

MINNESOTA STATUTES 1976

1861

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.11

CHAPTER 123

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

Sec.		Sec.	
DEFINITIONS AND GENERAL PROVISIONS		123.51	Special school districts, laws applicable.
123.01	Definitions.		EDUCATIONAL COOPERATIVE SERVICE UNITS
123.015	Elections; corrupt practices.	123.58	Educational cooperative service units.
	COMMON SCHOOL DISTRICTS	123.581	Pilot programs.
123.11	Common school districts; meetings, elections.		MISCELLANEOUS PROVISIONS
123.12	Boards of common school districts.	123.61	Limitations.
123.13	Officers of common school districts.	123.62	Plats.
123.14	General powers of common school districts.	123.63	Eminent domain.
123.15	Schoolhouses and sites, common school districts.	123.64	Agricultural education.
123.16	Common school districts, contracts.	123.65	Discontinuance of schools.
123.17	Extracurricular activities of common school districts; insurance.	123.66	Records as evidence.
123.18	Common school districts, transportation.	123.67	County attorney, duties.
123.19	Common school districts, specific powers and duties.	123.68	County school districts, continuance, laws applicable.
123.20	Common school district, liability insurance, officers and employees.	123.69	School employees, tuberculosis.
123.21	Limitation of sections.	123.70	Health standards; newly enrolled students.
	INDEPENDENT SCHOOL DISTRICTS	123.71	Publication of school district disbursements.
123.32	Independent school districts, elections.	123.72	Medical insurance premiums for retired personnel.
123.33	Boards of independent school districts.	123.73	Data processing by joint board, acquisition of property.
123.335	Imprest cash funds.	123.74	Policy.
123.34	Officers of independent school districts.	123.741	Educational policy; curriculum advisory committees.
123.35	General powers of independent school districts.	123.742	Assistance to local school districts.
123.351	Cooperative centers for vocational education.	123.743	Appropriation.
123.352	Traffic and parking regulation.		TRANSPORTATION OF SCHOOL CHILDREN
123.36	Schoolhouses and sites, independent school districts.	123.76	Policy.
123.37	Independent school districts, contracts.	123.77	Definitions.
123.38	Co-curricular and extracurricular activities of independent school districts; insurance.	123.78	Equal treatment.
123.39	Independent school districts, transportation.	123.79	Funds and aids.
123.40	Independent school districts, specific powers and duties.	123.80	Safety education for transported students.
123.41	Independent school district, liability insurance, officers and employees.		EDUCATIONAL AIDS FOR NONPUBLIC SCHOOL CHILDREN
123.42	Limitation of sections.	123.931	Declaration of policy.
	SPECIAL SCHOOL DISTRICTS	123.932	Definitions.
		123.933	Purchase or loan of instructional materials.
		123.934	Purchase and provision or loan of equipment.
		123.935	Provision of auxiliary services.
		123.936	Payments for contractual obligations.
		123.937	Appropriation.

NOTE: For special laws relating to specific school districts, see Table 1, Vol. 4.

DEFINITIONS AND GENERAL PROVISIONS

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

123.01 DEFINITIONS. For purposes of this chapter, the words defined in section 120.02 have the same meaning.
[*Ex1959 c 71 art 4 s 1*]

123.015 ELECTIONS; CORRUPT PRACTICES. The provisions of sections 210A.03 and 210A.05, subdivision 1 and all acts amendatory thereof shall apply to any elections of a school district, however organized.

[*1965 c 44 s 1; 1974 c 406 s 14; 1975 c 162 s 21,41; 1975 c 284 s 46*]

123.02-123.10 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

COMMON SCHOOL DISTRICTS

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

123.11 COMMON SCHOOL DISTRICTS; MEETINGS, ELECTIONS. Subdivision 1. The annual meeting of all common districts shall be held on the last Tuesday in June, at eight o'clock p.m., unless a different hour has been fixed at the preceding annual meeting, upon ten days' posted notice given by the clerk, and specifying the matters to come before such meeting; but failure of the clerk to give such notice, or to specify the business to be transacted thereat, shall not affect the validity of any business, except the raising of money to build or purchase a school house, the authorizing

MINNESOTA STATUTES 1976

123.12 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1862

of an issue of bonds, the fixing of a school house site, or the organization as an independent district. At the annual meeting in a common district five legal voters shall constitute a quorum. The chairman and clerk of the board shall officiate in their respective capacities at all meetings of the electors of the district. In the event of the absence of the chairman or clerk, the voters shall elect a chairman or clerk pro tem. The voters shall have the power in an annual meeting to repeal and modify their proceedings. The polls at all meetings shall be open at least one hour.

Subd. 2. The annual meeting shall have power to elect by ballot officers of the district. In all elections or vote by ballot, the clerk shall record the names of all voters participating therein and the chairman shall appoint two electors who with the assistance of the clerk shall supervise the balloting and canvass the votes. If any candidates receive an equal number of votes for an office, the board shall resolve the tie by lot.

Subd. 3. Any person desiring to be a candidate for a district office at the annual meeting of the district shall file with the clerk of the district an application to be placed on the ballot for such office, or any five voters of the district may file such application for or on behalf of any qualified voter in the district that they desire shall be such candidate. The application shall be filed not less than 12 days before the annual school district meeting. The clerk of the district, in his notice of annual meeting, shall state the names of the candidates for whom applications have been filed, failure to do so shall not affect the validity of the election thereafter held. At the annual meeting of common districts, nomination of candidates for offices may be made from the floor by any qualified voter.

Subd. 4. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers placing thereon the names of the proposed candidates for such office with a blank space after such names, such ballots shall be marked and signed as official ballots, and the ballots so prepared by the clerk of the district shall be used to the exclusion of all other ballots at such annual meeting or election in the election of officers of the district.

Subd. 5. At the first meeting of each district, the chairman shall be elected to hold office until July 1 following the next annual meeting. The treasurer, until one year from such date, and the clerk until two years from such date.

Subd. 6. A board member elected at an annual meeting upon notice from the clerk, shall, on or before the first Saturday in July, file with the clerk his acceptance of the office and his official oath. Any person appointed by the board or elected at a special meeting to fill a vacancy shall file in writing his acceptance of the office and his official oath within ten days after the notice of such appointment or election by the clerk. A person who fails to qualify prior to the time specified shall be deemed to have refused to serve, but such filing, if made at any time before action to fill the vacancy has been taken, shall be sufficient.

Subd. 7. Upon the filing of a petition therefor, executed by five resident freeholders of the common district, specifying the business to be acted upon, or upon the adoption of a proper resolution, so specifying, signed by a majority of the members of the board, the clerk shall forthwith call a special meeting of the district upon ten days' posted notice and one week's published notice if there be a newspaper printed in such district and specify in such notice the business named in such request or resolution and the time and place of the meeting. If there be no clerk in the district or if he fails for three days after receiving such request or resolution to give notice of such meeting, it may be called by like notice by five freeholders qualified to vote of the district. No business except that named in the notice shall be transacted at such meeting. If there are not five voters who are freeholders in the district, or if there is not a board therein, the county superintendent may call a special meeting by giving notice thereof as provided in this section. The voters at a special meeting have power to repeal or modify their proceedings.

[*Ex1959 c 71 art 4 s 2; 1965 c 33 s 1*]

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

123.12 BOARDS OF COMMON SCHOOL DISTRICTS. Subdivision 1. The care, management and control of a common district is vested in a board of three members to be known as the school board. The term of office of a member shall be three years, and until his successor qualifies. The board of each common district shall consist of a chairman, a treasurer, and a clerk. The board may by resolution establish a time and

MINNESOTA STATUTES 1976

1863

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.12

place for regular meeting and no notice of such meeting need be sent to any members of the board.

Subd. 2. The board shall submit to the annual meeting an estimate of the expenses of the district for the coming year for a school term as determined by the board and for such other specified purposes as the board may deem proper and if such meeting shall fail to vote a sufficient tax to maintain a school for such time, the board shall levy such tax; but no board shall expend any money or incur any liability for any purpose beyond the sum appropriated by vote of the district for such purpose, or levied by the board pursuant to this subdivision, or on hand and applicable thereto.

Subd. 3. A vacancy in any board occurs when a member (a) dies, or (b) resigns, or (c) ceases to be a resident of the district, or (d) is unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district.

Subd. 4. A vacancy caused by a member being unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district, may, after the board has by resolution declared such vacancy to exist, be filled by the board for the remainder of the unexpired term, or until such ill or absent member is again able to resume his duties as a member of such board, whichever date is earlier. When such ill or absent member is again able to resume his duties as a member of the board, the board shall by resolution so determine and declare such person to be again a member of the board and the member appointed by the board in his place to be no longer a member thereof.

Subd. 5. Any other vacancy in a board shall be filled by the board at any regular meeting thereof or by a special meeting called for the purposes until such vacancy can be filled by election at the next annual meeting or election. Such appointment shall be evidenced by a resolution entered in the minutes. All elections to fill vacancies shall be for the unexpired term.

Subd. 6. A majority of the voting members of the board shall constitute a quorum. No contract shall be made or authorized, except at a regular meeting of the board or at a special meeting at which all members are present or of which all members have had notice. Special meetings of the board may be called by the chairman or any member upon notice mailed to each member at least three days prior thereto.

Subd. 7. The board shall superintend and manage the schools of the district; adopt, modify, or repeal rules for their organization, government, and instruction and for the keeping of registers; and prescribe textbooks and courses of study.

Subd. 8. The board shall make and, when deemed advisable, change or repeal rules relating to the organization and management of the board and the duties of its officers.

Subd. 9. The board shall visit each school at least once every three months.

Subd. 10. The clerk or secretary, treasurer, and superintendent of any district shall receive such compensation as may be fixed by the board. The other members of the board shall receive such compensation as may be fixed by the board but not to exceed \$5 per diem nor more than \$75 a year. All members of the board may receive reimbursement for transportation at the rate provided for in section 43.328.

Subd. 11. The district shall pay the necessary expenses of the board, including \$5 per day for attending one meeting of the boards of the county in each year, when called by the county superintendent, and mileage according to section 43.328.

Subd. 12. The school board of any school district of this state by a two-thirds vote may become a member of the Minnesota school board association or the Minnesota association of public schools, or the metropolitan area school board association, and appoint one or more of its members to attend its annual meeting. The amount of annual membership dues in the association and actual and necessary expense incurred in attending such meeting shall be paid as other expenses of the district are paid.

Subd. 13. The board of any district may become a member of the county school officers' association of the county and shall appoint one or more of its members to attend the annual meeting thereof. The amount of the annual membership dues in such association shall not exceed \$5, which amount shall be paid as other expenses of the district are paid.

Subd. 14. At its first meeting following July 1 each year, the board shall designate, by resolution, as the official newspaper of the district, some legal newspaper of

MINNESOTA STATUTES 1976

123.13 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1864

general circulation within the district, and contract with such newspaper for its publications. If there is more than one such newspaper, the board shall let such contract to the lowest responsible bidder at the earliest practicable date. All notices and proceedings required by law to be published by the board shall be published in the official newspaper so designated. The fees for such publication shall not exceed the fees for publication of legal notices as prescribed by Minnesota Statutes.

Subd. 15. The school board of any school district of this state by a two-thirds vote may become a member of an association of vocational schools and may appoint one or more of its members to attend the annual meeting of such association. The amount of annual membership dues in the association and actual and necessary expenses incurred in attending such meeting shall be paid as other expenses of the district are paid.

[Ex1959 c 71 art 4 s 3; 1967 c 176 s 1]

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

123.13 OFFICERS OF COMMON SCHOOL DISTRICTS. Subdivision 1. The chairman, when present, shall preside at all meetings of the board and of the district; countersign all orders upon the treasurer for claims allowed by the board; represent the district in all actions and perform all the duties usually incumbent on such officer.

In case of absence, inability, or refusal of the clerk to draw orders for the payment of money authorized by a vote of the majority of the board to be paid, the orders may be drawn by the chairman, and paid by the treasurer, a statement thereof, with a copy of such orders, being delivered to the clerk by the treasurer, or the office of the clerk may be declared vacant by the chairman and treasurer and filled by appointment.

Subd. 2. The treasurer shall receive and be responsible for all money in the district and disburse the same on orders signed by the clerk and countersigned by the chairman or other vouchers authorized by law; provided, that, in the event that the chairman has been continuously absent from the district for a period of 30 days or more, the treasurer may pay orders without the signature of the chairman. Each order shall state the fund on which it is drawn, the name of the payee, and the nature of the claim for which such order is issued and shall be so drawn that when signed by the treasurer in an appropriate place, it becomes a check on the school district depository. He shall keep an account of each fund, and of all receipts and disbursements showing the sources of all receipts and the nature and purpose of disbursements. He shall deposit the funds of the district in the official depository in accordance with the provisions of law.

Subd. 3. Within three days preceding the last Tuesday in June, the treasurer shall file with the clerk, a report of his balances, receipts and disbursements by funds for the year. Such report, together with his vouchers, shall be examined by the board and, if found correct, approved by resolution entered in the records. If incomplete a further or amended report may be required by the board. He shall make such further reports as may from time to time be called for by the board and perform all duties usually incumbent on such officer.

Subd. 4. In the event that valid orders are presented to the treasurer for payment, and he has insufficient funds on hand to pay them, he shall receive, endorse and process them in accordance with section 124.06.

Subd. 5. Every district treasurer shall give a corporate surety bond to the state, the board to fix the specific amount of the bond in an amount that will protect the interest of the district and pay the premium therefor, and the bond to be approved by the board and conditioned for the faithful discharge of his official duties. The board may, at any time by a majority vote, require the treasurer to give a new or an additional bond and upon his failure to furnish same within a reasonable time after notice, the board shall declare the office of treasurer vacant. Any bond hereunder, before approval by the board, shall be approved as to its form by the state auditor, county attorney, or an attorney designated by the school board. All such bonds shall be filed with the auditor and the auditor shall not deliver any warrants for tax settlements or state aids until such bond has been filed.

Subd. 6. When the duty devolves upon any person employed by a board to receive money and pay it over to the treasurer of the district the district shall require a bond from such person and pay all premiums therefor. The amount of each bond shall be fixed by the board and the bond approved by it. The bond shall be not less than

MINNESOTA STATUTES 1976

1865

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.14

\$500 conditioned for the faithful performance of his duty and shall be filed with the clerk. In lieu of individual bonds the district may prescribe and keep in effect a schedule or position insurance policy or blanket bond in such aggregate amount as the district determines insuring the fidelity of such persons in the amount of not less than \$500 for each such person.

Subd. 7. The clerk shall keep in books provided for that purpose a record of all meetings of the district and the board. He shall within three days after the meeting, notify all persons elected upon any board, or as officers of any district, of their election and, on or before July 10 in each year, make and transmit to the county superintendent a certified report, showing:

1. The condition and value of school property;
2. The receipts and disbursements in detail, and such other financial matters as may be called for by the commissioner;
3. The length of school term and the enrollment and attendance by grades;
4. The names and post-office addresses of all board members and officers; and
5. Such other items of information as may be called for by the state commissioner.

He shall enter in his record book copies of all his reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished him by a clerk pro tem, and keep an itemized account of all the expenses of the district. He shall report to the county superintendent the time of commencement of each term at least two weeks in advance. He shall furnish to the auditor of the proper county, on or before October 10 of each year, an attested copy of his record, showing the amount of money voted by the district or the board for school purposes; draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers or for teachers' wages, to be countersigned by the chairman. Such orders shall state the consideration, payee and fund and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due and no money applicable for teachers' wages shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose.

[*Ex1959 c 71 art 4 s 4; 1965 c 69 s 1; 1973 c 492 s 7*]

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

123.14 GENERAL POWERS OF COMMON SCHOOL DISTRICTS. Subdivision

1. The board shall have the general charge of the business of the district, the school houses, and of the interests of the schools thereof.

Subd. 2. It shall be the duty and function of the district to furnish school facilities to every child of school age residing in any part of the district. It shall establish and organize, and alter and discontinue, such grades or schools as it may deem advisable and assign to each school and grade a proper number of pupils; provided, that where a board discontinues grades or schools it shall make provision for the instruction of pupils of such grades or schools.

Subd. 3. The voters of the district may authorize the issuance of bonds of the district in accordance with the provisions of chapter 475.

Subd. 4. The board shall employ and contract with necessary qualified teachers and discharge the same for cause, but no substitute teacher shall be hired except to replace a regular teacher on leave of absence or in an emergency of less than one school year's duration.

Subd. 5. The board may provide library facilities as part of its school equipment according to the standards of the state board of education.

Subd. 6. The board may establish and maintain public evening schools and adult education programs as a branch of the public schools, and such evening schools and adult education programs when so maintained shall be available to all persons over 16 years of age who, from any cause, are unable to attend the full time school of such district.

Subd. 7. The board may purchase all necessary books and school supplies for indigent pupils.

MINNESOTA STATUTES 1976

123.15 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1866

Subd. 8. The board shall furnish free textbooks to all pupils.

Subd. 9. The board may furnish school lunches for pupils and teachers on such terms as it determines.

