

# MINNESOTA STATUTES 1967

## CHAPTER 123

### SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

Sec.	Sec.
	<b>DEFINITIONS AND GENERAL PROVISIONS</b>
123.01	Definitions
123.015	Elections; corrupt practices
	<b>COMMON SCHOOL DISTRICTS</b>
123.11	Common school districts; meetings, elections
123.12	Boards of common school districts
123.13	Officers of common school districts
123.14	General powers of common school districts
123.15	Schoolhouses and sites, common school districts
123.16	Common school districts, contracts
123.17	Extracurricular activities of common school districts; insurance
123.18	Common school districts, transportation
123.19	Common school districts, specific powers and duties
123.20	Common school district, liability insurance, officers and employees
123.21	Limitation of sections
	<b>INDEPENDENT SCHOOL DISTRICTS</b>
123.31	Independent school districts, voting machines
123.32	Independent school districts, elections
123.33	Boards of independent school districts
123.34	Officers of independent school districts
123.35	General powers of independent school districts
123.36	Schoolhouses and sites, independent school districts
123.37	Independent school districts, contracts
123.38	Extracurricular activities of independent school districts; insurance
123.39	Independent school districts, transportation
123.40	Independent school districts, specific powers and duties
	<b>SPECIAL SCHOOL DISTRICTS</b>
123.51	Special school districts, laws applicable
	<b>UNORGANIZED TERRITORY</b>
123.56	Unorganized territory; county board of education, duties, powers
	<b>MISCELLANEOUS PROVISIONS</b>
123.61	Limitations
123.62	Plats
123.63	Eminent domain
123.64	Agricultural education
123.65	Discontinuance of schools
123.66	Records as evidence
123.67	County attorney, duties
123.68	County school districts, continuance, laws applicable
123.69	School district employees, tuberculosis
123.70	Health standards; newly enrolled students
	<b>ASSOCIATED DISTRICTS</b>
123.81	Establishment of associated school districts
123.82	Methods of establishment
123.83	Contents of resolutions or petitions
123.84	Elections
123.85	Organization, powers
123.86	First school board, election
123.87	Additional districts
123.88	Existing bonded indebtedness
123.89	Disposal of property of former districts
123.90	Bonds, state transportation aids
123.91	Associated district school boards, powers
123.92	Annual meetings, proposed budgets
123.93	Order of business at annual meetings

NOTE: For special laws relating to specific school districts, see Table 1, Vol. 2.

#### DEFINITIONS AND GENERAL PROVISIONS

**123.01** M.S. 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 Minnesota Statutes, Sections 211.03 and 211.08 and all acts amendatory thereof shall apply to any elections of a common school district, an independent school district, a special school district, an associated school district, or a school election held in unorganized territory.

[1965 c 44 s 1]

**123.02-123.10** M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

#### COMMON SCHOOL DISTRICTS

**123.11** M.S. 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 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.

# MINNESOTA STATUTES 1967

1429

**SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.12**

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 M.S. 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 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

# MINNESOTA STATUTES 1967

## 123.12 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1430

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 Minnesota Statutes, Section 15A.20.

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 15A.20.

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 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 pub-

# MINNESOTA STATUTES 1967

1431

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.13

lished 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 M.S. 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 public examiner, 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 \$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

# MINNESOTA STATUTES 1967

## 123.14 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1432

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]

123.14 M.S. 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 Minnesota Statutes, 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.

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 M.S. 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, pur-

# MINNESOTA STATUTES 1967

1433

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.16

chase, 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 village or city, a school site when practicable shall contain at least one block, and, if outside of any city or village, 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.

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]

123.16 M.S. 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

# MINNESOTA STATUTES 1967

## 123.16 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1434

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.

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 Minnesota Statutes, 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 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

# MINNESOTA STATUTES 1967

1435

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.17

(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 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

**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 ex-

# MINNESOTA STATUTES 1967

## 123.18 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1436

penses 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 non-profit 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 M.S. 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.

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 tui-

# MINNESOTA STATUTES 1967

1437

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.19

tion 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 co-operating 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.

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 subd 1-12; 1963 c 663 s 1]

NOTE: School buses, regulations, see section 169.45.

123.19 M.S. 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.

# MINNESOTA STATUTES 1967

## 123.20 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1438

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 M.S. 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 that defense.

[Ex1959 c 71 art 4 s 11]

123.21 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

**123.21 LIMITATION OF SECTIONS.** Material contained in sections 123.11 through 123.20, unless expressly stated otherwise, relates only to common school districts.

