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0086 Proposed Revision of Colorado School Laws

Report to the Colorado General Assembly:

**PROPOSED REVISION
OF COLORADO
SCHOOL LAWS**



**INTERIM COMMITTEE
ON
SCHOOL LAW REVISION**

RESEARCH PUBLICATION NO. 86

DECEMBER 1963

LEGISLATIVE COUNCIL

OF THE

COLORADO GENERAL ASSEMBLY

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Joseph V. Calabrese
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John W. Nichols
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Senators

Fay DeBerard, Vice Chairman
William E. Bledsoe
Edward J. Byrne
Frank L. Gill
Floyd Oliver
Robert L. Knous, Lt. Governor

* * * * *

The Legislative Council, which is composed of five Senators, six Representatives, and the presiding officers of the two houses, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

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PROPOSED REVISION
OF
SCHOOL LAWS

Interim Committee on
School Law Revision

Report To The
Colorado General Assembly

Research Publication No. 86
December 1963

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Rep. John W. Nichols
Rep. Clarence H. Quinlan

December 30, 1963

To Members of the Forty-fourth Colorado General Assembly:

Transmitted herewith is the report of the Interim Committee on School Law Revision. This report covers the committee's study and recommendations, including drafts of fifteen proposed bills and a proposed constitutional amendment.

The committee was unable to review all of the Colorado school laws during the 1963 interim. Therefore it recommends continuation of the study during 1964 so that the items not included in this report can be considered for presentation to the Forty-fifth General Assembly.

Respectfully submitted,

/s/ Representative Ruth B. Clark
Chairman
Interim Committee
on School Law Revision

RBC/mp

FOREWORD

House Joint Resolution No. 25, 1963 session, directed the Legislative Council to appoint the members of the Education Committees of both houses to review the codification of school laws being prepared by the State Department of Education.

The members of the committee making this study included: Representative Ruth B. Clark, chairman; Senator Fay DeBerard, vice chairman; Senators Lee R. Blackwell, James E. Donnelly, Carl W. Fulghum, Frank L. Gill, Richard F. Hobbs, Roy H. McVicker, Ranger Rogers, Roy R. Romer, and L. T. Skiffington; and Representatives Palmer L. Burch, Forrest G. Burns, Allen Dines, Frank E. Evans, John Kane, John Lebsack, Kathleen P. Littler, John G. Mackie, John P. Orcutt, Clarence H. Quinlan, and William F. Stevens. Former Representative Elmer A. Johnson served on the committee until his resignation from the General Assembly. He was replaced by Representative Robert C. Rhone, Jr.

The full committee held thirteen days of meetings between May 14 and December 3, 1963. A subcommittee met for an additional two-day session in November. Even though the committee met for two days nearly every month, it was unable to complete its assignment. Several subjects were postponed for possible consideration between the 1964 and 1965 sessions of the General Assembly.

Dr. Elbie L. Gann and Dr. John W. Lentz of the State Department of Education had primary responsibility for preparation of the materials and drafts considered by the Committee. Many members of the staff of the State Department of Education aided Dr. Gann and Dr. Lentz. Miss Clair Sippel and Mr. James Wilson of the Legislative Reference Office also assisted the committee in preparing the bills for introduction. Mr. Phillip E. Jones, Mr. David F. Morrissey, and Miss Janet Wilson of the Legislative Council staff assisted in the preparation of the final report.

The committee wishes to express its appreciation to the many persons who reviewed early drafts of the various bills. Their written comments and suggestions and their appearances before the committee were of great value in arriving at the recommendations included in this report.

December 30, 1963

Lyle C. Kyle
Director

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PROPOSED REVISION OF SCHOOL LAWS

Committee Recommendations

The Interim Committee on School Law Revision recommends consideration of fifteen school bills and a concurrent resolution during the 1964 session of the General Assembly. The bills and the concurrent resolution are printed in this report.

The proposals do not cover all of the school laws of Colorado as the committee found that the task of school law revision could not be completed in the few months between the 1963 and 1964 legislative sessions. Therefore several items were postponed, with the recommendation that the study be continued during the interim between the 1964 and 1965 legislative sessions.

Each of the proposed bills is accompanied by comments which explain the sources and effects of the various provisions. The major changes from present law are stated briefly in the following summary.

State Department of Education - Bill A

The committee recommends the enactment of Bill A, which would repeal and re-enact the present article 1 of Chapter 123, Colorado Revised Statutes 1953, as amended, concerning the State Board of Education, the State Department of Education, and the Commissioner of Education. Its provisions include the following:

1. Powers would be separated from duties for both the State Board of Education and the Commissioner of Education. Powers and duties would be modernized in terms of the current public education picture in the state.
2. The authority of the Department of Education to publish certain documents (such as instructional guides) and charge the costs of such publication to the public school income fund would be clarified. Provisions would be added concerning an annual report and the review of publications by the state controller. (These provisions are part of a proposal recommended by the Legislative Council's Committee on Administrative Organization of State Government.) The requirement that the Department of Education prepare standard courses of study would be removed from article 1.
3. Personal records of teachers and records of results of standardized tests in the files of the Department of Education would be classified as confidential except to the Governor or committees of the General Assembly.
4. The State Board of Education could, upon reasonable notice, require a school census if it determines that one is needed. (The requirement for an annual school census would be repealed under the provisions of Bill E.)

Vocational Education - Bill B

The committee recommends that the present State Board for Vocational Education be abolished and that the present State Board of Education serve as the board for vocational education. The staff and programs of vocational education would come under the supervision of the State Board of Education in this new capacity. The State Board for Vocational Education would be replaced, effective July 1, 1964, by a nine-member advisory committee appointed by the Governor from various vocational fields.

State Historical Society - Bill C

The committee recommends that the State Historical Society be removed from the Department of Education and established as a separate department of government with its professional employees exempt from classified civil service.

Dissolution of County High School Districts - Bill D

The committee recommends the enactment of Bill D, which would abolish the two remaining county high school districts in the state and their underlying elementary school districts. It would require that each of the county high schools and elementary schools be combined into a single twelve-grade unit. The change would be effected without a vote of the electorate on or before December 30, 1964.

The bill would repeal present articles 13, 14, 15 and 16 of Chapter 123, relative to county and union high schools. (There are no longer any union high school districts in the state.) Scattered references to county and union high school districts would be eliminated in the various bills recommended in this report.

Powers and Duties of Boards of Education - Bill E

The committee recommends the enactment of Bill E, which includes the following provisions:

1. Powers of boards of education would be separated from duties.
2. All school districts would be required to operate a twelve-grade program.
3. School districts would be permitted to charge tuition for summer school to place such sessions on a self sustaining basis.
4. Authorization for kindergarten would be changed from "between three and six years of age" to "one year prior to admission to the first grade."
5. The schools' power of eminent domain would be clarified. Buildings would have to be erected in conformity with Industrial

Commission standards (without permit or fee and without compliance with local building standards). The board of education would be required to confer with the local planning commission on the location of new buildings, but the final decision would remain with the board.

6. Boards of education would be given authority to purchase or erect teacherages; to expend school district moneys for the purchase of athletic, musical, and other similar equipment; and to purchase "all risk" insurance.

7. Local boards of education would be required to conduct a school census when ordered to do so by the State Board of Education. Statutory requirement for annual school census would be eliminated, but local boards would have authority to conduct a census at any time.

8. Boards of education would be authorized to maintain membership in school board organizations.

9. Boards of education would be authorized to accept grants, gifts and donations if the purpose of such gifts is consistent with law.

10. Boards of education would be authorized to provide free textbooks to all students without a vote of the electorate. Deposits on free textbooks would have to be returned if the books are returned in good condition.

11. Fees which can be charged a student would be limited and could not be made a condition of enrollment.

12. Schools would be required to fly the flag of the State of Colorado along with the United States flag.

13. A credit on tuition would be allowed to the extent of ad valorem school tax paid in the district of attendance by a non-resident taxpayer whose district of residence is contiguous to the district of attendance.

14. An assistant secretary and assistant treasurer could be authorized by the board of education. They would be directly responsible to the board (not through the superintendent).

15. The president and vice president of the board of education could be elected by secret ballot.

School Attendance and Payment of Tuition - Bill F

The committee recommends minor amendments to the School Attendance Law of 1963 to permit the maintenance of summer sessions on a self-sustaining, tuition-payment basis. This bill accompanies the provision in Bill E which authorizes tuition charges for summer school.

School Elections - Bill G

The Legislative Council's Committee on Local Election Laws prepared a bill on regular biennial school elections and submitted it to this committee for consideration. Bill G is based on the bill submitted by the Committee on Local Election Laws but contains the changes recommended by this committee. Specific items in the bill include:

1. Registration would be required in all school districts; present law requires registration only in school districts having a school population of more than 3,000. Registration would be tied to registration for general elections; deadline would be changed to 20 days prior to election; registration with secretary of school board would be eliminated.
2. The date for the regular biennial school election would be changed from the first Monday to the first Tuesday in May. (The Denver election day would remain the same.)
3. Four-year terms would be required for school directors in all districts; present law provides for six-year terms in some districts.
4. Any school district could contract with the county clerk for the conduct of the election and could use the county registration books in lieu of separate registration lists.
5. Candidates for school director would have to be registered electors. Nomination petitions would be required of candidates for school director in all districts. Filing deadline would remain at 20 days before the election.
6. Absentee voting would be authorized for regular biennial school elections.
7. Voter signatures would not be required at the polls for school elections. Challenge provisions would be changed somewhat; they would not be the same as at general elections.
8. Voting hours would be made uniform -- 7:00 a.m. to 7:00 p.m.
9. Changes in director district boundaries could be proposed by resolution of the board of education and submitted to a vote of the electors; specifications for director districts would be substantially the same as in the 1957 Organization Act. A new provision would be added to permit a school district to vote to adopt a director district system of representation if it does not have one.
10. Specific provisions would be added concerning compensation and mileage for election judges.
11. Special election to resolve a tie would be eliminated; ties would be resolved by agreement or by lot.

12. Vacancies would be filled by the board of education in all districts (provision for county superintendent to fill vacancies in smaller districts is eliminated). More detail would be added concerning what constitutes a vacancy. If the board cannot agree on a person to fill the vacancy within 60 days, the president of the board would be required to make the appointment.

13. Requirement of 15 days' residence in the school election precinct would be added as a qualification for voting. School election precincts would consist of one or more general election precincts, wherever practicable.

14. Provisions for posting of notice of elections would be deleted; two-week publication of notice would be required in every district.

15. Ballots would not be preserved after fifteen days following the election.

16. All references to classification of school districts would be eliminated; all school director elections would be made biennial.

Bonded Indebtedness; Refunding Bonds - Bill H

The committee is recommending few major changes from the legislation enacted in 1963 on bonds and refunding bonds. Bill H repeals and re-enacts articles 11 and 12 of Chapter 123 but is primarily limited to those changes which are necessary for clarification and for conformity with proposals for other articles (such as school elections). Changes included in Bill H are:

1. Boards of education would be authorized to require each taxpaying elector to sign an oath as to his qualifications before permitting him to vote in a bond election.

2. Registration would be required in order to vote at any school bond election. Election procedures for bond elections would be substantially the same as for school director elections. Watchers would be specifically authorized.

3. References to classes of school districts (including maximum interest rate of eight per cent in third class districts) would be eliminated. Requirement for either annual or semiannual interest would also be eliminated in order to provide greater flexibility in interest payment dates.

4. Boards of education would be clearly authorized to withdraw moneys from the bond redemption fund for investment purposes.

5. Reports relative to refunding bonds would be required to be filed with the State Department of Education.

Changes in School District Boundaries -- Liability for Bonded Indebtedness - Bill I

The committee recommends that the provision concerning debt liability following boundary changes be transferred from the article on bonds to the article on school district organization. Bill I would make this transfer.

Employment of Teachers; Teacher Tenure - Bill J

The committee recommends the enactment of Bill J, which concerns the employment and dismissal of teachers and repeals and re-enacts article 18 of Chapter 123 (the teacher tenure act). Proposed changes relating to employment and dismissal of teachers would be as follows:

1. All contracts for the employment of teachers would be required to be written if such contracts engage the teacher for more than 90 days on a half-time basis or more.

2. Every contract would contain a provision whereby the local board of education could assess financial damages against a teacher in an amount equivalent to one-twelfth of the annual salary if such teacher abandons his contract without giving sixty days' written notice.

3. The contract date would be changed from April 15 to April 22.

4. Each board of education would be required to adopt a salary schedule. The salary schedule could provide for automatic or conditional increments in addition to basic salary.

5. A dismissal procedure very similar to that for tenure teachers would be provided in the case of dismissal of non-tenure teachers (except that no panel and no appeal to the State Board of Education would be available). No teacher could be dismissed without an opportunity to hear the specific charges or reasons which led to the dismissal. (No such procedure would be provided for non-tenure teachers in the case of refusal to re-employ for the succeeding year.)

Proposed changes relating to the teacher tenure act would be as follows:

1. The term a teacher must serve before he can acquire tenure would be clarified. Basically, tenure would be acquired after continuous, uninterrupted three full years of service, receipt of a fourth contract, and the commencement of duties in the fourth year.

2. A board of education could assess damages for breach of contract without 60 days' notice in the same manner as prescribed for non-tenure teachers.

3. An approved leave of absence would not be considered an interruption of service. Probationary time served would not be lost while the teacher is on approved leave, but the time on leave would

not be counted as part of the probationary period.

4. A board of education could transfer a tenure teacher to a lower paying, less responsible position without similarly reducing the salary of half the teachers in the district.

5. The hearing by the teacher tenure panel would be retained and clarified. Time limits would be added to each step. A teacher could appeal the decision of the local board to the State Board of Education or to the courts, or to both. The State Board of Education would have authority to clear the teacher's record and recommend reinstatement.

Tax Levies and Revenues - Bill K

The committee recommends the enactment of Bill K, which would repeal and re-enact article 3 of Chapter 123, concerning tax levies and revenues in school districts. The bill contains several changes designed to cover joint school districts, reorganizations, and detachments and annexations. It would authorize a two-mill maximum for the capital reserve fund for all school districts. The bill would also delete the provision for fines to be placed in the county public school fund; the committee has referred the subject of fines to the Governor's Local Affairs Study Commission.

School District Budgets - Bill L

The committee recommends enactment of a new school district budget law, based in part on the local government budget law under which school districts now operate. Some of the major provisions of this bill are:

1. A uniform fiscal year would be required -- January 1 through December 31. Transition would be required by January 1, 1966.

2. Boards of education could transfer between "objects" at any time and between "functions" during the last four months of a fiscal year (or, in the event of a contingency, at any time). Loans (rather than transfers) would be permitted between "funds"; transfers would be permitted in a few cases.

3. The maximum operating reserve for all school districts would be 15 per cent.

4. Budgets and appropriations for only a portion of a fiscal year would be authorized for those school districts organized as new districts during the fiscal year.

5. Budgets would be filed with the Commissioner of Education; filing with the Tax Commission would no longer be required.

Accounting and Reporting - Bill M

The committee recommends the enactment of Bill M, which

concerns accounting and fiscal procedures in school districts. Under this bill the present special, bond and interest, and capital reserve building funds would be re-named the general, bond redemption, and capital reserve funds. The State Board of Education could establish other appropriate funds by regulation. The bill would provide for tighter control of student fees and fines, student activity moneys, and food service moneys.

Organization of Junior College Districts - Bill N

The committee recommends a minor amendment to the article on junior colleges to permit detachment of territory from an existing junior college district to become part of a new junior college district. The immediate problem for which this bill is intended involves the Rangely Campus of Mesa Junior College.

Other junior college matters have been referred to the Legislative Committee for Education Beyond High School.

Display of Flags on State Institutions - Bill O

The committee recommends enactment of Bill O, which would transfer the provision for display of flags on state institutions from present Chapter 123 to Chapter 130. At the present time this provision appears in the article on administration of school districts. Bill O would also require that the Colorado flag be flown along with the United States flag.

County Superintendent of Schools - Concurrent Resolution

The committee recommends that a constitutional amendment be placed on the ballot for the November general election in 1964 pertaining to the county superintendent's office. (See the concurrent resolution at the end of this report.) The amendment would provide that the electors of any county could vote, at any general election, to abolish the office of county superintendent. If a majority of the electors were to vote to abolish the office, the termination date would be the June 30 following the election.

The committee realizes that if the amendment is passed, legislation must be considered to eliminate or delegate the duties of the county superintendent in those counties where the office is abolished.

Several duties of the county superintendent would be eliminated in the various bills recommended in this report. These duties are scattered throughout the statutes at the present time. Present article 2 of Chapter 123 would not be changed except to repeal an inoperative section relating to the filling of vacancies on boards of education in second and third class districts (which no longer exist).

Regulation of Proprietary Schools

The committee did not have time to consider fully and approve a final bill on regulation of proprietary schools. In view of the willingness of interested groups to attempt to prepare legislation on this subject, the committee agreed to meet early in the 1964 session to review a draft of proposed legislation dealing with proprietary schools and to consider at that time whether to request the Governor to include this subject in his message.

Uniform Local Government Audit Law

The committee referred the proposed uniform local government audit law (prepared by the Colorado Society of Certified Public Accountants) to the Governor's Local Affairs Study Commission for further review.

County Treasurer's Collection Fees

The question of whether to amend or repeal provisions on the county treasurer's fee for the collection of school moneys was referred to the Governor's Local Affairs Study Commission.

Items Postponed for Possible Consideration in 1965

The committee recommends continuation of this study during 1964. Several items have been postponed because of lack of time and the committee recommends consideration of the following items for presentation to the Forty-fifth General Assembly in 1965:

1. General Provisions.
2. Teacher Certification.
3. Teacher Retirement.
4. Special Educational Programs.
5. Regulation of "Diploma Mills."
6. School District Organization Act of 1957.
7. Public School Transportation Act.
8. Amendment to Public School Foundation Act Concerning Year-Round School.
9. Amendments to Library Laws.

TEXT

COMMENTS

Bill A

A BILL FOR AN ACT
CONCERNING PUBLIC SCHOOLS AND THE ADMINISTRATION OF LAWS RELATING
THERETO; CONCERNING THE STATE BOARD OF EDUCATION, THE STATE
DEPARTMENT OF EDUCATION, THE COMMISSIONER OF EDUCATION, AND
THE STATE BOARD OF TEACHER CERTIFICATION, AND PRESCRIBING
THEIR POWERS AND DUTIES.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 1 of chapter 123, Colorado Revised
Statutes 1953, as amended, is hereby REPEALED AND RE-ENACTED, WITH
AMENDMENTS, to read:

123-1-1. Short title. This article shall be known and cited
as "The State Department of Education Act of 1964".

Based on 123-1-1.

123-1-2. Definitions. Unless otherwise indicated by the
context, the following words and phrases when used in this article
shall have meanings respectively ascribed to them in this section:

(1) "State board of education" or "state board" means the
state board of education created and existing pursuant to section 1,
article IX of the state constitution.

Based on 123-1-2(1).

(2) "Commissioner of education" or "commissioner" means the
office of the commissioner of education created and existing
pursuant to section 1, article IX of the state constitution.

Based on 123-1-2(2).

(3) "Public schools" means the schools maintained and
operated by a school district or a junior college district.

Based on first part of
123-1-2(6).

(4) "Department of education" or "department" means the
department of education created and existing pursuant to section
3-1-1, CRS 1953.

Based on 123-1-2(3). No
definitions of "division" or
"section" have been included.
See present 123-1-2(4) and (5).

123-1-3. Department of education. The department of educ-
ation shall be a department of the executive department of the state
government, and shall include the following:

Based on 123-1-3(1) as amended
in 1961. Eliminates state
historical society (see Bill C),

TEXT

COMMENTS

(1) State board of education;

(2) Commissioner of education, assistant commissioners of education, and other officers and employees of the department;

(3) State library;

(4) State board of teacher certification.

123-1-4. Offices and positions - nature. As a matter of legislative determination, the offices of commissioner of education and assistant commissioners of education, and all positions of employment heretofore or hereafter classified by the board as director, consultant, supervisor, or instructor, are hereby declared to be educational in nature and not under the classified civil service of the state.

and no longer refers to state board for vocational education (see Bill B).

Based on 123-1-3(2), and part of 123-1-6. Adds "directors and consultants" to make compatible with practice. Also based on Board of Education v. Spurlin, Controller, 141 Colo. 508.

123-1-5. State board - composition. (1) The state board of education shall consist of a member from each congressional district of the state and, if the total number of such congressional districts be an even number, one additional member.

Same as 123-1-4.

(2) The member of the state board from each congressional district of the state shall be nominated and elected by the qualified electors of such district in the same manner as members of the house of representatives of the Congress of the United States are nominated and elected. Each member from a congressional district shall be a qualified elector of such district. If the total number of congressional districts of the state be an even number, the additional member of the board shall be nominated and elected at large in the same manner as state officers are nominated and elected.

(3) Members shall be elected for terms of six years, shall serve without compensation, but shall be reimbursed for any necessary expenses incurred by them in the performance of their duties as members.

(4) The state board shall elect from its own membership a chairman and a vice-chairman who shall hold office for terms of two

TEXT

years. The commissioner shall act as secretary to the state board. The state board shall meet at least quarterly and at such other times as may be necessary, upon call of the chairman, the commissioner, or by a majority of its members.

(5) Any vacancies that may occur by reason of the death, removal, or resignation from office, or removal from the district from which elected, shall be filled by the state board, and the person so appointed shall serve until the next regular election providing such appointee is subject to the qualifications set forth by law.

123-1-6. State board - duties. The state board shall have and perform the following duties:

(1) To exercise general supervision over the public schools of the state and the educational programs maintained and operated by all state governmental agencies for persons who shall not have completed the twelfth grade level of instruction.

(2) To appoint a commissioner of education.

COMMENTS

Based in part on 123-1-5, but separates powers from duties in order to distinguish between acts which "must" or "may" be performed. This proposed section should be reviewed in connection with proposed 123-1-7 herein.

Compare with Article IX, Section 1, Colorado Constitution and first paragraph of 123-1-5. Duty to supervise educational programs operated by state agencies should be compared with 123-1-2(6). Specific agencies not listed; the language includes all agencies. The areas of supervision are broadened but supervision is limited to education for persons who have not completed grade 12. See also 123-1-7(3) herein.

Based on part of 123-1-5(1).

TEXT

COMMENTS

(3) To appraise the public schools and submit recommendations to the governor and general assembly for improvements in education.

Based on part of 123-1-5(5).

(4) To approve the annual budget request for the department prior to submission.

Based on 123-1-5(8).

(5) To order the distribution or apportionment of federal and state moneys granted or appropriated to the department for the use of the public schools of the state.

Based on 123-1-5(9); exception for vocational education funds is eliminated. (See Bill B.)

(6) To perform any other duty which may be required by law.

New subsection. Covers 123-1-5(7), and part of 123-1-5(3).

(7) To review the annual report prepared by the commissioner and to transmit it to the governor in the form and manner prescribed by the controller pursuant to the provisions of section 3-3-17, CRS 1953.

New subsection relating to proposed "Report and Publications Bill."

123-1-7. State board - powers. The state board is hereby vested with powers to perform the following:

Based in part on 123-1-5. This proposed section should be reviewed in connection with proposed 123-1-6 herein.

(1) To perform all duties which may be delegated to it by law.

New subsection.

(2) To employ personnel, subject to the provisions of section 13, article XII of the state constitution, as may be necessary for the performance of powers and duties delegated to the state board, the commissioner, and the department.

New subsection based in part on State Board of Education v. Spurlin, Controller, 141 Colo. 508.

(3) To promulgate and adopt policies, rules and regulations concerning general supervision of the public schools, the department, and the educational programs maintained and operated by all state governmental agencies for persons who shall not have completed the twelfth grade level of instruction.

Based on parts of 123-1-5(2) and (3) and part of 123-1-2(6). See also 123-1-6(1) herein.

TEXT

COMMENTS

(4) To approve a salary schedule for personnel of the department who are not within the classified civil service.

Based on 123-1-5(6).

(5) To create, maintain, and modify from time to time, such administrative organization for personnel of the department as may be deemed necessary or beneficial.

Based on 123-1-5(4) but eliminates reference to "divisions."

(6) To provide consultative services to the public schools and boards of education of school districts.

Based on part of 123-1-5(3) but extends to all consultative services. Also covers 123-1-7(7).

(7) To accept gifts, grants, and donations of any nature for the use of the department or the public schools in accordance with conditions prescribed by the donor; provided, that no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law.

New subsection. Based in part on 123-1-7(12).

(8) To prepare, approve, and implement plans necessary as a prerequisite to the receipt of federal moneys or property under any act of Congress.

New. See 145-1-3 (related to proposed transfer of functions of vocational education -- see Bill B).

(9) To require a school district to take a school census from time to time, containing such items of information as determined by the state board, and to give reasonable notice to each school district before requiring the taking of a census.

New subsection to coordinate with Bill E, Section 10(9). Mandatory annual school census is eliminated.

(10) To appoint such advisory committees as may be beneficial to the improvement of education in the state.

New subsection to make compatible with practice.

(11) To cooperate with other agencies either within or without the state for the improvement of education.

New subsection.

123-1-8. Federal financial assistance. (1) The state of Colorado hereby assents and authorizes the state board of education to accept, use, and administer all moneys and properties heretofore and hereafter granted or made available to the state or any agency thereof for an educational purpose, except those moneys and properties granted or made available for such purpose to another

Based in part on 123-1-7(12) but changes from commissioner of education to state board of education. Also based on 123-5-1, 123-5-2, and 123-21-23, which are repealed by this bill.

TEXT

agency specifically designated. Such moneys and properties shall include, but not be limited to, those granted or made available for the use of the state board of education, department of education, chief state school officer, school districts, junior college districts, and any other public officer or governmental agency.

(2) The state treasurer is authorized to receive any moneys accepted pursuant to the provisions of subsection (1) of this section as official custodian thereof, and is directed to disburse said moneys upon the order of the state board.

(3) In the event it shall be necessary to execute a formal agreement with a federal agency or officer as a condition precedent to receiving federal moneys or property pursuant to subsection (1) of this section, the state board is authorized to execute such an agreement, with the approval of the attorney general, provided such agreement shall not be inconsistent with law.

123-1-9. State board of teacher certification. (1) The state board of teacher certification as heretofore created is hereby recreated and shall continue as existing on the effective date of this article. The board shall consist of the commissioner of education, who shall serve as chairman, and ten members to be appointed by the state board as follows: Two members shall be appointed from the faculties of universities or colleges situated in this state which provide approved programs of preparation, provided such members shall first be recommended for appointment by the presidents of the universities or colleges from which the appointment is made; one member shall be a superintendent of schools of a public school district in the state; two members shall be lay persons who are residents of this state; and five members shall be certified classroom teachers who are actively engaged in teaching in the public schools of this state, and each of whom shall be qualified by education and experience to represent at least one of the following areas of teaching: Elementary education, secondary education, vocational education, humanities or fine arts, social sciences and physical sciences.

COMMENTS

bill. See also 145-1-1, CRS 1953, and 145-1-7 and 145-1-8, 1960 Supp. This is intended to be general enabling legislation for the acceptance of federal moneys without enactment of a new statute each time Congress enacts a new statute.

Based on 123-5-3, which is repealed by this bill. Similar to 145-1-5.

Based on part of 123-1-7(12).

Based on 123-17-28(1), 1961 Supp., which is repealed by this bill.

TEXT

(2) The terms of office of all appointed members shall be for five years commencing on July 1 of the year of appointment. Vacancies on the board shall be filled by appointment by the state board for the remainder of the unexpired term. No member shall be appointed to succeed himself.

(3) The members of the state board of teacher certification shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

123-1-10. State board of teacher certification - duties.

(1) It shall be the duty of the state board of teacher certification:

(2)(a) To investigate and determine, from time to time, and to publish its findings as to which institutions of higher learning meet the requirements of a standard institution of higher learning pursuant to section 123-17-20(7); which programs of study meet the requirements of an approved program of preparation pursuant to 123-17-20(8); what qualifications, preparations, training, or experience shall be required for the issuance of a school administrator certificate pursuant to section 123-17-23(2); and what endorsements may be appropriate for each type of certificate or letter of authorization, and the requirements for each such endorsement pursuant to section 123-17-27.

(b) The findings and recommendations of the state board of teacher certification on the foregoing matters shall be subject to review by the state board upon the motion of any member thereof, or of the commissioner, or upon appeal by the applicant or holder.

(3) To make such periodic visits as may be necessary to the colleges and universities in the state in order to observe and evaluate the programs of preparation offered therein.

(4) To conduct or arrange for research pertinent or essential to implement the provisions of sections 123-17-18 to 123-17-27 and sections 123-17-30 to 123-17-34, with the approval of the state board of education, including but not limited to teacher

COMMENTS

Based on 123-17-28(2), 1961 Supp., which is repealed by this bill.

Based on 123-17-28(3), 1961 Supp., which is repealed by this bill.

Based on 123-17-29, 1961 Supp., which is repealed by this bill.

TEXT

employment, teacher certification, and teacher preparation programs in institutions of higher learning. Publication of research findings and studies circulated in quantity outside the executive branch shall be issued in accordance with fiscal rules promulgated by the controller pursuant to the provisions of section 3-3-17, CRS 1953.

(5) To advise and cooperate with the state board, and professional organizations within and without the state, concerning matters relating to the preparation, recruitment, and selection of teachers.

(6) To perform such other advisory duties and functions as may be requested by the commissioner or the state board.

123-1-11. Commissioner of education. (1) The commissioner of education shall be the chief state school officer and executive officer of the department of education. He shall possess such professional qualifications as may be deemed appropriate for the office by the state board.

(2) The commissioner shall be appointed by the state board, serve at the pleasure of the board, and receive such compensation as may be determined by the board.

(3) Before entering upon his duties, the commissioner shall subscribe to an oath of office, which oath shall be filed with the secretary of state.

123-1-12. Commissioner of education - office - records - confidential nature of. (1) The commissioner shall have an office at the seat of the government where he shall keep an official seal and all books and papers pertaining to the business affairs of his office. He shall be entitled to necessary expenses incurred, either within or without the state, in the performance of his duties relating to his office or the department.

(2) Copies of all papers, reports, and documents filed in his office, and his official acts, may be certified by him under seal, and when so certified shall be evidence of his official acts

COMMENTS

Provision relating to publications follows proposed "Report and Publications Bill."

Based on Section 1, Article IX, Constitution of Colorado, 123-1-5(1), 123-1-6, and part of 123-1-9. Bond for commissioner is eliminated.

Based in part on 123-1-10 and 123-1-11. Unnecessary detail has been deleted.

TEXT

COMMENTS

equally and in a like manner as the original paper, report, or document, or testimony under oath.

(3) Except when requested by the governor or a committee of the general assembly, all papers filed in the department of education which contain personal information about applicants for employment, employees, holders of a teacher's certificate or letter of authorization, or about pupil test scores are hereby classified as confidential in nature. It shall be unlawful for any officer, employee, or other person to divulge, or to make known in any way, any such personal information without the written consent of said applicant, employee, teacher, or pupil; provided, that such information may be divulged, or made known in the proper course of administration of programs relating thereto without such written consent. Nothing in this subsection shall be construed in a manner to prohibit the publication of statistics relative to the aforementioned information when so classified as to prevent the identification of the teachers or pupils involved in said statistics.

123-1-13. Commissioner - duties. Subject to the supervision of the state board, the commissioner shall have the following duties:

(1) To advise the state board concerning the current operation and status of the public schools and other educational matters.

(2) To supply the state board with such information as it may require, and to prepare for the board to transmit annually, in the form and manner prescribed by the controller pursuant to the provisions of section 3-3-17, CRS 1953, a report accounting to the governor and the general assembly for the efficient discharge of all responsibilities assigned by law or directive to the department; and

New subsection.

Based on section 1, article IX, Constitution of Colorado, 123-1-7 and 123-1-11, but separates powers from duties in order to distinguish between acts which "must" or "may" be performed. Deletes reference to standard courses of study. Also deletes 123-1-7(14).

Based on 123-1-7(2).

Based on 123-1-7(8). Follows proposed "Reports and Publications Bill." Requires an annual report.

TEXT

COMMENTS

to issue all publications of the department circulated in quantity outside the executive branch in accordance with fiscal rules promulgated by the controller pursuant to the provisions of section 3-3-17, CRS 1953.

(3) To prepare and submit to the state board a budget for the department; and to properly execute the approved budget in accordance with appropriations.

(4) To establish and maintain a system of personnel administration within the department.

(5) To cause all policies, rules, and regulations adopted by the state board to be duly executed.

(6) To serve as state librarian pursuant to section 84-1-4, CRS 1953.

(7) To visit public schools and communities which most need his personal attendance for the purpose of stimulating and guiding public sentiment to education and diffusing by public addresses and personal communication with parents, school officers, and teachers, a knowledge of existing defects of and a knowledge of desirable improvements in the government, finance, curriculum of, and instruction in the public schools.

(8) To establish and maintain adequate statistical and financial records of school districts, and to maintain a continuous research program to stimulate improvements in education.

