

CHAPTER 38

VOCATIONAL, TECHNICAL AND ADULT EDUCATION

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38.001 Mission. The board shall be responsible for the initiation, development, maintenance and supervision of programs with specific occupational orientations below the baccalaureate level, including terminal associate degrees, training of apprentices and adult education below the professional level.

History: 1971 c. 100, 125, 211.

38.01 Definitions. In this chapter:

(1) "Board" means the board of vocational, technical and adult education.

(2) "District" means a vocational, technical and adult education district established under this chapter.

(3) "District board" means the district board in charge of the vocational, technical and adult education schools of a district.

(4) "School district" means a school district operating high school grades.

(5) "School board" means the school board in charge of the public schools of a school district.

(6) "School year" means the time commencing with July 1 and ending with the next succeeding June 30.

(7) "Associate degree program" means a 2-year, post-high school program in an area designated and approved by the board for which the course requirements are established by the board.

(8) "Collegiate transfer program" means a state-wide, full-time program, designated and approved by the board, in which the credits earned may be transferable to a 4-year institution of higher education.

(9) "Vocational diploma program" means a one- or 2-year, full-time program in an area designated and approved by the board for which the course requirements are established by the board.

(10) "Vocational-adult program" means a part-time vocationally oriented program established by a district board which is approved by the state director under procedures established by the board.

History: 1971 c. 154, 211; 1975 c. 39.

38.02 Establishment. There is established under this chapter a system of vocational, technical and adult education to foster and maintain instruction in courses approved by the board in part-time and full-time day or evening classes. Every person at least the age specified in s. 118.15 (1) (b) who can profit thereby is eligible to receive instruction under this chapter and rules established by the board.

History: 1971 c. 154.

38.04 Board of vocational, technical and adult education; powers and duties. (1)

GENERAL. The board shall determine the organization, plans, scope and development of vocational, technical and adult education. For state aid, credit determination and other purposes, the board shall establish criteria for the establishment of district schools and shall classify and name the district schools.

(2) **DIRECTOR.** The board shall appoint a director, outside the classified service, to serve at its pleasure.

(3) **STAFF.** The board shall appoint such staff as is necessary under the classified service. Three positions in addition to the director shall be filled outside the classified service.

(4) **TEACHER AND COURSE REQUIREMENTS.** (a) The qualifications of educational personnel and the courses of study for each program offered in district schools shall be approved by the board. The board may charge the districts for the full costs associated with certification of

educational personnel. Such certification expenses shall not be included in the district aidable cost.

(b) The board may authorize district boards to grant associate degrees to those students who successfully complete associate degree programs.

(c) Except as authorized in par. (d), collegiate transfer programs shall not comprise more than 25% of the approved credit hours offered in any vocational, technical and adult education district.

(d) The Nicolet district as composed and existing on January 1, 1977, is exempt from the limitation under par. (c) until July 1, 1980, but shall restrict the ratio of approved collegiate transfer course credits to the district's total approved course credits to 32% for 1977-78, 30% for 1978-79, and 28% in 1979-80. For state aid purposes, costs associated with collegiate transfer course credits exceeding the limitations under this subsection do not constitute a district aidable cost as defined in s. 38.28 (1m) (a).

(5) **COOPERATE WITH FEDERAL GOVERNMENT.** The board shall cooperate with the federal government in carrying out any federal act pertaining to vocational, technical and adult education.

(6) **GIFTS AND GRANTS.** The board may accept gifts, grants, bequests and devises to be used in the execution of its functions.

(9) **TRAINING PROGRAM FOR FIREMEN.** In order to promote safety to life and property, the board may establish and supervise a training program in fire prevention and protection. The training program shall be available to members of volunteer and paid fire departments maintained by public and private agencies, including industrial plants. The council on fire prevention training programs shall advise the board on the establishment and maintenance of the program.

(10) **ADDITIONAL FACILITIES.** The board shall review and approve any proposals by district boards for land acquisition, additional or new facilities, rentals and remodeling of existing facilities, prior to the letting of contracts to construct, remodel, rent or incur debt for such facilities or acquisition of land.

