

## CHAPTER 122

### SCHOOL DISTRICTS: FORMATION AND COOPERATION

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#### 122.22 DISSOLUTION AND ATTACHMENT.

*[For text of subs 1 to 7, see M.S.1990]*

Subd. 7a. (a) Before the day of a hearing ordered pursuant to this section, each district adjoining the district proposed for dissolution shall provide the following information and resolution to the county auditor of the county containing the greatest land area of the district proposed for dissolution:

(1) The outstanding bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, and the capital loan obligation of the district;

(2) The net tax capacity of the district;

(3) The most current school tax rates for the district, including any referendum, discretionary, or other optional levies being assessed currently and the expected duration of the levies;

(4) A resolution passed by the school board of the district stating that if taxable property of the dissolved district is attached to it, one of the following requirements is imposed:

(i) the taxable property of the dissolving district which is attached to its district shall not be liable for the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or the capital loan obligation of the district which existed as of the time of the attachment;

(ii) the taxable property of the dissolving district which is attached to its district shall be liable for the payment of the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or the capital loan obligation of the district which existed as of the time of the attachment in the proportion which the net tax capacity of that part of the dissolving district which is included in the newly enlarged district bears to the net tax capacity of the entire district as of the time of attachment; or

(iii) the taxable property of the dissolving district which is attached to its district shall be liable for some specified portion of the amount that could be requested pursuant to subclause (ii).

(b) An apportionment pursuant to paragraph (a), clause (4), subclause (ii) or (iii), shall be made by the county auditor of the county containing the greatest land area of the district proposed for transfer.

(c) An apportionment of bonded indebtedness, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or capital loan obligation pursuant to paragraph (a), clause (4), subclause (ii) or (iii), shall not relieve any property from any tax liability for payment of any bonded or capital obligation, but taxable property in a district enlarged pursuant to this section becomes primarily liable for the pay-

ment of the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or capital loan obligation to the extent of the proportion stated.

*[For text of subd 8, see M.S.1990]*

Subd. 9. An order issued under subdivision 8, clause (b), shall contain the following:

(a) A statement that the district is dissolved unless the results of an election held pursuant to subdivision 11 provide otherwise;

(b) A description by words or plat or both showing the disposition of territory in the district to be dissolved;

(c) The outstanding bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, and the capital loan obligation of the district to be dissolved;

(d) A statement requiring the fulfillment of the requirements imposed by each adjoining district to which territory in the dissolving district is to be attached regarding the assumption of its outstanding preexisting bonded indebtedness by any territory from the dissolving district which is attached to it;

(e) An effective date for the order. The effective date shall be at least three months after the date of the order, and shall be July 1 of an odd-numbered year; and

(f) Other information the county board may desire to include.

The auditor shall within ten days from its issuance serve a copy of the order by mail upon the clerk of the district to be dissolved and upon the clerk of each district to which the order attaches any territory of the district to be dissolved and upon the auditor of each other county in which all or any part of the district to be dissolved or any district to which the order attaches territory lies, and upon the commissioner.

*[For text of subs 11 to 20, see M.S.1990]*

**History:** 1991 c 265 art 6 s 6,7

## 122.23 CONSOLIDATION.

*[For text of subd 1, see M.S.1990]*

Subd. 2. (a) Upon a resolution of a school board in the area proposed for consolidation or upon receipt of a petition therefor executed by 25 percent of the voters resident in the area proposed for consolidation or by 50 such voters, whichever is lesser, the county auditor of the county which contains the greatest land area of the proposed new district shall forthwith cause a plat to be prepared. The resolution or petition shall show the approximate area proposed for consolidation.