(9) To cause to be reprinted annually laws enacted by the general assembly concerning education, in accordance with fiscal rules promulgated by the controller pursuant to the provisions of section 3-3-17, CRS 1953, and to furnish copies thereof to interested persons. All publishing costs therefor shall be paid out of the public school income fund on warrants of the controller covering vouchers approved by the commissioner.

Based on 123-1-7(9).

Based on 123-1-7(10).

Based on 123-1-7(1).

Based on part of 123-1-7(11).

Based on part of 123-1-11.
Purpose of inspection is eliminated.

Mention of finance and curriculum is new.

Based on 123-1-7(3).

Based on part of 123-1-7(13).
Related to proposed "Reports and Publications Bill."

TEXT

(10) To perform other duties as may be delegated to him by law or by the state board.

123-1-14. Commissioner - powers. Subject to the supervision of the state board, the commissioner shall have the following powers:

(1) To perform all duties which may be required by law.

(2) To issue instructions to school district officers and employees concerning the government of the public schools under their control.

(3) To prescribe forms and items to be included in reports submitted by school district officers and employees and other persons.

(4) To construe provisions of the school laws on questions submitted to him in writing by any school district officer or employee or other person, and his published decision shall be held to be correct and final until set aside by a court of competent jurisdiction or by subsequent legislation. Said decision may be published in either memorandum form or in any periodical devoted to the interest of education with general distribution to the public schools.

(5) To cause to be prepared, printed, and distributed, in accordance with fiscal rules promulgated by the controller pursuant to the provisions of section 3-3-17, CRS 1953, reports, report forms, registers, curriculum and instructional guides, pamphlets, and other materials as may be beneficial to personnel and pupils of the public schools. All publishing costs therefor shall be paid out of the public school income fund on warrants of the controller covering vouchers approved by the commissioner. A reasonable fee may be charged for any such materials delivered to a person not in the

COMMENTS

Based on part of 123-1-7(11).

Based on section 1, article IX, Constitution of Colorado, 123-1-7, 123-1-10, and 123-1-11, but separates powers from duties in order to distinguish between acts which "must" or "may" be performed. Review with reference to proposed 123-1-13 herein.

Based on part on 123-10-20(1), 1960 Supp., and 123-10-21(14).

Compare with 123-1-7(4).

Based on part of 123-1-10.

Based on part of 123-1-7(13), but eliminates "books, courses of study" and substitutes "curriculum and instructional guides." Adds the words "other materials." Eliminates provision relative to "charge back" to counties (which cannot now be implemented) and

TEXT

service of a school district or enrolled as a pupil in the public schools thereof. All receipts from such fees shall be deposited to the credit of the public school income fund.

SECTION 2. Repeal. 123-5-1 to 123-5-3, and 123-21-23, Colorado Revised Statutes 1953, and 123-17-28 and 123-17-29, Colorado Revised Statutes 1953 (1961 Supp.), are hereby repealed.

SECTION 3. Effective date. This act shall take effect on July 1, 1964.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTS

eliminates mention of county superintendents. Relates to proposed "Reports and Publications Bill." Eliminates prohibition against copyrights. Authorization for reasonable fees is new.

TEXT

COMMENTS

Bill B

A BILL FOR AN ACT
ABOLISHING THE STATE BOARD FOR VOCATIONAL EDUCATION; PROVIDING FOR
THE ADMINISTRATION OF LAWS RELATING TO VOCATIONAL EDUCATION
BY THE STATE BOARD OF EDUCATION; AND CREATING AN ADVISORY
COMMITTEE FOR VOCATIONAL EDUCATION.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Vocational education. (1) The state board for vocational education is hereby abolished and the term of office of each member of said board shall automatically expire on the effective date of this act.

(2) The state board of education is hereby designated as the state agency to administer vocational education programs heretofore administered by the state board for vocational education or hereafter inaugurated for the further development of vocational education.

(3) The state board of education is further designated as the state agency to receive all federal moneys or properties granted or made available to the state for vocational education by any act of Congress; to prepare plans to comply with any such federal grants and to carry the same into effect; and to enter into agreements with such state agencies or political subdivisions of the state as may be necessary to effectuate such programs, and such state agencies and political subdivisions are authorized to enter into such agreements and contracts with the state board of education and to expand revenues for such purposes.

(4) The state treasurer is hereby designated custodian of any federal funds made available to and received by the state under the provisions of subsection (3) of this section, and directed to pay out such funds on warrants drawn by the state controller upon vouchers issued as provided by law.

New legislation. See Section 2 herein for advisory committee.

This is intended to be general enabling legislation to eliminate need for a new statute every time Congress enacts a new vocational education statute.

See also Bill A on authority of state board of education to receive federal moneys for educational purposes where a separate agency is not specifically designated.

Based on 145-1-5, CRS 1953, and parts of 145-1-7 and 145-1-8, 1960 Supp.

TEXT

COMMENTS

SECTION 2. Advisory committee for vocational education.

(1) There is hereby created a committee known as the "advisory committee for vocational education", which shall function in an advisory capacity to the state board of education on matters pertaining to vocational education.

(2) The committee shall consist of nine members to be appointed by the governor from various vocational fields of endeavor. Each member shall be a citizen of the state, and no member shall be a paid employee of a school, college, university, or of a governmental agency. The members of said committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(3) Within thirty days after the effective date of this act, the governor shall appoint nine members to the committee. Of the members first appointed, three shall serve until July 1, 1965, three until July 1, 1967, and three until July 1, 1969. Thereafter, as the terms of members expire, members shall be appointed for five year terms beginning on July 1 of the year of appointment. Vacancies shall be filled by the governor for the remainder of the unexpired term.

SECTION 3. 123-1-3 (1)(d), Colorado Revised Statutes 1953, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

123-1-3. Department of education created. (1)(d) Advisory committee for vocational education.

SECTION 4. 123-28-3 (3)(d), Colorado Revised Statutes 1953 (1960 Perm. Supp.), is hereby amended to read:

123-28-3. Federal grants in aid, administration - distribution of funds - student loan fund. (3)(d) With relation to Title VIII of the federal act, concerning area vocational education

The present state board for vocational education consists of five members appointed by the governor, as follows: one farmer, one homemaker, one member representing distributive occupations, one member representing employers, and one member representing employees. (See 145-1-2.)

Terms of members of present state board for vocational education are for six years.

Present (1)(d) provides for the state board for vocational education.

TEXT

COMMENTS

programs, the state board ~~for-vocational-education~~ OF EDUCATION shall be the state agency administering this title. As nearly as is feasible, the STATE board ~~for-vocational-education~~ OF EDUCATION shall approve area vocational education programs based on population areas, even if a program shall embrace more than one school district or parts of school districts; provided, the program may include single school districts whenever an adjacent district or districts in the same area do not agree to contribute its or their pro rata share of the costs of the program. Each school district or the several school districts in an area program shall contribute no less than twenty-five per cent of the cost of any program approved under this title. When local costs are prorated between districts, such proration shall be on the basis of the actual hours of student attendance in the program.

SECTION 5. Transfer of employees, records, funds, etc. of state board for vocational education. On the effective date of this act, all employees of the state board for vocational education who are engaged in the performance of duties heretofore imposed upon said board, are hereby made employees of the state board of education. All employees so transferred shall retain all rights of state employees under the laws of the state, and their services shall be deemed to have been continuous. On said effective date, the state board of education shall succeed to all records, documents, equipment, and other personal property of the state board for vocational education, and the state treasurer and state controller shall transfer to the credit of the state board of education all federal grants-in-aid moneys remaining to the credit of the state board for vocational education under agreements with the federal government, and any state moneys appropriated to and remaining to the credit of the state board for vocational education.

SECTION 6. Repeal. 145-1-1 through 145-1-6, Colorado Revised Statutes 1953, and 145-1-7 and 145-1-8, Colorado Revised Statutes 1953 (1960 Perm. Supp.), are hereby repealed.

SECTION 7. Effective date. This act shall take effect on July 1, 1964.

TEXT

COMMENTS

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

TEXT

Bill C

A BILL FOR AN ACT
CONCERNING THE STATE HISTORICAL SOCIETY.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 3-2-1, Colorado Revised Statutes 1953, as amended by section 1 of chapter 32, Session Laws of Colorado 1963, is hereby amended BY THE ADDITION OF A NEW SUBSECTION (19) to read:

3-2-1. Offices, boards, etc. under executive department.

(19) State historical society.

SECTION 2. 131-1-4, Colorado Revised Statutes 1953, is hereby amended to read:

131-1-4. Employees. The board of directors of the society shall appoint its employees and fix their salaries, subject to the provisions and exemptions of article XII, section 13, of the constitution; PROVIDED, THAT FOR THE PURPOSES OF THIS ARTICLE, ALL OFFICERS, CURATORS, ASSISTANT CURATORS, AND TEACHERS OF THE SOCIETY, SO DESIGNATED BY THE BOARD OF DIRECTORS, ARE HEREBY DECLARED, AS A MATTER OF LEGISLATIVE DETERMINATION, TO BE OFFICERS AND TEACHERS IN AN EDUCATIONAL INSTITUTION, AND THEREFORE NOT UNDER THE CLASSIFIED CIVIL SERVICE OF THE STATE.

SECTION 3. Repeal. 123-1-3 (1)(b), Colorado Revised Statutes 1953, is hereby repealed.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTS

This bill would remove the state historical society from the state department of education and establish it as a separate agency.

Present (1)(b) provides for the state historical society as a part of the state department of education.

TEXT

COMMENTS

Bill D

A BILL FOR AN ACT
CONCERNING SCHOOL DISTRICTS; PROVIDING FOR THE DISSOLUTION OF COUNTY
HIGH SCHOOL DISTRICTS AND SCHOOL DISTRICTS SITUATE THEREIN,
AND FOR THE ORGANIZATION OF NEW SCHOOL DISTRICTS IN LIEU
THEREOF.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Changes in boundaries. Notwithstanding the provisions of article 25 of chapter 123, CRS 1953, as amended, known as "The School District Organization Act of 1957", no boundaries of a county high school or any school district situate therein shall be altered, revised, modified, or changed in any manner on or after June 30, 1964, except pursuant to a proposed plan of organization adopted by the electors on or before December 30, 1964.

SECTION 2. Plan of organization - committee. (1) The school planning committee existing pursuant to section 123-25-4, CRS 1953, in each county wherein a county high school district may be situate shall develop a plan of organization prior to October 30, 1964, for a proposed new school district, the boundaries of which shall be coterminous with the boundaries of the county high school district as it may exist pursuant to section 1 of this act.

(2) The plan of organization shall be developed for the geographic area of the county high school district by the school planning committee in accordance with the provisions of "The School District Organization Act of 1957"; provided, that the plan of organization shall not be submitted to a vote of the electors as required by section 123-25-19, CRS 1953, and all other provisions of said act relating to said special election shall not be applicable thereto; and provided further, that said committee shall hold a hearing on said plan of organization and a meeting to explain said plan of organization as otherwise required by said act.

SECTION 3. Corporate status - termination. The corporate status of each county high school district and each school district situate therein shall terminate on December 30, 1964, and each such

This bill is substantially the same as H.B. 475, which was enacted by the First Regular Session, Forty-fourth General Assembly, and vetoed by the Governor. It provides for the dissolution of county high school districts and their underlying elementary school districts. These would be required to combine into a single twelve-grade unit. The change would be effected, without a vote of the electorate, on or before December 30, 1964.

Only two county high school districts remain in existence -- one in Logan County and one in Las Animas County.

No procedure is provided for dissolution of union high school districts, since the state now has no union high school districts.

TEXT

COMMENTS

county high school district and other school district situate therein shall thereupon cease to exist, and the term of office of each school director or committee member thereof shall thereupon automatically expire.

SECTION 4. New school district - status - powers. A new school district is hereby organized and declared to be a body corporate, effective December 30, 1964, without a vote of the electors of the proposed district, in each county wherein there may exist a county high school district, and the boundaries of such new district shall be coterminous with those of the existing county high school district. The new school district shall be a body corporate under the name and style as set forth in the plan of organization, and in the manner provided by law for other school districts. Each new school district organized and created under the provisions of this section shall be deemed to be a new district organized under the provisions of "The School District Organization Act of 1957" and, on and after December 30, 1964, said district shall have the same powers and duties otherwise delegated to a new district formed under the provisions of said act.

SECTION 5. School directors - election. The school planning committee of each county wherein a county high school district may be situate shall call a special election to be held on the day the new school district becomes a body corporate, December 30, 1964, for the purpose of electing school directors for said new school district. The special election for school directors of said new district shall be called and held in accordance with the provisions of section 123-25-27, CRS 1953,

SECTION 6. Repeal. Articles 13, 14, 15, and 16 of chapter 123, Colorado Revised Statutes 1953, as amended, are hereby repealed effective December 30, 1964, but the repeal of said articles shall not be so construed as to impair the obligation of any debt contracted and outstanding prior to said date by any county or union high school in accordance with law.

Article 13 and 14 concern county high schools; articles 15 and 16 concern union high schools.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

TEXT

COMMENTS

Bill E

A BILL FOR AN ACT
CONCERNING PUBLIC SCHOOLS; DEFINING THE CORPORATE STATUS OF SCHOOL DISTRICTS, AND PRESCRIBING THE POWERS AND DUTIES OF BOARDS OF EDUCATION IN THE CONTROL AND GOVERNMENT OF SCHOOL DISTRICTS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Corporate status of school districts. Each regularly organized school district heretofore or hereafter formed is hereby declared to be a body corporate with perpetual existence, by the name and style of "School District No.____, in the county(ies) of _____and state of Colorado," and in that name may hold property for any purpose authorized by law, sue and be sued, and be a party to contracts for any purpose authorized by law.

SECTION 2. Corporate status - when questioned. Except when the corporate status of a school district shall have been dissolved as provided by law, each school district which shall have undisputedly exercised the prerogatives and privileges of a legally formed school district during a period of twelve consecutive months following the first election of its school directors shall be deemed to be a de jure school district and the corporate status thereof shall not thereafter be questioned.

Based on 123-10-1, which is repealed herein, and part of 123-25-24 (1960 Perm. Supp.). Eliminates reference to "the same as municipal corporations in this state," in order to remove contractual powers delegated to cities and towns. Board of Directors of Summit School District No. Re-1 v. John M. Jeffrey, 370 P. 2d. 447. Adds a provision relative to perpetual existence. If this section is adopted, section 123-25-24 (1960 Perm. Supp.) should probably be amended to eliminate the reference to municipal corporations.

Based on 123-10-5, which is repealed herein.

Makes an exception for school districts dissolved as a result of reorganization.

Changes the word "year" to twelve months.

Substitutes "school directors" for "officers" to eliminate reference to a president, secretary, or treasurer.

TEXT

COMMENTS

SECTION 3. Organization of board of education. (1) The officers of a board of education of a school district shall be a president, a vice-president, a secretary, and a treasurer, and, in the discretion of the board, an assistant secretary and an assistant treasurer in school districts wherein such offices are deemed necessary. The same person may simultaneously hold the offices of secretary and treasurer, or the offices of assistant secretary and assistant treasurer if there be such offices.

Based on parts of 123-10-3(2), repealed by Bill G; 123-10-33, repealed herein; and 123-25-27(2), 1960 Perm. Supp. Authorizes one person to hold offices of secretary and treasurer simultaneously. The offices of assistant secretary and assistant treasurer are available in all school districts (not only in districts with more than 30,000 school population as provided in sections 123-10-34 and 123-10-41, which are repealed herein). The office of vice-president is required in all districts.

(2)(a) The president and vice-president shall be school directors, shall be elected by the members of the board, and each shall hold office for a term of two years and until a successor shall have been elected and qualified. When a vacancy occurs in either office, the remaining members shall elect a member to fill the vacancy for the unexpired term.

Based on part of 123-10-3(2), which is repealed in Bill G.

Eliminates the two year term of office for the secretary and treasurer.

(b) The secretary and treasurer, and the assistant secretary and assistant treasurer if any, shall be appointed by the board of education, may or may not be school directors, and each shall hold office at the pleasure of the board of education.

(3) Within ten days after each regular biennial school election held in a school district, the incumbent secretary of such school district shall call a special meeting of the board of education of said district for the purpose of selecting officers of the board. At such meeting the incumbent president of the board shall preside until a successor shall have been elected and qualified.

Based on part of 123-10-3(2), repealed in Bill G, and on 123-25-27(2).

See also section 2(2) of chapter 233, Session Laws of 1963, repealed herein.

(4) No person shall enter upon the office of president, secretary or assistant secretary, or treasurer or assistant treasurer until he has given a surety bond to the school district for the performance of his duties as prescribed by law and the bylaws of the board of education, in a form approved by the board, and in the penal sum prescribed in subsection (5) of this section.

Based in part on 123-3-11 (repealed by Bill K), 123-10-18 (repealed by Bill G), 123-10-34 (repealed herein), and 123-10-41 (repealed herein). Adds requirement of a minimum bond of

TEXT

(5) The bond of the president shall be in such amount as the board of education shall require, but not less than one thousand dollars; the bonds of the secretary and assistant secretary shall be in such amount as the board shall require, but not less than three thousand dollars; and the bonds of the treasurer and assistant treasurer shall be in such amount as the board shall require, but not less than five thousand dollars, provided, that if the board has elected to withdraw the moneys of the district from the custody of the county treasurer, then the bonds of the treasurer and assistant treasurer shall be in such amount as the board shall require, but not less than twenty thousand dollars.

(6) A vacancy shall occur in the office of president and vice-president under the same conditions and in the same manner prescribed for a vacancy occurring in the office of school director. Whenever a vacancy shall occur in the office of a school director who is also an officer of the board, nothing contained in this section shall be construed to mean that the person appointed to fill the vacant office of school director shall also be entitled to serve as such officer of the board.

(7) The secretary, assistant secretary, treasurer, and assistant treasurer may be compensated for their services in such capacities in an amount determined by the board of education, but the president and vice-president shall receive no compensation for their services in such capacities. All officers shall be reimbursed for necessary expenses incurred in the performance of their duties in an official capacity.

SECTION 4. Duties - president and vice-president. (1) The president of the board of education of a school district shall preside at all meetings of the board. He shall sign all warrants or orders payable from school district moneys. He shall sign any written contract to which the school district may be a party when such contract shall have been authorized by the board. He shall sign all official reports of the district except as otherwise provided by law. He may call a special meeting of the board at any time, and he shall call a special meeting when requested to do so by two or more school directors.

COMMENTS

\$1,000 for president. Increases the minimum bond of the secretary from \$500 to \$3,000. Clarifies amount of treasurer's bond as required by present 123-3-11, 123-10-18, and 123-10-41. Deletes reference to approval by and filing with county superintendent.

See section 28 of Bill G concerning vacancy in office of school director.

This subsection attempts to clarify that the offices are separate from the office of school director with separate statutory powers and duties.

Authorizes compensation for both the secretary and the treasurer and authorizes expenses for all officers. Compensation for secretary is based on part of 123-10-21(1).

Based on part of sections 123-10-23 and 123-10-20(4) (repealed herein). Provisions concerning contracts and reports are new. Adds a provision to require a surety bond for the vice-president if he signs a warrant or order. Adds authority for the president to call a special meeting without a request from two school directors.

TEXT

(2) In the absence or inability of the president, the vice-president shall have the powers and duties delegated to the president, but before the vice-president shall sign any warrant or order payable from school district moneys, he shall execute a surety bond in like amount, form, and manner required for a president.

SECTION 5. Duties - secretary. The secretary of the board of education of a school district shall countersign all warrants and orders payable from school district moneys. He shall cause written notice to be given each school director of a special meeting of the board, which notice shall specify the purpose of the special meeting, and the date, time, and place thereof, but such written notice may be waived as provided in section 8(1) of this act. He shall cause all election notices to be published and posted in the manner prescribed by law except as otherwise provided by law. He shall be custodian of the seal of the district. He shall attest any written contract to which the school district may be a party when such contract shall have been authorized by the board, and affix the seal thereto. He shall perform other duties as may be delegated to him by the board. In the absence or inability of the secretary, the assistant secretary, if any, shall perform the duties of the secretary.

SECTION 6. Duties - treasurer. (1) The treasurer of the board of education of a school district shall receive into his custody all moneys which shall accrue to said district regardless of the source except those district moneys which may remain in the temporary custody of the county treasurer when the board of education shall not have elected to have said moneys paid over to the treasurer in the manner prescribed by law. He shall countersign all warrants and orders payable from school district moneys, but only such warrants or orders drawn upon the moneys of the district in payment of a lawful indebtedness or an expenditure authorized by law.

COMMENTS

Based in part on part of 123-10-14 (repealed in Bill G), part of 123-10-34, and part of 123-10-20(4) (repealed herein). Eliminates the authority of the secretary to call a special meeting except when directed by the president. Adds a provision to require "written" notice of a special meeting; permits waiver of notice for a special meeting. Adds a provision to require the secretary to attest written contracts, which is the present general practice. Eliminates numerous statutory duties of the secretary prescribed in 123-10-34, 123-10-35 and 123-10-36 (repealed herein). These may be now delegated by board to employees.

Based in part on 123-10-41(1), but places responsibility on treasurer (rather than all officers) to withhold payment if indebtedness is not lawful. This change is designed to facilitate drawing of warrants and orders when board not in session.

TEXT

(2) He shall account for moneys allocated to each of the several school district funds, except moneys which may remain in the temporary custody of the county treasurer when the board of education shall not have elected to have said moneys paid over to the treasurer, and shall not disburse moneys from a particular fund to pay a warrant or order which properly should have been drawn upon and paid from the moneys of another fund.

(3) He shall pay all lawful warrants and orders drawn on a particular school district fund in the order of presentment, or, in the case of registered warrants, in the order of registration.

(4) If the legal warrant of a school district be presented to the treasurer for payment, and there are insufficient moneys or no moneys available for payment thereof from the appropriate fund upon presentment, except when such moneys are within the temporary custody of the county treasurer because the board of education shall not have elected to have said moneys paid over to the treasurer, the treasurer shall register and endorse, or cause to be registered and endorsed, each such warrant. The endorsement shall contain the words "no funds", the name and style of the school district, the signature of the treasurer, and the time and date of such presentment. The warrant so registered and endorsed shall draw interest from the date of registration at the same rate and in the same manner as registered warrants of a county. All registered warrants shall be paid in the same manner as prescribed by sections 35-7-11 and 35-7-12, CRS 1953, and the powers and duties delegated by said sections to the county treasurer shall be the powers and duties of the treasurer of the board of education of a school district.

(5) He shall perform other duties as may be delegated to him by the board.

(6) In the absence or inability of the treasurer, the assistant treasurer, if any, shall perform the duties of the treasurer.

SECTION 7. Delinquent officers and employees. (1) It shall be unlawful for any officer of a board of education to sign or

COMMENTS

New legislation based on similar requirement for a county treasurer under 35-7-10.

New legislation based on similar requirement for a county treasurer under 123-3-9 (repealed in Bill M) and 35-7-13.

Based in part on 123-3-17 (repealed in Bill K), but eliminates provision for warrants to be registered in name of a bank. Makes practice compatible with that of the county treasurer under 35-7-11.

Based on 123-10-41(4) but applies to all districts.

Based on 133-10-42, which is repealed herein.

TEXT

COMMENTS

countersign a school district warrant or order drawn to compensate any officer or employee for services performed knowing that such officer or employee has neglected or refused to perform a duty required by law. Any officer who shall sign or countersign any such warrant or order shall be liable on his bond in double the amount of the warrant or order drawn contrary to the provisions of this section.

(2) Any officer or employee who shall refuse to perform a duty required by law when specifically directed to perform such duty by the board of education, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of one hundred dollars or imprisonment in the county jail not to exceed ninety days, or both.

SECTION 8. Meetings of the board of education. (1) The board of education of a school district shall hold regular meetings on the day and at the time and place as specified in the written bylaws required to be adopted by section 10(12) of this act. A special meeting may be held if called as authorized by section 4(1) of this act, provided, that notice of any such special meeting may be waived in writing before, during, or after such meeting and attendance thereat shall be deemed to be a waiver of such notice.

(2) Regular and special meetings of the board of education shall be open to the public except that any person who may disturb good order may be excluded therefrom. At any regular or special meeting a board may hold an executive session at which only those persons invited by the board may attend, but no vote shall be taken by a board in executive session.

(3) Except as herein provided, all voting at any meeting shall be done upon roll call. The names of the school directors shall be called alphabetically and each school director present shall vote "Yes" or "No" upon all questions unless excused by the board for good cause. Voting by secret ballot is prohibited, except that a board of education may elect its president and vice president by secret ballot.

Adds specific penalty of \$100 fine or up to 90 days in jail or both.

Based on parts of 123-10-20(2), (3), and (4), repealed herein. Requirement for meetings in March, June, September, and December is eliminated.

Based on part of 123-10-20(2). Adds provision that persons disturbing order may be excluded from meeting.

Based on 123-10-20(5). Exception to secret ballot provision is made for election of president and vice president.

TEXT

COMMENTS

SECTION 9. Board of education - general powers and duties.

The affairs and business of each school district shall be entrusted to a board of education to consist of the number of school directors as prescribed by law. The board of education shall possess all powers delegated to a board of education or a school district, and shall perform all duties delegated to a board of education or a school district.

New legislation designed to close "technical loopholes."

SECTION 10. Board of education - specific duties. In addition to any other duty or responsibility delegated to a board of education of a school district pursuant to any other law, the board shall have and perform the following duties:

This section is based in part on 123-10-21, which is repealed herein. Review in connection with Section 11 herein. See article 123-21 for various additional duties.

(1) To cause to be kept complete financial records of the school district by funds, in balanced relations including beginning and ending balances, receipts and expenditures, maintained on the basis of generally recognized principles of governmental accounting.

New legislation to tighten fiscal accounting. This duty may be delegated to an employee.

(2) To cause to be kept a register of stubs of all warrants and orders drawn upon school district moneys in the various funds, specifying a number for each warrant or order, the date issued, the object or purpose for which drawn, the amount and to whom payable, or in lieu thereof, similar records as normally provided in accounting procedures through the use of automatic processing.

Based in part on 123-10-34 (repealed herein), but eliminates statutory duty of secretary. Places responsibility on board, but board may delegate to the secretary or employee. Adds provision for automatic processing.

(3) To cause a statement of the financial condition of the district to be published and posted as required by law; to cause all school district accounts to be audited as required by law; and to review from time to time during each fiscal year a statement of condition of the finances of the district.

Based in part on 123-10-37 (repealed in Bill M) and 110-1-3.

(4) To cause to be filed with the department of education the name, address, and length of term of office of each school director; and the name, address, identification of office, and date of election or appointment of the president, vice-president, secretary, and treasurer, and of the assistant secretary and assistant treasurer if any.

Based in part on 123-10-34, but eliminates statutory duty of secretary. Places responsibility on board, but board may delegate to secretary or employee. Eliminates forwarding information to the county superintendent.

TEXT

COMMENTS

(5) To cause all proceedings of the board to be recorded, except those of an executive session, in a book or books, in an orderly manner, which record shall be open for public inspection at the administrative office of the district during reasonable business hours.

Based in part on 123-10-34, but eliminates statutory duty of secretary. Places responsibility on board, but board may delegate to secretary or employee. Adds public inspection provision.

(6) To cause to be kept in a book or books, in an orderly manner, a true and correct copy of all current bylaws, policies, and rules and regulations duly adopted by the board, which record shall be open for public inspection at the administrative office of the district during reasonable business hours.

Based in part on 123-10-20(1), repealed herein. Adds "policies, and rules or regulations." Adds requirement that these are open for public inspection during reasonable business hours.

(7) To cause such records as relate to the affairs or business of the district to be preserved and disposed of only in the manner provided by law.

See 131-3-1 to 131-3-3 (archives).

(8) To require all school district moneys which may be invested or deposited to be so done only in the manner authorized by law, and if school district moneys are commingled with other school district or county funds, to require that the interest which shall accrue as a result of such investment or deposit be apportioned to each school district fund on a pro rata basis.

Based on 35-7-10 and Attorney General's opinion. Specific provision is made for apportioning interest on school district moneys.

(9) To cause a census to be taken of all persons resident within the district who have not attained the age of twenty-one years, or any portion or classification thereof, on a specified date, when so directed by the state board of education, but the board of education of the district may cause an additional census to be taken from time to time requiring items of information as determined by said board. When a census shall be taken upon the direction of the state board of education, it shall be upon such form or forms and contain such items of information as shall be prescribed or approved by the state board. Each census enumerator employed or appointed by the board of education shall have authority to administer and require any person resident in the district to answer any question under oath or affirmation, and any person who shall refuse to answer any such question shall be deemed guilty of a misdemeanor. Each census enumerator shall subscribe to an oath or affirmation to the effect that his census list is complete and correct to the best of his knowledge for his assigned area.

Based in part on 123-10-34, but eliminates a required annual census. Note that 123-10-40, relating to county superintendent's duties in relation to the census, is repealed herein. Each board may require from time to time a census for its own district. Each board must take a census when directed by the state board.

This subsection is designed to permit a census of any portion or classification of persons under age 21. Compare 123-21-15, which defines school census as including all persons between six

TEXT

(10) To cause an educational program for grades one through twelve to be maintained and operated within the territorial limits of the district for the school-age children resident therein; provided, that nothing herein shall be construed in a manner to prohibit the maintenance of ungraded levels of instruction therein.

(11) To determine, prior to the beginning of a school year, the length of time during which the schools of the district shall be in session during the succeeding school year, but said schools shall be in session for at least one hundred seventy-two days during each school year.

(12) To adopt written bylaws, not inconsistent with law, for the organization and operation of the board, which shall include a designated time, place, and day for the regular meetings of the board.

(13) To hold regular meetings at the time, place, and on the day designated in the written bylaws.

COMMENTS

and 21.

Also compare 123-21-13 on the school census. That section provides that parents in "first class" districts are not required to take an oath for the census under certain circumstances.

Based in part on 123-10-21(23), as added in 1963. Also based in part on the new school attendance law and in part on School District No. 26 v. Hards, 112 Colo. 319.

This provision should be re-evaluated if Bill D is not adopted.

Reference to ungraded levels of instruction is new.

New legislation to be compatible with new school attendance law, which requires school attendance for at least 172 days. Based in part on 123-10-21(8).

Based on part of 123-10-20 which is repealed herein.

Based on 123-10-20(3), but eliminates the requirement that

TEXT

COMMENTS

(14) To cause to be erected and maintained, a suitable flagstaff with the attachments necessary for the display of flags upon each public school building or the grounds thereof, and to cause suitable flags of standard bunting, not less than three by five feet in size, of the United States and the state of Colorado to be displayed upon said flagstaff at all times during the day while school is in session, except during inclement weather.

(15) To require each employee or other person who may receive moneys which properly belong to the district to deliver all such moneys to the treasurer of the district, or to deposit all such moneys to the credit of the proper school district fund in a depository designated by the board.

(16) To require each employee or other person who may have in his temporary custody at any one time an amount of school district moneys in excess of fifty dollars, to be bonded in an amount at least sufficient to cover the total amount of school district moneys which may be in his temporary custody from time to time, or to be bonded in such greater amount as the board may determine. A blanket form of surety bond may be utilized to cover more than one such employee or other person. The district shall pay the costs for any such bond.

(17) To employ all personnel necessary to maintain and operate the program of the district, to fix and order paid their compensation, and to discharge any such personnel.

regular meetings must be held during the months of March, June, September, and December

Based on 123-10-27 through 123-10-29 (repealed herein) and 123-10-31 and 123-10-32 (repealed in Bill O). Requires display of Colorado flag along with United States flag. Removes penalty for destruction of flag or failing to display flag in accordance with law. Deletes specific requirement that the commissioner of education publish the flag display laws. See Bill O for provisions on display of flag on state institutions.

New legislation designed to eliminate teachers and school administrators depositing moneys to "club" accounts. Compare with Bill M.

Based in part on 123-10-21(17), 1961 Supp. School employees collect various moneys from activities, and these are in temporary custody until deposited. Reduces amount for which bond is required from \$500 to \$50. Clarifies the use of a blanket form surety bond.

Based on part of 123-10-21(1) and also on part of 123-10-21(8).

TEXT

(18) To determine and prescribe courses of instruction as may be necessary for a pupil to complete satisfactorily as a condition of graduation from a school of the district.

(19) To prescribe the textbooks for any course of instruction or study in the educational program.

(20) To execute and file with the state board of education any report the state board may require concerning the affairs of the district in the form and manner as it may prescribe.

(21) To comply with the rules and regulations adopted by the state board of education.

(22) To appoint an attendance officer or officers for the district as may be required by "The School Attendance Law of 1963".

(23) To cause to be kept on file for a period of six years all statements of accounts and cancelled orders and warrants.

(24) To provide free textbooks for an indigent child enrolled in a school of the district without a loss or damage deposit, and to provide that no child is denied the use of textbooks because of refusal of his parents to pay for such textbooks.

SECTION 11. Board of education - specific powers. In addition to any other power delegated to a board of education of a school district pursuant to any other law, the board of education of each school district shall have the following powers to be exercised in its discretion:

COMMENTS

Based on part of 123-10-21(2) and section 15, article IX, Constitution of Colorado.

