

# MINNESOTA STATUTES 1953 ANNOTATIONS

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## SCHOOL DISTRICTS; MEETINGS, ELECTIONS 124.01

### 123.41 COMPENSATION

HISTORY. 1921 c 328 s 4; 1923 c 12 s 1; 1925 c 220 s 1; 1941 c 169 art 4 s 41; 1945 c 323 s 1; 1951 c 683 s 1.

Where the salary of the clerk of an unorganized school district is one percent of the cash disbursements for the year, the amount disbursed for school lunch program must be included in the total disbursement, regardless of the source of the money. OAG Nov. 23, 1946 (349-H).

### 123.47 OUTSTANDING OBLIGATIONS OF DISSOLVED DISTRICTS

HISTORY. 1921 c 328 s 18; 1925 c 287 s 1; 1931 c 155; 1933 c 29 s 1; 1941 c 169 art 4 s 47; 1941 c 342 s 1.

### 123.48 ORGANIZATION OF SCHOOL DISTRICTS

There may be some doubt as to whether a school district may be consolidated from territory lying in two counties in one of which counties the territory is unorganized. The project may be made more easily accomplished under the provisions of sections 123.48 to 123.51. OAG March 17, 1949 (622-K).

A majority of freeholders, qualified to vote at school meetings or elections, residing upon any territory not less than four sections in extent, and in which 20 or more school age children live, may petition the county board in the county they reside to make the territory a common or independent school district. The fact that the area is unorganized territory is immaterial. OAG March 25, 1953 (166-D-1-C).

### 123.51 CONVEYANCE AND CONTROL OF ASSETS AFTER ANNEXATION

Where land has been conveyed to the school district the question whether or not the buildings thereon are fixtures is a question of fact. If the structures were not attached to the real estate and were not fixtures they may be sold and removed by the grantor. OAG Dec. 31, 1951 (622-I-17).

### 123.52 UNORGANIZED TERRITORY, BONDS

HISTORY. 1921 c 328 s 19; 1933 c 431 s 1; Ex1934 s 4551; 1937 c 259 s 1; 1941 c 169 art 4 s 52; 1941 c 325 s 1; 1953 c 262 s 1.

## CHAPTER 124

### SCHOOL DISTRICTS; MEETINGS, ELECTIONS

#### 124.01 ANNUAL MEETINGS OF COMMON SCHOOL DISTRICTS

HISTORY. 1862 c 1 s 26; 1864 c 3 s 1; 1865 c 14 s 1; 1877 c 74 subc 2 s 1; 1877 c 74 subc 7 s 4; 1881 c 41 s 10; 1885 c 57 s 2; 1889 c 166 s 1; 1897 c 305; 1903 c 38; 1911 c 249 s 1; 1911 c 357 s 1; 1925 c 147 s 1; 1929 c 26; 1931 c 390; 1937 c 427 s 1; 1939 c 62 s 1; 1941 c 169 art 5 s 1.

The electors of a common school district may, by a resolution passed by a majority vote at a duly held special meeting, revoke a resolution requesting dissolution which had been passed at a prior meeting, but which had not been considered by the board of county commissioners at the time of the second vote, the effect of such revocation is to deprive the county board of jurisdiction to pass upon the original resolution under section 122.28. A common school district special election which specifies all minimum statutory requirements is a valid election where the form of the ballot sufficiently informs the voters of the issue at hand, and where the evi-

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## 124.02 SCHOOL DISTRICTS; MEETINGS, ELECTIONS

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dence supports a finding that the requested notice was given. *Paetzel v Clift*, 234 M 498, 48 NW(2d) 731.

A decision of the school board to re-open a closed school was controlling. The annual meeting of a common school district has no general powers of management of the affairs of the district. OAG July 26, 1948 (161-B-2).

Where an annual school meeting is terminated without any formal motion for adjournment and without any action being taken to adjourn to a later date, the breaking up of the meeting terminated the meeting and a chairman has no authority to reconvene the meeting. If a new meeting is desired it will be necessary to call a special meeting under the applicable statutes. OAG July 12, 1949 (187-A-6).