[Ex1959 c 71 art 4 s 12]

123.22, 123.23 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

123.24 M.S. 1957 [Renumbered 128.01]

123.25 M.S. 1957 [Renumbered 128.02]

123.26 M.S. 1957 [Renumbered 128.03]

123.27 M.S. 1957 [Renumbered 128.04]

123.28 M.S. 1957 [Renumbered 128.05]

123.29 M.S. 1957 [Renumbered 128.06]

123.30 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

## INDEPENDENT SCHOOL DISTRICTS

123.31 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

**123.31 INDEPENDENT SCHOOL DISTRICTS, VOTING MACHINES.** Subdivision 1. The school 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 school 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 school district for school elections in said district.

# MINNESOTA STATUTES 1967

1439

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.32

Subd. 2. The provisions of section 203.21, subdivision 4, sections 206.02 to 206.23, shall apply to the use of voting machines in school elections insofar as applicable.

[Ex1959 c 71 art 4 s 13; 1961 c 562 s 11]

**123.32 M.S. 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. 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 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 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 section 203.21, subdivision 4, sections 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

# MINNESOTA STATUTES 1967

## 123.32 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1440

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 or villages shall follow the lines of streets or highways, and in areas outside of cities or villages 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.

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, which ever 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

# MINNESOTA STATUTES 1967

1441

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.32

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.

(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 in accordance with this act.

(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 registered 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.

# MINNESOTA STATUTES 1967

## 123.32 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1442

(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 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.

(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 superintendent 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.

# MINNESOTA STATUTES 1967

1443

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.33

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.

[Ex1959 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]  
123.33 M.S. 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

# MINNESOTA STATUTES 1967

## 123.33 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1444

duly notified, with the reasons for such proposed removal and after an opportunity to be heard in his own defense.

Subd. 9. 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. 10. 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. 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 receive such compensation as may be fixed by the board but not to exceed \$15 per diem nor more than \$300 a year. All members of the board may receive reimbursement for transportation at the rate provided for in Minnesota Statutes, Section 15A.20, except in independent districts which were classified as county districts at the time of the adoption of this code in which district the members of the board shall receive \$15 while attending any regular or special meeting of the board, but not more than \$300 in any one year, and receive seven and one-half cents per mile in going to and from his place of residence to the place of meeting by the usual route of travel.

The chairman, clerk, and treasurer of a district reclassified from a county district shall receive such additional compensation as may be fixed by the board of education. The chairman shall not receive more than \$300, the clerk shall not receive more than \$720, and the treasurer not more than \$600 in any one year.

In addition to their salaries, the members of boards in districts reclassified from county districts shall be paid their actual expense and necessary travel expenses incurred and paid by each of them in the conduct of their official duties, including the visitation of schools. Such expenses should be paid upon the presentation of duly itemized statements, approved by the board, and which shall be made a part of the official records of the board.

In independent districts which were classified as common districts composed of ten or more townships at the time of the adoption of this code each member of the board shall receive as annual compensation for his services as a member of such board the amounts stated as follows:

\$200 a year where such district contains 30 public schools; \$400 a year where such district contains 31 public schools but less than 61; \$600 a year where such district contains 61 public schools but less than 91; \$800 a year where such district contains 91 public schools or more; provided that in such districts containing less than 30 public schools and in which is maintained a high school, the annual compensation of the members of the school board shall be prescribed for all other independent districts.

In such district containing more than 20 full and fractional townships each member of the school board shall receive as annual compensation for his services as a member of such board \$600 a year.

Subd. 13. The board shall defray the necessary expenses of the board members, including \$5 per day for attending one meeting of the school boards of the county in each year, when called by the county superintendent and seven and one-half cents per mile in going to and returning from the meeting.

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.

[Ex1959 c 71 art 4 s 15; 1965 c 434 s 1; 1967 c 176 s 2; 1967 c 713 s 1]

# MINNESOTA STATUTES 1967

1445

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.34

**123.34** M.S. 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 the first Saturday in July, 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. 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. Every order drawn for the payment of teachers' wages, and for any other lawful purpose, after having been presented to the treasurer for payment, and not paid for want of funds, shall be endorsed by the treasurer by putting on the back thereof the words, "Not paid for want of funds," giving the date of endorsement and signed by the treasurer. A record of such presentment, nonpayment and endorsement shall be made by the treasurer. Every such order shall bear interest at the rate of five percent per annum from the date of such presentment, and shall be paid in the order in which it is so presented and registered out of the first money received by the treasurer applicable to its payment; provided, that the district may enter into agreements with banks to take such orders at any rate of interest lower than the legal rate. The treasurer shall serve a written notice upon the payee or his assignee, personally, or by mail, when he is prepared to pay such order; such notice may be directed to the payee or his assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice; no order shall draw any interest if such address is not given when the same is unknown to the treasurer, and no order shall draw any interest after the service of such notice.