[*Ex1959 c 71 art 4 s 5*]

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

123.15 SCHOOLHOUSES AND SITES, COMMON SCHOOL DISTRICTS. Subdivision 1. When authorized by the voters at a regular meeting or at a special meeting called for that purpose, the board may acquire necessary sites for school houses, or enlargements or additions to existing school house sites, by lease, purchase, or condemnation under the right of eminent domain; lease, erect or purchase garages for district-owned school buses; and sell or exchange school houses or sites and execute deeds of conveyances thereof. It may acquire by lease, purchase, or condemnation under eminent domain suitable tracts of land either within or without the district for the purpose of instruction, experimentation, and demonstration in agriculture. In any city, a school site when practicable shall contain at least one block, and, if outside of any city, two acres; and when any school house site shall contain less than such amount the board may, without a vote of the electors, acquire other land adjacent to or near such site to make, with such site, all or part of such amount. When property is taken by eminent domain by authority of this subdivision, when needed by the district for such purpose, the fact that the property so needed has been acquired by the owner under the power of eminent domain, or is already devoted to public use, shall not prevent its acquisition by the district.

Subd. 2. The annual meeting or election shall have power to designate a site for a school house and provide for building or otherwise placing a school house thereon, when proper notice has been given; but a site on which a school house stands or is begun shall not be changed except by vote therefor, of three-fifths of the voters of the district voting on the question.

Subd. 3. When authorized by a two-thirds majority of all the electors voting at an annual or special meeting, the board may erect, purchase, or acquire a dwelling house for the use of its teachers; provided that the proposition shall be submitted only at a meeting or election, the notice of which stated that such proposition would be considered or submitted thereat.

Subd. 4. The board shall provide proper sanitary facilities for the schools, plant shade trees and shrubbery and otherwise improve school sites, procure insurance on school property, and make proper ordinary repairs thereon.

Subd. 5. The board may build or assist in building sidewalks for the use of pupils and the general public connecting with sidewalks in municipalities and leading to the school house. The governing body of any municipality may likewise appropriate money for the same purpose or to assist the district.

Subd. 6. When necessary, the board shall lease rooms for school purposes.

Subd. 7. The board shall purchase, sell and exchange school apparatus, furniture, stoves, buses and other equipment as may be deemed necessary by the board for school purposes.

Subd. 8. The board shall provide for the heating and care of school houses and rooms and may provide for the heating and care of garages which house school buses.

Subd. 9. The board may contract for the furnishing of heat for its buildings for such a term as it may deem for the best interest of the district, not exceeding ten years. Where it is necessary to lay mains or pipes to connect these buildings with its heating system, the district is authorized to advance all, or any part, of the cost thereon upon such terms and conditions as shall be agreed upon.

Subd. 10. The board may authorize the use of any school houses in the district for divine worship, Sunday schools, public meetings, elections and such other community purposes as in its judgment will not interfere with their use for school purposes; but before permitting such use, the board may require a cash or corporate surety bond in a reasonable amount conditioned for the proper use of such school house, the payment of all rent and the repair of all damage occasioned by such use, and it may charge and collect for the use of the district from the persons using such school house such reasonable compensation as it may fix.

MINNESOTA STATUTES 1976

1867

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.16

The board may authorize the use of any school houses or buildings in and of the district for the holding of primaries, elections, registrations and all acts in connection therewith, in such manner as, in its judgment, will not interfere with their use for school purposes. It may impose such reasonable regulations and conditions upon such use as may seem meet and proper.

[*Ex1959 c 71 art 4 s 6; 1973 c 123 art 5 s 7*]

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

123.16 COMMON SCHOOL DISTRICTS, CONTRACTS. Subdivision 1. No contract for work or labor, or for the purchase of furniture, fixtures, or other property, except books registered under the copyright laws, or for the construction or repair of school houses, the estimated cost or value of which shall exceed \$2,000, shall be made by the board without first advertising for bids or proposals by two weeks' published notice in the official newspaper. Such notice shall state the time and place of receiving bids and contain a brief description of the subject matter. Additional publication in the official newspaper or elsewhere may be made as the board shall deem necessary.

Every such contract shall be awarded to the lowest responsible bidder, duly executed in writing, and the person to whom the same is awarded shall give a sufficient bond to the board for its faithful performance, and otherwise conditioned as required by law. If no satisfactory bid is received, the board may readvertise.

Every contract made without compliance with the provisions of this section shall be void; provided, that in case of the destruction of buildings or injury thereto, where the public interest would suffer by delay, contracts for repairs may be made without advertising for bids.

NOTE: See section 471.345.

Subd. 2. Members of the board are authorized to contract with, do work for, and furnish supplies to the school district subject to the provisions of section 471.87.

Subd. 3. Any contract made by the board for the rental of rooms for school purposes, or for the free transportation of pupils to and from schools, or for the rental of any facility or facilities owned or operated by or under the direction of any private organization, shall be effective until disapproved by the commissioner, and all such contracts shall be submitted to him for approval immediately after being signed by the parties.

Subd. 4. The commissioner shall approve each such contract unless it appears from the information available to him that:

(a) The amount to be paid by the school district concerned for the rooms or facilities rented, or for the transportation to be furnished, under such contract substantially exceeds the reasonable value thereof;

(b) The rooms or facilities to be furnished are not reasonably required for or suitable to the operation of the schools of the district, or the transportation contracted for is not suitable to the requirements of the district; or the contract does not provide adequately against any encroachment on or interference with the conduct of a public school, or

(c) The contract does not conform to law or a duly promulgated regulation of general application of the state board of education.

Subd. 5. If the commissioner determines that one or more of such circumstances (a), (b) and (c) exists, he shall notify the district board, giving it a reasonable stated time in which to meet the objections specified in the notice. If the contract is not so changed within that time, it shall be disapproved by the commissioner. If the contract is approved the commissioner shall so notify the board. The commissioner's action together with a statement as to whether or not a petition to review such action has been filed as hereinafter provided, shall appear in the proceedings of the next meeting of the board, held after receipt of notice from the commissioner, and the proceedings shall briefly identify the contract approved or disapproved.

Subd. 6. The determination of the commissioner disapproving a contract shall be subject to the review of the state board of education, on the petition of the board, made pursuant to its resolution.

Subd. 7. The determination of the commissioner approving a contract shall be subject to the review of the state board of education, on the petition of voters of such

MINNESOTA STATUTES 1976

123.16 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1868

district equal in number of five percent of those who voted at the last annual election or annual meeting of the district, except that there shall be at least five petitioners and that no more than 25 petitioners shall be required. Such petition must be filed in duplicate with the commissioner on or before the tenth day after the publication of the proceedings of the meeting of the district board which show the determination of the commissioner, the review of which is asked, or the thirtieth day after such determination, whichever date is earlier.

Subd. 8. Such petition shall:

(a) Identify the determination of the commissioner sought to be reviewed and the contract in question by the names of the parties to it, and

(b) Allege the grounds upon which the determination of the commissioner is claimed to have been erroneous, but such allegation may be on information and belief of the petitioners, and

(c) State the names, post office addresses, and voting residences of the petitioners, and

(d) State the person or persons, not more than three, and their respective post office addresses, who are authorized to receive for all of the petitioners any notices with respect to the review or any subsequent proceeding. A person, not a resident of the district, may be so named.

Subd. 9. Upon the filing of a proper petition, the commissioner shall set a time and place for hearing thereof, which shall not be less than ten nor more than 30 days after such filing. He shall cause notice of such hearing to be given by mail to the parties to the contract affected and to the person or persons named in the petition as authorized to receive notice, and in addition shall cause a notice thereof to be published in a newspaper qualified to publish proceedings of the district board concerned.

Subd. 10. The state board shall adopt rules governing the proceedings for review not inconsistent with the requirements hereof. Such rules shall be designed to give a full and fair hearing and to permit interested parties an opportunity to produce evidence relating to the issues involved. Such rules may provide that any question of fact to be determined upon such review may be referred to one or more members of the board or to an employee of the state board of education acting as a referee to hear evidence and report to the state board the testimony taken.

Subd. 11. The state board, or the parties to the proceedings, or any person designated to receive evidence upon a review shall have the same right to issue and procure subpoenas and administer oaths as are granted in proceedings before the department of labor and industry. There shall be a stenographic record made of all testimony given and other proceedings during such hearing, and as far as practicable, rules governing reception of evidence in courts shall obtain.

Subd. 12. The decision of the state board shall be in writing and the controlling facts found upon which the decision is made shall be stated in sufficient detail to appraise the parties and the reviewing court of the basis and reason of the decision. If it is the decision of the state board that none of the grounds of disapproval specified herein exist, the contract in question shall be approved; if it is the decision of the state board that one or more of those grounds exist, the contract shall be disapproved.

Subd. 13. The decision of the state board may be reviewed on certiorari by the district court of the county in which the school district or any part thereof is located, and the reasonableness of the state board's decision under all the circumstances of the case shown by the record will be of a judicial question of fact.

Subd. 14. The fact of approval or disapproval of a contract shall not be evidence in any civil or criminal proceeding growing out of the making or performance of the contract or related to the official conduct of the members of the district board. Proceeding or failure to proceed shall not preclude any civil or criminal action otherwise proper. Necessary costs and disbursements, exclusive of those incurred in the administrative proceedings, on review by certiorari shall be taxed against the losing party and in the event taxed against the state shall be paid from the appropriations made to the state department of education for the payment of special state aids.

[*Ex1959 c 71 art 4 s 7; Ex1967 c 1 s 6*]

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

MINNESOTA STATUTES 1976

1869

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.18

123.17 EXTRACURRICULAR ACTIVITIES OF COMMON SCHOOL DISTRICTS; INSURANCE. Subdivision 1. Whenever it shall appear to be beneficial and for the best interest of the district and the pupils of the district to carry on any school sport activities or educational activities connected with their studies outside of the territorial limits of the district, the board may authorize such activities to be conducted under such rules and regulations as the board deems sufficient. The district may pay all necessary costs therefor from the school funds available including transportation.

Subd. 2. The board, may, and upon vote of the district, shall take charge of and control all school and quasi-school activities of the teachers and children of the public schools in that district held in the school buildings or school grounds or under the supervision or direction of the school board and to that end adopt rules and regulations for the conduct of athletic, oratorical, musical, dramatic and other contests and entertainments in which the school of its district or any class or pupils therein may participate. All money received on account of such entertainments and contests shall be turned over to the district treasurer, who shall keep the same in a separate fund to be known as the school auxiliary fund, to be disbursed for expenses connected with such entertainments or contests, or otherwise, by the board upon properly allowed itemized claims. Where the district has taken charge and control of such funds the treasurer and his bondsmen and legal depositories shall be subject to the same liability for such funds as for other school funds as provided by law and such funds shall be considered public funds for purposes of examination and auditing. Any donations to the district for specific objects and purposes and other than for the primary purposes of the district, shall be placed in the fund hereinbefore referred to and in like manner disbursed; the request of the donor therefor being complied with in regard to the purpose of such disbursements, if the school board shall consider that the interest of the district will be promoted thereby.

No such school or quasi-school entertainment or contest in any district in which the board shall act under the provision of this subdivision shall be participated in by the teachers of pupils in the public schools of such district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Subd. 3. The board of any district in this state may enter into a contract providing for the payment of cash benefits or the rendering or payment of hospital and medical benefits, or both to school children injured while participating in the athletic or supervised physical activities of the school, such contract to make the payment of such benefits or the rendering thereof the direct and sole obligation of the association or company entering into such contract with the district.

If the board deems it advisable, it may authorize employees to collect fees from the pupils enrolled in said school who are to be or are covered by such contract, and to make payment of the premium or other charge for such contract or protection, provided payment of such premium or other charge shall not be made from funds received from the federal government or from the state or any governmental subdivision thereof, nor from funds derived by a tax levy or the issuance of bonds.

The payment of any fees, premium or other charge by such child shall not thereby make the district liable for any injuries incurred from such athletic or supervised physical school activities.

Subd. 4. The insurance laws of this state shall not apply to nonprofit benefit and relief associations formed by the public schools or offices of public schools or the Minnesota state high school league, the privileges of which and applications for membership in which are confined to pupils of the schools, and the benefits and relief to be derived therefrom are limited to pupils injured or disabled from participation in school athletics or any supervised school activity.

[Ex1959 c 71 art 4 s 8]

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

123.18 COMMON SCHOOL DISTRICTS, TRANSPORTATION. Subdivision 1. The board may provide for the free transportation of pupils to and from school and to schools in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, when funds are available therefor and if agreeable to the district to which it is proposed to transport the pupils, for the whole or a part of the school year as it may deem advisable, and subject to its rules. Every driver shall possess all the qualifications required by the rules of the state board of education.

MINNESOTA STATUTES 1976

123.18 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1870

Subd. 2. The board may enter into a contract for the purpose of providing transportation, and may purchase gasoline and furnish same to a contract carrier for use in the performance of a contract with the school district for transportation of school children to and from school.

Subd. 3. The board may purchase school buses either outright or on the installment plan, installments to be all paid within a period not to exceed three years from the date of purchase. On the deferred payments, the rate of interest is not to exceed four percent per annum.

Subd. 4. The board may provide for the instruction of any resident pupil in another district when inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in his own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon or charged and may provide transportation; provided, that such pupil shall continue to be a pupil of the district of his residence for the payment of apportionment and other state aids.

Subd. 5. The board may provide for the admission to the schools of the district of non-resident pupils, and those above school age, and fix the rates of tuition for such pupils. In case a person owns land and pays the taxes thereon, in a district other than the one in which he resides, then such person or his tenant shall be admitted to all benefits of said school the same as residents therein in respect to elementary pupils upon conforming to such reasonable terms for tuition and transportation as the board of education of such school district may have established for non-residents, except that he shall be entitled to have the amount of school taxes which he pays to the support of said district applied in payment of said tuition and transportation fees. In the payment of state aid, the district in which the pupil attends shall be considered the district of his residence because of the provisions of this subdivision.

Subd. 6. The board may transport pupils residing outside of the district but attending school therein upon pupils presenting themselves within the district on one of the regular routes traveled in the transportation of the pupils of the district.

Subd. 7. If high school pupils from a district within this state are being transported to a school in another state, the school board of the district from which the pupils are being transported may provide free transportation and tuition for any or all of its elementary pupils to such school in another state and be entitled to state aid as provided by law.

Subd. 8. The board may rent to any person, for any lawful purpose, any school bus owned by the district. The use and operation of such bus by such person shall not interfere with the use and operation of such bus by the district for the transportation of school children to and from school. Any such lessee so leasing or renting buses may use and operate the same as provided in this section without the payment of a motor vehicle tax thereon as provided by law. Any such lessee shall be liable for any and all claims for injuries and damages arising out of the use and operation of any bus so leased or rented; and the leasing or renting of any such bus shall be conditioned upon said lessee or renter procuring, at its own expense, insurance protecting the board and district against any and all claims for injuries and damages arising out of the use and operation of said bus.

Subd. 9. The board may provide for the protection of school children in the district being transported for all school purposes or activities in the district owned, operated, leased or controlled motor vehicles, against injuries or damages arising out of the operation thereof. If the board deems it advisable, insurance may be procured and paid for from any funds available. Any insurance contract covering such risk shall contain, as a condition precedent, a clause or provision expressly waiving the defense, by the insurer, that the district is engaged in a governmental function. The payment of any insurance premiums by such district shall not thereby make the district liable for any injuries or damages incurred by such transportation.

Subd. 10. The board may provide and pay the premiums for the protection for school children, instructors and automobile owners, and any other agency cooperating in providing cars for districts where driver training courses are being offered, against public liability, property damage, collision, fire and theft, arising out of the operation of any vehicle used in the course. Nothing herein shall make the district liable for injuries resulting from the actions of such persons.

MINNESOTA STATUTES 1976

1871

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.20

Subd. 11. The board may provide and pay the premiums for insurance against injuries resulting to its pupils while assigned to and acting on a school safety patrol which insurance may provide for the payment of either cash benefits to such injured pupil or for the payment of hospital and medical benefits to or for such injured pupil, or both. Nothing herein shall be construed to in any way make the district liable for such injuries.

Subd. 12. The board is authorized to enter into contracts for the removal of snow from the roads used for regular bus routes transporting pupils to and from school either within or without the district.

[*Ex1959 c 71 art 4 s 9 subds 1-12; 1963 c 663 s 1*]

NOTE: School buses, regulations, see section 169.45.

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

123.19 COMMON SCHOOL DISTRICTS, SPECIFIC POWERS AND DUTIES.

Subdivision 1. The board shall defray the necessary expenses of the board, including record books, stationery, and other incidental matters as may be proper.

Subd. 2. The board shall provide for the payment of all just claims against the district in cases provided by law.

Subd. 3. In all proper cases, the board shall prosecute and defend actions by or against the district.

Subd. 4. The board may receive, for the benefit of the district, bequests, donations or gifts for any proper purpose and apply the same to the purpose designated.

Subd. 5. The board may make rules and regulations respecting and providing for the protection of and use of the property of the district, and change or repeal such rules.

Subd. 6. The district may employ qualified accountants for the purpose of auditing, examining and reporting upon the books and records of account of the district.

Subd. 7. The district may destroy the following records:

(1) Claims and vouchers paid by the district more than ten years prior to such destruction;

(2) Receipts, miscellaneous papers and correspondence bearing dates more than ten years prior to destruction;

(3) Orders and checks paid more than ten years prior to destruction.

