

CHAPTER 122

SCHOOL DISTRICTS: FORMATION AND
COOPERATION

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DEFINITIONS AND CLASSIFICATION

122.01 Subdivision 1. MS 1953 [Repealed, 1957 c 947 art 9 s 9]

- Subd. 2. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 3. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 4. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 5. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 6. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 7. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 8. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 9. MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- Subd. 10. MS 1953 [Repealed, 1955 c 862 s 14]

122.01 DEFINITIONS.

For purposes of this chapter, the words defined in section 120.02, have the same meaning.

History: *Ex1959 c 71 art 3 s 1*

122.011-122.014 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]

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- 122.015 MS 1953 [Repealed, 1955 c 862 s 14]
- 122.016-122.019 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.02 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.02 CLASSES, NUMBER.

School districts shall be classified as common, independent, or special districts, each of which is a public corporation. Each district shall be known by its classification and each shall be assigned a number by the commissioner so that its title will be school district number

History: *Ex1959 c 71 art 3 s 2; 1974 c 406 s 11*

- 122.021-122.029 MS 1957 [Repealed, 1959 c 71 art 8 s 26]
- 122.03 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.03 ASSIGNMENT OF IDENTIFICATION NUMBERS.

Subdivision 1. The commissioner of education shall, by order, assign an identification number to each district. The assignment shall be made so that each classified district has an identification number which is exclusive to it in its classification.

Subd. 2. Upon making the assignment of an identification number, the commissioner of education shall forthwith notify the clerk of the district and the county auditors of the counties in which any part of the district lies of the identification number assigned. A certified copy of the order may be recorded in the office of the county recorder to show the new legal name of the district.

Subd. 3. From and after the making of the order, the legal identification of the district shall become and be as assigned. All records, correspondence, reports and references to the district shall thereafter refer to the district by its proper title as assigned.

Subd. 4. A number once assigned a district under section 122.02 or under any prior law, shall not be used again to identify any district in the same classification. As the need arises, and as required by law, as new districts are formed, the commissioner of education shall assign unused numbers as identification. When numbered districts are dissolved, the numbers assigned them will not be reassigned to any other district.

Subd. 5. [Repealed, 1961 c 562 s 15]

History: *1957 c 947 art 10 s 1; 1961 c 562 s 1,2; 1976 c 181 s 2*

- 122.031-122.039 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.04 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.041-122.049 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.05 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.051-122.059 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.06 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.061 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.062 Subdivision 1. MS 1957 [Renumbered 122.03, subdivision 1]
 - Subd. 2. [Renumbered 122.03, subd 2]
 - Subd. 3. [Renumbered 122.03, subd 3]
 - Subd. 4. [Renumbered 122.03, subd 4]
 - Subd. 5. [Repealed, 1961 c 562 s 15]
- 122.07 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.08 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.09 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.10 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.11 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.11 MS 1974 [Repealed, 1975 c 162 s 42]

- 122.111 MS 1953 [Repealed, 1955 c 858 s 13]
- 122.12 MS 1953 [Repealed, 1955 c 858 s 13]
- 122.12 MS 1969 [Repealed, 1971 c 25 s 32]
- 122.13 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.14 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.15 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.16 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.17 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.18 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.19 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.20 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

ALTERATION OF DISTRICTS

- 122.21 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.21 DETACHMENT AND ANNEXATION OF LAND.

Subdivision 1. The owner of land which adjoins any independent district, and whose land is not in a special district may petition the county board of the county in which the greater part of the area proposed for detachment and annexation lies to detach all or any part of the land together with the intervening lands as defined in subparagraph (b) below, from the district it now is in, and to attach it, together with such intervening land, to the adjoining district. For purpose of this section, land is adjoining a school district if:

(a) The boundary of the area proposed for detachment and annexation is the same as the district boundary to which attachment is sought at any point, including corners, or

(b) The area proposed for detachment and annexation is separated at any point from the district to which annexation is sought by not more than one-half mile and the intervening land is vacant and unoccupied or is owned by one or more of the following: The United States, or the state of Minnesota or any of its political subdivisions, or an owner who is unknown or cannot be found or

(c) The area proposed by a land owner for detachment and annexation is adjoining (as defined in subparagraphs (a) and (b) above) any land proposed for detachment from and annexation to the same district in another pending petition.

Subd. 2. The petition shall contain:

(a) A correct description of the area proposed for detachment and annexation, together with such supporting data with regard to location and title to land as will establish facts conformable to subdivision 1.

(b) The reasons for the proposed change with facts showing that the granting of the petition will not reduce the size of any district to less than four sections, unless the district is not operating a school within the district.

(c) Consent to the petition, endorsed thereon at any time before the hearing by the board of the district from which the area is to be removed, if, at the time of the filing of the petition, any part of the area proposed for detachment is part of a district which maintains and operates a secondary school within the district.

(d) An identification of the district to which annexation is sought.

(e) Such other information as petitioners may desire to affix.

(f) An acknowledgment by the petitioner.

Subd. 3. The petition shall be filed with the auditor who shall present it to the county board at its next meeting. At the meeting, the county board shall fix a time and place for hearing the petition, which time shall be not more than 60 nor less than ten days from the date of the meeting. The auditor shall forthwith serve notice of the hear-

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ing on each district directly affected by the petition, by mail addressed to the clerk. If any area affected by the petition is in another county, the auditor shall mail a notice of hearing to the auditor of such county and shall also give one week's published notice of the hearing in the county wherein the hearing is to be held, and ten days' posted notice in each school district affected. Such posted and published notice may combine pending petitions. At the hearing on the petition, the county board shall receive and hear any evidence for or against the petition. The hearing may be adjourned from time to time.

Subd. 4. Within six months of the time when the petition was filed, the county board shall issue its order either granting or denying the petition, unless all or part of the land area described in the petition is included in a plat for consolidation which has been approved by the state board of education in which event, no order may be issued while consolidation proceedings are pending. No order shall be issued which results in attaching to a district any territory not adjoining that district, as defined in subdivision 1(a). No order shall be issued which reduces the size of any district to less than four sections unless the district is not operating a school within the district. The order may be made effective at a deferred date not later than July 1 next following its issuance. If the petition be granted, the auditor shall transmit a certified copy to the commissioner. Failure to issue an order within six months of the filing of the petition or termination of proceedings upon an approved consolidation plat, whichever is later, is a denial of the petition.

Subd. 5. Upon receipt of the order, the commissioner shall forthwith modify the records and any plats and petitions and proceedings involving districts affected by such order presently before the commissioner for action or record, to conform to the order.

Subd. 6. Upon the effective date of the order, the detachment and annexation ordered therein is effected. All taxable property in the area so detached and annexed remains taxable for payment of any school purpose obligations theretofore authorized by or on that date outstanding against the district from which detached. Such property is not by virtue of the order relieved from the obligation of any bonded debt theretofore incurred to which it was subject prior to the order. All taxable property in the area so detached and annexed is taxable for payment of any school district obligations authorized on or subsequent to the effective date of the order by the district to which annexation is made.

History: *Ex1959 c 71 art 3 s 5; 1965 c 225 s 1; 1969 c 364 s 1; 1975 c 162 s 10,41; 1977 c 447 art 7 s 15; 1986 c 444*

122.22 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.22 DISSOLUTION AND ATTACHMENT.

Subdivision 1. Any district may be dissolved and the territory be attached to other districts by proceeding in accordance with this section.

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.

Subd. 3. A resolution adopted pursuant to subdivision 2(a) shall contain findings of necessary jurisdictional facts and shall set a date for hearing. The hearing shall be not less than 20 nor more than 60 days from the date of the resolution.

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 201.014, 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.

Subd. 5. Certification executed pursuant to subdivision 2(c) shall be filed with the auditor. It shall contain the following:

(a) A copy of the resolution initiating the election;

(b) A copy of the notice of election with an affidavit of publication or posting;

(c) The question voted on;

(d) The results of the election by number of votes cast for and number against the question; and

(e) If an advisory ballot is taken on annexation, the question voted on and number of ballots cast for and against the proposal.

The auditor shall present the certification 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.

Subd. 6. When a hearing is ordered under this section, the auditor shall have ten days' posted notice of the hearing in the district proposed for dissolution, one week's published notice in the county, and ten days' mailed notice to the clerk of the district proposed for dissolution and to the clerk of each adjoining district and to the commissioner. If all or any part of the district proposed for dissolution or any adjoining district lies in another county, the auditor shall forthwith upon establishment of the hearing date, mail notice of the hearing to the auditor of each county so situated.

Subd. 7. No order dissolving a district may be issued by the county board if the district to be dissolved is included in a plat for consolidation which has been approved by the state board of education and upon which plat final action has not been taken unless all of the district to be dissolved and all of the district or districts to which attachment is proposed are included in the approved plat.

Subd. 7a. (a) 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:

(1) The outstanding bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, and the capital loan obligation of the district;

(2) The net tax capacity of the district;

(3) 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;

(4) 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:

(i) the taxable property of the dissolving district which is attached to its district shall not be liable for the bonded debt, outstanding energy loans made according to sec-

tion 216C.37 or sections 298.292 to 298.298, or the capital loan obligation of the district which existed as of the time of the attachment;

(ii) the taxable property of the dissolving district which is attached to its district shall be liable for the payment of the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or the capital loan obligation 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

(iii) 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 (ii).

(b) An apportionment pursuant to paragraph (a), clause (4), subclause (ii) or (iii), shall be made by the county auditor of the county containing the greatest land area of the district proposed for transfer.

(c) An apportionment of bonded indebtedness, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or capital loan obligation pursuant to paragraph (a), clause (4), subclause (ii) or (iii), shall not relieve any property from any tax liability for payment of any bonded or capital obligation, but taxable property in a district enlarged pursuant to this section becomes primarily liable for the payment of the bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, or capital loan obligation to the extent of the proportion stated.