(b) The resolution or petition may propose the following:

(1) that the bonded debt of the component districts will be paid according to the levies previously made for that debt under chapter 475, as provided in subdivision 16a, or that the taxable property in the newly created district will be taxable for the payment of all or a portion of the bonded debt previously incurred by any component district as provided in subdivision 16b;

(2) that obligations for a capital loan or an energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding in a preexisting district as of the effective date of consolidation remain solely with the preexisting district that obtained the loan, or that all or a portion of the loan obligations will be assumed by the newly created or enlarged district and paid by the newly created or enlarged district on behalf of the preexisting district that obtained the loan;

(3) that referendum levies previously approved by voters of the component districts pursuant to section 124A.03, subdivision 2, or its predecessor provision, be combined as provided in section 122.531, subdivision 2a or 2b, or that the referendum levies be discontinued;

(4) that the board of the newly created district consist of seven members; or

(5) that separate election districts from which school board members will be elected, the boundaries of these election districts, and the initial term of the member elected from each of these election districts be established. If a county auditor receives more than one request for a plat and the requests involve parts of identical districts, the auditor shall forthwith prepare a plat which in the auditor's opinion best serves the educational interests of the inhabitants of the districts or areas affected.

(c) The plat shall show:

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

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

(3) The boundaries of any proposed separate election districts, and

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

*[For text of subd 2a, see M.S.1990]*

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

(a) The adjusted net tax capacity of property in the proposed district,

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

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

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

(e) Any proposal contained in the resolution or petition regarding the disposition of the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, capital loan obligations, or referendum levies of component districts,

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

(g) The signature of the county auditor.

*[For text of subds 4 to 16c, see M.S.1990]*

Subd. 17. [Repealed, 1991 c 130 s 38]

Subd. 18. (a) The county auditor shall determine a date, not less than 20 nor more than 60 days from the date that the order setting the effective date of the consolidation according to subdivision 13 was issued, upon which date shall be held a special election in the district for the purpose of electing a board of six members for terms as follows: two until the July 1 one year after the effective date of the consolidation, two until the expiration of one year from said July 1, and two until the expiration of two years from said July 1, to hold office until a successor is elected and qualifies according to provisions of law governing the election of board members in independent districts. If the resolution or petition for consolidation pursuant to subdivision 2 proposed that the board of the newly created district consists of seven members, then seven members shall be elected at this election for the terms provided in this clause except that three members shall hold office until the expiration of two years from said July 1. If the resolution or petition for consolidation pursuant to subdivision 2 proposed the establishment of separate election districts, these members shall be elected from separate election districts according to the provisions of that resolution or petition and of chapter 205A.

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

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

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

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

(f) The board of each district included in the new enlarged district shall continue to maintain school therein until the effective date of the consolidation. Such boards shall have power and authority only to make such contracts, to do such things as are necessary to maintain properly the schools for the period prior to that date, and to certify to the county auditor according to levy limitations applicable to the component districts the taxes collectible in the calendar year when the consolidation becomes effective.

(g) It shall be the immediate duty of the newly elected board of the new enlarged district, when the members thereof have qualified and the board has been organized, to plan for the maintenance of the school or schools of the new district for the next school year, to enter into the necessary negotiations and contracts for the employment of personnel, purchase of equipment and supplies, and other acquisition and betterment purposes, when authorized by the voters to issue bonds under the provisions of chapter 475; and on the effective date of the consolidation to assume the full duties of the care, management and control of the new enlarged district. The board of the new enlarged district shall give due consideration to the feasibility of maintaining such existing attendance centers and of establishing such other attendance centers, especially in rural areas, as will afford equitable and efficient school administration and assure the convenience and welfare of the pupils residing in the enlarged district. The obligations of the new board to teachers employed by component districts shall be governed by the provisions of section 122.532.

*[For text of subd 19, see M.S.1990]*

**History:** 1991 c 130 s 6; 1991 c 265 art 6 s 8,9

## **122.241 COOPERATION AND COMBINATION.**

Subdivision 1. **Scope.** Sections 122.241 to 122.248 establish procedures for school boards that adopt, by resolution, a five-year written agreement:

(1) to provide at least secondary instruction cooperatively for at least one or two years, if the districts cooperate according to subdivision 2; and

(2) to combine into one district.

**Subd. 2. Cooperation requirements.** Cooperating districts shall:

(1) implement a written agreement according to section 122.541 no later than the first year of cooperation;

(2) all be members of one education district, if any one of the districts is a member, no later than the end of the second year of cooperation; and

(3) all be members of one ECSU, if any one of the districts is a member.

Clause (1) does not apply to a district that implemented an agreement for secondary education, according to section 122.535, during any year before the 1991-1992 school year. If the districts cooperate for one or more years, the agreement may be continued during those years.