(11) **UNIFORM REPORTING SYSTEMS.** The board shall establish uniform reporting methods for fiscal, enrollment, program and other information which shall be provided by the district boards as the board deems necessary and shall require common use of the fiscal year for operations and data reporting. The board may withhold or suspend in whole or in part payment of state and federal aid to any district board which fails to report data within the time deadlines,

and in the format, required by the board. Annually, the board shall require that all districts prepare their budgets in a uniform program budget format and transmit approved copies of their budget including estimated expenditures and revenues to the board by July 1 of each year.

(12) **PRISON INMATE EDUCATIONAL PROGRAM.** The board may establish vocational educational programs for inmates within the state correctional system and contract with the department of health and social services for reimbursement of that portion of the district program costs which exceeds amounts received as state and federal aid.

History: 1971 c. 154, 211; 1973 c. 90, 333; 1975 c. 39; 1977 c. 29.

38.06 District boundaries. (1) Each district shall include one or more counties, municipalities or school districts in any contiguous combination.

(2) In this section, "reorganization" means any alteration, dissolution, creation or merger of any district.

(3) (a) Upon its own motion or upon approval of a petition filed under sub. (4), the board may issue a district reorganization order. Prior to issuing an order under this subsection, the board shall conduct such studies, investigations and hearings as it deems necessary.

(b) Any reorganization order issued by the board shall take effect on the July 1 next succeeding the date of such order except that no order for reorganization of any district shall become effective before July 1, 1976.

(c) Three months prior to the effective date of any reorganization order, the board shall report to the joint committee on finance the fiscal and educational impact of the reorganization order upon the affected districts.

(4) (a) The governing body of a county, municipality or school district may file a petition with the board requesting that its territory be detached from the district in which it lies and attached to a district to which such territory is contiguous, or if portions of its territory lie in more than one district, by requesting that all such portions be placed within one of such districts.

(b) Immediately upon receipt of the petition, the board shall notify each district board affected of the receipt of the petition and the boundary reorganization requested therein. Such district boards shall within 45 days notify the board of their recommendations on the petition.

(c) Within 90 days of the receipt of the petition, the board shall notify the governing body filing the petition and the district boards affected of its approval or disapproval of the

proposed detachment and attachment of territory.

(5) If school district boundaries are changed in accordance with chs. 115 to 121, the board may act to change district boundaries to coincide with school district boundaries without holding a public hearing.

History: 1971 c. 154; 1973 c. 333

38.08 Composition and organization of district board. (1) (a) A district board shall administer the district and shall be composed of 7 members who are residents of the district, including 2 employers who have power to employ and discharge, 2 employes who do not have power to employ or discharge, 2 additional members and a school district administrator of a school district which lies within the district.

(b) District board members shall take office on July 1 and shall serve 6-year terms, except that the school district administrator shall serve a 2-year term.

(2) Members of a district board shall serve until their successors are appointed and qualified. A vacancy shall be filled for any unexpired term of more than 90 days in the manner provided for the making of original appointments in s. 38.10.

(3) The district board shall hold its annual organizational meeting on the 2nd Monday in July at which it shall elect from among its members a chairman, vice chairman, secretary and treasurer.

(4) District board members shall receive their actual and necessary expenses incurred in the performance of their duties.

(5) Where a function is assigned to the clerk of a governmental unit and a district is one of such governmental units, the function shall be performed by the district board secretary.

History: 1971 c. 154; 1977 c. 29

Office of commissioner on policy board of consortium of counties under federal comprehensive employment and training act and office of president of district VTAE board which would be applicant and competitor for funds allocated are incompatible; however, counties under present statutes do not have power to form consortium for purposes of federal act where Governor has not designated them as participating units of government under 16.54 (6). 63 Atty. Gen. 453.

38.10 Appointment of district board members. (1) District board members shall be appointed by an appointment committee constituted as follows:

(a) If the petition for creation of a district was filed by the governing bodies of school districts or municipalities, the school board presidents of school districts having territory within the district shall constitute the appointment committee.

(b) If the petition for creation of a district was filed by the governing bodies of counties or

any combination of school districts, counties and municipalities, the county board chairmen of counties having territory within the district shall constitute the appointment committee.

(c) If the board created a district, the heads of the governing bodies designated by the board shall constitute the appointment committee. The designation shall be made in accordance with par. (a) or (b) depending upon which governmental units comprise the district.