Subd. 8. Within 90 days of the date set for the original hearing or within 30 days of the termination of a consolidation proceeding which stays the order under subdivision 7, the county board may issue its order:

(a) Dismissing the proceedings; or

(b) Providing for the dissolution of the district and the annexation of the territory to adjoining districts, or the entire district as a unit may be attached to and become part of a district which maintains a secondary school located within the same high school area if there is no intervening district maintaining a secondary school.

If no order is issued within the limited time, the proceedings are dismissed.

If an order is issued pursuant to clause (b) the order is a final order, unless an election on the order is required pursuant to subdivision 11.

Subd. 9. (a) An order issued under subdivision 8, clause (b), shall contain the following:

(1) A statement that the district is dissolved unless the results of an election held pursuant to subdivision 11 provide otherwise;

(2) A description by words or plat or both showing the disposition of territory in the district to be dissolved;

(3) The outstanding bonded debt, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, and the capital loan obligation of the district to be dissolved;

(4) A statement requiring the fulfillment of the requirements imposed by each adjoining district to which territory in the dissolving district is to be attached regarding the assumption of its outstanding preexisting bonded indebtedness by any territory from the dissolving district which is attached to it;

(5) An effective date for the order. The effective date shall be July 1 of an odd-numbered year unless the school board and the exclusive representative of the teachers in each affected district agree to an effective date of July 1 of an even-numbered year. The agreement must be in writing and submitted to the commissioner of education; and

(6) Other information the county board may desire to include.

(b) The auditor shall within ten days from its issuance serve a copy of the order by mail upon the clerk of the district to be dissolved and upon the clerk of each district

to which the order attaches any territory of the district to be dissolved and upon the auditor of each other county in which all or any part of the district to be dissolved or any district to which the order attaches territory lies, and upon the commissioner.

Subd. 10. [Repealed, 1981 c 358 art 7 s 31]

Subd. 11. If the proceedings were instituted by petition, under subdivision 2(b), or by election, under subdivision 2(c) and an advisory recommendation was made in the petition or an advisory ballot taken at the election, as to annexation requested, and if the order makes a different provision for annexation than requested, then the order must be approved by a majority of those voting on the question at an election to be called in the district to be dissolved, under subdivision 13. The question voted on shall be:

“Shall the order of the county board of county, dated providing for the dissolution of this school district be approved?” Yes No

Subd. 12. [Repealed, 1981 c 358 art 7 s 31]

Subd. 13. If an election is required under subdivision 11, then before the expiration of a 45 day period after the date of the order for dissolution and attachment, the auditor shall set a date and call the election by filing a written order therefor and serving a copy thereof personally or by mail on the clerk of the district in which the election is to be held. The date shall be not less than 15 nor more than 30 days after the date of the order, upon which date a special election shall be held in the district proposed for dissolution. The auditor shall cause notice of the election to be posted and published according to law. Upon receipt of the notice, the board shall conduct the election.

Subd. 14. The results of the election shall be certified by the board to the auditor. If a majority of all votes cast on the question at the election approve the order, the order becomes final and effective as of the date specified in the order. Each person served with the order shall be so notified. If a majority of all votes cast on the question disapprove the order, the proceedings are dismissed, and the order becomes void.

Subd. 15. [Repealed, 1981 c 358 art 7 s 31]

Subd. 16. [Repealed, 1981 c 358 art 7 s 31]

Subd. 17. [Repealed, 1975 c 162 s 42]

Subd. 18. The bonded debt of a district dissolved under provisions of this section shall be paid according to levies made therefor under provision of chapter 475. The obligation of the taxable property in the dissolved district with reference to the payment of such bonded debt is not affected by this section.

Subd. 19. [Repealed, 1975 c 162 s 42]

Subd. 20. If the dissolved district is not divided by the order of dissolution and attachment, all of its current assets and liabilities, real and personal, and all its legally valid and enforceable claims and contract obligations shall pass to the district to which it is attached, except as provided in section 122.532. If the district to be dissolved is divided by the order of dissolution and attachment, the commissioner shall, within 30 days after the order is issued, issue an order for the distribution of its current assets and liabilities, real and personal. If the commissioner's order provides for the transfer of an interest in real estate to a district, this order may also impose a dollar amount as a claim against that district in favor of other districts, and this claim shall be paid and enforced in the manner provided by law for the payment of judgments against a district. The obligations of districts to the teachers employed by the dissolved district shall be governed by the provisions of section 122.532.

Subd. 21. (a) In the year prior to the effective date of the dissolution of a district, the school board of a district to which all of the dissolving district is to be attached may adopt a resolution directing the school board of the dissolving district to certify levies for general education, basic transportation, and capital expenditure equipment and facilities in an amount not to exceed the maximum amount authorized for the dissolving district for taxes payable in the year the dissolution is effective. If the dissolving district is to be attached to more than one school district, the boards of the districts to which the dissolving district is to be attached may adopt a joint resolution that accomplishes the purpose in this paragraph.

(b) Notwithstanding any other law to the contrary, upon receipt of a resolution under paragraph (a), the board of the dissolving district must certify levies in the amounts specified in the resolution for taxes payable in the year the dissolution is effective.

History: *Ex 1959 c 71 art 3 s 6; 1969 c 364 s 2; 1974 c 406 s 12; 1975 c 162 s 41; 1978 c 764 s 15-18; 1980 c 609 art 6 s 9,10; 1981 c 358 art 7 s 12-21; 1987 c 266 art 2 s 2,3; 1988 c 719 art 5 s 84; 1989 c 209 art 2 s 1; 1989 c 329 art 13 s 20; 1991 c 265 art 6 s 6,7; 1992 c 499 art 6 s 5; 1993 c 224 art 6 s 4*

122.23 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.23 CONSOLIDATION.

Subdivision 1. Common or independent districts or parts thereof, or any combination of the foregoing may consolidate into a single independent district by proceedings taken in accordance with this section. The proposed new district must contain at least 18 sections of land.

Subd. 2. (a) 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.

(b) The resolution or petition may propose the following:

(1) that the bonded debt of the component districts will be paid according to the levies previously made for that debt under chapter 475, or that the taxable property in the newly created district will be taxable for the payment of all or a portion of the bonded debt previously incurred by any component district as provided in subdivision 16;

(2) that obligations for a capital loan or an energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding in a preexisting district as of the effective date of consolidation remain solely with the preexisting district that obtained the loan, or that all or a portion of the loan obligations will be assumed by the newly created or enlarged district and paid by the newly created or enlarged district on behalf of the preexisting district that obtained the loan;

(3) 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;

(4) that the board of the newly created district consist of the number of members determined by the component districts, which may be six or seven members elected according to subdivision 18, or any number of existing school board members of the component districts, and a method to gradually reduce the membership to six or seven; or

(5) that 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 be established.

A group of districts that operates a cooperative secondary facility funded under section 124.494 may also propose a temporary school board structure as specified in section 124.494, subdivision 7.

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.

(c) The plat shall show:

(1) Boundaries of the proposed district, as determined by the county auditor, and present district boundaries,

(2) The location of school buildings in the area proposed as a new district and the location of school buildings in adjoining districts,

(3) The boundaries of any proposed separate election districts, and

(4) Other pertinent information as determined by the county auditor.

Subd. 2a. The county auditor of the county containing the greatest land area of the area proposed to be consolidated shall perform the duties provided by this section.

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, outstanding energy loans made according to section 216C.37 or sections 298.292 to 298.298, capital loan obligations, or referendum levies of component districts,

(f) Any other information the county auditor desires to include, and

(g) The signature of the county auditor.

Subd. 4. The county auditor shall submit the plat and supporting statement to the commissioner and a true copy of each to the auditor of each county containing any land area of the proposed new district.

Subd. 5. Upon receipt of a plat and the supporting statement, each county's auditor shall immediately notify the county's board. After such notification, and during the pendency of proceedings under the plat and supporting statement or for a period of six months, whichever is shorter, no action may be taken by the county board under any other law to modify the boundary of any district if any part of the district is included in an area proposed for consolidation.

Subd. 6. The commissioner shall, upon receipt of a plat, forthwith examine it and approve, modify or reject it. The commissioner shall also approve or reject any proposal contained in the resolution or petition regarding the disposition of the bonded debt of the component districts. If the plat shows the boundaries of proposed separate election districts and if the commissioner modifies the plat, the commissioner shall also modify the boundaries of the proposed separate election districts. The commissioner shall conduct a hearing at the nearest county seat in the area upon reasonable notice to the affected districts and county boards if requested within 20 days after submission of the plat. Such a hearing may be requested by the board of any affected district, a county board of commissioners, or the petition of 20 resident voters living within the area proposed for consolidation. The commissioner shall endorse on the plat action regarding any proposal for the disposition of the bonded debt of component districts and the reasons for these actions and within 60 days of the date of the receipt of the plat, the commissioner shall return it to the county auditor who submitted it. The commissioner shall furnish a copy of that plat, and the supporting statement and its endorsement to the auditor of each county containing any land area of the proposed new district. If land area of a particular county was included in the plat, as submitted by the county auditor, and all of such land area is excluded in the plat as modified and approved, the commissioner shall also furnish a copy of the modified plat, supporting statement, and any endorsement to the auditor of such county.

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Subd. 7. Upon receipt of an approved plat, the county auditor shall forthwith notify the board of any district, all or part of whose land is included in the proposed new district.

Subd. 8. The board of any independent district maintaining a secondary school, the board of any common district maintaining a secondary school, all or part of whose land is included in the proposed new district, shall, within 45 days of the approval of the plat by the commissioner, either adopt or reject the plan as proposed in the approved plat. If the board of any such district entitled to act on the petition rejects the proposal, the proceedings are terminated and dismissed. If any board fails to act on the plat within the time allowed, the proceedings are terminated.

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 all of the school boards entitled to act on the plat call, by resolution, for an election on the question, or 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 commissioner 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 commissioner terminates the proceedings.

