to be levied to carry out the plan of such associations, and limiting the amount of annuities to be paid to beneficiaries, all as contained in section 354A.06, shall not be applicable to any such special district after conversion to an independent district, but the statutes applicable to such special district prior to the conversion shall continue to be applicable and the pension plan in operation prior to the conversion shall continue in operation until changed in accordance with law, and the teacher tenure law applicable to the special district before conversion shall continue to apply to the independent district after conversion in the same manner and to the same extent to teachers in the successor district; provided further, where existing civil service provisions of any law or charter are applicable to special district employees, such provision shall continue to be applicable in the same manner and to the same extent to employees of the successor district. Notwithstanding any contrary provision of Extra Session Laws 1959, Chapter 71, if, before the conversion, there was in the district a teachers retirement fund association operating and existing under the provisions of Laws 1909, Chapter 343, and all acts amendatory thereof, then such teachers retirement fund association shall continue to exist and operate under and to be subject to the provisions of Laws 1909, Chapter 343, and all acts amendatory thereof, after the conversion to the same extent and in the same manner as before the conversion, and, without limiting the generality of the foregoing, such teachers retirement fund association shall continue, after the conversion as before the conversion, to certify to the same authorities the amount necessary to raise by taxation in order to carry out its retirement plan, and it shall continue, after the conversion as before the conversion, to be the duty of said authorities to include in the tax levy for the ensuing year a tax in addition to all other taxes sufficient to produce so much of the sums so certified as said authorities shall approve, and such teachers retirement fund association shall not be subject after the conversion to any limitation on payments to any beneficiary from public funds or on taxes to be levied to carry out the plan of such association to which it was not subject before the conversion.

Subd. 9. In the event a city has outstanding bonded indebtedness incurred for school purposes, the amount of the city debt which is properly attributable to the school district shall be fixed by mutual agreement between the governing bodies of the city and district and a statement of the amount thereof shall be published once in the official newspaper of the city. The determination shall be binding on both city and district unless set aside by an action by a taxpayer or other interested party instituted within 30 days of the date of such publication.

Subd. 10. The board of any independent district lying wholly or partly within a city of the first class may borrow money upon negotiable tax anticipation warrants or certificates of indebtedness, in the manner and subject to the limitations set forth in this section, for the purpose of anticipating general taxes theretofore levied by the district for school purposes, but the aggregate of such borrowing remaining unpaid at any time shall never exceed 50 percent of such taxes which are due and payable in the calendar year, and as to which taxes no penalty for nonpayment or delinquency has attached.

Subd. 11. The board may also borrow money, in the manner and subject to the limitations hereinafter set forth, in anticipation of receipt of state aids for schools as defined in Minnesota Statutes and of federal school aids to be distributed by or

MINNESOTA STATUTES 1976

122.26 SCHOOL DISTRICTS, FORMATION AND ALTERATION

1854

through the state department. The aggregate of such borrowings remaining unpaid at any time shall never exceed 75 percent of such aids which are receivable by said school district in the calendar year in which the money is borrowed, as estimated and certified by the commissioner.

Subd. 12. The board may authorize and effect such borrowing, and may issue such warrants or certificates of indebtedness upon passage of a resolution, specifying the amount and purposes for which it deems such borrowing is necessary, which resolution shall be adopted by a vote of at least two-thirds of its members. The board shall fix the amount, date, maturity, form, denomination, and other details thereof, not inconsistent herewith, and shall fix the date and place for receipt of bids for the purchase thereof, and direct the clerk to give notice thereof.

Subd. 13. The proceeds of the current tax levies and future state aid receipts or other school funds which may become available, shall be applied to the extent necessary to repay such certificates or warrants and the full faith and credit of the school district shall be pledged to their payment. They shall mature not later than the anticipated date of receipt of school taxes for the current year or of the aids so anticipated as estimated by the commissioner, but in no event later than the last day of the calendar year in which issued. The certificates shall be sold at not less than par. The certificates shall bear interest after maturity until paid at the rate they bore before maturity, and any interest accruing before or after maturity shall be paid from any available school funds.

Subd. 14. The clerk of the board shall give notice of the proposed sale, as required by chapter 475. At the time and place so fixed, such certificates may be sold by the board or its officers if authorized by the board, to the bidder who will agree to purchase the same on terms deemed most favorable to the district. Such certificates shall be executed and delivered as required by chapter 475. The money so received shall be disbursed solely for the purposes for which such taxes are levied or aids are receivable.

Subd. 15. Any converted district located wholly or partly within a city of the first class is subject to a further limitation on its bonded indebtedness in addition to that imposed by chapter 475 in that no such district is subjected to a net debt in excess of 20 percent of the assessed value of all taxable property therein.