The legislature, by affirmatively granting the right to a common school district to repeal or modify proceedings for issuance of a bond issue, indicated legislative intention not to grant such right to other types of school districts, including a county district. OAG Dec. 29, 1950 (159-A-5).

School board members who serve as election judges are de facto officers and such service does not in itself invalidate an election. OAG May 27, 1952 (187-A-6).

### 124.02 ANNUAL ELECTION OF INDEPENDENT SCHOOL DISTRICTS

**HISTORY.** 1865 c 13 s 4; 1877 c 74 subc 2 s 1; 1877 c 74 subc 7 s 4; 1881 c 41 s 10; 1885 c 57 s 2; 1889 c 166 s 1; 1897 c 305; 1925 c 147 s 1; 1931 c 390; 1937 c 427 s 1; 1939 c 62 s 1, 5; 1941 c 169 art 5 s 2.

Where a school district failed to hold its annual election on the third Tuesday in May as required by section 124.02, a special election may be held under the provisions of section 125.04 and pending such special election vacancies may be filled by appointment under section 125.03. OAG July 15, 1947 (187-A-6).

If the school district is authorized by the voters at an annual election it may cooperate with the village in improvement of realty of the village situated within the boundaries of the school district, and together with the village provide money for an athletic field or other recreational activities. OAG Aug. 11, 1947 (159-B-1).

The only notice required to be given before holding the annual election in an independent school district is that specified in section 124.02. Published notice is not required. OAG March 16, 1948 (187-A-7).

Section 124.02 provides that each proposition or question submitted to the voters shall be stated separately in the notice and on the ballots, and under section 125.06 the school board may be authorized to acquire necessary sites for a schoolhouse and to erect the schoolhouse thereon. The question as to acquisition of a site and the construction of a building thereon after an election authorizing the issuance of bonds for such purpose involves propositions closely related and germane to the general subject and may be reviewed as parts of a single plan. A legislative body in submitting a question to the electorate has considerable discretion with reference to the form and phraseology of the question submitted. OAG April 28, 1948 (159-A-3).

The ten or more township districts with more than ten schools hold their school elections as specified in section 124.02; and when authorized by the voters at a regular or special election called for that purpose, the board may sell schoolhouses or sites and execute deeds of conveyance thereof as outlined in section 125.06. OAG March 10, 1949 (622-I-8).

Statutes pertaining to corrupt practices are not applicable to school elections. The clerk may assist voters in depositing their ballot in the ballot box but the judge of elections should not. A poll need not be maintained. OAG May 24, 1949 (187-A-9).

Upon reorganization, an independent school district is created and such district maintaining an elementary school will hold its annual election on the third Tuesday of May. OAG March 16, 1950 (166-E-4).

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Where at an election for a member of the school board of an independent school district, each candidate received 65 votes. Neither of the candidates are elected, there being no statutory provision directing how the tie should be determined. The election is at an end and there has been no selection. The term of office has expired and there will be a vacancy which will be filled in accordance with the statutory provisions. OAG May 23, 1950 (187-A-1).

If the judges of the school election have not submitted their report to the board and have counted the ballots in the usual way, they may recheck their work the morning following and as so rechecked may report to the board. OAG March 5, 1952 (128-C-7).

In choosing judges for the annual election in an independent school district the board should not choose its own members. OAG May 16, 1952 (187-A-6).

Following the procedure outlined in section 124.02 an independent school district may use the same buildings and personnel in a school election as are used by the city located therein in a special charter election held on the same day. OAG Feb. 25, 1952 (187-A-6).

Unorganized territory in one county cannot be attached for school purposes to unorganized territory in another county. OAG Feb. 26, 1953 (166-C-6).

### 124.05 CANDIDATES FOR SCHOOL DISTRICT OFFICES; BALLOTS

Employees of the United States government may hold school district office. OAG April 28, 1948 (358-F).