The officer having custody of said records shall obtain written approval of the governing body of the district. The approval shall be in the form of a resolution listing the classes of records authorized to be destroyed and the range of dates of the records in each class. A copy of the resolution consenting to the destruction of such records shall be sent to the state archives commission. If no petition or application requesting the records from the archives commission is received by said district within 30 days after mailing of the resolution the records shall be destroyed by the officer having custody.

This subdivision is supplementary to other statutory authority to destroy obsolete district records and does not prevent destruction of such records at an earlier time or the destruction of other records when authorized by other statutory provisions.

[*Ex1959 c 71 art 4 s 10; 1961 c 562 s 10*]

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

123.20 COMMON SCHOOL DISTRICT, LIABILITY INSURANCE, OFFICERS AND EMPLOYEES. The governing body of any common school district may procure insurance against liability of the school district or of its officers and employees for damages resulting from wrongful acts and omissions of the school district and its officers and employees, whether the acts or omissions relate to governmental or proprietary functions of the school district. Insofar as this insurance relates to governmental functions of the school district, the policy of insurance shall contain a provision under which the insurance company agrees to waive the defense of governmental immunity up to the limits of the policy unless the school district consents to the assertion of

MINNESOTA STATUTES 1976

123.21 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1872

that defense.

[*Ex1959 c 71 art 4 s 11*]

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

123.21 LIMITATION OF SECTIONS. Material contained in sections 123.11 to 123.20 relates only to common school districts numbers 323 and 815.

[*Ex1959 c 71 art 4 s 12; 1975 c 162 s 22*]

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

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

123.24 MS 1957 [Renumbered 128.01]

123.25 MS 1957 [Renumbered 128.02]

123.26 MS 1957 [Renumbered 128.03]

123.27 MS 1957 [Renumbered 128.04]

123.28 MS 1957 [Renumbered 128.05]

123.29 MS 1957 [Renumbered 128.06]

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

INDEPENDENT SCHOOL DISTRICTS

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

123.31 MS 1974 [Repealed, 1976 c 239 s 30]

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

123.32 INDEPENDENT SCHOOL DISTRICTS, ELECTIONS. Subdivision 1. Unless a different date is permitted under the provisions of subdivision 22, the annual election in independent districts shall be held on the third Tuesday in May.

Subd. 1a. (a) An eligible voter for a school district election shall be a person who at the time of the election:

- (1) Is 18 or more years of age;
- (2) Is a citizen of the United States;
- (3) Is a resident of the school district; and
- (4) Has resided in Minnesota for 20 days.

(b) The following persons are not eligible voters:

(1) Any person who has been convicted of treason or any felony, who has not had his civil rights restored;

(2) Any person who is under guardianship over his person;

(3) Any person who is adjudicated to be non compos mentis or insane; and

(4) Any person who is not properly registered, if a voter registration system has been adopted for such school district.

Subd. 2. At least 15 days before the election, the board shall, by resolution, determine precinct boundaries, if more than one is desired, and establish polling places for each precinct and appoint three or more election judges for each polling place and determine the hours the polls shall be open. The board may provide by resolution, for additional judges to count the votes after the polls close, the new judges to replace the previously acting judges. If no action is taken by the board, the precinct boundaries and polling places shall be the same as those of the preceding election in the district.

Subd. 3. The clerk of the district shall give ten days' posted notice of the election and also if there be a newspaper published in the district, one week's published notice shall be given. The notice shall specify the time, place and purpose of the election, and shall contain information concerning the precincts, polling places and hours the polls shall be open.

Subd. 4. At the annual election board members shall be elected to fill vacancies on the board caused by expiration of term on July 1 next following the election. Any person desiring to be a candidate for a district office at the election shall file with the clerk of the district a written application to be placed on the ballot for such office, or any five voters of the district may file such written application for or on behalf of any

MINNESOTA STATUTES 1976

1873

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.32

qualified voter in the district that they desire shall be such candidate. The application shall be filed not more than 45 nor less than 21 days before the election.

Subd. 5. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers, placing thereon the names of the proposed candidates with the same number of blank spaces for the insertion of names of other candidates as there are members to be elected. The name of each candidate for office shall be rotated with the names of the other candidates for the same office so that the name of each candidate appears substantially an equal number of times at the top, at the bottom, and at each intermediate place in the group of candidates for that office. The ballots shall be marked and initialed by at least two judges as official ballots and shall be used exclusively at the election. Any proposition to be voted upon shall be stated on a separate ballot. Voting shall be by secret ballot. The facsimile signature of the clerk shall appear on the backs of the ballots.

Subd. 6. Election judges may be paid by the district at a rate determined by the board. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

Subd. 7. The board of any independent school district, at any regular meeting, or special meeting called for that purpose, may provide for the use of voting machines at all elections to be held therein. Said board and any municipal corporation, owning or using voting machines, may enter into an agreement for the rental and use of said voting machines by said district for school elections in said district. The provisions of sections 204A.17, subdivision 4 and 206.02 to 206.23, shall apply to the use of voting machines in school elections insofar as applicable.

Subd. 8. After canvassing the election, the board shall issue a certificate of election to the candidate for each office who received the largest number of votes cast for the office. If any candidates receive an equal number of votes for an office, the board shall resolve the tie by lot. The clerk 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 in writing with the school district clerk 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 the vacancy has been taken.

Subd. 9. Any independent district may for the purpose of the election of board members alter its organization into separate election districts by the following procedure.

Subd. 10. Except in an independent school district located wholly or partly within a city of the first class upon resolution of the board which resolution may be made on its own motion or shall be made upon presentation of a petition therefor signed by at least 50 electors of the district, the board shall divide the district into as many separate election districts as there are members of the board, which proposal shall be submitted to an election as hereinafter provided.

Subd. 11. The election district lines drawn in cities shall follow the lines of streets or highways, and in areas outside of cities the lines drawn shall follow the lines of sections or quarter sections or highways.

Subd. 12. No one election district shall contain more than 20 percent of the total population of the district according to the most recent state or federal decennial census; or the district may conduct a special census for the purpose.

Subd. 13. The board shall designate each election district by number and by a metes and bounds description sufficient and adequate to permit identification of the geographical limits of the area.

Subd. 14. The board shall make its determination by a resolution within six months after the resolution of the board authorizing the establishment of election districts.

Subd. 15. Boundaries of separate election districts once established under provisions of this section or boundaries of election districts in independent districts which have converted from special districts may be changed or altered by the electorate of a district voting upon a question presented in the manner required by this section for initial establishment of such separate election districts, except that the initiating petition for change of boundaries must be signed by at least 250 voters of the school district.

MINNESOTA STATUTES 1976

123.32 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1874

Subd. 16. Upon adoption of such division of the district by resolution the board shall cause its decision to be voted upon by the electorate at a special election called for the purpose.

Subd. 17. Such election shall be held on the notice and in the manner provided by law for the conduct of special elections.

Subd. 18. The question presented at the special election shall be: "Shall the school district be reorganized into election districts with boundaries as established in Resolution No. of the school board, dated?"

Yes

No"

Subd. 19. If the resolution is approved by a majority of those voting at the election the board shall forthwith meet, and by resolution establish a separate polling place for each election district. Polling places for two or more election districts may be located in the same building. Adequate precautions for proper division of the vote among election districts shall be taken by the board.

Subd. 20. Any qualified voter may file with the clerk of the district an application to be placed on the ballot in his particular election district as a candidate for office as a member of the school board from such district.

Subd. 21. At the next election of board members, and at each election thereafter held to elect members of the board, one and only one member of the board shall be elected from each election district established under the provisions of this section.

The board shall specify the election districts from which vacancies shall be filled as they occur until such time as the representation specified in this section is attained.

Subd. 22. The board of an independent district may and upon petition of 50 or more voters of the district or five percent of the number of votes cast at the preceding regular election, whichever is the greater, shall by resolution call a special election to vote on any matter requiring approval of the voters of the district. The clerk of the district shall give ten days' posted notice and one week's published notice of election, if there be a newspaper published in such district. The notice shall specify the time and place of election, and the questions to be submitted to the voters at the election. The procedure for a special election shall be the same as for a regular election.

Subd. 23. (1) Unless action is taken by the board under subparagraphs (2) and (3) of this subdivision, in a district which is reclassified to an independent district from a county district or a common district containing ten or more townships, by provisions of this code, the board of such district shall continue to govern the district until July 1 following the next annual election as provided for independent districts, at which election six members shall be elected at large from the district, two members for a one-year term from July 1 next following the election, two members for a two-year term from said July 1, and two members for a three-year term from said July 1, to serve until a successor is elected and qualifies; if such district is reclassified to an independent district from a common district of ten or more townships containing less than ten schools, the board of such district shall continue to govern the district, and the members presently serving shall continue to the end of their term. At the next annual election of school board members following July 1 following the adoption of the code, two members shall be elected for a three-year term and one member for a two-year term each commencing on July 1 next following the election. Thereafter, members shall be elected as in independent districts.

(2) In any district which is reclassified from a common district of ten or more townships to an independent district by the provisions of this code, the election of the board members may be held biennially concurrently with the general elections in the areas by resolution of the board made within 90 days of the adoption of this code. Board members presently serving shall continue in office until the expiration of the term to which they were elected. At the next general election following the adoption of the code, board members shall be elected to fill all vacancies then occurring and any vacancies caused by reclassification to an independent district. Provided that three board members shall be elected for a term of four years each and any necessary additional board members shall be elected for a term of two years each, to serve until a successor is elected and qualifies. The term of members shall commence on the first Monday in January following the general election. Thereafter, three members shall be elected at each general election for a term of four years from the first Monday in January following the general election.

MINNESOTA STATUTES 1976

1875

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.32

(3) If a reclassified district was a county district and if the board of such district determines, by resolution, to retain its organization providing for area representation and a five man board, a resolution affecting such organization may be adopted by the board at any time before 30 days before the next election following the effective date of this code. The resolution, if adopted, shall divide the district into five election districts coterminous with the county commissioner districts, and shall specify the terms to which members from each election district shall be elected so as to provide for a continuation of the present organizational structure of the board. In a district which is reclassified to an independent school district from a county district by provisions of this code, the election of board members may be held biennially from county commissioner districts as now established concurrently with the general elections in the areas upon resolution of the board adopted at least 30 days before the election next following the effective date of this code. If such a resolution is adopted, board members presently serving shall continue in office until the expiration of the term to which they were elected to serve until a successor is elected and qualified. Thereafter, vacancies caused by expiration of term shall be filled at each general election for a term of four years from the first Monday in January following the general election. Districts reclassified as independent districts that were county districts shall also have the powers and duties contained in sections 128.03 to 128.06 in addition to their status as an independent district.

Subd. 24. (a) Any person entitled to vote in an election in an independent district who will be absent from the district at the time the election is held, or who by reason of physical disability or religious discipline will be unable to appear at the polling place at the time the election is held, may vote by mail or hand deliver an absentee ballot envelope in accordance with this subdivision.

(b) Not more than 45 nor less than one day before the election a voter desiring an absentee ballot shall make a request in writing for an absentee ballot to the clerk of the district. The request shall be made in person or by mail and shall state substantially the following: a) the permanent address of the applicant; b) the reason the applicant cannot vote in person; c) that the applicant wishes a ballot for (date election to be held); and d) that the applicant will be qualified to vote at the election. The application shall be signed and sworn before an officer authorized to administer oaths. The temporary mailing address, if any, of the applicant shall be included in the request.

(c) As soon as the ballots are printed, the clerk shall, by certified mail or in person, deliver a ballot to each applicant. The clerk also shall furnish a "ballot envelope" and a return envelope, both envelopes addressed to the clerk of the district.

(d) Together with the ballot and envelopes the clerk shall furnish an instruction sheet to each applicant. The sheet shall read: "Absentee Voting School District No. Instructions

1. Mark your ballot in the usual manner making certain that no one observes how you vote.

2. Enclose ballot in 'ballot envelope' and seal. Do not make any marks on ballot envelope.

3. Place sealed 'ballot envelope' in regular mailing envelope furnished to you.

4. Execute certificate on bottom of this sheet and enclose with 'ballot envelope' in regular envelope and mail not later than one day before the election. If your ballot is received by the clerk after the close of the polls, it will not be counted.

CERTIFICATE

I,, hereby certify that I am a legal resident of School District Number; that I am years of age and reside at; that I am under no legal disability to vote; that I am entitled to vote at this election in the district, and I will not vote in any manner other than by the ballot contained in the enclosed 'ballot envelope.'

....."

(e) Before any ballots are counted, the clerk shall deliver unopened all regular mailing envelopes which have come into his possession and all ballots delivered to him by the officers or employees of the United States post office department and all other ballot envelopes delivered to him in person prior to the opening of the ballot boxes by the judges together with all applications for absentee ballots to the judges of election at the proper polling places. The clerk shall sign his name over the seals of the regular mailing envelopes to insure against tampering and deliver the same to the

judges after the polls have opened and before they close.

(f) Before opening the ballot boxes, the judges shall inspect the regular envelopes to ascertain that they were properly mailed and then open the regular envelopes and compare the signature on the certificate contained in the envelope with the signature as it appears on the application for absentee ballot. Having satisfied themselves that the vote should be allowed, one of the judges shall write the word "received" and his own initials on the "ballot envelope" and deposit the unopened "ballot envelope" in a separate absentees ballot box.

(g) After the polls have closed and before the regular ballot boxes are opened, the judges shall open the absentees ballot box, remove the ballot from each "ballot envelope", initial it and deposit it in the regular ballot box.

(h) Ballots received by the clerk after the count has been begun by the judges are void.

(i) The board is authorized to provide necessary funds to the clerk for the execution of this chapter.

(j) In any district where permanent registration of voters is required no ballot may be accepted from any voter who is not validly registered.

(k) Any person who shall wilfully make or sign any false certificates specified herein; any person who shall wilfully make any false or untrue statement in any application for an absentee ballot; any person who shall wilfully exhibit to any other person any ballot marked by him; any person who shall in any way wilfully do any act contrary to the terms and provisions of this chapter with intent to cast an illegal vote in any district or to aid another in so doing shall be guilty of a felony.

Subd. 25. (a) Any voter may contest the election of any person for or against whom he had the right to vote, who is declared elected to a school district office, or other questions submitted to public vote, by proceeding as follows:

He shall file with the clerk of the district court of the county in which the administrative office of the school district is located, within ten days after the canvass is completed, a written notice of contest specifying the points upon which the contest will be made, and cause a copy thereof to be served within said period as follows:

(1) If the contest be upon the election of any person, then upon the person whose election he is contesting and the official authorized to issue the certificate of election;

(2) If the contest be upon the question of consolidation or reorganization, then upon the county auditor authorized by law to issue the order;

(3) If the contest be upon any other question, by serving a copy upon the clerk of the district.

When the contestee desires to offer testimony on points not specified in contestant's notice, he shall file and serve on the contestant notice thereof specifying such additional points. Such notices shall be treated as the pleadings in the case and may be amended in the discretion of the court in such manner and within such times as the court may by order direct. Thereafter the matter shall be tried and determined by the court at a time set by the court within 30 days after such canvass. So far as consistent with this section, the Rules of Civil Procedure shall apply.

(b) When an appeal is taken to the supreme court from the determination of the district court in any contest instituted under this code, the party appealing shall file in the district court a bond in such sum, not less than \$500, and with such sureties, as shall be approved by the judge, conditioned for the payment of all costs incurred by the respondent in case appellant fails on his appeal. The return of such appeal shall be made, certified, and filed in the supreme court within 15 days after service of notice of appeal. The appeal may be brought on for hearing in the court at any time when it is in session, upon ten days' notice from either party, which may be served during term time or in vacation; and it may be heard and determined summarily by the court.

Subd. 26. Each candidate may appoint by written certificate, and the judges shall permit, one person at a time to act as challenger of voters for each candidate for each precinct and shall be allowed to be in the polling place while the election is being held and to remain with the election judges until the votes are counted and shall be permitted to be in attendance when the school board canvasses the votes and declares the results.

MINNESOTA STATUTES 1976

1877

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.33

Subd. 27. (a) It shall be unlawful for any person within 100 feet of the building in which any polling place is situated on the day of election to ask, solicit, or in any manner try to induce or persuade any voter on such election day to vote for or refrain from voting for any candidate or measure submitted to the people.

(b) No person shall buy, sell, give, or provide any political badges, buttons, or other insignia to be worn at or about the polls on the day of election and no such political badge, button, or other insignia shall be worn at or about the polls on election day.

(c) No political signs or advertising designed to influence a voter on a question or candidate shall be displayed within 100 feet of the building in which the polling place is located on the day of election.

[*Ex 1959 c 71 art 4 s 14; 1961 c 562 s 12; 1965 c 33 s 2; 1965 c 503 s 1; 1967 c 852 s 1-4; 1969 c 9 s 26; 1973 c 123 art 5 s 7; 1973 c 477 s 1-3; 1975 c 72 s 1; 1975 c 162 s 23; 1976 c 239 s 31*]

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

123.33 BOARDS OF INDEPENDENT SCHOOL DISTRICTS. Subdivision 1. The care, management, and control of independent districts shall be vested in a board of directors, to be known as the school board. The term of office of a member shall be three years and until his successor qualifies. The membership of the school board shall consist of six elected directors together with such ex officio member as may be provided by law. But the board may submit to the electors at any school election the question whether the board shall consist of seven members and if a majority of those voting on the proposition favor a seven member board, a seventh member shall be elected at the next election of directors for a three-year term and thereafter the board shall consist of seven members.

