

CHAPTER 122

SCHOOL DISTRICTS, FORMATION AND
ALTERATION

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122.22 DISSOLUTION AND ATTACHMENT.

[For text of subds 1 to 7, see M.S.1988]

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

- (a) The outstanding bonded debt of the district;
- (b) The net tax capacity of the district;
- (c) The most current school tax rates for the district, including any referendum, discretionary, or other optional levies being assessed currently and the expected duration of the levies;
- (d) A resolution passed by the school board of the district stating that if taxable property of the dissolved district is attached to it, one of the following requirements is imposed: (1) the taxable property of the dissolving district which is attached to its district shall not be liable for the bonded debt of the district which existed as of the time of the attachment; (2) the taxable property of the dissolving district which is attached to its district shall be liable for the payment of the bonded debt of the district which existed as of the time of the attachment in the proportion which the net tax capacity of that part of the dissolving district which is included in the newly enlarged district bears to the net tax capacity of the entire district as of the time of attachment; or (3) the taxable property of the dissolving district which is attached to its district shall be liable for some specified portion of the amount that could be requested pursuant to subclause (2).

An apportionment pursuant to subclause (2) or (3) shall be made by the county auditor of the county containing the greatest land area of the district proposed for transfer.

An apportionment of bonded indebtedness pursuant to subclause (2) or (3) shall not relieve any property from any tax liability for payment of any bonded obligation, but taxable property in a district enlarged pursuant to this section becomes primarily liable for the payment of the bonded debt to the extent of the proportion stated.

[For text of subds 8 to 20, see M.S.1988]

History: 1989 c 329 art 13 s 20

122.23 CONSOLIDATION.

[For text of subds 1 and 2, see M.S.1988]

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

- (a) The adjusted net tax capacity of property in the proposed district,
- (b) If a part of any district is included in the proposed new district, the adjusted net tax capacity of the property and the approximate number of pupils residing in the part of the district included shall be shown separately and the adjusted net tax capacity of the property and the approximate number of pupils residing in the part of the district not included shall also be shown,
- (c) The reasons for the proposed consolidation, including a statement that at the time the plat is submitted to the state board of education, no proceedings are pending to dissolve any district involved in the plat unless all of the district to be dissolved and all of each district to which attachment is proposed is included in the plat,
- (d) A statement showing that the jurisdictional fact requirements of subdivision 1 are met by the proposal,
- (e) Any proposal contained in the resolution or petition regarding the disposition of the bonded debt or referendum levies of component districts,
- (f) Any other information the county auditor desires to include, and
- (g) The signature of the county auditor.

[For text of subds 4 to 13, see M.S.1988]

Subd. 13a. **Consolidation in an even-numbered year.** Notwithstanding subdivision 13, school districts may consolidate during an even-numbered year if the school board and the exclusive bargaining representative of the teachers in each affected district agree to the effective date of the consolidation. The agreement must be in writing and submitted to the commissioner of education.

[For text of subds 14 to 16a, see M.S.1988]

Subd. 16b. If the plan for consolidation so provides or makes no provision for the disposition of bonded debt, all the taxable property in the newly created district is taxable for the payment of any bonded debt theretofore incurred by any component district in the proportion which the net tax capacity of that part of a preexisting district which is included in the newly created district bears to the net tax capacity of the entire preexisting district as of the time of the consolidation. This apportionment shall be made by the county auditor and shall be incorporated as an annex to the order of the commissioner dividing the assets and liabilities of the component parts. This subdivision shall not relieve any property from any tax liability for payment of any bonded obligation but taxable property in the newly created district becomes primarily liable for the payment of bonded debts to the extent of the proportion stated.

