

## CHAPTER 122

### SCHOOL DISTRICTS, FORMATION AND ALTERATION

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#### 122.22 DISSOLUTION AND ATTACHMENT.

*[For text of subd 1, see M.S.1986]*

Subd. 2. Proceedings under this section may be instituted by:

(a) Resolution of the county board of the county containing the greatest land area of the district proposed for dissolution when the district is dissolved pursuant to sections 122.32 to 122.52.

(b) Petition executed by a majority of the eligible voters of the district proposed for dissolution and addressed to the county board of the county containing the greatest land area of the district.

(c) Certification by the clerk of the district proposed for dissolution to the county board of the county containing the greatest land area of the district to the effect that a majority of votes cast at an election were in favor of dissolving the district.

*[For text of subd 3, see M.S.1986]*

Subd. 4. A petition executed pursuant to subdivision 2(b) shall be filed with the auditor. It shall contain the following:

(a) A statement that petitioners desire proceedings instituted leading to dissolution of the district and other provisions made for the education of the inhabitants of the territory and that petitioners are eligible voters of the district;

(b) An identification of the district; and

(c) The reasons supporting the petition which may include recommendations as to disposition of territory to be dissolved. The recommendations are advisory in nature only and are not binding on any petitioners or county board for any purpose.

The persons circulating the petition shall attach their affidavit swearing or affirming that the persons executing the petition are eligible voters, as defined in section 123.32, subdivision 1a, of the district and that they signed in the presence of one of the circulators.

The auditor shall present the petition to the county board at its next meeting. At that meeting, the county board shall determine a date for a hearing. The hearing shall be not less than 20 nor more than 60 days from the date of that meeting.

*[For text of subds 5 to 20, see M.S.1986]*

**History:** 1987 c 266 art 2 s 2,3

**NOTE:** Subdivisions 2 and 4, as amended by Laws 1987, chapter 266, article 2, sections 2 and 3 respectively, are effective July 1, 1988. See Laws 1987, chapter 266, article 2, section 15.

#### 122.23 CONSOLIDATION.

*[For text of subd 1, see M.S.1986]*

Subd. 2. Upon a resolution of a school board in the area proposed for consolidation or upon receipt of a petition therefor executed by 25 percent of the voters resident

in the area proposed for consolidation or by 50 such voters, whichever is lesser, the county auditor of the county which contains the greatest land area of the proposed new district shall forthwith cause a plat to be prepared. The resolution or petition shall show the approximate area proposed for consolidation. The resolution or petition may propose either that the bonded debt of the component districts will be paid according to the levies previously made for that debt under chapter 475, as provided in subdivision 16a, or that the taxable property in the newly created district will be taxable for the payment of the bonded debt previously incurred by any component district as provided in subdivision 16b. The resolution or petition may also propose that referendum levies previously approved by voters of the component districts pursuant to section 124A.03, subdivision 2, or its predecessor provision, be combined as provided in section 122.531, subdivision 2a or 2b, or that the referendum levies be discontinued. The resolution or petition may also propose that the board of the newly created district consist of seven members, and may also propose the establishment of separate election districts from which school board members will be elected, the boundaries of these election districts, and the initial term of the member elected from each of these election districts. If a county auditor receives more than one request for a plat and the requests involve parts of identical districts, the auditor shall forthwith prepare a plat which in the auditor's opinion best serves the educational interests of the inhabitants of the districts or areas affected. The plat shall show:

- (a) Boundaries of the proposed district, as determined by the county auditor, and present district boundaries,
- (b) The location of school buildings in the area proposed as a new district and the location of school buildings in adjoining districts,
- (c) The boundaries of any proposed separate election districts, and
- (d) Other pertinent information as determined by the county auditor.

*[For text of subds 2a to 8, see M.S.1986]*

Subd. 9. If the approved plat contains land area in more than one independent district maintaining a secondary school, or common district maintaining a secondary school, and if each board entitled to act on the plat approves the plat, each board shall cause notice of its action to be published at least once in its official newspaper. If five percent of the eligible voters of any such district petition the clerk of the district, within 30 days after the publication of the notice, for an election on the question, the consolidation shall not become effective until approved by a majority vote in the district at an election held in the manner provided in subdivisions 11, 12, and 13.