Subd. 2. A vacancy in any board occurs when a member (a) dies, or (b) resigns, or (c) ceases to be a resident of the district, or (d) is unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district.

Subd. 3. A vacancy caused by a member being unable to serve on such board and attend its meetings for not less than 90 days because of illness or prolonged absence from the district, may, after the board has by resolution declared such vacancy to exist, be filled by the board at any regular or special meeting thereof for the remainder of the unexpired term, or until such ill or absent member is again able to resume his duties as a member of such board whichever date is earliest. When such ill or absent member is again able to resume his duties as a member of the board, the board shall by resolution so determine and declare such person to be again a member of the board, and the member appointed by the board in his place to be no longer a member thereof.

Subd. 4. Any other vacancy in a board shall be filled by the board at any regular or special meeting thereof. Such appointment shall be evidenced by a resolution entered in the minutes and shall continue until July 1 next following such appointment. All elections to fill vacancies shall be for the unexpired term.

Subd. 5. A majority of the voting members of the board shall constitute a quorum. No contract shall be made or authorized, except at a regular meeting of the board or at a special meeting at which all members are present or of which all members have had notice. Special meetings may be called by the chairman or clerk or any three members upon notice mailed to each member at least three days prior thereto.

Subd. 6. The board shall make and when deemed advisable change or repeal rules relating to the organization and management of the board and the duties of its officers.

Subd. 7. The board shall superintend and manage the schools of the district; adopt, modify, or repeal rules for their organization, government, and instruction and for the keeping of registers; and prescribe textbooks and courses of study.

Subd. 8. The board may remove, for proper cause, any member or officer of the board and fill the vacancy; but such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place, and object he has been duly notified, with the reasons for such proposed removal and after an opportunity to be heard in his own defense.

MINNESOTA STATUTES 1976

123.335 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1878

Subd. 9. [Repealed, 1975 c 162 s 42]

Subd. 10. The school board of any school district of this state by a two-thirds vote may become a member of the Minnesota school boards association or the Minnesota association of public schools, or the metropolitan area school board association, and appoint one or more of its members to attend its annual meeting. The amount of annual membership dues in the association and actual and necessary expense incurred in attending such meeting shall be paid as other expenses of the district are paid. The school board of any school district of this state may maintain such membership and pay membership dues only in the event the associations file annual financial statements showing detailed expenditures and receipts with the commissioner of education no later than October 1 of each year. The statements to the commissioner shall be made on forms prescribed by him no later than July 15 of each year.

Subd. 11. The board shall cause its official proceedings to be published once in the official newspaper of the district. Such publication shall be made within 30 days of the meeting at which such proceedings occurred.

Subd. 12. The clerk, treasurer, and superintendent of any district shall receive such compensation as may be fixed by the board. Unless otherwise provided by law, the other members of the board shall also receive such compensation as may be fixed by the board. All members of the board may receive reimbursement for transportation at the rate provided for in section 43.328.

Subd. 13. [Repealed, 1975 c 162 s 42]

Subd. 14. The school board of any school district of this state by a two-thirds vote may become a member of an association of vocational schools and may appoint one or more of its members to attend the annual meeting of such association. The amount of annual membership dues in the association and actual and necessary expenses incurred in attending such meeting shall be paid as other expenses of the district are paid. The school board of any school district of this state may maintain such membership and pay membership dues only in the event the association files annual financial statements showing detailed expenditures and receipts with the commissioner of education no later than October 1 of each year. The statements to the commissioner shall be made on forms prescribed by him no later than July 15 of each year.

Subd. 15. Any school district, or group of school districts, may become a member of, and pay dues to, any nonprofit corporation organized prior to the passage of Laws 1973, Chapter 263 under and pursuant to the provisions of the Minnesota nonprofit corporation act, whose purposes are to promote the improvement of teacher education through student teaching, internships, and research.

Subd. 16. Any action undertaken or moneys expended by a school district, group of school districts, or nonprofit corporation for the purposes and under the authority of subdivision 15, but prior to its enactment, is hereby ratified and confirmed.

[*Ex1959 c 71 art 4 s 15; 1965 c 434 s 1; 1967 c 176 s 2; 1967 c 713 s 1; 1973 c 263 s 1,2; 1973 c 690 s 1; 1974 c 82 s 1,2; 1975 c 162 s 24*]

123.335 IMPREST CASH FUNDS. Subdivision 1. The board may establish one or more imprest funds for the payment in cash of any proper claim against the district which it is impractical to pay in any other manner, except that no claim for salary or personal expenses of a district officer or employee shall be paid from such funds. The board shall appoint a custodian of each such fund and he shall be responsible for its safekeeping and disbursement according to law. Money for the operation of such fund shall be secured by a transfer from the general fund. A claim itemizing all the various demands for which disbursements have been made from the fund shall be presented to the board at the next board meeting after the disbursements have been made. The board shall act upon it as in the case of other claims and an order shall be issued to the custodian for the amount allowed. The custodian shall use the proceeds of the order to replenish the fund; and if the board fails to approve the claim in full for any sufficient reason, he shall be personally responsible for the difference.

Subd. 2. The board may authorize an imprest fund for the purpose of advancing money to officers or employees to pay the actual and necessary expenses of such officer or employee in attending meetings outside of the district. The board shall appoint a custodian of such fund and he shall be responsible for its safekeeping and disbursement according to law. Attendance at such meetings shall be authorized in advance by the board. At the first regular meeting of the board after such meeting, the officer or

MINNESOTA STATUTES 1976

1879

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.34

employee shall submit an itemized claim for the actual and necessary expenses incurred and paid by him in attending such meeting. The board shall act upon it as in the case of other claims and an order shall be issued to the officer or employee for the amount allowed. The officer or employee shall use the proceeds of the order to repay the amount advanced from the fund; and if the amount approved by the board is insufficient to repay the advance, he shall be personally responsible for the difference.

[1969 c 631 s 1]

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

123.34 OFFICERS OF INDEPENDENT SCHOOL DISTRICTS. Subdivision 1. Within ten days after the election of the first board in independent districts and annually thereafter on July 1, or as soon thereafter as practicable, the board shall meet and organize by selecting a chairman, clerk, and a treasurer, who shall hold their offices for one year and until their successors are selected and qualify. The persons who perform the duties of the clerk and treasurer need not be members of the board and the board by resolution may combine the duties of the offices of clerk and treasurer in a single person in the office of business affairs. They may appoint a superintendent who shall be ex officio a member of the board, but not entitled to vote therein. In districts in which board members are elected at the general election in November, the annual meeting of the board shall be held on the first Monday of January or as soon thereafter as practicable.

Subd. 2. The chairman when present shall preside at all meetings of the board, countersign all orders upon the treasurer for claims allowed by the board, represent the district in all actions and perform all the duties usually incumbent on such officer. In case of absence, inability, or refusal of the clerk to draw orders for the payment of money authorized by a vote of the majority of the board to be paid, the orders may be drawn by the chairman, and paid by the treasurer, a statement thereof, with a copy of such orders, being delivered to the clerk by the treasurer, or the office of the clerk may be declared vacant by the chairman and treasurer and filled by appointment.

Subd. 3. The treasurer shall deposit the funds of the district in the official depository.

Subd. 4. On July 1 of each year, the treasurer shall file with the clerk a report of his balances, receipts and disbursements by funds, for the year. Such report, together with his vouchers, shall be examined by the board and, if found correct, approved by resolution entered in the records. If incomplete or inaccurate, a further or amended report may be required by the board. He shall make such further reports as may from time to time be called for by the board and perform all duties usually incumbent on such officer.

Subd. 5. In the event that valid orders are presented to the treasurer for payment, and he has insufficient funds on hand to pay them, he shall receive, endorse and process them in accordance with section 124.06.

Subd. 6. Every district treasurer shall give a corporate surety bond to the state. The board to fix the specific amount of the bond in an amount sufficient to protect the interest of the district, and the bond to be approved by the board and conditioned for the faithful discharge of his official duties. The district shall pay the bond premium. The school board may, at any time by a majority vote, require the treasurer to give a new or an additional bond and, upon his failure to furnish same within a reasonable time after notice, the board shall declare the office of treasurer vacant. Any bond hereunder, before approval by the school board, shall be approved as to its form by the state auditor, county attorney, or an attorney designated by the school board. All such bonds shall be filed with the county auditor and the county auditor shall not deliver any warrants for tax settlements or state aids until such bond has been filed.

Subd. 7. When the duty devolves upon any person employed by a board to receive money and pay it over to the treasurer of the district, the district shall require a bond from such person and pay all premiums therefor. The amount of each bond shall be fixed by the board and the bond approved by it. The bond shall be not less than \$500 conditioned for the faithful performance of his duty and shall be filed with the clerk. In lieu of individual bonds, the district may prescribe and keep in effect a schedule or position insurance policy or blanket bond in such aggregate amount as the district determines, insuring the fidelity of such persons in the amount of not less than \$500 for each such person.

MINNESOTA STATUTES 1976

123.35 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1880

Subd. 8. The clerk shall keep books provided by the district for that purpose a record of all meetings of the district and the board. He shall, within three days after an election notify all persons elected of their election and, on or before July 10 in each year, make and transmit to the county superintendent a certified report, showing:

- (1) The condition and value of school property;
- (2) The receipts and disbursements in detail, and such other financial matter as may be called for by the commissioner;
- (3) The length of school term and the enrollment and attendance by grades;
- (4) The names and post-office addresses of all directors and other officers; and
- (5) Such other items of information as may be called for by the commissioner.

He shall enter in his record book copies of all his reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished him by the clerk pro tem, and keep an itemized account of all the expenses of the district. He shall furnish to the auditor of the proper county, on or before October 10 of each year, an attested copy of his record, showing the amount of money voted by the district or the board for school purposes; draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers and for teachers' wages and all claims, to be countersigned by the chairman. Such orders shall state the consideration, payee, and the fund and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due, and no money applicable for teachers' wages shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose.

Subd. 9. All districts maintaining a classified secondary school shall employ a superintendent who shall be ex officio a member of the school board but not entitled to vote therein. The superintendent in such districts shall visit the schools of the district, and exercise a general supervision over them, and report their condition to the board, with proper recommendations, when he deems it advisable, or when requested by the board. He shall make recommendations to the board concerning the employment and dismissal of teachers. He shall superintend the grading of the schools and examinations for promotions and perform such other duties as the board shall prescribe. He shall make directly to the commissioner such reports as shall be required.

Subd. 10. Each school building or unit of classification as designated by section 120.05, subdivision 1, clauses (1), (2) and (3), in an independent or consolidated school district shall be under the supervision of a principal who is assigned to that responsibility by the board of education in that school district upon the recommendation of the superintendent of schools of that school district.

Each principal assigned the responsibility for the supervision of a school building or units of classification shall hold valid certification in his assigned position of supervision and administration as established by the regulations of the state board of education.

The principal shall provide administrative, supervisory and instructional leadership services, under the supervision of the superintendent of schools of the school district and in accordance with the policies, rules and regulations of the board of education, for the planning, management, operation and evaluation of the education program of the building or buildings to which he is assigned.

[*Ex 1959 c 71 art 4 s 16; 1969 c 9 s 27; 1971 c 144 s 1; 1973 c 492 s 7; 1974 c 37 s 1; 1975 c 162 s 25; 1975 c 432 s 16*]

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

123.35 GENERAL POWERS OF INDEPENDENT SCHOOL DISTRICTS. Subdivision 1. The board shall have the general charge of the business of the district, the school houses, and of the interests of the schools thereof.

Subd. 2. It shall be the duty and the function of the district to furnish school facilities to every child of school age residing in any part of the district. The board may establish and organize and alter and discontinue such grades or schools as it may deem advisable and assign to each school and grade a proper number of pupils. The board shall provide free textbooks for the pupils of the district.

Subd. 3. The voters of a district may authorize the issuance of bonds of the district in accordance with the provisions of chapter 475.

MINNESOTA STATUTES 1976

1881

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.351

Subd. 4. The board shall provide by levy of tax necessary funds for the conduct of schools, the payment of indebtedness, and all proper expenses of the district.

Subd. 5. The board shall employ and contract with necessary qualified teachers and discharge the same for cause, but no substitute teacher shall be hired except to replace a regular teacher on leave of absence or in an emergency of less than one school year's duration.

Subd. 6. The board may employ and discharge necessary employees and may contract for other services.

Subd. 7. The board may provide library facilities as part of its school equipment according to the standards of the state board of education.

Subd. 8. The board may establish and maintain public evening schools and adult and continuing education programs and such evening schools and adult and continuing education programs when so maintained shall be available to all persons over 16 years of age who, from any cause, are unable to attend the full-time elementary or secondary schools of such district.

Subd. 9. The board may establish and maintain one or more kindergartens for the instruction of children and after July 1, 1974, shall provide kindergarten instruction for all eligible children, either in the district or in another district. All children to be eligible for kindergarten must be at least five years of age on September 1 of the calendar year in which the school year commences. In addition all children selected under an early admissions policy established by the school board may be admitted. Nothing in this section shall prohibit a school district from establishing head start, pre-kindergarten, or nursery school classes for children below kindergarten age. Any school board with evidence that providing kindergarten will cause an extraordinary hardship on the school district may apply to the commissioner of education for an exception.

Subd. 10. The board shall furnish free textbooks to all pupils.

Subd. 11. The board may furnish school lunches for pupils and teachers on such terms as it determines.

Subd. 12. At the request of an employee and as part of his compensation arrangement, the board may purchase an individual annuity contract for an employee for retirement or other purposes and may make payroll allocations in accordance with such arrangement for the purpose of paying the entire premium due and to become due under such contract. The allocation shall be made in a manner which will qualify the annuity premiums (or a portion thereof) for the benefit afforded under section 403(b) of the current Federal Internal Revenue Code or any equivalent provision of subsequent federal income tax law. The employee shall own such contract and his rights thereunder shall be nonforfeitable except for failure to pay premiums. Section 125.12 shall not be applicable hereto and the board shall have no liability thereunder because of its purchase of any individual annuity contracts. This statute shall be applied in a nondiscriminatory manner to employees of the school district.

Subd. 13. The board may by agreements with teacher preparing institutions arrange for classroom experience in the district for practice or student teachers who have completed not less than two years of an approved teacher education program. Such practice teachers shall be provided with appropriate supervision by a fully qualified teacher under rules promulgated by the board and shall be deemed employees of the school district in which they are rendering services for purposes of worker's compensation; liability insurance, if provided for other district employees in accordance with section 123.41; and legal counsel in accordance with the provisions of section 127.03.

[*Ex1959 c 71 art 4 s 17; 1961 c 225 s 1; 1967 c 173 s 2; 1969 c 21 s 1; 1969 c 104 s 1; 1973 c 491 s 1; 1975 c 359 s 23*]

123.351 COOPERATIVE CENTERS FOR VOCATIONAL EDUCATION. Subdivision 1. **Establishment.** Two or more independent school districts may enter into an agreement to establish a cooperative center to provide for vocational education and other educational services upon the vote of a majority of the full membership of each of the boards of the districts entering into the agreement. When a resolution approving this action has been adopted by the board of a district, the resolution shall be published once in a newspaper of general circulation in the district. If a petition for referendum on the question of the district entering into the agreement, containing

MINNESOTA STATUTES 1976

signatures of qualified voters of the district equal to five percent of the number of voters at the last annual school election, is filed with the clerk of the board within 60 days after publication of the resolution, the board shall not enter into the agreement until the question has been submitted to the voters of the district at a special election. This election shall be conducted and canvassed in accordance with section 123.32. If a majority of the total number of votes cast on the question within the district is in favor of the proposition, the board may thereupon enter into an agreement to establish the center for purposes herein described.

Subd. 2. Name. A public corporation so created shall be known as ...*(insert name)*... cooperative center no. and shall have an identification number assigned pursuant to section 122.03.

Subd. 3. Governing board. (a) The center shall be operated by a center board of not less than five members which shall consist of members from school boards of each of the participating school districts within the center, appointed by their respective school boards. Each participating school district shall have at least one member on the board. The board shall choose an administrative officer to administer board policy and directives who shall serve as an ex officio member of the board but shall not have a vote.

(b) The terms of office of the first members of the board shall be determined by lot as follows: one-third of the members for one year, one-third for two years, and the remainder for three years, all terms to expire on June 30 of the appropriate year; provided that if the number of members is not evenly divisible by three, the membership will be as evenly distributed as possible among one, two and three year terms with the remaining members serving the three year term. Thereafter the terms shall be for three years commencing on July 1 of each year. If a vacancy occurs on the center board, it shall be filled by the appropriate school board within 90 days. A person appointed to the center board shall qualify as a board member by filing with the chairman a written certificate of appointment from his school board.

(c) The first meeting of a center board shall be at a time mutually agreed upon by board members. At this meeting, the center board shall choose its officers and conduct any other necessary organizational business. Thereafter the center board shall meet on the first of July of each year or as soon thereafter as practicable pursuant to notice sent to all center board members by the chief executive officer of the center.

(d) The officers of the center board shall be a chairman, vice chairman, clerk and treasurer, no two of whom when possible shall be from the same school district. The chairman shall preside at all meetings of the center board except in his absence the vice chairman shall preside. The clerk shall keep a complete record of the minutes of each meeting and the treasurer shall be the custodian of the funds of the center. Insofar as applicable, sections 123.33 and 123.34, shall apply to the board and officers of the center.