Subd. 16c. **Bonds; election.** The board of the newly created district, when constituted as provided in subdivision 17, may provide for an election of that district on the issuance of bonds. It may issue and sell bonds authorized at the election, or bonds authorized at an election previously held in any preexisting district wholly included within the newly created district, or bonds for a purpose for which an election is not required by law. The actions may be taken at any time after the date of the county auditor's order issued under subdivision 13, and before or after the date upon which the consolidation becomes effective for other purposes, and taxes for the payment of the bonds shall be levied upon all taxable property in the newly created district. No bonds shall be delivered to purchasers until 30 days after the date of the county auditor's order. If within this period a notice of appeal from the county auditor's order to the district court is filed in accordance with section 127.25, no bonds shall be delivered by the newly created district to purchasers unless the county auditor's order is affirmed by final order of the district court in the special proceeding, and a period

of 30 days from the service of the final order expires without an appeal being commenced or, if an appeal is taken, the order is affirmed and the time for petitioning for further review has expired; except that if all of the territory of one and only one independent district maintaining a secondary school is included in the newly created district, and if the net tax capacity of taxable property in the territory comprises 90 percent or more of the net tax capacity of all taxable property in the newly created district, the board may issue, sell, and deliver any bonds voted by the preexisting independent district and any bonds voted or otherwise authorized by the newly created district, notwithstanding the pendency of the appeal, and the bonds shall be paid by the levy of taxes upon the property within the territory of the preexisting independent district and within the other areas, if any, that are finally determined to be properly included within the newly created district. In any election held in the newly created district as authorized in the preceding sentence, all qualified electors residing within the area of that district as defined in the county auditor's order shall be entitled to vote, but the votes cast by residents of former districts or portions of former districts included in the area, other than the independent district maintaining the secondary school, shall be received and counted separately. The bonds shall not be issued and sold unless authorized by a majority of the votes cast thereon by electors of the independent district maintaining the secondary school, and also by a majority of the votes cast thereon by electors residing within the entire area of the newly created district.

[For text of subd 17, see M.S.1988]

Subd. 18. (a) If no board is provided for under the foregoing provision, upon receipt of the assigned identification number, the county auditor shall determine a date, not less than 20 nor more than 60 days from the date of the receipt of the assigned identification number, upon which date shall be held a special election in the district for the purpose of electing a board of six members for terms as follows: two until the July 1 one year after the effective date of the consolidation, two until the expiration of one year from said July 1, and two until the expiration of two years from said July 1, to hold office until a successor is elected and qualifies according to provisions of law governing the election of board members in independent districts. If the resolution or petition for consolidation pursuant to subdivision 2 proposed that the board of the newly created district consists of seven members, then seven members shall be elected at this election for the terms provided in this clause except that three members shall hold office until the expiration of two years from said July 1. If the resolution or petition for consolidation pursuant to subdivision 2 proposed the establishment of separate election districts, these members shall be elected from separate election districts according to the provisions of that resolution or petition and of chapter 205A.

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

(c) The county may pay the election judges not to exceed \$1 per hour for their services.

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

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

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

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

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

[For text of subd 19, see M.S.1988]

History: 1989 c 209 art 2 s 7; 1989 c 329 art 6 s 4; art 13 s 20

122.241 COOPERATION AND COMBINATION.

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

(1) to provide at least secondary instruction cooperatively for at least two years; and

(2) to combine into one district after cooperating.

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

(1) have a written agreement according to section 122.541;

(2) all be members of one education district, if any one of the districts is a member; and

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

Subd. 3. **Combination requirements.** Combining districts must be contiguous and meet one of the following requirements at the time of combination:

(1) at least two districts with at least 400 resident pupils enrolled in grades 7 through 12 in the combined district and projections, approved by the department of education, of enrollment at least at that level for five years;

(2) at least two districts, both of which qualify for sparsity revenue under section 124A.22, subdivision 6, and have an average isolation index over 23; or

(3) at least three districts with fewer than 400 resident pupils enrolled in grades 7 through 12 in the combined district.

A combination under clause (3) must be approved by the state board of education.

The state board shall disapprove a combination under clause (3) if the combination is educationally unsound or would not reasonably enable the districts to fulfill statutory and rule requirements.

History: 1989 c 329 art 6 s 5; 1989 c 356 s 48

122.242 COOPERATION AND COMBINATION PLAN.

Subdivision 1. Adoption and state board review. Each school board must adopt, by resolution, a plan for cooperation and combination. The plan must address each item in this section. The plan must be specific for any item that will occur within three years and may be general or set forth alternative resolutions for an item that will occur in more than three years. The plan must be submitted to the state board of education for review and comment. Significant modifications and specific resolutions of items must be submitted to the state board for review and comment. In the official newspaper of each district proposed for combination, the school board must publish at least a summary of the adopted plans, each significant modification and resolution of items, and each state board review and comment.

