

CHAPTER 116

COOPERATIVE EDUCATIONAL SERVICE AGENCIES

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Cross-reference: See definitions in s. 115.001.

116.01 Purpose. The organization of school districts in Wisconsin is such that the legislature recognizes the need for a service unit between the school district and the state superintendent. The cooperative educational service agencies are designed to serve educational needs in all areas of Wisconsin by serving as a link both between school districts and between school districts and the state. Cooperative educational service agencies may provide leadership and coordination services for school districts, including such programs as curriculum development assistance, school district management development, coordination of vocational education and exceptional education, research, special student classes, human growth and development, data collection, processing and dissemination and in-service programs.

History: 1977 c. 418; 1983 a. 27.

See note to Art. I, sec. 18, citing 62 Atty. Gen. 75.

116.015 Legal status. A cooperative educational service agency may in its name enter into contracts authorized by this chapter and may sue and be sued.

History: 1977 c. 221; 1983 a. 27 s. 2200 (42).

116.02 Board of control; membership. (1) (a) Each agency shall be governed by a board of control composed of members of school boards of districts within the agency. There shall be no more than one member from the same school board. There shall be no more than one member from the territory comprising a union high school district and its underlying elementary school districts. Annually on or after the 4th Monday in April, the school board of each district in the agency shall appoint one of its members as its representative for the purpose of determining the composition of the board of control. For the purpose of determining membership on the board of control, a school district operating elementary grades only and lying in more than one union high school district shall be considered part of the union high school district territory in which the major portion of its equalized valuation lies. The board of control shall hold an annual organizational meeting on the 2nd Monday in August, unless, at the direction of the convention under par. (c), the board of control at the annual organizational meeting in any year determines to thereafter hold the annual organizational meeting on an earlier date. No annual organizational meeting may be held prior to the 2nd Monday in May. If the board of control at the annual organizational meeting determines to thereafter hold the annual organizational meeting prior to the 2nd Monday in August, it shall within 30 days of that decision give notice in writing of the decision to the clerk of each district within the agency and the state superintendent.

(c) The state superintendent shall cause to convene annually on the day that the board of control holds its annual organizational meeting under par. (a) a convention composed of the representatives from each school board in the agency. The secretary to the board of control of the agency shall act as nonvoting secretary to the convention. In the secretary's absence the convention shall appoint an acting secretary from among the representatives to the convention. Upon the convening of the convention the representatives from all school boards within each union high school dis-

trict territory, meeting separately, shall elect a single representative to represent the territory in the election of members of the board of control. After the meeting for election of a single representative from each union high school district territory, the convention shall elect the members of the board of control, not to exceed 11 in number, in accordance with the plan of representation for the agency adopted under par. (d). The members of the board of control shall be elected for staggered 3-year terms and shall be chosen from among the representatives elected to represent each union high school district territory and the representatives appointed by the school boards of districts operating both elementary and high school grades. The convention may direct the board of control to determine a different date for the annual organizational meeting.

(d) The annual convention shall formulate an initial plan of representation for the agency. Subsequent annual conventions shall adhere to the initial plan of representation unless a petition proposing a different plan of representation, signed by at least 25% of the presidents of school districts within the agency, is filed with the chairperson of the board of control at least 30 days prior to the date of the convention. Within 5 days after receipt of the petition, the chairperson of the board of control shall notify the school board of each school district within the agency, in writing, of the petition and of the proposed plan of representation. If the convention approves the proposed plan of representation, it shall be in effect for the election of members of the board of control at that convention and shall remain in effect until further modified under this paragraph.

(2) Membership on a board of control is terminated:

(a) Upon the incumbent's position as a school board member becoming vacant under s. 17.03 or upon the incumbent otherwise ceasing to be a school board member.

(b) Upon the naming of a successor to the incumbent's position on the board of control under sub. (1).

(c) Upon the incumbent's resignation in accordance with s. 17.01 (13) submitted in writing to the chairperson or secretary of the board of control.