(e) Each participating school district shall have equal voting power with at least one vote. A majority of the center board shall be a quorum. Any motion other than adjournment shall pass only upon receiving a majority of the votes of the entire center board.

Subd. 4. Powers and duties. (a) The center board shall have the general charge of the business of the center and the ownership of facilities. Where applicable, section 123.36, shall apply. The center board may not issue bonds in its behalf. Each participating district may issue its bonds for the purpose of acquisition and betterment of center facilities in the amount certified by the center board to such participating district in accordance with chapter 475.

(b) The center board (1) may furnish vocational offerings to any eligible person residing in any participating district and (2) may provide special education for the handicapped and disadvantaged.

(c) In accordance with subdivision 5, clause (b), the center board shall certify to each participating district the amount of funds assessed to the district as its proportionate share required for the conduct of the educational programs, payment of indebtedness, and all other proper expenses of the center.

(d) The center board shall employ and contract with necessary qualified teachers and administrators and may discharge the same for cause pursuant to section 125.12. The board may employ and discharge other necessary employees and may contract for other services deemed necessary.

MINNESOTA STATUTES 1976

1883

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.352

(e) The center board may provide an educational program for high school and adult vocational phases of instruction. The high school phase of its educational program shall be offered as a component of the comprehensive curriculum offered by each of the participating school districts. Graduation shall be from the student's resident high school district. Insofar as applicable, sections 123.35 to 123.40, shall apply.

(f) The center board may prescribe rates of tuition for attendance in its programs by adults and nonmember district secondary students.

Subd. 5. Financing. (a) Any center board established pursuant to this section is a public corporation and agency and may receive and disburse federal, state, and local funds made available to it. No participating school district shall have any additional individual liability for the debts or obligations of the center except that assessment which has been certified as its proportionate share in accordance with subdivision 5, clause (b) and subdivision 4, clauses (a) and (c). A member of the center board shall have such liability as is applicable to a member of an independent school district board. Any property, real or personal, acquired or owned by the center board for its purposes shall be exempt from taxation by the state or any of its political subdivisions.

(b) The center board may, in each year, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess and certify to each participating school district its proportionate share of any and all expenses. This share shall be based upon an equitable distribution formula agreed upon by the participating districts and approved by the state commissioner of education with approval by the state board of vocational education. Each participating district shall remit its assessment to the center board within 30 days after receipt. The assessments shall be paid within the maximum levy limitations of each participating district.

Subd. 6. State board approval. Prior to the commencement of the operation of any center the agreement entered into by participating districts shall be approved by the state board of education.

Subd. 7. Laws governing independent school districts applicable. As of the effective date of the creation of any center as contained in the agreement establishing the center, the organization, operation, maintenance, and conduct of the affairs of the center shall be governed by the general laws relating to independent school districts of the state unless provided otherwise herein or by statute passed hereafter.

Subd. 8. Addition and withdrawal of districts. Upon approval by majority vote of a school board, of the center board, and of the state board of education, an adjoining school district may become a member in the center and be governed by the provisions of this section and the agreement in effect.

Any participating district may withdraw from the center and from the agreement in effect by a majority vote of the full board membership of the participating school district desiring withdrawal and upon compliance with provisions in the agreement establishing the center. Upon receipt of the withdrawal resolution reciting the necessary facts, the center board shall file a certified copy with the county auditors of the counties affected. The withdrawal shall become effective at the end of the next following school year but the withdrawal shall not affect the continued liability of the withdrawing district for bonded indebtedness it incurred prior to the effective withdrawal date.

Subd. 9. Existing centers. Centers operating pursuant to section 471.59 which have been approved by the state board of education prior to August 1, 1974 shall be subject to its provisions except subdivision 1. Any changes in center agreements necessary to comply with this section shall be completed within twelve months after August 1, 1974 and filed with the state board by the administrator of each center. Centers operating pursuant to Laws 1967, Chapter 822, as amended, Laws 1969, Chapter 775, as amended, and Laws 1969, Chapter 1060, as amended shall not be subject to the provisions of this section.

[1974 c 252 s 1]

123.352 TRAFFIC AND PARKING REGULATION. Subdivision 1. **Board power.** A school board may make, adopt and enforce rules for the regulation of traffic and parking on property owned, leased, occupied or operated by the board. Notwithstanding the provisions of section 169.71, subdivision 1, a board may require that an identification sticker not more than two inches square be placed in the lower right corner of the windshield of any vehicle parking on such property.

Subd. 2. **Hearing on rules, adoption.** Before the adoption of any rule authorized by subdivision 1, the board shall hold a public hearing. Notice of the hearing shall be published at least once in a legal newspaper in a county in which the school district is located. Publication shall be no more than 45 days and no less than 15 days prior to the date of the hearing.

After a public hearing, a majority of the members of the board must approve the rule for it to take effect. The rule shall have an effective date. A copy of the rule shall be signed by the clerk of the school district and filed in the official minute book of the district and a copy shall be mailed to the chief police officer of each municipality, county or town where the school district property is located.

Subd. 3. **Enforcement.** Every sheriff, constable, police officer, peace officer, or designated employee of the board shall have authority to enforce rules adopted pursuant to this section after the posting of signs substantially in conformity with the standards and specifications of the manual of the commissioner adopted pursuant to section 169.06.

Subd. 4. **Notice.** Judicial notice shall be given rules adopted pursuant to this section.

Subd. 5. **Penalty.** Any person violating rules adopted pursuant to this section shall be guilty of a petty misdemeanor. Any violation of this section shall be deemed a violation of chapter 169 for the purposes of sections 169.891 and 169.90, subdivision 1. [1976 c 278 s 1]

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

123.36 SCHOOLHOUSES AND SITES, INDEPENDENT SCHOOL DISTRICTS.

Subdivision 1. When funds are available therefor, the board may locate and acquire necessary sites of school houses or enlargements, or additions to existing schoolhouse sites by lease, purchase or condemnation under the right of eminent domain; it may erect schoolhouses thereon; it may erect or purchase garages for district owned school buses. In any city, the school sites, when practicable, shall contain at least one block and if outside of any city, two acres; and when any schoolhouse sites shall contain less than such amount, the board may acquire other land adjacent to or near such site to make, with such site, all or part of such amount. When property is taken by eminent domain by authority of this subdivision when needed by the school district for such purposes, the fact that the property so needed has been acquired by the owner under the power of eminent domain or is already devoted to public use, shall not prevent its acquisition by the school district. The board may sell or exchange schoolhouses or sites, and execute deeds of conveyance thereof.

Subd. 2. The board shall purchase, sell, and exchange school apparatus, furniture, stoves, buses, and other equipment as may be deemed necessary by the board for school purposes.

Subd. 3. The board may make rules and regulations respecting the protection of the property of the district.

Subd. 4. The board shall provide proper sanitary facilities for the schools, plant shade trees and shrubbery and otherwise improve school sites, procure insurance on school property, and make proper ordinary repairs thereon.

Subd. 5. The board may authorize the use of any schoolhouses in the district for divine worship, Sunday schools, public meetings, elections, and such other community purposes as, in its judgment, will not interfere with their use for school purposes; but before permitting such use, the board may require a cash or corporate surety bond in a reasonable amount conditioned for the proper use of such schoolhouse, the payment of all rent and the repair of all damage occasioned by such use, and it may charge and collect for the use of the district from the persons using such schoolhouse such reasonable compensation as it may fix.

It may authorize the use of any schoolhouses or buildings in and of the district for the holding of primaries, elections, registrations, and all action in connection therewith in such manner as in its judgment, will not interfere with their use for school purposes. It may impose such reasonable regulations and conditions upon such use as may seem meet and proper.

Subd. 6. The board may build or assist in building sidewalks for the use of pupils and the general public connecting with sidewalks in municipalities and leading to the schoolhouse. The governing body of any municipality may likewise appropriate money

MINNESOTA STATUTES 1976

1885

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.37

for the same purpose or to assist the district.

Subd. 7. When necessary, the board may lease rooms or buildings for school purposes.

Subd. 8. The board shall provide for the heating and care of schoolhouses and rooms and may provide for the heating and care of garages which house school buses.

Subd. 9. The board may contract for the furnishing of heat for its building for such terms as it may deem for the best interest of the district, not exceeding ten years. Where it is necessary to lay mains or pipes to connect these buildings with a heating system, the district is authorized to advance all, or any part of the cost thereof upon such terms and conditions as shall be agreed upon.

Subd. 10. The board may lease a schoolhouse which is not needed for school purposes to any person or organization. The board may charge and collect reasonable consideration for the lease and may determine the terms and conditions of the lease. In districts with outstanding bonds, the net proceeds of the lease shall be used first pursuant to section 475.61, subdivision 3, to reduce the levy authorized for payments for bonds issued and for interest thereon pursuant to section 275.125, subdivision 4. Any remaining net proceeds in these districts and all net proceeds of the lease in districts without outstanding bonds shall be used to reduce the levy authorized for general and special school purposes by section 275.125, subdivision 2a.

Subd. 11. The board may close a schoolhouse only after a public hearing on the question of the necessity and practicability of the proposed closing. Published notice of the hearing shall be given for two weeks in the official newspaper of the district. The time and place of the meeting, the description and location of the schoolhouse, and a statement of the reasons for the closing shall be specified in the notice. Parties requesting to give testimony for and against the proposal shall be heard by the board before it makes a final decision to close or not to close the schoolhouse.

[*Ex 1959 c 71 art 4 s 18; 1973 c 123 art 5 s 7; 1975 c 59 s 1; 1975 c 199 s 1; 1976 c 168 s 1; 1976 c 239 s 32*]

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

123.37 INDEPENDENT SCHOOL DISTRICTS, CONTRACTS. Subdivision 1. No contract for work or labor, or for the purchase of furniture, fixtures, or other property, except books registered under the copyright laws, or for the construction or repair of school houses, the estimated cost or value of which shall exceed that specified in section 471.345, subdivision 3, shall be made by the school board without first advertising for bids or proposals by two weeks' published notice in the official newspaper. Such notice shall state the time and place of receiving bids and contain a brief description of the subject matter.

Such additional publication in the official newspaper or elsewhere may be made as the board shall deem necessary.

After taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids, every such contract shall be awarded to the lowest responsible bidder, duly executed in writing, and the person to whom the same is awarded shall give a sufficient bond to the board for its faithful performance, and otherwise conditioned as required by law. A record shall be kept of all bids, with names of bidders and amount of bids, and with the successful bid indicated thereon. A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid shall be rejected unless the alteration or erasure is corrected as herein provided. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person signing the bid. In the case of identical low bids from two or more bidders, the board may, at its discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so long as the price paid does not exceed the low tied bid price. In the case where only a single bid is received, the board may, at its discretion, negotiate a mutually agreeable contract with the bidder so long as the price paid does not exceed the original bid. If no satisfactory bid is received, the board may readvertise. Standard requirement price contracts established for supplies or services to be purchased by the district shall be established by competitive bids. Such standard requirement price contracts may contain escalation clauses and may provide for a negotiated price increase or decrease based upon a demonstrable industrywide or regional increase or decrease in the vendor's costs. Either party to the contract may request that the other party demonstrate

MINNESOTA STATUTES 1976

123.37 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1886

such increase or decrease. The term of such contracts shall not exceed two years with an option on the part of the district to renew for an additional two years. Provided that in the case of purchase of perishable food items except milk for school lunches and vocational training programs a contract of any amount may be made by direct negotiation by obtaining two or more written quotations for the purchase or sale, when possible, without advertising for bids or otherwise complying with the requirements of this section or section 471.345, subdivision 3. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof.

Every contract made without compliance with the provisions of this section shall be void. Provided, that in case of the destruction of buildings or injury thereto, where the public interest would suffer by delay, contracts for repairs may be made without advertising for bids.

Firm bid contracts for the purchase of milk and ice cream renegotiated between August 25, 1973 and July 1, 1974 which provide for a price increase or decrease based upon a demonstrable industrywide or regional increase in the vendor's costs are valid and not void under this subdivision; provided that the adjustment shall not exceed the increase or decrease authorized in the applicable federal marketing order for raw milk; and provided further that a school district which did not renegotiate its contract before February 1, 1974, shall not adjust its contract to provide for price increases or decreases for purchases made before February 1, 1974.

NOTE: See section 471.345.

Subd. 1a. The board may authorize its superintendent or business manager to lease, purchase, and contract for goods and services within the budget as approved by the board, provided that any transaction in an amount exceeding the minimum amount for which bids are required must first be specifically authorized by the board and must fulfill all other applicable requirements in subdivision 1.

Subd. 1b. Notwithstanding the provisions of subdivision 1 or section 471.345, a contract for the transportation of school children may be made by direct negotiation, by obtaining two or more written quotations for the service when possible, or upon sealed bids. At least 30 days before awarding a directly negotiated contract, the school district shall, by published notice, request quotations for the service to be provided. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof. If a contract is made by direct negotiation, negotiations shall be open to the public. If a contract is made upon sealed bids, the procedure for advertising and awarding bids shall conform to the provisions of subdivision 1.

Subd. 2. Members of the board are authorized to contract with, to work for, and furnish supplies to the district subject to the provisions of section 471.87.

Subd. 3. Any contract made by the board for the rental of rooms or buildings for school purposes, or for the free transportation of pupils to and from school, or for the rental of any facility or facilities owned or operated by or under the direction of any private organization, shall be effective until disapproved by the commissioner, and all such contracts shall be submitted to him for approval immediately after being signed by the parties.

Subd. 4. The commissioner shall approve each such contract unless it appears from the information available to him that:

(a) The amount to be paid by the district concerned for the rooms or facilities rented or for the transportation to be furnished, under such contract substantially exceeds the reasonable value thereof; or

(b) The rooms or facilities to be furnished are not reasonably required for or suitable to the operation of the schools of the district, or the transportation contracted for is not suitable to the requirements of the district; or the contract does not provide adequately against any encroachment on or interference with the conduct of a public school; or

(c) The contract does not conform to law or a duly promulgated regulation of general application of the state board of education.

Subd. 5. If the commissioner determines that one or more of such circumstances (a), (b), and (c) exists, he shall notify the district board, giving it a reasonable stated time in which to meet the objections specified in the notice. If the contract is not so changed within that time, it shall be disapproved by the commissioner. If the contract is approved the commissioner shall so notify the district board. The commissioner's

MINNESOTA STATUTES 1976

1887

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.37

action together with a statement as to whether or not a petition to review such action has been filed as hereinafter provided, shall appear in the proceedings of the next meeting of the district board, held after receipt of notice from the commissioner, and the proceedings shall briefly identify the contract approved or disapproved.

Subd. 6. The determination of the commissioner disapproving a contract shall be subject to the review of the state board of education, on the petition of the district board, made pursuant to its resolution.

Subd. 7. The determination of the commissioner approving a contract shall be subject to the review of the state board of education, on the petition of voters of such school district equal in number of five percent of those who voted at the last annual election or annual meeting of the district, except that there shall be at least five petitioners and that no more than 25 petitioners shall be required. Such petition must be filed in duplicate with the commissioner on or before the tenth day after the publication of the proceedings of the meeting of the district board which show the determination of the commissioner, the review of which is asked, or the thirtieth day after such determination, whichever date is earlier.

Subd. 8. Such petition shall:

(a) Identify the determination of the commissioner sought to be reviewed and the contract in question by the names of the parties to it, and

(b) Allege the grounds upon which the determination of the commissioner is claimed to have been erroneous, but such allegation may be on information and belief of the petitioners, and

(c) State the names, post office addresses, and voting residences of the petitioners, and

(d) State the person or persons, not more than three, and their respective post office addresses, who are authorized to receive for all of the petitioners any notices with respect to the review or any subsequent proceeding. A person, not a resident of the district, may be so named.

Subd. 9. Upon the filing of a proper petition, the commissioner shall set a time and place for hearing thereof, which shall not be less than ten nor more than 30 days after such filing. He shall cause notice of such hearing to be given by mail to the parties to the contract affected and to the person or persons named in the petition as authorized to receive notice, and in addition shall cause a notice thereof to be published in a newspaper qualified to publish proceedings of the district board concerned.

Subd. 10. The state board shall adopt rules governing the proceedings for review not inconsistent with the requirements hereof. Such rules shall be designed to give a full and fair hearing and to permit interested parties an opportunity to produce evidence relating to the issues involved. Such rules may provide that any question of fact to be determined upon such review may be referred to one or more members of the board or to an employee of the state board of education acting as a referee to hear evidence and report to the state board the testimony taken.

Subd. 11. The state board, or the parties to the proceedings, or any person designated to receive evidence upon a review shall have the same right to issue and procure subpoenas and administer oaths as are granted in proceedings before the department of labor and industry. There shall be a stenographic record made of all testimony given and other proceedings during such hearing, and as far as practicable, rules governing reception of evidence in courts shall obtain.

Subd. 12. The decision of the state board shall be in writing and the controlling facts found upon which the decision is made shall be stated in sufficient detail to appraise the parties and the reviewing court of the basis and reason of the decision. If it is the decision of the state board that none of the grounds of disapproval specified herein exist, the contract in question shall be approved; if it is the decision of the state board that one or more of those grounds exist, the contract shall be disapproved.