Subd. 11. Upon an election becoming callable under provisions of subdivision 9 or 10, the school board 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 area, one weeks' published notice shall be given. The notice shall specify the time, place and purpose of the election.

Subd. 12. The school board shall determine the date of the election, the number of boundaries of voting precincts, and the location of the polling places where voting shall be conducted, and the hours the polls will be open. The school board shall also provide official ballots which shall be used exclusively and shall be in the following form:

For consolidation

Against consolidation

The school board shall appoint election judges who shall act as clerks of election. The ballots and results shall be certified to the school board who shall canvass and tabulate the total vote cast for and against the proposal.

Subd. 13. If a majority of the votes cast on the question at the election approve the consolidation, and if the necessary approving resolutions of boards entitled to act

on the plat have been adopted, the school board shall, within ten days of the election, notify the county auditor who shall, within ten days of the notice or of the expiration of the period during which an election can be called, issue an order setting a date for the effective date of the change. The effective date shall be July 1 of the year determined by the school board in the original resolution adopted under subdivision 2. The auditor shall mail or deliver a copy of such order to each auditor holding a copy of the plat and to the clerk of each district affected by the order and to the commissioner. The school board shall similarly notify the county auditor if the election fails. The proceedings are then terminated and the county auditor shall so notify the commissioner and the auditors and the clerk of each school district affected.

Subd. 13a. [Repealed, 1994 c 647 art 6 s 42]

Subd. 14. Upon receipt of the order creating a new district, the commissioner shall forthwith, by order, assign an identification number to the new district and shall mail a copy of the order to the county auditor and to each auditor who holds a copy of the plat. If all of the territory in one and only one independent district maintaining a secondary school is included in the new independent district created pursuant to consolidation, and if the commissioner finds that it is more practical and reasonable and in the interest of efficiency and economy of operation to so do, the commissioner may assign to the new district the same number as previously held by the included independent district.

Subd. 15. If no district is divided by virtue of the proceedings, all of the assets, real and personal, of the districts involved and all legally valid and enforceable claims and contract obligations of the districts pass to the new district, except as provided in section 122.532. If a district is divided by virtue of the proceedings, upon receipt of the order of the commissioner, the auditor of the county containing the greatest land area of the new district shall present a copy of the plat and supporting statement and orders issued in the proceedings to the commissioner, together with such information as is available to that auditor concerning the assets and liabilities not secured by bonds of each district, any part of which is included in the newly created district. Thereafter within 30 days the commissioner shall issue an order providing for a division of the assets and liabilities of the districts involved and apportioning and dividing these assets and liabilities according to such terms as the commissioner may deem just and equitable. In making this division of assets and liabilities, the commissioner may consider the amount of bonded debt to be assumed by property in each area under the provisions of this section. If the order of consolidation transfers any real estate interest to the new district or to another district, the order apportioning assets and liabilities may impose a dollar claim on the district receiving the real estate in favor of any other district involved in an amount not exceeding the reasonable value of the real estate interest involved, which claim shall be paid in the manner provided by law for the enforcement of judgments.

Subd. 16. As of the effective date of the consolidation, the bonded debt of all component districts shall be paid according to the plan for consolidation proposed in the approved plat and according to this subdivision.

(a) If the plan for consolidation so provides, the bonded debt of all component districts shall be paid according to levies previously made for that debt under chapter 475. In this case, the obligation of the taxable property in the component districts with reference to the payment of such bonded debt is not affected by the consolidation.

(b) If the plan for consolidation 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 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.

(c) If the plan for consolidation so provides, all the taxable property in the newly created district will be taxable for a portion of the bonded debt incurred by any component district prior to the consolidation.

Apportionment required under paragraphs (b) and (c) 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. 16a. [Repealed, 1992 c 499 art 6 s 39; 1992 c 603 s 10]

Subd. 16b. [Repealed, 1992 c 499 art 6 s 39; 1992 c 603 s 10]

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.

Subd. 17. [Repealed, 1991 c 130 s 38]

Subd. 18. (a) The county auditor shall determine a date, not less than 20 nor more than 60 days from the date that the order setting the effective date of the consolidation according to subdivision 13 was issued, 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 establish-

ment 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) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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. The obligations of the new board to nonlicensed employees employed by component districts is governed by subdivision 18a.

Subd. 18a. Nonlicensed employees. (a) As of the effective date of a consolidation of two or more districts or parts of them, each nonlicensed employee employed by an affected district must be assigned to the newly created district.

(b) As of the effective date of a consolidation, any employee organization may petition the commissioner of the bureau of mediation services for a certification election under chapter 179A. An organization certified as the exclusive representative for nonlicensed employees in a particular preexisting district continues as the exclusive

representative for those particular employees for a period of 90 days from the effective date of a consolidation. If a petition for representation of nonlicensed employees is filed within 90 days, an exclusive representative for those particular nonlicensed employees continues as the exclusive representative until the bureau of mediation services certification proceedings are concluded.

(c) The terms and conditions of employment of nonlicensed employees assigned to the newly created district are temporarily governed by contracts executed by an exclusive representative for a period of 90 days from the effective date of the consolidation. If a petition for representation is filed with the bureau of mediation services within the 90 days, the contractual terms and conditions of employment for those nonlicensed employees who were governed by a preexisting contract continue in effect until the bureau of mediation services proceedings are concluded and, if an exclusive representative has been elected, until successor contracts are executed between the board of the newly created district and the new exclusive representative. The terms and conditions of employment of nonlicensed employees assigned to the newly created district who were not governed by a collective bargaining agreement at the time of the consolidation are governed by the policies of the board of the newly created district.

(d) The date of first employment in the newly created district is the date on which services were first performed by the employee in the preexisting district. Any sick leave, vacation time, or severance pay benefits accumulated under policies of the preexisting district or contracts between the exclusive representatives and the board of the preexisting district continue to apply in the newly created district to the employees of the preexisting districts, subject to any maximum accumulation limitations negotiated in a successor contract. Future leaves of absence, vacations, or other benefits to be accumulated in the newly created district are governed by board policy or by contract between the exclusive representative of an appropriate unit of employees and the board of the newly created district. The board of the newly created district shall provide, to transferred nonlicensed employees, open enrollment in all insurance plans with no limit on preexisting conditions.

Subd. 19. In case of the consolidation of two or more districts or parts of districts into a larger district, any portions or parts of divided districts which have less than four sections of land shall be attached to one or more adjoining districts by the board of county commissioners upon due notice and hearing.

The county auditor shall give ten days' posted notice of the hearing in the area to be attached and shall deliver a copy of the notice of hearing to the clerk of each district adjoining the area at least 30 days prior to the date set for the hearing. If any adjoining district by resolution of its board, a copy of which is served on the county board before the hearing, demands that area to be attached assume a proportionate share of the bonded debt of the demanding district, then if the order of the county board attaches any land area to such district, the taxable property in such area assumes its proportionate share of the authorized and outstanding bonded debt of the district to which it is attached.

Subd. 20. **Retirement incentives.** (a) For consolidations effective July 1, 1994, and thereafter, a school board of a district may offer early retirement incentives to licensed and nonlicensed staff. The early retirement incentives that the board may offer are:

- (1) the payment of employer pension plan contributions for a specified period of allowable service credit for district employees who have at least ten years of allowable service credit in the applicable pension plan under paragraph (b);
- (2) an extended leave of absence for an eligible employee under section 125.60;
- (3) severance payment incentives under paragraph (c); and
- (4) the employer payment of the premiums for continued health insurance coverage under paragraph (d).

These incentives may only be offered to employees who terminate active employment with the school district or who enter into an extended leave of absence as a result of the consolidation, whichever applies. The board may determine the staff to whom

the incentives are offered. Unilateral implementation of this section by a school board is not an unfair labor practice under chapter 179A.

(b) An employee with at least ten years of allowable service credit in the applicable pension plan who is offered an early retirement incentive under paragraph (a), clause (1), may purchase up to five additional years of allowable service credit from the applicable pension plan. To do so, the former employee must pay the member contributions to the pension plan annually in a manner and in accord with a schedule specified by the executive director of the applicable fund. If the former employee makes the member contribution, the board shall make the applicable employer contribution. The salary used to determine these contributions is the salary of the person in the last year that the former employee was employed by the district. During the period of continuing member and employer contributions, the person is not considered to be an active member of the applicable pension plan, is not eligible for any active member disability or survivorship benefit coverage, and is not included in any postemployment termination benefit plan changes unless the applicable benefit legislation provides otherwise. Continued eligibility to purchase service credit under this paragraph expires if the person is subsequently employed during the service purchase period by a public employer with retirement coverage under a pension plan specified in section 356.30, subdivision 3.

(c) Severance payment incentives must conform with sections 465.72, 465.721, and 465.722.

(d) The board may offer a former employee continued employer-paid health insurance coverage. Coverage may not extend beyond age 65 or the end of the first month in which the employee is eligible for employer-paid health insurance coverage from a new employer. For purposes of this subdivision, "employer-paid health insurance coverage" means medical, hospitalization, or health insurance coverage provided through an insurance company that is licensed to do business in the state and for which the employing unit pays more than one-half of the cost of the insurance premiums.

(e) A school board may offer these incentives beginning on the day that the consolidation is approved under section 122.23, subdivision 12 or, if an election is not called under section 122.23, subdivision 9 or 10, on the day that the plat is approved by the commissioner. A board may offer these incentives until the June 30 following the effective date of the consolidation.