(3) If a vacancy occurs under sub. (2) (a) or (c), the chairperson or secretary of the board of control shall request the school board from which the member came to appoint one of its members to the vacancy. Such appointments shall appear upon the school board minutes and be certified by the school district clerk to the board of control.

History: 1979 c. 110; 1981 c. 8; 1983 a. 27; 1993 a. 184, 492.

116.03 Board of control; duties. The board of control shall:

(1) Determine the policies of the agency.

(2) Receive state aid for the operation of the agency.

(3) Approve service contracts with school districts, counties, other cooperative educational service agencies, school districts outside the agency, university of Wisconsin system institutions and centers and technical college districts, but the contracts shall not extend beyond 3 years. If the service covered by the contract is offered by the agency within which the recipient of service is

located the contract shall be subject to approval by the board of control of the agency. If the contract is for instructional telecommunications services, the board of control shall report to the educational communications board the terms and conditions of the contract. The board of control of an agency which borders another state may contract to provide services to an educational agency in the other state, but no aid received under s. 116.08 may be used to provide such services. No board of control may use federal funds for any program which provides services outside this state without the approval of the state superintendent.

(4) Determine each participating local unit's prorated share of the cost of cooperative programs and assess the costs of each program against each unit participating in the program including, without limitation because of enumeration, unemployment compensation, litigation expense, collective bargaining and monetary awards by courts and agencies, but no board of control may levy any taxes. No cost may be assessed against a unit for a cooperative program unless the unit enters into a contract for the service.

(5) Except as provided under s. 116.04 (1), appoint and contract with an agency administrator, for a term of not more than 3 years, with qualifications established by rule by the state superintendent.

NOTE: Sub. (5) is repealed eff. 7-1-95 by 1993 Wis. Act 355.

(6) Meet monthly and at the call of the chairperson.

(7) Select a chairperson, vice chairperson and treasurer from among its members at the annual organizational meeting. The agency administrator shall act as a nonvoting secretary to the board of control. Vacancies shall be filled as are original selections.

(8) Adopt bylaws for the conduct of its meetings.

(9) Require a bond of the agency administrator and such other employes as determined by the board of control. The agency administrator, within 15 days following the beginning of contractual duties, shall file a bond executed by 2 qualified sureties approved by the board of control or may file a surety company bond in an amount determined by the board of control, but at least equal to 5% of the current administrative budget of the agency. If the board of control so determines, the agency treasurer shall file personal or surety bonds in such amounts as the board of control requires. The agency may purchase surety company bonds with agency funds.

(10) Authorize the expenditure of money for the purposes set forth in this chapter and for the actual and necessary expenses of the board and agency administrator and for the acquisition of equipment, space and personnel. All accounts of the agency shall be paid by check, share draft or other draft signed by the chairperson and secretary.

(11) Establish the salaries of the agency administrator and other professional and nonprofessional employes. State reimbursement for the cost of the salary of the agency administrator shall be equal to the actual salary paid or the maximum of the salary range for public instruction supervisors under the state superintendent, whichever is less.

(12) Annually, make an inventory of agency property and file copies of it in the agency office.

(13) Every 3rd year, as scheduled by the state superintendent, submit to the state superintendent for his or her approval an evaluation of agency programs and services.

(13m) If the county board of supervisors establishes an integrated service program for children with severe disabilities under s. 59.07 (147), participate in an integrated service program for children with severe disabilities under s. 59.07 (147) and may enter into written interagency agreements or contracts under the program.

(14) Do all other things necessary to carry out this chapter.

History: 1977 c. 221 ss. 2, 6; 1979 c. 301; 1981 c. 96 s. 67; 1983 a. 27 ss. 1435 to 1439, 2200 (42); 1983 a. 368, 538; 1989 a. 31; 1991 a. 39; 1993 a. 184, 355, 399

A CESA is governed by 118.22 in its renewal of teaching contracts. Rawhouse v. CESA No. 4, 75 W (2d) 52, 248 NW (2d) 442

CESA may not purchase real estate. Elroy-Kendall-Wilton Schs. v. Coop. Educ. Serv. 102 W (2d) 274, 306 NW (2d) 89 (Ct. App. 1981).