Subd. 2. Rule exemptions. The plan must identify the rules of the state board of education from which the district intends to request exemption, according to Minnesota Rules, part 3500.1000. The plan may provide information about state laws that deter or impair cooperation or combination.

Subd. 3. Board formation. The plan must state:

(1) whether the new district would have one elected school board or whether it would have one elected school board and one elected board for each elementary school exercising powers and duties delegated to it by the school board of the entire district;

(2) how many of the existing members of each district would become members of the school board of the combined district and, if so, a method to gradually reduce the membership to six or seven; and

(3) if desired, election districts that include the establishment of separate areas from each of the combining 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.

Subd. 4. Administration. The plan must provide for:

(1) selection of one superintendent for the combined district at a specified time, according to section 123.34, subdivision 9; and

(2) alterations, if any, in administrative personnel and duties.

Subd. 5. Employees. The plan must state:

(1) procedures needed, at the time of combination, to combine teachers into one bargaining unit, with the exclusive representative determined according to section 122.532;

(2) procedures needed, at the time of combination, to combine other bargaining units;

(3) procedures to negotiate, with the assistance of the bureau of mediation services, an employment plan for licensed employees affected by the agreement;

(4) procedures to negotiate, with the assistance of the bureau of mediation services, an employment plan for nonlicensed employees affected by the agreement; and

(5) incentives that may be offered to superintendents, principals, teachers, and other licensed and nonlicensed employees, such as early retirement, severance pay, and health insurance benefits.

Subd. 6. Academic programs. The plan must set forth:

(1) elementary curriculum and programs;

(2) improvements in secondary course offerings in at least communications, mathematics, science, social studies, foreign languages, physical education, health, and career education;

(3) procedures for involving parents, teachers, and other interested people in developing learner outcomes in curricular areas;

(4) procedures for involving teachers in determining levels of learner outcomes;

(5) implications for special education cooperatives, secondary vocational cooperatives, joint powers agreements, education districts, and other cooperative arrangements if the districts combined and if they did not; and

(6) a description of the long-range educational services of the combined district and of the individual districts if the combination is not achieved.

Subd. 7. Pupil activities. The plan must provide for combining extracurricular and cocurricular activities.

Subd. 8. Referendum. The plan must set forth:

(1) procedures for a referendum, held prior to the year of the proposed combination, to approve combining the school districts; and

(2) whether a majority of those voting in each district proposed for combination or a majority of those voting on the question in the entire area proposed for combination would be needed to pass the referendum.

Subd. 9. Finances. The plan must state:

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

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

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

Subd. 10. Building sites. The plan must provide for:

(1) locations for elementary schools which need not be altered and may contain assurances that, to the extent feasible, elementary schools will be retained for at least the number of years specified in the plan; and

(2) one location, if possible, for a secondary school.

Subd. 11. Timing. The plan must contain a time schedule for implementation.

History: 1989 c 329 art 6 s 6

122.243 STATE BOARD AND VOTER APPROVAL.

Subdivision 1. State board approval. Before submitting the question of combining school districts to the voters at a referendum, the cooperating districts shall submit the proposed combination to the state board of education. The state board shall determine the date for submission and may require any information it determines necessary. The state board shall disapprove the proposed combination if it is educationally unsound, will not reasonably enable the combined district to fulfill statutory and rule requirements, or if the plan or modifications are incomplete. If disapproved by the state board, the referendum shall be postponed, but not canceled, by the school boards.

Subd. 2. Voter approval. During the second year of cooperation, a referendum on the question of combination shall be conducted. The referendum shall be on a date called by the school boards. The referendum shall be conducted by the school boards according to the Minnesota election law, as defined in section 200.01. If the referendum fails, the same question or a modified question may be submitted the following school year. If a question is submitted, the second referendum must be conducted on a date before October 1. If the referendum fails again, the same question may not be submitted. A different question may be submitted on any date before October 1. Referendums shall be conducted on the same date in all districts.