Based on part of 123-10-21(2) but omits the present restrictions on adoption and change of textbooks.

Based on 123-10-21(14), but changes from commissioner to state board of education. Also deletes reference to annual report to county superintendent in 123-10-21(13).

Based on part of 123-10-21(2) except changes from commissioner to state board of education.

Based on chapter 243, Session Laws of 1963.

Based on 123-3-16, which is repealed in Bill M.

Based on part of 123-10-21(9). See also section 11(20) herein.

Eliminates requirement of statement from teacher that child is indigent.

This section is based in part on 123-10-21, which is repealed herein. Review in connection with Section 10 herein.

TEXT

COMMENTS

(1) To take and hold under the name and style of the school district so much real and personal property as may be reasonably necessary for any purpose of the district authorized by law.

Based on 123-10-21(6).

(2) To purchase or lease property for school sites or for any purpose of the district authorized by law; to determine the location of each school site, building, or structure; and to construct, erect, repair, alter, and remodel needed buildings and structures.

Subsections (2) through (5) are based on 123-10-21(19), (20), (21), and (22) respectively (Chapter 233, Session Laws of 1963). Also, part of 123-10-21(4) 1961 Supp., is covered in subsection (2), part of 123-10-55 is covered in (3), and 123-25-34(1)(b) is covered in subsection (4).

(3) To sell and convey school property which may not be needed within the foreseeable future for a purpose authorized by law, upon such terms and conditions as it may approve, and to lease such property pending sale thereof or in connection with any agreement for lease and option to purchase the same.

(4) To temporarily rent or lease school property not needed for a purpose authorized by law, and to permit community organizations to use such property upon such terms and conditions as it may approve.

(5) To determine which schools of the district shall be maintained and operated, and to determine the attendance boundaries for each school of the district.

(6) To adopt reasonable written policies, rules, or regulations, not inconsistent with law or the rules and regulations of the state board of education, which may relate to the efficiency, professional growth, in-service training, welfare, safety, or public conduct of the employees, or any classification thereof, of the district.

New legislation to strengthen control of personnel by the board. See present section 123-10-21(12).

(7) To adopt reasonable written policies, rules, or regulations, not inconsistent with law or the rules and regulations of the state board of education, which may relate to the study, discipline, good order, welfare, safety, or general conduct of pupils, or any classification thereof, enrolled in the public schools of the district.

New legislation to supplement authority of a board relative to section 7 of the new school attendance law.

(8) To employ a chief executive officer to administer the program of the school district pursuant to a contract which shall not exceed thirty-six months.

New legislation.

TEXT

(9) To procure fire, allied perils, marine, inland marine, and "all risk" insurance to cover any building, structure, or equipment owned by the district, or in which the district has a substantial legal interest.

(10) To procure casualty, burglary, hold-up, or theft insurance to cover any personal property owned by the district, or in which the district has a substantial legal interest.

(11) (a) To procure public liability insurance covering the district and the school directors thereof, and to procure liability and property damage insurance covering school buses owned or rented by the district and operated by the district on a transportation route for the transportation of pupils. If an independent contractor shall maintain and operate a school bus for the transportation of pupils enrolled in a public school, said independent contractor shall pay all premiums on the liability and property damage insurance covering said school bus, and there shall be no right of contribution from said school to the insurer.

(b) Each policy of insurance hereafter obtained by a school district pursuant to paragraph (a) of this subsection shall contain a condition to the effect that said insurer or carrier shall not assert the defense of sovereign immunity otherwise available to said school district and school director thereof within the maximum amounts payable thereunder; provided, that the failure to procure such insurance or the failure to procure any such insurance in an amount sufficient to satisfy the entire claim or claims shall not be construed as creating any liability against the school district or school director.

(12) To procure group life, health, or accident insurance covering employees of the district pursuant to section 72-6-3, CRS 1953.

(13) To maintain membership in established school board organizations.

(14) To reimburse a school director for expenses incurred in the performance of official duties either within or outside the territorial limits of the district.

COMMENTS

Based in part on 123-10-21(4), 1961 Supp. Specifies types of insurance.

Based on implied authority of 123-10-21(6).

Based in part on Attorney General's interpretation of 123-10-21(4). Also based on 123-10-46 and 123-10-68 (repealed herein). Requires a clause in the insurance policy that the insurer will not assert sovereign immunity. Also states that lack of insurance will not create liability.

Based on 72-6-3.

New.

New.

TEXT

(15) To purchase supplies or equipment for the use of the board which may be reasonably necessary for the exercise of its powers and performance of its duties.

(16) To provide furniture, equipment, library books, and everything needed in the school program.

(17) To accept grants, gifts, and donations of any nature made to the district, and to expend or utilize said grants, gifts, or donations in accordance with the conditions prescribed by the donor, but no grant, gift, or donation shall be accepted if subject to a condition inconsistent with law. The acceptance of a grant, gift, or donation, and the conditions prescribed by the donor, shall be recorded in the minutes of the meeting of the board at which the grant, gift, or donation is accepted.

(18) To reimburse employees of the district for expenses incurred in the performance of their duties either within or outside the territorial limits of the district.

(19) To elect to have school district moneys paid over by the county treasurer to the treasurer of the district in accordance with the provisions of this act.

(20) To provide free use of textbooks to all school-age pupils enrolled in the schools of the district.

(21) To expend district moneys for the procurement of athletic, musical, and other similar equipment.

(22) To purchase, erect, and remodel teacherages for the employees, or any classification thereof, of the district.

(23) To require pupils enrolled in the schools of the district to possess suitable supplies, and to furnish the pupils enrolled therein such expendable supplies under the terms and conditions as determined by the board.

COMMENTS

Based on part of 123-10-21(3), 1961 Supp., repealed herein.

Based on part of 123-10-21(3), 1961 Supp.

New. Includes authority to accept federal grants.

New.

Based on part of 123-3-12, which is repealed in Bill K.

Based on part of 123-10-21(9) but eliminates requirement for majority vote of the district. See also Section 10(24) herein.

New. Attorney General's opinion states that school districts do not now have such authority.

New legislation.

Based in part on 123-10-21(10) but adds provision concerning expendable supplies.

TEXT

(24) To exclude from each school and school library all books, magazines, papers, and other publications which are of an immoral or pernicious nature.

SECTION 12. Power of eminent domain. A school district shall have the power to take by eminent domain so much real property as the board of education of the district may deem necessary for any purpose authorized by law, but the power of eminent domain shall not be exercised to acquire any real property located outside the territorial limits of the school district. The procedure for the exercise of eminent domain as authorized by this section shall be as prescribed by article 1 of chapter 50, CRS 1953, but without regard to the municipal corporation and purposes specified therein.

SECTION 13. Oil and gas leases. (1) A board of education of a school district shall have the power to lease any real property or any interest therein owned by the district for oil and gas exploration, development, and production purposes, upon such terms and conditions as may be prescribed and contracted by the board in the exercise of its best judgment as the board deems to be for the best interests of the district. Any lease of oil and gas rights shall be for a term not to exceed ten years and as long thereafter as oil or gas is produced, and shall provide for a royalty of not less than twelve and one-half per cent of all oil and gas produced, saved, and sold, or the gross production value thereof, which royalty may be reduced proportionately under appropriate provision in the lease if the interest in the school district is less than a full interest in the land or oil and gas rights in the land described in the lease. When in the opinion of the board of education and because of the size, shape, or current use of any tract of land owned by the district, the best interests of the district so require, any lease of such tract may provide that no drilling shall be conducted on the land covered thereby, in which case such lease shall be for a term not to exceed ten years and so long thereafter as the district may share in royalties payable on account of production of oil or gas from lands adjacent to such tract so leased.

COMMENTS

Based on 123-10-21(11).

Based on 123-10-2, as amended (Chapter 233, Session Laws of 1963). Adds restriction concerning property outside the district. Also adds specific reference to the eminent domain procedures to be used.

Based on 123-10-54, repealed herein.

TEXT

COMMENTS

(2) When deemed by the board of education of a school district to be in the best interests of the district, a district, acting by its board, may enter into a unit agreement providing for the pooling, unitization, or consolidation of acreage covered by any oil and gas lease executed by the district with other acreage for oil and gas exploration, development, and production purposes, and providing for the apportionment or allocation of royalties among the separate tracts of land included in the unit or pooling agreement on an acreage or other equitable basis, and may change, by such agreement, with the consent of the lessee under the lease, any or all of the provisions of any lease issued by the district, including the term of years for which the lease was originally granted, in order to conform such lease to the terms and provisions of the unit or pooling agreement and to facilitate the efficient and economic production of oil and gas from the lands subject to such agreement.

(3) The leasing of school district real property or any interest therein under the provisions of this section shall not be deemed to be a sale of such school property.

(4) All leases of oil and gas or rights therein and all unit agreements relating to or dealing with oil and gas and containing provisions similar to those set forth in this section affecting school district lands heretofore made or entered into by any school district, acting by its board of education, are hereby confirmed, validated, and declared to be legal and valid in all respects.

SECTION 14. Transportation of pupils - when. (1) A board of education of a school district may furnish transportation:

(a) To and from public schools for any reasonable classification of resident pupils enrolled in the schools of the district.

(b) To and from public schools located in an adjacent state for any reasonable classification of resident pupils who have not completed the twelfth grade, but only if the district of attendance is one to which the district of residence of such pupils is authorized to pay tuition for the attendance of such pupils.

Based in part on 123-10-43, which is repealed herein. Adds a provision to authorize transportation to school districts located in an adjacent state, based on provision in Chapter 24, Session Laws of 1963. Adds a provision to eliminate "raiding" of pupils resident in another school district.

TEXT

(c) To and from public schools for any reasonable classification of pupils enrolled in the schools of the district who are resident of any other school district in the state, if the district of residence is adjacent to the district of attendance, and if the board of the district of residence shall consent to such transportation.

(d) To and from any school sponsored activity, or for any emergency, for any reasonable classification of resident pupils enrolled in the schools of the district, whether said activity or emergency be within or without the territorial limits of the district, and whether occurring during or after regular school hours.

(2) A board may determine the points at which pupils shall be received and delivered and the routes of transportation pursuant to subsection (1) of this section.

(3) In the event it shall be impracticable, as determined by the board of a district, to furnish transportation to and from school for any resident pupil enrolled or eligible to be enrolled in the schools of the district pursuant to subsection (1)(a), (b), and (c) of this section, the board may pay the cost of room and board for the pupil to reside at a point near a school of the district of residence, or a school of a district to which the district of residence is authorized to pay tuition.

(4) A board may reimburse a parent or guardian for the expenses incurred by such parent or guardian in furnishing transportation to and from a public school or school bus line for his child or children and for other pupils enrolled in the schools of the district; but the board may not reimburse any person for transportation furnished to a pupil resident in another school district without the consent of the board of the district of residence. The amount and payment of such expenses shall be as determined by the board paying such expenses.

COMMENTS

Based in part on 123-10-67 (1960 Supp.) repealed herein. Adds authority to transport outside the district.

Based on part of 123-10-43.

Under 123-10-44 (repealed in 1963 by H.B. 478), 3d class districts could provide room and board in lieu of transportation. The provision is included here for all districts, without limitation on the amount which can be expended for this purpose.

Also based on part of 123-25-34(1)(c), repealed herein, concerning powers of newly organized school districts.

Based on Stoops v. Hale, 91 Colo. 246., but adds a provision to eliminate contention that parents are entitled to at least the amount received by the school district from the public school transportation fund. Restricts "raiding" of pupils resident in other school districts.

TEXT

SECTION 15. Bond of school bus operator. (1) Any person who shall be employed by a school district, under a general employment agreement or as an independent contractor, for the transportation of pupils pursuant to section 14 of this act, may be required by said district as a condition of employment to give a good and sufficient bond for the faithful performance of all duties necessary in order to comply with section 13-4-85, CRS 1953. The amount and sufficiency of said bond shall be as determined by the board of the district employing such person, and the bond shall be filed with the secretary of the district.

(2) Notwithstanding the provisions of section 13-4-85, CRS 1953, and subsection (1) of this section, the board of a district shall not require a parent or guardian to comply with said statutes and school bus regulations or to give a bond when such parent or guardian shall transport only his own child or children, even though the board may reimburse such parent or guardian for expenses incurred in furnishing such transportation.

SECTION 16. Tuition for resident school-age children. (1) A board of education of a school district may pay tuition for any school-age child resident in the district who shall not have completed the twelfth grade to attend a school operated by another school district, whether said school is located within or without the county, when the board of the district of residence shall determine for any reason whatsoever that it would be to the educational advantage or general welfare or convenience of said child to attend such school operated by another school district; provided, that a board paying tuition under authority of this section shall continue to maintain and operate a full twelve-grade

COMMENTS

Does not curb transportation of mentally or physically handicapped children since the district of residence must pay to the district of attendance a portion of the cost as a prerequisite. Does not affect trainable children.

Based on 123-10-45, 13-4-85, and Stoops v. Hale, 91 Colo. 246, but adds a provision to except a parent or guardian from the application of 13-4-85 if transporting only his own child or children. Also eliminates reference to bond in third class districts and to filing with county superintendent.

Note that sections 123-10-47 through 123-10-49, concerning the requirement for school buses to stop at railroad crossings and the penalty for failure to comply, are repealed herein. (See 13-4-68 and 13-4-132.)

Based on 123-10-21(15), repealed herein. Adds a provision to prohibit a school district from sending all students to another school district and thereby become a nonoperating district. Limits the authority to pay tuition to children who have not completed the twelfth grade.

See also 123-25-34(1)(c),

TEXT

educational program within the territorial limits of its district as required by section 10 (10) of this act.

(2) (a) The tuition to be paid as authorized by subsection (1) of this section shall not exceed one hundred fifteen per cent of the current per pupil cost in the district of attendance during the preceding school year. The average amount of money per pupil received by the school district of attendance during the preceding school year under the minimum equalization program of "The Public School Foundation Act" shall be deducted from the amount of tuition authorized by this subsection; provided, that if the district of residence is situate entirely, or its headquarters is located, in a county other than the county in which the district of attendance is situate, or its headquarters is located, then the amount of moneys received by the district of attendance during the preceding school year from the county public school fund need not be included in computing said deduction.

(b) A board of education of a district may permit any child, the parents or guardian of whom are not residents of the district, to attend school in said district, if the parents or guardian of said child shall have paid, in the calendar year next preceding the year of attendance, an ad valorem school tax upon real property situate in said district, and if the property upon which said tax has been paid is contiguous to the district of residence of the parents or guardian. In such event, a credit, not to exceed the amount of said tax so paid during the preceding calendar year, shall be deducted from the tuition for such child, and the amount of the tuition shall be computed in accordance with the provisions of paragraph (a) of this subsection. Nothing in this paragraph shall be construed as creating an obligation on the part of the school district of residence or the school district of attendance to provide transportation at public expense for any such child to and from the school of attendance.

(3) The authority of a board of education to pay tuition for a child pursuant to subsection (1) of this section shall include

COMMENTS

repealed herein, concerning tuition.

Based on 123-10-21(16). See also part of 123-10-21(1). Eliminates the requirement of separate per pupil costs for elementary, junior high, and high school. Eliminates the requirement that moneys received from county public school fund must be deducted from tuition charge even though the child is a resident of a school district located outside the county. Eliminates the appeal to the state board of education to determine reasonableness of amount of current cost.

New provision to permit deduction from tuition in cases where a parent or guardian sends his child to a district which is contiguous to the district of residence and in which he has paid school taxes. The credit is allowed on tuition up to the amount of taxes paid in the district of attendance.

New provision based on Attorney General's opinion.

TEXT

authority to pay tuition for a child to attend a public school of a school district situate in an adjacent state when the district of residence of the child is situate adjacent to the other state and the geographic conditions or distances are such that it would be impracticable for the child to attend the schools of his district. In the case of tuition paid to a school district of an adjacent state, the limitations of subsection (2)(a) of this section shall not be applicable.

(4) A district of residence shall not be liable for the tuition of any school-age child except pursuant to a written agreement with the district of attendance. In the absence of such written agreement, the parent or guardian of such school-age child shall be liable for all tuition charged by the district of attendance. A copy of any written agreement between the district of residence and the district of attendance shall be furnished the parent or guardian of a child covered by the agreement, and such parent or guardian shall be liable for such part of the tuition, if any, not paid to the district of attendance by the district of residence of such child.

(5) The tuition limitations prescribed by subsection (2)(a) of this section shall not be applicable to the amount of tuition which may be charged by a district of attendance to a nonresident parent or guardian for attendance of his child at a school outside his district of residence contrary to a determination of the board of education of his district of residence made pursuant to subsection (1) of this section; nor shall such tuition limitation be applicable to the amount of tuition which a district of attendance may charge for a nonresident educable mentally or physically handicapped child.

SECTION 17. Exclusion of nonresidents - exception. A board of education of a school district may exclude from the schools of its district a pupil who is not a resident of the district or who becomes a nonresident of the district subsequent to the time of enrollment. A board may waive tuition for a nonresident school-age child and provide free textbooks for said child if the board determines that the child is required to reside temporarily in the district in order to have a home and the necessities of life.

COMMENTS

Based in part on 123-10-21(15) and (16). Protects the school district of residence from claims when a child enrolls in another school district without the consent of the board of education thereof. Also protects a parent or guardian, in that written notices of the tuition charge must be given to the parent or guardian.

New legislation to clarify the amount of tuition which may be charged a parent.

Provision on special education is added to make compatible with tuition charges set forth in special education statutes.

Based on 123-10-22 repealed herein.

TEXT

SECTION 18. Miscellaneous fees. (1) When the free use of textbooks is provided pursuant to section 11(20) of this act, a board of education of a school district may require each non-indigent pupil to make a reasonable loss or damage deposit to cover such textbooks. A board may also require each non-indigent pupil to make a reasonable loss or damage deposit to cover non-academic equipment. All such deposits shall be refunded to the pupil when he shall have returned the textbooks or equipment in good condition except for ordinary wear.

(2) A board may not require a pupil who shall not have completed the twelfth grade to pay any fees as a condition of enrollment in school, or as a condition of attendance in any course of study, instruction or class, except as authorized by this section or except as to those fees reasonably necessary for textbooks or expendable supplies if such are not provided free of charge; provided, that miscellaneous fees may be collected on a voluntary basis as a condition of participation or attendance at a school sponsored activity or program not within the academic portion of the educational program.

SECTION 19. Summer schools - continuation and evening programs.

(1) During that period of the calendar year not embraced within the regular school term, a board of education may provide and conduct courses in subject matters normally included in the regular school program, or in demand by the pupils of the district, may fix and collect a charge for attendance at such courses in an amount not to exceed the per capita cost of the operation thereof, and give regular school credit for satisfactory completion by students of such courses in the discretion of the board. Such courses or programs not conducted during the regular school term shall not for any purpose, other than school credit, be considered part of the regular school program.

(2) A board of education may establish and maintain continuation programs, part-time programs, evening programs, vocational programs, programs for aliens, and other opportunity programs, and pay for such programs out of the moneys of the school district. A board may also establish and maintain open air schools, playgrounds, and museums, and pay for the same out of moneys of the

COMMENTS

New provision which requires refund of loss or damage deposits.

New provision to eliminate requirement of numerous fees as a condition for participation in the academic program; permits other fees on a voluntary basis. Compare with Section 19 herein.

This is a new provision specifically authorizing the conduct of summer school on a self-sustaining, tuition basis. Summer school would not be a part of the regular school program.

Based on 123-10-24 (1961 Supp.), repealed herein. Changes the words "schools" to "programs". Eliminates authority of superintendent and principal to determine admission based on who

TEXT

school district.

SECTION 20. Free kindergartens. A board of education may establish and maintain free kindergartens in connection with the schools of its district for the instruction of children one year prior to admission to the first grade, and prescribe courses of training, study and discipline, and rules and regulations governing such kindergarten programs. Said kindergartens shall be a part of the public school system, and the cost of establishing and maintaining them shall be paid from the general school fund.

SECTION 21. Food services - facilities. (1) A board of education may establish, maintain, equip, and operate a food service facility or facilities, and expend the moneys of the district therefor, for pupils enrolled in the schools of the district, for persons participating in or attending a school sponsored activity, and for the employees of the district. Any such food service facility shall be deemed to be an integral part of the program of the district, and shall be maintained, operated, and governed in the same manner as the schools of the district.

(2) All food shall be sold by a food service facility as nearly as practicable on a nonprofit basis, provided, that a district may sell food at lower than cost or provide food free of

COMMENTS

is "morally desirable and mentally able to profit by the instruction given". Also eliminates specific provision that such schools shall be open to all persons regardless of age.

Based on 123-10-26 (1961 Supp.), repealed herein. Eliminates provision "Nothing in this section shall be construed to change the law relating to the taking of the census of school population, or the apportionment of the state and county funds among the several counties and districts of this state."

Changes admission age from "between three and six years of age" to "one year prior to admission to the first grade."

Based on 123-21-22, repealed herein. Eliminates reference to classes of school districts. Eliminates contention that food must be sold at cost. Clarifies provisions relative to utilizing facilities and food for employees and for school sponsored activities. Retains present provision concerning dismissal of pupils during school lunch periods.

TEXT

charge to those pupils entitled thereto pursuant to the provisions of the national school lunch act. Capital outlay and rental costs shall not be included in computing the cost of the program.

(3) Upon the written request from a parent or guardian of a school-age pupil enrolled in a school, such pupil shall not be required to participate in a food service program or remain on the school premises during the lunch period.

SECTION 22. Facsimile signature. (1) A board of education may authorize an employee to affix the signature of the president, vice-president, secretary, treasurer, and assistant secretary or treasurer if any, or one or more of the signatures thereof, by means of a metered mechanical device to any warrant, order, check, contract, report, or other document, except to written contracts and documents which may be required to be notarized; provided, that if a metered mechanical device shall not be available, the signature of any such officer may be affixed thereto by any device which may affix a facsimile signature except that the personal signature of at least one such officer shall be affixed; and provided further, that each such officer shall give written consent to the board for the use of such facsimile signature and written approval of the employee designated to affix his facsimile signature.

(2) The authorization by a board of an employee to affix signatures pursuant to subsection (1) of this section shall be evidenced by a resolution adopted by the board, which, together with the written consent of the officer or officers consenting thereto and the approval of the designated employee, shall be recorded in the proceedings of the board.

(3) Not more than one employee shall be designated at any one time to affix the facsimile signature of a president, vice-president, secretary, treasurer, or assistant secretary or treasurer if any, but nothing herein shall be construed in a manner to prohibit one employee from being designated to affix the facsimile signature of one or more of such officers.

COMMENTS

New provision based on general practices and Attorney General's opinion. Adds a requirement that such officer must consent to the use of the facsimile signature and approve the employee designated to affix the signature.

TEXT

(4) Any employee who shall be authorized and approved pursuant to the provisions of this section to affix the facsimile signature of a president, vice-president, secretary, treasurer, or assistant secretary or treasurer if any, of a board shall be bonded in the amount and manner as may be required for the said respective officers.

(5) If a board of education shall not elect to have its moneys withdrawn from the county treasurer in the manner authorized by law, and an employee or employees shall be authorized and designated to affix a facsimile signature of the president, vice-president, secretary, treasurer, or assistant secretary or treasurer if any, pursuant to subsection (1) of this section, the board shall cause a copy of the resolution and written consent of such officer or officers to be forwarded to the county treasurer who has temporary custody of the moneys of the district.

SECTION 23. Shared services, equipment, and supplies. (1) Two or more school districts shall have the power to contract with each other, or jointly contract, with the governing body of a state college or university, with the tribal corporation of any Indian tribe or nation, with any federal agency or officer, or any county, city, or city and county, or with any natural person, body corporate, or association for the performance of any service, activity, or undertaking which any school may be authorized by law to perform or undertake. Such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the parties so contracting. A contract executed pursuant to this section may include, among other things, the purchase or renting of necessary building facilities, equipment, supplies, and employee services. Any state or federal financial assistance which shall accrue to a contracting school district if said district were to perform such service, activity, or undertaking individually, shall be apportioned by the state board of education on the basis of the contractual obligations and paid separately to each contracting school district in the manner otherwise prescribed by law.

COMMENTS

Based on 123-10-21(18) (1961 Supp.), repealed herein, but adds authority to contract with Indian tribal corporation, federal agency, county, municipality, person, corporation, or association. Also adds a provision to prohibit the expenditure of the proceeds from bonded indebtedness beyond territorial limits of the school district.

TEXT

COMMENTS

(2) No contract executed pursuant to this section or section 88-2-2, CRS 1953, may extend for a term in excess of five years.

(3) Nothing herein shall be construed in a manner to authorize a school district or junior college district to expend proceeds from the sale of revenue or general obligation bonds issued by said district to procure or erect a school or other building beyond the territorial limits of the district.

SECTION 24. Building codes - zoning - planning. Notwithstanding any authority delegated to a county, city, or city and county, or a planning commission thereof, or a regional planning commission, the board of education of a school district may determine the location of public schools within the district and erect necessary buildings and structures without a permit or fee or compliance with a local building code. All buildings and structures shall be erected in conformity with the standards of the industrial commission of Colorado. A board shall advise the planning commission which has jurisdiction over the territory in which a building or structure is proposed to be located, in writing, relative to the location of such building or structure prior to the awarding of a contract for the construction thereof.

New provision to clarify relationship of local planning commissions and building codes to location and construction of school buildings. Industrial Commission standards will apply.

SECTION 25. Applicability of act. This act shall apply to junior college districts insofar as applicable.

SECTION 26. Repeal. The following sections are hereby repealed:

(1) 123-10-1, 123-10-5, 123-10-21 as amended, 123-10-22, 123-10-27 to 123-10-29, 123-10-33 to 123-10-36, 123-10-40, 123-10-42, 123-10-43, 123-10-45 to 123-10-49, 123-10-54, and 123-21-22, Colorado Revised Statutes 1953;

(2) 123-10-20, 123-10-21(17), 123-10-41, 123-10-55, 123-10-67, and 123-10-68, Colorado Revised Statutes 1953 (1960 Perm. Supp.);

TEXT

(3) 123-10-21(3), (4), and (18), 123-10-24, 123-10-26, and 123-25-34(1)(b) and (c), Colorado Revised Statutes 1953 (1961 Supp.);

(4) 123-10-2, Colorado Revised Statutes 1953, as amended by section 1 of chapter 233, Session Laws of Colorado 1963; section 2(2) of chapter 233, Session Laws of Colorado 1963; and section 123-10-21(19) to (23), Colorado Revised Statutes 1953, as added by section 3 of chapter 233, Session Laws of Colorado 1963.

SECTION 27. Effective date. This act shall take effect on July 1, 1964.

SECTION 28. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTS

Note that 123-21-2 refers to 123-10-24 and 123-10-26, which are repealed here.

TEXT

COMMENTS

Bill F

A BILL FOR AN ACT
TO AMEND SECTIONS 2 AND 3, AND TO REPEAL SECTION 4, OF CHAPTER 243,
SESSION LAWS OF COLORADO 1963, CONCERNING SCHOOL ATTENDANCE
AND THE PAYMENT OF TUITION THEREFOR.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Section 2 of chapter 243, Session Laws of Colorado 1963, is hereby amended BY THE ADDITION OF A NEW SUBSECTION (6) to read:

Section 2. Definitions. (6) "Academic year" means that portion of the school year during which the public schools are in regular session, beginning on or about the first week in September and ending on or about the first week in June next following.

SECTION 2. Section 3 of chapter 243, Session Laws of Colorado 1963, is hereby amended to read:

Section 3. Free education - tuition may be charged, when. Any resident of this state who has attained the age of six years and is under the age of twenty-one is entitled to attend public school in the school district of which he is a resident, ~~at-any-time~~ DURING THE ACADEMIC YEAR when the schools of the district are in REGULAR session, and without the payment of tuition, subject only to the limitations of sections 6 and 7 of this act. TUITION MAY BE CHARGED FOR A PUPIL NOT A RESIDENT OF THE SCHOOL DISTRICT IN WHICH HE ATTENDS SCHOOL, AND TO RESIDENT OR NONRESIDENT ADULT PUPILS, AS OTHERWISE PROVIDED BY LAW.

SECTION 3. Repeal. Section 4 of chapter 243, Session Laws of Colorado 1963, is hereby repealed.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

This bill accompanies section 19(1) of Bill E, concerning summer schools and the payment of tuition therefor. It amends the School Attendance Law of 1963 to permit the maintenance of summer sessions on a self-sustaining, tuition-payment basis. The amendments are designed to make the free education provision applicable only during the "academic year" and not during summer sessions.

TEXT

COMMENTS

Bill G

A BILL FOR AN ACT
CONCERNING SCHOOL DISTRICTS; PROVIDING FOR THE ELECTION OF SCHOOL
DIRECTORS AND FOR SCHOOL DIRECTOR DISTRICTS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Definitions. As used in this act:

(1) "Regular biennial school election" means the election in a school district held in May of each odd-numbered year, as provided in section 4 of this act.

(2) "Special school election" means any school election provided for by law and held at a time other than the regular biennial school election.

(3) "Elector" or "qualified elector" means a person who is legally qualified to register to vote at general elections in this state and who has resided in the school district thirty days and in the school election precinct fifteen days immediately preceding the election at which he offers to vote.

(4) "Registered elector" means an elector who has complied with the registration provisions of this act.

(5)(a) "Taxpaying elector" and "qualified taxpaying elector" mean a person who is at least twenty-one years of age, a citizen of the United States, and who has resided in the state for twelve months, in the county for ninety days, in the school district for thirty days, and in the school election precinct for fifteen days preceding the election, and who, during the twelve months next preceding said election, has paid an ad valorem school tax upon property situated within the school district and owned by said person; and "registered qualified taxpaying elector" means a qualified taxpaying elector who has complied with the registration provisions of this act.

(b) "Ad valorem school tax" and "general ad valorem school tax" mean only the general property tax, levied annually on real or

This section on definitions is new. It follows the pattern of the definition section in the new general election law.

Bond elections, organization elections, and elections to increase tax levy are examples of elections included in this definition of special school elections.

Requirement for 15-day residence in the school election precinct is new.

Definition of taxpaying elector is based on the definition adopted by the General Assembly in 1963 for school bond elections. (See section 1, chapter 236, Session Laws of 1963.)

TEXT

personal property listed with the county assessor. No person shall be qualified as a taxpaying elector for the purposes of this act by payment of any one or more of the following taxes: Income tax, sales tax, use tax, excise tax, specific ownership tax on a motor vehicle or trailer, or any other tax which is not a general ad valorem school tax as hereinabove defined, and the generality of said definition shall never be restricted by the listing set forth herein.

(6) "Registration list" means the list of registered electors of each school election precinct prepared by the county clerk from the county registration books in accordance with section 6 of this act.

(7) "Poll book" means the list of voters to whom ballots are delivered or who are permitted to enter a voting machine booth for the purpose of casting their votes at a regular biennial school election.

(8) "Watcher" means a person whose name has been submitted to the county clerk of the county in which his school election precinct is located and who has been certified by such county clerk as a registered elector of the school district, entitled to serve at a polling place in such school district with the right to remain inside the polling place from at least fifteen minutes prior to the opening of the polls until after the completion of the count of votes cast at the election and the certification of the count by the election judges. Each watcher shall have the right to maintain a list of voters, to witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, and, in case of discrepancies, to assist in the correction thereof.

(9) "School enrollment" means the end-of-year enrollment reported by the secretary of the board of education to the state department of education for the school year next preceding the school year in which the election is held.

COMMENTS

Definition of "poll book" is based on the definition in subsection (23), section 1, chapter 118, Session Laws of 1963 (the new general election law).

A watcher is required to be a registered elector of the district and certified by the county clerk of the county in which his school election precinct is located. (See also section 18 herein on watchers.)

"School enrollment" is substituted for "school population" throughout the proposed bill since enrollment figures will be more readily available.

TEXT

SECTION 2. Computation of time. Calendar days shall be used in all computations of time made under the provisions of this act. In computing time for any act to be done before an election, the first day shall be included and the last, or election day, shall be excluded. Sundays and legal holidays shall be included, but if the time for any act to be done shall fall on Sunday or a legal holiday, such act shall be done upon the day following such Sunday or legal holiday.

SECTION 3. Board of education to govern conduct of school elections - contract with county clerk. (1) Except as otherwise provided in this act, the board of education of each school district shall govern the conduct of regular biennial school elections in said district and shall render all interpretations and make all initial decisions as to controversies or other matters arising in the conduct of such elections.

(2) The board of education of any school district may contract with the county clerk or clerks for the administration of any of the duties of such board, or the secretary thereof, relating to the conduct of regular biennial school elections.

SECTION 4. Regular biennial school election. (1) The regular biennial school election in each school district having a school enrollment of seventy thousand or less shall be held on the first Tuesday in May of each odd-numbered year.

COMMENTS

This section is substantially the same as section 3, chapter 118, Session Laws of 1963 (the new general election law). The present school election laws contain no such provision.

This section is new, although subsection (1) does not differ from the present practice.

Subsection (2) is a significant change from the present law. This subsection differs from the recommendation of the Committee on Local Election Laws.

Based on part of 123-10-6 and 123-10-13 (CRS 1953).