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 public examiner, 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

# MINNESOTA STATUTES 1967

## 123.35 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1446

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. 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, either directly to the commissioner, or through the county superintendent, such reports as shall be required.

*[Ex1959 c 71 art 4 s 16]*

123.35 M.S. 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 Minnesota Statutes, Chapter 475.

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 education programs 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.

# MINNESOTA STATUTES 1967

1447

**SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.36**

Subd. 9. The board may establish and maintain one or more kindergartens for the instruction of children above four, and under six, years of age, provided that after September 1, 1971 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.

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.

[Ex1959 c 71 art 4 s 17; 1961 c 225 s 1; 1967 c 173 s 2] *Subd. 8*

**123.36 M.S. 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 village or city, the school sites, when practicable, shall contain at least one block and if outside of any city or village, 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

# MINNESOTA STATUTES 1967

## 123.37 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1448

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 for the same purpose or to assist the district.

Subd. 7. When necessary, the board shall lease rooms 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.

[Ex1959 c 71 art 4 s 18]

123.37 M.S. 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 \$2,000, 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.

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.

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 Minnesota Statutes, 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 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 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

# MINNESOTA STATUTES 1967

1449

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.37

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. Proceedings 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

# MINNESOTA STATUTES 1967

## 123.38 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1450

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*]

123.38 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

**123.38 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 funds available.

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 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 athletic, oratorical, musical, dramatic, and other contests and entertainments in which the schools of the 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 school 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 bonding company and 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 the purposes of examination and auditing. Any donations to the school 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 thereof being complied with in regard to the purpose of such disbursements, if the 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 school board shall act under the provision of this subdivision 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. 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 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 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.

[*Ex1959 c 71 art 4 s 20*]

123.39 M.S. 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

# MINNESOTA STATUTES 1967

1451

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.39

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 district which at the time of the adoption of this code was a consolidated district or enjoyed the privileges of a consolidated 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.

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 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 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,

# MINNESOTA STATUTES 1967

## 123.40 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1452

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.

[Ex1959 c 71 art 4 s 21 subd 1-12; 1963 c 663 s 2]

NOTE: School buses, regulations, see section 169.45.

**123.40 M.S. 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 and any county board of education for unorganized territory, may acquire by lease, purchase or condemnation a site and erect thereon necessary and suitable buildings or rent

# MINNESOTA STATUTES 1967

1453

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.56

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 owner or operator.

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

123.41 M.S. 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 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

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

[Ex1959 c 71 art 4 s 24]

123.43-123.50 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

## SPECIAL SCHOOL DISTRICTS

123.51 M.S. 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 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

## UNORGANIZED TERRITORY

123.56 M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

**123.56 UNORGANIZED TERRITORY; COUNTY BOARD OF EDUCATION, DUTIES, POWERS.** Subdivision 1. The power of providing for the education of children of school age residing in any unorganized territory within the state shall be vested in the county board of education for unorganized territory of the county where such unorganized territory is situated.

Subd. 2. The chairman of the board of county commissioners, the county superintendent, and the county treasurer, shall ex officio, compose the county board of education for unorganized territory in each county. The chairman of the county board shall be the chairman of the county board of education for unorganized territory; the county treasurer shall be the treasurer of this board; and the county superintendent shall be the clerk of this board of education.

# MINNESOTA STATUTES 1967

## 123.56 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1454

In any county now or hereafter having more than 15,000 inhabitants and an area of more than 3,000 square miles, the county board of said county shall elect one of its members for a term to be determined by said county board who shall serve in place of the chairman and said member elected by said county board shall be the chairman of the county board of education for unorganized territory of said county, but not extending beyond his term as county commissioner.

Subd. 3. The county attorney shall act as counsel for the board of education for unorganized territory.

Subd. 4. Should a vacancy occur in this board of education or should any member thereof refuse or be incapacitated to serve upon this board, the county board shall fill such vacancy as provided in section 375.08.