116.035 Designation of records custodian. The board of control may, on behalf of any agency authority as defined in s. 19.32 (1), including the agency, the agency administrator and any subunit of the agency, designate one or more individuals to be legal custodians of records.

History: 1981 c. 335.

116.04 Agency administrator. (1) (a) 1. Beginning with the 1984-85 school year, and thereafter within a reasonable period of time after notice of a vacancy or impending vacancy by a board of control, the state superintendent shall submit to the board of control the names of at least 3 persons for possible appointment as agency administrator. Upon the request of the board of control, the state superintendent shall submit the names of 3 additional persons for possible appointment as agency administrator.

NOTE: Subd. 1. is amended eff. 7-1-95 by 1993 Wis. Act 355 to read:

Upon request of a board of control, the state superintendent shall submit to the board of control the names of at least 3 persons for possible appointment as agency administrator. Upon the request of the board of control, the state superintendent shall submit the names of 3 additional persons for possible appointment as agency administrator.

2. The board of control shall appoint and contract with one of the persons for a term of not more than 3 years. The board of control may renew the agency administrator's contract for a term of not more than 3 years.

NOTE: Subd. 2. is amended eff. 7-1-95 by 1993 Wis. Act 355 to read:

2. The board of control shall appoint and contract with an agency administrator, who meets the qualifications established by the state superintendent by rule, for a term of not more than 3 years. The board of control may renew the agency administrator's contract for a term of not more than 3 years.

(b) The state superintendent shall by rule establish qualifications and procedures for the selection of agency administrator candidates under par. (a) 1.

(2) The agency administrator shall be responsible for coordinating and administering the services, securing the participation of the individual school districts, county boards and other cooperative educational service agencies and implementing the policies of the board of control.

History: 1977 c. 221; 1983 a. 27; 1993 a. 355.

116.045 Agency personnel. The agency is the sole employer of the personnel it employs. A recipient of personnel services is not deemed an employer because of the exercise of supervision or control over any personnel services provided.

History: 1977 c. 221.

116.05 Professional advisory committee. In each agency there shall be a professional advisory committee composed of the school district administrator of each school district in the agency, which shall meet at the request of the board of control or the agency administrator to advise them.

History: 1977 c. 221 s. 6.

116.055 Real property. The board of control may purchase, hold, encumber and dispose of real property, in the name of the agency, for use as its office or for any educational service provided by the agency if a resolution to do so is adopted by a two-thirds vote of the members of the board of control and then approved by three-fourths of the school boards in the agency by majority vote of each school board. Aid received under s. 116.08 may be used for the acquisition and maintenance of real property under this section.

History: 1983 a. 27.

School district members of CESA who unsuccessfully oppose real estate purchase are obliged to pay their share of the costs thereof, and may be sued by the CESA to enforce the obligation. 80 Atty. Gen. 296.

116.06 Revision of agency boundaries. (1) Upon the petition of a school board of a district operating high school grades, the state superintendent, after investigation of the proposal, may transfer by order the entire school district from one agency to another, effective the next succeeding July 1. Any

school district so transferred shall pay its agreed share of all expenses incurred by the agency in its behalf, but shall not be required to fulfill any commitments in the agency from which transferred extending beyond the effective date of transfer. A transfer of the territory of a union high school district shall include and effect a transfer of that territory of underlying elementary school districts which lie within the boundaries of the union high school district.

(2) When a new school district is created, it becomes a part of the agency in which the greatest portion of its equalized valuation lies, effective the next succeeding July 1. When territory is detached from a school district operating high school grades and attached to a school district that is in another agency, such transferred territory shall become a part of the agency of the school district to which it is attached, effective the next succeeding July 1.

116.065 Withdrawal from agency. (1) The school board of a school district in cooperative educational service agency no. 1, as designated on April 1, 1985, may adopt a resolution to withdraw from the agency. The school board shall immediately notify the board of control and the state superintendent of its intention.