History: *Ex 1959 c 71 art 3 s 7; 1963 c 549 s 1; 1965 c 525 s 1; 1967 c 495 s 1; 1969 c 364 s 3-6; 1974 c 406 s 13; 1975 c 162 s 11,41; 1976 c 271 s 35; 1978 c 674 s 60; 1978 c 764 s 19-25; 1980 c 609 art 6 s 11,12; 1983 c 247 s 56; 1983 c 314 art 1 s 22; art 7 s 9,10; 1986 c 444; 1987 c 266 art 2 s 4-6; 1988 c 569 s 1; 1988 c 719 art 5 s 84; 1989 c 209 art 2 s 7; 1989 c 329 art 6 s 4; art 13 s 20; 1990 c 562 art 8 s 16-19; 1991 c 130 s 6; 1991 c 265 art 6 s 8,9; 1992 c 409 s 1; 1992 c 499 art 6 s 6,7; art 12 s 2-4; 1993 c 224 art 9 s 18,19; 1994 c 647 art 6 s 3-7*

122.24 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.24 MS 1969 [Repealed, 1971 c 98 s 1]

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 one or two years, if the districts cooperate according to subdivision 2; and
- (2) to combine into one district.

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

- (1) implement a written agreement according to section 122.541 no later than the first year of cooperation;
- (2) all be members of one education district, if any one of the districts is a member, no later than the end of the second year of cooperation; and
- (3) all be members of one ECSU, if any one of the districts is a member.

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Clause (1) does not apply to a district that implemented an agreement for secondary education, according to section 122.535, during any year before the 1991-1992 school year. If the districts cooperate for one or more years, the agreement may be continued during those years.

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 if either:

(i) both of the districts qualify for secondary sparsity revenue under section 124A.22, subdivision 6, and have an average isolation index over 23; or

(ii) the combined district qualifies for secondary sparsity revenue;

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

(4) at least two districts with fewer than 400 resident pupils enrolled in grades 7 through 12 in the combined district if either district is located on the border of the state.

A combination under clause (2), (3), or (4) must be approved by the commissioner of education. The commissioner shall disapprove a combination under clause (2), (3), or (4) 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; 1990 c 562 art 6 s 4; 1991 c 265 art 6 s 10,11; 1992 c 499 art 6 s 8; 1993 c 224 art 13 s 14

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 all or a portion of 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) whether obligations for a capital loan or energy loan made according to section 216C.37 or sections 298.292 to 298.298 outstanding at the time of combination remain solely with the district that obtained the loan, or whether all or a portion of all the loan obligations will be assumed by the combined district and paid by the combined district on behalf of the district that obtained the loan;
- (3) the treatment of debt service levies, down payment levies under section 124.82, and referendum levies;
- (4) whether the cooperating or combined district will levy for reorganization operating debt according to section 121.915, clause (1); and
- (5) two- and five-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; 1991 c 265 art 6 s 12; 1992 c 499 art 6 s 9; 1993 c 224 art 6 s 5

122.243 STATE BOARD AND VOTER APPROVAL.

Subdivision 1. **Commissioner 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 commissioner of education. The commissioner shall determine the date for submission and may require any information it determines necessary. The commissioner 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 commissioner, the referendum shall be postponed, but not canceled, by the school boards.

Subd. 2. **Voter approval.** A referendum on the question of combination shall be conducted during the first or second year of cooperation for districts that cooperate according to section 122.241, or no more than 18 months before the effective date of combination for districts that do not cooperate. 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. If the referendum fails again, the districts shall modify their cooperation and combination plan. A third referendum may be conducted. If a second or third referendum is conducted after October 1, the newly combined district may not levy under section 124.2725 until the following year. Referendums shall be conducted on the same date in all districts.

History: 1989 c 329 art 6 s 7; 1990 c 562 art 6 s 5; 1991 c 265 art 6 s 13; 1992 c 499 art 6 s 10; 1993 c 224 art 6 s 6; art 13 s 15

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 revenues. The referendum revenue 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. 2a. Capital loan. The combined school board may levy for the obligations for a capital loan outstanding at the time of combination, consistent with the plan adopted according to section 122.242 and any subsequent modifications. The primary obligation to levy as required by the capital loan remains with taxable property in the preexisting district that obtained the capital loan. However, the obligation of a capital loan may be extended to all of the taxable property in the combined district.

Subd. 3. Transitional levy. The board of the combined district, or the boards of combining districts that have received voter approval for the combination under section 122.243, subdivision 2, 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 or boards may levy this amount over three or fewer years. All expenses must be approved by the commissioner of education.

History: 1989 c 329 art 6 s 11; 1991 c 265 art 6 s 14,15; 1992 c 499 art 12 s 5; 1993 c 224 art 13 s 16

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

122.25 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

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.

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In the notice for the meeting, the clerk shall include a statement that the question will be voted upon at the meeting.

Subd. 2. At the annual meeting, if a majority of the votes cast on the question favors the conversion to an independent district, a board of six members shall be elected. Nominations may be made from the floor of the meeting and election shall be by secret ballot. All board members elected at this meeting shall serve for terms expiring on the third Tuesday in May next following the election on which date a regular annual election shall be held in the manner provided by law. At this first annual election for independent districts, six directors shall be elected, two to hold office until July 1 following the next annual election, two to hold office until the expiration of one year from said July 1 and two to hold office until the expiration of two years from said July 1; the time which each director shall hold office being designated on the ballot.

Subd. 3. If the organization of the district is changed from common to independent at the meeting, the clerk shall forthwith notify the auditor and the commissioner.

Upon receipt of such notification, the commissioner shall forthwith assign a new identification number to the district and shall notify the auditor and the clerk of the district thereof.

Subd. 4. As of the date of election, if a majority of votes cast on the question favor the conversion to an independent district, the classification of the district is changed from common to independent. Title to all the property, real and personal, of the common district passes to the independent district and all current outstanding contractual obligations, including the bonded indebtedness, if any, of the common district, together with any legally valid and enforceable claims against the common district are imposed on the independent district.

Subd. 5. Upon receipt of the identification number from the commissioner, the clerk of the district shall record such change of number with the county recorder in any county in which the common district owns any real estate.

History: *Ex*1959 c 71 art 3 s 9; 1976 c 181 s 2; 1980 c 609 art 6 s 13; 1987 c 266 art 2 s 7

- 122.26 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.26 MS 1976 [Repealed, 1978 c 706 s 69]
- 122.27 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.28 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.29 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.30 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.31 MS 1953 [Repealed, 1957 c 947 art 9 s 9]
- 122.31 MS 1974 [Repealed, 1975 c 162 s 42]

INCLUSION OF NONOPERATING DISTRICTS IN OTHER DISTRICTS

- 122.32 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.32 REMAINING DISTRICTS, ACTION OF COUNTY BOARD; ELECTION.

Subdivision 1. If there be any organized school district not maintaining a classified school within the district, except those districts which have a contract with the state university board, or with the board of regents of the University of Minnesota for the education of all the children of the district, such district shall hereby be dissolved as of the date the district ceases to maintain a classified school. Any such district not maintaining a classified school shall forthwith be attached by order of the county board to such district maintaining classified elementary or secondary schools upon notice and hearing as provided in section 122.22 for the attachment of dissolved districts.

Subd. 2. Prior to the order of the county board, the board may direct the county

auditor to call a special election in the manner and form in which district elections are held. The purpose of the election shall be to determine to which district or districts the dissolved district shall be attached. The county board after hearing shall determine the form of question as it should appear on the ballot. The results of the election shall be advisory in nature only.

Subd. 3. The results of the election shall be certified by the county auditor to the county board and within 45 days after such election the county board shall issue its order dissolving the district. The order shall also attach the dissolved district to a proper district as determined by the county board, and a copy of such order shall be filed with the commissioner of education. Title to all the property, real and personal, of the district dissolved passes to the district to which such dissolved district is attached. If a district is divided by virtue of the proceedings the county board shall issue its order providing for the division of the current assets and liabilities according to such terms as it may deem just and equitable. If the order of the county board attaches any land area to a district with bonded debt, the taxable property in such area assumes its proportionate share of the authorized and outstanding debt of the district to which it is attached.

History: 1963 c 547 s 2; 1965 c 280 s 1; 1975 c 162 s 14; 1975 c 321 s 2

122.33 [Repealed, 1975 c 162 s 42]

122.34 PRIVATE SCHOOLS IN NONOPERATING DISTRICTS.

Section 122.32 shall not apply to any school district in which is located any existing private school maintaining elementary and secondary education for 75 percent of eligible pupils within the district and complying with the requirements of section 120.101.

History: 1963 c 547 s 4; 1978 c 706 s 10; 1989 c 209 art 2 s 1

122.35 [Repealed, 1975 c 162 s 42]

122.355 BORDER DISTRICTS; CONTINUED OPERATION.

Subdivision 1. The common school districts situated along the border of the state of Minnesota and the state of Wisconsin which have, for the preceding 25 years, prior to May 26, 1965 been educating pupils of their district in school districts in Wisconsin may continue to operate as common school districts notwithstanding that any of such school districts do not maintain classified schools. Such school districts are not subject to the terms and provisions of sections 122.32 to 122.52.

Subd. 2. The provisions of subdivision 1 shall remain in effect as long as the school district does not discontinue the practice of education for their district as described in subdivision 1.

History: 1965 c 739 s 1; 1969 c 541 s 1; 1975 c 162 s 15; 1976 c 2 s 57

122.40 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

**INCLUSION OF ALL AREA IN INDEPENDENT
OR SPECIAL DISTRICTS**

122.41 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.41 DUTY TO MAINTAIN ELEMENTARY AND SECONDARY SCHOOLS.

Each school district shall maintain classified elementary and secondary schools, grades 1 through 12, unless the district is exempt according to section 122.34 or 122.355, 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. A district that has an agreement according to sections 122.241 to 122.248 or 122.541 shall operate a school with the

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number of grades required by those sections. A district that has an agreement according to section 122.535 or 122.93, subdivision 8, or has received a grant under sections 124.492 to 124.495 shall operate a school for the grades not included in the agreement, but not fewer than three grades.

History: 1967 c 833 s 1; 1975 c 162 s 16; 1979 c 211 s 1; 1983 c 314 art 8 s 5; 1989 c 329 art 6 s 13; 1991 c 265 art 9 s 31

122.42 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.42 MS 1971 [Temporary]

122.43 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.43 PHASE OUT OF DISSOLVED DISTRICT.