Subd. 5. The county board of education for unorganized territory shall meet once each month at the county seat, at a time to be fixed by the board, for the purpose of transacting the business of the board. The board may also hold special meetings as may be deemed necessary.

Subd. 6. It shall be the duty of the county board of education for unorganized territory to furnish school facilities to every child of school age residing in any part of the unorganized territory, either by building school houses, leasing school rooms, transporting the children to the nearest school, boarding the children within convenient distance from a school at the expense of the board, or otherwise, and to provide necessary supplies and text and library books.

The county board of education for unorganized territory may also employ such clerical, stenographic, and supervisory help as may be needed who shall perform such other services as the board may direct.

Subd. 7. The clerk of the board shall perform the same duties and make the same reports as the clerk of an independent district.

Annually, on the first Friday after the first Monday in July, the clerk of such board shall make a full and accurate statement of the receipts and disbursements of such board for the preceding school year which shall contain a full and correct description of each item, from whom and on what account received, to whom paid and on what account expended, together with an accurate statement of the finances of the county board of education at the end of such year, including all debts and liabilities and the assets to discharge the same and, within 30 days thereafter, the county board of education for unorganized territory shall cause the same to be published once in a legal newspaper published in the county, which paper, in counties having over 100,000 population, shall be a daily paper.

Subd. 8. The treasurer of the board shall perform the same duties and make the same reports as the treasurer of an independent district.

Subd. 9. For their services performed for the unorganized territory, the chairman of the board of education shall be paid one-half of one percent of the cash disbursements for the year but not to exceed \$300 in any one year and expenses including mileage in accordance with the provisions of Minnesota Statutes, Section 15A.20, for distance actually traveled by him in performance of his duties not exceeding the total sum of \$400 in any one year from such mileage and expenses; the treasurer of the board shall be paid two percent, and the clerk two percent, of the cash disbursements for the year, but the compensation to be paid to the treasurer and clerk in counties having less than 55 schools in its unorganized territory shall not exceed in any one year the total sum of \$1,200 for treasurer and \$1,500 for clerk, but only after all reports required by law have been made in conformity thereto. This section shall not apply to counties having a population of more than 200,000.

Subd. 10. The board of education for unorganized territory shall, annually, on the third Saturday of July, make a levy on all property situated in unorganized territory of the county for authorized school purposes. This tax levy shall be known as the special unorganized school levy and it shall be so spread on the tax lists by the county auditor.

Subd. 11. When not otherwise provided, the powers and duties of the county board of education for unorganized territory shall be the same as those of school boards of independent districts.

Subd. 12. The county board of education for unorganized territory is authorized to acquire sites by lease, purchase or condemnation and to erect thereon necessary buildings as dwellings for its teachers and employees. It is authorized to sell or otherwise dispose of any property so acquired.

# MINNESOTA STATUTES 1967

1455

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.56

Subd. 13. The county board of education for unorganized territory in any county in the state is hereby authorized and fully empowered by unanimous vote of such board to issue and sell bonds of such unorganized territory for the purpose of providing school sites, school buildings and teacherages, for paying any judgment lawfully rendered against it, or for refunding outstanding bonds, or floating indebtedness, in such amounts and at such periods as the board may decide; the bonds to be payable in such amounts and at such times, not exceeding 20 years, as the board may determine, with interest thereon not to exceed six percent per annum, which bonds shall be signed by the chairman and the treasurer of the board and countersigned by the clerk thereof. Any bonds issued hereunder shall be sold conformable to the provisions of section 475.60.

Subd. 14. In any county of this state now or hereafter having unorganized territory with an assessed valuation of all taxable real and personal property of more than \$1,500,000 and having at any time an area of more than 3,500 square miles, the board of education of such unorganized territory shall have authority, and is hereby empowered, by the unanimous vote of such board, to issue and sell the bonds of such unorganized territory, as above provided. The net bonded indebtedness of such unorganized territory shall at no time exceed 85 percent of its assessed valuation.