History: 1989 c 329 art 6 s 7

122.244 EFFECTIVE DATE OF COMBINATION.

The effective date for combination of districts shall be July 1.

History: 1989 c 329 art 6 s 8

122.245 EMPLOYEES OF COOPERATING AND COMBINING DISTRICTS.

Subdivision 1. Combined seniority list. During the school year before the cooperation begins and during the school years of cooperation, the districts shall comply with section 122.541, subdivision 5, unless compatible plans are negotiated according to section 122.541, subdivision 4. The districts shall comply with section 122.532.

Subd. 2. Nonlicensed employees termination. If compatible plans are not negotiated according to section 122.242, subdivision 5, the school boards shall comply with this subdivision with respect to nonlicensed employees. Nonlicensed employees whose positions are discontinued as a result of cooperation or combination, as applicable, shall be:

- (1) employed by a cooperating board or the combined board, if possible;
- (2) assigned to work in a cooperating district or the combined district, if possible;

or

(3) terminated in the inverse order in which they were employed in a district, according to a combined seniority list of nonlicensed employees in the cooperating or combined district, as applicable.

Subd. 3. Employment laws. Unless otherwise explicitly provided, chapter 179A governs the rights and duties of employers and employees. Either party may promptly submit questions of procedure, interpretation, or application to the commissioner of mediation services.

History: 1989 c 329 art 6 s 9

122.246 COUNTY AUDITOR PLAT.

Upon the request of two or more districts that have adopted a resolution to cooperate and combine, the county auditor shall prepare a plat. If the proposed combined district is located in more than one county, the request shall be submitted to the county auditor of the county that has the greatest land area in the proposed district. The plat shall show:

- (1) the boundaries of each of the present districts;
- (2) the boundaries of the proposed district;
- (3) the boundaries of proposed election districts, if requested; and
- (4) other information deemed pertinent by the school boards or the county auditor.

History: 1989 c 329 art 6 s 10

122.247 LEVIES FOR DISTRICTS AT THE TIME OF COMBINATION.

Subdivision 1. Referendum levies. The referendum levy authorization of the combined district shall be one of the methods set forth in section 122.531, subdivision 2a, 2b, or 2c, and must be consistent with the plan adopted according to section 122.242, and any subsequent modifications.

Subd. 2. Bonded debt. Debt service for bonds outstanding at the time of the combination may be levied by the combined school board consistent with the plan adopted according to section 122.242, and any subsequent modifications, subject to section 475.61. The primary obligation to pay the bonded indebtedness that is outstanding on the effective date of combination remains with the district that issued the bonds. However, the combined district may make debt service payments on behalf of a preexisting district.

Subd. 3. Transitional levy. The board of the combined district may levy for the expenses of negotiation, administrative expenses directly related to the transition from

cooperation to combination, and the cost of necessary new athletic and music uniforms. The board may levy this amount over three or fewer years. All expenses must be approved by the state board of education.

History: 1989 c 329 art 6 s 11

122.248 REPORTS TO DEPARTMENT OF EDUCATION.

Cooperating districts may submit joint reports and jointly provide information required by the department of education. The joint reports must allow information to be attributed to each district. A combined district must report and provide information as a single unit.

History: 1989 c 329 art 6 s 12

122.41 POLICY.

The policy of the state is to encourage organization of school districts into units of administration to afford better educational opportunities for all pupils, make possible more economical and efficient operation of the schools, and insure more equitable distribution of public school revenue. To this end all area of the state shall be included in an independent or special school district maintaining classified elementary and secondary schools, grades 1 through 12, unless a district has made an agreement with another district or districts as provided in sections 122.535, 122.541, or sections 122.241 to 122.248, or 122.93, subdivision 8, or has received a grant under sections 124.492 to 124.495.

History: 1989 c 329 art 6 s 13

122.43 DISSOLUTION OF DISTRICTS NOT A PART OF INDEPENDENT DISTRICTS.

Subdivision 1. A school district shall maintain elementary and secondary schools, grades 1 through 12, unless the district has made an agreement with another district or districts as provided in sections 122.535, 122.541, 122.241 to 122.248, or 122.93, subdivision 8, or has received a grant under sections 124.492 to 124.495.