*[For text of subd 3, see M.S.1990]*

**History:** 1991 c 265 art 6 s 10,11

## 122.242 COOPERATION AND COMBINATION PLAN.

*[For text of subs 1 to 8, see M.S.1990]*

**Subd. 9. Finances.** The plan must state:

(1) whether debt service for the bonds outstanding at the time of combination remains solely with the district that issued the bonds or whether all or a portion of the debt service for the bonds will be assumed by the combined district and paid by the combined district on behalf of the district that issued the bonds;

(2) whether obligations for a capital loan or energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding at the time of combination remain solely with the district that obtained the loan, or whether all or a portion of all the loan obligations will be assumed by the combined district and paid by the combined district on behalf of the district that obtained the loan;

(3) the treatment of debt service levies and referendum levies;

(4) whether the cooperating or combined district will levy for reorganization operating debt according to section 121.915, clause (1); and

(5) two-, five-, and ten-year projections, prepared by the department of education upon the request of any district, of revenues, expenditures, and property taxes for each district if it cooperated and combined and if it did not.

*[For text of subs 10 and 11, see M.S.1990]*

**History:** 1991 c 265 art 6 s 12

## 122.243 STATE BOARD AND VOTER APPROVAL.

*[For text of subd 1, see M.S.1990]*

**Subd. 2. Voter approval.** A referendum on the question of combination shall be conducted during the first or second year of cooperation for districts that cooperate according to section 122.241, or no more than 18 months before the effective date of combination for districts that do not cooperate. The referendum shall be on a date called by the school boards. The referendum shall be conducted by the school boards according to the Minnesota election law, as defined in section 200.01. If the referendum fails, the same question or a modified question may be submitted the following school year. If a question is submitted, the second referendum must be conducted on a date before October 1. If the referendum fails again, the districts shall modify their cooperation and combination plan. A third referendum may be conducted on any date before October 1. Referendums shall be conducted on the same date in all districts.

**History:** 1991 c 265 art 6 s 13

**122.247 LEVIES FOR DISTRICTS AT THE TIME OF COMBINATION.**

*[For text of subs 1 and 2, see M.S.1990]*

Subd. 2a. **Capital loan.** The combined school board may levy for the obligations for a capital loan outstanding at the time of combination, consistent with the plan adopted according to section 122.242 and any subsequent modifications. The primary obligation to levy as required by the capital loan remains with taxable property in the preexisting district that obtained the capital loan. However, the obligation of a capital loan may be extended to all of the taxable property in the combined district.

Subd. 3. **Transitional levy.** The board of the combined district, or the boards of combining districts that have received voter approval for the combination under section 122.243, subdivision 2, may levy for the expenses of negotiation, administrative expenses directly related to the transition from cooperation to combination, and the cost of necessary new athletic and music uniforms. The board or boards may levy this amount over three or fewer years. All expenses must be approved by the state board of education.

**History:** 1991 c 265 art 6 s 14,15

**122.41 DUTY TO MAINTAIN ELEMENTARY AND SECONDARY SCHOOLS.**

Each school district shall maintain classified elementary and secondary schools, grades 1 through 12, unless the district is exempt according to section 122.34 or 122.355, has made an agreement with another district or districts as provided in sections 122.535, 122.541, or sections 122.241 to 122.248, or 122.93, subdivision 8, or has received a grant under sections 124.492 to 124.495. A district that has an agreement according to sections 122.241 to 122.248 or 122.541 shall operate a school with the number of grades required by those sections. A district that has an agreement according to section 122.535 or 122.93, subdivision 8, or has received a grant under sections 124.492 to 124.495 shall operate a school for the grades not included in the agreement, but not fewer than three grades.

**History:** 1991 c 265 art 9 s 31

**NOTE:** This section, as amended by Laws 1991, chapter 265, article 9, section 31, is effective July 1, 1992. See Laws 1991, chapter 265, article 9, section 76.