Subd. 15. The sale of these bonds shall be conformable to the provisions of section 475.60, or by contracting with the United States government for the purchase of these bonds without calling for bids therefor, and that no bonds shall be authorized or sold unless notice shall have first been given to the electors of such unorganized school district setting forth the proposal to issue such bonds, the amount thereof, the rate of interest, the maturity dates thereof, and the purpose for which the proceeds of such bonds will be used; and also a description of the project or projects to be undertaken and completed, the estimated cost of each and the estimated total cost, which notice shall be in writing, and signed by the members of the county board of education for unorganized territory and addressed to the electors of such district, and specify the date, time and place of meeting of the county board of education for unorganized territory when such proposal shall be considered, and published in one issue of three legal newspapers of general circulation in the district. The notice shall require any electors having objections to appear and show cause, if any, why such bonds should not be authorized and sold. The county board of education for unorganized territory at the time and place mentioned in the notice shall hear all objections and thereafter shall decide whether such bonds shall be authorized and sold.

Subd. 16. Every county board of education for unorganized territory issuing bonds is hereby required annually to levy taxes upon all the taxable property in such unorganized territory sufficient to pay the interest on such bonds and to provide a sinking fund for the payment of the principal of such bonds at maturity.

Subd. 17. The county board of education for unorganized territory, by unanimous vote of the members thereof, may issue bonds for the purpose of refunding any bonds issued by an organized school district which has been dissolved and its territory reverted to unorganized territory, which refunding bonds shall be chargeable against the territory that was chargeable with the payment of the bonds so refunded. The power to issue such bonds shall remain in the county board of education for unorganized territory notwithstanding the dissolved territory, or a part thereof, shall have again become organized territory. Such refunding bonds shall not run for a period shorter than five years nor longer than 20 years. The first refunding bond shall be due in not more than six years from the date of its issuance and shall be for not less than one-fifteenth of the total bond issue in question nor more than one-fifth thereof and each subsequent bond shall be for a like amount and be payable one year from the maturity date of the bond to be paid the preceding year. The county auditor shall extend a tax against all the taxable property within the territory chargeable in the first instance with the payment of the bonds so refunded sufficient to pay the interest on such refunding bonds and any installment of principal that may be due in the following year. Such tax for the first year shall be 50 percent in excess of the amount to be due the succeeding year, and thereafter each yearly levy shall be in such amount in excess, not exceeding 50 percent, of the amount to be due the succeeding year, as the auditor may deem necessary. The county treasurer, upon the collection of such tax, shall apply the proceeds thereof to the payment of such interest or in-

# MINNESOTA STATUTES 1967

## 123.61 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1456

stallment of principal and file with the county auditor receipts therefor, together with the cancelled bonds so taken up. The state board of investment may invest the funds under its control in any refunding bonds so issued under the provisions of this section.

Subd. 18. When a new county or counties have been or may hereafter be created and organized out of territory embraced within the boundaries of one or more organized counties and in which there is unorganized school territory, and lying partly within the old and new counties, or wholly within the new county, the county boards of education for unorganized territory of the old and new counties shall meet upon the written request of the county superintendent of either county at such time and place as shall be designated in the request, which request shall be served upon each member of each county board of education for unorganized territory of the counties affected at least five days before the time of such meeting and make a division of all the money, funds, and credits belonging to such unorganized school territory as the same existed prior to the division of the county or counties and, in making such division, the board shall take into consideration the indebtedness of the unorganized school territory and make such division as they deem just and equitable and all such money, funds, credits, and property shall be divided and apportioned to the respective unorganized territory in the old and in the new county in proportion to assessed valuation of taxable property in such unorganized territory, respectively, in such old and new county, at the last assessment thereof.

Subd. 19. In such cases and in case the county boards of education for unorganized territory of the old and new counties shall fail to meet pursuant to the notice provided, the county superintendents of the old and new county or counties and the state commissioner of education, or his deputy, shall constitute a board of apportionment and, upon the written application of the county board of education for unorganized territory of either county affected, shall make a division of all the money, funds, credits, and property as provided which apportionment shall be in writing and verified by the state commissioner of education, or his deputy, and by at least one of the county superintendents of the counties affected and filed in the office of the secretary of state and be final and conclusive. Within five days after the filing of this apportionment, the secretary of state, if apportionment is made as provided in this section, or the superintendent of schools of each county, if such apportionment is made as provided, shall transmit to the treasurers of the counties affected by the apportionment a certified copy of such apportionment and application, if any.

Subd. 20. The county boards of education for unorganized territory and the county officials of the old and new counties shall forthwith after such division and apportionment proceed to fulfill and carry out the terms thereof.