### 124.07 SPECIAL SCHOOL MEETINGS IN COMMON SCHOOL DISTRICTS

**HISTORY.** 1861 c 11 s 12, 13, 28; 1862 c 1 s 1, 26; 1864 c 3 s 1; 1865 c 14 s 1; 1877 c 74 subc 2 s 20; 1913 c 142 s 1; 1941 c 169 art 5 s 7.

The electors of a common school district may, by a resolution passed by a majority vote at a duly held special meeting, revoke a resolution requesting dissolution which had been passed at a prior meeting, but which had not been considered by the board of county commissioners at the time of the second vote, the effect of such revocation is to deprive the county board of jurisdiction to pass upon the original resolution under section 122.28. A common school district special election which specifies all minimum statutory requirements is a valid election where the form of the ballot sufficiently informs the voters of the issue at hand, and where the evidence supports a finding that the requested notice was given. *Paetzel v Clift*, 234 M 498, 48 NW(2d) 731.

The determination of the judges as to the result of a ballot at a special meeting was binding on the district until reversed by a court of competent jurisdiction. OAG July 17, 1947 (187-A-4).

To give validity to action taken by the school board at a special meeting, each board member must have received notice of the meeting. OAG Aug. 23, 1947 (161-A-16).

A school board should hold an election to ratify a conveyance made 55 years ago in which the school is not at this time interested. OAG May 13, 1948 (622-I-15).

A notice posted on June 28 for a meeting to be held July 7 does not give a legal ten days notice, and no business could be legally transacted at the meeting. OAG July 12, 1950 (161-A-50).

Where a common school district at its annual meeting levied taxes for maintenance and for anticipated debt retirement, tax levies could have been revoked by the adoption of a resolution at a special meeting, and a new tax levy made by the adoption of another resolution. OAG Sept. 14, 1951 (519-M).

When constituent districts have failed to levy taxes sufficient to maintain schools until July 1 next following reorganization, such constituent districts may

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levy taxes for the purpose and issue tax anticipation certificates. OAG Jan. 7, 1952 (519-M).

### 124.08 SPECIAL SCHOOL ELECTION IN INDEPENDENT SCHOOL DISTRICTS

**HISTORY.** 1877 c 74 subc 2 s 20; 1913 c 142 s 1; 1941 c 169 art 5 s 8; 1947 c 208 s 1.

Where bonds are issued by a school district under a direct commitment to furnish and equip a high school building and gymnasium and the money not having been used for that purpose it was later found that under changed conditions, it would be in the public interest to use the money for another purpose. The school board may at an election held for that purpose upon a favorable vote by the electorate authorize the use of the money for other school building purposes. OAG Dec. 24, 1947 (622-A-1).

The school board may enter into a joint recreational agreement with organizations listed in section 471.16, authority having been granted at a special election. OAG March 14, 1947 (159-B-1).

It is necessary to the validity of a special election that the notice of the election be published in a newspaper published in the district. Such publication not having been made, the election accomplishes nothing. OAG April 21, 1949 (622-I-11).

The school board is the manager of the business of the district and it may establish and organize, alter and discontinue, such grades or schools as it may deem advisable, and assign to each school and grade a proper number of pupils. Special elections relate only to four subjects: (1) issuance of bonds, (2) designation and purchase of sites, (3) erection of buildings, (4) establishment of joint recreation programs. The subject of discontinuing grades or schools is not included in matters for which a special election must be called. Where a petition is presented to the school board requesting the discontinuance of the high school department, the matter rests entirely with the school board. OAG Jan. 30, 1950 (161-B-5).

If a school district maintains two or more schools, it is discretionary upon the part of the board to provide for more than one polling place. It is mandatory for the board to do this only upon a majority vote of the electors. OAG Aug. 3, 1953 (187-A-6).

### 124.09 POWERS OF ANNUAL MEETINGS OR ELECTIONS

**HISTORY.** 1861 c 11 s 27; 1862 c 1 s 26; 1864 c 3 s 1; 1865 c 14 s 1; 1877 c 74 subc 2 s 1; 1889 c 166 s 1; 1903 c 38; 1911 c 249 s 1; 1929 c 26; 1941 c 169 art 5 s 9; 1951 c 108 s 1.