**122.43 DISSOLUTION OF DISTRICTS NOT A PART OF INDEPENDENT DISTRICTS.**

Subdivision 1. [Repealed, 1991 c 265 art 9 s 75]

*[For text of subd 2, see M.S.1990]*

**122.531 LEVY LIMITATIONS OF REORGANIZED DISTRICTS.**

*[For text of subs 1 to 4, see M.S.1990]*

Subd. 4a. **Reorganization operating debt levies.** (a) A district that is cooperating or has combined according to sections 122.241 to 122.248 may levy to eliminate reorganization operating debt as defined in section 121.915, clause (1). The amount of the debt must be certified over a period of five years. After the effective date of combination according to sections 122.241 to 122.248, the levy may be certified and spread only either on the property in the combined district that would have been taxable in the preexisting district that incurred the debt or on all of the taxable property in the combined district.

(b) A district that has reorganized according to section 122.22 or 122.23 may levy to eliminate reorganization operating debt as defined in section 121.915, clause (2). The amount of debt must be certified over a period not to exceed five years and may be spread either only on the property in the newly created or enlarged district which was taxable in the preexisting district that incurred the debt or on all of the taxable property in the newly created or enlarged district.

Subd. 5. [Repealed, 1991 c 265 art 1 s 33]

Subd. 5a. **Supplemental revenue.** (a) For purposes of computing the supplemental revenue and the minimum allowance under section 124A.22, subdivision 9, paragraph (b), in the case of a consolidation, the newly created district's 1991-1992 revenue and 1991-1992 actual pupil units are the sum of the 1991-1992 revenue and 1991-1992 pupil units, respectively, of the former districts comprising the new district.

(b) For purposes of computing the supplemental revenue and the minimum allowance under section 124A.22, subdivision 9, paragraph (b), in the case of a dissolution and attachment, a district's 1991-1992 revenue is the revenue of the existing district plus the result of the following calculation:

- (1) the 1991-1992 revenue of the dissolved district divided by
- (2) the dissolved district's 1991-1992 actual pupil units, multiplied by
- (3) the pupil units of the dissolved district in the most recent year before the dissolution allocated to the newly created or enlarged district.

(c) In the case of a dissolution and attachment, the department of education shall allocate the pupil units of the dissolved district to the newly enlarged district based on the allocation of the property on which the pupils generating the pupil units reside.

*[For text of subd 6, see M.S.1990]*

**History:** 1991 c 265 art 1 s 3; art 6 s 16

#### 122.5311 OBLIGATIONS UPON DISTRICT REORGANIZATION.

Subdivision 1. **Capital loan obligations.** If a district has a capital loan outstanding at the time of reorganization according to section 122.22, 122.23, or sections 122.241 to 122.248, and if the plan for reorganization provides for payment of all or a portion of the capital loan obligation by the newly created or enlarged district or makes no provision for payment, all of the taxable property in the newly created or enlarged district is taxable for the payment to the extent stated in the plan. Notwithstanding any contract to the contrary, if all of the taxable property in the newly created or enlarged district is taxable for the payment of the capital loan and until the capital loan is retired or canceled, the maximum effort debt service levy shall be recalculated annually by the department of education to be equal to the required debt service levy plus an additional amount. The additional amount shall be the greater of:

- (i) zero, or
- (ii) the maximum effort debt service levy of the preexisting district minus the required debt service levy of the preexisting district that received the capital loan.

For the purpose of the recalculation, additional bond issues after the date of the reorganization shall not impact the maximum effort debt service levy or the required debt service levy.

Notwithstanding any contract to the contrary, the plan for reorganization may specify that the obligation for a capital loan remains solely with the preexisting district that incurred the obligation. This subdivision does not relieve any property from any tax liability for payment of any capital loan obligation.

Subd. 2. **Energy loan obligations.** If a district has an energy loan outstanding at the time of reorganization according to section 122.22, 122.23, or sections 122.241 to 122.248, and if the plan for reorganization provides for payment of all or a portion of the energy loan obligation by the newly created or enlarged district or makes no provision for payment, all of the taxable property in the newly created or enlarged district is taxable for the payment.

Notwithstanding any contract to the contrary, the plan for reorganization may specify that the obligation for an energy loan remains solely with the preexisting district that incurred the obligation. This subdivision does not relieve any property from any tax liability for payment of any energy loan obligation.