Subd. 10. If an approved plat contains land area in any district not entitled to act on approval or rejection of the plat by action of its board, the plat may be approved by the residents of the land area within 60 days of approval of plat by the state board in the following manner:

A petition calling upon the county auditor to call and conduct an election on the question of adoption or rejection of the plat may be circulated in the land area by any person residing in the area. Upon the filing of the petition with the county auditor, executed by at least 25 percent of the eligible voters in each district or part of a district contained in the land area, the county auditor shall forthwith call and conduct a special election of the electors resident in the whole land area on the question of adoption of the plat. For the purposes of this section, the term "electors resident in the whole land area" means any person residing on any remaining portion of land, a part of which is included in the consolidation plat. Any eligible voter owning land included in the plat who lives upon land adjacent or contiguous to that part of the voter's land included in the plat shall be included and counted in computing the 25 percent of the eligible voters necessary to sign the petition and shall also be qualified to sign the petition. Failure to file the petition within 60 days of approval of the plat by the state board terminates the proceedings.

*[For text of subds 11 to 19, see M.S.1986]*

**History:** 1987 c 266 art 2 s 4-6

**NOTE:** Subdivisions 2, 9, and 10, as amended by Laws 1987, chapter 266, article 2, sections 4, 5, and 6 respectively, are effective July 1, 1988. See Laws 1987, chapter 266, article 2, section 15.

**122.25 COMMON DISTRICT TO INDEPENDENT DISTRICT.**

Subdivision 1. If six or more eligible voters of a common district desire to change the organization of their district to an independent district, they may call for a vote upon the question at the next annual meeting by filing a petition therefor with the clerk. In the notice for the meeting, the clerk shall include a statement that the question will be voted upon at the meeting.

*[For text of subs 2 to 5, see M.S.1986]*

**History:** 1987 c 266 art 2 s 7

**NOTE:** Subdivision 1, as amended by Laws 1987, chapter 266, article 2, section 7, is effective July 1, 1988. See Laws 1987, chapter 266, article 2, section 15.

**122.541 INTERDISTRICT COOPERATION.**

*[For text of subd 1, see M.S.1986]*

Subd. 2. **Aid; transportation.** A district entering into an agreement permitted in subdivision 1 shall:

(1) Continue to count its resident pupils who are educated in a cooperating district as resident pupils in the calculation of pupil units for all purposes, including the calculation of state aids and levy limitations. Notwithstanding section 124.18, subdivision 2, an agreement permitted by subdivision 1 shall provide for the tuition payments the cooperating districts determine are necessary and equitable to compensate each district for the instruction of nonresident pupils; and

(2) Continue to provide transportation and collect transportation aid for its resident pupils pursuant to sections 123.39, 124.223, and 124.225. This clause shall not be construed to prohibit a district from providing some or all transportation to its resident pupils by contracting with a district that has entered the agreement. For purposes of aid calculations pursuant to section 124.225, the commissioner may adjust the base cost per eligible pupil transported to reflect changes in costs resulting from an agreement which provides for a district to discontinue at least one grade.

*[For text of subs 3 to 7, see M.S.1986]*

**History:** 1987 c 384 art 2 s 27; 1987 c 398 art 7 s 19**EDUCATION DISTRICTS****122.91 EDUCATION DISTRICT ESTABLISHMENT.**

Subdivision 1. **Purpose.** The purpose of an education district is to increase educational opportunities for pupils by increasing cooperation and coordination among school districts.

Subd. 2. **Agreement.** School boards meeting the requirements of subdivision 3 may enter into a written agreement to establish an education district. The agreement and subsequent amendments must be adopted by majority vote of the full membership of each board.

Subd. 3. **Requirements for formation.** An education district must have one of the following at the time of formation:

- (1) at least five districts;
- (2) at least four districts with a total of at least 5,000 pupils in average daily membership; or
- (3) at least four districts with a total of at least 2,000 square miles.

Subd. 4. **Notice and hearing.** Before entering into an agreement, the school board

of each member district shall publish at least once in a newspaper of general circulation in the district a summary of the proposed agreement and its effect upon the district. The board shall conduct a public hearing on the proposed agreement not more than ten days after the notice and at least 30 days before entering into an agreement.