Classification of school districts is eliminated and all regular school elections are made biennial (annual elections for second and third class districts are eliminated). Reference to transacting business in third class districts is eliminated.

TEXT

(2) The regular biennial school election in each school district having a school enrollment of more than seventy thousand shall be held on the third Tuesday in May of each odd-numbered year, in accordance with the provisions of section 30 of this act. Whenever the date of such election is identical to the date set for a municipal election in a city or city and county having boundaries coterminous with such school district, such school election shall be combined with and held in conjunction with such municipal election.

SECTION 5. School directors - number - election - terms.

(1) In each school district organized under "The school district organization act of 1957," there shall be elected five, six, or seven school directors, the number having been established in the organizational plan as required by law. Following the initial election, to be held in accordance with the provisions of "The school district organization act of 1957", the school directors shall be elected at the respective regular biennial school elections, each for a term of four years and until a successor shall have been elected and qualified.

(2) In each school district organized under the provisions of "The School District Reorganization Act of 1949", as amended, and affected by section 3 of chapter 239, Session Laws of Colorado 1963, there shall be five school directors who shall be elected at the respective regular biennial school elections, each for a term of four years and until a successor shall have been elected and qualified. A director in any such school district elected for a six-year term prior to the effective date of this act shall continue in office until the completion of the term to which elected, but beginning with the regular biennial school election of 1965,

COMMENTS

Day of election is changed from the first Monday to the first Tuesday in May. This recommendation differs from the Committee on Local Election Laws.

Subsection (2) applies only to Denver. Based on 123-27-1 (1960 Perm. Supp.).

The number of school directors is not changed from present law; the term of office, however, is made uniform at four years. Subsection (1) is based on part of 123-25-27 (1960 Perm. Supp.).

Subsection (2) is based on 123-25-46 (section 3 of chapter 239, Session Laws of 1963). Length of term is changed from six years to four years.

TEXT

any successor shall be elected for a four-year term.

(3) In each school district with three school director offices on July 1, 1963, the terms of office of the school directors which would otherwise expire in 1964 and 1966 shall be automatically extended until the regular biennial school election in 1965 and 1967, respectively. At the regular biennial school election in 1965, there shall be elected four school directors, three for four-year terms of office, and one for a two-year term of office. As the term of office of each school director in such districts shall expire, a successor shall be elected for a four-year term of office and until a successor shall have been elected and qualified.

(4) In each school district not included in subsection (1) through (3) of this section, and having a school enrollment of less than twenty thousand, there shall be elected one director at the regular biennial school election in 1965 for a term of four years, and there shall be elected two directors at the regular biennial school election in 1967, and every four years thereafter. At the regular biennial school election in 1969, and every four years thereafter, a total of three directors shall be elected. A director in any such school district elected for a six-year term prior to the effective date of this act shall continue in office until the completion of the term to which elected, but any successor shall be elected for a four-year term, beginning with the regular biennial school election of 1965.

(5) In each school district not included in subsection (1) through (3) of this section, and having a school enrollment of twenty thousand or more, there shall be elected seven directors for four-year terms of office, as follows:

(a) For any such district having seven directors as of the effective date of this act, three directors shall be elected at the regular biennial school election of 1965, two of whom shall be elected for four-year terms of office and one of whom shall be elected for a two-year term; three directors shall be elected for four-year terms of office at the regular biennial school election in 1967, and every four years thereafter; and four directors shall be elected for four-year terms of office at the regular biennial

COMMENTS

Subsection (3) is based on 123-10-69 (section 2 of chapter 233, Session Laws of 1963). It provides for change-over from three-member board with three-year terms to five-member board with four-year terms.

Subsections (4) and (5) are based on 123-10-3(2), 1960 Perm. Supp. (The remainder of 123-10-3 was repealed by chapter 233, Session Laws of 1963.) Length of term is changed from six years to four years.

TEXT

school election in 1969, and every four years thereafter. A director in any such school district elected for a six-year term prior to the effective date of this act shall continue in office until the completion of the term to which elected, but any successor shall be elected for a four-year term, beginning with the regular biennial school election of 1965.

(b) For any such district having a school enrollment of twenty thousand or more, and having fewer than seven directors, on or after the effective date of this act, two additional directors shall be elected at the regular biennial school election of 1965, one of whom shall be elected for a four-year term of office and one of whom shall be elected for a two-year term; three directors shall be elected for four-year terms of office at the regular biennial school election in 1967, and every four years thereafter; and four directors shall be elected for four-year terms of office at the regular biennial school election in 1969, and every four years thereafter. A director in any such school district elected for a six-year term prior to the effective date of this act shall continue in office until the completion of the term to which elected, but any successor shall be elected for a four-year term, beginning with the regular biennial school election of 1965.

(c) For any such school district which, as a result of growth in school enrollment, comes under the provisions of this subsection (5), thereby increasing the required number of directors thereof from five to seven, at the first regular biennial school election following such enrollment growth two additional directors shall be elected. If at such election, three directors are already required to be elected for four-year terms, one of such additional directors shall be elected for a two-year term of office, and thereafter any successor shall be elected for a four-year term of office; otherwise, both such additional directors shall be elected for four-year terms of office.

(6) All school directors shall be voted on at large by the electors of the entire school district, whether or not the district shall have a director district plan of representation.

COMMENTS

Paragraphs (b) and (c) of subsection (5) added as new legislation to provide for increasing number of school directors from five to seven.

This is a new provision added to clarify present practice.

TEXT

SECTION 6. Persons entitled to vote at regular biennial school elections - registration required. (1) No person shall be permitted to vote at any regular biennial school election or special school election without first having been registered in the manner required by the provisions of this section. Any qualified elector in any school district whose name appears upon the registration list of the school election precinct in which such person resides shall be entitled to vote on candidates for school director at such school election. A qualified elector who moves from the school election precinct where registered to another precinct within the same school district within twenty days prior to any regular biennial school election shall be permitted to cast his ballot for such election at the polling place in the precinct where registered. This subsection shall in no way prohibit the submission, at the regular biennial school election, of propositions required by law to be voted on by only the registered qualified taxpaying electors of the district.

(2) Registration requirements for regular biennial school elections or for special school elections shall be the same as those governing general elections.

(3) The county clerk of each county, prior to the time of holding any regular biennial school election or special school election in said school district, shall make a full and complete copy of the list of the registered electors of each school election precinct of each school district or districts located within his county; provided, that if a contract is made with the county clerk pursuant to section 3(2) of this act the county registration books may be used in lieu of separate registration lists. The registration list for each school election precinct shall contain the names of the electors registered whose names appear on the registration list at the close of business on the twentieth day prior to the time of such school election, arranged in alphabetical order. He shall certify the registration list and shall deliver the same to the secretary of the board of education of such school district not less than five days prior to the time of holding of such election. The said school district shall pay to the county clerk a fee of not to exceed one cent for

COMMENTS

Based on part of 123-10-8 (CRS 1953) and 123-10-7 (CRS 1953 as amended by section 1 of chapter 234, Session Laws of 1963).

This section as written requires registration in all school districts. The present law requires registration only in those districts which have a school population of more than 3,000.

Deadline for registration is changed from 10 days to 20 days to conform to new general election law.

The maximum county clerk's fee for preparation of the

TEXT

each name contained on the registration list.

SECTION 7. Qualifications and nomination of candidates for school director. (1) Any candidate for the office of school director of a school district shall be a registered elector of such district and, if the school district shall have a director district plan of representation, he shall be a resident of the director district in which he is a candidate unless he shall have been elected at the time of or prior to the adoption of a director district plan of representation by the electors of said district.

(2) Any person who may desire to be a candidate for the office of school director shall file a written notice of such intention with the secretary of the board of education of the school district in which he resides at least twenty days prior to the election date, together with a nomination petition signed by at least fifty, or fifteen per cent, whichever is less, of the registered electors of said district; provided, that if the school district shall have a director district plan of representation, the petition shall be signed by at least fifty, or fifteen per cent, whichever is less, of the registered electors resident in the director district in which the person is a candidate. The nomination petition shall contain the name and term of the office for which the person is nominated, and his post office address, place of residence, and place of business. Each of the electors signing the same shall add to his signature his place of residence.

SECTION 8. Adoption of director district plan of representation. (1) A board of education of any school district which shall not have a director district plan of representation may develop

COMMENTS

alphabetical registration list is changed from two cents per name to one cent per name. This recommendation differs from the Committee on Local Election Laws.

Based on parts of 123-10-7 (CRS 1953, as amended by section 1 of chapter 234, Session Laws of 1963) and 123-25-27(4), 1960 Perm. Supp.

Candidates are required to be registered electors; this recommendation differs from the Committee on Local Election Laws.

Nomination petitions are required for candidates in all school districts.

Filing deadline remains at 20 days before the election; this recommendation differs from the Committee on Local Election Laws.

This provision is new and would permit a district to adopt a director district plan

TEXT

such a plan and submit the proposed plan to the registered electors of said district at any regular biennial school election. The proposed plan shall be adopted by resolution of the board at least sixty days prior to the election.

(2) The electors of any school district which shall not have a director district plan of representation may petition the board of education of said district to submit the question of a director district plan to the registered electors at any regular biennial school election. The petition shall be signed by at least fifteen per cent of the registered electors of said school district, and the proposed plan of director district representation shall be attached thereto. The petition, together with the proposed plan, shall be submitted to the secretary of the board of education of the school district at least sixty days prior to the election. It shall be the duty of a board of education to submit to the registered electors of said school district the question of the director district plan when petitioned to do so pursuant to this subsection.

(3) A director district plan of representation developed pursuant to either subsection (1) or (2) of this section shall be subject to the specifications prescribed in section 9 of this act.

(4) The secretary of said board of education shall cause notice to be given on the question of whether the school district shall have a director district plan of representation as provided in either subsection (1) or (2) of this section, and such notice shall be published and posted as required for the regular biennial school election. Said notice shall indicate the question to be submitted to the electors at the next regular biennial school election, the qualifications of an elector to vote thereon, the polling places and hours of polling as shall be designated for the regular biennial school election, and that such plan of director district representation is on file with said secretary for public inspection during reasonable business hours; provided, that said notice may be combined with the notice otherwise required for the election of school directors at said regular biennial school election.

COMMENTS

even though it does not undertake reorganization.

TEXT

COMMENTS

(5) The ballot shall contain the words "For the director district plan of representation" and "Against the director district plan of representation." Otherwise, the ballots and election procedures shall be the same as prescribed for the regular biennial school election.

(6) If a majority of the votes at said election shall be "For the director district plan of representation," the plan shall become effective upon canvass of the election returns; provided, that no such director district plan of representation shall terminate the office of any school director elected at the time such plan shall be submitted to the electors or prior thereto, but such plan shall be thereafter effective for vacancies and the election of school directors at any subsequent regular biennial school election. If a majority of the votes shall be "Against the director district plan of representation," the school directors of said district shall continue to be elected or appointed from any location with said school district until a director district plan of representation shall have been adopted by a majority of the electors of said district.

SECTION 9. Specifications for director districts. In school districts having a director district plan of representation, each director district shall be represented by a school director and shall, as nearly as practicable, be contiguous and compact and contain substantially the same number of electors as each other director district within the school district; provided, that a director district need not be contiguous, compact, and contain substantially the same number of electors as each other director district within the school district when, subsequent to the adoption of the director district plan, the boundaries of the director districts shall have been changed as a result of changes in the boundaries of said school district in a manner pursuant to law.

SECTION 10. Changes in boundaries of director districts. The board of education may propose revisions and redesignations of the boundaries of director districts in order to compensate for changes in school district boundary lines and for shifts in population. Any such proposed plan shall be made by resolution of the board not

See section 123-25-13(2), 1960 Perm. Supp., as basis for this provision.

Based on subsection (c) of section 1, chapter 220, Session Laws of 1961.

TEXT

less than sixty days prior to the regular biennial school election at which it is to be voted upon. The question of the proposed plan for changes in boundaries of director districts shall be submitted to the registered electors of the school district at such regular biennial school election and the plan, if adopted, shall become effective for subsequent vacancies and elections of school directors; provided, that no such change in director district boundaries shall terminate the office of any school director elected at the time of, or prior to, the adoption of the plan.

SECTION 11. Precincts and polling places. (1) The board of education, not less than five weeks prior to the time of the holding of any regular biennial school election, shall establish one or more school election precincts in the school districts, consisting of one or more whole general election precincts wherever practicable, shall number the same consecutively beginning with the number one, and shall designate one polling place in each precinct; provided, that the board may at any time before the day of election change the location of the polling place in the election precinct, and in case of such change shall post notices thereof at both the original and newly selected polling places no later than seven a.m. on election day.

(2) Immediately after the establishment of such precincts the secretary of the board of education of each school district shall certify to the county clerk of the county or counties in which the district is situated, a description of the school election precincts. The description may give the boundaries of said school district election precincts or may name the general election precincts contained in each of said school election precincts.

SECTION 12. Judges and clerks. (1) Prior to the date of the regular biennial school election, the board of education shall appoint three election judges, and in their discretion one clerk, for each of the school election precincts. Each election judge or clerk shall be a qualified elector of the school election precinct for which he is appointed, and he shall not be a member of the board of education.

COMMENTS

Authorization for a special election on this question is eliminated.

Based on parts of 123-10-9 (CRS 1953) and 123-10-16 (CRS 1953).

School election precincts must consist of one or more whole general election precincts, wherever practicable. This recommendation differs from the Committee on Local Election Laws.

Subsection (1) and (2) are based on parts of 123-10-9 (CRS 1953) and 123-10-17 (CRS 1953).

TEXT

(2) In case one or more election judges or the clerk of election shall be absent at the time and place stated in the notice for the opening of the polls and ballot boxes, one or more duly qualified electors of the precinct shall be chosen by voice vote of the qualified electors present to fill the vacancies. The person so elected shall have all the powers and perform all the duties prescribed for an election judge.

(3)(a) On the first page of the poll book shall be printed a blank form of oath to be taken by each of the judges and clerks of election, substantially as follows:

"I, _____, do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am a qualified elector in school election precinct _____ in the _____ school district; that I will perform the duties of judge (or clerk) of election according to law, and to the best of my ability; that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting same; that I will not disclose how any elector voted if, in the discharge of my duties, such knowledge comes to me, unless required to do so in some court of competent jurisdiction, and that I will not disclose the result of the votes until the polls have closed, so help me God.

Subscribed and sworn to before me this
_____ day of _____, _____.

Judge"

(b) The said oath shall be taken and subscribed by each of the judges and clerks of election before any votes shall be received. Any of the judges of election shall have the power and authority to administer said oath.

(4) A clerk of election may perform any of the duties of election judges except the administering of oaths and passing upon the qualifications of electors and the legality, construction and interpretation of ballots.

COMMENTS

Subsections (3) and (4) are based on part of 123-10-10 (CRS 1953 as amended by chapter 234, Session Laws of 1963).

Provision is added to oath concerning disclosing vote before polls have closed; new general election law contains this provision. Also following the general election law, judges and clerks are required to swear to their qualifications.

TEXT

(5)(a) The board of education may determine the amount of compensation, not to exceed twenty dollars, to be paid the judges and clerks of election for their services at a regular biennial school election.

(b) The compensation of all judges and clerks shall be uniform throughout a particular school district.

SECTION 13. Notice of school election. The secretary of each board of education shall give written or printed notice of the regular biennial school election, specifying the day and polling places of such election, the boundaries of school election precincts, the time during which the polls shall be open, the offices and questions to be voted on, the names of all candidates who have been nominated, and the qualifications for an elector to vote at said election. Said notice shall be published for the two weeks next preceding such election, in some newspaper having general circulation in the district, in accordance with the provisions of article 1 of chapter 109, CRS 1953, as amended.

SECTION 14. Ballots, ballot boxes and voting machines. (1) Either paper ballots or voting machines of a type approved for use in general elections may be used in regular biennial school elections or in special school elections. Prior to the time of the election the secretary of the board of education of the school district shall prepare and deliver to each school election precinct a sufficient number of printed ballots and ballot boxes or voting machines for the precinct for said election. Ballots or voting machines shall contain the names of all candidates nominated for school director at said election, which names shall be arranged by director districts when applicable, and otherwise in alphabetical order according to surnames; and on the ballot shall be printed such words as will indicate the number and terms of school directors

COMMENTS

This subsection is new; the present law does not specifically mention compensation for judges and clerks of election.

Based on parts of 123-10-6 (CRS 1953), 123-10-7 (CRS 1953 as amended by chapter 234, Session Laws of 1963), and 123-10-14 (CRS 1953).

Two-week publication of notice is required in every district; posting of notice is eliminated. This recommendation differs from the Committee on Local Election Laws.

Provisions permitting electors to give notice (if secretary fails to do so) are deleted.

Based on parts of 123-10-7 (CRS 1953, as amended by chapter 234, Session Laws of 1963).

TEXT

COMMENTS

to be elected. Ballot boxes shall meet the same specifications as required for ballot boxes in general elections.

(2) In school districts which use paper ballots, the extreme top part of each ballot, above the portion that contains the names of the candidates to be voted for, shall be divided by two perforated lines into two spaces, each of which shall be not less than an inch in width, the top portion to be called the stub, and the next portion to be called the duplicate stub. Nothing shall be printed on either stub except the number of the ballot, and the same number shall be printed on both stubs. The secretary shall cause all ballot stubs to be numbered consecutively and placed in packages, one package for each voting place within the district. All such ballots shall be uniform in every respect and of sufficient length and width to allow all the names of the candidates to be printed in clear, plain type and so as to give each elector an opportunity to designate by a crossmark (X) in a sufficient margin at the right of the name of each candidate, his choice of candidates. At the end of the list of candidates for each different office shall be as many blank spaces as there are persons to be elected to such office, in which the elector may write the name of any eligible person not printed on the ballot for whom he desires to vote; provided, that no crossmark (X) shall be required at the right of the name so written in. There shall be printed on the back of each ballot the following endorsement:

"Official Ballot of School District No. _____ in the county of _____ and State of Colorado," together with the date of the election and a facsimile of the signature of the secretary of the school district.

SECTION 15. Poll books -- certificate of return. (1) Prior to the time of any regular biennial school election, the secretary of the board of education of each school district shall cause to be prepared and delivered to the election judges one poll book for each princt. The first page of the poll book shall contain the oath prescribed in subsection (3)(a) of section 12 of this act. The next succeeding pages shall contain in one column a series of

No crossmark is required opposite the name of a write-in candidate. This recommendation differs from the Committee on Local Election Laws.

Based on part of 123-10-10 (CRS 1953, as amended by chapter 234, Session Laws of 1963).

TEXT

COMMENTS

numbers beginning with the number one and in an adjoining column spaces opposite said numbers, in which a judge or clerk of election shall write the names and addresses of the electors as they respectively present themselves for voting.

(2) On one of the latter pages of said poll book shall be printed a blank form of certificate of return, substantially as follows:

To the Board of Education of School District No. ____ in the county of ____ in the State of Colorado:

At the regular biennial school election held at _____ in school election precinct no. ____ of said district on the ____ day of _____, _____ the following named persons received respectively the number of votes placed opposite their names for the office of school director of said school district, to-wit:

A.B. received ____ votes E.F. received ____ votes
C.D. received ____ votes G.H. received ____ votes
The whole number of votes cast was _____
The number of excess ballots was _____
The number of unused ballots was _____

Attest:
R.S.,
Clerk.

J.K.,
O.P.,
L.M.,
Judges

SECTION 16. Hours of voting. At all regular biennial school elections and special school elections the polls shall be opened at seven a.m. and shall remain open until seven p.m. of the same day.

SECTION 17. Voting at school elections. (1) Any registered elector desiring to vote shall give his name and place of residence to one of the judges, who shall thereupon announce the same clearly and audibly. If his name is found on the registration list,

Based on parts of 123-10-6 (CRS 1953) and 123-10-14 (CRS 1953).

Based on part of 123-10-10 (CRS 1953 as amended by chapter 234, Session Laws of 1963).

TEXT

his name and address shall be entered by the judge or clerk of election having charge of the poll book in the column prepared for that purpose.

(2) If paper ballots are used, a judge shall give the elector a ballot with a number corresponding to the number in the poll book opposite the elector's name, tearing it along the perforated line between the stub and the duplicate stub and retaining the stub. Before giving the ballot to the elector, the judge shall place his own initials on the stub and the duplicate stub. The elector shall retire with the ballot within the voting booth and prepare it for casting by marking a cross (X) opposite the name of those candidates for whom he desires to vote; provided, that no crossmark (X) shall be required opposite the name of a write-in candidate.

(3) After having prepared his ballot, the elector shall return the same to the judge from whom he received it, so folded as to expose the initials written on the duplicate stub by the judge and the number thereon, but not to disclose the marks on the face thereof indicating the elector's vote. That judge shall examine the number and initials on the duplicate stub, and if they correspond to the number and initials on the stub, and the number in the poll book opposite the elector's name, the judge shall remove the duplicate stub, and return the ballot to the elector, who shall deposit it in the ballot box. In no case shall any judge permit a ballot to be deposited with the duplicate stub attached.

SECTION 18. Watchers. Each candidate for the office of school director shall have the right to appoint a watcher in each school election precinct. Watchers shall not disclose the result of the votes until the polls have closed.

SECTION 19. Absentee voting. (1) A registered elector may vote in a regular biennial school election by absent voter's ballot under the terms and conditions and in substantially the same manner

COMMENTS

Voter signature at the polls is not required; this recommendation differs from the Committee on Local Election Laws.

Based on part of 123-10-10 (CRS 1953, as amended by chapter 234, Session Laws of 1963.)

See also the definition of "watcher" in section 1 herein.

This authorization for absentee voting at school director elections is new. It follows

TEXT

as is set forth in section 139 through section 159 of the "Colorado Election Code of 1963", except as hereinafter specifically modified.

(2) All acts required or permitted therein to be performed by the county clerk shall be performed by the secretary of the board of education, unless the services of the county clerk are contracted for, but no oath shall be administered by the secretary unless he is also an officer authorized to administer oaths.

(3) A registered elector may apply for an absent voter's ballot not sooner than twenty days before the election, nor later than the close of business on the Friday immediately preceding the election.

(4) No consideration shall be given nor distinction made with reference to any person's political party affiliation or the lack thereof.

(5) The return envelope for the absent voter's ballot shall have printed on its face an affidavit substantially in the following form:

"State of _____;
_____, County of _____.
I, _____, being first duly sworn according to law, depose and say that I am a registered elector in precinct _____, school district _____, county of _____, and state of Colorado; that I am not registered in any other precinct; that my residence and post office address is _____.

Signature of voter

Subscribed and sworn to before me this _____ day of _____, 19____.

COMMENTS

the precedent set by the General Assembly in H. B. 438 (1963), which permits absentee voting in school bond elections (see chapter 236, Session Laws of 1963).

This section on absentee voting differs from the section recommended by the Committee on Local Election Laws. The provisions of this section are more specific.

(Signature of notary public, county clerk
or other officer authorized to administer oaths)

(SEAL)

Title of Office#

SECTION 20. Registration list omissions -- challenges --
oath -- rejection. (1) No person shall be permitted to vote at
any regular biennial school election or special school election
unless his name is found on the registration list; provided, that
any person who has been denied the right to vote because his name
does not appear on the registration list shall be permitted to
vote upon either presenting a certificate of registration issued
on the day of election by the county clerk of the county in which
the school election precinct is located or subscribing to an oath
substantially as prescribed in subsection (5) of this section for
the challenge of a person offering to vote. All such certificates
and oaths shall be surrendered to the judges of election and re-
turned to the secretary of the board of education with other
election records and supplies.

(2) When any person whose name appears on the registration
list, or who has presented a certificate of registration or sub-
scribed to an oath as above provided, offers to vote at any regular
biennial school election or special school election, his right to
vote at that polling place and election may be challenged by an
election judge, clerk, watcher, or any legally qualified elector
of the district.

(3) Each challenge shall be made by written oath, signed
by the challenger under penalty of perjury, setting forth the name
of the person challenged and the basis for the challenge. The
judges of election shall deliver all challenges and oaths to the
secretary of the board of education at the time the other election
papers are returned. The secretary of the board of education shall
forthwith deliver all challenges and oaths to the district attorney
for investigation and appropriate action.

Based on part of 123-10-10
(CRS 1953 as amended by
chapter 234, Session Laws of
1963).

Subsection (1) provides that a
person may vote even though his
name does not appear on the
registration list, if he sub-
scribes to an oath that he is
a qualified registered elector.
This provision differs from
the recommendation of the Com-
mittee on Local Election Laws.

TEXT

COMMENTS

(4) If a person offering to vote be challenged as unqualified, one of the judges of election may require him to answer, under oath, the questions stated in section 136 of chapter 118, Session Laws of Colorado 1963, and such other questions as concern his qualifications as an elector at such regular biennial school election or special school election.

(5) If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him, one of the judges shall administer to him an oath, as follows:

"I do solemnly swear (or affirm) that I am a citizen of the United States; that I have resided in this state for one year immediately preceding this election; in this county ninety days, in this school district thirty days and in this school election precinct fifteen days or absent therefrom twenty days or less; that I am twenty-one years of age or over; that I am a registered elector in this school election precinct; and that I have not previously voted at this election, so help me God."

If the person so challenged shall take the oath or affirmation, his vote shall be accepted, and the judges of election shall write "sworn" on the poll book after the person's name. If he shall refuse to make such oath or affirmation, his vote shall be rejected.

SECTION 21. Count and certification of votes. (1) Immediately after the close of the polls the judges shall open the ballot box and proceed to count the votes cast, and shall continue to count without adjournment until finished. If it shall be found that the number of ballots in the box exceeds the number of names entered in the poll book, the judges of election, without unfolding the ballots, shall examine the endorsement on the backs of the same, and, if in their opinion any one or more of them is spurious, they shall be separated from the others unopened, and shall not be counted, but shall be enclosed in a package by themselves, marked "excess ballots" and returned to the ballot box. A record of the number of such excess ballots shall be made and certified to the board of education in the certificate of returns.

Based on part of 123-10-12
(CRS 1953).

TEXT

COMMENTS

(2) As soon as all the ballots shall have been counted the judges shall make out the certificate of returns in the poll book, stating the number of votes cast, the number of excess ballots, the number of unused ballots and the number of votes received by each candidate in both words and numerical figures.

SECTION 22. Return of ballot box, poll book, and registration list. (1) After the ballots have been counted they shall be returned to the ballot box; the ballot box shall thereupon be returned, together with the poll book, registration list, and other election materials, to the secretary of the board of education of the school district by one of the judges of election. Upon receiving the ballot box, poll book and registration list, the secretary of the board of education shall give his receipt therefor.

(2) If the distance from the polling place to the administrative office of the school district is greater than five miles, the judge providing the transportation for the return of election materials may be paid a mileage allowance, to be set by the board of education, but not to exceed ten cents per mile for each mile necessarily traveled in excess of ten miles in going to and returning from the administrative office of the school district.

SECTION 23. Tie votes. If it appears that any two or more candidates for school director have an equal number of votes for the same office, and a higher number than any other candidate, the "tie" shall be resolved in such manner as shall be agreed upon by the candidates so "tying". If the candidates fail to agree upon the method of resolving the "tie", the same shall be resolved by lot, to be cast as the secretary of the board of education shall determine.

SECTION 24. Canvass of votes - certificate of election. Immediately upon receiving all the returns of election the secretary shall call a meeting of the board of education to meet not more than twenty-four hours later. At such meeting the board of education shall proceed to open and examine the certificate of returns and shall canvass the votes cast. It shall be the duty

Based on part of 123-10-12 (CRS 1953).

Subsection (2) is new.

Replaces part of 123-10-12 (CRS 1953). Provision for special election is eliminated.

See also section 28 herein on vacancies.

Based on part of 123-10-12 (CRS 1953).

TEXT

of the board immediately upon the conclusion of such canvass to make out and deliver a certificate of election to the candidate who shall receive the highest number of votes; provided, in a district which does not have a director district plan of representation and in which there is more than one vacancy to be filled for the same term, certificates of election shall be delivered to those candidates who shall receive the highest number of votes. Each certificate shall be signed by the president and secretary of the board. A duplicate of each certificate of election shall be forwarded to the state department of education.

SECTION 25. Oath of directors. Each director shall, within ten days after delivery of his certificate of election, appear before some officer authorized to administer oaths and take an oath that he will faithfully perform the duties of his office as required by law, and will support the constitution of the United States, the constitution of the state of Colorado, and the laws made pursuant thereto. The oath may be administered by the county superintendent or by the president of the board of education and shall be filed with the county clerk of the county in which the headquarters of the district is located. In case a director fails to take the oath within said period, his office shall be deemed vacant and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director.

SECTION 26. Preservation of ballots. The board of education shall preserve the ballot boxes unopened and intact for at least fifteen days from the day of election, after which time the secretary shall open the same and burn their contents, unless the board shall be required to produce them in a court of competent jurisdiction. In school districts which use voting machines, the machines may be unlocked and the seals broken after fifteen days from the date of election.

SECTION 27. Contests. Proceedings to contest the election of any person declared duly elected as a member of the board of education of any district in this state may be instituted by any qualified elector of such school district. Such proceedings shall be instituted within ten days after the votes cast at such election are canvassed. The county court of the county wherein the headquarters of a school district shall be situated shall have

COMMENTS

Based on part of 123-10-18
(CRS 1953)

Deadline for taking oath is
reduced from 20 to 10 days.

Filing of oaths with county
clerk is based on Article XII,
Section 9, Colorado Consti-
tution.

Based on part of 123-10-12
(CRS 1953).

Time for preserving ballots
is reduced to 15 days
following election.

Based on part of 123-10-12
(CRS 1953).

TEXT

COMMENTS

jurisdiction in all contests for the office of director of any such school district. In such cases the rules of practice and procedure in contested elections for county officers shall apply, as far as applicable.

SECTION 28. Vacancies. (1)(a) A school director office shall be deemed to be vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

(b) If for any reason a school director shall not be elected to a school director office by the electors as may be required at a regular biennial school election.

(c) If the person who was duly elected or appointed shall fail, neglect, or refuse to subscribe to an oath of office as provided in section 25 of this act within ten days after receipt of the certificate of election or appointment.

(d) If the person who was duly elected or appointed shall submit a written resignation to the board of education and such resignation shall have been duly accepted by the board of education.

(e) If the person who was duly elected or appointed shall be or become during his term of office a nonresident of the school district in which he was elected or, in the event the district shall have a director district plan of representation, if he shall be or become during his term of office a nonresident of the director district which he represents unless he shall have been elected at the time or prior to the adoption of a director district plan of representation by the electors or prior to a revision and redesignation of director district boundaries.

(f) If the person who was duly elected or appointed shall be found guilty of a felony.

(g) If a court of competent jurisdiction shall void his election or appointment or remove the person duly elected or appointed for any cause whatsoever, but only after his right to appeal shall have been waived or otherwise exhausted.

Based in part on 123-10-20(1), 1960 Perm. Supp. (See also 123-2-5 which provides that the county superintendent shall fill vacancies in all but first class districts; that section will be repealed.)

Most of the substance of this section is not spelled out in detail in the law at the present time.

TEXT

COMMENTS

(h) If a court of competent jurisdiction shall determine that the person duly elected or appointed is insane or otherwise mentally incompetent, but only after his right to appeal shall have been waived or otherwise exhausted.

(i) If the person who was duly elected or appointed shall be absent from the school district, or in the event the district shall have a director district plan of representation from either the school district or his director district, for more than thirty consecutive days without the board of education having entered upon its minutes an approval for said school director to be absent beyond the time specified herein.

(j) If the person who was duly elected or appointed shall not attend three consecutive meetings of the board of education, whether regular or special meetings, without the board of education having entered upon its minutes an approval for an additional absence, or absences; provided that such additional absence, or absences, shall not be due to a temporary mental or physical disability.

(k) If the person who was duly elected or appointed shall die during his term of office.

(2) At the next board of education meeting immediately following the occurrence of any condition specified in subsection (1) of this section, the board of education of said district shall adopt a resolution declaring a vacancy in said school director office, and the board of education of the school district in which the vacancy occurs shall appoint a person to fill the vacancy within sixty days after said vacancy shall have occurred. If the appointment is not made by the board within such sixty-day period, the president of the board shall forthwith appoint a person to fill the vacancy. The appointment shall be evidenced by an appropriate entry in the minutes of the meeting and the board shall cause a certificate of appointment to be delivered to the person so appointed. A duplicate of each certificate of appointment shall be forwarded to the state department of education.

The provision that the president of the board shall fill the vacancy if agreement is not reached within 60 days is new.

TEXT

(3) An appointee to the office of school director shall serve only until the next regular biennial school election at which time a school director shall be elected by the electors of said school district for the remainder of the unexpired term.

SECTION 29. School election offenses. The election offenses prescribed by 49-21-1 through 49-21-6 and 49-21-8 through 49-21-39, CRS 1953, as amended, shall be applicable to regular biennial school elections and special school elections.

SECTION 30. Election procedures in districts having more than 70,000 school enrollment. (1) The regular biennial school election in each school district having a school enrollment of more than seventy thousand shall be held on the third Tuesday in May of each odd-numbered year and shall be conducted and supervised by the county clerk, or election commission where such commission has been established, of the county or city and county within which such school district is located.