**History:** 1991 c 265 art 6 s 17

**122.535 AGREEMENTS FOR SECONDARY EDUCATION.**

*[For text of subs 1 to 5, see M.S.1990]*

Subd. 6. **Severance pay.** A district shall pay severance pay to a teacher who is placed on unrequested leave of absence by the district as a result of the agreement. A teacher is eligible under this subdivision if the teacher:

- (1) is a teacher, as defined in section 125.12, subdivision 1, but not a superintendent;
- (2) has a continuing contract with the district according to section 125.12, subdivision 4.

The amount of severance pay shall be equal to the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by statute or rule must possess a valid Minnesota teaching license, and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities include, but are not limited to, the school district that placed the teacher on unrequested leave of absence, another school district in Minnesota, an education district, an intermediate school district, an ECSU, a board formed under section 471.59, a technical college, a state residential academy, the Minnesota center for arts education, a vocational center, or a special education cooperative. These entities do not include a school district in another state, a Minnesota public post-secondary institution, or a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license shall be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

To determine the amount of severance pay that is due for the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose. To determine the amount of severance pay that is due for the second six months of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose.

A teacher who receives severance pay under this subdivision waives all further reinstatement rights under section 125.12, subdivision 6a or 6b. If the teacher receives severance pay, the teacher shall not receive credit for any years of service in the district paying severance pay prior to the year in which the teacher becomes eligible to receive severance pay.

The severance pay is subject to section 465.72. The district may levy annually according to section 275.125, subdivision 4, for the severance pay.

**History:** 1991 c 265 art 6 s 18

**122.541 INTERDISTRICT COOPERATION.**

*[For text of subs 1 to 6, see M.S.1990]*

Subd. 7. **Meeting location.** Notwithstanding any law to the contrary, school boards that have an agreement may hold a valid joint meeting at any location that would be permissible for one of the school boards participating in the meeting. A school board that has an agreement may hold a meeting in any district that is a party to the agreement. The school board shall comply with section 471.705 and any other law applicable to a meeting of a school board.

**History:** 1991 c 265 art 9 s 32



**122.895 EMPLOYEES OF COOPERATIVE DISTRICTS UPON DISSOLUTION OR WITHDRAWAL.**

**Subdivision 1. Definitions.** For purposes of this section, "teacher" means a teacher as defined in section 125.12, subdivision 1, who is employed by a district or center listed in subdivision 2, except that it does not include a superintendent. "Cooperative" means any district or center to which this section applies.

**Subd. 2. Applicability.** This section applies to:

- (1) an education district organized according to sections 122.91 to 122.95;
- (2) a cooperative vocational center organized according to section 123.351;
- (3) a joint powers district or board organized according to section 471.59 which employs teachers to provide instruction;
- (4) a joint vocational technical district organized according to sections 136C.60 to 136C.69;
- (5) an intermediate district organized according to chapter 136D; and
- (6) an educational cooperative service unit which employs teachers to provide instruction.

**Subd. 3. Notification of teachers.** In any year in which a cooperative dissolves or a member withdraws from a cooperative, the governing board of a cooperative shall provide all teachers employed by the cooperative written notification by March 10 of:

- (1) the dissolution of the cooperative and the effective date of dissolution; or
- (2) the withdrawal of a member of the cooperative and the effective date of withdrawal.

**Subd. 4. Rights of a teacher with a continuing contract in a member district upon dissolution.** (a) This subdivision applies to a teacher previously employed in a member district who:

- (1) had a continuing contract with that member district;
- (2) has been continuously employed immediately after leaving that member district by one or more cooperatives that provided instruction to pupils enrolled in that member district; and
- (3) is either a probationary teacher or has a continuing contract with the cooperative that is dissolving.

(b) A teacher may elect to resume the teacher's continuing contract with the member district by which the teacher was previously employed by filing a written notice of the election with the member school board on or before March 20. Failure by a teacher to file a written notice by March 20 of the year the teacher receives a notice according to subdivision 3 constitutes a waiver of the teacher's rights under this subdivision.

The member district shall make reasonable realignments of positions to accommodate the seniority rights of a teacher electing to resume continuing contract rights in the member district according to this subdivision.

