

**126C.40 CAPITAL LEVIES.**

Subdivision 1. **To lease building or land.** (a) When an independent or a special school district or a group of independent or special school districts finds it economically advantageous to rent or lease a building or land for any instructional purposes or for school storage or furniture repair, and it determines that the operating capital revenue authorized under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for permission to make an additional capital expenditure levy for this purpose. An application for permission to levy under this subdivision must contain financial justification for the proposed levy, the terms and conditions of the proposed lease, and a description of the space to be leased and its proposed use.

(b) The criteria for approval of applications to levy under this subdivision must include: the reasonableness of the price, the appropriateness of the space to the proposed activity, the feasibility of transporting pupils to the leased building or land, conformity of the lease to the laws and rules of the state of Minnesota, and the appropriateness of the proposed lease to the space needs and the financial condition of the district. The commissioner must not authorize a levy under this subdivision in an amount greater than the cost to the district of renting or leasing a building or land for approved purposes. The proceeds of this levy must not be used for custodial or other maintenance services. A district may not levy under this subdivision for the purpose of leasing or renting a district-owned building or site to itself.

(c) For agreements finalized after July 1, 1997, a district may not levy under this subdivision for the purpose of leasing: (1) a newly constructed building used primarily for regular kindergarten, elementary, or secondary instruction; or (2) a newly constructed building addition or additions used primarily for regular kindergarten, elementary, or secondary instruction that contains more than 20 percent of the square footage of the previously existing building.

(d) Notwithstanding paragraph (b), a district may levy under this subdivision for the purpose of leasing or renting a district-owned building or site to itself only if the amount is needed by the district to make payments required by a lease purchase agreement, installment purchase agreement, or other deferred payments agreement authorized by law, and the levy meets the requirements of paragraph (c). A levy authorized for a district by the commissioner under this paragraph may be in the amount needed by the district to make payments required by a lease purchase agreement, installment purchase agreement, or other deferred payments agreement authorized by law, provided that any agreement include a provision giving the school districts the right to terminate the agreement annually without penalty.

(e) The total levy under this subdivision for a district for any year must not exceed \$150 times the resident pupil units for the fiscal year to which the levy is attributable.

(f) For agreements for which a review and comment have been submitted to the Department of Education after April 1, 1998, the term "instructional purpose" as used in this subdivision excludes expenditures on stadiums.

(g) The commissioner of education may authorize a school district to exceed the limit in paragraph (e) if the school district petitions the commissioner for approval. The commissioner shall grant approval to a school district to exceed the limit in paragraph (e) for not more than five years if the district meets the following criteria:

(1) the school district has been experiencing pupil enrollment growth in the preceding five years;

- (2) the purpose of the increased levy is in the long-term public interest;
- (3) the purpose of the increased levy promotes colocation of government services; and
- (4) the purpose of the increased levy is in the long-term interest of the district by avoiding over construction of school facilities.

(h) A school district that is a member of an intermediate school district may include in its authority under this section the costs associated with leases of administrative and classroom space for intermediate school district programs. This authority must not exceed \$43 times the adjusted marginal cost pupil units of the member districts. This authority is in addition to any other authority authorized under this section.

(i) In addition to the allowable capital levies in paragraph (a), for taxes payable in 2012 to 2023, a district that is a member of the "Technology and Information Education Systems" data processing joint board, that finds it economically advantageous to enter into a lease agreement to finance improvements to a building and land for a group of school districts or special school districts for staff development purposes, may levy for its portion of lease costs attributed to the district within the total levy limit in paragraph (e). The total levy authority under this paragraph shall not exceed \$632,000.

(j) Notwithstanding paragraph (a), a district may levy under this subdivision for the purpose of leasing administrative space if the district can demonstrate to the satisfaction of the commissioner that the lease cost for the administrative space is no greater than the lease cost for instructional space that the district would otherwise lease. The commissioner must deny this levy authority unless the district passes a resolution stating its intent to lease instructional space under this section if the commissioner does not grant authority under this paragraph. The resolution must also certify that the lease cost for administrative space under this paragraph is no greater than the lease cost for the district's proposed instructional lease.

**Subd. 2. Pre-July 1990 lease purchase, installment buys.** A district may annually levy the amount needed to make payments required by a lease purchase agreement, installment purchase agreement, or other deferred payment agreement authorized by Minnesota Statutes 1989 Supplement, section 465.71, if:

- (1) the agreement was approved by the commissioner before July 1, 1990, according to Minnesota Statutes 1989 Supplement, section 275.125, subdivision 11d; or
- (2) the district levied in 1989 for the payments.