[For text of subd 2, see M.S.1988]

History: 1989 c 329 art 6 s 14

122.45 DISTRIBUTION AND DIVISION OF ASSETS AND LIABILITIES; TAXATION.

[For text of subd 1, see M.S.1988]

Subd. 2. As of the effective date of the attachment, all the taxable property in the newly enlarged district is taxable for the payment of any bonded debt theretofore incurred by any component district in the proportion which the net tax capacity of that part of a preexisting district which is included in the newly enlarged district bears to the net tax capacity of the entire preexisting district as of the time of the attachment. This apportionment shall be made by the county auditor and shall be incorporated as an annex to the order of the commissioner dividing the assets and liabilities of the component parts. This subdivision shall not relieve any property from any tax liability for payment of any bonded obligation but taxable property in the newly enlarged district becomes primarily liable for the payment of bonded debts to the extent of the proportion stated.

[For text of subd 3a, see M.S.1988]

History: 1989 c 329 art 13 s 20

122.531 LEVY LIMITATIONS OF REORGANIZED DISTRICTS.

[For text of subds 1 and 1a, see M.S.1988]

Subd. 2. Voluntary dissolution: referendum levies. As of the effective date of the voluntary dissolution of a district and its attachment to one or more existing districts pursuant to section 122.22, the authorization for all referendum levies previously approved by the voters of all affected districts for those districts pursuant to section 124A.03, subdivision 2, or its predecessor provision, is canceled. However, if all of the territory of any independent district is included in the enlarged district, and if the adjusted net tax capacity of taxable property in that territory comprises 90 percent or more of the adjusted net tax capacity of all taxable property in an enlarged district, the board of the enlarged district may levy the increased amount previously approved by a referendum in the preexisting independent district upon all taxable property in the enlarged district. Any new referendum levy shall be certified only after approval is granted by the voters of the entire enlarged district in an election pursuant to section 124A.03, subdivision 2.

[For text of subds 2a to 2c, see M.S.1988]

Subd. 4. As of the effective date of a consolidation of districts or the dissolution of a district and its attachment to one or more existing districts pursuant to chapter 122, and subject to the conditions of section 275.125, subdivision 9a, all the taxable property which is in the newly created or enlarged district and which was previously taxable for the payment of any statutory operating debt theretofore incurred by any preexisting district of which the taxable property was a part prior to the consolidation or dissolution and attachment shall remain taxable for the payment of that debt and shall not become taxable for the payment of any statutory operating debt theretofore incurred by any preexisting district of which the taxable property was not a part prior to the consolidation or dissolution and attachment. The amount of statutory operating debt attributable to that taxable property and to the newly created or enlarged district in which it is located, and the amount of a preexisting district's reserved fund balance reserve account for purposes of statutory operating debt reduction attributable to the newly created or enlarged district, shall be apportioned according to the proportion which the adjusted net tax capacity of that part of the preexisting district bears to the total adjusted net tax capacity of the entire preexisting district at the time of the consolidation or dissolution and attachment. This apportionment shall be made by the county auditor and shall be incorporated as an annex to the order of the commissioner dividing the assets and liabilities of the component districts. As used in this section, "statutory operating debt" shall have the meaning given it in section 121.914.

[For text of subd 5, see M.S.1988]

Subd. 6. Aid deductions. (1) For purposes of determining deductions from general education aid, if any, required by section 124A.23, subdivision 4, for a district newly created through consolidation or enlarged through the dissolution of a district and its attachment to one or more other districts, in the year when the consolidation or dissolution and attachment becomes effective, there shall be used in lieu of the ratio of the district's actual levy to its permitted levy in the applicable year, the quotient obtained by dividing:

(a) the sum of the products derived for each component district by multiplying the component district's actual levy in the applicable year pursuant to the applicable subdivision, times the ratio of the amount of the adjusted net tax capacity of the property from the component district that is included in the new district to the total amount of the adjusted net tax capacity of the new district; by

(b) the sum of the products derived for each component district by multiplying the component district's permitted levy in the applicable year pursuant to the applicable subdivision, times the ratio of the amount of the adjusted net tax capacity of the property from the component district that is included in the new district to the total amount of the adjusted net tax capacity of the new district.