Where there were 101 eligible voters in the school district and 53 eligible voters were present at a special meeting and voted to change the schoolhouse site, the vote was sufficient to effect the change. OAG April 16, 1947 (622-I-4).

When the voters authorized a bond issue for a definite building program, the proceeds cannot be used for accomplishing only a part of the program. Where large additional funds would be needed to complete the full program, there must be a new proposition submitted to the voters. OAG March 15, 1948 (622-A-1).

Where a consolidated school district owned ten school sites and had a number of schoolhouses thereon, the school board is without authority to move a schoolhouse from one site to another. To accomplish that purpose the people must petition the board to call an election, under section 124.08. OAG May 25, 1950 (622-I-4).

When a schoolhouse has been moved to a new site without the authority of the voters, the voters may at a special meeting ratify the action of the board. OAG June 19, 1950 (622-I-4).

When electors in a county school district have approved a bond issue no right exists to hold an election for the purpose of rescinding such action. Section 124.01,

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which applies to common school districts, probably permits rescindment. The provisions of section 124.01 and 124.09 differentiate. OAG Dec. 29, 1950 (159-A-5).

The duties of a teller are limited to the counting of the votes. He does not have the powers of an election judge. OAG Jan. 22, 1952 (166-F-3).

### 124.10 ADDITIONAL POWERS OF MEETINGS IN COMMON SCHOOL DISTRICTS

**HISTORY.** 1877 c 74 subc 2 s 1, 2; 1881 c 41 s 6; 1885 c 57 s 1; 1889 c 166 s 1; 1903 c 38; 1909 c 187 s 2; 1939 c 2 s 4; 1941 c 169 art 5 s 10.

If at the annual meeting a tax was levied for a school lunch program and a revenue has been raised thereunder and if the regulations adopted by the state board of education prescribes rules therefor, a common school district may sue for the funds so raised to sponsor a school lunch program. OAG Dec. 3, 1948 (159-B-11).

When a meeting of a common school district votes to sell school property it is mandatory that the board sell the same. OAG Aug. 9, 1951 (622-I-8).

Where voters at a common school district meeting have voted a certain amount for maintenance, the school board cannot reduce the amount. OAG July 17, 1952 (519-M).

### 124.12 ELECTIONS IN DISTRICTS CONTAINING TWO OR MORE VILLAGES

As joint independent consolidated school district No. 68 of Faribault and Freeborn Counties contains the villages of Wells and Easton, about ten miles apart, it is mandatory that two voting precincts be established but the thirty-day limit within which the establishment must take place is directory. OAG May 14, 1953 (187-A-6).

### 124.13 ACCEPTANCE AND OATH OF OFFICE

Within three days following the annual meeting of the school district, the clerk should notify the officers elected of their election, and those elected should qualify, and if they do not qualify a special election may be called to elect successors. The original persons elected may qualify any time before special election was called. OAG July 12, 1950 (161-A-25).

## CHAPTER 125

### SCHOOL BOARDS; POWERS, DUTIES

#### 125.01 SCHOOL BOARD; MEMBERSHIP; TERMS

**HISTORY.** 1865 c 13 s 4; 1877 c 74 subc 2 s 2, 4; 1881 c 41 s 6, 10; 1885 c 57 s 1, 2; 1909 c 187 s 2; 1939 c 62 s 4, 5; 1941 c 169 art 6 s 1; 1949 c 716 s 6.

The school board determines policies and can abolish the position of school physician. Contract with a physician can be terminated at the end of the school year without notice to the physician. Hospitals are not permitted to practice medicine. OAG Sept. 2, 1947 (166-A-3).

Since a village council may be called upon to take action on petitions presented by the school board a member of the village council cannot be a member of the school board. OAG Nov. 24, 1947 (358-F).

No constitutional provision is infringed by the practice adopted by a school board whereby each room is provided with a copy of the King James Version of the