**Subd. 3. Cooperating districts.** A district that has an agreement according to section 123A.30 or 123A.32 may levy for the repair costs, as approved by the department of a building located in another district that is a party to the agreement.

**Subd. 4.** [Expired]

**Subd. 5. Energy conservation.** For loans approved before March 1, 1998, the district may annually include as revenue under section 123B.53, without the approval of a majority of the voters in the district, an amount sufficient to repay the annual principal and interest of the loan made pursuant to sections 216C.37 and 298.292 to 298.298. For energy loans approved after March 1, 1998, school districts must annually transfer from the general fund to the debt redemption fund the amount sufficient to pay interest and principal on the loans.

Subd. 6. **Lease purchase; installment buys.** (a) Upon application to, and approval by, the commissioner in accordance with the procedures and limits in subdivision 1, paragraphs (a) and (b), a district, as defined in this subdivision, may:

(1) purchase real or personal property under an installment contract or may lease real or personal property with an option to purchase under a lease purchase agreement, by which installment contract or lease purchase agreement title is kept by the seller or vendor or assigned to a third party as security for the purchase price, including interest, if any; and

(2) annually levy the amounts necessary to pay the district's obligations under the installment contract or lease purchase agreement.

(b) The obligation created by the installment contract or the lease purchase agreement must not be included in the calculation of net debt for purposes of section 475.53, and does not constitute debt under other law. An election is not required in connection with the execution of the installment contract or the lease purchase agreement.

(c) The proceeds of the levy authorized by this subdivision must not be used to acquire a facility to be primarily used for athletic or school administration purposes.

(d) For the purposes of this subdivision, "district" means:

(1) a school district which is eligible for revenue under section 124D.86, subdivision 3, clause (1), (2), or (3), and whose plan has been determined by the commissioner to be in compliance with Department of Education rules relating to equality of educational opportunity and school desegregation and, for a district eligible for revenue under section 124D.86, subdivision 3, clause (4) or (5), where the acquisition of property under this subdivision is determined by the commissioner to contribute to the implementation of the desegregation plan; or

(2) a school district that participates in a joint program for interdistrict desegregation with a district defined in clause (1) if the facility acquired under this subdivision is to be primarily used for the joint program and the commissioner determines that the joint programs are being undertaken to implement the districts' desegregation plan.

(e) Notwithstanding subdivision 1, the prohibition against a levy by a district to lease or rent a district-owned building to itself does not apply to levies otherwise authorized by this subdivision.

(f) For the purposes of this subdivision, any references in subdivision 1 to building or land shall include personal property.

**History:** 1974 c 521 s 30; 1977 c 447 art 1 s 20; art 6 s 9; 1983 c 323 s 4; 1984 c 502 art 7 s 9; 1984 c 583 s 32; 1986 c 444; 1988 c 718 art 8 s 21; 1988 c 719 art 5 s 84; 1989 c 222 s 36; 1989 c 329 art 5 s 14; art 6 s 49; art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1990 c 562 art 5 s 9,10; 1991 c 130 s 30; 1991 c 265 art 5 s 13; art 6 s 56; 1992 c 499 art 5 s 22; art 6 s 30; art 12 s 29; 1993 c 224 art 5 s 30; art 7 s 12; 1994 c 465 art 2 s 1; art 3 s 25; 1994 c 614 s 1; 1994 c 647 art 5 s 13; art 6 s 29; 1Sp1995 c 3 art 5, s 9; art 12 s 3; art 16 s 13; 1996 c 412 art 5 s 5,6; 1997 c 7 art 1 s 63; 1Sp1997 c 4 art 4 s 19; art 9 s 1; 3Sp1997 c 3 s 27; 1998 c 397 art 7 s 108-110,164; art 11 s 3; 1998 c 398 art 4 s 4-6; 1998 c 398 art 5 s 55; 1999 c 241 art 4 s 12; 2000 c 254 s 51; 2000 c 489 art 5 s 10,11; 1Sp2001 c 6 art 4 s 15; 2002 c 377 art 5 s 2; 2003 c 130 s 12; 1Sp2003 c 9 art 4 s 17; 1Sp2005 c 5 art 1 s 35; 2008 c 363 art 2 s 23; 2009 c 96 art 1 s 15; 1Sp2011 c 11 art 4 s 6; 2012 c 239 art 2 s 18