Upon returning the teacher shall receive credit for:

- (1) all years of continuous service under contract with the cooperative and the member district for all purposes relating to seniority, compensation, and employment benefits; and
  - (2) the teacher's current educational attainment on the member district's salary schedule.
- (c) A teacher who does not elect to return to the member district according to this subdivision may exercise rights under subdivision 5.

**Subd. 5. Rights of other teachers upon dissolution.** (a) This subdivision applies to a teacher who:

- (1) has a continuing contract with the cooperative; and
- (2) either did not have a continuing contract with any member district or does not return to a member district according to the procedures set forth in subdivision 4, paragraph (b).

(b) By May 10 of the school year in which the cooperative provides the notice required by subdivision 3, clause (1), the cooperative shall provide to each teacher described in subdivision 4 and this subdivision a written notice of available teaching positions in any member district to which the cooperative was providing services at the time of dissolution. Available teaching positions are all teaching positions that, during the school year following dissolution:

(1) are positions for which the teacher is licensed; and

(2) are not assigned to a continuing contract teacher employed by a member school district after any reasonable realignments which may be necessary under the applicable provisions of section 125.12, subdivision 6a or 6b, to accommodate the seniority rights of teachers employed by the member district.

(c) On or before June 1 of the school year in which the cooperative provides the notice required by subdivision 3, clause (1), any teacher wishing to do so must file with the school board a written notice of the teacher's intention to exercise the teacher's rights to an available teaching position. Available teaching positions shall be offered to teachers in order of their seniority within the dissolved cooperative.

(d) Paragraph (e) applies to:

(1) a district that was a member of a dissolved cooperative; or

(2) any other district that, except as a result of open enrollment according to section 120.062, provides essentially the same instruction provided by the dissolved cooperative to pupils enrolled in a former member district.

(e) For five years following dissolution of a cooperative, a district to which this subdivision applies may not appoint a new teacher or assign a probationary or provisionally licensed teacher to any position requiring licensure in a field in which the dissolved cooperative provided instruction until the following conditions are met:

(1) a district to which this subdivision applies has provided each teacher formerly employed by the dissolved cooperative, who holds the requisite license, written notice of the position; and

(2) no teacher holding the requisite license has filed a written request to be appointed to the position with the school board within 30 days of receiving the notice.

If no teacher files a request according to clause (2), the district may fill the position as it sees fit. During any part of the school year in which dissolution occurs and the first school year following dissolution, a teacher may file a request for an appointment according to this paragraph regardless of prior contractual commitments with other member districts. Available teaching positions shall be offered to teachers in order of their seniority on a combined seniority list of the teachers employed by the cooperative and the appointing district.

(f) A teacher appointed according to this subdivision is not required to serve a probationary period. The teacher shall receive credit on the appointing district's salary schedule for the teacher's years of continuous service under contract with the cooperative and the member district and the teacher's educational attainment at the time of appointment or shall receive a comparable salary, whichever is less. The teacher shall receive credit for accumulations of sick leave and rights to severance benefits as if the teacher had been employed by the member district during the teacher's years of employment by the cooperative.

**Subd. 6. Rights of a teacher with a continuing contract in a member district upon withdrawal of the district.** (a) This subdivision applies to a teacher previously employed by a member district who:

(1) had a continuing contract with the member district which withdraws from a cooperative;

(2) has been continuously employed immediately after leaving that member district by one or more cooperatives that provided instruction to pupils enrolled in that member district; and

(3) is either a probationary teacher or has a continuing contract with the cooperative from which the member district is withdrawing.

(b) A teacher may elect to resume the teacher's continuing contract with the withdrawing district by which the teacher was previously employed by filing a written notice of the election with the withdrawing school board on or before March 20. Failure by a teacher to file written notice by March 20 of the year the teacher receives a notice according to subdivision 3 constitutes a waiver of a teacher's rights under this subdivision.

The member district shall make reasonable realignments of positions to accommodate the seniority rights of a teacher electing to resume continuing contract rights in the member district according to this subdivision.

Upon returning, the teacher shall receive credit for:

(1) all years of continuous service under contract with the cooperative and the member district for all purposes relating to seniority, compensation, and employment benefits; and

(2) the teacher's current educational attainment on the member district's salary schedule.