*[Ex1959 c 71 art 4 s 26]*

**123.57** M.S. 1953 [Repealed, 1957 c 947 art 9 s 9]

## 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, and of the unorganized territory. 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]*

**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,

# MINNESOTA STATUTES 1967

1457

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.69

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 school-house 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 county superintendent 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]

**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 DISTRICT EMPLOYEES, TUBERCULOSIS.** Subdivision 1. **Annual tests.** The employees of all school districts, as defined in section 120.02, shall prior to employment and annually thereafter show freedom from tuberculosis by a report of a tuberculin test or chest x-ray examination. Such test or x-ray examination may be conducted by a physician of the school employee's own choice or at such other approved facility as may be available. If such tuberculin test indicates a reaction, such test shall be followed by a chest x-ray examination. The report of such test or tests shall be confidential except that such report or reports shall be

# MINNESOTA STATUTES 1967

## 123.70 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1458

made to such authority of the school district as the school board shall designate and shall be made at such time as the school board may designate. The school district shall assume the payment of the cost of the services necessary for such diagnosis and report but such obligation on the part of the school district shall be limited to the actual examination and diagnosis and shall not include travel or incidental expenses. Such physical examinations, chest x-rays or tuberculin tests shall not be required of any such employee who files with the board an affidavit setting forth that he depends exclusively upon prayer or spiritual means for healing and that he is to the best of his knowledge and belief in good health and that he claims exemption from health examination on such grounds.

Subd. 2. **Employees showing tuberculosis.** If the chest x-ray examination shows evidence of active tuberculosis and the employee is certified by the employee's physician or other approved facility to be infectious and to be a danger to the public health, it shall be the duty of the school board immediately to exclude such person from his employment during the period of infectiousness, provided, however, that such exclusion from employment shall not restrict the rights acquired by teachers pursuant to sections 125.07 and 125.12.

[1961 c 214 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 measles 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 statement 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.

[1967 c 858 s 1, 2]

## ASSOCIATED DISTRICTS

**123.81 ESTABLISHMENT OF ASSOCIATED SCHOOL DISTRICTS.** Subdivision 1. Two or more school districts or portions thereof, contiguous or not, may establish an associated school district without disturbing the organization or powers of any existing district except as herein provided. The associated school district may maintain secondary schools, but may not maintain elementary schools; no member of the associated district shall maintain secondary schools after association. No district is eligible to become a part of an associated district unless at the time of the adoption of the resolution or filing of the petition or during the immediately preceding school year it had maintained within its district an elementary school with an enrollment of at least 24 pupils or maintained a graded elementary school with three or more teachers for grades one through six inclusive.

Subd. 2. (1) "Facilities" as used in sections 123.81 to 123.93 means land, buildings, equipment and furnishings necessary and incidental to operation of an elementary or secondary school.

(2) "Host district" is the one or more of the districts associated or districts proposed for association in which secondary school facilities exist at the time of the election on the question of association.

(3) "Member districts" are the districts associated or proposed for association in which no secondary facilities exist at the time of the election on the question of association.

Subd. 3. Nothing herein shall prevent the association of districts or portions thereof in which no secondary facilities exist at the time of the election on the question of association, nor the construction and operation therein of new secondary facilities.

[1955 c 862 s 1]

**123.82 METHODS OF ESTABLISHMENT.** Subdivision 1. An associated dis-

# MINNESOTA STATUTES 1967

1459

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.86

trict may be established in any one of the following manners provided in this section.

Subd. 2. The school board of each district proposed for association may, by resolution passed by each board, order a special election on the question of association. The election shall be held in all districts proposed for association and in like manner and on like notice as any special school election or meeting. All districts voting must by a majority of votes cast in each district approve association; if one or more fails to cast a majority affirmative vote, the association shall not be effective.

Subd. 3. The special election shall also be ordered by the school boards of affected districts on the filing of a petition for association with the school board of each district proposed for association. The petition must be signed by at least ten percent of the resident freeholders in the districts proposed for association, but the petition filed with each board need contain the signatures of only ten percent, of the resident freeholders in that board's district.

[1955 c 862 s 2]

**123.83 CONTENTS OF RESOLUTIONS OR PETITIONS.** The resolutions or petitions mentioned in section 123.82 shall contain a correct description, by legal description or district numbers, of the territory to be included in the proposed associated district; a general description of all secondary school facilities, and their locations, then existing within the proposed associated district; a demand or order for a special election or school meeting on the question of association of the described districts; the name of the county or counties in which the described districts are located; and attached to each petition, the affidavit of one or more persons that all of the signatures thereon are the signatures of resident freeholders, are genuine and were affixed by the signers.