(2) (a) The district board secretary shall fix a date, to be no later than May 15 or within 60 days of the date on which a vacancy occurs, and a time and place in the district for a meeting of the appointment committee and, at least 3 weeks prior thereto, shall send written notice of the time and place of such meeting to each member of the appointment committee, to each governing body having a member on the appointment committee and to the board. The appointment committee shall appoint district board members at the meeting.

(b) The appointment committee member from the appropriate governmental unit specified under sub. (1) (a), (b) or (c) having the largest population in the district shall act as chairman of the appointment committee.

(c) At the meeting and prior to the appointment of district board members, the appointment committee shall formulate a plan of representation for the membership of the district board. The plan shall give equal consideration to the general population distribution within the district and the distribution of women and minorities within the district. The plan shall form the basis upon which membership of the district board is determined. The board shall require that district board appointments comply with the provisions of the plan.

(d) The appointment committee shall accept and consider names submitted to it for appointment to the district board by residents of the district. Notwithstanding s. 19.84 (3), at least 7 days' notice shall be given of any meeting at which the appointment committee will consider the filling of any vacancy on the district board or any other matter pertaining to the election of district board members. The subject matter of such meeting as specified in the notice shall contain the names of individuals being considered for appointment to the district board by the appointment committee. Prior to the meeting at which an appointment is made, the appointment committee shall hold a public hearing at which the names and qualifications of individuals being considered for appointment to the district board may be discussed. No person may be appointed to a district board by an appointment committee unless his or her name appeared in at least one notice of a meeting of the committee.

(e) Within 5 days of the appointment of district board members, the chairman of the appointment committee shall send written notice of the appointments and lengths of terms to the board, to the members appointed to the district board and to the district board secretary.

(f) If the appointment committee cannot reach agreement on the representation plan and district board membership within 30 days after their first meeting, the board shall formulate the plan of representation and appoint the district board members in accordance with the plan.

History: 1971 c. 154; 1977 c. 29.

This section is constitutional. *West Milwaukee v. Area Bd. Vocational, T. & A. Ed.* 51 W (2d) 356, 187 NW (2d) 387.

County board chairman acts for county on special group which appoints members of district board of vocational, technical and adult education, even where there is a county administrator or executive. 60 Atty. Gen. 257.

38.12 District board duties. (1) CONTROL OF DISTRICT SCHOOLS. Except as otherwise provided by statute, the district board shall have exclusive control of the district schools established by it and of property acquired for the use of such schools.

(2) DISTRICT FUNDS AND TREASURER. (a) The district board shall deposit all moneys received by it with the district board treasurer who shall be accountable for such funds. All expenditures exceeding \$2,500 shall be approved by the district board. Disbursement of such funds shall be made in accordance with s. 66.042 (6).

(b) Within 15 days after his election, the district board treasurer shall execute and either file a bond executed by 2 qualified sureties approved by the district board or file a surety company bond in an amount determined by the district board, but at least equal to 5% of the annual district budget. If the district board so determines, the district board treasurer within 15 days thereafter shall file additional personal or surety bonds in such greater amounts as the district board requires. The district board treasurer may purchase surety company bonds with district funds.

(3) DISTRICT DIRECTOR AND OTHER EMPLOYEES. (a) The district board shall employ and fix the compensation of:

1. A district director who shall have general supervision and management of the development and work of the district schools.

2. Such supervisors, coordinators, teachers and technical advisors and experts as are necessary.

3. Such clerical assistants, custodians and other employes as are necessary.

(b) Employes under par. (a) 1 and 2 shall meet the requirements established by the board and, where applicable, the qualifications determined under s. 38.04 (4) (a).

(c) The district board shall retire the district director and each teacher in a district school at the end of the school year in which such person attains the age of 70 years.

(4) PUBLICATION OF PROCEEDINGS. The proceedings of the district board meetings shall be published within 45 days after the meeting as a class 1 notice, under ch. 985, in a newspaper published in the district. If no newspaper is published in the district, the proceedings may be publicized as the district board directs. The publication of the proceedings shall include a statement of each receipt and expenditure exceeding \$100 except salaries, which may be listed in the aggregate.