Subd. 16. The board of an independent district located wholly or partly within a city of the first class may not levy taxes on real and personal property for school purposes in any year at a mill rate to exceed the mill rate of such district or any predecessor district or on behalf of the district for the preceding year, except as authorized by this section. When such independent district results from the conversion of a special district, the amount of taxes from which the first mill rate of the new district is calculated shall include the estimated or agreed cost of all services which may have previously been furnished by the municipality without cost to the school district. The levy under this limitation shall not include levy for pensions, employee benefits, and debt service which shall continue to be levied separately as now provided by law. Nothing herein shall authorize a levy in excess of the limitation contained in section 275.125.

Subd. 17. If the board desires to increase the tax limitation imposed by subdivision 16, it shall adopt a resolution which shall contain the following information:

(a) The then current mill rate limitation imposed upon the district by subdivision 16,

(b) The increase recommended by the board, together with a statement that it is the recommendation of the board to so increase the tax rate,

(c) Setting a date and place for a public hearing on the recommendation of the board. The date shall be not less than 20 nor more than 60 days from the date of the resolution.

Subd. 18. The board shall give two weeks' published notice of the public hearing. The notice shall contain a copy of the resolution.

Subd. 19. Not less than ten days nor more than 30 days after this special meeting, the board may establish a new limitation not in excess of that contained in the notice of hearing on the maximum tax levy that can be imposed, expressed in dollars per resident pupil unit as used in section 124.17. This new limitation shall not exceed the higher of the limitations calculated as provided in section 275.125. This new limitation shall take effect 60 days after the date of said resolution unless the people take

MINNESOTA STATUTES 1976

1855

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.26

action to reject the limitation in the manner provided in subdivision 20.

Subd. 20. If, within 60 days after the adoption of a resolution setting a new limitation, a petition is filed with the school board signed by qualified voters of the city equal in number to not less than five percent of those voting at the last previous school district election, which petition shall contain upon each page on which signatures appear a statement that the signers oppose the limitation established by the board, and requesting that the proposed new limitation be submitted to the people, for their approval or rejection, the board shall have the question submitted at the next election or at a special election called for that purpose. The board shall cause a notice of election to be published once each week for three consecutive weeks prior to the date of election in a daily newspaper of general circulation in the city announcing the forthcoming election and its purpose. The first publication shall be made not more than 30 days before the election. The ballot used at the election shall have printed thereon the following:

“Shall the maximum tax levy for school purposes proposed by the school board of (\$..... per capita) or (\$..... per resident pupil unit) in accordance with the resolution of the board dated be approved?

Yes.....

No.....”

Subd. 21. If a majority of those voting on the question vote in the affirmative, the proposed new limitation shall take effect otherwise the same shall be rejected.

Subd. 22. If the people of a special district located in any county containing more than 5,000 square miles desire to change their organization to an independent district they may proceed in accordance with this subdivision.

(1) The governing body of any special district, may, and upon the filing of a petition with the clerk of the district executed by at least 200 of the qualified voters of the district shall, by resolution, order a vote to be taken on the question of such conversion at a special election called for the purpose not less than 15 nor more than 60 days from the date of the resolution. The special election notice shall specify the question to be voted on and shall be given one week's published notice and ten days' posted notice in the district.

(2) If a majority of the votes cast at the election on the question approve the proposed conversion, the clerk of the district shall forthwith certify the results to the commissioner who shall, by order, assign an identification number to the district and determine a date not later than July 1 next following the election for the effective date of the change.

(3) If the special district is governed by a board of education, such board shall continue to hold office until the next annual election for independent districts, to be held under the provisions of law governing annual elections, at which election seven members of the independent district shall be elected three for a one-year term, two for a two-year term and two for a three-year term until successors are elected and qualify.

(4) If a district is divided into separate election districts at the time of its conversion under this section such districts shall be continued and the board before the election of a new board shall specify the terms as one, two or three years to which members from each district shall be elected at the first election or the board may by resolution declare that members shall be elected at large.

(5) As of the effective date of the conversion effected under this section, all special laws and charter provisions relating to the converted district are repealed and the organization, operation, maintenance and conduct of the affairs of the district shall be governed by general laws relating to independent districts.

(6) As of the date of the election, if a majority of votes cast on the question favor the conversion to an independent district, the special district is dissolved and a new independent district is created. Title to all of the property, real and personal, of the dissolved district passes to the independent district and all current outstanding contractual obligations, including the bonded indebtedness, if any, of the special district, together with any legally valid and enforceable claims against the dissolved district are imposed on the new independent district.