Subdivision 1. [Repealed, 1991 c 265 art 9 s 75]

Subd. 2. The board of each district so dissolved shall continue to maintain school until all its territory has been attached to a proper district not later than July 1. Such boards shall only make such contracts and do such things as are necessary to maintain schools properly for the period they may be in session prior to the attachment.

History: 1967 c 833 s 3; 1975 c 162 s 17; 1979 c 211 s 2; 1983 c 314 art 8 s 6; 1989 c 329 art 6 s 14

122.44 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.44 PROCEDURE FOR ATTACHMENT TO ORGANIZED DISTRICTS.

Subdivision 1. Upon notice and hearing, as provided in section 122.22 for the attachment of dissolved districts, all territory of school districts dissolved by sections 122.41 to 122.52 and all area of the state not in a district maintaining classified elementary and secondary schools shall be attached by order of the county board to organized districts 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 section 122.535 or 122.541.

Subd. 2. [Repealed, 1975 c 162 s 42]

Subd. 3. [Repealed, 1975 c 162 s 42]

Subd. 4. [Repealed, 1975 c 162 s 42]

Subd. 5. [Repealed, 1975 c 162 s 42]

History: 1967 c 833 s 4; 1969 c 364 s 7-9; 1975 c 162 s 18; 1979 c 211 s 3; 1983 c 314 art 8 s 7

122.45 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.45 ALLOCATION OF ASSETS AND LIABILITIES; LEVY.

Subdivision 1. Title to all the property, real and personal, of any district dissolved under the provisions of sections 122.41 to 122.52 and all legally valid and enforceable claims and contract obligations, pass to the district to which such dissolved district is attached. If a district is divided by virtue of the proceedings, the commissioner shall issue a subsequent order providing for the division of the assets and liabilities according to such terms as the commissioner may deem just and equitable.

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.

Subd. 3. [Repealed, Ex1971 c 31 art 20 s 25]

Subd. 3a. (a) Liabilities of a dissolved district existing at the time of the attachment other than bonded debt within the purview of subdivision 2 shall be obligations of the consolidated district after attachment (in the amount and kind determined by the commissioner according to subdivision 1, where a dissolved district is divided), for the payment of which the consolidated district has a right to reimbursement by special levy or levies. The amount of reimbursement will be equal to the liabilities of the dissolved district for which the consolidated district is obligated less the aggregate of the following which has been or will be received by the consolidated district at or after the time of attachment from or as a result of the dissolution and attachment of the dissolved district:

(1) all taxes inuring to the consolidating district upon levies made by the dissolved district;

(2) all cash, bank accounts, investments, and other current assets;

(3) earned state aids of the dissolved districts;

(4) returns from the sale of property of the dissolved district.

(b) The amount of such special levy so computed shall be certified to the county auditor with the other tax requirements of the consolidated district but separately stated and identified. The auditor shall add the amount of special levy so certified to the school rate for the territory in the consolidated district which came from the dissolved district and include it in the levy on the taxable property in that territory; provided, the county auditor shall not spread more of the amount certified for special levy in any year than will amount to 20 percent of the school levy without the special levy, leaving the remaining part of the certified amount for levy in successive years without further certification. Any amount of reimbursement to which it is entitled omitted by the consolidated district from its initial certification for special levy may be certified in a subsequent year for levy in the same manner as the levy upon initial certification.

The levy authorized by this subdivision shall be in addition to those otherwise authorized for a school district.

History: 1967 c 833 s 5; Ex1971 c 31 art 20 s 20; 1975 c 162 s 19,41; 1976 c 271 s 36-38; 1983 c 314 art 1 s 22; 1986 c 444; 1988 c 486 s 12; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20

122.46 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.46 OFFICERS AND TEACHERS, TRANSITIONAL PROVISIONS.

Subdivision 1. The board of the district maintaining a secondary school to which district is attached territory of districts discontinued by sections 122.41 to 122.52 shall assume the duties and responsibilities of the board of the district so enlarged for the balance of the term to which the members were elected. At the next annual school election the successors to the members whose terms then expire shall be elected by the legally qualified voters of the newly enlarged district. Thereafter board members shall be elected according to the election procedure established for the election of board members in independent districts.

Subd. 2. [Repealed, 1978 c 764 s 143]

History: 1967 c 833 s 6

122.47 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.47 SPECIAL SCHOOL DISTRICTS, APPLICATION.

When provisions of sections 122.41 to 122.52 are made to apply to any special

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school district such district shall hereby be converted to an independent school district on the effective date specified in the orders issued under provisions of sections 122.41 to 122.52. All applicable provisions of Minnesota Statutes 1965, section 122.26, relating to such conversions shall otherwise be in force. To the extent that any law or charter provision of any special district is inconsistent with the status of an independent school district or the powers common to independent school districts, such law or charter provision is hereby repealed. Provided, however, that nothing in sections 122.41 to 122.52 shall in any way invalidate remaining portions of such laws or home rule charters, or the continuance of such special school districts to which no new territory is attached under the provisions of sections 122.41 to 122.52.

History: 1967 c 833 s 7

122.48 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.48 PRIVATE SCHOOLS.

Sections 122.41 to 122.46 shall not apply to any school district in which is located any existing private school maintaining elementary and secondary education for 75 percent of the eligible pupils within the district and complying with the requirements of section 120.101.

History: 1967 c 833 s 8; 1975 c 162 s 41; 1989 c 209 art 2 s 1

122.49 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.49 MS 1974 [Repealed, 1975 c 162 s 42]

122.50 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.50 MS 1969 [Expired]

122.51 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.51 APPEAL.

The appeal provisions of section 127.25 shall be applicable only after the county board has issued its final order of attachment under section 122.22.

History: 1967 c 833 s 11; 1975 c 162 s 20

122.52 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.52 SEVERABILITY.

The provisions of sections 122.41 to 122.52 shall be construed to be severable. In the event a particular provision may be determined to be invalid, such determination shall not affect any other provision of sections 122.41 to 122.52.

History: 1967 c 833 s 12

122.53 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.53 MS 1976 [Repealed, 1978 c 764 s 143]

REORGANIZATION

122.531 LEVY LIMITATIONS OF REORGANIZED DISTRICTS.

Subdivision 1. Definitions. The terms defined in chapters 124 and 124A and in section 136C.411 have the same meaning when they are used in this section, unless otherwise clearly indicated.

Subd. 1a. Involuntary dissolution referendum revenue. As of the effective date of the involuntary dissolution of a district and its attachment to one or more existing districts pursuant to sections 122.32, or 122.41 to 122.52, the authorization for any referendum revenue previously approved by the voters of the dissolved district in that district pursuant to section 124A.03, subdivision 2, or its predecessor or successor provision, is

canceled. The authorization for any referendum revenue previously approved by the voters of a district to which all or part of the dissolved district is attached shall not be affected by the attachment and shall apply to the entire area of the district as enlarged by the attachment.

Subd. 2. Voluntary dissolution; referendum revenue. 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 revenues 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 enlarged district's referendum revenue shall be determined as follows:

If the referendum revenue previously approved in the preexisting district is authorized as a tax rate, the referendum revenue in the enlarged district is the tax rate times the net tax capacity of the enlarged district. If referendum revenue previously approved in the preexisting district is authorized as revenue per actual pupil unit, the referendum revenue shall be the revenue per actual pupil unit times the number of actual pupil units in the enlarged district. If referendum revenue in the preexisting district is authorized both as a tax rate and as revenue per actual pupil unit, the referendum revenue in the enlarged district shall be the sum of both plus any referendum revenue in the preexisting district authorized as a dollar amount. Any new referendum revenue shall be authorized only after approval is granted by the voters of the entire enlarged district in an election pursuant to section 124A.03, subdivision 2.

Subd. 2a. Consolidation; maximum authorized referendum revenues. As of the effective date of a consolidation pursuant to section 122.23, if the plan for consolidation so provides, or if the plan for consolidation makes no provision concerning referendum revenues, the authorization for all referendum revenues previously approved by the voters of all affected districts for those districts pursuant to section 124A.03, subdivision 2, or its predecessor provision shall be recalculated as provided in this subdivision. The referendum revenue authorization for the newly created district shall be the net tax capacity rate that would raise an amount equal to the combined dollar amount of the referendum revenues authorized by each of the component districts for the year preceding the consolidation, unless the referendum revenue authorization of the newly created district is subsequently modified pursuant to section 124A.03, subdivision 2. If the referendum revenue authorizations for each of the component districts were limited to a specified number of years, the referendum revenue authorization for the newly created district shall continue for a period of time equal to the longest period authorized for any component district. If the referendum revenue authorization of any component district is not limited to a specified number of years, the referendum revenue authorization for the newly created district shall not be limited to a specified number of years.

Subd. 2b. Alternative method. As of the effective date of a consolidation pursuant to section 122.23, if the plan for consolidation so provides, the authorization for all referendum revenues previously approved by the voters of all affected districts for those districts pursuant to section 124A.03, subdivision 2, or its predecessor provision shall be combined as provided in this subdivision. The referendum revenue authorization for the newly created district may be any allowance per actual pupil unit provided in the plan for consolidation, but may not exceed the allowance per actual pupil unit that would raise an amount equal to the combined dollar amount of the referendum revenues authorized by each of the component districts for the year preceding the consolidation. If the referendum revenue authorizations for each of the component districts were limited to a specified number of years, the referendum revenue authorization for the newly created district shall continue for a period of time equal to the longest period authorized for any component district. If the referendum revenue authorization of any component district is not limited to a specified number of years, the referendum revenue

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nue authorization for the newly created district shall not be limited to a specified number of years. The referendum revenue authorization for the newly created district may be modified pursuant to section 124A.03, subdivision 2.

Subd. 2c. If the plan for consolidation provides for discontinuance of referendum revenue previously approved by voters of the component districts pursuant to section 124A.03, subdivision 2, or its predecessor provision, the newly created district shall not receive referendum revenue unless the voters of the newly created district authorize referendum revenue pursuant to section 124A.03, subdivision 2.