**Subd. 7. Rights of a teacher placed on unrequested leave upon withdrawal.** (a) This subdivision applies to a teacher who is placed on unrequested leave of absence, according to section 125.12, subdivision 6a or 6b, in the year in which the cooperative provides the notice required by subdivision 3, clause (2), by a cooperative from which a member district is withdrawing.

This subdivision applies to a district that, except as a result of open enrollment according to section 120.062, provides essentially the same instruction provided by the cooperative to pupils enrolled in the withdrawing district.

(b) A teacher shall be appointed by a district to which this subdivision applies to an available teaching position which:

(1) is in a field of licensure in which pupils enrolled in the withdrawing district received instruction from the cooperative; and

(2) is within the teacher's field of licensure.

For the purpose of this paragraph, an available teaching position means any position that is vacant or would otherwise be occupied by a probationary or provisionally licensed teacher.

(c) A board may not appoint a new teacher to an available teaching position unless no teacher holding the requisite license on unrequested leave from the cooperative has filed a written request for appointment. The request shall be filed with the board of the appointing district within 30 days of receiving written notice from the appointing board that it has an available teaching position. If no teacher holding the requisite license files a request according to this paragraph, the district may fill the position as it sees fit. Available teaching positions shall be offered to teachers in order of their seniority on a combined seniority list of the teachers employed by the cooperative and the withdrawing member district.

(d) A teacher appointed according to this subdivision is not required to serve a probationary period. The teacher shall receive credit on the appointing district's salary schedule for the teacher's years of continuous service under contract with the cooperative and the member district and the teacher's educational attainment at the time of appointment or shall receive a comparable salary, whichever is less. The teacher shall receive credit for accumulations of sick leave and rights to severance benefits as if the teacher had been employed by the member district during the teacher's years of employment by the cooperative.

**Subd. 8. Nonlicensed employees upon dissolution.** A nonlicensed employee who is terminated by a cooperative that dissolves shall be appointed by a district that is a member of the dissolved cooperative to a position that is created within 12 months of the dissolution of the cooperative and is created as a result of the dissolution of the cooperative. A position shall be offered to a nonlicensed employee, who fulfills the qualifications for that position, in order of the employee's seniority within the dissolved cooperative.

**Subd. 9. Nonlicensed employees upon withdrawal.** A nonlicensed employee of a cooperative whose position is discontinued as a result of the withdrawal of a member district from the cooperative shall be appointed by the withdrawing member district to a position that is created within 12 months of the withdrawal and is created as a result of the withdrawal of the member district. A position shall be offered to a nonlicensed employee, who fulfills the qualifications for that position, in order of the employee's seniority within the cooperative from which a member district withdraws.

**History:** 1991 c 265 art 9 s 33

## 122.91 EDUCATION DISTRICT ESTABLISHMENT.

*[For text of subs 1 to 4, see M.S.1990]*

**Subd. 5. Joinder and withdrawal.** (a) A member school district must not withdraw from an education district that receives revenue under section 124.2721 before the end of the fiscal year for which a levy under section 124.2721 has been certified.

(b) Notwithstanding paragraph (a), a school district that certified a levy under section 124.2721 may apply to the department of education to transfer from the education district to which it currently belongs to a different education district before June 1 of the calendar year after the levy was certified if any of the following conditions are met as a result of the transfer:

(1) all member school districts of a special education cooperative established under section 120.17 or 471.59, or a cooperative center for vocational education established under section 123.351 become members of the same education district;

(2) the location of the school district allows the education district into which the school district is applying to transfer to provide services more effectively than the current education district; or

(3) the number of boards governing special education cooperatives established under section 120.17 or 471.59, cooperative centers for vocational education established under section 123.351, or other educational organizations that operate within the geographic area of either education district is reduced.

(c) The department of education must accept or reject an application for transfer under this section within 30 days of receiving the application. The commissioner must adjust the revenue of both education districts so that the education district revenue attributable to the transferring school district is transferred from the previous education district to the new education district.