(7) In any municipality where an existing pension law is applicable to employees of a special district such law shall continue to be applicable to the same extent to em-

ployees of the successor district.

(8) In any municipality where existing civil service provisions of any law or charter are applicable to special district employees, such provisions shall continue to be applicable in the same manner and to the same extent to employees of the successor district.

Such districts shall contract with the cities in which located for such facilities as are furnished by the civil service bureau, and unless the board and city governing body each adopts a resolution declaring that a particular function would be most efficiently and effectively handled separately, the board shall contract on a pro rata cost basis with the city for such facilities and services as are provided by the purchasing department comptroller, legal department and other services supplied by such cities, provided, however, that the board may contract for other legal services when the interests of such district and such city are in conflict in any legal matter and provided further that such board may contract for architectural services for the planning and construction of new school buildings when funds have been made available for construction of such school buildings.

[*Ex1959 c 71 art 3 s 10; 1961 c 562 s 9; 1975 c 162 s 12,13*]

122.27 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.28 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.29 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.30 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.31 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.31 MS 1974 [Repealed, 1975 c 162 s 42]

INCLUSION OF NONOPERATING DISTRICTS

IN OTHER DISTRICTS

122.32 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.32 REMAINING DISTRICTS, ACTION OF COUNTY BOARD; ELECTION.

Subdivision 1. If there be any organized school district not maintaining a classified school within the district, except those districts which have a contract with the state university board, or with the board of regents of the university of Minnesota for the education of all the children of the district, such district shall hereby be dissolved as of the date the district ceases to maintain a classified school. Any such district not maintaining a classified school shall forthwith be attached by order of the county board to such district maintaining classified elementary or secondary schools upon notice and hearing as provided in section 122.22 for the attachment of dissolved districts.

Subd. 2. Prior to the order of the county board, the board may direct the county auditor to call a special election in the manner and form in which district elections are held. The purpose of the election shall be to determine to which district or districts the dissolved district shall be attached. The county board after hearing shall determine the form of question as it should appear on the ballot. The results of the election shall be advisory in nature only.

Subd. 3. The results of the election shall be certified by the county auditor to the county board and within 45 days after such election the county board shall issue its order dissolving the district. The order shall also attach the dissolved district to a proper district as determined by the county board, and a copy of such order shall be filed with the commissioner of education. Title to all the property, real and personal, of the district dissolved passes to the district to which such dissolved district is attached. If a district is divided by virtue of the proceedings the county board shall issue its order providing for the division of the current assets and liabilities according to such terms as it may deem just and equitable. If the order of the county board attaches any land area to a district with bonded debt, the taxable property in such area assumes its proportionate share of the authorized and outstanding debt of the district to which it is attached.

[*1963 c 547 s 2; 1965 c 280 s 1; 1975 c 162 s 14; 1975 c 321 s 2*]

122.33 [Repealed, 1975 c 162 s 42]

MINNESOTA STATUTES 1976

1857

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.44

122.34 PRIVATE SCHOOLS IN NONOPERATING DISTRICTS. Sections 122.31, 122.32, and 122.33 shall not apply to any school district in which is located any existing private school maintaining elementary and secondary education for 75 percent of eligible pupils within the district and complying with the requirements of Minnesota Statutes 1961, Section 120.10, Subdivision 2.

[1963 c 547 s 4]

122.35 [Repealed, 1975 c 162 s 42]

122.355 BORDER DISTRICTS; CONTINUED OPERATION. Subdivision 1. The common school districts situated along the border of the state of Minnesota and the state of Wisconsin which have, for the preceding 25 years, prior to May 26, 1965 been educating pupils of their district in school districts in Wisconsin may continue to operate as common school districts notwithstanding that any of such school districts do not maintain classified schools. Such school districts are not subject to the terms and provisions of sections 122.32 to 122.52.

Subd. 2. The provisions of subdivision 1 shall remain in effect as long as the school district does not discontinue the practice of education for their district as described in subdivision 1.

[1965 c 739 s 1; 1969 c 541 s 1; 1975 c 162 s 15; 1976 c 2 s 57]

122.40 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

INCLUSION OF ALL AREA IN INDEPENDENT

OR SPECIAL DISTRICTS

122.41 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.41 POLICY. It is hereby declared to be the policy of the state to encourage the organization of school districts into such local units of administration as will afford better educational opportunities for all pupils, make possible a more economical and efficient operation of the schools and insure a more equitable distribution of public school revenue. To this end all area of the state shall be included in an independent or special school district maintaining classified elementary and secondary schools, grades one through twelve.