Subd. 13. The decision of the state board may be reviewed on certiorari by the district court of the county in which the school district or any part thereof is located, and the reasonableness of the state board's decision under all the circumstances of the case shown by the record will be judicial question of fact.

Subd. 14. The fact of approval or disapproval of a contract shall not be evidence in any civil or criminal proceeding growing out of the making or performance of the contract or related to the official conduct of the members of the district board. Pro-

MINNESOTA STATUTES 1976

123.38 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1888

ceedings or failure to proceed shall not preclude any civil or criminal act otherwise proper. Necessary costs and disbursements, exclusive of those incurred in the administrative proceedings, on review by certiorari shall be taxed against the losing party and in the event taxed against the state shall be paid from the appropriations made to the state department of education for the payment of special state aids.

[*Ex1959 c 71 art 4 s 19; Ex1967 c 1 s 6; 1969 c 107 s 1; 1974 c 521 s 13-15; 1975 c 59 s 2; 1976 c 271 s 39,40*]

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

123.38 CO-CURRICULAR AND EXTRACURRICULAR ACTIVITIES OF INDEPENDENT SCHOOL DISTRICTS; INSURANCE. Subdivision 1. Whenever it shall appear to be beneficial and for the best interest of the district and the pupils of the district to carry on any school sport activities or educational activities connected with their studies outside of the territorial limits of the school district, the board may authorize such activities to be conducted under such rules and regulations as the board deems sufficient. The district may pay all necessary costs therefor including transportation from the school district funds available.

Subd. 2. The board shall take charge of and control all co-curricular school activities of the teachers and children of the public schools in that district held in the school building or school grounds or under the supervision or direction of the school board and to that end adopt rules and regulations for the conduct of these activities in which the schools of the district or any class or pupils therein may participate. All money received on account of such activities shall be turned over to the school district treasurer, who shall keep the same in the general fund or the area vocational technical institutes fund, if applicable, to be disbursed for expenses and salaries connected with the activities, or otherwise, by the board upon properly allowed itemized claims.

No co-curricular activity shall be participated in by the teachers or pupils in the public schools of such district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Subd. 2a. Co-curricular activities shall mean school sponsored and directed activities designed to provide opportunities for pupils to participate, on an individual or group basis, in school and public events for the improvement of skills. Co-curricular activities are not offered for school credit, cannot be counted toward graduation and have one or more of the following characteristics:

(a) They are conducted at regular and uniform times during school hours, or at times established by school authorities;

(b) Although not offered for credit, they are directed or supervised by instructional staff in a learning environment similar to that found in courses offered for credit;

(c) They are partially funded by public moneys for general instructional purposes under direction and control of the board.

Subd. 2b. The board may take charge of and control all extra curricular activities of the teachers and children of the public schools in the district. Extra curricular activities shall mean all direct and personal services for public school pupils for their enjoyment that are managed and operated under the guidance of an adult or staff member. Extra curricular activities have all of the following characteristics:

(a) They are not offered for school credit nor required for graduation;

(b) They are generally conducted outside school hours, or if partly during school hours, at times agreed by the participants, and approved by school authorities;

(c) The content of the activities is determined primarily by the pupil participants under the guidance of a staff member or other adult.

If the board does not take charge of and control extra curricular activities, these activities shall be self-sustaining with all expenses, except direct salary costs and indirect costs of the use of school facilities, met by dues, admissions or other student fund-raising events; moreover, the general fund or the area vocational technical institutes fund, if applicable, shall reflect only those salaries directly related to and readily identified with the activity and paid by public funds and other revenues and expenditures for extra curricular activities shall be recorded pursuant to the "Manual of Instructions for Uniform Student Activities Accounting for Minnesota School Districts".

MINNESOTA STATUTES 1976

1889

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.39

If the board takes charge of and controls extra curricular activities, any or all costs of these activities may be provided from school revenues and all revenues and expenditures for these activities shall be recorded in the same manner as other revenues and expenditures of the district. If the board takes charge of and controls extra curricular activities, no such activity shall be participated in by the teachers or pupils in the district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the board.

Subd. 3. The board may enter into a contract providing for the payment of cash benefits or the rendering or payment of hospital and medical benefits, or both to school children injured while participating in activities of the school, such contract to make the payment of such benefits or the rendering thereof the direct and sole obligation of the association or company entering into such contract with the district.

If the board deems it advisable, it may authorize employees to collect fees from the pupils enrolled in said school who are to be or are covered by such contract, and to make payment of the premium or other charge for such contract or protection. The payment of such premium or other charge may be made from funds received from the federal government or from the state or any governmental subdivision thereof, or from funds derived by a tax levy or the issuance of bonds.

The payment of any fees, premium or other charge by such child shall not thereby make the district liable for any injuries incurred from such school activities.

Subd. 4. The insurance laws of this state shall not apply to non-profit benefit and relief associations formed by public schools or officers of public schools or the Minnesota state high school league, the privileges of which and applications for membership in which are confined to pupils of the schools, and the benefits and relief to be derived therefrom are limited to pupils injured or disabled from participation in school athletics or any supervised school activity.

[*Ex 1959 c 71 art 4 s 20; 1971 c 254 s 1; 1976 c 212 s 1-5*]

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

123.39 INDEPENDENT SCHOOL DISTRICTS, TRANSPORTATION. Subdivision 1. The board may provide for the free transportation of pupils to and from school, and to schools, in other districts for grades and departments not maintained in the district, including high school, at the expense of the district, when funds are available therefor and if agreeable to the district to which it is proposed to transport the pupils, for the whole or a part of the school year as it may deem advisable, and subject to its rules. Every driver shall possess all the qualifications required by the rules of the state board of education. In any special or independent district, the board shall arrange for the attendance of all pupils living two miles or more from the school, through suitable provision for transportation or for the boarding and rooming of such pupils as may be more economically and conveniently provided for by such means. The district is authorized to provide for the transportation of pupils or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by such means or who attend school in a building rented or leased by a district within the confines of an adjacent district.

Subd. 2. The board may contract for the furnishing of authorized transportation under rules established by the commissioner of education, and may purchase gasoline and furnish same to a contract carrier for use in the performance of a contract with the school district for transportation of school children to and from school.

Subd. 3. The board may purchase buses on the installment plan, the installments to be all paid within a period of not to exceed three years from the date of purchase and the deferred payments to bear a rate of interest of not to exceed six percent per annum.

Subd. 4. The board may provide for the instruction of any resident pupil in another district when inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in his own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon or charged, and may provide transportation; provided, that such pupil shall continue to be a pupil of the district of his residence for the payment of apportionment and other state aids.

Subd. 5. The board may provide for the admission to the schools of the district, of non-resident pupils, and those above school age, and fix the rates of tuition for

MINNESOTA STATUTES 1976

such pupils. In case a person owns land and pays the taxes thereon, in a district other than the one in which he resides, then such person or his tenant shall be admitted to all the benefits of said school the same as residents therein, in respect to elementary pupils upon conforming to such reasonable terms for tuition and transportation as the board of education of such school district may have established for non-residents, except that he shall be entitled to have the amount of school taxes which he pays to the support of said district applied in payment of said tuition and transportation fees. In the payment of state aid, the district in which the pupil attends shall be considered the district of his residence because of the provisions of this subdivision.

Subd. 6. The board may transport pupils residing outside of the district but attending school therein upon pupils presenting themselves within the district on one of the regular routes traveled in the transportation of the pupils of the district.

Subd. 7. If high school pupils from a district within this state are being transported to a school in another state, the board of the district from which the pupils are being transported may provide free transportation and tuition for any or all of its elementary pupils to such school in another state and be entitled to state aid as provided by law.

Subd. 8. The board may rent to any person, for any lawful purpose, any bus owned by the school district. The use and operation of such bus by such person shall not interfere with the use and operation of such bus by the district for the transportation of children to and from school. Any such lessee so leasing or renting buses may use and operate the same as provided in this section without the payment of a motor vehicle tax thereon as provided by law. Any such lessee shall be liable for any and all claims for injuries and damages arising out of the use and operation of any bus so leased or rented; and the leasing or renting of any such bus shall be conditioned upon said lessee or renter procuring, at his own expense, insurance protecting said board and said district against any and all claims for injuries and damages arising out of the use and operation of said bus.

Subd. 9. The board may provide for the protection of school children in the district being transported for all school purposes or activities in district owned, operated, leased, or controlled motor vehicles against injuries or damages arising out of the operation thereof. If the board deems it advisable, insurance may be procured and paid for from any funds available. Any insurance contract covering such risk shall contain as a condition precedent, a clause or provision expressly waiving the defense, by the insurer, that the district is engaged in a governmental function. The payment of any insurance premiums by such district shall not hereby make the district liable for any injuries or damages incurred by such transportation.

Subd. 10. The board may provide and pay the premiums for the protection for school children, instructors and automobile owners, and any other agency cooperating in providing cars for districts where driver training courses are being offered, against public liability, property damage, collision, fire and theft, arising out of the operation of any vehicle used in the courses. Nothing herein shall make the district liable for injuries resulting from the actions of such persons.

Subd. 11. The board may provide and pay the premiums for insurance against injuries resulting to its pupils while assigned to and acting on a school safety patrol, which insurance may provide for the payment of either cash benefits to such injured pupil or for the payment of hospital and medical benefits to or for such injured pupil, or both. Nothing herein shall be construed to in any way make the district liable for such injuries.

Subd. 12. The board may enter into contracts for the removal of snow from roads used for regular bus routes transporting pupils to and from school either within or without the district.

Subd. 13. The board shall contract with any licensed daytime activity center attended by a resident handicapped person who fulfills the eligibility requirements of section 252.23, subdivision 1, to transport the resident handicapped person to the daytime activity center in return for payment by the daytime activity center of the cost of the transportation, if transportation by the board is in the best interest of the handicapped person and is not unreasonably burdensome to the district and if a less expensive, reasonable, alternative means of transporting the handicapped person does not exist. If the board and the daytime activity center are unable to agree to a contract, either the board or the daytime activity center may appeal to the commissioner of education to resolve the conflict. All decisions of the commissioner shall be final and

MINNESOTA STATUTES 1976

1891

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.40

binding upon the board and the daytime activity center.

[*Ex 1959 c 71 art 4 s 21 subds 1-12; 1963 c 663 s 2; 1973 c 560 s 1; 1974 c 44 s 1; 1974 c 521 s 16; 1975 c 238 s 1*]

NOTE: School buses, regulations, see section 169.45.

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

123.40 INDEPENDENT SCHOOL DISTRICTS, SPECIFIC POWERS AND DUTIES. Subdivision 1. The board shall provide for the payment of all just claims against the district in cases provided by law.

Subd. 2. In all proper cases, the board shall prosecute and defend actions by or against the district.

Subd. 3. The board may receive, for the benefit of the district, bequests, donations, or gifts for any proper purpose and apply the same to the purpose designated. In that behalf, the board may act as trustee of any trust created for the benefit of the district, or for the benefit of pupils thereof, including trusts created to provide pupils of the district with advanced education after completion of high school, in the advancement of education.

Subd. 4. The board may employ qualified accountants for the purpose of auditing, examining and reporting upon the books and records of the district.

Subd. 5. The district may destroy the following records:

(1) Claims and vouchers paid by the district more than ten years prior to such destruction;

(2) Receipts, miscellaneous papers, and correspondence bearing dates more than ten years prior to destruction;

(3) Order and checks paid more than ten years prior to destruction.

The officer having custody of said records shall obtain written approval of the governing body of the district. The approval shall be in the form of a resolution listing the classes of records authorized to be destroyed and the range of dates in each class. A copy of the resolution consenting to the destruction of such records shall be sent to the state archives commission. If no petition or application requesting the records from the archives commission is received by said school district within 30 days after mailing of the resolution, the records shall be destroyed by the officer having custody.

This subdivision is supplementary to other statutory or charter authority to destroy obsolete district records and does not prevent destruction of such records at an earlier time or the destruction of other records when authorized by other statutory or charter provision.

Subd. 6. The board of any district which prior to the adoption of this code was classified as a ten or more township district, a county district, or a consolidated district, or any district which possessed the powers of a consolidated district or any district which contains at least 18 sections of land may acquire by lease, purchase or condemnation a site and erect thereon necessary and suitable buildings or rent existing buildings as and for dwellings for its teachers and employees. The board in such district may sell, lease or otherwise dispose of any property so acquired.

Subd. 7. In a district which has been converted from a special district to an independent district and which is located wholly or partly in a city of the first class, the board by a two-thirds vote, may issue and sell in each calendar year bonds of such district in an amount not to exceed one-half of one percent of the assessed value of the taxable property in such district. The proceeds of the sale of such bonds shall be used only for acquisition, construction, and betterment purposes. The provisions of this section shall apply to the issuance and sale of such bonds and to the purposes for which the same may be issued notwithstanding any provision to the contrary in any other existing law or city charter relating thereto.

Subd. 8. The board may authorize a representative to move unauthorized vehicles parked on school district property, or require the driver or other person in charge of the vehicle to move the same off school district property.

When such representative finds such a vehicle unattended upon school district premises, such representative is hereby authorized to provide for the removal of such vehicle and remove the same to the nearest convenient garage or other place of safety off of school district property. Such vehicle shall be moved at the expense of the

MINNESOTA STATUTES 1976

123.41 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1892

owner or operator.

[*Ex1959 c 71 art 4 s 22; 1961 c 562 s 13; 1967 c 704 s 1; 1975 c 162 s 41*]

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

123.41 INDEPENDENT SCHOOL DISTRICT, LIABILITY INSURANCE, OFFICERS AND EMPLOYEES. The governing body of any independent school district may procure insurance against liability of the school district or of its officers and employees for damages resulting from wrongful acts and omissions of the school district and its officers and employees, whether the acts or omissions relate to governmental or proprietary functions of the school district. Insofar as this insurance relates to governmental functions of the school district, the policy of insurance shall contain a provision under which the insurance company agrees to waive the defense of governmental immunity up to the limits of the policy unless the school district consents to the assertion of that defense.

[*Ex1959 c 71 art 4 s 23*]

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

123.42 LIMITATION OF SECTIONS. Material contained in sections 123.31 to 123.41, unless expressly stated otherwise, relates only to independent school districts.

[*Ex1959 c 71 art 4 s 24*]

123.43-123.50 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

SPECIAL SCHOOL DISTRICTS

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

123.51 SPECIAL SCHOOL DISTRICTS, LAWS APPLICABLE. Special districts as now organized shall continue to operate under the special legislation and charter provisions governing them until conversion to independent districts. The provisions of Laws 1957, Chapter 947, relating to independent districts shall apply to and govern each special district unless the special laws and charter provisions governing the special district provide for the matter, in which case the special laws and charter provisions relating to the special district shall apply and control.

[*Ex1959 c 71 art 4 s 25*]

123.52-123.55 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

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

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

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

EDUCATIONAL COOPERATIVE SERVICE UNITS

123.58 EDUCATIONAL COOPERATIVE SERVICE UNITS. Subdivision 1. **Declaration of policy.** It is declared to be a policy of the state to make general and uniform educational opportunities available to all school children in the state. In striving toward this equalizing of educational opportunity, the policy of the state shall be to encourage cooperation in making available to all students those educational programs and services which may most efficiently and economically be provided by a consortium effort of several school districts.

Subd. 2. **Establishment of educational cooperative service units.** (a) In furtherance of this policy, ten educational cooperative service units are designated. The units, should they become operational, shall be termed educational cooperative service units, hereafter designated as ECSU. Geographical boundaries for each ECSU shall coincide with those identified in governor's executive orders 8, dated September 1, 1971, and 59, dated May 29, 1973, issued pursuant to the regional development act of 1969, Minnesota Statutes, Sections 462.381 to 462.397, with the following exceptions:

(i) Development regions one and two shall be combined to form a single ECSU;

(ii) Development regions six east and six west shall be combined to form a single ECSU;

(iii) Development regions seven east and seven west shall be combined to form a single ECSU.

MINNESOTA STATUTES 1976

1893

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.58

The ECSU shall cooperate with the regional development commission for the region with which its boundaries coincide but shall not be responsible to nor governed by that regional development commission.

(b) The geographic location of the central administrative office of a school district shall determine the membership of the total school district in a particular ECSU. Existing school district boundaries shall not be altered as a result of Laws 1976, Chapter 8.

(c) Two or more identified ECSU units may, upon approval by a majority of school boards of participating school districts in each affected ECSU, be combined and administered as a single ECSU unit but state assistance shall be allocated on the basis of two or more ECSU units.

(d) The initial organization of each ECSU may occur only upon petition to the state board of education by a majority of all school districts in an ECSU. The state board of education shall, upon receipt of such petition, invite representation from all public school districts in an ECSU at a regional meeting. The state board of education shall then assist in the necessary organizational activities for establishment of an ECSU pursuant to the requirements of Laws 1976, Chapter 8.

Subd. 3. Purpose of ECSU. The primary purposes of designation as an ECSU shall be to perform educational planning on a regional basis and to assist in meeting specific educational needs of children in participating school districts which could be better provided by an ECSU than by the districts themselves. The ECSU shall provide those educational programs and services which are determined, pursuant to subdivision 8, to be priority needs of the particular region and shall assist in meeting special needs which arise from fundamental constraints upon individual school districts.