(2) Every elector qualified and registered to vote at a general election shall be entitled to vote at such regular biennial school election, provided he shall be so registered on or before the twentieth day before such school election.

(3) Any candidate for the office of member of the board of education of such district shall be a registered elector of such district.

(4) Any person who may desire to be a candidate for the office of member of the board of education shall file a written notice of such intention with the county clerk or election commission at least twenty days prior to the election date, together with a nomination petition signed by not less than fifty registered electors of said district, which petition shall contain the name of the office for which the person is nominated, his post office address, place of residence and place of business. Each of the

COMMENTS

This section replaces 123-10-11 (CRS 1953, as amended by chapter 98, Session Laws of 1963) and part of 123-10-10(2) (CRS 1953, as amended by chapter 234, Session Laws of 1963).

Based on part of 123-27-1 and 123-27-2, 1960 Perm. Supp.

This section applies to Denver only.

Registration deadline has been changed to 20 days to conform with new general election law.

TEXT

COMMENTS

electors signing the same shall add to his signature his place of residence.

(5) The county clerk or election commission, at least ten days before such regular biennial school election, shall give written notice of the election in substantially the same manner as is set forth in the "Colorado Election Code of 1963" and shall include therein the names of the candidates who have been nominated for the office of school director.

(6) Either ballots or voting machines of a type approved for use in general elections may be used in such school elections. The county clerk or election commission shall prepare the ballots or voting machines for said election. Said ballots or voting machines shall contain the names of the candidates to be balloted for at said election, which names shall be arranged in alphabetical order according to surnames, and such words as will indicate the number of members of the board of education to be elected. Whenever such school election is combined with a municipal election, the county clerk or election commission shall permit and arrange for the joint use of voting machines for balloting for candidates for municipal offices, for candidates for the board of education of said school district and for such other propositions as may be submitted to the electors of said school district, city, or city and county.

(7) Registration requirements for such school elections shall be the same as those defined by state law governing general elections.

(8)(a) The appointment of judges and clerks of election, the printing of poll books and oath forms, the designation of precinct boundaries and polling places, the canvassing of the votes cast and other procedures pertaining to the conduct of school elections required by this act to be done or performed by the secretary or board of education shall, in school districts having a school enrollment of more than seventy thousand, be done and performed by the county clerk or the election commission. The county clerk or election commission shall canvass the returns within five days of

The notice provisions have been changed to conform with the general election law.

such election and shall certify the results thereof to the secretary of the board of education forthwith upon completion of such canvass.

(b) Whenever the date of such school election is identical to the date set for a municipal election in a city or city and county that is coterminous with such school district, the county clerk or election commission shall arrange for the combining of such school election with said municipal election and shall designate as school election precincts and polling places the same election precincts and polling places established for such municipal election and shall designate the respective judges and clerks of such municipal election as judges and clerks respectively of such school election. It shall not be necessary to preserve school ballots cast or to lock any voting machine used for any period in excess of fifteen days after such election unless otherwise ordered by the court.

(9) Voting by absentee ballot shall be permitted at such school elections in the same manner and under the same conditions as are prescribed by law in general elections.

(10) If such school election is combined with a municipal election of a city or city and county that is coterminous with said school district, said school district shall be liable for any increased cost of conducting said election attributable to such combination. If such school election is not combined with a municipal election of a city or city and county that is coterminous with said school district, the board of education of such district shall pay the entire cost of said election. Any amounts so becoming due to such city or city and county from such school district shall be promptly paid upon presentation of a certified statement therefor by the county clerk or election commission.

(11) Except as provided in this section, school elections in school districts having a school enrollment of more than seventy thousand shall be subject to other provisions of law pertaining to school elections.

TEXT

SECTION 31. Section 3(2) of chapter 239, Session Laws of Colorado 1963, is hereby amended to read:

Section 3. New districts by operation of law. (2) Notwithstanding any other provisions in this article to the contrary, ~~the term of office and~~ the number of school director offices in each school district declared to be a new district organized under the provisions of this article pursuant to subsection (1) of this section shall be ~~and remain as existing upon the effective date of this act, namely~~ five director offices for each such school district, and the term of office shall be ~~and remain six~~ FOUR years, and until a successor shall have been elected and qualified; provided, that the provisions of this article relative to the plan of representation shall be applicable to such districts for purposes of nomination for the office of school director, vacancies, and changes in the director district plan of representation.

SECTION 32. Repeal. The following sections are hereby repealed:

(1) 123-2-5, 123-10-6, 123-10-8, 123-10-9, and 123-10-12 to 123-10-18, Colorado Revised Statutes 1953;

(2) 123-10-3(2), 123-27-1, and 123-27-2, Colorado Revised Statutes 1953 (1960 Perm. Supp.);

(3) 123-10-7 and 123-10-10, as amended by Chapter 234, Session Laws of Colorado 1963; 123-10-11, as amended by Chapter 98, Session Laws of Colorado 1963; and Section 2(1) of Chapter 233, Session Laws of Colorado 1963.

SECTION 33. Effective date. This act shall take effect on July 1, 1964.

SECTION 34. Savings clause. This act shall not be construed to remove any school director from office during the term for which he was elected or appointed, but shall apply to the election and appointment of directors after the effective date of this act.

COMMENTS

This amendment is necessary to conform to the change from 6-year to 4-year terms for school directors, as provided in subsection (2) of section 5 herein.

TEXT

COMMENTS

SECTION 35. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

TEXT

COMMENTS

Bill H

A BILL FOR AN ACT
CONCERNING BONDED INDEBTEDNESS OF SCHOOL DISTRICTS AND JUNIOR
COLLEGE DISTRICTS, AND THE REFUNDING THEREOF.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 11 of chapter 123, Colorado Revised
Statutes 1953, as amended, is hereby REPEALED AND RE-ENACTED, WITH
AMENDMENTS, to read:

ARTICLE 11

BONDED INDEBTEDNESS

123-11-1. Definitions. Unless otherwise indicated by the
context, the following words and phrases when used in this article
shall have meanings respectively ascribed to them in this section:

(1) "School district" and "district" mean a school district
or a junior college district organized and existing pursuant to
law.

(2) "Board of education" and "board" mean the governing body
authorized by law to administer the affairs of any school district
as defined in subsection (1) of this section.

(3) "Taxpaying elector" and "qualified taxpaying elector"
mean any person who is at least twenty-one years of age, a citizen
of the United States, and who has resided in the state for one year,
in the county for ninety days, in the school district thirty days,
and in the school election precinct fifteen days immediately pre-
ceding the election at which he offers to vote, and who, during the
twelve months next preceding said election, has paid an ad valorem
school tax upon property situated within the school district and

Definitions of "school dis-
trict" and "board of educa-
tion" are new. They
clarify the applicability of
this article to junior
college districts. (See
last paragraph of 123-11-17.)

Based on 123-11-1(3), Chapter
236, Session Laws of 1963.
Fifteen-day residence in the
school election precinct is
added to conform to Bill G.
Definition of "registered
qualified taxpaying elector"
is also added because of

TEXT

owned by said person; and the term "registered qualified taxpaying elector" means a qualified taxpaying elector who has registered pursuant to the requirements of section 123-11-10.

(4) "Ad valorem school tax" and "general ad valorem school tax" mean only the general property tax, levied annually on real or personal property listed with the county assessor. No person shall be qualified as a taxpaying elector for the purpose of this article or article 12 of this chapter by the payment of any one or more of the following taxes: Income tax, sales tax, use tax, excise tax, specific ownership tax on a motor vehicle or trailer, or any other tax which is not a general ad valorem school tax as hereinabove defined, and the generality of said definition shall never be restricted by the listing set forth herein.

123-11-2. Bonded indebtedness - election - districts over seventy thousand enrollment. (1) A proposition to contract bonded indebtedness may be submitted by the board of education of a school district having a school enrollment of more than seventy thousand, on the date provided by law for election of school directors, or at a special election called for that purpose, to the registered qualified taxpaying electors of such district, for the purposes of the erecting or furnishing of school buildings, for purchasing grounds, or for funding a floating indebtedness, or for any of said purposes, subject to the limitations provided in section 123-11-4.

(2) The county or city and county election officials shall give notice of any election on bonded indebtedness in the same manner required by law for notice of election of school directors. Such notice shall also contain a statement of the amount of the bonded indebtedness proposed to be contracted, the purpose thereof, the maximum rate of interest to be paid, the time or times of maturity, and payment thereof.

(3) The manner and place of conducting such elections, and all other election procedures relating thereto, shall be as provided by law for the election of school directors except as otherwise provided in this article. Watchers as provided by law for

COMMENTS

proposed registration requirements for all school districts and all school elections.

Based on 123-11-1 (4), Chapter 236, Session Laws of 1963.

Based in part on 123-27-3 (1960 Perm. Supp.), repealed herein. Denver is the only school district having more than 70,000 enrollment at the present time.

Specific reference to watchers in this subsection is new.

See Section 30 of proposed

TEXT

the election of school directors shall be permitted at any school bond election. Each such watcher shall be a registered qualified taxpaying elector of the school district who shall have been certified by the county clerk to act as a watcher at said school bond election.

123-11-3. Bonded indebtedness - elections - districts of seventy thousand or less enrollment. (1) The board of education of any school district with a school enrollment of seventy thousand or less, at any regular biennial school election or at a special election called for the purpose, may submit to the qualified tax-paying electors of the district the question of contracting a bonded indebtedness for the purpose of purchasing grounds, or for erecting and furnishing school buildings, or for funding floating indebtedness, or for any of said purposes, subject to the limitations provided in section 123-11-4.

(2) The secretary of the board of education shall give notice of such election in the same manner and for the same length of time as is required by law for notices of elections of school directors, which notices shall also contain a statement of the amount of the bonded indebtedness proposed to be contracted, the maximum rate of interest which it is proposed that the same shall bear, and the time or times of payment thereof, the day, and the place or places of such election, and that the polls and ballot boxes shall be kept open from seven a.m. to seven p.m.

(3) The manner and place of conducting such elections, and all other election procedures relating thereto, shall be as provided by law for the election of school directors, except as otherwise provided in this article. Watchers as provided by law for the election of school directors shall be permitted at any school bond election. Each such watcher shall be a registered qualified tax-paying elector of the school district who shall have been certified by the county clerk to act as a watcher at said school bond election.

(4) The board of education, in its discretion, may require each registered qualified taxpaying elector desiring to vote at any

COMMENTS

Bill G concerning conduct of regular biennial school elections for the election of school directors in districts of more than 70,000 enrollment.

Based on 123-11-1 (1), Chapter 236, Session Laws of 1963.

Based on 123-11-3. Provides that the polls shall be open in all districts from 7:00 a.m. to 7:00 p.m. Eliminates reference to classification of districts.

Similar to proposed section 123-11-2(3) herein. Makes specific reference to watchers.

See proposed Bill G concerning conduct of regular biennial school elections for the election of school directors.

This is a new provision. It authorizes a board of

TEXT

school bond election to sign a written oath that he has, during the twelve months next preceding said election, paid an ad valorem school tax upon property situated within the school district and owned by said person. If the elector is unable to write, he may request assistance from one of the judges of election, and such judge must sign the form and witness the elector's mark.

123-11-4. Limitations on elections. The question or questions of contracting bonded indebtedness may be submitted or resubmitted to the registered qualified taxpaying electors of the district after the same or any other such question or questions have previously been rejected by such electors; provided, that no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question; and provided, further, that the board of education of any school district shall not submit any question or questions of contracting bonded indebtedness at more than two elections within any twelve-month period. The provisions of this subsection shall not apply to elections on assumption of existing bonded indebtedness held pursuant to law.

123-11-5. Limit of bonded indebtedness. Each school district shall have a limit of bonded indebtedness of ten per cent of the valuation for assessment of the taxable property in such district for the year next preceding the date of said bonds. The indebtedness of the former districts or parts of districts, constituting any new district, shall not be considered in fixing the limit of such ten per cent; provided, that if any school district shall assume the bonded indebtedness of any district or districts, or a proportionate share thereof, existing at the time of inclusion in the assuming school district, pursuant to law, such bonded indebtedness shall be included in the ten per cent limitation; and provided, that if the board of education of any school district shall determine that an emergency exists and that the limit of bonded indebtedness of the district set forth in this section prevents the district from meeting such emergency, the board of education may make application to the Colorado tax commission for permission to incur an additional bonded indebtedness of not exceeding five per cent of the valuation for assessment of the taxable property within such district, and on

COMMENTS

education to require tax-paying electors to sign written oaths as to their qualifications.

Based on 123-11-1(2), Chapter 236, Session Laws of 1963.

Based on 123-11-2 and 123-25-32. Eliminates reference to classification of school districts and sets debt limit at ten per cent for all districts. Patterned in part on the present provision for newly organized districts.

TEXT

COMMENTS

receiving such permission, the district may contract an additional indebtedness of five per cent of the valuation for assessment of the taxable property within such district.

123-11-6. Voting precincts. The board of education may, in the same manner and within the same time before election as shall be provided by law for elections of school directors, divide the district into election precincts consisting of one or more whole general election precincts wherever practicable, designate voting places therein, and appoint judges and clerks of election. If one or more judges or a clerk of election shall be absent at the time and place stated in the notice for the opening of the polls and ballot boxes, the vacancy thus created shall be filled in the same manner as provided by law for filling like vacancies at elections of school directors.

Based on 123-11-4. Eliminates reference to classification of districts. Adds provision that precincts shall consist of one or more whole general election precincts wherever practicable, to conform to proposed Bill G.

123-11-7. Ballots. The secretary of the board of education shall cause to be prepared printed ballots or voting machines, if authorized, containing a statement of the amount of bonded indebtedness proposed to be contracted, the maximum rate of interest which it is proposed that such bonds shall bear, and the period of time within which the principal of said bonds shall be payable, and beneath such statement the words "For the bonds", and the words "Against the bonds", with suitable places opposite each of the same wherein the voter may indicate his approval or disapproval of the proposition submitted by a cross mark (X). There shall be printed on the back of each printed ballot the following endorsement: "Official Ballot of School District No. _____, in the county of _____, and state of Colorado", together with the date of election, and a facsimile of the signature of the secretary of the district.

Based on 123-11-5. Adds provision for use of voting machines. Eliminates reference to classification of districts.

123-11-8. Joint election for directors and bonds. If the question of contracting bonded indebtedness shall be submitted at the regular biennial election for the election of school directors, the notice of such bond election shall be included in the notices of said regular biennial election, and the election precincts, polling places, and judges and clerks of election shall be the same as for said election of school directors; and the ballot of said bond election shall not be deposited in the same ballot box with the ballots of said election of school directors. Where voting machines are

Based on 123-11-6. Provides that ballots shall not be deposited in the same ballot box; present law leaves this to the discretion of the board. The change is made because of the difference in qualifications for voting.

TEXT

used in such joint election, necessary procedures shall be utilized to assure that only registered qualified taxpaying electors cast votes on the question of contracting bonded indebtedness.

123-11-9. Poll books - certificate of return. Poll books shall be prepared, used, and kept in the same manner in bond elections as is required by law for elections of school directors; provided, that on the pages for recording the names and addresses of electors, there shall be a third column at the head of which shall be printed the words "Bond election", in which column the judge or clerk of election shall make a cross or other mark opposite the name of each elector who shall cast a ballot in said bond election; and provided that on one of the latter pages of the poll book shall be printed a blank form of certificate of return, substantially as follows:

To the Board of Education of School District No: _____ in the county of _____, and state of Colorado:

At an election held at _____ in Election Precinct No. _____ of said school district, on the _____ day of _____ A.D. 19____, at which was submitted the question of contracting a bonded indebtedness in the amount of _____ dollars, there were cast:

For the bonds: _____ votes.

Against the bonds: _____ votes.

The whole number of votes cast at said bonded election was _____

The number of excess ballots at said bond election was _____

The number of unused ballots at said bond election was _____

Attest: R. S.,
Clerk

J. K.,
O. P.,
L. M.,
Judges

If said bond election shall be held at the same time as an election of school directors, the substance of the foregoing certificate may be combined in one certificate with the substance of a certificate required by law of return of the results of said election of school directors.

COMMENTS

A similar provision is added for voting machines.

Based on 123-11-7.

TEXT

123-11-10. Registration. In any school district, no person shall be allowed to vote on the question of contracting any bonded indebtedness without first having been registered in the manner required by law for the election of school directors, in addition to being qualified in the manner required by the provisions of section 123-11-1(3). In each school district and the voting precincts thereof, the registration list shall be the same, in all respects, as that required by law for the election of school directors.

123-11-11. Registration list omissions - challenges - oath - rejection of vote. (1) No person shall be permitted to vote at any school bond election unless his name is found on the registration list and unless he is a qualified taxpaying elector; provided, that any person who has been denied the right to vote because his name does not appear on the registration list shall be permitted to vote upon either presenting a certificate of registration issued on the day of the election by the county clerk of the county in which the school bond election precinct is located or subscribing to an oath substantially as prescribed in subsection (5) of this section for the challenge of a person offering to vote. All such certificates and oaths shall be surrendered to the judges of election and returned to the secretary of the board of education with other election records and supplies.

(2) When any person whose name appears on the registration list, or who has presented a certificate of registration or subscribed to an oath as above provided, offers to vote at any school bond election, his right to vote at that polling place and bond election may be challenged by an election judge, clerk, watcher, or any qualified taxpaying elector of the district.

(3) Each challenge shall be made by written oath, and shall be as provided by law for elections of school directors.

(4) If a person offering to vote be challenged as unqualified or as not being a taxpaying elector, one of the judges of election may require him to answer, under oath, the questions stated in section 136 of chapter 118, Session Laws of Colorado 1963, and such other questions as concern his qualifications as a taxpaying elector at such school bond election.

COMMENTS

Based on 123-11-8, Chapter 236, Session Laws of 1963. Requires registration in all districts (not only those with more than 3,000 school population), to conform with proposed Bill G.

New provision relating to requirements for registration in all districts. Provides that a person may vote even though his name does not appear on the registration list, if he subscribes to an oath that he is a qualified registered elector. See also Section 20 of Bill G.

Subsections (2) through (6) are based in part on 123-11-9, Chapter 236, Session Laws of 1963. Also based in part on the provisions of the new general election law (sections 133 through 138 of Chapter 118, Session Laws of 1963). Challenges must be made by written oath.

TEXT

(5) If the challenge be not withdrawn after the person offering to vote shall have answered the questions asked him, one of the judges shall administer to him an oath, substantially as follows:

"I do solemnly swear (or affirm) that I am a citizen of the United States; that I have resided in this state for one year immediately preceding this election; in this county ninety days, in this school district thirty days, and in this school election precinct fifteen days or absent therefrom twenty days or less; that I am twenty-one years of age or over; that I am a registered elector in this school election precinct; that, during the twelve months next preceding this election, I have paid an ad valorem school tax upon property situated within this school district and owned by me; and that I have not previously voted at this election, so help me God."

(6) If the person so challenged, or a person whose name does not appear on the registration list and does not present a certificate of registration from the county clerk as provided in subsection (1) of this section, shall take the oath or affirmation, his vote shall be accepted, and the judges of election shall write "sworn" on the poll book after the person's name. If he shall refuse to make such oath or affirmation, his vote shall be rejected.

123-11-12. Count and canvass. (1) The ballots cast at such bond elections shall be counted and canvassed at the same time and in the same manner as is prescribed by law for the counting and canvassing of ballots cast at elections of school directors. The board of education shall enter upon the minutes of the meeting at which the canvass shall be made the result of the election.

(2) Proceedings to contest the validity or result of any bond election may be instituted only by a qualified taxpaying elector of the school district who would in all respects have been qualified to vote at the election being contested. Such proceedings shall be instituted within ten days after the votes cast at such election are canvassed, but not thereafter. The county court for the county wherein the school district headquarters is situated shall have jurisdiction of all such contests. In all cases, the rules,

COMMENTS

The present law specifically requires that the person sign the oath; this provision has not been included here.

Fifteen-day residence in the school election precinct is added to the oath; qualification as a registered elector is also added.

Judges of election must accept the vote of a person who takes the prescribed oath; present law permits them to reject the vote even though the person takes the oath.

Based on 123-11-10, Chapter 236, Session Laws of 1963.

The present law gives concurrent jurisdiction to the county and district courts in election contests; this bill would place jurisdiction in the county court.

TEXT

practice, and procedures for contested elections for county officers as otherwise provided by law shall apply insofar as applicable.

123-11-13. Absentee voting. (1) A registered qualified taxpaying elector may vote in any school bond election by absent voter's ballot under the terms and conditions, and in substantially the same manner insofar as is practicable, as prescribed in section 139 through section 159 of the "Colorado Election Code of 1963" for general elections, except as hereinafter specifically modified.

(2) All acts required or permitted therein to be performed by the county clerk shall be performed by the secretary of the board of education, unless the services of the county clerk are contracted for, but no oath shall be administered by the secretary unless he is also an officer authorized to administer oaths.

(3) A registered qualified taxpaying elector may apply for an absent voter's ballot not sooner than twenty days before the election, nor later than the close of business on the Friday immediately preceding the election.

(4) No consideration shall be given nor distinction made with reference to any person's political party affiliation or the lack thereof.

(5) The return envelope for the absent voter's ballot shall have printed on its face an affidavit substantially in the following form:

COMMENTS

Based on 123-11-21, Chapter 236, Session Laws of 1963. Refers to absentee voting provisions of the new general election law rather than to the municipal election law. Adds registration requirement for all districts (not only those of 3,000 or more).

Makes exception for cases where the school district contracts with the county clerk to perform election duties. (See Section 3 of proposed Bill G.)

Earliest time for applications for absentee ballots is changed from 28 days to 20 days. Latest time for application is changed from seven days before the election to the Friday before the election.

New provision to eliminate confusion when referring to the provisions of the new general election law.

Compare with 123-11-21(5), Chapter 236, Session Laws of 1963. This bill specifies the contents of the affidavit.

TEXT

"State of _____:
_____, County of _____.

I, _____, being first duly sworn according to law, depose and say that I am a registered qualified taxpaying elector in precinct _____, school district _____, county of _____, and state of Colorado; that I am not registered in any other precinct; that my residence and post office address is _____; that I have paid an ad valorem school tax during the twelve months prior to this election upon property situated in said school district and owned by me.

Signature of voter

Subscribed and sworn to before me this _____ day of _____, 19__.

(Signature of notary public, county clerk, or other officer authorized to administer oaths)

(SEAL)

Title of office

(6) In any such bond election at which voting machines are used, the board of education shall provide paper ballots for absentee voters containing the same question as appears on the voting machines. Such paper ballots shall be prepared in accordance with the provisions of section 123-11-7.

123-11-14. Use of voting machines. Voting machines may be used in any school district bond election if the board of education, by resolution, authorizes their use.

123-11-15. Board may issue bonds. If a majority of all votes cast are found to be "for the bonds", the board of education, from

COMMENTS

Compare with 123-11-21(5) Chapter 236, Session Laws of 1963. This bill specifies the contents of the affidavit.

Based on 123-11-22, Chapter 236, Session Laws of 1963.

Based on 123-11-11, Chapter 236, Session Laws of 1963.

TEXT

time to time, as the proceeds thereof shall be needed for the purposes specified in the notice of said bond election, shall issue coupon bonds of the district in denominations of one thousand dollars or any multiple of one thousand dollars, in its discretion, bearing interest at a rate or rates, not exceeding the maximum rate or rates, specified in the notice of said bond election, and in no case exceeding six per cent per annum, payable at such time or times determined in the discretion of the board, which bonds shall mature serially, commencing not later than five years and extending not more than twenty-five years from the date thereof; principal and interest thereon shall be payable at such place or places as shall be determined by said board and designated in said bonds.

123-11-16. Form of bonds. The bonds issued under the provisions of this article shall be numbered consecutively, beginning with number one. The board of education of the district is authorized to prescribe the form of such bonds and the coupons thereto. Said bonds shall recite that they are issued pursuant to this article, and said bonds shall be signed by the president of the district, bear an impression of the seal of the district, and be attested by signature of the secretary. The interest coupons evidencing the interest thereon shall bear the signature of the president of the district, which may be affixed by him in person, or it may be an engraved or lithographed facsimile thereof when affixed in the manner otherwise prescribed for warrants, orders, and contracts. At the discretion of the board of education, any school bonds may be issued with privileges for registration of such bonds for payment as to principal or interest, or both.

123-11-17. Sale at less than par - discount. If it shall be found to be impracticable for the school district to obtain for such bonds their full face value, the board of education of the school district may issue such bonds and accept therefor less than their face value; provided, that the total amount of such discount plus the interest payable on such bonds from their date to maturity shall not be greater than the total amount of interest that would be payable on such bonds from their date to maturity at the maximum rate of interest specified in the notice of the bond election.

COMMENTS

Eliminates reference to classes of school districts. Also eliminates the requirement that bonds be payable "either annually or semi-annually", in order to provide greater flexibility in interest dates (particularly the first interest obligation).

Based on 123-11-12. Eliminates reference to third class districts. Adds a provision relative to registration of bonds.

Based on 123-11-13. Eliminates reference to classes of school districts. Also, eliminates reference to interest having been "paid" prior to sale.

TEXT

123-11-18. Board to certify needed revenues. (1) Whenever the board of education shall have issued any of said bonds, at the time of certifying to the board of county commissioners a statement showing the amount necessary to raise from the taxable property of said district for the general fund, as required by law, it shall also certify to said board of county commissioners the amount needed for its bond redemption fund to pay all installments of principal and interest of said bonds, which, according to their terms, shall become due and payable during the next ensuing fiscal year, together with such additional amount, if any, as in the judgment of the board of education it is desirable to raise from the taxable property of said district for the purpose of redeeming, during the said ensuing fiscal year, any of said bonds which shall then be redeemable but not due. Separate amounts shall be certified for the bond redemption fund to satisfy the outstanding obligations of bonded indebtedness which involve separate tax levies on taxable property located within different territorial limits.

(2) The board of education shall have authority to include in each amount certified for said bond redemption fund a reasonable amount to create a reserve for the redemption of bonds in future years prior to their maturities; provided that said reserve shall be restricted to the subsidiary account in the bond redemption fund for which said tax levy was made.

123-11-19. Tax levy to pay principal and interest. (1) Whenever any school district shall have issued bonds under the provisions of this article, it shall be the duty of the board of county commissioners of the county in which said district is situated, at the time of levying other school district taxes, to levy and assess a tax on all the taxable property of said district in an amount sufficient to produce the amount or amounts as shall be certified by the board of education of said district, for the purpose of paying bonds not yet due, as provided in section 123-11-18.

(2) Except when said school district shall have sufficient moneys or securities in a refund escrow to satisfy the bonded indebtedness obligations which will be due and payable during said district's next ensuing fiscal year, if the board of education shall

COMMENTS

Based on 123-11-14. Adds a provision to cover situations where separate amounts must be certified.

Reference to the "general" fund, rather than the "special" fund, is to conform with proposed Bill M.

This subsection is new. It is designed to provide greater flexibility to adjust tax levy to existing economic conditions.

Based on part of 123-11-15. Much of the detail has been deleted.

Based on part of 123-11-15. Eliminates the requirement of a tax levy each year for bonded indebtedness when

TEXT

fail to certify such an amount, or amounts, to the board of county commissioners as required by section 123-11-18, the board of county commissioners, nevertheless, shall levy upon the appropriate taxable property of said district, a tax in addition to the taxes levied for other purposes, in an amount sufficient to pay all installments of principal and interest of said bonds that shall become due during the next ensuing fiscal year, or, if said bonds do not become due and payable in series at different times, in an amount sufficient to pay all installments of interest then to become due and the aforesaid portion of principal.

(3) The amount or amounts certified pursuant to section 123-11-18 and the rate of the tax levy required by this section shall be sufficient to cover any deficiency which may occur by reason of delinquent payment of taxes.

(4) The county treasurer shall not collect any fee on the moneys received by virtue of a tax levy pursuant to this section or by virtue of his office having been designated as the place of payment, or optional place of payment, for bonds issued under this article.

123-11-20. Bond fund - payment and redemption. (1) Such taxes shall be collected in the same manner as other school district taxes and when collected shall be placed by the county treasurer in the bond redemption fund of said school district. The moneys in said fund shall be used only for payment of interest upon and for the redemption of such bonds, upon orders signed and countersigned in the manner provided by law for the execution of other school district orders; provided, that the board of education of said school district may withdraw any or all of such moneys credited to said fund, which are temporarily not needed to satisfy the obligations of bonded indebtedness, for the purpose of depositing or investing such moneys in the manner prescribed by law.

COMMENTS

such bonds have been refunded but not yet paid or redeemed.

New provision.

New provision to eliminate fee to county treasurer on bond moneys. (Note that 123-11-20 is repealed and not replaced.)

Based on 123-11-16(1), Chapter 236, Session Laws of 1963. The proviso is added to clearly indicate that moneys in the bond redemption fund may be withdrawn. This is consistent with People v. Koenig, 99 Colorado 456. It will be the responsibility of the board of education to cause sufficient moneys to be in the fund to meet the obligations when due and payable if the county treasurer's office has been designated as the place of payment for said bonds.

TEXT

(2) Redemption of said bonds prior to the respective maturities thereof may be made in either direct or inverse numerical order as determined by the board in the resolution authorizing the issuance of said bonds and set forth on the face of said bonds. Notice of the redemption of said bonds, prior to maturity, shall be made in the manner prescribed in said bond resolution. In the absence of such prescribed manner in the bond resolution, a redemption prior to maturity shall be made in the following manner: When authorized by the board of education, the treasurer of said school district shall advertise in some newspaper published in the school district two times, once a week for two consecutive weeks that on a certain day, named in said advertisement, not less than four weeks after the time of the first publication thereof, he will redeem certain of said bonds therein described by number, amount, and date of issue thereof and that the principal, interest to redemption date, and redemption premium, if any, of said bonds will be paid in accordance with the bond resolution authorizing such bonds. The notice shall indicate also that after the day so fixed for redemption, the interest on the bonds shall cease. After the day of redemption so fixed in said notice the bonds so advertised and called to be redeemed shall cease to draw interest.

(3) In the event that bonds are made payable at the office of the county treasurer, any redemption of such bonds shall also be made at the office of the county treasurer of the county, who shall make a notation of such payment or redemption upon his books.

(4) In the event that bonds are made payable at some place other than the office of the county treasurer such bonds shall be redeemable at the place where payable and the treasurer of the district shall, immediately after the payment or redemption, inform the county treasurer that certain bonds, describing them by number, amount, and date of issue, have been paid or redeemed and cancelled, and said county treasurer shall make a record of such payment or redemption upon his books.

(5) In all cases bonds when paid or redeemed shall be cancelled by the district treasurer and preserved by him and his successors for a period of one year after the date of their payment or redemption.

COMMENTS

Based on 123-11-16 (2), 1961 Supp. Adds provisions for greater flexibility in notice and for clarification on redemption premiums, etc.

Based on 123-11-16(3), Chapter 236, Session Laws of 1963.

Based on 123-11-16(4), 1961 Supp.

Based on 123-11-16(5), 1961 Supp.

TEXT

123-11-21. Place of payment. (1) The board of education of a school district is authorized to designate the office of the county treasurer in which any such school district, or the greater part thereof, is situated as the place of payment or optional place of payment of the principal of or interest on all or any bonds issued by any such school district, or to designate any commercial bank or trust company as the place of payment or optional place of payment of the principal of or interest on all or any bonds issued by any such school district; and the commercial bank or trust company so designated may be located either within or without this state.

(2) It shall be the duty of the board of education of said school district to cause sufficient moneys from said tax levy or refunding escrow account to be deposited from time to time at the place of payment, or optional place of payment, designated on said bonds in an amount to satisfy the principal and interest obligations of said bonds as the same may become due and payable from time to time. It shall thereafter be the duty of the treasurer of said school district to pay the obligations of said bonds as the same may become due and payable, upon presentation of the bonds and coupons respectively evidencing such obligations, from any moneys to the credit of the appropriate account available for that purpose; provided that at the time of any such payment, the moneys available therefor shall be sufficient to pay in full the maturing installment of interest on, or principal of, said bonds, or both principal and interest, as the case may be.

123-11-22. Registration of bonds. Whenever any school district shall issue bonds under the provisions of this article the board of education may make and enter in and upon its record a request that the county clerk and recorder of the county wherein such school district is situated, or the greater portion thereof is situated, register the bonds in a book to be kept by him for that purpose,

COMMENTS

Based on 123-11-17. Adds provision authorizing the designation of a commercial bank or trust company as the place of payment.

Based on part of 123-11-17. Changes the responsibility for payment of school district obligations from the county treasurer to the board of education. Makes compatible with the decision of the Supreme Court of Colorado to the effect that "A county treasurer can have no concern as to the place, manner, or fact of payment of school district obligations." See People v Koenig, 99 Colo 456.

Under the proposed change, the duty of the county treasurer would be clearly limited to honoring warrants drawn on moneys in his temporary custody, if any.

Based on 123-11-18. Clarifies registration for joint school districts and prevents "any person" from contesting validity of bonds.