(5) ANNUAL AUDIT. The district board shall cause a financial audit of the district to be completed and a report thereof to be submitted to the state board no later than 9 months following the end of each fiscal year.

History: 1971 c. 154; 1975 c. 198 s. 65; 1977 c. 29.

38.14 District board powers. (1) LEGAL PROCEEDINGS. The district board may sue and be sued in the name of the district and may prosecute or defend all suits brought by or against the district.

(2) BUILDINGS AND EQUIPMENT. (a) For the use of the district schools, the district board may:

1. Purchase or lease materials, supplies and equipment.

2. Purchase or lease suitable land and buildings and rent to others any portion of such land and buildings not needed for school purposes.

3. Construct, enlarge and improve buildings. Existing school buildings and equipment shall be used as far as practicable.

(b) If there is a county teachers college in the district which is no longer in operation, the district board shall utilize the existing buildings and equipment of the college to the extent possible.

(bm) With the approval of the director under s. 38.04 (2), the district board may sell any property which it finds to be no longer needed by the district.

(c) All conveyances, leases and contracts under this subsection shall be in the name of the district.

(3) CONTRACTS FOR INSTRUCTIONAL SERVICES. The district board may contract with public educational institutions and other district boards for instructional services.

(4) GIFTS AND GRANTS. The district board may accept gifts, grants, bequests and devises to be used in the execution of its functions.

(5) **ADVISORY COMMITTEES.** The district board may establish advisory committees representing every occupation in the district. Each advisory committee shall consist of equal numbers of employers and employees selected by the district board from recommendations submitted by representative organizations and associations of each occupation. The district board and the district director may request the advice and assistance of these advisory committees in selecting, purchasing and installing equipment, in preparing course materials, in developing instructional methods and vocational guidance programs and for such other purposes as the district board desires.

(6) **TRANSPORTATION.** The district board may provide transportation for students within the district, but no state aid may be paid for this service.

(7) **SALE OF ARTICLES.** The district board may sell at market value articles manufactured in district schools. The proceeds from such sales shall be paid to the district treasurer.

(9) **ACTIVITY AND INCIDENTAL FEES.** The district board may establish student activity and incidental fees to fund, in whole or in part, the cost of services and activities offered as support services for regular instruction.

History: 1971 c. 154, 215; 1977 c. 29.

The Milwaukee technical college may acquire and operate a retail service station as a part of a vocational training program. 58 Atty. Gen. 23.

See note to art. VIII, sec. 10, citing 60 Atty. Gen. 231.

Sub (3) permits district vocational, technical and adult education boards to contract only with public educational institutions for instructional services. 61 Atty. Gen. 345.

VTAE districts and the state board of vocational, technical and adult education do not have the power of eminent domain and, therefore, are not subject to 32.19 to 32.27, the relocation act. 63 Atty. Gen. 367.

VTAE board may subsidize public bus line to provide transportation under (6). 65 Atty. Gen. 305.

38.16 District tax levy. (1) Annually by October 1, or within 10 days after receipt of the equalized valuations from the department of revenue, whichever is later, the district board may levy a tax, not exceeding 1.5 mills on the full value of the taxable property of the district, for the purpose of making capital improvements, acquiring equipment and operating and maintaining the schools of the district, except that the mill limitation is not applicable to taxes levied for the purpose of paying principal and interest on valid bonds or notes now or hereafter outstanding as provided in s. 67.035. The district board secretary shall file with the clerk of each city, village and town, any part of which is located in the district, a certified statement showing the amount of the levy and the proportionate amount of the tax to be spread upon the tax rolls for collection in each city, village and town. Such proportion shall be ascertained on

the basis of the ratio of full value of the taxable property of that part of the city, village or town located in the district to the full value of all taxable property in the district, as certified to the district board secretary by the department of revenue. The valuations certified by the department shall include the adjustments for merchants' stock-in-trade, manufacturers' materials and finished products and livestock under s. 70.57 (5). Upon receipt of the certified statement from the district board secretary, the clerk of each city, village and town shall spread the amounts thereof upon the tax rolls for collection. When the taxes are collected, such amounts shall be paid by the treasurer of each city, village and town to the district board treasurer.