Subd. 4. Membership and participation. Full membership in an ECSU shall be limited to public school districts of the state but non-voting associate memberships shall be available to non-public school administrative units within the ECSU. Participation in programs and services provided by the ECSU shall be discretionary and no school district shall be compelled to participate in these services under authority of Laws 1976, Chapter 8, except that all school districts whose central administrative offices are within that ECSU whose boundaries coincide with those of development region 11 shall participate in the planning and planning research functions of that ECSU. No planning or planning research decision of that ECSU shall be binding on these region 11 districts. Non-public school students and personnel may participate in programs and services to the extent allowed by law.

Subd. 5. Governing board. (a) The care, management, and control of an ECSU shall be vested in a board of directors composed of not less than six nor more than 15 members. Members of the ECSU board of directors shall be current members of school boards of participating public school districts. Election to the ECSU board of directors shall be by vote of all current school board members of participating public school districts with each school board member having one vote.

(b) At the initial election, not less than six nor more than 15 members shall be elected at large from the ECSU, one-third of the members for a one year term from July 1 next following the election, one-third of the members for a two year term, and one-third of the members for a three year term, to serve until a successor is elected and qualifies; provided that if the number of members is not evenly divisible by three, the membership will be as evenly distributed as possible among one, two, and three year terms with the remaining members serving the three year term. Elections shall occur after the third Tuesday in May but not later than June 15, or within 90 days following the filing of the initial petition with the state board of education. Thereafter, members shall be elected to serve a term of three years beginning on July 1 next following the election.

(c) Notwithstanding any contrary provisions in (a) and (b), the school boards of districts within that ECSU whose boundaries coincide with those of development region 11 may form a representative assembly composed of one current school board member from each district. The care, management, and control of that ECSU shall be vested in the representative assembly if one is formed. The representative assembly shall elect an executive committee of not less than six nor more than 15 members to terms as provided in clause (b) to have those powers and to carry out those duties delegated to it by the representative assembly. In the election of its executive committee, the representative assembly shall establish such electoral districts as necessary to ensure proportional representation based on school enrollments within the ECSU. The

MINNESOTA STATUTES 1976

123.58 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1894

provisions of clauses (d), (e), (f) and (g) of this subdivision shall apply to the executive committee of this ECSU.

(d) A vacancy on the board which results in an unexpired term shall be filled by appointment by the board of directors until such vacancy can be filled at the next annual election.

(e) The first meeting of the ECSU board shall be at a time mutually agreed upon by board members. At this meeting, the ECSU board shall choose its officers and conduct any other necessary organizational business. The ECSU board may, in its discretion, appoint up to three superintendents of school districts within the ECSU as ex officio, non-voting members of the board.

(f) The officers of the ECSU board shall be a chairman, vice chairman, clerk and treasurer, no two of whom when possible shall be from the same school district.

(g) A member of the ECSU board shall have the same liability applicable to a member of an independent school board.

Subd. 6. Duties and powers of ECSU board of directors. The board of directors shall have authority to maintain and operate an ECSU. Subject to the availability of necessary resources, the powers and duties of this board shall include the following:

(a) The board of directors shall submit within 90 days after the filing of the initial petition with the state board of education and by June 1 of each year thereafter to the state board of education and to each participating school district an annual plan which describes the objectives and procedures to be implemented in assisting in resolution of the educational needs of the ECSU.

(b) The ECSU board of directors may provide adequate office, service center, and administrative facilities by lease, purchase, gift, or otherwise, subject to the review of the state board of education as to the adequacy of the facilities proposed.

(c) The ECSU board of directors may employ a central administrative staff and other personnel as necessary to provide and support the agreed upon programs and services. The board may discharge staff and personnel pursuant to provisions of law applicable to independent school districts. ECSU staff and personnel may participate in retirement programs and any other programs available to public school staff and personnel.

(d) The ECSU board of directors may appoint special advisory committees composed of superintendents, central office personnel, building principals, teachers, parents and lay persons.

(e) The ECSU board of directors may employ service area personnel pursuant to certification standards developed by the state board of education and the board of teaching.

(f) The ECSU board of directors may enter into contracts with school boards of local districts including school districts outside the ECSU area.

(g) The ECSU board of directors may enter into contracts with other public and private agencies and institutions which may include, but are not limited to, contracts with Minnesota institutions of higher education to provide administrative staff and other personnel as necessary to furnish and support the agreed upon programs and services.

(h) The ECSU board of directors shall exercise all powers and carry out all duties delegated to it by participating local school districts under provisions of the ECSU bylaws. The ECSU board of directors shall be governed, when not otherwise provided, by the provisions of law applicable to independent school districts of the state.

(i) The ECSU board of directors shall submit an annual evaluation report of the effectiveness of programs and services to the school districts within the ECSU and the state board of education by September 1 of each year following the school year in which the program and services were provided.

(j) The ECSU board is encouraged to establish cooperative, working relationships with post-secondary educational institutions in the state.

Subd. 7. Appointment of an advisory council. There shall be an advisory council selected to give advice and counsel to the ECSU board of directors. This council shall be composed of superintendents, central office personnel, principals, teachers, parents, and lay persons. A plan detailing procedures for selection of membership in this coun-

MINNESOTA STATUTES 1976

1895

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.58

c) shall be submitted by the ECSU board of directors to the state board of education.

Subd. 8. Educational programs and services. Pursuant to subdivision 6, and rules and regulations of the state board of education, the board of directors of each operational ECSU shall submit annually a plan to the school districts within the ECSU and the state board of education. The plan shall identify the programs and services which are suggested for implementation by the ECSU during the following school year and shall contain components of long range planning determined by the ECSU in cooperation with the state board of education and other appropriate agencies. The state board of education may review and recommend modification of the proposed plan and conduct ongoing program reviews. These programs and services may include, but are not limited to, the following areas:

- (a) Administrative services and purchasing
- (b) Curriculum development
- (c) Data processing
- (d) Educational television
- (e) Evaluation and research
- (f) In-service training
- (g) Media centers
- (h) Publication and dissemination of materials
- (i) Pupil personnel services
- (j) Regional planning, joint use of facilities, and flexible and year-round school scheduling
- (k) Secondary, post-secondary, community, adult, and adult vocational education
- (l) Individualized instruction and services, including services for students with special talents and special needs
- (m) Teacher personnel services
- (n) Vocational rehabilitation
- (o) Health, diagnostic, and child development services and centers
- (p) Leadership or direction in early childhood and family education
- (q) Community services
- (r) Shared time programs.

Subd. 9. Financial support for the educational cooperative service units. (a) Financial support for ECSU programs and services shall be provided by participating local school districts and non-public school administrative units with private, state and federal financial support supplementing as available. The ECSU board of directors may, in each year, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess and certify to each participating school district and non-public school administrative unit its proportionate share of any and all expenses. This share shall be based upon the extent of participation by each district or non-public school administrative unit and shall be in the form of a service fee. Each participating district and non-public school administrative unit shall remit its assessment to the ECSU board as provided in the ECSU bylaws. The assessments shall be paid within the maximum levy limitations of each participating district. No participating school district or non-public school administrative unit shall have any additional liability for the debts or obligations of the ECSU except that assessment which has been certified as its proportionate share or any other liability the school district or non-public school administrative unit agrees to assume.

(b) Any property acquired by the ECSU board is public property to be used for essential public and governmental purposes which shall be exempt from all taxes and special assessments levied by a city, county, state or political subdivision thereof.

(c) A school district or non-public school administrative unit may elect to withdraw from participation in the ECSU by a majority vote of its full board membership and upon compliance with the applicable withdrawal provisions of the ECSU organizational agreement. Upon receipt of the withdrawal resolution reciting the necessary facts, the ECSU board shall file a certified copy with the state board of education. The withdrawal shall be effective on the June 30 following receipt by the board of directors of written notification of the withdrawal at least six months prior to June 30.

MINNESOTA STATUTES 1976

123.581 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1896

Notwithstanding the withdrawal, the proportionate share of any expenses already certified to the withdrawing school district or non-public school administrative unit for the ECSU shall be paid to the ECSU board.

(d) The ECSU is a public corporation and agency and its board of directors may make application for, accept and expend private, state and federal funds that are available for programs of educational benefit approved by the state board of education in accordance with regulations adopted by the state board of education pursuant to chapter 15. The state board of education shall not distribute special state aid or federal aid directly to an ECSU in lieu of distribution to a school district within the ECSU which would otherwise qualify for and be entitled to this aid without the consent of the school board of that district.

Subd. 10. **Joint powers act.** Nothing in Laws 1976, Chapter 8 shall restrict the authority granted to school district boards of education by section 471.59.

[1975 c 271 s 6; 1976 c 8 s 1; 1976 c 222 s 27]

123.581 PILOT PROGRAMS. Subdivision 1. **Establishment.** Pilot programs for in-service training for regular classroom teachers in techniques of education of mildly learning disabled and retarded pupils shall be established in school districts designated by the state board of education. Funds for these pilot programs shall be granted by the state board upon the recommendation of the advisory council for special education of mildly learning disabled pupils and mildly retarded pupils.

Subd. 2. **Advisory council on LD and MR special education.** There is hereby established the advisory council for special education of mildly learning disabled pupils and mildly retarded pupils which shall be responsible for recommending grants for and assisting the districts in developing the pilot programs of in-service teacher training.

Subd. 3. **Membership.** The advisory council shall consist of 12 members who shall be appointed by the commissioner of education. Nine members shall be professionally qualified in the fields of special or general education, and three shall be public members. The professionally qualified members shall be representative of teacher training departments or institutions, educators acting as consultants in the field of special learning behavior problems, mental retardation, and other educational handicaps and the department of education. The public members shall be representative of associations and organizations concerned with the problems of learning disabled pupils and retarded pupils.

Subd. 4. **Duties.** The advisory council shall be charged with the following duties:

(1) To make recommendations to the state board of education as to priority in the use of funds available for the in-service training programs for classroom teachers;

(2) To formulate and recommend policies as to the awarding of grants by the state board;

(3) To propose minimum standards to be met by the district in order to receive program approval;

(4) To review proposals of programs submitted by the district and make recommendations as to acceptability; and

(5) Evaluate and make periodic reports on the programs funded under Laws 1976, Chapter 8 to the state board of education, the board of teaching and the council on quality education.

Subd. 5. **Terms, removal, compensation.** The council shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Subd. 6. **Requirements for programs.** A grant received by the district shall be used solely for costs incurred in the in-service training of the teachers and shall not be used for any other general education or special education functions. Applications for grants may be considered from districts initiating an in-service training program or continuing an existing program. A single district may initiate or continue a program or may join with another district or other districts. A district may cooperate with other districts in a special educational regional council, educational service area, or educational cooperative service unit wherever such arrangement is available. Distribution of funds between or among the pilot programs shall depend upon the needs of the district, its population, and the number of teachers to be trained in the program.

MINNESOTA STATUTES 1976

1897

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.65

There is no requirement that funds be equally distributed.

Subd. 7. Appropriation. There is hereby appropriated from the general fund to the state board of education for the purposes of this section the sum of \$100,000. Notwithstanding the provisions of section 16A.28 or any other law, this appropriation shall not cancel but shall be available until July 1, 1977.

The state board of education shall provide such personnel and resources as needed in order to carry out the duties assigned to the advisory council in Laws 1976, Chapter 8.

[1975 c 271 s 6; 1976 c 8 s 3; 1976 c 222 s 27]

MISCELLANEOUS PROVISIONS

123.61 LIMITATIONS. Every district which for one year shall have exercised the powers and franchises of a district shall be deemed legally organized.

[Ex1959 c 71 art 4 s 27]

123.62 PLATS. The auditor shall keep in his office books containing a correct plat and description of each district, whether wholly or partly in his county. The auditor shall submit, on or before December 31 of each year, to the state department a description and plats showing changes made in district boundaries during the calendar year.

[Ex1959 c 71 art 4 s 28; 1975 c 162 s 41]

123.63 EMINENT DOMAIN. In any municipal corporation or district in this state where the governing body or board has the right, power, and authority to purchase sites for school buildings without authorization by the voters at a regular or special meeting or election called for that purpose, such governing body or school board shall have the right, power, and authority to condemn lands under the right of eminent domain for sites and grounds for public school buildings and such power and authority shall be exercised under and pursuant to the terms and provisions of chapter 117. Any such corporation or school district shall have the right, upon the filing of the award of the commissioners provided for in chapter 117, and upon giving the notice therein required of the filing of such award, to enter upon and appropriate the lands so condemned without giving of any bond, but in case of such entry and appropriation, such corporation or school district shall be bound absolutely to pay all damages awarded, either by the commissioners or by the court upon appeal therefrom, together with all costs and expenses adjudged against it therein within the time specified in chapter 117. In case any such corporation or school district shall appeal from the award of commissioners appointed pursuant to any such condemnation proceedings, such corporation or school district shall not be required to give or file any appeal bond therein.

[Ex1959 c 71 art 4 s 29]

123.64 AGRICULTURAL EDUCATION. The board of any district in which instruction in agriculture is afforded is authorized and empowered to purchase or otherwise acquire by condemnation proceedings as provided for acquiring schoolhouse sites in the name and in behalf of such district, a suitable tract of land either within or without the limits of such district to be used for the purpose of instruction, experimentation, and demonstration in agriculture. The provisions of this section shall apply as well to districts organized under special acts as under the general laws, notwithstanding any provisions or restrictions in the laws under which the same are organized.

[Ex1959 c 71 art 4 s 30]

123.65 DISCONTINUANCE OF SCHOOLS. The board of any district in any emergency or upon authorization by a majority of the voters present at any regular or special school meeting of the district, may provide for the instruction of its pupils in an adjoining or nearby district and, in such case, may discontinue the schools of its own districts or of any grades in said schools, in which case it shall provide for the free tuition and transportation of the pupils of its own district to the school in an adjoining or nearby district. Such free transportation shall conform to the rules and regulations of the state board of education. The teachers shall keep the registers separately for the pupils from each district discontinuing its schools and return the registers and make separate records to the clerk of such district and to the depart-

MINNESOTA STATUTES 1976

123.66 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1898

ment of education of the number and names of pupils, with their attendance, and such district shall retain its organization and be entitled to special state aid under such rules as may be fixed by the state board of education.

[*Ex1959 c 71 art 4 s 31; 1975 c 162 s 26*]

123.66 RECORDS AS EVIDENCE. The records of all districts and boards and all transcripts thereof, or any part thereof, certified by the clerk or other officer having custody thereof, shall be prima facie evidence of the facts therein stated and all records, books, and papers of such district or board shall be subject to the inspection of any voter of the district.

[*Ex1959 c 71 art 4 s 32*]

123.67 COUNTY ATTORNEY, DUTIES. When the boundaries of any district are coterminous with the boundaries of a county unless the board retains separate counsel, the county attorney may serve as attorney for the board without additional compensation from the district, but the board of county commissioners of such county may allow such additional compensation for legal services rendered to the board as the board of county commissioners deem proper.

[*Ex1959 c 71 art 4 s 33*]

123.68 COUNTY SCHOOL DISTRICTS, CONTINUANCE, LAWS APPLICABLE. Any school district classified as a county school district July 1, 1957, shall continue to operate under the laws now governing it. The provisions of Laws 1957, Chapter 947 relating to independent school districts shall apply to and govern each county school district unless the particular laws governing the county school district provide for the matter, in which case the provisions relating to the county school district shall apply and control.

[*Ex1959 c 71 art 4 s 34*]

123.69 SCHOOL EMPLOYEES, TUBERCULOSIS. Subdivision 1. **Annual tests.** The employees of all school districts, as defined in section 120.02, and the employees of all private or parochial schools, day care centers and nursery schools shall, prior to employment and annually thereafter, show freedom from tuberculosis in accordance with rules and regulations promulgated by the state board of health. The school district, private or parochial school, day care center or nursery school shall assume the payment of the cost of the services necessary for the diagnosis and report but the obligation shall be limited to the actual examination and diagnosis and shall not include travel or incidental expenses. The physical examinations, chest x-rays or tuberculin tests shall not be required of any employee who files with the school board or with the person or persons legally responsible for the private or parochial school, day care center or nursery school an affidavit setting forth that he depends exclusively upon prayer or spiritual means for healing, that he is to the best of his knowledge and belief in good health, and that he claims exemption from health examination on those grounds.

Subd. 2. **Employees showing tuberculosis.** If the examination prescribed by rule and regulation of the state board of health shows evidence of active tuberculosis and the employee is certified by the employee's physician to be infectious and to be a danger to the public health, it shall be the duty of the school board or the person or persons legally responsible for the private or parochial school, day care center or nursery school immediately to exclude the person from his employment during the period of infectiousness; provided, however, that an exclusion from employment shall not restrict the rights acquired by teachers pursuant to sections 125.07 and 125.12.

[*1961 c 214 s 1; 1974 c 526 s 1*]

NOTE: See also section 144.45.

123.70 HEALTH STANDARDS; NEWLY ENROLLED STUDENTS. Subdivision 1. Prior to his initial enrollment in any school in this state every child shall submit to the principal or other person having general control and supervision of the school, one of the following statements: (1) a statement signed by a physician that he has received immunization against red measles and German measles or rubella by such means as is approved by the state board of health and that such immunization is currently effective; or (2) a statement signed by a physician that the physical condition of the child is such that immunization would seriously endanger his life or health; or (3) a state-

MINNESOTA STATUTES 1976

1899

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.741

ment signed by his parent or guardian that he has not been immunized as prescribed in clause (1) because he is being reared as an adherent of a religious denomination whose teachings are opposed to such immunization; or (4) a request signed by his parent or guardian that the local health officer administer the prescribed immunization.