TEXT

and when so registered, the legality thereof shall not be open to contest by such district, or any person whomsoever, for any reason whatever; and a certified copy of the order of the board, so made and entered of record, shall be furnished to the said county clerk and recorder by the said board of education and thereupon it shall be his duty to register said bonds, noting the name of the district and the amount, the date of issuance and maturity and rate of interest of said bonds. He shall receive a fee of ten cents for registering each bond.

SECTION 2. Repeal. 123-27-3, Colorado Revised Statutes 1953 (1960 Perm. Supp.), 123-8-32, Colorado Revised Statutes 1953 (1961 Supp.), and 123-8-31, as amended by section 3 of chapter 238, Session Laws of Colorado 1963, are hereby repealed.

SECTION 3. Article 12 of chapter 123, Colorado Revised Statutes 1953, as amended, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

ARTICLE 12

REFUNDING BONDS

123-12-1. Definitions. Unless otherwise indicated by the context, the following words and phrases when used in this article shall have meanings respectively ascribed to them in this section:

(1) "School district" or "district" means a school district or a junior college district organized and existing pursuant to law.

COMMENTS

123-27-3 is covered in this bill (123-11-2). 123-8-31 and 123-8-32 are the only sections remaining in the School District Organization Act of 1949. They relate to bonded indebtedness and are largely covered by this bill, Bill I, present 123-25-31, and other parts of article 123-25.

Based on 123-12-1(5), Chapter 237, Session Laws of 1963, but does not specify types of school districts. Clarifies applicability to junior college districts.

TEXT

(2) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district as defined in subsection (1) of this section.

(3) "Net interest cost" of a proposed issue of refunding bonds means the total amount of interest to accrue on said refunding bonds from their date to their respective maturities, less the amount of any premium above par at which said refunding bonds are being or have been sold. "Net interest cost" of an outstanding issue of bonds to be refunded means the total amount of interest which would accrue on said outstanding bonds from the date of the proposed refunding bonds to the respective maturity dates of said outstanding bonds to be refunded. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4) "Net effective interest rate" of a proposed issue of refunding bonds means the net interest cost of said refunding issue divided by the sum of the products derived by multiplying the principal amounts of such refunding issue maturing on each maturity date by the number of years from the date of said proposed refunding bonds to their respective maturities. "Net effective interest rate" of an outstanding issue of bonds to be refunded means the net interest cost of said issue to be refunded divided by the sum of the products derived by multiplying the principal amounts of such issue to be refunded maturing on each maturity date by the number of years from the date of the proposed refunding bonds to the respective maturities of the bonds to be refunded. In all cases the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

123-12-2. Refunding bonds may be issued. (1) Any school district in this state may issue negotiable coupon bonds to be denominated refunding bonds for the purpose of refunding any of the bonded indebtedness of such district, whether said indebtedness is due or not due, or has or may hereafter become payable or redeemable at the option of such district, or by consent of the bondholders, or by any lawful means, whether such bonded indebtedness be now existing or may hereafter be created.

COMMENTS

Based on 123-12-1(6), Chapter 237, Session Laws of 1963.

Based on 123-12-2(3), Chapter 237, Session Laws of 1963.

Based on 123-12-2(4), Chapter 237, Session Laws of 1963.

Based on 123-12-1, Chapter 237, Session Laws of 1963.

TEXT

(2) (a) The bonded indebtedness of any district outstanding at the time of the inclusion of all such district's territory in another district or districts, by reorganization, consolidation, dissolution, or by any other lawful means, may be refunded by action of the board or boards of the district or districts including such territory at the time of such refunding, whether or not such indebtedness has been assumed by the district or districts including such territory; provided, that the bonded indebtedness, or proportionate share thereof, which has been assumed shall be refunded as an indebtedness of the school district which assumed such indebtedness, or proportionate share thereof.

(b) When an entire district having outstanding bonded indebtedness has been divided and parts thereof included within two or more other districts, by any lawful means, the refunding of such indebtedness shall require affirmative action by a majority of the members of the boards of each of the districts within which any part of the territory of such district owing said indebtedness is then included, except as is hereinafter provided to the contrary.

(3) The bonded indebtedness of any school district outstanding at the time any territory of said district is detached therefrom by any lawful means, and which district has retained its lawful corporate existence subsequent to the detachment of such territory from said district, may be refunded by action of the board of such district from which territory has been detached with or without concurrence or action by the board of the district within which said detached territory is included, and such districts from which territory has been detached and which retain their corporate existence subsequent to detachment are specifically exempted from the requirements and provisions of subsection (2)(b) of this section.

(4) Any such refunding bonds may be issued to refund one or more or all issues of outstanding bonds; provided, that no two or more issues of outstanding bonds may be refunded by a single issue of refunding bonds unless the taxable property, upon which tax levies are being made for payment of each such outstanding issue of bonds, is identical to the taxable property on which such levies are being made for the payment of all other outstanding bonds proposed to be refunded by such single issue of refunding bonds.

COMMENTS

Based on 123-12-1(2)(a), Chapter 237, Session Laws of 1963. Provision concerning assumed indebtedness is new.

Based on 123-12-1(2)(b), Chapter 237, Session Laws of 1963.

Based on 123-12-1(3), Chapter 237, Session Laws of 1963.

Based on 123-12-1(4), Chapter 237, Session Laws of 1963.

TEXT

123-12-3. Question of issuing refunding bonds. (1) Whenever the board of education of any school district shall deem it expedient to issue refunding bonds under the provisions of this article, and the net effective interest rate and the net interest cost of said issue of refunding bonds shall not exceed the net effective interest rate and the net interest cost of the outstanding bonds to be refunded, such refunding bonds may be issued without the submission of the question of issuing the same to a vote of the registered qualified taxpaying electors of such district, as defined by section 123-11-1(3). In the event that two or more issues of outstanding bonds of a school district are to be refunded by the issuance of a single issue of refunding bonds, as provided in section 123-12-2(4), the net interest cost and net effective interest rate on the bonds to be refunded shall be computed as if all of said bonds had originally been combined as a single issue aggregating the total of the smaller issues, and the results of this computation shall be compared with the net interest cost and net effective interest rate on the whole of the single refunding issue for purposes of determining the necessity of submitting the question of issuing such refunding bonds to a vote of the registered qualified taxpaying electors of the district.

(2) If any district proposes to issue refunding bonds, on which issue the net interest cost or net effective interest rate shall exceed the net interest cost or net effective interest rate of the outstanding bonds to be refunded, the board shall submit the question of issuing such refunding bonds to the registered qualified taxpaying electors of the district for their approval or rejection at the regular biennial school election or at a special election called for that purpose. Any such election shall be called and held as nearly as may be in the manner provided by law for elections on the question of the issuance of other school bonds of the issuing district.

123-12-4. Authorization - form - interest. (1) Such refunding bonds shall be authorized by a resolution fixing the date, the denominations, the rate of interest, which rate shall in no case exceed six per cent per annum, the maturity dates which shall not be more than twenty-five years after the date of such refunding bonds,

COMMENTS

Based on 123-12-2(1), Chapter 237, Session Laws of 1963. Clearly states that only registered qualified taxpaying electors may vote in the election.

Based on 123-12-2(2), Chapter 237, Session Laws of 1963. Deletes reference to county and union high school districts.

Based on part of 123-12-3, but changes maximum interest from eight per cent to six per cent for all districts. This will conform with six per cent

TEXT

COMMENTS

and the place or places of payment within or without the state of Colorado, of both principal and interest, and prescribing the form of such refunding bonds. Such bonds shall be negotiable in form and shall be executed in the same manner as prescribed for other school district bonds. At the discretion of the board, any such bonds may be issued with privileges for registration for payment as to principal or interest, or both.

maximum for initial bonds (123-11-15 of this bill). Provision for registration of bonds is new.

(2) The interest accruing on such refunding bonds shall be evidenced by interest coupons thereto attached in substantially the same form as prescribed for other school district bonds, and when so executed, such coupons shall be the binding obligations of the district according to their import. Such refunding bonds shall mature serially, commencing not later than five years after the date of such bonds and maturing during a period not exceeding twenty-five years after the date thereof. The amount of such maturities shall be fixed by the board of education and specified in the resolution authorizing the issuance of the refunding bonds. The right to redeem all or part of said bonds, prior to their maturity, and the order of any such redemption, may be reserved in the resolution authorizing the issuance of bonds and shall be set forth on the face of said bonds.

Based on part of 123-12-3. Deletes reference to "semi-annual" interest coupons.

123-12-5. Sale - proceeds - amounts. Such refunding bonds may be exchanged dollar for dollar, for the bonds to be refunded or they may be sold at not less than their par value, in a principal amount not exceeding the principal amount of the bonds to be refunded, as directed by the board of education, and the proceeds thereof shall be applied only to the purpose for which such refunding bonds were issued. The principal amount of said refunding bonds may be the same or less than the principal amount of the bonds to be refunded, provided that due, adequate, and sufficient provision has been made for the payment, or redemption, and retirement of said bonds to be refunded and the payment of the interest accruing thereon in accordance with this article.

Based on 123-12-4, Chapter 237, Session Laws of 1963.

123-12-6. Needed revenues - tax levy - miscellaneous. (1) Whenever a board of education shall issue refunding bonds under the provisions of this article, sections 123-11-18 to 123-11-22 shall be applicable to said refunding bonds and the procedures therefor, in

Replaces 123-12-5 and 123-12-8, Chapter 237, Sessions Laws of 1963.

TEXT

COMMENTS

the same manner as prescribed for other school district bonds.

(2) After refunding bonds are issued pursuant to this article, the resolution authorizing the same and providing for the levy of taxes for the payment of interest upon and the principal of such refunding bonds shall not be altered or repealed until the refunding bonds so authorized shall have been fully paid.

Based on 123-12-6.

123-12-7. Application of bond proceeds - procedures - limitations. (1) The proceeds derived from the issuance of any refunding bonds under the provisions of this article shall either be immediately applied to the payment, or redemption, and retirement of the bonds to be refunded and the cost and expense incident to such procedures, or shall immediately be placed in escrow to be applied to the payment of said bonds upon their presentation therefor and the costs and expenses incident to such proceedings and for no other purpose or purposes whatsoever until the bonds being refunded have been paid in full and discharged, and all accrued interest thereon has also been paid in full, upon which occurrences the escrow shall terminate, and any moneys remaining therein shall be returned to the district's bond redemption fund.

Based on 123-12-7, Chapter 237, Session Laws of 1963.

(2) Any such escrowed proceeds, pending such use, may be invested or, if necessary, reinvested only in direct obligations of the United States of America, maturing at such times as to insure the prompt payment of the bonds refunded under the provisions of this article, and the interest accruing thereon.

(3) Such escrowed proceeds and investments, together with any interest to be derived from such investments, shall be in an amount which at all times shall be sufficient to pay the bonds refunded as they become due at their respective maturities or as they are called for redemption and payment on prior redemption dates, as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom; the computations made in determining such sufficiency shall be verified by a certified public accountant.

(4) For the purpose of implementing the provisions of this article, the board of education of any school district shall have

the power to enter into escrow agreements and to establish escrow accounts with any commercial bank having full trust powers located within the state of Colorado, which is a member of the federal deposit insurance corporation, under protective covenants and agreements whereby such accounts shall be fully secured by direct obligations of the United States of America, or shall be invested in such direct obligations only, in such amounts as will be sufficient, and maturing at such times, so as to insure the prompt payment of the bonds refunded, and the interest accruing thereon, under the provisions of this article.

(5) In no event shall the aggregate amount of bonded indebtedness of any school district exceed the maximum allowable amount as determined pursuant to sections 123-11-5 or 123-25-32; provided that in determining and computing such aggregate amount of bonded indebtedness of any district, bonds which have been refunded, as provided in this article, either by immediate payment, or redemption, and retirement, or by the placement of the proceeds of refunding bonds in escrow, shall not be deemed outstanding indebtedness from and after the date on which sufficient moneys are placed with the paying agent of such outstanding bonds for the purpose of immediately paying, or redeeming, and retiring such bonds, or from and after the date on which the proceeds of said refunding bonds are placed in escrow.

(6) The issuance of refunding bonds by any school district for the purposes and in the manner authorized by this article, or by the provisions of any other law, shall never be interpreted or taken to be the creation of an indebtedness such that the same would require the approval of the registered qualified taxpaying electors of the district, and no such approval shall be required for the issuance of such refunding bonds except as is specifically required by the law under which said refunding bonds are sought to be issued or have been issued.

(7) No bonds may be refunded under the provisions of this article unless the holders thereof voluntarily surrender said bonds for immediate exchange or immediate payment, or unless said bonds either mature or are callable for redemption prior to their maturity under their terms within ten years after the date of issuance of the refunding bonds, and provisions shall be made for paying, or redeeming, and discharging all of the bonds refunded within said period of time.

TEXT

123-12-8. Reports. Each school district which shall issue refunding bonds under the provisions of this article shall file a report within sixty days after the issuance of said bonds with the state board of education. The report shall indicate the principal amount of bonds refunded, the net effective interest rate of both the bonds refunded and the refunding bonds, the net interest cost of both the bonds refunded and the refunding bonds, all school district costs incident to the issuance of refunding bonds, including those of the escrow agent and such other items as may be determined by the state board of education.

SECTION 4. Validation. All outstanding bonds and all acts and proceedings heretofore had or taken, or purportedly had or taken, by or on behalf of any school district under law or under color of law preliminary to and in the authorization, execution, sale, issuance, and payment of all such bonds are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power, authority or otherwise, other than constitutional, and notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts and proceedings, and in such authorization, execution, sale, issuance, and payment, including without limiting the generality of the foregoing, such acts and proceedings appertaining to bonds all or any part of which have heretofore not been issued nor purportedly issued.

SECTION 5. Saving clause. Nothing in this act shall be construed in a manner so as to impair the obligations of any bonds, or the refunding thereof, heretofore issued by a school district or otherwise invalidate any such bond, or the obligations or refunding thereof.

SECTION 6. Severability clause. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

COMMENTS

New provision designed to aid in study and research relative to the effects of the advance refunding concept.

TEXT

COMMENTS

SECTION 7. Effective date. This act shall take effect on July 1, 1964.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

TEXT

Bill I

A BILL FOR AN ACT
CONCERNING CHANGES IN SCHOOL DISTRICT BOUNDARIES, PROVIDING FOR
LIABILITY FOR PAYMENT OF BONDED INDEBTEDNESS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 25 of chapter 123, Colorado Revised Statutes 1953, as amended, is hereby amended BY THE ADDITION OF A NEW SECTION 123-25-47 to read:

123-25-47. Changes in boundaries - liability. (1) Nothing in this article shall be construed in a manner so as to release the taxable property within a school district which incurred bonded indebtedness from liability for its proportionate share of the outstanding obligations thereof.

(2) The outstanding bonded indebtedness, or proportionate share thereof, incurred by a school district which is dissolved as a result of the formation of a new school district may be assumed by said new school district in the manner otherwise provided by law.

(3) The taxable property located within the territory of a school district which is dissolved, and the resultant unorganized territory annexed to an adjacent school district, shall be liable for its proportionate share of the bonded indebtedness previously incurred by the annexing school district.

(4) The taxable property located within the territory of a school district which is detached and annexed to an adjacent school district shall be liable for its proportionate share of the bonded indebtedness previously incurred by the annexing school district.

SECTION 2. Effective date. This act shall take effect on July 1, 1964.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTS

This bill is based on the provisions of 123-11-19. It is not included in Bill H (which repeals and re-enacts article 123-11 on bonded indebtedness); instead, it is added to the article on school district organization. See also 123-25-31, Chapter 238, Session Laws of 1963, and Board of County Commissioners of Yuma County v. Carpenter, 134 Colo. 356.

Subsection (2) permits assumption of debt following reorganizations under article 25.

Subsection (3) covers liability for the debt following dissolutions and annexations under section 123-25-41 (1960 Perm. Supp.).

Subsection (4) covers liability for debt following Denver annexations and also detachments and annexations under Chapter 240, Session Laws of 1963 (new section 123-25-45).

TEXT

COMMENTS

BILL J

A BILL FOR AN ACT
CONCERNING TEACHERS AND EMPLOYEES IN THE PUBLIC SCHOOL SYSTEM OF
THE STATE; PROVIDING FOR THE EMPLOYMENT OF TEACHERS, PRESCRIBING
PROCEDURES FOR DISMISSAL; AND ENACTING "THE TEACHER TENURE ACT
OF 1964".

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Chapter 123, Colorado Revised Statutes 1953, as amended, is hereby amended BY THE ADDITION OF A NEW ARTICLE 33 to read:

ARTICLE 33

EMPLOYMENT OF TEACHERS

123-33-1. Definitions. Unless otherwise indicated by the context, the following words and phrases when used in this article shall have the meanings ascribed to them respectively in this section:

(1) "School district" means a school district or a junior college district organized and existing pursuant to law.

(2) "Board of education" means the board of education or governing body of a school district.

(3) "Teacher" means any person as defined in section 123-17-20 (6).

These definitions also apply to the proposed teacher tenure act (see 123-18-2 in this bill).

Note that junior college districts are included in this definition and are included under the provisions of this article unless specifically excepted. (See part of present 123-18-3.)

See also 123-18-2(2)(a) and (b) of this bill for definitions of "teacher" and "tenure teacher" under the tenure act.

TEXT

COMMENTS

(4) "Teacher's certificate" means a certificate as defined in section 123-17-20(9), including a letter of authorization.

See also 123-18-2(2)(c) of this bill for definition of "teacher's certificate" under the tenure act.

(5) "Part-time teacher" means a teacher who normally performs services as an employee of a school in an amount of time less than four hours during each regular school day.

New definition.

(6) "Substitute teacher" means a teacher who normally performs services as an employee of a school district in an amount of time of four hours or more during each regular school day, but for less than ninety regular school days during an academic year.

New definition.

(7) "Salary schedule" means the general schedule of salaries for all teachers as required to be adopted by a board of education pursuant to section 123-33-4.

New definition.

(8) "Dismissal" means the involuntary termination of employment of a teacher during the contractual period of time for any reason other than mandatory retirement.

New definition. "Dismissal" during the contract period should be distinguished from "refusal to re-employ" for a succeeding contract period.

(9) "School year" means the first day of July through the thirtieth day of June next following.

Based on part of 123-21-12, 1961 Supp.

(10) "Academic year" means that portion of the school year during which the public schools of a school district are in regular session, beginning on or about the first week in September and ending on or about the first week in June next following.

New definition based on general practice.

123-33-2. Employment - certificate required. A board of education of a school district shall not employ any person as a teacher, except in junior college districts or in an adult education program, unless such person shall possess a teacher's certificate issued in the manner prescribed by law.

Based on part of 123-17-1, 1961 Supp., repealed herein.

123-33-3. Services - disbursements. No order or warrant for

Based on 123-17-3, 1961 Supp.,

TEXT

the disbursement of school district moneys shall be drawn in favor of any person for services as a teacher, except for services performed for a junior college district or in an adult education program, unless such person shall hold or be entitled to hold a valid teacher's certificate, duly registered in the administrative office of the school district wherein the services are to be rendered. Each teacher's certificate shall be in force during the full period of employment of the teacher holding the certificate. Any person who shall perform services as a teacher without possessing or being entitled to possess, a valid teacher's certificate shall forfeit all claim to compensation out of school district moneys for the time during which such services are performed without such certificate.

123-33-4. Salary schedule - adoption - changes. (1) The board of education of a school district shall adopt a salary schedule for all teachers in the district. The salary schedule shall be adopted prior to the beginning of the school year, and it shall remain in effect until changed or modified by the board.

(2) The salary schedule adopted for teachers for a school year shall not be changed or modified during such school year in a manner so as to reduce the salary of a teacher unless there is a general reduction by the same amount or percentage in the salaries of at least fifty per cent of all teachers; provided, that the reassignment of a teacher with a reduction in salary pursuant to subsections (2) or (3) of section 123-18-5 shall not be included within the limitations of this subsection.

(3) The salary schedule may provide for automatic or conditional increments in addition to the basic salary to be paid a teacher.

COMMENTS

repealed herein. Omits specific reference to "principal, supervisor, or superintendent." Certificates are to be filed in the administrative office of the school district rather than in the office of the county superintendent. Adds "entitled to" hold a certificate, to cover situations where certified teachers for some reason do not possess their certificates (at the beginning of the academic year, for example).

Based in part on 123-18-6. Applies to non-tenure teachers as well as to tenure teachers. Adds a provision that the salary schedule must be adopted prior to the beginning of the school year.

Based in part on 123-18-6 but makes exceptions to provide greater flexibility in reassignments of administrators and coaches.

New provision designed to clarify authority of a school board to provide for increments based on performance or other conditions.

TEXT

123-33-5. Payment of salaries. (1) The annual salary of a teacher shall be paid in twelve equal monthly installments except as otherwise mutually agreed between the board of education and said teacher.

(2) If it is mutually agreed to pay the salary of a teacher in equal installments which exceed the period of time during which the services are to be performed, upon termination of employment of said teacher prior to receiving all of said salary installments, said teacher shall be entitled to a pro rata share of the salary installments due and payable pursuant to said agreement for the period during which no services are required to be performed, except as provided in section 123-33-6(4).

(3) Section 123-18-6(2) shall be applicable to a teacher who has not acquired tenure.

123-33-6. Employment contracts - written. (1) Every employment agreement or contract hereafter entered into by any teacher for the performance of services for a school district shall be voidable unless said agreement or contract shall have been reduced to writing, except as provided in subsection (2) and (3) of this section.

(2) Subsection (1) of this section shall not be applicable to a part-time teacher or substitute teacher.

(3) The failure, neglect, or refusal to reduce an employment agreement or contract to writing as required by subsection (1) of this section shall not affect the acquisition of tenure as prescribed by article 18 of this chapter.

COMMENTS

New provision.

New provision based on Attorney General's opinion to the effect that a teacher is legally entitled to receive a pro rata share of his summer salary (even though services are to be performed only on a nine-month or ten-month basis) in the event his employment is terminated during the regular school year.

123-18-6(2) provides for suspension and for regular compensation during temporary suspension pending entry of a dismissal order.

New provision requiring written contracts for the employment of full-time teachers.

See 123-33-1(5) and (6) of this bill for definitions of part-time and substitute teachers.

TEXT

(4) Every employment agreement or contract hereafter executed pursuant to subsection (1) of this section shall contain a liquidated damages provision pursuant to which a teacher shall agree to pay liquidated damages to the school district, and which authorizes the board of education thereof to withhold liquidated damages from compensation due or payable to said teacher, in an amount equivalent to one-twelfth of the annual salary specified in said employment agreement or contract. Said liquidated damages shall be paid by the teacher or withheld from his salary if the teacher abandons, breaches, or otherwise refuses to perform services for said school district pursuant to any agreement or contract, unless the teacher has given written notice to the board of education thereof on or before the first day of July that he will not fulfill the obligations of his agreement or contract for the succeeding academic year or, after the beginning of the academic year, unless the teacher has given at least sixty days written notice to the board of education thereof during the academic year to the effect that he wishes to be relieved of his contract for the remainder of said year as of a certain date.

123-33-7. Exchange of teachers. (1) A board of education of a school district shall have authority to provide for the exchange of tenure teachers with a school district of another state. The period of exchange shall not exceed one school year. The Colorado teacher exchanged must agree to return and perform services for the school district which authorized the exchange on a full-time basis for at least one additional school year.

(2) A board of education shall also have authority to provide for the exchange of tenure teachers with a foreign government or agency thereof. The state department of education and boards of

COMMENTS

New provision. Requires that every contract shall contain a provision whereby the teacher agrees to pay liquidated damages to the school district if he abandons or breaches his contract without sixty days notice. The board of education may withhold compensation in an amount equivalent to one-twelfth of the annual salary of the teacher in such cases. This provision does not apply to teachers' resignations duly accepted by the board.

Section 123-17-30(2), 1961 Supp., should probably be changed from 30 days to 60 days notice.

This subsection is meant to apply to tenure teachers as well as non-tenure teachers, under interpretation that the tenure act creates a contract by operation of law.

Based on 123-10-23, Chapter 72, Session Laws of 1963. Deletes provision requiring a report from the state department by December 1, 1964.

Adds "consecutive" and "at any one time" to the 24-month provision.

TEXT

education are authorized to cooperate with appropriate federal agencies involved in such exchange programs. The period of exchange shall not exceed twenty-four consecutive months at any one time, exclusive of travel time to and from the foreign country. The Colorado teacher exchanged must agree to return and perform services for the school district which authorized the exchange on a full-time basis for one school year for each twelve months spent in such exchange program.

(3) The salary of the Colorado teacher exchanged may be paid by the school district which authorized the exchange, and if so paid, said teacher shall be paid at not less than the rate to which he would otherwise be entitled had he performed services in said school district. A Colorado teacher exchanged pursuant to this section shall be deemed, during the period of exchange, to be in the employ of the school district which authorized the exchange, and such teacher shall be subject to the provisions and benefits of retirement, tenure, insurance, and workmen's compensation as if performing services within said school district.

123-33-8. Interest prohibited. (1) It shall be unlawful for any employee of a school district to take or receive any part or portion of moneys from the sale, proceeds, profit, or items in lieu thereof, of any book, musical instrument, school supplies, school apparatus, or other materials, including custodial, office, and athletic supplies, sold to a minor, or the parent or guardian of any such minor enrolled in the school wherein said employee is performing services or which may be sold to said school district; provided, that it shall not be unlawful for an employee to receive a part or portion of moneys from the sale, proceeds, profit, or items in lieu thereof to such minor, or parent or guardian thereof, or school district if such employee shall first obtain the written consent of the employing board of education.

(2) Any employee who shall violate the provisions of subsection (1) of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

COMMENTS

New provision. Prohibits school district employees from participating in businesses which sell school supplies, without the written consent of the school board.

TEXT

123-33-9. Automatic re-employment. A teacher employed by a school district on a full-time basis who has not acquired tenure shall be deemed to be re-employed for the succeeding academic year with the salary to which he would be entitled to receive under the general salary schedule unless the board of education shall cause written notice to the contrary to be given to said teacher on or before the twenty-second day of April of the academic year during which said teacher is employed, and said teacher shall be presumed to have accepted such employment for the succeeding academic year unless he shall cause written notice to the contrary to be given said board of education on or before said twenty-second day of April.

123-33-10. Dismissal - reasons - procedure. (1) No teacher shall be subject to dismissal except for good cause shown.

(2) Section 123-18-8(2) to (14) shall be applicable to the dismissal of a teacher who has not acquired tenure, except that the hearing shall be conducted by the board of education and the powers and duties delegated to the hearing panel and chairman thereof shall be possessed by the board of education and the president thereof, respectively, and that no review by the state board of education shall be had.

SECTION 2. Article 18 of chapter 123, Colorado Revised Statutes 1953, as amended, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

ARTICLE 18

"THE TEACHER TENURE ACT OF 1964"

123-18-1. Short title. This article may be cited as "The Teacher Tenure Act of 1964".

123-18-2. Definitions. (1) The definitions of words and

COMMENTS

Based on 123-18-8. Changes the contract date from April 15 to April 22. Refers to the "general salary schedule" rather than the "same salary."

Based on part of 123-17-1, 1961 Supp., repealed herein. "Dismissal" should be distinguished from "refusal to re-employ." Cause need not be shown for refusal to re-employ.

New provision. Based on interpretations of the provision that "no teacher shall be dismissed without good cause shown." At present the procedures differ from those prescribed for tenure teachers.

Based on present 123-18-1.

TEXT

phrases, as set forth in section 123-33-1, shall be also applicable to the provisions of this article except as subsections (3) and (4) are modified in subsection (2) of this section.

(2) Unless otherwise indicated by the context, the following words and phrases when used in this article shall have meanings respectively ascribed to them in this subsection:

(a) "Tenure teacher" means any teacher who has heretofore acquired, or who may hereafter acquire, tenure status in a school district pursuant to law.

(b) "Teacher" means any person as defined in section 123-17-20 (6) who holds a teacher's certificate, except: one who holds only a letter of authorization, one who holds only a type E certificate unless the board of education of the employing school district shall have elected by the adoption of a resolution to consider the type E certificates held by all teachers employed by said district as regular certificates for the purposes of tenure, the chief executive officer of a school district, a part-time teacher, a substitute teacher, and any teacher who shall have attained the age of sixty-five years.

(c) "Teacher's certificate" means a certificate as defined in section 123-17-20(9), but not including a letter of authorization.

123-18-3. Required service. Except as otherwise provided in subsection (2) of this section, any teacher employed as a teacher in the same school district, including the time before and after July 1, 1964, continuously and without interruption for three full academic years, and who was or shall thereafter be re-employed for the fourth academic year immediately succeeding in such school district shall have tenure as a teacher in such school district, without further action on the part of the board of education or the

COMMENTS

New definition.

Based on part of present 123-18-2. Prevents non-instructional personnel who hold certificates from acquiring tenure status. Compare 123-33-1(3) in this bill. See present 123-17-23 (4) concerning type E certificates and tenure. See present 123-18-3 concerning part-time and substitute teachers. The new exception for teachers of 65 or more will prohibit such persons from acquiring tenure. (See also 123-18-9 of this bill.)

Compare 123-33-1(4) in this bill.

Based on part of 123-18-3. Clarifies the time at which tenure becomes effective. Changes the word "year" to "academic year." Changes the words "tenure in such school" to "tenure in such school district." Eliminates

TEXT

teacher. Such tenure shall be effective upon the first day of performance of services by said teacher on the first day, or portion thereof, during the fourth academic year.

(2) The period of time during which services were performed by a teacher in a school district which was classified by law as either a second or third class school district prior to July 1, 1963, shall not be included in computing the required period of service as a condition of acquiring tenure unless prior thereto the board of education shall have extended tenure to the teachers of said school district in the manner prescribed by law.

(3)(a) The three full academic years of continuous service required for the probationary period shall not be deemed to be interrupted by temporary illness. A leave of absence approved by the board of education or a military leave of absence pursuant to article 9 of chapter 94, CRS 1953, as amended, shall not be considered to be an interruption of service nor shall it be included in computing the required probationary period.

(b) The three full academic years of continuous service required for the probationary period shall not be deemed to be interrupted by the acceptance by a teacher of the position of chief executive officer in said school district but the period of time during which such teacher serves in such capacity shall not be included in computing said probationary period.

123-18-4. Prior tenure unaffected - termination. Nothing contained in this article shall be construed as affecting the right of tenure acquired prior to July 1, 1964, by any teacher pursuant to law; provided, that after such date, such tenure teacher shall be subject to transfer or dismissal as provided in this article.

COMMENTS

reference to classes and kinds of school districts. (Tenure in a junior college district would be as at present -- dependent on whether the teacher possesses a certificate.) Eliminates reference to "efficiency and good behavior."

New provision to clarify application of tenure in former second and third class districts. All school districts are now subject to the tenure act.

Based on part of 123-18-3. See also Attorney General's opinion relative to provisions of the present tenure act and the military code.

New provision.

Based on 123-18-4.

TEXT

123-18-5. Transfer - compensation. (1) A tenure teacher may be transferred upon the recommendation of the chief executive officer of a school district from one school, position, or grade level to another within the school district; provided, that such transfer does not result in the assignment of the teacher to a position of employment for which he is not qualified by virtue of academic preparation and certification; and provided, further, that during the then current school year, the amount of salary of such teacher shall not be reduced except as otherwise provided in subsections (2) or (3) of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, a tenure teacher who has been occupying an executive or administrative position for at least one full academic year may be returned to regular classroom instruction with a reduction in salary if a vacancy exists in a teaching position; provided, that said teacher shall be entitled to a salary as otherwise set forth under the salary schedule for a tenure teacher with comparable academic preparation and experience; and provided, further, that said teacher may be transferred during said academic year from the executive or administrative position he holds to another school position or grade level within the school district without a reduction in salary during said academic year. If a tenure teacher who has been transferred to the position of chief executive officer of a school district shall be returned to regular classroom instruction under the provisions of this subsection, he shall regain his tenure status acquired before such transfer.

(3) Notwithstanding the provisions of subsection (1) of this section, the salary of a tenure teacher who has received additional compensation for the performance of additional duties may be reduced if said teacher has been relieved of such additional duties.

123-18-6. Annual appointment eliminated - temporary suspension.
(1) A tenure teacher shall not be subject to an annual appointment or employment contract during continuous service, but he shall be

COMMENTS

Based in part of 123-18-5. Eliminates specific prohibition against discrimination because of race, creed, or color. Limits the prohibition against reduction in salary to the "current school year."

Based in part on 123-18-5, with details added for clarification. Authorizes the transfer of a teacher from an executive or administrative position to regular classroom instruction even though the teacher is not shown to be "unsatisfactory" in the executive or administrative position. Reduction in salary due to such transfer could not take place during the academic year. Note that this subsection is exempted from the provisions of 123-33-4(2) of this bill.

New provision designed to provide flexibility in employing coaches and sponsors. Note that this subsection is exempted from the provisions of 123-33-4(2) of this bill.