History: 1989 c 329 art 13 s 20

122.532 EMPLOYEES OF REORGANIZED DISTRICTS.

[For text of subs 1 and 2, see M.S.1988]

Subd. 3. The organization certified as the exclusive bargaining representative for the teachers in the particular preexisting district which employed the largest proportion of the teachers who are assigned to a new employing district according to subdivision 2 shall be certified as the exclusive bargaining representative for the teachers assigned to that new employing district, until that organization is decertified or another organization is certified in its place pursuant to sections 179A.01 to 179A.25. For purposes of negotiation of a new contract with the board of the new employing district and the certification of an exclusive bargaining representative for purposes of that negotiation, the teachers assigned to that district shall be considered an appropriate unit of employees of that district as of the date the county board orders its interlocutory order of dissolution and attachment to be final and effective or as of the date the commissioner assigns an identification number to a new district created by consolidation. During the school year before the consolidation becomes effective, the newly elected board or the board of the district to which a dissolved district is attached, may place teachers assigned to it on unrequested leave of absence as provided in section 125.12 according to: (a) a plan negotiated in a new master contract between it and the exclusive bargaining representative of the teachers assigned to it, or (b) if no such plan exists, an applicable plan negotiated in the contract which according to this subdivision will temporarily govern the terms and conditions of employment of teachers assigned to it, or (c) if no plan exists pursuant to either (a) or (b), the provisions of section 125.12, subdivision 6b, on the basis of a combined seniority list of all teachers assigned to it.

Subd. 3a. **Interim contractual agreements.** (a) Until a successor contract is executed between the new school board and the exclusive representative of the teachers of the new district, the school boards of both districts and the exclusive representatives of the teachers of both districts may agree:

(1) to comply with the contract of either district with respect to all of the teachers assigned to the new district; or

(2) that each of the contracts shall apply to the teachers previously subject to the respective contract.

(b) In the absence of an agreement according to paragraph (a), the following shall apply:

(1) if the effective date is July 1 of an even-numbered year, each of the contracts shall apply to the teachers previously subject to the respective contract and shall be binding on the new school board; or

(2) if the effective date is July 1 of an odd-numbered year, the contract of the district that previously employed the largest proportion of teachers assigned to the new district applies to all of the teachers assigned to the new district and shall be binding on the new school board.

Subd. 4. Except as provided in this section, the provisions of section 125.12 or 125.17 shall apply to the employment of each teacher by the new employing district on the same basis as they would have applied to the employment if the teacher had been employed by that new district before the effective date of the consolidation or dissolution and attachment. For the purpose of applying the provisions of subdivision 3, clause (c), and the provisions of section 125.12, subdivision 6b, each school district must be considered to have started school each year on the same date.

History: 1989 c 329 art 6 s 15-17

122.541 INTERDISTRICT COOPERATION.

Subdivision 1. **District requirements.** The school boards of two or more districts may, after consultation with the department of education, enter into an agreement providing for:

(1) discontinuance by all districts except one of at least the 10th, 11th, and 12th grades; and

(2) instruction of the pupils in the discontinued grades in one of the cooperating districts. Each district shall continue to operate a school with at least three grades. Before entering into a final agreement, the boards shall provide a copy of this agreement to the commissioner of education.

Subd. 2. **Aid; transportation.** (a) Each district shall 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. The agreement shall provide for tuition payments between or among the districts.

(b) Each district shall continue to provide transportation and collect transportation aid for its resident pupils pursuant to sections 123.39, 124.223, and 124.225. A district may provide some or all transportation to its resident pupils by contracting with a cooperating district. For purposes of section 124.225, the commissioner may adjust the base cost per eligible pupil transported to reflect changes in costs resulting from the agreement.

Subd. 3. **Teacher defined.** As used in this section, the term "teacher" has the meaning given it in section 125.12, subdivision 1.

Subd. 4. **Negotiated plan for discontinued teachers.** The school board and exclusive bargaining representative of the teachers in each district discontinuing grades may negotiate a plan to assign or employ in a cooperating district or to place on unrequested leave of absence all teachers whose positions are discontinued as a result of the agreement. The school board and exclusive bargaining representative of the teachers in each district providing instruction to nonresident pupils may negotiate a plan to employ teachers from a cooperating district whose positions are discontinued as a result of the agreement. If plans are negotiated and if the boards determine the plans are compatible, the boards shall include the plans in their agreement.