(2) The district board may borrow money and levy taxes to be used for the purchase or construction of buildings and for additions, enlargements and improvements to buildings and for the acquisition of sites and equipment. In financing activities under this subsection, the district may issue its bonds or promissory notes under ch. 67 to pay the cost thereof.

History: 1971 c. 154, 211; 1973 c. 61, 90; 1975 c. 39; 1977 c. 29 ss. 493, 1647 (13); 1977 c. 300 ss. 1, 8; 1977 c. 418 s. 918m.

This section is constitutional. *West Milwaukee v. Area Bd. Vocational, T. & A. Ed.* 51 W (2d) 356, 187 NW (2d) 387.

38.18 Contracts and bidding. All contracts made by a district board for public construction in a district, the estimated cost of which exceeds \$5,000, shall be let by the district board to the lowest responsible bidder in accordance with s. 62.15 (1) to (11) and (14). For purposes of this section, the district board shall possess the powers conferred by s. 62.15 on the board of public works and the common council. All contracts made under this section shall be made in the name of the district and shall be executed by the district board chairman and district board secretary.

History: 1971 c. 154; 1975 c. 244.

38.20 Adjustment of assets and liabilities. (1) Except as provided in sub. (2), upon the creation of a district the property, assets, claims, contracts, obligations, rights, duties and liabilities relating and pertaining to the existing vocational and adult education schools in the territory included in the district shall become the property, assets, claims, contracts, obligations, rights, duties and liabilities of the district.

(2) (a) Upon the creation of a district the property, assets, claims, contracts, obligations, rights, duties and liabilities relating and pertaining to the existing vocational and adult education school operatee in a city or village located in

the territory included in the district shall remain the property, assets, claims, contracts, obligations, rights, duties and liabilities of such city or village, unless the governing body of such city or village transfers the whole or any portion thereof to the district under an agreement between such city or village and the district as to the use, obligation and ownership thereof.

(b) The purchase price of such property, except as otherwise agreed upon under par. (a), shall be the fair market value as determined by an independent appraiser selected jointly by the governing body of the city or village and the district board, less any outstanding obligations against the property which shall be assumed by the district.

(c) In financing the purchase of property transferred to the district under this subsection, the district may issue its bonds or promissory notes under ch. 67 to pay the cost thereof including assumption of outstanding obligations.

(d) The city or village shall deposit the proceeds of the sale of vocational and adult education school property in the sinking fund, if any, created for payment of existing vocational and adult education school obligations. The indebtedness of such city or village shall, for purposes of computing its legal debt limit, be deemed reduced by the amount of such deposit. The city or village may invest these sinking fund moneys under s. 66.04 (2) or 67.11 (2) and (3). Bonds and notes issued by districts for purposes of this subsection shall not be subject to referendum. The purchase agreement shall include an irrevocable clause providing that the district shall pay annually to the city or village a sum of money equal to the amount in which the interest received by the city or village upon investments authorized hereunder is less than the amount of interest paid by the city or village on the bonds of the city or village for vocational and adult education school purposes.

(e) The district purchasing property under this subsection may, with approval of the city council or village board involved, pay the purchase price by issuing and delivering directly to the city or village the general obligation promissory notes or the notes of the district under s. 67.12 (12), except that no referendum may be held and the 10-year limitation on such notes shall be inapplicable to such notes issued under this paragraph. Such notes shall mature and be payable at such times, in such amounts and at such rate of interest as will amortize and pay when due the principal and interest on the outstanding obligations of the city or village for vocational and adult education school purposes. All such notes, upon execution and delivery to the city or village, shall in all respects be held

and considered as an authorized investment under s. 66.04 (2) or 67.11 (2) and (3) of the sinking fund created for payment of the city or village obligations issued for vocational and adult education school purposes and shall be offset against city or village indebtedness in computing legal debt limit to the same extent as other authorized investments of the sinking fund and such notes may be sold and hypothecated. If the offset against city or village indebtedness under this paragraph is determined to be invalid in any respect, such city or village immediately may require the district issuing the promissory notes to such city or village to comply with pars. (c) and (d) to the extent necessary to cure such invalidity.

History: 1971 c. 154.