[1967 c 833 s 1; 1975 c 162 s 16]

122.42 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.42 MS 1971 [Temporary]

122.43 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.43 DISSOLUTION OF DISTRICTS NOT A PART OF INDEPENDENT DISTRICTS. Subdivision 1. If there be any organized school district not a part of an independent school district maintaining classified elementary and secondary schools, grades one through twelve, such district shall hereby be dissolved.

Subd. 2. The board of each district so dissolved shall continue to maintain school therein until all territory thereof has been attached to a proper district not later than July 1, but such boards shall have power and authority only to make such contracts and to do such things as are necessary to maintain properly the schools for the period they may be in session prior to the attachment.

[1967 c 833 s 3; 1975 c 162 s 17]

122.44 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.44 ATTACHMENT TO ORGANIZED DISTRICTS; PROCEDURE. Subdivision 1. All territory of school districts dissolved by sections 122.41 to 122.52 and all area of the state not in a district maintaining classified elementary and secondary schools shall be attached by order of the county board to organized districts maintaining classified elementary and secondary schools, grades one through twelve upon notice and hearing, as provided in section 122.22 for the attachment of dissolved districts.

Subd. 2. [Repealed, 1975 c 162 s 42]

Subd. 3. [Repealed, 1975 c 162 s 42]

MINNESOTA STATUTES 1976

122.45 SCHOOL DISTRICTS, FORMATION AND ALTERATION

1858

Subd. 4. [Repealed, 1975 c 162 s 42]

Subd. 5. [Repealed, 1975 c 162 s 42]

[1967 c 833 s 4; 1969 c 364 s 7-9; 1975 c 162 s 18]

122.45 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.45 DISTRIBUTION AND DIVISION OF ASSETS AND LIABILITIES; TAXATION. Subdivision 1. Title to all the property, real and personal, of any district dissolved under the provisions of sections 122.41 to 122.52 and all legally valid and enforceable claims and contract obligations, pass to the district to which such dissolved district is attached. If a district is divided by virtue of the proceedings, the commissioner shall issue his subsequent order providing for the division of the assets and liabilities according to such terms as he may deem just and equitable.

Subd. 2. As of the effective date of the attachment, all the taxable property in the newly enlarged district is taxable for the payment of any bonded debt theretofore incurred by any component district in the proportion which the assessed valuation of that part of a pre-existing district which is included in the newly enlarged district bears to the assessed valuation of the entire pre-existing district as of the time of the attachment. This apportionment shall be made by the county auditor and shall be incorporated as an annex to the order of the commissioner dividing the assets and liabilities of the component parts. This subdivision shall not relieve any property from any tax liability for payment of any bonded obligation but taxable property in the newly enlarged district becomes primarily liable for the payment of bonded debts to the extent of the proportion stated.

Subd. 3. [Repealed, Ex1971 c 31 art 20 s 25]

Subd. 3a. (a) Liabilities of a dissolved district existing at the time of the attachment other than bonded debt within the purview of subdivision 2 shall be obligations of the consolidated district after attachment (in the amount and kind determined by the commissioner according to subdivision 1, where a dissolved district is divided), for the payment of which the consolidated district has a right to reimbursement by special levy or levies. The amount of reimbursement will be equal to the liabilities of the dissolved district for which the consolidated district is obligated less the aggregate of the following which has been or will be received by the consolidated district at or after the time of attachment from or as a result of the dissolution and attachment of the dissolved district:

(1) All taxes inuring to the consolidating district upon levies made by the dissolved district;

(2) All cash, bank accounts, investments, and other current assets;

(3) Earned state aids of the dissolved districts;

(4) Returns from the sale of property of the dissolved district.

(b) The amount of such special levy so computed shall be certified to the county auditor with the other tax requirements of the consolidated district but separately stated and identified. The auditor shall add the amount of special levy so certified to the school rate for the territory in the consolidated district which came from the dissolved district and include it in the levy on the taxable property in that territory; provided, the county auditor shall not spread more of the amount certified for special levy in any year than will amount to 20 percent of the school levy without the special levy, leaving the remaining part of the certified amount for levy in successive years without further certification. Any amount of reimbursement to which it is entitled omitted by the consolidated district from its initial certification for special levy may be certified in a subsequent year for levy in the same manner as the levy upon initial certification.

The levy authorized by this subdivision shall be in addition to those otherwise authorized by section 275.125.