New provisions based on Marzec v School District, 142 Colo. 83. Also based on section

TEXT

entitled to a position of employment as a teacher in the school district where tenure was acquired while possessing a valid Colorado teacher's certificate, until he shall have attained the age of sixty-five years or until he shall have been dismissed pursuant to this article; provided, that this subsection shall not be applicable to a tenure teacher while he is occupying the position of chief executive officer of said school district.

(2) Notwithstanding the provisions of subsection (1) of this section, a tenure teacher may be suspended temporarily with regular compensation pending the entry of a dismissal order by a board of education pursuant to section 123-18-8.

123-18-7. Dismissal - reasons. (1) A tenure teacher shall not be dismissed except for physical or mental disability, incompetency, neglect of duty, immorality, insubordination, inefficiency, reduction in the number of teacher positions, or other good and just cause. No tenure teacher shall be dismissed for temporary illness, leave of absence previously approved by the board of education, or military leave of absence pursuant to article 9 of chapter 94, CRS 1953, as amended.

(2) Mandatory retirement of a tenure teacher who has attained the age of sixty-five years shall not be considered to be a dismissal under the provisions of this article.

123-18-8. Dismissal - procedure - judicial review. (1) A tenure teacher shall be dismissed only in the manner prescribed by this section.

(2) A written complaint against any teacher may be filed by any qualified elector of the school district or by the chief executive officer of the district employing the teacher with the secretary of the board of education of such school district. Within seven days

COMMENTS

342.245 of the Oregon Revised Statutes.

This subsection provides for temporary suspension, with regular compensation, pending the entry of a dismissal order.

Based on first part of 123-18-7. Adds "physical or mental disability" and "inefficiency." Changes "justifiable decrease" to "reduction" in the number of teacher positions. Adds prohibition against dismissal for temporary illness, approved leave, or military leave.

New provision to eliminate requirement for dismissal procedures for mandatory retirement.

This section is based in part on 123-18-7.

Any qualified elector of the district, or the superintendent, may file the complaint with the secretary of the board.

TEXT

after any complaint has been so filed, the board of education shall meet at a regular or special meeting to either accept or reject the complaint, and if it accepts, the board shall at such meeting select one member of the hearing panel authorized subsequently in this section.

(3) If the board accepts the complaint, the secretary of the board shall forthwith give written notice to the teacher that a complaint has been filed against said teacher, attaching thereto a copy of said complaint, and stating that a hearing thereon may be held before a panel of three persons, naming the panel member selected by the board of education. The notice and copy of the complaint shall be mailed by registered mail to said teacher at his address last known to the secretary. Such teacher shall be entitled to such a hearing before the panel if he files with said secretary a written request therefor within seven days after the date of mailing the notice. Failure of said teacher to file such a written request within said time shall be deemed a waiver of his right to a hearing. Said written request shall designate one member of the hearing panel selected by the tenure teacher. The form of notice shall advise the teacher of his rights and procedures under this section.

(4) If the teacher shall fail or neglect to request a hearing within the time specified, the board of education may, at any time prior to the entry of its order, permit the holding of a hearing if, in its discretion, the failure or neglect to request a hearing by the teacher was due to excusable oversight or the inability of the teacher to file the request within the specified time.

(5) If a hearing shall be requested by the teacher, or permitted by the board of education as provided in subsection (4) of this section, it shall be conducted before a panel selected as follows: The teacher shall select one member as provided in subsection (3) of this section, the board of education shall select one member as provided in subsection (2) of this section, and the two persons selected shall within three days after the filing of the request, meet and choose a third member. No school director or employee of the school district shall be selected as a member of a panel. Each member of

COMMENTS

The board meets within seven days to accept or reject the complaint. The board names one member of the hearing panel.

Notice of the complaint is sent to the teacher. The teacher is entitled to a hearing before the 3-member panel, if he requests it within seven days. The teacher names one member of the hearing panel.

Based on part of 123-18-7(2). Under certain circumstances the board may permit the hearing before the panel even though the teacher failed to make the request within seven days.

The composition of the panel is the same as provided in present 123-18-7(4), 1960 Perm. Supp. One member is selected by the board, one by the teacher, and the third by the other two. A time limit of three days is set for selecting the third panel member.

TEXT

the panel must be a qualified elector of the school district.

(6) As soon as practicable after the selection of the third member, the three members of the panel shall elect one of themselves as chairman, and the chairman shall preside at the hearing. The chairman shall forthwith give the tenure teacher ample written notice of the hearing, including the place and time therefor, but in no even shall such hearing be held later than twenty-five days after the selection of the third panel member.

(7) The chairman of the panel may receive or reject evidence and testimony, and he may administer oaths. All testimony shall be given under oath. The chairman may order a continuance subject to subsection (6) of this section, and do all other acts normally performed by an administrative hearing officer. The hearings shall be open to the public unless the teacher requests a private hearing before the panel; provided, that no findings of fact or recommendations shall be adopted by the panel in any private hearing.

(8)(a) A record and transcript shall be made of all evidence and testimony received by the panel. The panel shall review the evidence and testimony and make written findings of fact thereon. The panel shall adopt a recommendation relative to whether said teacher shall be retained in or dismissed from his position of employment. The findings of fact and recommendations shall be adopted by the panel in open session not later than thirty days after the selection of the third panel member. The chairman shall forthwith forward to said teacher and to the secretary of the employing board of education a copy of the findings of fact and a copy of the recommendation of the panel.

(b) If a hearing shall be requested by the teacher, the teacher shall at the time of making the request, deposit with the secretary of the board of education a cash bond in the amount of one hundred dollars to defray the costs of making a record of

COMMENTS

Based on part of 123-18-7(4) (b), 1960 Perm. Supp. A 25-day deadline is set for the hearing.

Panel procedures are based in part on 123-18-7(4), 1960 Perm. Supp. Only the chairman of the panel may administer oaths. This subsection requires that official findings of the panel must be adopted in public meetings, even though a private hearing is requested.

Findings and recommendations of the panel must be written. Thirty-day deadline (from time of selection of third panel member) is set for adoption of findings and recommendations by the panel.

This subparagraph is based on 123-18-7(4)(d), 1960 Perm. Supp. It requires that the teacher post a \$100 bond to cover costs of the panel hearing.

TEXT

the evidence and testimony presented at the hearing. If the panel shall recommend the dismissal of the teacher, such portion of said bond as may be required to defray the costs for the recording of evidence shall be expended for such purpose. If the panel shall recommend the retention of said teacher in the employ of the school district, the costs for the recording of evidence shall be paid by said district and the said bond shall be returned to the teacher.

(9) The secretary of the board shall, immediately upon receiving the report of the panel, notify the teacher of the time and place of the meeting of the board of education at which the findings of fact and recommendations of the panel will be considered. The teacher and the board of education shall have the right to request that additional evidence be presented at such meeting prior to the entry of the board's order. Such evidence shall be presented in a hearing which shall be open to the public unless the teacher requests a private hearing; provided, that no findings of fact or orders shall be adopted by the board in any private hearing.

(10) The board of education shall review the panel's findings of fact and recommendation and it shall enter its written order within thirty days after the date of the panel's findings and recommendation. If the board orders the dismissal of the teacher, the teacher's compensation shall be suspended as of the date of such order. The secretary of the board of education shall cause a copy of said order to be given immediately to the teacher and to the state board of education.

(11) At any hearing, the teacher shall have the right to appear in person with or without counsel; he shall have the right to be heard and to present testimony of witnesses and other evidence bearing upon the reasons for his proposed dismissal; and he shall have the right to cross-examine witnesses.

(12) The order of the board of education shall be final unless a petition for review shall be filed by the teacher with the state board of education within sixty days after the date of such order, and a copy of such petition filed with the board of education. The

COMMENTS

Additional evidence may be brought before the board (at the request of either the teacher or the board) prior to entry of the board's order.

The board must enter a written order within 30 days, either dismissing or retaining the teacher.

This subsection is based on part of 123-18-7(4)(e), 1960 Perm. Supp. It applies to the panel hearing and to the hearing of additional evidence before the board.

New provision to make the board's order final unless a petition for review is filed with the state board of

TEXT

petition for review shall set forth the specific reason or reasons for the request to vacate the order of the board. If a petition for review shall be filed with the state board, a transcript of the proceedings before the panel and the board of education shall be lodged with the state board within sixty days after the findings of fact and order of the board of education were entered in the record. There shall be no extension of time granted for the filing of a petition for review or the lodging of the record of proceedings with the state board. The cost of transcribing and lodging the record shall be paid by the petitioner.

(13)(a) Upon the filing of a petition for review and the lodging of the record as prescribed in subsection (12) of this section, the state board shall review the record, findings, and order. It shall not order and consider additional testimony and evidence. It shall make findings of fact and enter an order to affirm or vacate the order of the board of education within the limitations of paragraph (b) of this subsection. The state board shall enter its findings of fact and order within forty-five days after the record of the proceedings have been lodged. The order of the state board shall not be set aside, except when such is based on findings of fact which are not supported by evidence, proceedings in violation of any law, fraud, or abuse of discretion. The order of the state board shall be final until set aside by a court of law.

(b) The state board shall not have authority to order but it may recommend the reinstatement of the teacher; however, it shall have authority to order the records of said teacher cleared of all charges. If the state board shall determine that the teacher was dismissed contrary to the provisions of this article, it shall have authority to order the board of education to compensate the teacher for the remaining portion of the then current school year in the amount of the salary to which the teacher would have been otherwise entitled to receive had he not been dismissed during said school year.

(14) Within sixty days after the date of the order of the state board of education, the teacher may file an action for

COMMENTS

education (or the district court as provided in subsection 14 of this section) within 60 days. Present 123-18-7(4)(g), 1960 Perm. Supp., provides for appeal to the state commissioner of education, but does not set a time limit.

New provision to clarify review procedures before the state board. The state board must act within 45 days to either affirm or vacate the order of the local board. It may not order reinstatement of the teacher but may recommend such reinstatement, order that the teacher's record be cleared, and order the payment of compensation for the remainder of the school year.

The teacher may take his case to district court for review

TEXT

review in the district court of the judicial district in which the administrative office of the employing school district is located, pursuant to section 3-16-5, CRS 1953, in which action both the board of education of the employing school district and the state board of education shall be made parties defendant; provided, that at the option of the teacher, and in lieu of an appeal to the state board of education, such action for review may be filed in said district court within sixty days after the date of the order of the board of education, and, in such event, only the employing board of education shall be made a party defendant.

123-18-9. Cessation of tenure - retirement. (1) A teacher sixty-five years of age or over shall not acquire tenure in a school district. If a teacher shall have acquired tenure prior to having attained the age of sixty-five years, such tenure shall terminate when said teacher attains the age of sixty-five years.

(2) A board of education shall give at least ninety days written notice to a teacher whose tenure shall terminate upon attaining the age of sixty-five years if the services of said teacher are to be terminated at that time. If a board fails or neglects to give such notice, it shall be presumed that an implied contract exists for the remaining portion, if any, of the academic year, at a salary equivalent to that which said teacher would have been entitled to receive under the salary schedule for tenure teachers. Thereafter said teacher shall be subject to re-employment or dismissal in the manner prescribed for a teacher who has not acquired tenure.

SECTION 3. Repeal. 123-10-23, and 123-17-1 to 123-17-3, Colorado Revised Statutes 1953, as amended, are hereby repealed.

COMMENTS

either before or after review by the state board of education.

Based on 123-18-9. Notice is reduced from one year to 90 days. Modifies provision that tenure shall continue beyond age 65 if notice is not given; provides instead for continued employment until the end of the academic year and authorizes re-employment on a non-tenure basis for succeeding years.

Note that 123-17-2 is not replaced. It requires teachers to keep daily registers.

TEXT

SECTION 4. Effective date. This act shall take effect on July 1, 1964.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTS

TEXT

BILL K

A BILL FOR AN ACT
CONCERNING TAX LEVIES AND REVENUES OF SCHOOL DISTRICTS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 3 of chapter 123, Colorado Revised Statutes 1953, as amended, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

ARTICLE 3

TAX LEVIES AND REVENUES

123-3-1. Definitions. Unless otherwise indicated by the context, the following words and phrases when used in this article shall have meanings respectively ascribed to them in this section:

(1) "School district" or "district" means a school district or a junior college district organized and existing pursuant to law.

(2) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district as defined in subsection (1) of this section.

123-3-2. Certification - tax revenues. (1) No later than the sixteenth day of October, the board of education of each school district shall certify to the board of county commissioners of the county wherein said school district is located the separate amounts necessary, in the judgment of said board of education, to be raised from levies against the valuation for assessment of all taxable property located within the boundaries of said school district for its general, bond redemption, and capital reserve funds to defray its expenditures therefrom during its next ensuing fiscal year.

COMMENTS

This bill should be considered in connection with Bill L and Bill M and also with the proposed revision of property tax laws.

The definitions of school district and board of education are new and make this article clearly applicable to junior colleges.

Based on part of 137-3-51. Eliminates reference to county superintendent. Also eliminates statement that the school board "shall make their levy"; states only that the board shall certify the amounts needed for each fund supported by a tax levy. See also the proposed revision of property tax laws (section 28 of

TEXT

(2) If only a portion of a school district is located within a county, the board of education of said school district shall certify the separate amounts to the board of county commissioners of each county wherein a portion of said school district is located. The board of county commissioners of each such county shall levy a tax upon the taxable property located within said portion of the school district included in its county at a rate sufficient to produce a pro rata share of each separate amount certified, such pro rata share to be based on the ratio of the valuation for assessment of taxable property located within that portion of said school district located within said county to the total valuation for assessment of taxable property located in the entire school district; provided, that the rate of tax levies for said district shall be the same throughout the territorial limits of said school district except for a variation in the tax levy, or levies, needed for the bond redemption fund of said district which rate may vary because of changes in the boundaries of said district or the dissolution of a former school district.

COMMENTS

article 5) for part of 137-3-51.

Also covers part of 123-3-1, 1960 Perm. Supp. and 1961 Supp. Eliminates reference to payment of "school fees" by the game and fish commission. These "school fees" have been declared unconstitutional by a district court; the case has been appealed to the state supreme court.

Also eliminates requirement for itemization of the amount needed for the "general" (now called "special") fund. Makes no specific reference to employees' retirement program costs.

New provision to cover joint school districts and equalize tax levies therein. Based on Attorney General's opinion.

TEXT

(3) The board of education of a school district which had an actual enrollment of more than seventy thousand pupils during the preceding school year may make the certification provided for in subsection (1) of this section no later than the first day of December.

(4) The levy for the capital reserve fund shall not exceed two mills in any year.

(5) Whenever any school district shall have within its boundaries any territory which was located within the boundaries of a former school district when said former school district incurred bonded indebtedness, and the obligations of such bonded indebtedness have not been satisfied or otherwise assumed by said existing school district, then the board of education of the existing school district shall certify to the board of county commissioners the amount required during the next ensuing fiscal year to satisfy such territory's proportionate share of the obligations of the outstanding

COMMENTS

This subsection applies only to Denver. Review in connection with present 137-12-13(1)(a), 1961 Supp. There may be a conflict between this subsection and the proposed revision of property tax laws (section 11 of article 1), since the certification by the school board and the levy by the county commissioners would both have a December first deadline. The deadline for county commissioners under present law is the 2nd Tuesday in December.

Based on 123-3-5 (Ch. 232, Sess. Laws of 1963), but authorizes a 2-mill maximum for all districts. Present maximum is one mill except for districts with \$250 million valuation or more; those districts may now levy 2 mills. Tax commission approval or a special election would still be required to exceed 105% of the preceding year's levy. See 36-3-2, 36-3-5, and 123-3-4 (1960 Perm. Supp.) and Sec. 3(3) of Bill M.

New provision to fix responsibility for the certification of needed revenues for a former school district. See also 123-3-9 of this bill.

TEXT

COMMENTS

bonded indebtedness incurred by said former school district. A separate levy, sufficient to raise the amount so certified, shall be made against the valuation for assessment of all taxable property located within such territory. The proceeds of such levy shall be credited to the bond redemption fund of the existing school district, but a separate account within such bond redemption fund shall be maintained to clearly reflect the amount raised from such separate levy.

123-3-3. Change in needed tax revenues - unlawful. A board of education or a board of county commissioners shall not modify the amounts certified pursuant to section 123-3-2 as needed for any fiscal year, nor shall said board of county commissioners be charged with any discretion in determining or reviewing the amounts so certified other than to ascertain if said amounts are within the limitations as prescribed by law.

123-3-4. County treasurer - accounts - warrants. (1) It shall be the duty of the county treasurer to open and keep separate accounts by funds and subsidiary accounts for the bond redemption fund of each school district in his county and said funds and accounts shall be subject to the warrants of said district. The tax revenues shall be credited immediately to the proper fund and account, together with any accrued interest on school district moneys, and the amounts so credited shall be reported to the secretary of the board of education of said school district at the end of every month.

(2) If only a portion of a school district shall be situated within the territorial limits of said county and the headquarters of said school district shall not be located therein, the county treasurer shall transfer at the end of each month all moneys which have accrued to the credit of said district to the county treasurer of the county wherein the headquarters of said school district is located. No warrant shall be drawn by a school district situated in more than one county against its moneys except against those moneys in the custody of the county treasurer of the county wherein the school district headquarters is located.

(3) Except in the case of a school district which shall have elected to withdraw its moneys pursuant to section 123-3-5, if a

Based on 123-3-2 (1961 Supp.).

Based on part of 123-3-9 and part of 123-3-1(1)(b), 1961 Supp. Reference to accrued interest on school district moneys is new.

New provision to cover joint school districts. Based on general practice.

Based on part of 123-3-9 and 35-7-12, which is repealed

TEXT

school district warrant be presented to the county treasurer of a school district situate in his county and there are no moneys or insufficient moneys to the credit of said school district in the proper fund or account thereof to pay such warrant, it shall be the duty of said county treasurer to register such warrants in the order of presentment and endorse each such warrant "no funds." Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the manner as registered county warrants. The county treasurer shall keep a list of all warrants so registered and endorsed and furnish a copy of said list to the treasurer of said school district. The county treasurer shall pay both the principal and interest of said warrants, in the order of registration, when there shall be sufficient moneys to the credit of the school district fund or account upon which any such warrant was drawn. It shall be his duty to cause to be published in a newspaper with general distribution in said school district for five days, a notice that certain school district warrants, describing said warrants by numbers and amounts, will be paid upon presentation at the expiration of said five days notice, and at which time said warrants shall cease to bear interest.

(4) It shall be unlawful for a school district to issue warrants in excess of the amount budgeted or appropriated to, or the anticipated revenues for any fund, whichever is less, for said school district's fiscal year whether or not the board of education of said district shall have elected to withdraw its moneys from the custody of the county treasurer.

(5) It shall be the duty of the county treasurer to cancel all paid school district warrants with a proper canceling stamp and indicate the date of payment thereof.

123-3-5. District treasurer to receive moneys - when. The board of education of any school district may elect to have all school district moneys received by the county treasurer paid over to the treasurer of the boards to be deposited and disbursed by the treasurer of said board in the manner provided by law. Written notice of such election shall be evidenced by a resolution adopted by the board of education and filed with the county treasurer who has

COMMENTS

herein. Changes period of notice from 20 to 5 days relative to payment of registered warrants. Deletes reference to \$200.

Based on portions of 123-3-9, 88-1-11, and 88-1-14.

Based on 123-3-10.

Based on 123-3-12, but adds requirement for payment of accrued interest, and requires withdrawal by funds.

TEXT

temporary custody of such moneys. Thereafter, and until revocation by a similar resolution, the county treasurer shall pay over to the treasurer of such board, at least once each month, upon proper warrants by funds, all moneys credited, or which should have been credited, by said county treasurer, including accrued interest or a pro rata share thereof, to each such school district fund.

123-3-6. Depositories. (1) In the event a board of education of a school district shall have elected to receive all school district moneys pursuant to section 123-3-5, the treasurer of the board shall deposit all moneys received immediately in one or more depositories as designated by the board of said district.

(2) Each depository designated pursuant to subsection (1) of this section shall be required to give a surety bond in an amount equal to at least one hundred ten per cent of all moneys deposited, together with accrued interest thereon, with sureties as approved by the board of education, which bond shall be conditioned for the payment of all moneys deposited, together with accrued interest thereon, upon demand of the school district through the presentation of a warrant or order. A board of education may, in lieu of such surety bond, accept general obligation bonds of any school district located within the state in an amount equivalent to said surety bond, and said general obligation bonds of a school district shall be placed with and held in trust by some bank within the state other than the depository, including the Denver branch of the federal reserve bank of Kansas City, contingent upon the issuance of a joint custody receipt subject to the joint order of the depository and the treasurer of said board of education and conditioned to secure and guarantee payment of all moneys so deposited, together with accrued interest thereon upon demand of the school district through the presentation of a warrant or order.

(3) The depository shall increase the amount of the surety bond, or the general obligation bonds in lieu thereof, from time to time so that said depository shall continuously comply with the requirements of subsection (2) of this section as the amount of moneys deposited therein increases.

COMMENTS

Based on portion of 123-3-11, but applies to all districts.

Based on part of 123-3-11, but eliminates "approved bonds of the United States of the state of Colorado, or general obligation bonds and bonds of cities within the state of Colorado having a population of more than 25,000, or of the school district," and substitutes "general obligation bonds of a school district located within the state." The change is an attempt to stimulate greater interest in school district bonds for those depositories which keep school district moneys. Increases surety bond to 110% of deposit.

Based on a portion of 123-3-11 with changes as indicated in subsection (2). Changes responsibility from school district to depository.

TEXT

(4) The board of education of a school district may invest or deposit school district moneys which are temporarily not needed in the conduct of affairs pursuant to sections 83-1-1 to 83-1-3, CRS 1953, as amended.

123-3-7. Registered warrants by treasurer of the board. If a board of education shall have elected to withdraw all school district moneys from the temporary custody of the county treasurer, pursuant to section 123-3-5, and there are no moneys or insufficient moneys to the credit of the proper fund of said school district on deposit with a depository, to pay any warrant or order drawn against said fund, the treasurer of said board shall register said warrant in the same manner as otherwise prescribed for a county treasurer under the provisions of section 123-3-4. Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the same manner as warrants registered by the county treasurer. The treasurer of said board shall perform all duties required of the county treasurer under section 123-3-4(3) in the registration and payment of school district warrants registered by said treasurer of the board, including publication for notice of payment thereof.

123-3-8. Short term loans. The board of education of any school district may negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal year for the general fund and the amount credited to date to said general fund in order to eliminate the necessity of issuing registered warrants upon said general fund. Such loan, shall be liquidated within six months thereafter from moneys subsequently credited to said general fund. The total interest and fees to be paid on such loan shall not exceed the total amount authorized by law for registered warrants in a like amount for the same length of time.

123-3-9. Revenues - reorganization. (1) If the corporate status of a school district shall be dissolved as a result of school district organization and all the bonded indebtedness of such school district shall not have been assumed by one or more school districts,

COMMENTS

Cross reference only.

Based on 123-3-17 but eliminates registering warrants in the name of a bank. The warrant would be registered as in other instances in the name of the holder thereof. See also Section 6(4) of Bill E.

Based on 123-3-18, but eliminates approval of county superintendent of schools. Also eliminates requirement that proceeds of loan must be first utilized to pay registered warrants, since new provisions would control disbursements by funds.

New provision designed to clarify the procedures and responsibilities for the satisfaction of bonded indebtedness previously incurred.

TEXT

the board of education of the successor district as designated in the plan of organization shall perform the duties and exercise the powers delegated to the board of education of the former school district relative to the certification of tax revenues needed to satisfy the obligations of bonded indebtedness incurred by said former district, receipt of such revenues, deposit or investment thereof, and satisfaction of such obligations which thereafter become due and payable; provided, that the revenues from a tax levy, and the proportionate share of specific ownership taxes allocated thereto, to satisfy the bonded indebtedness of said former school district shall be held in a trust account in the bond redemption fund of the designated successor district for the purpose only of payment or redemption of bonds issued by said former school district. Any moneys remaining after all of the bonded indebtedness obligations of said former school district have been satisfied may be transferred to another account within the redemption fund of said designated successor school district or, in the absence of any outstanding bonded indebtedness obligations, to the capital reserve fund of said school district.

(2) If the corporate status of a school district shall not be dissolved as a result of school district organization, the board of education of the school district which incurred said bonded indebtedness shall continue to perform the duties and exercise the powers delegated thereto relative to the certification of tax revenues needed to satisfy the obligations of bonded indebtedness incurred by said school district, receipt of such revenues, deposit or investment thereof, and satisfaction of such obligations which thereafter become due and payable even though a portion of the territory of said school district shall be thereafter included in another school district; provided that, in the event the annexing school district shall be located in another county, such powers and duties shall be performed by the annexing school district with proper remittance to the school district from which said territory was detached.

SECTION 2. Repeal. 35-7-12, Colorado Revised Statutes 1953, is hereby repealed.

COMMENTS

Subsection (1) relates to the situation where the corporate status of a school district is dissolved, and subsection (2) relates to detachment and annexation of territory.

Specific ownership taxes, as well as property tax revenues, would be held in the trust account.

See also 123-3-2(5) of this bill.

See 123-3-4(3) of this bill.

Much of the detail concerning duties of the county treasurer

TEXT

COMMENTS

SECTION 3. Effective date. This act shall take effect on July 1, 1964.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

and county assessor has been eliminated from article 3. The proposed revision of property tax laws and proposed Bill K and Bill M cover most of these duties.

Section 123-3-3, concerning fines paid into the county public school fund, is repealed and not replaced. This will involve some loss of revenue to school districts, but the amount is not known.

TEXT

COMMENTS

Bill L

A BILL FOR AN ACT
CONCERNING BUDGETS OF SCHOOL DISTRICTS AND JUNIOR COLLEGE DISTRICTS, AND ENACTING "THE SCHOOL DISTRICT BUDGET LAW OF 1964".

Be It Enacted by the General Assembly of the State of Colorado:

PART I

"School District Budget Law of 1964"

SECTION 1. Short title. This act may be cited as "The School District Budget Law of 1964".

SECTION 2. Definitions. Unless otherwise indicated by the context, the following words and phrases when used in this act shall have the meanings ascribed respectively to them in this section:

(1) "School district" or "district" means a school district or a junior college district organized and existing pursuant to law.

(2) "Board of education" or "board" means the governing body of a school district.

(3) "Contingency" means an act of God or the public enemy, or some event which could not have been reasonably foreseen at the time of the adoption of the budget of a school district.

(4) "Fund" means a sum of money or other resources set aside for a specific purpose of a school district, and the accounts thereof shall constitute a complete entity, and all of the financial transactions for a particular fund shall be recorded in said fund.

(5) "Function" means a classification within a fund in accordance with a major purpose such as, but not limited to, administration, instruction, operation, or maintenance of physical plant.

(6) "Object" means a classification within a function in

Most of the provisions of this bill are new. At the present time school districts attempt to operate under the local government budget law (article 1 of chapter 88). This bill would provide a budget law adapted to the needs of school districts. It is partially based on provisions of the local government budget law.

TEXT

accordance with the article or service received in return for expenditures such as, but not limited to, personal services, materials, supplies, or equipment.

(7) "Fiscal year" means any twelve months period of time as determined by the board of education of a particular school district; provided, that beginning January 1, 1966, "fiscal year" shall mean the calendar year beginning January 1 and ending December 31, next following, for all school districts.

(8) "Appropriation" means the setting aside by resolution of a specified amount of moneys for a fund, function, and object, with an authorization to make expenditures and incur obligations for the purposes thereof.

SECTION 3. Budget and appropriation - required. (1) The board of education of each school district shall adopt a budget and an appropriation resolution for each fiscal year, prior to the beginning of the fiscal year for which adopted.

(2) If a new school district is organized during a fiscal year and the school districts included therein do not operate the schools until the end of the school year, the board of education of the newly organized district shall adopt a budget and appropriation resolution to cover only the remaining portion of the fiscal year. Such budget shall be based on the total of the amounts budgeted and appropriated by the board or boards of education of the former districts wholly included in the new district, and the pro rata amounts budgeted and appropriated by the board or boards of education of the districts only partly included therein, to the respective funds, functions, and objects in the budget of the newly organized district.

COMMENTS

The provision for a uniform fiscal year to conform to the calendar year is a significant change from present law, which permits a school board, to determine its own fiscal year.

Additional provision may be needed for transition in those districts which do not now base their fiscal year on the calendar year.

Based on parts of 88-1-4 and 88-1-12.

New provision to permit a part-year budget in cases of reorganization.

TEXT

COMMENTS

SECTION 4. Failure to adopt budget or appropriation. If a board of education shall fail or neglect to adopt a budget or an appropriation resolution prior to the beginning of the ensuing fiscal year as required by section 3 of this act, then ninety per cent of the amounts budgeted and appropriated to the funds, functions, and objects by the last duly adopted budget and appropriation resolution shall be deemed to be budgeted and appropriated by operation of law for the fiscal year for which no budget or appropriation resolution was adopted prior thereto; provided, that an amount of moneys sufficient to satisfy all obligations of bonded indebtedness which will be due and payable during said fiscal year shall be deemed to be budgeted and appropriated by operation of law.

Based in part on 88-1-13. Adds provision for full payment of obligations on bonds. Also covers failure to adopt a budget as well as an appropriation resolution.

SECTION 5. Budget - contents - mandatory. (1) The budget shall present a complete financial plan for the ensuing fiscal year. It shall specify:

Based on part of 88-1-4.

(a) The amounts budgeted for proposed expenditures by funds, functions, and objects, specifically including, but not limited to, administration, operation and maintenance of physical plant, capital outlay for buildings and sites, and debt redemptions.

(b) The corresponding amounts budgeted to each fund, function, and object during the current and last completed fiscal years.

(c) Appropriate notations indicating the amount of moneys transferred to each fund, function, and object during the current and last completed fiscal years after the budget for each such fiscal year was adopted.

This is a new requirement.

(d) All revenues anticipated for the ensuing fiscal year and classified as to funds and sources of income, including only those revenues which can be reasonably anticipated, and excluding contingency revenues.

Based in part on 88-1-4, but adds a provision to prohibit inclusion of revenues that cannot be reasonably anticipated. ("Contingency revenues" does not refer to the taxes levied for the contingency function within the general fund.)

TEXT

(e) The fund balance at the end of the fiscal year, which shall be carried forward as a beginning fund balance for the ensuing fiscal year.

(2) The proposed expenditures and anticipated revenues in the budget shall be supported by explanatory schedules or statements of sufficient detail to judge the validity thereof, including a statement which shall summarize the aggregate of revenues, appropriations, assets, and liabilities of each fund in balanced relations.

SECTION 6. Contingency function - operating reserve. (1) A board of education may budget and appropriate moneys to a contingency function within the general fund. The moneys budgeted and appropriated to said contingency function shall be transferred to another function or object in the general fund prior to disbursement, in the manner otherwise prescribed by this act; provided, that any expenditures of such moneys shall be limited to a contingency.

(2) A board of education may provide for an operating reserve in the general fund. Said operating reserve shall not exceed fifteen per cent of the amount budgeted and appropriated to the general fund for the current fiscal year, excluding the amount of the operating reserve in the general fund for said current fiscal year; provided, that the total amount to be raised by a tax levy for the general fund for the ensuing fiscal year, including the amount of the operating reserve, shall not exceed the maximum amount otherwise permitted by law. The operating reserve shall not be appropriated nor shall any moneys therein be expended during the ensuing fiscal year covered by the budget. The operating reserve shall not be a continuing reserve, but shall be considered as a beginning fund balance for the general fund for the fiscal year next following the fiscal year covered by the budget and may be expended only during the fiscal year next following the fiscal year covered by the budget.

COMMENTS

This provision is added to indicate clearly that each fund balance is carried forward as beginning balance for the next fiscal year.

Based in part on 88-1-7.

Based on a portion of 88-1-12, but clarifies the authority to budget and appropriate for contingencies. Provides that contingency moneys must be transferred prior to disbursement.

Based on 88-1-8, which is repealed herein. Eliminates exception for districts of more than 100,000 population (permitting 25 percent operating reserve). Also deletes provision for sinking fund for transportation equipment in certain districts.

TEXT

SECTION 7. Appropriation - resolution - required. (1) The board of education of each school district shall adopt an appropriation resolution at the time it adopts the budget. The appropriation resolution shall specify the amount of moneys appropriated to each fund, function, and object; provided, that the operating reserve authorized by section 6 (2) of this act shall not be subject to appropriation for the fiscal year covered by the budget; and provided further, that the appropriation resolution may incorporate by reference the budget as adopted by a board of education for the current fiscal year.

(2) The amounts appropriated to a fund, function, or object shall not exceed the amount thereof as specified in the adopted budget.

SECTION 8. Preparation of budget. (1) The board of education shall each year cause to have prepared a budget for the ensuing fiscal year, and the person designated to prepare the budget shall submit it to the board at least thirty days prior to the beginning of the fiscal year. A statement shall be submitted with the proposed budget describing the major objectives of the educational program to be undertaken by the school district during the ensuing fiscal year, and the manner in which the budget proposes to fulfil such objectives.

(2) Upon receipt of the proposed budget and statement, the board of education may change the proposed budget and statement prior to the publication of the notice of budget required by section 9 of this act.