[1955 c 862 s 3]

**123.84 ELECTIONS.** On a separate ballot at the election on the question of association or at a special election thereafter, the host district may authorize the associated district board to govern and provide facilities for grades one through six in the host district and no part of the cost of such elementary facilities or the government or operation thereof shall be chargeable to the associated district, and upon its organization, the associated district board shall assume all the powers and duties with respect to secondary and elementary education in the host district.

[1955 c 862 s 4]

**123.85 ORGANIZATION, POWERS.** Upon establishment of any associated district, it shall be organized as, have all the powers of, and be governed as an independent school district except that it shall be without power to maintain elementary schools and except as in sections 123.81 to 123.93 otherwise provided.

[1955 c 862 s 5]

**123.86 FIRST SCHOOL BOARD, ELECTION.** The following shall be the procedure for election of the first school board:

At 10 a.m., 14 days after the election on the question of association, the chairmen of all the districts associated shall meet in the district courtroom or other space in the courthouse if court is in session, of the county in which the greatest acreage of the new associated district lies, and shall discharge the following duties:

(1) Elect a temporary chairman and clerk of their own group, and

(2) Thereafter fix a place, time and date not more than 30 days after the meeting of the chairmen for the first election; there shall be only one polling place which shall be in the most centrally located schoolhouse in the associated district as determined by the chairmen, and

(3) Thereafter elect from their number an acting chairman, vice-chairman, clerk and three judges of election, who shall conduct said first election in like manner as any other annual independent school district election of officers; all expenses of the election shall be paid from the treasury of the associated district after organization of the first school board.

Filing of candidates for the first election shall be with the acting clerk and in accordance with Minnesota Statutes 1953, Section 124.05 and for the terms specified by Minnesota Statutes 1953, Section 124.02, Subdivision 3, Clause 4; the time for which each candidate shall hold office if elected shall appear on his filing statement and on the ballot.

The acting clerk shall forthwith after fixing of the time, date and place, give notice of the first election as required by Minnesota Statutes 1953, Section 124.02,

# MINNESOTA STATUTES 1967

## 123.87 SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES

1460

Subdivision 3, Clause 1, and by one publication in a newspaper of general circulation in the associated district or in one newspaper in each of the counties in which the associated district or any part thereof may lie.

[1955 c 862 s 6]

**123.87 ADDITIONAL DISTRICTS.** After an associated district is established, additional districts may be associated at an annual or a special election or school meeting; all districts voting must by a majority of votes cast in each district approve association; if one or more of the additional districts proposed for association or the associated district fails to cast a majority affirmative vote, association of the additional districts shall not be effective. The election may be ordered by the board of the associated district and the boards of additional districts to be associated or on petition and in all other respects shall be held in like manner as the initial election for establishment of an associated district as provided by section 123.82. Any district may withdraw from the associated district in like manner; however, withdrawal shall not be effective unless approved by a majority vote in the district seeking to withdraw and a majority vote in the remainder of the associated district.

[1955 c 862 s 7]

**123.88 EXISTING BONDED INDEBTEDNESS.** Upon establishment of an associated district, any bonded indebtedness then existing for secondary school facilities in any of the districts associated shall become the liability of the entire associated district. Where secondary and elementary facilities are in or on the same or attached structures or land, the secondary and elementary facilities shall be appraised separately and the associated district shall become liable only for that portion of the total existing indebtedness which the appraised value of the secondary facilities bears to the appraised value of the whole installation.

[1955 c 862 s 8]

**123.89 DISPOSAL OF PROPERTY OF FORMER DISTRICTS.** Subdivision 1. Upon establishment of an associated district,

(1) Any secondary school facilities then existing in any of the districts associated shall become the property of the associated district, subject to payment of the appraised valuation as determined under sections 123.81 to 123.93, and

(2) The district in which the secondary facilities are located shall be compensated therefor in the manner provided in sections 123.81 to 123.93, and

(3) The associated district board shall take possession of such secondary facilities immediately upon its organization, subject to payment of the said appraised valuation.