38.22 Admission requirements. (1) Every person who is at least the age specified in s. 118.15 (1) (b) is eligible to attend the schools of a district if the person is:

- (a) A resident of the district.
- (b) A nonresident of the district who is employed in the district.
- (c) A nonresident of the district who desires to take specific courses which are offered in the schools of such district but not offered in the schools of the district in which he or she resides, consistent with nonresident enrollment procedures established under sub. (5).
- (d) A nonresident of this state, and if the district board of attendance approves the enrollment.

(2) Within 30 days of the enrollment of a student in a school of another district, the district board of attendance shall send written notice of such enrollment to the district board of the district in which the student resides.

(3) Nonresident students shall be subject to the same rules and regulations as resident students.

(4) The board shall establish procedures to determine the residence of students attending district schools. In the case of any disagreement as to the residence of any student, the board shall make the final determination.

(5) The board shall adopt rules for admission of nonresident students, who are Wisconsin residents, in postsecondary and vocational-adult programs which are not offered statewide, but may not require that any district reserve places in any program for such nonresident students in excess of the percentage of nonfederal operating costs of postsecondary and vocational-adult programs funded under s. 20.292 (1) (d).

(a) The board shall adopt rules for the admission of residents of this state who wish to transfer from their district of residence to attend

another district in order to enroll in a postsecondary or vocational-adult program which is not offered in their district of residence.

(b) Rules under this subsection shall establish a method of providing placement for students under par. (a). However, no district may be required to reserve placement for students specified in par. (a) in excess of the percentage of nonfederal operating costs of postsecondary and vocational-adult programs funded under s. 20.292 (1) (d).

History: 1971 c. 154; 1977 c. 29 ss. 494, 494m, 501m; 1977 c. 273.

38.24 Fees and tuition. (1) PROGRAM FEES. The district boards shall charge students the fees established by the state board under this subsection. Annually, the board shall establish:

(a) *Liberal arts collegiate transfer programs.* Uniform fees based on 25% of the statewide average operational costs of liberal arts collegiate transfer programs in district schools.

(b) *Postsecondary and vocational-adult programs.* Uniform fees based on not less than 9.5% of the combined estimated statewide operational cost of postsecondary, exclusive of collegiate transfer, and vocational-adult programs. The board shall maintain statewide uniformity in the program fees charged for postsecondary and vocational-adult credits. Students 62 years old and over shall be exempted from program fees under this paragraph in vocational-adult programs. Students enrolled in adult high school, adult basic education and English as a 2nd language courses shall be exempted from program fees under this paragraph.

(c) *Materials fees.* Establish uniform fees against all students, including tuition exempted students under par. (b), to cover the cost of consumable materials in addition to program fees.

(d) *Programs for inmates.* Fees, for vocational programs offered to inmates by the division of corrections in cooperation with a district board, not more than 9.5% of the actual operational costs of the program in which the inmate is enrolled that are incurred by the vocational district.

(2) REFUNDS. The board shall establish fee and tuition refund policies.

(3) NONRESIDENT FEES AND LIABILITIES. (a) The board shall establish the following nonresident fees annually, which shall be in addition to fees charged under sub. (1) and shall be the liability of the student except as provided under par. (b).

1. For postsecondary and vocational-adult students who are Wisconsin residents, other than students in approved apprenticeship programs, a fee based on 37.5% of the statewide

property tax funded cost per full-time equivalent student for operating these programs.

2. For all students who are not residents of Wisconsin, nor subject to reciprocal agreements with the board, a fee based on 100% of the statewide property tax funded cost per full-time equivalent student for operating the programs in which they are enrolled.

(b) The district board of a student's district of residence is liable for the nonresident fee under par. (a) 1 only if the program in which the student enrolled is not offered by the district of residence and the district board of attendance files notice of enrollment under s. 38.22 (2). In the case of any disagreement between district boards as to liability under this paragraph, the state board shall make the final determination.

(c) District boards may enter into interdistrict contractual agreements to waive, or establish interdistrict payments for, nonresident tuition charges to Wisconsin residents in vocational-adult courses. A copy of any contractual agreement between districts under this paragraph shall be submitted by the district boards to the state board prior to the effective date of such agreement. The district boards entering into an agreement under this paragraph shall notify the state board whenever the agreement is amended or terminated. The district boards shall file a copy of any amendments to an agreement with the state board.