Subd. 2. The local school administrator shall, without delay, notify the local board of health, which shall provide, without delay, the immunization requested by this section to those children under subdivision 1, clause (4), at public expense.

Subd. 3. The phrase "any school" means any public, private or parochial elementary school, day care center or nursery school.

Subd. 4. The immunizations required by this section should be completed prior to the second birthday of the child.

[1967 c 858 s 1,2; 1973 c 137 s 1-3]

123.71 PUBLICATION OF SCHOOL DISTRICT DISBURSEMENTS. Subdivision 1. Every school board shall, within 30 days after its adoption of a budget for the current school year, but in no event later than September 1, publish a summary of the disbursements of funds showing the actual expenditures for the prior fiscal year and proposed expenditures for the current fiscal year in form prescribed by the state board of education in a newspaper of general circulation and holding a U. S. Post Office Department second class mailing permit or a legal newspaper located in the district, or if there be no such newspaper within the district then in the legal newspaper outside the district which has a general circulation in the district.

Subd. 2. It shall also publish at the same time a summary of bonds outstanding, paid, and sold, a summary of orders not paid for want of funds, and certificates of indebtedness for the year ending June 30.

Subd. 3. A statement shall be included in the publication that the complete budget in detail may be inspected by any resident of the district upon request to the chief school administrator.

[1969 c 1011 s 1-3; 1971 c 690 s 1]

123.72 MEDICAL INSURANCE PREMIUMS FOR RETIRED PERSONNEL. The school board of any independent school district may expend funds to pay premiums on hospitalization and major medical insurance coverage for officers and employees who retire prior to age 65 and who are between the ages of 55 and 65. Such premiums shall only be paid until such retired officers and employees reach age 65.

[1973 c 739 s 1; 1975 c 365 s 1]

123.73 DATA PROCESSING BY JOINT BOARD, ACQUISITION OF PROPERTY. Any joint board formed pursuant to section 471.59 by two or more school districts, however organized, for the purpose in whole or in part of establishing or providing data processing services may acquire, transfer and hold title to real and personal property to the extent and in the manner as is authorized by law for independent school districts. For purposes of acquiring, transferring and holding title to real and personal property, such joint board shall be considered a separate governmental entity.

[1975 c 154 s 1]

123.74 POLICY. The legislature finds that a process for curriculum evaluation and planning is needed for continued improvement of the educational program for all public school children in the state, and to allow for better evaluation of educational programs by local communities. The legislature further finds that such a process is needed to facilitate decisions by school boards and communities as to which services can best be provided by the public schools and which services can or should be provided by other institutions such as the family, the private sector or other public agencies.

[1976 c 271 s 1]

123.741 EDUCATIONAL POLICY; CURRICULUM ADVISORY COMMITTEES. Subdivision 1. The school board of each school district in the state shall develop and adopt a written educational policy which establishes educational goals for the district, a process for achieving these goals, and procedures for evaluating and reporting progress toward the goals. The school board shall review this policy each year and adopt

MINNESOTA STATUTES 1976

123.742 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1900

revisions which it deems desirable. School boards are encouraged to develop this school district policy and any revisions after consultation with the staff of each school building.

Subd. 2. The school board shall instruct the administrative and professional staff of the district to develop an instructional plan for the purpose of implementing the goals established in the district educational policy within resources available to the district. Insofar as possible the instructional plan shall include measurable instructional objectives to assist in directing and measuring progress toward the goals established in the district educational policy. For goals toward which progress is not easily measurable, the instructional plan shall include other appropriate means to direct and evaluate progress.

Subd. 3. Each school board is encouraged to appoint a curriculum advisory committee to provide for active community participation in the process of developing and revising the district educational policy, developing the instructional plan, evaluating progress and reporting to the public.

Subd. 4. Each year a final evaluation of progress shall be conducted, including both professional and consumer evaluations. The professional staff evaluation shall utilize test results and other performance data along with faculty interpretations and judgments. Consumer evaluation shall include the opinions of students, parents and other residents of the community served by the school. Upon receipt of the evaluation reports, each school board shall review the results and develop appropriate school improvement plans to improve areas where goals of the district educational policy have not been met.

Subd. 5. The district educational policy, the reports of the annual evaluation including summary test results, and the plans for school improvement shall be made available to the citizens of the school district through media releases and other means of communicating with the public. These documents shall also be on file and available for inspection by the public. Information copies of the reports shall be sent to the state board of education. All activities and reports pursuant to this section shall comply with sections 15.162 to 15.167, and any other law governing data on individuals in school districts.

[1976 c 271 s 2]

123.742 ASSISTANCE TO LOCAL SCHOOL DISTRICTS. Subdivision 1. Insofar as possible, the state board of education and educational cooperative service units shall make technical assistance for planning and evaluation available to school districts upon request during the 1976-1977 school year. The department shall collect the annual evaluation reports from local districts as provided in section 123.741, subdivision 5, and shall make this data available upon request to any district seeking to use it for purposes of comparisons of student performance.

Subd. 2. The department upon written agreement with local school districts may perform testing and evaluation of students. The department may collect a reasonable fee not to exceed the actual cost of services.

[1976 c 271 s 3]

123.743 APPROPRIATION. There is annually appropriated from the general fund to the department of education any and all amounts received by the department pursuant to section 123.742, subdivision 2.

[1976 c 271 s 7]

TRANSPORTATION OF SCHOOL CHILDREN

123.76 POLICY. In districts where the state provides aids for transportation it is in the public interest to provide equality of treatment in transporting school children of the state who are required to attend elementary and secondary schools pursuant to chapter 120, so that the health, welfare and safety of such children, while using the public highways of the state, shall be protected.

School children attending any schools, complying with section 120.10, subdivision 2, are therefore entitled to the same rights and privileges relating to transportation.

[1969 c 570 s 1]

MINNESOTA STATUTES 1976

1901

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.80

123.77 DEFINITIONS. Subdivision 1. The following words and terms in sections 123.76 to 123.79 shall have the following meanings ascribed to them.

Subd. 2. "District" means any school district as defined in section 120.02.

Subd. 3. "School" means any school as defined in section 120.10, subdivision 2.

Subd. 4. "School board" means the governing body of any school district.

Subd. 5. "School children" means any student or child attending or required to attend any school as provided in the Education Code, chapters 120 to 129.

[1969 c 570 s 2; 1975 c 162 s 41]

123.78 EQUAL TREATMENT. Subdivision 1. The school board of any district which is now or hereafter eligible to receive state aid for transportation under chapters 123 and 124, shall provide equal transportation within the district for all school children to any school when transportation is deemed necessary by any board by reason of distance or traffic condition in like manner and form as provided in sections 123.16, subdivisions 3 and 4; 123.18; 123.37, subdivisions 3 and 4; 123.39; and 124.223, when applicable.

Subd. 1a. (a) The school board of any local district shall provide school bus transportation to the district boundary for school children residing in the district at least the same distance from a nonpublic school actually attended in another district as public school pupils are transported in the transporting district, whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means. (b) The school board of any local district may provide school bus transportation to a nonpublic school in another district for school children residing in the district and attending that school, whether or not there is another nonpublic school within the transporting district, if the transportation is to schools maintaining grades or departments not maintained in the district or if the attendance of such children at school can more safely, economically, or conveniently be provided for by such means. If the board transports children to a nonpublic school located in another district, the nonpublic school shall pay the cost of such transportation provided outside the district boundaries.

Subd. 2. When transportation is provided, the scheduling of routes, manner and method of transportation, control and discipline of school children and any other matter relating thereto shall be within the sole discretion, control and management of the school board.

[1969 c 570 s 3; 1974 c 566 s 1; 1975 c 51 s 1; 1975 c 162 s 27; 1976 c 2 s 58]

123.79 FUNDS AND AIDS. Subdivision 1. Such state aids as may become available or appropriated shall be governed by section 124.22, be paid to the school district entitled thereto for the equal benefit of all school children, and disbursed in such manner as determined by the board.

Subd. 2. The board of any district may expend any moneys in its treasury, whether received from state or any other source for the purpose of providing equal transportation treatment of all school children attending school.

[1969 c 570 s 4]

123.80 SAFETY EDUCATION FOR TRANSPORTED STUDENTS. Subdivision 1. Not later than January 1, 1975 the state board of education shall provide by rule or regulation a program of safety education for students who are transported to school. Each district receiving aid under the provisions of section 124.222 shall implement the program for the school year beginning in September 1975. In drafting said regulations, the board shall give particular attention to procedures for loading, unloading, vehicle lane crossing and emergency evacuation procedures as they affect school buses.

Subd. 2. Not later than January 1, 1976, the state board of education shall promulgate rules which will assure the safe and efficient transportation of handicapped pupils who because of their special handicapping conditions require special transportation arrangements. In drafting these rules, the board shall give particular attention to standards for vehicles used in transporting handicapped pupils, equipment to assure the safety of these pupils, and the qualifications of the drivers and aides provid-

ing transportation services.

[1974 c 332 s 1; 1975 c 432 s 17]

123.81 [Repealed, 1969 c 9 s 96]

123.82 [Repealed, 1969 c 9 s 96]

123.83 [Repealed, 1969 c 9 s 96]

123.84 [Repealed, 1969 c 9 s 96]

123.85 [Repealed, 1969 c 9 s 96]

123.86 [Repealed, 1969 c 9 s 96]

123.87 [Repealed, 1969 c 9 s 96]

123.88 [Repealed, 1969 c 9 s 96]

123.89 [Repealed, 1969 c 9 s 96]

123.90 [Repealed, 1969 c 9 s 96]

123.91 [Repealed, 1969 c 9 s 96]

123.92 [Repealed, 1969 c 9 s 96]

123.93 [Repealed, 1969 c 9 s 96]

EDUCATIONAL AIDS FOR NONPUBLIC SCHOOL CHILDREN

123.931 DECLARATION OF POLICY. It is the intent of the legislature by this enactment to provide for distribution of educational aids such as auxiliary services, instructional materials and equipment so that every school child in the state will share equitably in education benefits and therefore further assure all Minnesota students and their parents freedom of choice in education.

[1975 c 396 s 1]

123.932 DEFINITIONS. Subdivision 1. "Instructional materials" means textbooks, books, workbooks, published materials, reusable workbooks or manuals, whether bound or in looseleaf form, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, musical scores, maps, globes, sound recordings, including but not limited to those on discs and tapes, processed slides, transparencies, film, filmstrips, kinescopes, video tapes, or any other printed and published materials of a similar nature made by any method; the term includes only such secular, neutral and nonideological instructional materials as are available and are of benefit to Minnesota public school students and are intended for use as implements or sources of study for a given class or group of students and which are expected to be available for the individual use of each pupil in such class or group; the term shall also include such secular, neutral, nonideological instructional materials as are normally provided and made available in public school libraries. The term shall be limited to "textbooks", "school library and audio visual materials" and "instructional supplies" as those terms or their equivalent are described and designated in the manual of instructions for uniform accounting for Minnesota school districts, published by the department of education.

Subd. 2. "Pupil units" shall be defined as in section 124.17, subdivision 1, clauses 1 and 2.

Subd. 3. "Nonpublic school" means any school within the state other than a public school, wherein a resident of Minnesota may legally fulfill the compulsory school attendance requirements of section 120.10, and which meets the requirements of Title VI of the Civil Rights Act of 1964 (Public Law 88-352).

Subd. 4. "School" means any public or nonpublic school within the state wherein children receive educational services and materials provided for or recognized by the state, limited to kindergarten through grade 12.

Subd. 5. "Pupil" or "student" means a child enrolled in a school and is limited to children who are residents, or children of residents, of Minnesota.

Subd. 6. "Auxiliary services" means guidance, counseling and testing services; psychological services; services for handicapped children; remedial and therapeutic services; speech and hearing services; services for the improvement of the educationally disadvantaged; and such other secular, neutral, nonideological services as are of benefit to nonpublic school children and which are provided for public school children

MINNESOTA STATUTES 1976

1903

SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES 123.934

of Minnesota.

Subd. 7. "Intermediary service area" means a school administrative unit approved by the state board of education, other than a single school district, such as but not limited to the following: (a) a regional educational service area; (b) a cooperative of two or more school districts; (c) learning centers; or (d) an association of schools or school districts.

Subd. 8. "Equipment" means any item that is a moveable unit of furnishing, an instrument, a machine, an apparatus, or set of articles which meet all the following conditions: (1) It retains its original shape and appearance with use; and (2) It is nonexpendable, that is, if the article is damaged or some of its parts are lost or worn out, it is usually more feasible to repair rather than replace it with an entirely new unit. The term shall be limited to secular, neutral, nonideological items and devices which are used by children in public schools and shall be limited to courses or curriculum relating to: physical education programs, laboratory sciences, mathematical sciences, business training, practical arts and vocational-technical programs. The term shall exclude any items and devices which are capable of being used for the instruction of religion or religious tenets.

[1975 c 396 s 2]

123.933 PURCHASE OR LOAN OF INSTRUCTIONAL MATERIALS. The state board of education shall promulgate rules under the provisions of chapter 15, requiring that in each school year, based upon formal requests by or on behalf of nonpublic school students in a nonpublic school, the local districts or intermediary service areas shall purchase or otherwise acquire instructional materials and loan or provide them for use by children enrolled in that nonpublic school. These instructional materials shall be loaned or provided free to the children for the school year for which requested. The loan or provision of the instructional materials shall be subject to rules prescribed by the state board of education. In the case of consumable or nonreusable instructional materials the title and possession may be surrendered to the nonpublic school student for whom they are provided; in the case of nonconsumable or reusable instructional materials the title to same shall remain in the servicing school district or intermediary service area, and possession or custody may be granted or charged to administrators of the nonpublic school attended by the nonpublic school pupil or pupils to whom the instructional materials were loaned. The cost per pupil unit of the instructional materials provided for in sections 123.931 to 123.937 for each school year shall not exceed the statewide average cost per pupil unit spent by the Minnesota public elementary and secondary schools for instructional materials as computed and established by the department of education by each preceding October 1 from the most recent public school year data then available. The commissioner shall allot to the school districts or intermediary service areas the total cost for each school year of providing or loaning the instructional materials for the students in each nonpublic school which shall not exceed the product of the statewide average cost per pupil unit multiplied by the number of nonpublic school pupil units enrolled as of October 1 of the preceding school year.

[1975 c 396 s 3]

123.934 PURCHASE AND PROVISION OR LOAN OF EQUIPMENT. The state board of education shall promulgate rules under the provisions of chapter 15, requiring that in each school year, based upon formal requests by or on behalf of nonpublic school students in a nonpublic school, the local districts or intermediary service areas shall purchase or otherwise acquire equipment and loan or provide the same for use by children enrolled in that nonpublic school. This equipment shall be loaned or provided free for the children for the school year for which requested. The loan or provision of the equipment shall be subject to rules prescribed by the state board of education and prior to September 1, 1975, and January 1 of each year thereafter, the state board shall promulgate rules and regulations specifically designating which items and devices are capable of being used for the instruction of religion or religious tenets. Title to the equipment shall remain in the servicing school district or intermediary service area, but possession or custody may be granted or charged to administrators of the nonpublic school attended by the nonpublic school pupil or pupils for whom the equipment is provided and loaned. The commissioner shall allot to the school districts or intermediary service areas the total cost for each school year of providing or loan-

MINNESOTA STATUTES 1976

123.935 SCHOOL DISTRICTS; ELECTION, POWERS AND DUTIES

1904

ing the equipment for the students in each nonpublic school, which shall not exceed \$10 per pupil unit enrolled as of October 1 of the preceding school year.

[1975 c 396 s 4]

123.935 PROVISION OF AUXILIARY SERVICES. The state board of education shall promulgate rules under the provisions of chapter 15 requiring each school district or other intermediary service area to provide each year upon formal request by a specific date by or on behalf of a nonpublic school student enrolled in a nonpublic school, the same auxiliary services as are provided for Minnesota public school pupils. The requests shall be limited collectively to nonpublic school students enrolled in a given nonpublic school. The auxiliary services shall be provided in the student's respective school whenever possible by the district or intermediary service area wherein the nonpublic student's school is situated. The cost of the required services shall not exceed the amount allotted under this section to the participating district or intermediary service area. Each school year the commissioner shall allot to the school districts or other intermediary service areas for the provision of the services the actual cost of the services for that school year not to exceed \$50 multiplied by the number of nonpublic school pupils in grades 9 through 12 and \$75 multiplied by the number of nonpublic school pupils in kindergarten through grade 8, enrolled as of October 1 of the last preceding school year.

[1975 c 396 s 5]

123.936 PAYMENTS FOR CONTRACTUAL OBLIGATIONS. In every event the commissioner shall make such payments to school districts or intermediary service areas pursuant to sections 123.931 to 123.937 as are needed to meet contractual obligations incurred for the provision of benefits to nonpublic school students pursuant to sections 123.933, 123.934 or 123.935.

[1975 c 396 s 6]

123.937 APPROPRIATION. There is appropriated annually to the department of education from the general fund of the state treasury the sum of \$12,000,000 for the purposes of sections 123.931 to 123.937.

[1975 c 396 s 8]