(d) By August 1 of each year, an education district must notify the department of education concerning which school districts will be members of the education district for the purposes of certifying to the department of education the amount of revenue to be raised under section 124.2721.

*[For text of subs 6 and 7, see M.S.1990]*

**History:** 1991 c 265 art 6 s 19

## 122.92 EDUCATION DISTRICT BOARD.

**Subdivision 1. School district representation.** The education district board shall be composed of at least one representative appointed by the school board of each member district. Each representative must be a member of the appointing school board. Each representative shall serve at the pleasure of the appointing school board and may be recalled by a majority vote of the appointing school board. Each representative shall serve for the term that is specified in the agreement. The board shall select its officers from among its members and shall determine the terms of the officers. The board shall adopt bylaws for the conduct of its business. The board may conduct public meetings via interactive television if the board complies with section 471.705 in each location where board members are present.

*[For text of subd 2, see M.S.1990]*

**History:** 1991 c 44 s 1

#### **122.94 EDUCATION DISTRICT AGREEMENT.**

*[For text of subd 1, see M.S.1990]*

Subd. 1a. **Limitation on participation and financial support.** (a) No district shall be required by an agreement or otherwise to participate in or provide financial support for a education district for a time period in excess of one fiscal year. Any agreement, part of an agreement, or other type of requirement to the contrary is void.

(b) This subdivision shall not affect the continued liability of a school district for its share of debt incurred by the education district board before July 1, 1993. The school district is liable only until the obligation or debt is discharged and only according to the payment schedule in effect on June 30, 1993, except that the payment schedule may be altered for the purpose of restructuring debt outstanding on July 1, 1993, if the annual payments of the school district are not increased and if the total obligation of the school district for its share of debt is not increased.

(c) To cease participating in or providing financial support for any of the services or activities provided by the education district or to withdraw from the education district, the school board of the school district shall adopt a resolution and notify the education district board of its decision on or before February 1 of any year. The cessation or withdrawal shall be effective June 30 of the same year or, at the option of the school board, June 30 of the following fiscal year.

(d) Before incurring debt, the board of an education district shall adopt a resolution proposing to incur debt and the proposed financial effect of the debt upon each school district. The resolution shall be adopted within a time sufficient to allow the school board to adopt a resolution within the time permitted by this paragraph and to comply with the statutory deadlines set forth in sections 122.895, 125.12, and 125.17. The board of the education district shall notify each participating school board of the contents of the resolution. Within 120 days of receiving the resolution of the board of the education district, the school board of the participating district shall adopt a resolution stating:

- (1) its concurrence with incurring other debt;
- (2) its intention to cease participating in or providing financial support for the service or activity related to the debt; or
- (3) its intention to withdraw from the education district.

A school board adopting a resolution according to clause (1) is liable for its share of debt as proposed by the education district board. A school board adopting a resolution according to clause (2) is not liable for the debt, as proposed by the board of the education district, related to the services or activities in which the school district ceases participating or providing financial support. A school board adopting a resolution according to clause (3) is not liable for the debt proposed by the education district board.

(e) On and after July 1, 1993, a school district is liable according to paragraph (d) for its share of debt incurred by the education district to the extent that the debt is directly related to the services or activities in which the school district participates or for which the school district provides financial support. The school district has continued liability only until the debt is discharged and only according to the payment schedule in effect at the time the education district board provides notice to the school board, except that the payment schedule may be altered for the purpose of restructuring debt if the annual payments of the school district are not increased and if the total obligation of the school district for the debt is not increased.

*[For text of subds 2 to 5, see M.S.1990]*

**Subd. 6. Common academic calendar.** For 1991-1992 and later school years, the agreement must require a common academic calendar for all member districts of an education district. For purposes of this subdivision, a common academic calendar must include the following:

- (1) at least the same number of instructional days in common as are offered by the member district with the fewest number of instructional days;
- (2) the same first and last days of instruction in a school year; and
- (3) at least the same number of staff development days in common as are provided by the member district with the fewest number of staff development days.

**History:** *1991 c 265 art 6 s 20,21*

**NOTE:** Subdivision 1a, as added by Laws 1991, chapter 265, article 6, section 20, is effective July 1, 1993. See Laws 1991, chapter 265, article 6, section 68.