Subd. 2d. **Consolidation; referendum levy computation.** The levy part of the referendum revenue authorized under subdivision 2a or 2b may be levied against all taxable property in the newly created district as provided in this subdivision. If the entire amount of the referendum levy in each of the component districts had been levied against the net tax capacity of all taxable property in the district, the referendum levy for the newly created district must be levied against the net tax capacity of all taxable property in the newly created district. If the entire amount of the referendum levy in each of the component districts had been levied against the market value of all taxable property in the district, the referendum levy for the newly created district must be levied against the market value of all taxable property in the newly created district. If a part of the referendum levy in one or more of the component districts was levied against the net tax capacity of all taxable property in the district and a part of the referendum levy in one or more of the component districts had been levied against the market value of all taxable property in the district, and the plan for consolidation so provides, or the plan for consolidation makes no provision concerning referendum levies, the entire amount of the referendum levy for the newly created district must be levied against the net tax capacity of all taxable property in the newly created district. Alternatively, if a portion of the referendum levy in one or more of the component districts had been levied against the net tax capacity of all taxable property in the district and a portion of the referendum levy in one or more of the component districts was levied against the market value of all taxable property in the district, and the plan for consolidation so provides, the entire amount of the referendum levy for the newly created district must be levied against the market value of all taxable property in the newly created district.

Subd. 3. [Repealed, 1980 c 609 art 1 s 14]

Subd. 3a. [Repealed, 1Sp1985 c 12 art 1 s 37 subd 1]

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 124.914, subdivision 1, 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.

Subd. 4a. **Reorganization operating debt levies.** (a) A district that receives revenue under section 124.2725 for cooperation or has combined according to sections 122.241

to 122.248 may levy to eliminate reorganization operating debt as defined in section 121.915, clause (1). The amount of the debt must be certified over a period of five years. After the effective date of combination according to sections 122.241 to 122.248, the levy may be certified and spread either

(1) only on the property in the combined district that would have been taxable in the preexisting district that incurred the debt, or

(2) on all of the taxable property in the combined district.

(b) A district that has reorganized according to section 122.22 or 122.23 may levy to eliminate reorganization operating debt as defined in section 121.915, clause (2). The amount of debt must be certified over a period not to exceed five years and may be spread either

(1) only on the property in the newly created or enlarged district which was taxable in the preexisting district that incurred the debt, or

(2) on all of the taxable property in the newly created or enlarged district.

Subd. 5. [Repealed, 1991 c 265 art 1 s 33]

Subd. 5a. **Supplemental revenue.** (a) For purposes of computing the supplemental revenue and the minimum allowance under section 124A.22, subdivision 9, paragraph (b), in the case of a consolidation, the newly created district's 1991-1992 revenue and 1991-1992 actual pupil units are the sum of the 1991-1992 revenue and 1991-1992 pupil units, respectively, of the former districts comprising the new district.

(b) For purposes of computing the supplemental revenue and the minimum allowance under section 124A.22, subdivision 9, paragraph (b), in the case of a dissolution and attachment, a district's 1991-1992 revenue is the revenue of the existing district plus the result of the following calculation:

(1) the 1991-1992 revenue of the dissolved district divided by

(2) the dissolved district's 1991-1992 actual pupil units, multiplied by

(3) the pupil units of the dissolved district in the most recent year before the dissolution allocated to the newly created or enlarged district.

(c) In the case of a dissolution and attachment, the department of education shall allocate the pupil units of the dissolved district to the newly enlarged district based on the allocation of the property on which the pupils generating the pupil units reside.

Subd. 6. **Aid deductions.** 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.

Subd. 7. [Repealed, 1981 c 358 art 1 s 49]

Subd. 8. [Repealed, 1988 c 486 s 102]

Subd. 9. **Levy for severance pay or early retirement incentives.** The school board of a newly created or enlarged district to which part or all of a dissolved district was attached according to section 122.22 may levy for severance pay or early retirement incentives for licensed and nonlicensed employees who resign or retire early as a result

of the dissolution or consolidation, if the commissioner of education approves the incentives and the amount to be levied. The amount may be levied over a period of up to five years and shall be spread in whole or in part on the property of a preexisting district or the newly created or enlarged district, as determined by the school board of the newly created or enlarged district.

History: 1978 c 764 s 26; 1979 c 50 s 12; 1980 c 509 s 31; 1980 c 609 art 1 s 1-4; 1981 c 358 art 1 s 3-7; 1983 c 314 art 1 s 22; art 6 s 4; art 7 s 11-14; 1985 c 248 s 31, 32; 1Sp1985 c 12 art 1 s 1,2; 1987 c 398 art 7 s 42; 1988 c 486 s 13,14; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1991 c 130 s 37; 1991 c 265 art 1 s 3; art 6 s 16; 1992 c 499 art 1 s 3-5; art 6 s 11-13; art 12 s 6,7,29; 1994 c 647 art 6 s 8

122.5311 OBLIGATIONS UPON DISTRICT REORGANIZATION.

Subdivision 1. Capital loan obligations. If a district has a capital loan outstanding at the time of reorganization according to section 122.22, 122.23, or sections 122.241 to 122.248, and if the plan for reorganization provides for payment of all or a portion of the capital loan obligation by the newly created or enlarged district or makes no provision for payment, all of the taxable property in the newly created or enlarged district is taxable for the payment to the extent stated in the plan. Notwithstanding any contract to the contrary, if all of the taxable property in the newly created or enlarged district is taxable for the payment of the capital loan and until the capital loan is retired or canceled, the maximum effort debt service levy shall be recalculated annually by the department of education to be equal to the required debt service levy plus an additional amount. The additional amount shall be the greater of:

- (i) zero, or
- (ii) the maximum effort debt service levy of the preexisting district minus the required debt service levy of the preexisting district that received the capital loan.

For the purpose of the recalculation, additional bond issues after the date of the reorganization shall not impact the maximum effort debt service levy or the required debt service levy.

Notwithstanding any contract to the contrary, the plan for reorganization may specify that the obligation for a capital loan remains solely with the preexisting district that incurred the obligation. This subdivision does not relieve any property from any tax liability for payment of any capital loan obligation.

Subd. 2. Energy loan obligations. If a district has an energy loan outstanding at the time of reorganization according to section 122.22, 122.23, or sections 122.241 to 122.248, and if the plan for reorganization provides for payment of all or a portion of the energy loan obligation by the newly created or enlarged district or makes no provision for payment, all of the taxable property in the newly created or enlarged district is taxable for the payment.

Notwithstanding any contract to the contrary, the plan for reorganization may specify that the obligation for an energy loan remains solely with the preexisting district that incurred the obligation. This subdivision does not relieve any property from any tax liability for payment of any energy loan obligation.

History: 1991 c 265 art 6 s 17

122.532 EMPLOYEES OF REORGANIZED DISTRICTS.

Subdivision 1. For purposes of this section, the term "teacher" shall have the meaning attributed to it in section 125.12, subdivision 1.

Subd. 2. (a) As of the effective date of a consolidation in which a district is divided or the dissolution of a district and its attachment to two or more existing districts, each teacher employed by an affected district shall be assigned to the newly created or enlarged district on the basis of a ratio of the pupils assigned to each district according to the new district boundaries. The district receiving the greatest number of pupils must be assigned the teacher with the greatest seniority, and the remaining teachers must be alternately assigned to each district until the district receiving the fewest pupils has

received its ratio of teachers who will not be retiring before the effective date of the consolidation or dissolution.

(b) Notwithstanding paragraph (a), the school board and the exclusive representative of teachers in each school district involved in the consolidation or dissolution and attachment may negotiate a plan for assigning teachers to each newly created or enlarged district.

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: 1978 c 764 s 27; 1Sp1981 c 4 art 1 s 46; 1984 c 462 s 27; 1986 c 444; 1989 c 329 art 6 s 15-17; 1992 c 499 art 6 s 14

122.533 EXPENSES OF TRANSITION.

The board of a district to which a dissolved district is attached pursuant to section 122.22, may, for the purpose of paying the expenses of negotiations and other administrative expenses relating to the transition, enter into agreements with banks or any person to take its orders at any rate of interest not to exceed seven percent per annum. These orders shall be paid by the treasurer of the district from district funds after the effective date of the dissolution and attachment. Notwithstanding the provisions of sections 124.226, 124.2716, 124.91, 124.912, 124.914, 124.916, 124.918, and 136C.411, the district may, in the year the dissolution and attachment becomes effective, levy an amount equal to the amount of the orders issued pursuant to this subdivision and the interest on these orders. No district shall issue orders for funds or make a levy pursuant to this subdivision without the commissioner's approval of the expenses to be paid with the funds from the orders and levy.

History: 1978 c 764 s 28; 1991 c 130 s 37; 1992 c 499 art 12 s 29; 1994 c 647 art 6 s 9

COOPERATION**122.535 AGREEMENTS FOR SECONDARY EDUCATION.**

Subdivision 1. Applicability. The provisions of this section shall apply to a district with fewer than 375 pupils enrolled in grades 7 to 12.

Subd. 2. Agreement. The school board may enter into one or more agreements providing for instruction of its secondary pupils in one or more districts. The agreement shall be effective on July 1 and shall be for a specified or indefinite number of years. The agreement shall set forth the obligations of transportation, the tuition to be paid to the providing district, and all additional charges and fees to be paid to the providing district. The amount of tuition shall not be subject to the provisions of section 124.18, subdivision 2. The agreement may provide for negotiation of a plan for the assignment or employment in a providing district as an exchange teacher according to section 125.13, or placement on unrequested leave of absence of teachers whose positions are discontinued as a result of the agreement. "Teacher" has the meaning given it in section 125.12, subdivision 1.

Subd. 3. Informational meeting. Before entering into agreements permitted by subdivision 2 of this section, the school board shall hold a public hearing. The board shall publish notice of the hearing in the newspaper with the largest circulation in the district. If the board proposes to enter into agreements with two or more districts, the board may conduct separate or consolidated hearings.

