

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, and 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.

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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

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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.

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(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.

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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 said 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

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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.

(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.

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.

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

COMMENTS

maximum for initial bonds (123-11-15 of this bill). Provision for registration of bonds is new.

Based on part of 123-12-3. Deletes reference to "semi-annual" interest coupons.

Based on 123-12-4, Chapter 237, Session Laws of 1963.

Replaces 123-12-5 and 123-12-8, Chapter 237, Sessions Laws of 1963.

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.

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.

(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

Based on 123-12-6.

Based on 123-12-7, Chapter 237, Session Laws of 1963.

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.

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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.

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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.

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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.

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).

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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.

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(4) "Teacher's certificate" means a certificate as defined in section 123-17-20(9), including a letter of authorization.

(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.

(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.

(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.

(8) "Dismissal" means the involuntary termination of employment of a teacher during the contractual period of time for any reason other than mandatory retirement.

(9) "School year" means the first day of July through the thirtieth day of June next following.

(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.

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.

123-33-3. Services - disbursements. No order or warrant for

COMMENTS

See also 123-18-2(2)(c) of this bill for definition of "teacher's certificate" under the tenure act.

New definition.

New definition.

New definition.

New definition. "Dismissal" during the contract period should be distinguished from "refusal to re-employ" for a succeeding contract period.

Based on part of 123-21-12, 1961 Supp.

New definition based on general practice.

Based on part of 123-17-1, 1961 Supp., repealed herein.

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 suspension during temporary dismissal 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

COMMENTS

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.

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."

(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.

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.

(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.

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.

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

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. Depositaries. (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 depositaries as designated by the board of said district.

(2) Each depositary 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 depositary, 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 depositary 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 depositary shall increase the amount of the surety bond, or the general obligation bonds in lieu thereof, from time to time so that said depositary 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 depositaries 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 depositary.

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

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.

SECTION 5. Budget - contents - mandatory. (1) The budget shall present a complete financial plan for the ensuing fiscal year. It shall specify:

(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.

(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.

COMMENTS

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.

Based on part of 88-1-4.

This is a new requirement.

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

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.

(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.

COMMENTS

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.

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

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 ~~or 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.

COMMENTS

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 assessments. 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 thirty-first 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-~~~~er-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

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

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.