**Subd. 5. Joinder and withdrawal.** A process for a district to join or withdraw from an education district shall be included in the education district agreement.

**Subd. 6. Educational cooperative service units.** If requested, educational cooperative service units shall provide assistance to districts in establishing education districts. The assistance may include determination of appropriate boundaries of the education district and development of the agreement. The educational cooperative service units may provide any other services requested by the education district.

**History:** 1987 c 398 art 8 s 2

### 122.92 EDUCATION DISTRICT BOARD.

The education district board shall be composed of at least one representative appointed by the school board of each member district. The representative shall reside in the school district of the appointing school board. The representative shall serve at the pleasure of the appointing school board and may be recalled by a majority vote of the appointing school board. Each representative shall serve for the term that is specified in the agreement. The board shall select its officers from among its members and shall determine the terms of the officers. The board shall adopt bylaws for the conduct of its business.

**History:** 1987 c 398 art 8 s 3

### 122.93 POWERS AND DUTIES OF THE BOARD.

**Subdivision 1. Coordination.** An education district board shall coordinate the programs and services of the education district according to the terms of the written agreement. The board shall implement the agreement for delivering educational services needed in the education district.

**Subd. 2. Personnel.** The board may employ personnel as necessary to provide and support the programs and services of the education district. Education district staff shall participate in retirement programs.

**Subd. 3. Contracts.** The board may enter into contracts with school districts and other public and private agencies to provide services needed in the education district.

**Subd. 4. General law.** The board shall be governed, unless specifically provided otherwise, by laws applicable to independent school districts.

**Subd. 5. Advisory council.** An advisory council, consisting of representatives from the program areas covered by the agreement, shall be appointed by the education district board.

**Subd. 6. Report to members.** The board shall submit at least an annual report to the member districts and an annual report to the state board of education about the activities of the education district.

**History:** 1987 c 398 art 8 s 4

### 122.94 EDUCATION DISTRICT AGREEMENT.

**Subdivision 1. Establishment.** An education district board shall adopt a comprehensive agreement for continuous learning. The agreement must address methods to improve the educational opportunities available in the education district. It must be submitted for review by all educational cooperative service units serving the education district. The education district board shall review the agreement annually and propose necessary amendments to the member districts.

**Subd. 2. Mandatory provisions.** The agreement must provide for the following:

(1) coordination of member district and education district programs for handicapped pupils, gifted and talented pupils, secondary vocational education, improved

learning, community education, early childhood family education, career education, and low incidence academic programs;

(2) research, planning, and development functions, including acquiring and disseminating research information and developing methods to implement research, such as educational effectiveness programs and improving education based on educational research; and

(3) methods to meet pupil needs for health services, library services, and counseling services.

**Subd. 3. Optional provisions.** The agreement may contain the following:

(1) methods for sharing administrative and management services;

(2) professional development programs;

(3) programs that use learning time available during the summer;

(4) use of technology for education programs and management assistance; or

(5) methods for involving parents in planning education programs.

**Subd. 4. Extended year.** The agreement may provide opportunities for pupils to receive instruction throughout the entire year and for teachers to coordinate educational opportunities and provide instruction throughout the entire year. Pupils may receive instruction for more than or less than the daily number of hours required by the rules of the state board of education. However, the pupil must receive instruction each year for at least the total number of instructional hours required by statutes and rules. A teacher who is employed for the extended year may develop, in consultation with pupils and parents, individual educational programs for not more than 125 pupils.

**Subd. 5. Attendance in other districts.** The agreement may provide for a pupil who is a resident of a member district to enroll in programs or courses offered by another member district or transfer to another member district. A pupil and parent shall consult with a career teacher, counselor, or principal before transferring to another district. The agreement shall specify procedures for reimbursement among the member districts. The district of residence shall count all resident pupils who enroll in programs or courses or transfer to another district as its pupils for the purpose of state aid and levy limitations. The agreement shall determine whether transportation is available for pupils enrolled in programs or courses or transferring to another district.

*History: 1987 c 398 art 8 s 5*

## 122.95 TEACHING POSITIONS.

**Subdivision 1. Definition.** For the purposes of this section, "teacher" has the meaning given it in section 125.12, subdivision 1, except that it does not include a superintendent.