SECTION 9. Notice of budget - publication. (1) At least fifteen days prior to the adoption of the budget, the board of education shall cause to be published a notice stating that the

COMMENTS

Based on part of 88-1-12 but adds a provision to permit amounts budgeted to be incorporated by reference into an appropriation resolution.

Based on part of 88-1-12.

Based on parts of 88-1-5, 88-1-6, and 88-1-7. Eliminates reference to when board must appoint person to prepare proposed budget. Sets a 30-day deadline (rather than September 20 for districts on a calendar year) for submission of budget.

See section 19 of this bill for amendment of 88-1-5.

New provision (based on general practice) which authorizes board to modify proposed budget prior to publication of notice of budget.

Based on 88-1-9. Sets a 15-day deadline for publication of notice.

TEXT

COMMENTS

proposed budget is on file at the principal administrative offices of the school district; that the proposed budget is open for inspection during reasonable business hours; that any person paying school taxes in the district may file or register an objection thereto at any time prior to the adoption of the budget; and that the board of education of the school district will consider the adoption of the proposed budget for the ensuing fiscal year on the date, time, and place as specified in the notice.

(2) The notice of the proposed budget shall be in substantially the following form:

NOTICE OF PROPOSED BUDGET

Notice is hereby given that a proposed budget has been submitted to the Board of Education of _____

(Name of school

_____ for the ensuing fiscal year _____
district)

(Name year)

and has been filed in the office of _____

(Name office)

where the same is open for public inspection. Such budget will be considered for adoption at a _____

(Regular or

_____ meeting of the Board of Education of said Dis-
Special)

trict to be held at _____ on _____

(Place)

(Date)

at _____.

(Time)

Any person paying school taxes in said district may at any time prior to the final adoption of the budget file or register his objections thereto.

BOARD OF EDUCATION

Dated _____

(Name of school district)

(Secretary)

TEXT

(3) The notice of proposed budget shall be published at least once prior to the date specified for consideration of the budget in a newspaper having general circulation in the school district. If there is no newspaper having general circulation in the district, the secretary of the board of education shall cause the notice to be posted for at least fifteen days in three public places in the district, and one such public place shall be the administrative offices of the district.

SECTION 10. Budget - consideration - adoption. (1) Any person paying school taxes in a school district shall be entitled to attend the meeting of the board of education at which the proposed budget for such district will be considered. At such meeting, the board shall briefly review the functions and objects for the taxpayers in attendance. Any taxpayer shall be entitled to file or register his objections to the proposed budget at said meeting or prior to the final adoption of the budget.

(2) It shall not be necessary for a board of education to formally adopt the budget on the date specified in the notice of consideration of the proposed budget. If the budget is to be adopted at a future meeting, the date, time, and place of such meeting shall be entered in the minutes of the meeting of the board held for consideration of the proposed budget as specified in such notice.

(3) After the board of education has considered the objections of taxpayers, it may change the proposed budget in any manner deemed advisable; provided, that if a board increased the total expenditures, it shall provide also for increased revenues, in order that the means of financing the budget shall be at least equal to or greater than the proposed expenditures.

(4) Prior to the beginning of the ensuing fiscal year, the board of education shall formally adopt the budget by appropriate resolution duly recorded. The words "Adopted Budget", together

COMMENTS

Based on 88-1-9, but eliminates the exception from publication for school districts with a proposed budget of less than \$10,000. Also, adds a provision to prescribe the length of time for posting notice in the absence of a newspaper with general circulation in the school district.

Based in part on 88-1-10 and part of 88-1-11.

New provision to permit a board to continue the hearing at a later date.

Based in part on 88-1-11.

Based on part of 88-1-11. Adds provision to require the adopted budget to be identified.

TEXT

with the name and style of the school district, the date of adoption, and the signature of the president of the board shall be entered upon the adopted budget.

(5) After adoption of the budget, the board shall not review or change the budget except as authorized by this act, but the board may, by appropriate entry or entries at any time prior to the certification of needed tax revenues to the board of county commissioners, revise the amount of needed tax revenues for any fund, but such a revision shall not change the amount appropriated to any fund, function, or object.

SECTION 11. Budget - filing. (1) The board of education shall cause the adopted budget and the appropriation resolution to be filed at the principal administrative office of the school district, where they shall remain throughout the fiscal year and be open for inspection during reasonable business hours.

(2) Certified copies of the adopted budget and appropriation resolution shall be filed with the commissioner of education within thirty days after the beginning of the fiscal year for which the budget was adopted.

SECTION 12. Transfer of moneys. (1) A board of education shall not transfer moneys from one fund, function, or object to another except as authorized and in the manner prescribed by this act.

(2)(a) A board of education may transfer any unencumbered moneys from one object to another object within the same function at any time during the fiscal year; or may transfer any unencumbered moneys from one function to another function within the same fund during the last four months of a fiscal year.

COMMENTS

New provision authorizing board to make adjustments between anticipated income from non-tax sources and anticipated revenues from taxes at any time prior to certification of needed tax revenues.

New provision.

New provision. Eliminates filing budget with county superintendent and tax commission (see 88-1-17 amended in section 21 herein).

Based in part on 88-1-16. Present statute is not clear which moneys may be transferred during the last four months of the fiscal year. (See section 20 herein for amendment of 88-1-16).

TEXT

(b) The transfer of moneys from one object to another, or from one function to another, pursuant to paragraph (a) of this subsection shall be evidenced by a resolution duly adopted by the board of education authorizing such transfer. A copy of such resolution shall be filed with the employee or officer who issues warrants or orders on the school district.

(3) (a) A board of education may transfer unencumbered moneys from one function to another function within the same fund during the first eight months of the fiscal year in the event of a contingency caused by an act of God, any act of a public enemy, or some event which could not have been reasonably foreseen at the time of the adoption of the budget.

(b) The transfer from one function to another pursuant to paragraph (a) of this subsection shall be evidenced by a resolution duly adopted by the board of education authorizing such transfer. The resolution shall set forth fully the procedure to be followed and the facts concerning the contingency, and shall be recorded at length in the minutes of the meeting of the board at which adopted. Certified copies of the resolution shall be filed with the state tax commission and the commissioner of education. A copy of the resolution shall be filed with the employee or officer who issues warrants or orders on the school district.

(c) If the resolution shall authorize expenditures in excess of the amount budgeted and appropriated to a particular function, and there are no unencumbered moneys available in another function to transfer to the function wherein additional expenditures are

COMMENTS

New provision.

Based in part on 88-1-15 and 88-1-16. Publication and posting of the resolution are not provided for.

Filing of resolution with county superintendent applies to third class districts only and is no longer operative. Filing with commissioner of education is new. Filing with the state tax commission may not be necessary, since budgets would not be filed there.

Based on part of 88-1-16.

TEXT

needed, the board of education may issue warrants to be registered, in order to provide for such excess expenditures. The total amount of warrants which may be issued and registered pursuant to this paragraph during any one fiscal year shall not exceed an amount which could be raised by a two mill levy on the assessed valuation of the taxable property located within the territorial limits of the school district. Transfers and excess expenditures pursuant to this paragraph shall be deemed to be budgeted and appropriated for the purpose specified in the resolution upon the effective date of the resolution.

(4) Proceeds from the sale of bonds remaining after the completion of the project for which such bonds were authorized, may be transferred to the bond redemption fund or, in the event all bonds have been redeemed, to the general fund. Moneys remaining in the bond redemption fund after all obligations of bonded indebtedness have been satisfied shall be transferred to the capital reserve fund; provided, that moneys remaining in a particular account in the bond redemption fund, after all obligations of bonded indebtedness of that particular account have been satisfied, shall be transferred to another account within said bond redemption fund which still has outstanding obligations of bonded indebtedness.

(5) Tax revenues budgeted and appropriated in the general fund for student activity and food service functions and transferred to the respective funds, shall not be deemed to be a transfer within the meaning of this section. Notwithstanding the provisions of subsections (1) to (4) of this section, a junior college committee may transfer moneys from the student activity fund and the food service fund, or moneys from any other auxiliary enterprise fund, to the general or revenue bond funds.

COMMENTS

Although transfers between funds are not generally authorized, this subsection would permit transfers to the bond redemption fund or the general fund from the special building fund (an additional fund which the state board of education may establish under Bill M) when proceeds from the sale of bonds remain after completion of the project for which they were authorized.

This subsection permits use of tax revenues (levied in the general fund) for student activities and food services. It permits "transfer" of these revenues to the respective funds provided in Bill M.

In addition, the subsection permits junior colleges to transfer moneys out of the

TEXT

COMMENTS

SECTION 13. Borrowing from functions and funds. (1) Notwithstanding the provisions of section 12 of this act, a board of education may borrow unencumbered moneys from any one fund, except the bond redemption fund, for the use of another fund at any time during the fiscal year. All moneys borrowed from a fund pursuant to this subsection shall be repaid to said fund when needed to meet the obligations of said fund, and in any event shall be repaid not later than the last day of the fiscal year during which said moneys were borrowed.

student activity fund, food service fund, or any of their other "auxiliary enterprise" funds.

New provision to eliminate the requirement that a school district borrow money, and pay interest thereon, when other school district moneys may be available. Requires that the borrowed moneys be repaid no later than the end of the fiscal year, and prohibits borrowing from the bond redemption fund (the present bond and interest fund).

Although the heading indicates borrowing among functions within a fund as well as among funds, the text of the section refers only to funds.

(2) Borrowing moneys from a fund pursuant to subsection (1) of this section shall be evidenced by a resolution duly adopted by the board of education authorizing such borrowing, and shall be recorded in the minutes of the meeting of the board at which adopted. A copy of said resolution shall be filed with the employee or officer who issues warrants or orders on said school district.

SECTION 14. Record of expenditures. Each board of education shall cause to be maintained a complete set of books of account as required by law.

Based on part of 88-1-18. Reference in 88-1-18 to third class school districts is no longer operative.

TEXT

COMMENTS

SECTION 15. No obligation in excess of appropriation. (1) A board of education of a school district shall not expend, or contract to expend, during the fiscal year any moneys in excess of the amount appropriated by resolution for a particular fund, function, or object, except as the amount appropriated therefor may be modified to the extent of a transfer or excess expenditures as otherwise authorized by this act.

Based on part of 88-1-14.

(2) A board of education of a school district shall not expend, or contract to expend, during the fiscal year any moneys for a function or object to which no moneys were appropriated by resolution; provided, that in the event of a contingency, moneys shall be transferred from the contingency function to the appropriate function of the general fund prior to disbursement of any such moneys.

Based in part on 88-1-14.

(3) Any obligation of a contract, verbal or written, made contrary to the provisions of subsections (1) or (2) of this section shall be void for the fiscal year during which such obligation is due and payable, and no school district moneys shall be paid thereon.

Based on part of 88-1-14, but adds "for the fiscal year."

(4) Nothing contained in this section shall be construed in a manner to prohibit a board of a school district from being a party to a contract which extends for a period of time beyond the fiscal year during which said contract was executed if said contract involves an expenditure of school district moneys in exchange for governmental services, buildings, or equipment. If a contractual obligation of a school district cannot be satisfied during a fiscal year because of application of subsection (3) of this section, the board may budget and appropriate moneys to satisfy any or all of said obligation which may be due and payable during succeeding fiscal years.

Based in part on 88-1-14, but adds a provision to clarify the status of a contract which exceeds one year, and particularly a contract affected by subsection (3).

SECTION 16. Malfeasance - removal. Any school director, officer, or employee of a school district who knowingly and willfully violates any provision of this act, or who knowingly and willfully fails to perform any duty required by this act, shall be deemed guilty of malfeasance in office or position of employment and, upon conviction thereof, the court shall order that such school director, officer, or employee be removed from his office or position of employment.

Based on 88-1-19. See section 22 of this bill for amendment of 88-1-19.

TEXT

SECTION 17. Budget - minimum content. The commissioner of education shall have authority to prescribe the minimum contents of school district budgets.

PART II

Amendments to "Local Government Budget Law"

SECTION 18. 88-1-2, Colorado Revised Statutes 1953, is hereby amended to read:

88-1-2. Applies to local subdivisions - exceptions. This article shall apply to all subdivisions of the state which have power to appropriate money or levy taxes, except home rule cities ~~or~~ AND cities and counties, ~~or~~ cities operating under a charter, SCHOOL DISTRICTS AND JUNIOR COLLEGE DISTRICTS.

SECTION 19. 88-1-5, Colorado Revised Statutes 1953, is hereby amended to read:

88-1-5. By whom budget prepared. The governing body of such local government shall designate or appoint some person to prepare the budget and submit same to the governing body. ~~In all school districts the governing body shall be the board of school directors.~~

SECTION 20. 88-1-16, Colorado Revised Statutes 1953, is hereby amended to read:

COMMENTS

New provision.

Part II amends the pertinent sections of "The Local Government Budget Law", removing school districts and junior college districts from said law. Sections 88-1-9, 88-1-14, 88-1-15, and 88-1-18 of said act also refer to schools, mainly to classes of school districts which no longer exist and it is not believed that these sections need be amended at this time, but can await a complete revision of the law by the Local Study Commission.

See section 8 herein.

TEXT

88-1-16. Payment for contingencies. In case of such emergency and the passage of an ordinance or resolution authorizing additional expenditures in excess of the budget and if there be funds of money available for such excess expenditure in some other fund which will not be needed for expenditures during the balance of the fiscal year, the governing body shall transfer such available money from such fund to the fund from which the excess expenditure is to be paid. If sufficient money, which can be so transferred, is not available to meet the authorized excess expenditure, then the governing body may make a temporary loan through the issuance of registered warrants so as to provide for such excess expenditures. The total amount of such temporary loan shall not exceed such amount as can be raised by a two mill levy on the assessed valuation of the taxable property within the limits of the local government of such governing body. ~~In-school-districts-the-governing-body-shall-have-the-power-to authorize-the-transfer-within-the-budgeted-funds-of-any-unencumbered appropriation-balance-or-any-portion-thereof-from-one-spending agency-under-its-jurisdiction-to-another.--Such-action-shall-be taken-only-during-the-last-four-months-of-the-fiscal-year-and-total expenditures-shall-not-exceed-the-total-amount-of-the-budget.~~

SECTION 21. 88-1-17, Colorado Revised Statutes 1953, is hereby amended to read:

88-1-17. Filing of budget. Upon the adoption of the budget the governing body of the local government shall cause a certified copy of such budget to be filed in the office of the state tax commission. ~~If-the-local-government-be-a-school-district,-a-copy-of such-budget-shall-be-filed-in-the-office-of-the-county-superintendent-of-schools.~~ Copies of such budget and of ordinances or resolutions authorizing additional expenditures or the transfer of funds, shall be filed with the officer or employee of the local government whose duty it is to issue warrants or orders for the payment of money.

COMMENTS

See section 12 of this bill.

The committee requested that the present law be amended so that school district budgets need not be filed with the tax commission. This occurs twice in the present law: In 88-1-17 and in 137-12-13(5). The latter section will not have to be amended if the amendment to section 88-1-17, is adopted.

See also section 11 of this bill.

TEXT

COMMENTS

SECTION 22. 88-1-19, Colorado Revised Statutes 1953, is hereby amended to read:

88-1-19. Violation in malfeasance - removal. Any member of the governing body of any county, city, OR town, or ~~school-district~~ or any member, officer, employee, or agent of any department, board, commission, or other spending agency who knowingly or willfully fails to perform any of the duties imposed upon him by this article or who knowingly and willfully violates any of its provisions shall be deemed guilty of malfeasance in office and, upon conviction thereof, the court shall enter judgment that such officer so convicted shall be removed from office. It shall be the duty of the court rendering any such judgment to cause immediate notice of such removal to be given to the proper officer of the county, city, OR town ~~ex-school-district~~ or other proper department or officer so that the vacancy thus caused may be filled.

SECTION 23. Repeal. 88-1-8, Colorado Revised Statutes 1953, is hereby repealed.

SECTION 24. Effective date. This act shall take effect on July 1, 1964.

SECTION 25. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

See section 16 of this bill.

See section 6(2) of this bill.

TEXT

BILL M

A BILL FOR AN ACT
PROVIDING FOR THE ACCOUNTING AND REPORTING OF FINANCIAL TRANSACTIONS
OF SCHOOL DISTRICTS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Definitions. Unless otherwise indicated by the context, the following words and phrases when used in this article shall have meanings respectively ascribed to them in this section:

(1) "School district" or "district" means a school district or a junior college district organized and existing pursuant to law.

(2) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district as defined in subsection (1) of this section.

SECTION 2. Accounts. (1) The board of education of each school district shall cause financial records to be kept in accordance with generally accepted principles of governmental accounting. The financial transactions of the school district shall be recorded in general, appropriation, revenue, and expenditure records. Appropriate entries from the adopted budget shall be made in the records for the respective funds. Separate accounts shall be maintained for each of the several funds prescribed by this act. Continuing balances of the various budgetary accounts shall be maintained on at least a monthly basis. The board of education of each school district shall review the financial condition of said school district from time to time during the fiscal year and may require the secretary, treasurer, or any employee who may have duties which relate to the fiscal affairs of said school district to submit a financial report covering his fiscal actions from time to time as deemed appropriate by said board.

COMMENTS

This bill should be considered in connection with Bill K and Bill L. Many of the provisions of this bill are new; they are designed to strengthen fiscal procedures in school districts.

Definitions of "school district" and "board of education" are included to clarify applicability of this bill to junior college districts.

New provision.

TEXT

(2) All records shall be maintained at the principal administrative offices of the school district. Accounts shall be posted and reconciled with fund resources at least monthly. Records shall be open for public inspection during reasonable business hours. The state board of education shall prescribe the minimum accounts to be maintained under the provisions of this act.

SECTION 3. Funds. The following funds are hereby created for each school district for purposes herein specified:

(1) General fund: The current fiscal transactions for the ordinary operations of the school district shall be accounted for in the general fund, including all transactions not specified to be accounted for in another fund. The revenues shall accrue from taxes and other appropriate sources.

(2) Bond redemption fund: The revenues from a tax levy for the purpose of satisfying bonded indebtedness obligations, both principal and interest, shall be recorded in the bond redemption fund. The bond redemption fund may include more than one subsidiary account for which a separate tax levy is made to satisfy the obligations of bonded indebtedness, including a separate tax levy to satisfy the obligations of bonded indebtedness incurred by a former school district. The revenues from each separate tax levy shall be held in trust for the purpose of satisfying the obligations of the bonded indebtedness for which the tax levy was made; provided, that revenues, if any, remaining to the credit of a separate subsidiary account after satisfaction of all such obligations of that subsidiary account, may be transferred to another subsidiary account in the same fund.

COMMENTS

Under this section the present special, bond and interest, and capital reserve building funds would be re-named general, bond redemption, and capital reserve funds respectively.

Based in part on a portion of 123-3-1, 1961 Supp., repealed in Bill K. The five per cent limitation imposed by 36-3-2 and 36-3-5, 1960 Perm. Supp., will apply. Tax commission approval or a special election will be necessary for any levy in excess of 105% of the preceding year's levy.

See 123-11-16(1), Chapter 236, Session Laws of 1963, and proposed 123-11-20 in Bill H.

Provision is made for a separate subsidiary account for each separate bond levy. After the obligations of one account are satisfied, any remaining moneys may be transferred to another account within the bond redemption fund.

TEXT

(3)(a) Capital reserve fund: The revenues from a tax levy for capital outlay purposes shall be recorded in the capital reserve fund. Such revenues may be supplemented by gifts, donations, and tuition receipts. Expenditures from the fund shall be limited to long-range future programs and shall be made only for the following purposes:

(i) Acquisition of land and construction of structures thereon;

(ii) Construction of additions to existing structures;

(iii) Procurement of equipment for new buildings and additions to existing buildings and installation thereof;

(iv) Alterations and improvements to existing structures where the total estimated cost of such projects for labor and materials is in excess of five thousand dollars;

(v) Acquisition of school busses or other equipment, the estimated unit cost of which, including any necessary installation, is in excess of five thousand dollars.

(b) Expenditures from the fund shall be authorized by a resolution adopted by the board of education of a school district at any regular or special meeting of the board. The resolution shall specifically set forth the purpose of the expenditure, the location of the structure or structures to be constructed, added to, altered, or repaired, and a description of any school busses or equipment to be purchased, and where such equipment will be installed. The resolution shall also set forth the estimated cost of the proposed expenditure, the tax levy required, and the number of years during which the levy will be required.

COMMENTS

Bonded indebtedness cannot exceed ten per cent of the valuation for assessment. See present sections 123-11-2 and 123-25-32 and proposed 123-11-5 in Bill H.

Based in part on 123-3-4, 1960 Perm. Supp., and 123-3-6. See 123-3-5 (Chapter 232, Session Laws of 1963) and proposed 123-3-2(4) in Bill K for maximum levy.

The fund may not be used for minor alterations and improvements or for equipment unless the cost exceeds \$5,000. Smaller items must be financed from the general fund.

TEXT

(c) Any balance remaining upon the completion of any authorized project may be encumbered for future projects which are authorized as provided in this subsection; provided, that any balance remaining unencumbered for a period of four years shall be transferred to the general fund.

(4) Additional funds: In districts where it may be necessary, the state board of education shall authorize by regulation additional funds not provided for in this section, together with proper accounting procedures for the same, on the same basis as provided in this act.

SECTION 4. Fees, fines, etc. All moneys collected from fees or fines fixed and imposed by the board of education of any school district shall be paid over to the treasurer of such board as received, or in no event later than the tenth day of the month following that in which collected, and shall be credited to the student fee and fine account, and deposited in the same manner as other moneys belonging to the district.

SECTION 5. Moneys from school activities. All moneys derived from any school sponsored activity, including but not limited to athletics, dramatics, grade or class projects, or student clubs or organizations, and from gifts or donations from any person in support of any such activity, shall be collected, accounted for, and deposited, under the supervision of the secretary or treasurer of the board of education, in such manner as may be prescribed or directed by the board, and shall be expended for such purposes and in such manner as may be approved and directed by such board.

SECTION 6. Food service or lunchroom account. All moneys derived from the operation, maintenance or sponsorship of a food service facility by a school district shall be paid over to the treasurer of the board of education of such district as received, or in no event later than the tenth day of the month following that in which collected, and shall be credited to the food service or lunchroom account, and deposited in the same manner as other moneys belonging to the district. Such moneys shall be expended in such manner as may be approved and directed by said board, but no amount

COMMENTS

The state board of education may authorize additional funds (other than general, bond redemption, and capital reserve) by regulation.

This is a new provision to require that student fees and fines be paid over to the treasurer at least every month to be credited to a "student fee and fine" account.

This is a new provision designed to tighten control and accounting of student activity moneys. The school board is given authority to prescribe the manner of handling these moneys, since the sources, amounts, and purposes are so varied.

This section requires that food service moneys be paid over to the treasurer at least every month to be credited to a "food service" or "lunchroom" account.

TEXT

shall be transferred from the food service or lunchroom account to any other account or fund except in the manner otherwise authorized by law.

SECTION 7. Audit of certain moneys. An audit of the moneys specified in sections 4, 5, and 6 of this act shall be made at such times as may be ordered by the board of education.

SECTION 8. Report of county treasurer. (1) The county treasurer shall, no later than the tenth day of each month, render a monthly itemized statement of account, on a form prescribed by the state board of education, to each school district in his county, and to each joint school district if the headquarters thereof are located in his county, in cases where the board of education of such school district or joint school district has elected, pursuant to law, to have school district moneys received by the county treasurer paid over to the treasurer of the district.

(2) In cases where the board of education of any such school district or joint school district has not elected to have school district moneys received by the county treasurer paid over to the treasurer of the district, the county treasurer shall render an itemized statement of account, as prescribed in subsection (1) of this section, which shall include the following:

(a) A list of all cancelled warrants and orders paid and charged by him against the district.

(b) The sources and amounts of money received and credited to the accounts of the district.

(c) The balance due the district at the end of each month.

SECTION 9. Financial statements - publication. It shall be the duty of the board of education of each school district to

COMMENTS

Sections 4, 5, and 6 are designed to tighten control of fees and fines, activity moneys, and food service moneys. This section straightens control by requiring an audit.

Based in part on 123-3-13. Changes quarterly report to monthly report. Eliminates requirement for a receipt and report blank to be supplied by county treasurer and returned by secretary of board (see present sections 123-3-14 and 123-3-15).

Subsection (1) covers the situation where the school district has elected to withdraw its moneys from the county treasurer; subsection (2) covers the situation where the county treasurer handles the district's moneys.

Based on 123-10-37, 1960 Perm. Supp., and 123-10-38,

TEXT

publish semiannually within thirty days after the close of business June thirtieth and December thirtieth of each year, a complete report of the financial condition of said school district, showing the total of all receipts and disbursements from each and every fund, so itemized as to give the general public definite information as to the financial condition of said district. Such publication shall be made once in a newspaper of general circulation printed and published within said district; provided, that if there be no newspaper published within said district, then such publication shall be made once in a newspaper having a general circulation within said district.

SECTION 10. Violation - malfeasance. Any school director, officer, or employee of any school district who knowingly or willfully fails to perform any of the duties imposed upon him by this act is guilty of malfeasance in office, and, upon conviction, the court shall enter judgment that such director, officer, or employee so convicted shall be removed from office or position of employment.

SECTION 11. Repeal. 123-10-38 and 123-10-39, Colorado Revised Statutes 1953; and 123-10-37, Colorado Revised Statutes 1953 (1960 Perm. Supp.) are hereby repealed.

SECTION 12. Effective date. This act shall take effect on July 1, 1964.

SECTION 13. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

COMMENTS

both repealed herein. Allows 30 (rather than 20) days for publication of the report. Eliminates requirement for posting the financial statement. Penalty for failure to make publication (123-10-39, repealed herein) is also eliminated.

Based in part on 110-1-8, which relates to audit duties. Eliminates the requirement that court must notify board of removal order.

Note that 110-1-8 is not amended by this bill. Also, the annual audit requirement for school districts spending more than \$10,000 is retained (110-1-3, 1960 Perm. Supp.).

See Section 9 of this bill.

TEXT

COMMENTS

Bill N

A BILL FOR AN ACT
CONCERNING THE ORGANIZATION OF JUNIOR COLLEGE DISTRICTS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 123-23-3, Colorado Revised Statutes 1953 (1961 Supp.), is hereby amended to read:

123-23-3. Districts organized - when - approval of plan.

(1) Junior college districts in Colorado may be organized in an area approved for organization by the state board of education which shall have had a twelfth-grade school population, as determined by the immediately preceding school census, of four hundred or more and an assessed valuation at the time of organization of such district of sixty million dollars or more. A district may be entirely within one county or partly in two or more counties. Any existing ~~first-, second-, or third-class~~ school districts shall be entirely included or entirely excluded.

(2)(a) PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE STATE BOARD OF EDUCATION SHALL HAVE THE AUTHORITY TO APPROVE A PLAN FOR THE ORGANIZATION OF A NEW JUNIOR COLLEGE DISTRICT EVEN THROUGH A PORTION OF THE TERRITORY COMPRISING THE NEW DISTRICT MAY THEN BE WITHIN AN EXISTING JUNIOR COLLEGE DISTRICT.

(b) IN THE EVENT THE APPROVED PLAN SHALL INCLUDE TERRITORY OF AN EXISTING JUNIOR COLLEGE DISTRICT AS PROVIDED IN PARAGRAPH (a) OF THIS SUBSECTION, SUCH TERRITORY SHALL BE AUTOMATICALLY DETACHED FROM SAID EXISTING JUNIOR COLLEGE DISTRICT, AND BECOME AND BE A PART OF THE NEW JUNIOR COLLEGE DISTRICT, WHEN SAID NEW JUNIOR COLLEGE DISTRICT BECOMES A BODY CORPORATE AS OTHERWISE PROVIDED BY LAW. THE PROPERTIES AND ASSETS OF THE EXISTING JUNIOR COLLEGE DISTRICT SHALL BE APPORTIONED AND TRANSFERRED TO SAID NEW JUNIOR COLLEGE DISTRICT AS PRESCRIBED BY SECTION 123-25-28 (2), CRS 1953.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

In subsection (1), obsolete references to classification of school districts are stricken.

If Bills A and E (which eliminate the requirement for the annual school census) are approved, the words, "school population, as determined by the immediately preceding school census" might be changed to "school enrollment."

Subsection (2) would permit detachment of territory from an existing junior college district to become part of a new junior college district. The immediate problem for which the provisions of this bill are intended involves the Rangely campus of Mesa Junior College.

TEXT

Bill O

A BILL FOR AN ACT

CONCERNING THE DISPLAY OF THE FLAGS OF THE UNITED STATES AND OF THE STATE OF COLORADO ON STATE INSTITUTIONS.

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 3 of chapter 130, Colorado Revised Statutes 1953, is hereby amended BY THE ADDITION OF THE FOLLOWING NEW SECTION:

130-3-10. Display of flags. The chief administrative officer of any state institution supported in whole or in part by the state and under the control of the state, shall cause to have erected and maintained, at the entrance of the institution or on the principal administrative building on grounds thereof, a suitable flagstaff or flagstaffs with the attachments necessary for the display of flags, and shall cause to be displayed thereon the flags of the United States and of the state of Colorado. The flag of the state of Colorado shall be the same size as the flag of the United States with which it is displayed. If both flags are displayed on one flagstaff, the flag of the state of Colorado shall be placed below the flag of the United States. Such flags shall be displayed each day not earlier than sunrise and not later than sunset, except in inclement weather.

SECTION 2. Repeal. 123-10-30 to 123-10-32, Colorado Revised Statutes 1953, are hereby repealed.

COMMENTS

This bill is based on present sections 123-10-30 through 123-10-32 (repealed herein). These sections make reference to sections 123-10-27 through 123-10-29, which would be repealed by proposed Bill E and covered by section 10(14) of that bill. Since sections 123-10-30 through 123-10-32 apply to all state institutions, the subject is transferred by this bill to article 130-3 on state institutions.

The bill requires that the flag be flown each day and adds the requirement that the Colorado flag be flown with the United States flag. It removes the penalty for destruction of the flag or failure to comply with provisions on display of the flag. It also eliminates the requirement that the commissioner of education publish the sections involved.

TEXT

COMMENTS

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

TEXT

COMMENTS

Concurrent Resolution

HOUSE CONCURRENT RESOLUTION NO.

SUBMITTING TO THE QUALIFIED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO ARTICLE IX OF THE CONSTITUTION OF THE STATE OF COLORADO, PROVIDING THAT THE OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS MAY BE ABOLISHED BY THE QUALIFIED ELECTORS OF ANY COUNTY, AND ELIMINATING INOPERATIVE PROVISIONS WITH RESPECT TO CERTAIN DUTIES OF THE COUNTY SUPERINTENDENT.

Be It Resolved by the House of Representatives of the Forty-fourth General Assembly of the State of Colorado, the Senate concurring herein:

SECTION 1. At the next general election for members of the general assembly, there shall be submitted to the qualified electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to wit:

Section 6 of article IX of the constitution of the state of Colorado is hereby amended to read:

Section 6. County superintendent of schools. There shall MAY be a county superintendent of schools in each county, whose term of office shall be two FOUR years, and whose duties, qualifications, and compensation shall be prescribed by law. ~~He shall be ex-officio commissioner of lands within his county; and shall discharge the duties of said office under the direction of the state board of land commissioners; as directed by law.~~

THE PROVISIONS OF SECTION 8 OF ARTICLE XIV OF THIS CONSTITUTION TO THE CONTRARY NOTWITHSTANDING, THE OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS MAY BE ABOLISHED BY ANY COUNTY IF THE QUESTION OF THE ABOLISHMENT OF SAID OFFICE IS FIRST SUBMITTED, AT A GENERAL ELECTION, TO A VOTE OF THE QUALIFIED ELECTORS OF SAID COUNTY AND APPROVED BY A MAJORITY OF THE VOTES CAST THEREON. IN ANY COUNTY SO VOTING IN FAVOR OF SUCH ABOLISHMENT, THE OFFICE OF COUNTY SUPERINTENDENT OF SCHOOLS AND THE TERM OF OFFICE OF ANY INCUMBENT IN SAID COUNTY SHALL TERMINATE ON JUNE 30 FOLLOWING.

This concurrent resolution would place a constitutional amendment on the ballot in 1964. The proposed amendment would permit any county to vote to abolish the office of county superintendent of schools. If a county votes in favor of the abolishment, the office would be terminated on the following June 30.

If the proposed amendment is adopted, the General Assembly will have to consider legislation to eliminate or delegate the county superintendent's duties in counties which vote to abolish the office.

Term of office is actually four years at the present time (see Section 8 of Article XIV of the Constitution, as amended in 1954); the two-year provision is inoperative.

TEXT

SECTION 2. Each elector voting at said election and desirous of voting for or against the said amendment shall cast his vote as provided by law either "Yes" or "No" on the proposition: "An amendment to article IX of the constitution of the state of Colorado, providing that the office of county superintendent of schools may be abolished by the qualified electors of any county, and eliminating inoperative provisions with respect to certain duties of the county superintendent."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

COMMENTS

County superintendents perform no duties as ex officio commissioner of lands. This provision is therefore stricken from the Constitution.