Subd. 4. Review and comment. After the hearing required by subdivision 3 and before entering into an agreement, the board shall submit the agreement to the commissioner of education for review and comment.

Subd. 5. Aid payments. A district entering into an agreement permitted in subdivision 2 of this section shall continue to count its resident pupils who are educated in other districts as resident pupils in the calculation of pupil units for the purposes of state aids, levy limitations, and any other purpose. A district may continue to provide transportation and collect transportation aid for its resident pupils. For purposes of aid calculations, the commissioner of education may adjust the cost per eligible pupil transported to reflect changes in cost resulting from the agreement, if any.

Subd. 6. Severance pay. A district shall pay severance pay to a teacher who is placed on unrequested leave of absence by the district as a result of the agreement. A teacher is eligible under this subdivision if the teacher:

- (1) is a teacher, as defined in section 125.12, subdivision 1, but not a superintendent;
- (2) has a continuing contract with the district according to section 125.12, subdivision 4.

The amount of severance pay shall be equal to the teacher's salary for the school

year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by statute or rule must possess a valid Minnesota teaching license, and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities include, but are not limited to, the school district that placed the teacher on unrequested leave of absence, another school district in Minnesota, an education district, an intermediate school district, an ECSU, a board formed under section 471.59, a technical college, a state residential academy, the Minnesota center for arts education, a vocational center, or a special education cooperative. These entities do not include a school district in another state, a Minnesota public post-secondary institution, or a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license shall be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

To determine the amount of severance pay that is due for the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose. To determine the amount of severance pay that is due for the second six months of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district shall pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose.

A teacher who receives severance pay under this subdivision waives all further reinstatement rights under section 125.12, subdivision 6a or 6b. If the teacher receives severance pay, the teacher shall not receive credit for any years of service in the district paying severance pay prior to the year in which the teacher becomes eligible to receive severance pay.

The severance pay is subject to section 465.72. The district may levy annually according to section 124.912, subdivision 1, for the severance pay.

History: 1983 c 314 art 8 s 8; 1990 c 562 art 6 s 6; 1991 c 130 s 37; 1991 c 265 art 6 s 18; 1992 c 499 art 12 s 29

122.539 MEETINGS.

(a) Notwithstanding any law to the contrary, a joint powers board established under section 121.155 or 124.494, and the board of each of its member districts may hold meetings at a facility operated by the joint powers board.

(b) The joint powers board shall establish and maintain a schedule of the time and place of its meetings and shall give notice of regular and special meetings as required under section 471.705.

History: 1990 c 562 art 6 s 7

122.54 MS 1953 [Repealed, 1957 c 947 art 9 s 9]

122.54 MS 1974 [Repealed, 1976 c 271 s 98 subd 1]

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.

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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. A school board that has an agreement may hold a meeting in any district that is a party to the agreement. The school board shall comply with section 471.705 and any other law applicable to a meeting of a school board.

History: 1979 c 211 s 4; 1980 c 609 art 6 s 14; ISp1985 c 12 art 7 s 12; 1987 c 384 art 2 s 27; 1987 c 398 art 7 s 19; 1989 c 329 art 6 s 18; 1991 c 265 art 9 s 32

122.542	MS 1982	[Repealed, 1983 c 314 art 9 s 13]
122.55	MS 1953	[Repealed, 1957 c 947 art 9 s 9]
122.553	MS 1953	[Repealed, 1955 c 858 s 13]
122.56	MS 1949	[Repealed, 1953 c 744 s 12]
122.57	MS 1953	[Repealed, 1957 c 947 art 9 s 9]
122.58	MS 1957	[Repealed, Ex1959 c 71 art 8 s 26]
122.59	MS 1957	[Repealed, Ex1959 c 71 art 8 s 26]
122.60	MS 1957	[Repealed, Ex1959 c 71 art 8 s 26]

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- 122.61 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.62 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.63 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.64 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.65 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.66 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.67 MS 1957 [Repealed, Ex1959 c 71 art 8 s 26]
- 122.71 MS 1957 [Renumbered 123.81]
- 122.72 MS 1957 [Renumbered 123.82]
- 122.73 MS 1957 [Renumbered 123.83]
- 122.74 MS 1957 [Renumbered 123.84]
- 122.75 MS 1957 [Renumbered 123.85]
- 122.76 MS 1957 [Renumbered 123.86]
- 122.77 MS 1957 [Renumbered 123.87]
- 122.78 MS 1957 [Renumbered 123.88]
- 122.79 MS 1957 [Renumbered 123.89]
- 122.80 MS 1957 [Renumbered 123.90]
- 122.81 MS 1957 [Renumbered 123.91]
- 122.82 MS 1957 [Renumbered 123.92]
- 122.83 MS 1957 [Renumbered 123.93]
- 122.84 [Repealed, 1Sp1985 c 12 art 7 s 33]
- 122.85 Subdivision 1. MS 1984 [Repealed, 1Sp1985 c 12 art 7 s 33]
 - Subd. 2. MS 1984 [Repealed, 1Sp1985 c 12 art 7 s 33]
 - Subd. 3. MS 1984 [Repealed, 1Sp1985 c 12 art 7 s 33]
 - Subd. 4. MS 1984 [Repealed, 1Sp1985 c 12 art 7 s 33]
 - Subd. 5. MS 1984 [Repealed, 1Sp1985 c 12 art 7 s 33]
 - Subd. 6. MS 1984 [Repealed, 1Sp1985 c 12 art 7 s 33]
 - Subd. 7. MS 1984 [Repealed, 1980 c 609 art 6 s 48; 1Sp1985 c 12 art 7 s 33]
- 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]
- 122.89 [Repealed, 1Sp1985 c 12 art 7 s 33]

122.895 EMPLOYEES OF COOPERATIVE DISTRICTS UPON DISSOLUTION OR WITHDRAWAL.

Subdivision 1. **Definitions.** For purposes of this section, "teacher" means a teacher as defined in section 125.12, subdivision 1, who is employed by a district or center listed in subdivision 2, except that it does not include a superintendent. "Cooperative" means any district or center to which this section applies.

Subd. 2. **Applicability.** This section applies to:

- (1) an education district organized according to sections 122.91 to 122.95;
- (2) a cooperative vocational center organized according to section 123.351;
- (3) a joint powers district or board organized according to section 471.59 which employs teachers to provide instruction;
- (4) a joint vocational technical district organized according to sections 136C.60 to 136C.69;
- (5) an intermediate district organized according to chapter 136D;
- (6) an educational cooperative service unit which employs teachers to provide instruction; and

(7) school districts participating in an agreement for the cooperative provision of special education services to children with disabilities according to section 120.17, subdivision 4.

Subd. 2a. Agreements for cooperative special education. (a) Upon the termination of an agreement according to section 120.17, subdivision 4, a teacher employed to provide special education services by a school district participating in the agreement will be afforded rights to employment by other school districts according to subdivisions 3, 4, and 5. Nonlicensed employees of a participating district employed to provide special education services will, upon the agreement's termination, be afforded rights to employment by other participating districts according to subdivision 8.

(b) Upon a school district's withdrawal from the cooperative provision of special education under an agreement according to section 120.17, subdivision 4, a teacher employed to provide special education services by a participating district will be afforded rights to employment by other school districts according to subdivisions 3, 6, and 7. Nonlicensed employees of a participating district employed to provide special education services will be afforded rights to employment by the withdrawing district according to subdivision 9.

Subd. 3. Notification of teachers. In any year in which a cooperative dissolves or a member withdraws from a cooperative, the governing board of a cooperative shall provide all teachers employed by the cooperative written notification by March 10 of:

- (1) the dissolution of the cooperative and the effective date of dissolution; or
- (2) the withdrawal of a member of the cooperative and the effective date of withdrawal.

Subd. 4. Rights of a teacher with a continuing contract in a member district upon dissolution. (a) This subdivision applies to a teacher previously employed in a member district who:

- (1) had a continuing contract with that member district;
- (2) has been continuously employed immediately after leaving that member district by one or more cooperatives that provided instruction to pupils enrolled in that member district; and
- (3) is either a probationary teacher or has a continuing contract with the cooperative that is dissolving.

(b) A teacher may elect to resume the teacher's continuing contract with the member district by which the teacher was previously employed by filing a written notice of the election with the member school board on or before March 20. Failure by a teacher to file a written notice by March 20 of the year the teacher receives a notice according to subdivision 3 constitutes a waiver of the teacher's rights under this subdivision.

The member district shall make reasonable realignments of positions to accommodate the seniority rights of a teacher electing to resume continuing contract rights in the member district according to this subdivision.

Upon returning the teacher shall receive credit for:

- (1) all years of continuous service under contract with the cooperative and the member district for all purposes relating to seniority, compensation, and employment benefits; and
 - (2) the teacher's current educational attainment on the member district's salary schedule.
- (c) A teacher who does not elect to return to the member district according to this subdivision may exercise rights under subdivision 5.

Subd. 5. Rights of other teachers. (a) This subdivision applies to a teacher who:

- (1) has a continuing contract with the cooperative; and
- (2) either did not have a continuing contract with any member district or does not return to a member district according to the procedures set forth in subdivision 4, paragraph (b).

(b) By May 10 of the school year in which the cooperative provides the notice required by subdivision 3, clause (1), the cooperative shall provide to each teacher described in subdivision 4 and this subdivision a written notice of available teaching positions in any member district to which the cooperative was providing services at the time of dissolution. Available teaching positions are all teaching positions that, during the school year following dissolution:

(1) are positions for which the teacher is licensed; and

(2) are not assigned to a continuing contract teacher employed by a member school district after any reasonable realignments which may be necessary under the applicable provisions of section 125.12, subdivision 6a or 6b, to accommodate the seniority rights of teachers employed by the member district.