(d) Annually on or before August 1, the district board secretary shall send a verified statement to the district board secretary of each district which is liable for a tuition charge under par. (b) for the previous year. For each student, the statement shall set forth his or her name, age and place of residence, date of enrollment in a district school and the instructional program of the student and the amounts due therefor under par. (b). The statement shall be filed as a claim against the district board of the student's district of residence and allowed as other claims are allowed.

History: 1971 c. 154, 211, 228; 1975 c. 39, 224; 1977 c. 29, 418.

Guidelines for determination of district of residency of a VTAE student and statutes affecting attendance at a particular VTAE school are discussed. 61 Atty. Gen. 151.

VTAE schools are not "district schools" within meaning of Art. X, sec. 3. 64 Atty. Gen. 24.

Apprentices indentured under ch. 106 may be charged tuition at VTAE schools for related instruction that apprentices must receive as a condition of their apprenticeship. 65 Atty. Gen. 37.

38.28 State aid. (1) Annually at the time and on forms prescribed by the director, the district board secretary shall report to the board the cost of maintaining the schools of the district; the character of the work done; the number, names and qualifications of the teachers employed; the number of full-time students

enrolled; the number of full-time students exempted from tuition, by course credits; the actual amount of tuition collected in postsecondary and in vocational-adult programs; and such other information as the board requires.

(1m) In this section:

(a) "District aidable cost" means the anticipated fiscal year cost of operating a vocational, technical and adult education district, including debt service charges for building programs or capital equipment, incurred by district bonding or promissory notes, but excluding all expenditures relating to auxiliary enterprises, self-support activities, all expenditures funded by federal revenues and all fees and revenues expended, exclusive of those fees and revenues collected under s. 38.24 (1), and any allowable expenditures under this paragraph which exceed the allowable budget determined under s. 38.29.

(b) "Equalization index" means a ratio determined by:

1. Dividing the most current statewide full valuation by the board's estimate of the districts' total full-time equivalent student count for the next fiscal year;

2. Dividing the most current full valuation for each district by the board's estimate of that district's full-time equivalent student count for the next fiscal year; and

3. Dividing the quotient of subd. 1 by the quotient of subd. 2, rounded to the 5th decimal place.

(2) (a) Annually, by January 1, the board shall estimate the statewide operational cost per full-time equivalent student in collegiate transfers and other postsecondary and vocational-adult programs for the next fiscal year. The board shall furnish each district board with definitions of statewide operational costs per full-time equivalent student and shall establish procedures for determining operational cost per full-time equivalent student.

(b) Each district's share of aids under this section shall be computed as follows:

1. The district's aidable cost less program fees identified in s. 38.24 (1) shall be multiplied by 35% and this product shall be multiplied by the equalization index to determine state aids.

2. The most current equalized values certified by the department of revenue shall be used in aid determinations.

3. Beginning with the 1975-76 fiscal year, state aids shall be calculated and paid on the basis of 1975-76 district aidable cost. Annually thereafter, aid payments in any fiscal year shall fund the district aidable cost in that same fiscal year.

4. The board shall make such adjustments in aid payments during the fiscal year as are necessary to reflect more current data under sub.

(1m) and s. 20.292 (1) (d). Final adjustments of state aid payments, on the basis of actual enrollments and costs, including the reduction of net aidable cost by any expenditures in excess of those authorized under s. 38.29, shall be made from the following year's aid appropriation under s. 20.292 (1) (d).

(c) The board shall pay 40 cents for each student period of 50 minutes or more of actual attendance for instruction in driver training courses approved by the board. The board may provide aids under this paragraph on the basis of a minimum of 10 students per class period of actual instruction regardless of the number of students actually enrolled and attending.

(d) Notwithstanding par. (b), the board may withhold or suspend in whole or in part payment of state aid under this subsection to any district board whose program or educational personnel does not meet minimum standards set by the board. The board shall discontinue aids to those programs which are no longer necessary to meet needs within the state.