(2) A resolution adopted under sub. (1) prior to January 15 in any school year shall be effective the next succeeding July 1. A resolution adopted under sub. (1) on or after January 15 in any school year shall be effective on the 2nd succeeding July 1.

(3) A school district that has withdrawn from the agency described under sub. (1) may rejoin the agency. The procedures under subs. (1) and (2) apply to readmissions.

History: 1985 a. 29.

116.07 Consolidation of agencies. (1) A board of control may on its own motion or shall on the petition of 100 electors of the agency territory approach an adjoining board of control regarding the feasibility of the consolidation of their agencies. Unless within 60 days of the filing of the petition each board of control passes a resolution to explore the feasibility of consolidation and to hold a separate public hearing, the resolution or petition is denied without further action.

(2) Upon completion of a plan of consolidation, the affected boards of control shall give 30 days' notice in writing to those school boards affected of a public hearing on the proposed consolidation. Notice of such hearing also shall be published as a class 2 notice, under ch. 985, the last insertion to be at least 20 days prior to the date of the hearing.

(3) Following the hearing on the proposed consolidation the affected boards of control shall vote on the consolidation. A majority vote of the members present and voting from each board of control shall be necessary to approve the proposed consolidation. The consolidation shall become effective the next succeeding July 1. The boards of control acting jointly shall devise a plan for the equitable distribution of the assets and liabilities of the existing agencies and provide for the transfer of existing contracts and programs.

(4) No such plan is valid if it permits any territory of this state to be outside an agency area.

History: 1977 c. 221.

116.08 State and local aid. (1) An amount not to exceed \$25,000 annually shall be paid to each agency for the maintenance and operation of the office of the board of control and agency administrator and to match any federal funds received by the agency for vocational education administration. No state aid may be paid unless the agency submits by August 1 an annual report which includes a detailed certified statement of its expenses for the prior year to the state superintendent, and such statement reveals that the state aid was expended as provided by this section. In no case may the state aid exceed the actual expenditures for the prior year as certified in such statement.

(2) Agencies may incur short term loans, but the outstanding amount of such loans at any one time shall not exceed 50% of the agency's receipts for the prior fiscal year.

(3) No school district shall ever lose any state aid because of refusal of the school district to subscribe to any services provided by an agency.

(3m) The school board of a school district that has withdrawn from cooperative educational service agency no. 1 under s. 116.065 and is not in any other agency may:

(a) Apply to the state superintendent for state aid under s. 20.255 (2) (fg) to fund human growth and development programs. The aid shall be based on the amount the school district would be receiving had it not withdrawn from the agency.

(b) Contract with the department for other programs and services the school district would be receiving if it were in an agency.

(4) Whenever an agency performs any service or function under chs. 115 to 121 by contract with a county board or any agency thereof, with a school board or with a county handicapped children's education board, the contract may authorize the agency to make claim for and receive the state aid for performing the service or function. The agency shall transmit a certified copy of the contract containing the authority to collect state aid to the department. When an agency receives the state aid, it shall pay over or credit the amount of state aid received to the proper county or agency thereof, school district or county handicapped children's education board for which the service or function was performed according to the contract therefor.

(5) (a) In this subsection:

1. "Agency average daily membership" means the sum of the average daily memberships of the school districts in the agency.

2. "Average daily membership" has the meaning specified in s. 121.004 (1).

(b) Beginning in the 1984-85 school year and annually thereafter, each school board shall pay to the board of control of the agency of which it is a part an amount equal to the amount of state aid paid to the agency in that year under sub. (1) multiplied by a fraction consisting of the school district average daily membership as the numerator and the agency average daily membership as the denominator. This paragraph does not apply to any school district that has withdrawn from cooperative educational service agency no. 1 and is not in any other agency.

History: 1971 c. 125; 1973 c. 90, 333; 1975 c. 39; 1977 c. 29; 1977 c. 221 s. 6; 1979 c. 34, 89; 1981 c. 20; 1983 a. 27; 1985 a. 29, 120; 1985 a. 135 s. 85; 1985 a. 218 s. 22, 1985 a. 332.