Subd. 5. **Combined seniority list.** If compatible plans are not negotiated before the March 1 preceding any year of the agreement, the cooperating districts shall be governed by this subdivision. Insofar as possible, teachers who have acquired continuing contract rights and whose positions are discontinued as a result of the agreement shall be employed by a cooperating district or assigned to teach in a cooperating district as exchange teachers pursuant to section 125.13. If necessary, teachers whose positions are discontinued as a result of the agreement and who have acquired continuing contract rights shall be placed on unrequested leave of absence in fields in which they are licensed in the inverse order in which they were employed by a cooperating district, according to a combined seniority list of teachers in the cooperating districts. For the purpose of establishing a combined seniority list, each school district must be considered to have started school each year on the same date.

Subd. 6. **Notice and hearing.** Prior to entering into an agreement, the school board shall consult with the community at an informational meeting. The board shall publish notice of the meeting in the official newspaper of the district and may send written notice of the meeting to parents of pupils who would be affected.

Subd. 7. **Meeting location.** Notwithstanding any law to the contrary, school boards that have an agreement may hold a valid joint meeting at any location that would be permissible for one of the school boards participating in the meeting.

History: 1989 c 329 art 6 s 18

122.86 [Repealed, 1989 c 329 art 9 s 34]

122.87 [Repealed, 1989 c 329 art 9 s 34]

122.88 [Repealed, 1989 c 329 art 9 s 34]

122.91 EDUCATION DISTRICT ESTABLISHMENT.

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

[For text of subd 2, see M.S.1988]

Subd. 2a. Agreement; special provisions. The education district agreement may contain a special provision adopted by the vote of a majority of the full membership of each of the boards of the member school districts to allow a post-secondary institution to become a member of the education district.

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.

Members of an education district must be contiguous. Districts with a cooperation agreement according to section 122.541 may belong to an education district only as a unit.

A noncontiguous district may be a member of an education district if the state board of education determines that:

- (1) a district between the education district and the noncontiguous district has considered and is unwilling to become a member; or
- (2) a noncontiguous configuration of member districts has sufficient technological or other resources to offer effective levels of programs and services required under sections 122.94, subdivision 2, and 122.945.

Subd. 3a. Meeting with representatives. Before entering into an agreement, the school board of each member district must meet and confer with the exclusive representatives of the teachers of each school district proposing to enter the education district.

[For text of subd 4, see M.S.1988]

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.

If a school district withdraws from an education district that receives revenue under section 124.2721 before the end of the fiscal year for which a levy under section 124.2721 has been certified, a reduction in the school district's general education aid for the fiscal year to which the levy is attributable must be made. The amount of aid reduction equals the amount that the school district certified for that year under section 124.2721 minus transition aid allocated for that levy according to section 273.1398, subdivision 6. The amount of the aid reduction shall be paid to the education district. The school district need not transfer the revenue required under section 124.2721, subdivision 3a.

[For text of subds 6 and 7, see M.S.1988]

History: 1989 c 329 art 6 s 19-23

122.92 EDUCATION DISTRICT BOARD.

Subdivision 1. School district representation. The education district board shall be composed of at least one representative appointed by the school board of each member district. Each representative must be a member of the appointing school board. Each representative shall serve at the pleasure of the appointing school board and may be recalled by a majority vote of the appointing school board. Each representative shall serve for the term that is specified in the agreement. The board shall select its officers from among its members and shall determine the terms of the officers. The board shall adopt bylaws for the conduct of its business.

Subd. 2. Post-secondary representation. The education district board may appoint, with the approval of the member post-secondary institution, a representative from one or more member post-secondary institutions as a member of the education district

board. Each post-secondary representative shall serve at the pleasure of the education district board and may be recalled by a majority vote of the education district board. The education district agreement may specify issues on which a post-secondary representative may vote.