(c) On or before June 1 of the school year in which the cooperative provides the notice required by subdivision 3, clause (1), any teacher wishing to do so must file with the school board a written notice of the teacher's intention to exercise the teacher's rights to an available teaching position. Available teaching positions shall be offered to teachers in order of their seniority within the dissolved cooperative.

(d) Paragraph (e) applies to:

(1) a district that was a member of a dissolved cooperative; or

(2) any other district that, except as a result of open enrollment according to section 120.062, provides essentially the same instruction provided by the dissolved cooperative to pupils enrolled in a former member district.

(e) For five years following dissolution of a cooperative, a district to which this paragraph applies may not appoint a new teacher or assign a probationary or provisionally licensed teacher to any position requiring licensure in a field in which the dissolved cooperative provided instruction until the following conditions are met:

(1) a district to which this paragraph applies has provided each teacher formerly employed by the dissolved cooperative, who holds the requisite license, written notice of the position; and

(2) no teacher holding the requisite license has filed a written request to be appointed to the position with the school board within 30 days of receiving the notice.

If no teacher files a request according to clause (2), the district may fill the position as it sees fit. During any part of the school year in which dissolution occurs and the first school year following dissolution, a teacher may file a request for an appointment according to this paragraph regardless of prior contractual commitments with other member districts. Available teaching positions shall be offered to teachers in order of their seniority on a combined seniority list of the teachers employed by the cooperative and the appointing district.

(f) A teacher appointed according to this subdivision is not required to serve a probationary period. The teacher shall receive credit on the appointing district's salary schedule for the teacher's years of continuous service under contract with the cooperative and the member district and the teacher's educational attainment at the time of appointment or shall receive a comparable salary, whichever is less. The teacher shall receive credit for accumulations of sick leave and rights to severance benefits as if the teacher had been employed by the member district during the teacher's years of employment by the cooperative.

Subd. 6. Rights of a teacher with a continuing contract in a member district upon withdrawal of the district. (a) This subdivision applies to a teacher previously employed by a member district who:

(1) had a continuing contract with the member district which withdraws from a cooperative;

(2) has been continuously employed immediately after leaving that member district by one or more cooperatives that provided instruction to pupils enrolled in that member district; and

(3) is either a probationary teacher or has a continuing contract with the cooperative from which the member district is withdrawing.

(b) A teacher may elect to resume the teacher's continuing contract with the withdrawing district by which the teacher was previously employed by filing a written notice of the election with the withdrawing school board on or before March 20. Failure by a teacher to file written notice by March 20 of the year the teacher receives a notice according to subdivision 3 constitutes a waiver of a teacher's rights under this subdivision.

The member district shall make reasonable realignments of positions to accommodate the seniority rights of a teacher electing to resume continuing contract rights in the member district according to this subdivision.

Upon returning, the teacher shall receive credit for:

(1) all years of continuous service under contract with the cooperative and the member district for all purposes relating to seniority, compensation, and employment benefits; and

(2) the teacher's current educational attainment on the member district's salary schedule.

Subd. 7. Rights of a teacher placed on unrequested leave upon withdrawal. (a) This subdivision applies to a teacher who is placed on unrequested leave of absence, according to section 125.12, subdivision 6a or 6b, in the year in which the cooperative provides the notice required by subdivision 3, clause (2), by a cooperative from which a member district is withdrawing.

This subdivision applies to a district that, except as a result of open enrollment according to section 120.062, provides essentially the same instruction provided by the cooperative to pupils enrolled in the withdrawing district.

(b) A teacher shall be appointed by a district to which this subdivision applies to an available teaching position which:

(1) is in a field of licensure in which pupils enrolled in the withdrawing district received instruction from the cooperative; and

(2) is within the teacher's field of licensure.

For the purpose of this paragraph, an available teaching position means any position that is vacant or would otherwise be occupied by a probationary or provisionally licensed teacher.

(c) A board may not appoint a new teacher to an available teaching position unless no teacher holding the requisite license on unrequested leave from the cooperative has filed a written request for appointment. The request shall be filed with the board of the appointing district within 30 days of receiving written notice from the appointing board that it has an available teaching position. If no teacher holding the requisite license files a request according to this paragraph, the district may fill the position as it sees fit. Available teaching positions shall be offered to teachers in order of their seniority on a combined seniority list of the teachers employed by the cooperative and the withdrawing member district.

(d) A teacher appointed according to this subdivision is not required to serve a probationary period. The teacher shall receive credit on the appointing district's salary schedule for the teacher's years of continuous service under contract with the cooperative and the member district and the teacher's educational attainment at the time of appointment or shall receive a comparable salary, whichever is less. The teacher shall receive credit for accumulations of sick leave and rights to severance benefits as if the teacher had been employed by the member district during the teacher's years of employment by the cooperative.

Subd. 8. Nonlicensed employees upon dissolution. A nonlicensed employee who is terminated by a cooperative that dissolves shall be appointed by a district that is a member of the dissolved cooperative to a position that is created within 12 months of the dissolution of the cooperative and is created as a result of the dissolution of the cooperative. A position shall be offered to a nonlicensed employee, who fulfills the qualifications for that position, in order of the employee's seniority within the dissolved cooperative.

Subd. 9. **Nonlicensed employees upon withdrawal.** A nonlicensed employee of a cooperative whose position is discontinued as a result of the withdrawal of a member district from the cooperative shall be appointed by the withdrawing member district to a position that is created within 12 months of the withdrawal and is created as a result of the withdrawal of the member district. A position shall be offered to a nonlicensed employee, who fulfills the qualifications for that position, in order of the employee's seniority within the cooperative from which a member district withdraws.

Subd. 10. **Cooperatives that merge.** Notwithstanding subdivisions 1 to 9, the following paragraphs apply to cooperatives that merge.

(a) If a cooperative enters into an agreement to merge with another cooperative, the boards of the cooperatives and the exclusive representatives of the teachers in the cooperatives and the teachers in each member district may negotiate a plan to assign or employ in a member district or to place on unrequested leave of absence all teachers 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.

(b) If compatible plans are not negotiated under paragraph (a) by the March 1 preceding the effective date of the merger of the cooperatives, subdivisions 2 to 9 apply to teachers and nonlicensed employees whose positions are terminated as a result of an agreement to merge cooperatives.

History: 1991 c 265 art 9 s 33; 1992 c 363 art 2 s 6; 1993 c 224 art 6 s 7; art 9 s 20,21

122.90 MS 1982 [Repealed, 1983 c 314 art 7 s 52]

EDUCATION DISTRICTS

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 and to replace other existing cooperative structures.

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. 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.

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.

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. [Repealed, 1994 c 647 art 6 s 42]

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.

Subd. 7. [Repealed, 1991 c 265 art 6 s 67; 1992 c 499 art 6 s 31; 1994 c 647 art 6 s 42]

History: 1987 c 398 art 8 s 2; 1988 c 718 art 6 s 3; 1989 c 329 art 6 s 19-23; 1990 c 562 art 6 s 8,9; 1991 c 265 art 6 s 19; 1994 c 647 art 6 s 42; art 13 s 2

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. The board may conduct public meetings via interactive television if the board complies with section 471.705 in each location where board members are present.

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: 1987 c 398 art 8 s 3; 1989 c 329 art 6 s 24; 1991 c 44 s 1; 1994 c 647 art 6 s 42

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. 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.

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.

Subd. 7. [Repealed, 1994 c 647 art 6 s 42]

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: 1987 c 398 art 8 s 4; 1989 c 329 art 6 s 25-27; 1994 c 647 art 6 s 42

122.937 [Repealed, 1994 c 647 art 6 s 42]

NOTE: Subdivision 4 was also amended by Laws 1994, chapter 647, article 13, section 3, to read as follows:

"Subd. 4. **Joinder and withdrawal.** (a) A member district of an education district that has entered into a collective bargaining agreement negotiated by the education district under this section may withdraw from the education district only at the end of a two-year period for which the collective bargaining agreement is in effect. A member district withdrawing under this subdivision must notify the education district board at least 365 days before withdrawing. The teachers in a withdrawing member district are governed by the collective bargaining agreement in effect for the education district until a successor agreement is negotiated by the withdrawing district.

(b) A school district may join an education district that has entered into a collective bargaining agreement negotiated by the education district under this section only at the end of the two-year period for which the collective bargaining agreement is in effect."

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.

Subd. 1a. [Repealed, 1992 c 499 art 6 s 39]

Subd. 2. [Repealed, 1994 c 647 art 6 s 42]

Subd. 3. [Repealed, 1994 c 647 art 6 s 42]

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.** (a) 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.

(b) Paragraph (a) does not limit any rights or duties under section 120.062.

Subd. 6. [Repealed, 1994 c 647 art 6 s 42]

History: 1987 c 398 art 8 s 5; 1989 c 329 art 6 s 28,29; 1990 c 562 art 6 s 11,12; 1991 c 265 art 3 s 38; art 6 s 20,21; 1994 c 647 art 6 s 42

- 122.945** Subdivision 1. MS 1992 [Repealed, 1994 c 647 art 6 s 42]
 Subd. 2. MS 1992 [Repealed, 1994 c 647 art 6 s 42]
 Subd. 3. MS 1992 [Repealed, 1994 c 647 art 6 s 42]
 Subd. 4. MS 1990 [Repealed, 1991 c 265 art 6 s 67; 1994 c 647 art 6 s 42]
 Subd. 5. MS 1992 [Repealed, 1994 c 647 art 6 s 42]

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. 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.

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; 1989 c 329 art 6 s 31,32; 1994 c 647 art 6 s 42

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

INSURANCE POOLS

122.98 COOPERATIVE UNIT INSURANCE POOLS.

Any cooperative unit defined in section 123.35, subdivision 19b, that directly manages a health insurance pool or provides health insurance coverage through an insurance pool as a service to members must create a labor-management committee representative of the groups covered by the pool to advise the governmental unit on management matters of the coverage.

History: 1994 c 647 art 6 s 10