**Subd. 2. Filling positions.** (a) When an education district board or a member board is filling a position resulting from implementation of the agreement, the board may offer the position to a teacher currently employed by a member district according to the exchange teacher provisions of section 125.13.

(b) If the position is not filled by a currently employed teacher, the board shall offer the position to an available teacher in the order of seniority in fields of licensure on a combined seniority list of all available teachers in the member districts. An available teacher is a teacher in a member district who:

(1) was placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or was terminated according to section 125.17, subdivision 11, not more than one year before the initial formation of an education district as a result of an intention to enter into an education district agreement;

(2) was placed on unrequested leave of absence by a member district, according to section 125.12, subdivision 6a or 6b, or was terminated according to section 125.17, subdivision 11, as a result of implementing the education district agreement, after the formation of the education district; or

(3) is placed on unrequested leave of absence by a member district, according to

section 125.12, subdivision 6a or 6b, or is terminated according to section 125.17, subdivision 11, as a result of implementing the education district, in the same year the position is filled.

(c) If no currently employed teacher or available teacher accepts the position, the board may fill the position with any other teacher.

(d) Any teacher who has been placed on unrequested leave of absence or who has been terminated has a right to a position only as long as the teacher has a right to reinstatement in a member district under section 125.12, subdivision 6a or 6b, or 125.17, subdivision 11.

**Subd. 3. Probation and termination.** Notwithstanding section 125.12, subdivision 3, a teacher who has acquired continuing contract rights in a member district and who transfers employment from a member district to the education district or to another member district does not have to serve a probationary period. A teacher who is terminated or discharged by a member district according to section 125.12, subdivision 6 or 8, or 125.17, subdivision 4, has no right to any position under this section.

**Subd. 4. Determination of reason for leave.** When a school board that intends to enter into an education district agreement, and at the time a school board that has entered into an education district agreement places a teacher on unrequested leave of absence, according to section 125.12, subdivision 6a or 6b, or terminates a teacher's services under section 125.17, subdivision 11, the board shall make a determination whether the placement or termination is a result of implementing the education district agreement. That determination shall be included in the notice of proposed placement or termination, may be reviewed at a hearing upon request of the teacher, and shall be included in the notice of final action of the board. If the determination is not disputed by the teacher before June 1 or the final date required for action by the board, the teacher shall be deemed to acquiesce in the board's determination.

**History:** 1987 c 398 art 8 s 6

## 122.96 BONDS FOR EDUCATION DISTRICTS.

**Subdivision 1. Purpose of bonds.** The education district board, acting on its own behalf, may issue bonds for the acquisition of secondary school facilities or for funding or refunding related outstanding bonds, warrants, orders, or certificates of indebtedness. The board shall comply with the provisions of chapter 475.

**Subd. 2. Approval resolution.** The purpose and the amount of any borrowing shall first be approved by resolution of the board of the education district. When the resolution has been adopted by the board it shall be published once in a newspaper of general circulation in the education district.

**Subd. 3. Election.** The education district board shall not sell and issue bonds for acquisition purposes until the question of their issuance has been submitted to the voters of the education district at a special election held in and for the education district. The date of the election, the question to be submitted, and all other necessary conduct of the election shall be fixed by the board. The election shall be conducted and canvassed under the direction of the education district board in accordance with section 123.32, insofar as may be applicable.

If a majority of the total number of votes cast on the question within the education district is in favor of the question, the board may proceed with the sale and the issuance of the bonds.

**Subd. 4. Obligation for payment.** The full faith, credit, and unlimited taxing powers of the education district shall be pledged to the payment of all bonds and certificates of indebtedness. None of the obligations shall be included in the net debt, as defined by section 475.51, subdivision 4, of any member school district.

**Subd. 5. Tax levies.** The education district board, upon awarding a contract for the sale of the bonds, shall certify to the county auditor or county auditors the years and amounts of taxes required to be levied for the payment of the bonds as provided by section 475.61. The county auditor shall cause the taxes to be spread in each year

until bonds and interest have been paid upon all of the assessable, taxable valuation of the education district.

Subd. 6. **Tax-exempt securities.** The bonds are authorized securities within the provisions of section 50.14, and shall be deemed instruments of a public governmental agency.

**History:** 1987 c 398 art 8 s 7