[1967 c 833 s 5; Ex1971 c 31 art 20 s 20; 1975 c 162 s 19,41; 1976 c 271 s 36-38]

122.46 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.46 OFFICERS AND TEACHERS, TRANSITIONAL PROVISIONS. Subdivision 1. The board of the district maintaining a secondary school to which district is attached territory of districts discontinued by sections 122.41 to 122.52 shall assume the duties and responsibilities of the board of the district so enlarged for the balance of

MINNESOTA STATUTES 1976

1859

SCHOOL DISTRICTS, FORMATION AND ALTERATION 122.53

the term to which the members were elected. At the next annual school election the successors to the members whose terms then expire shall be elected by the legally qualified voters of the newly enlarged district. Thereafter board members shall be elected according to the election procedure established for the election of board members in independent districts.

Subd. 2. Continuing contract teachers on the staffs of participating districts shall be retained on the staff of the consolidated districts in positions for which they are qualified under state law and existing board standards to the extent that such positions still exist.

[1967 c 833 s 6]

122.47 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.47 SPECIAL SCHOOL DISTRICTS, APPLICATION. When provisions of sections 122.41 to 122.52 are made to apply to any special school district such district shall hereby be converted to an independent school district on the effective date specified in the orders issued under provisions of sections 122.41 to 122.52. All applicable provisions of Minnesota Statutes 1965, Section 122.26, relating to such conversions shall otherwise be in force. To the extent that any law or charter provision of any special district is inconsistent with the status of an independent school district or the powers common to independent school districts, such law or charter provision is hereby repealed. Provided, however, that nothing in sections 122.41 to 122.52 shall in any way invalidate remaining portions of such laws or home rule charters, or the continuance of such special school districts to which no new territory is attached under the provisions of sections 122.41 to 122.52.

[1967 c 833 s 7]

122.48 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.48 PRIVATE SCHOOLS. Sections 122.41 to 122.46 shall not apply to any school district in which is located any existing private school maintaining elementary and secondary education for 75 percent of the eligible pupils within the district and complying with the requirements of section 120.10, subdivision 2.

[1967 c 833 s 8; 1975 c 162 s 41]

122.49 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.49 MS 1974 [Repealed, 1975 c 162 s 42]

122.50 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.50 MS 1969 [Expired]

122.51 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.51 APPEAL. The appeal provisions of section 127.25 shall be applicable only after the county board has issued its final order of attachment under section 122.22.

[1967 c 833 s 11; 1975 c 162 s 20]

122.52 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.52 SEVERABILITY. The provisions of sections 122.41 to 122.52 shall be construed to be severable. In the event a particular provision may be determined to be invalid, such determination shall not affect any other provision of sections 122.41 to 122.52.

[1967 c 833 s 12]

122.53 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.53 ADJUSTED MAINTENANCE COST PER PUPIL. If all or part of the area included within two or more school districts is consolidated, merged or otherwise combined to constitute a single school district, and differing adjusted maintenance costs per pupil unit apply for the prior year, the adjusted maintenance cost per pupil unit applicable to the surviving entity for purposes of Extra Session Laws 1971, Chapter 31, shall be equal to the average of such costs weighted by the taxable value assigned to the areas involved by the county auditor or respective county auditors. In any event, the adjusted maintenance cost per pupil unit shall not be less than the adjusted maintenance cost per pupil unit of the district or districts maintaining secondary educational facilities. Such weights shall apply in a like manner to determine pupil

MINNESOTA STATUTES 1976

122.53 SCHOOL DISTRICTS, FORMATION AND ALTERATION

1860

units for the surviving entity of the school year preceding consolidation, merger, or other combination.

[*Ex1971 c 31 art 20 s 21*]

- 122.54 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.54 MS 1974 [Repealed, 1976 c 271 s 98 subd 1]
- 122.55 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.553 MS 1953 [Repealed, 1955 c 858 s 13]
- 122.56 MS 1949 [Repealed, 1953 c 744 s 12]
- 122.57 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.58 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.59 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.60 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.61 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.62 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.63 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.64 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.65 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.66 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.67 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.71 MS 1957 [Renumbered 123.81]
- 122.72 MS 1957 [Renumbered 123.82]
- 122.73 MS 1957 [Renumbered 123.83]
- 122.74 MS 1957 [Renumbered 123.84]
- 122.75 MS 1957 [Renumbered 123.85]
- 122.76 MS 1957 [Renumbered 123.86]
- 122.77 MS 1957 [Renumbered 123.87]
- 122.78 MS 1957 [Renumbered 123.88]
- 122.79 MS 1957 [Renumbered 123.89]
- 122.80 MS 1957 [Renumbered 123.90]
- 122.81 MS 1957 [Renumbered 123.91]
- 122.82 MS 1957 [Renumbered 123.92]
- 122.83 MS 1957 [Renumbered 123.93]