Subd. 2. Upon organization of the associated board, it or the host district's board shall forthwith present to the district court of the county in which the facilities are located a petition describing the facilities, reciting establishment of an associated district, naming by number or legal description the districts associated and the names of at least three proposed appraisers and praying for the appointment of appraisers to appraise the facilities. Upon filing, the court shall make its order ex parte fixing a time and place for hearing on appointment of appraisers at which time the court shall receive all competent evidence offered for or against appointment of any appraisers proposed in the petition or at the hearing. The court may appoint any three residents of the associated district as appraisers. The order appointing appraisers shall fix the time and place of their first meeting and prescribe their compensation, which shall be paid by the associated district. Where any appraiser fails to act, the court without further notice, may appoint another in his place. Thereafter proceedings shall be substantially in accordance with sections 117.08 through 117.18 and appeal may be had by the associated district board, the host district's board or any taxpayer in the associated district as in the case of taking of property pursuant to statutes regulating exercise of the right of eminent domain. If there has been a favorable affirmative vote pursuant to section 123.84 at the time of the election on the question of association, appeal may be had by the associated district board or any taxpayer in the associated district.

[1955 c 862 s 9]

**123.90 BONDS, STATE TRANSPORTATION AIDS.** Subdivision 1. For purposes of paying the appraised valuation as finally determined, the associated school board shall issue bonds of the associated district in like manner as provided for the construction of new school facilities in independent districts, except that this

# MINNESOTA STATUTES 1967

1461

SCHOOL DISTRICTS; ELECTIONS, POWERS AND DUTIES 123.93

bond issue shall not be submitted to the electors. The bonds shall be a charge on all the real estate in the associated district, including the district in which the facilities were located before association. The taxes to pay the bonds shall be levied by the school board of the associated district against all real estate in the associated district, including the host district, and in like manner as in the case of bonds for new construction. If there be bonds outstanding as indebtedness against the secondary facilities existing at the time of establishment of the associated district, such bonds shall be called and paid out of the new bond issue as part payment of the appraised valuation, except that if any such outstanding bonds are not by their terms callable upon establishment of the associated district, taxes to pay the same shall be levied as required by the terms of such non-callable bonds. Any monies paid by the associated district to the host district as the appraised valuation or a part thereof where bonds have been called shall be placed in the general revenue fund of the host district and used for operation and maintenance of the host district's elementary facilities.

Subd. 2. Associated school district shall receive state transportation aids available to consolidated schools of like classification.

[1955 c 862 s 10]

**123.91 ASSOCIATED DISTRICT SCHOOL BOARDS, POWERS.** Upon its organization, the new associated district school board shall select and operate its facilities according to one of the classifications authorized by Minnesota Statutes 1953, Section 131.01, Subdivision 1, (2) (a), (b), (c), (d) or (e). Any district included in the associated district may provide seventh and eighth grade education in its elementary facilities, regardless of classification selected by the associated secondary school, except that any district having once discontinued seventh and eighth grade elementary education shall not resume the same, without the approval of the associated district board, so long as it remains a part of the associated district. The board of the associated district in which the secondary facilities are located may employ jointly with the associated district of which it is a part, a superintendent and such other administrative personnel as may be authorized and necessary.

[1955 c 862 s 11]

**123.92 ANNUAL MEETINGS, PROPOSED BUDGETS.** Subdivision 1. There shall be an annual meeting in each associated school district, which shall be held on the first Tuesday in July, starting at 9 a. m. When the first Tuesday falls on July 4, the annual meeting shall be held on July 5. Fifteen legal voters shall constitute a quorum. The clerk of the school board shall keep the minutes. The clerk shall give ten days posted notice of the annual meeting, but failure of the clerk to give notice shall not affect the validity of the meeting. The notice shall specify if the annual meeting is to consider the raising of monies to build or purchase a school house, the authorization of an issue of bonds, or the fixing of a school house site.

Subd. 2. The board of an associated district shall prepare, adopt and publish once in full in a newspaper of each county in which the associated district is located, or in a newspaper of general circulation throughout the district and published in one of the counties, an annual proposed budget. The publication shall be made not less than ten days before the annual meeting. The board may from time to time, modify the budget after the annual meeting.

[1955 c 862 s 12]

**123.93 ORDER OF BUSINESS AT ANNUAL MEETINGS.** Subdivision 1. At the annual meeting:

(1) The first order of business shall be election of a chairman of the annual meeting, who shall preside throughout the annual meeting. The chairman of the school board shall officiate during this election. In the absence of the clerk, the voters shall elect a clerk pro tem.

Subd. 2. The second order of business shall be a budget session at which the board shall report on the budget.

Subd. 3. The third order of business shall be the annual election which shall begin immediately after the budget session. Polls shall be open for at least three hours at the annual election and shall close at 9 p.m.

[1955 c 862 s 13]