History: 1989 c 329 art 6 s 24

122.93 POWERS AND DUTIES OF THE BOARD.

[For text of subd 1, see M.S.1988]

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. Notwithstanding section 123.34, subdivision 9, a member district of an education district may contract with the education district to obtain the services of a superintendent. The person to provide the services need not be employed by the education district or a member district at the time the contract is entered into.

[For text of subds 3 to 6, see M.S.1988]

Subd. 7. Budget. The education district board must adopt a budget for the expenditure of revenue received by the education district. The budget must be included in the five-year plan required under section 122.945.

Subd. 8. Discontinuing grades. The board of a school district that is a member of an education district may discontinue any of kindergarten through grade 12 or part of those grades and provide instruction for those grades or parts of grades within the education district.

History: 1989 c 329 art 6 s 25-27

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 the educational cooperative service unit within which the majority of the education district membership lies. The education district board shall review the agreement annually and propose necessary amendments to the member districts.

[For text of subds 2 to 5, see M.S.1988]

Subd. 6. Common academic calendar. For 1990-1991 and later school years, the agreement must require a common academic calendar for all member districts of an education district. For purposes of this subdivision, a common academic calendar must include at least the following:

- (1) the number of days of instruction;
- (2) the first and last days of instruction in a school year; and
- (3) the specific days reserved for staff development.

Before the 1990-1991 school year, each education district must report to the state board of education on ways that other components of the academic calendar in each member district will affect the implementation of the five-year plan described in section 122.945. Other components include the length of the school day, the time the school day begins and ends, and the number of periods in the day.

History: 1989 c 329 art 6 s 28,29

122.945 EDUCATION DISTRICT PLAN.

Subdivision 1. Five-year plan. Each education district must develop a five-year plan to increase educational opportunities for all learners. The plan must give priority

to the mandated programs and services under section 122.94, subdivision 2, with an emphasis on new, improved, or expanded programs or services. The plan must emphasize the integration of all aspects of education, including community education. Teachers must be involved in developing the plan. The plan must include at least the following components:

- (1) a detailed description of the proposed increased educational opportunities for pupils resulting from the new, improved, or expanded programs or services;
- (2) a budget for the current fiscal year and an estimated budget for the next fiscal year;
- (3) an estimate of the number of school districts and pupils affected by program and service expenditures; and
- (4) any other information required by the state board.

Subd. 2. Submission and approval of five-year plan. Each education district must submit a five-year plan developed according to subdivision 1 to the state board of education. An education district established before January 1, 1990, must submit a plan to the state board by April 1, 1990. An education district established after December 31, 1989, must submit a plan to the state board by April 1 of the first year that the education district will certify the amount of education district revenue to be raised under section 124.2721. The board must approve or disapprove the plan within 60 days of receiving it from the education district.

Subd. 3. Updating education district plan. The state board of education may require education districts to submit updated five-year plans.

Subd. 4. Education district revenue. An education district must receive state board of education approval of its five-year plan to be eligible for education district revenue under section 124.2721, subdivision 6, for fiscal year 1991 and thereafter.

Subd. 5. Evaluation of five-year plan. The state board of education must annually evaluate the programs and services in a selected number of education districts to determine compliance with the five-year plan and any updated plans submitted to the board under this section.

History: 1989 c 329 art 6 s 30

122.95 TEACHING POSITIONS.

[For text of subd 1, see M.S.1988]

Subd. 1a. Filling positions; negotiated agreements. The school boards in all member districts and exclusive bargaining representatives of the teachers in all member districts may negotiate a plan for filling positions resulting from implementation of the education district agreement. If the plan is negotiated among the member school districts and the exclusive bargaining representative of each member school district and unanimously agreed upon, in writing, the education district shall include the plan in the education district agreement. If a plan is not negotiated, the education district is governed by subdivision 2.

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. For the purpose of establishing a combined seniority list, each school district must be considered to have started school each year on the same date. 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.

[For text of subds 3 and 4, see M.S.1988]

History: 1989 c 329 art 6 s 31,32

122.96 [Repealed, 1989 c 329 art 6 s 55]

NOTE: Subdivision 3 was also amended by Laws 1989, chapter 209, article 2, section 8, to read as follows:

"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 chapter 205A, 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."