(e) Aids shall not be paid to districts for any vocational-adult programs conducted after September 1, 1975, unless the intended content of each course has been thoroughly described, and the program has been designated and approved by the state director and reviewed by the board. The board shall establish procedures to implement this subsection which shall enhance the district's ability to respond rapidly to the needs of its citizens.

(f) The board shall compile information on anticipated cost for each succeeding fiscal year by the preceding January 1.

(3) If the appropriation for state aid under s. 20.292 (1) (d) in any one year is insufficient to pay the full amount under sub. (2), state aid payments shall be prorated among the districts entitled thereto.

(5) State aid shall not be paid to a district for any year, unless every teacher, administrator, principal and supervisor employed by the district during that year is under a contract providing for leave of absence by reason of sickness of such person, without deduction from salary, for not less than 5 days per year and for accumulation of unused sick leave from year to year to a total of not less than 30 days. No allowance may be paid for such absences from teaching or other educational services rendered in evening school by any person employed at least 30 hours per week in day school. This subsection does not apply to a person employed by the district board for less than 30 hours per week.

History: 1971 c. 154, 211; 1973 c. 90; 1975 c. 39, 224; 1977 c. 29, 418.

38.29 District budget limitations. (1) For the purposes of this section, "allowable budget" means that portion of a district's nonfederal operational budget which does not exceed the budget limitations under subs. (2) and (3).

(2) For the 1978-79 fiscal year, and annually thereafter, the budgeted full-time equivalent nonfederal operational cost increase for each district over its previous year's actual or allowable full-time equivalent nonfederal operational cost, whichever is lower, shall be limited to 9.5%. The previous year's full-time equivalent nonfederal operational cost includes any retroactive salary increases affecting costs in that year which are required in the current year by a decision of a mediator-arbitrator acting under s. 111.70 (4) (cm).

(3) In addition to the amounts set forth in sub. (1), a district may include within allowable budget such additional amounts as determined by the board after the board finds that there is evidence that the budget limitations would prevent support for:

(a) The development of new or expanded programs primarily for handicapped students, women or racial minority groups;

(b) Documented heat and utility cost increases which exceed 9.5% of the previous year's expenditures for heat and utilities;

(c) Utilization of a new or remodeled facility for the first year during which the new or remodeled facility will be utilized; or

(d) Compliance with an order of a court or federal or state agency other than an order issued by the board.

(4) Prior to a determination by the board on an appeal under sub. (3), the board shall hold a public hearing within the district which has submitted an appeal. The district board shall notify electors of the district of the subject, time and location of the scheduled budget limitation hearing by class 1 notice under ch. 985. The decision of the board under sub. (3) shall be final.

History: 1977 c. 29, 418.

38.30 Special aid for veterans. (1) (a) District boards may receive payments from the U.S. veterans administration for tuition to cover the cost of training for resident and nonresident students who are enrolled in district schools and are veterans eligible for benefits under federal law.

(b) District boards may receive payments from the department of health and social services under s. 47.40 to cover the cost of training for resident and nonresident students who are enrolled in district schools and are veterans ineligible for benefits under par. (a).

(c) District boards shall not receive payments under this subsection which, together with other receipts for the same purpose exclusive of the funds provided under s. 38.16, would exceed the full cost of training provided such veterans.

(d) The amounts received for nonresidents under this subsection shall not be less than the amounts specified in s. 38.24 (3) but may exceed such amounts.

(2) Upon the authorization of a school board or district board, the board may enter into contracts with the U.S. veterans administration for training in vocational agriculture to be provided by such school board or district board to veterans eligible for benefits under federal law. The board shall receive from the U.S. veterans administration payments granted to cover the cost of administration by the board and, to be paid to the school board or district board, payments granted to cover the cost of such training.

History: 1971 c. 154; 1973 c. 284 s. 32; 1977 c. 29

38.51 Educational approval board. (1) DEFINITIONS. In this section unless the context clearly requires otherwise:

(a) "Board" means educational approval board.

(b) "Solicitor" means a person employed by or representing a school located either within or outside this state who, in places other than the actual business premises of the school, personally attempts to secure the enrollment of a student in such school.

(c) "Person" means any individual, partnership, association, or corporation or any combination thereof.

(d) "School" means any person, located within or outside this state, maintaining, advertising or conducting any course or course of instruction for profit or a tuition charge; but in sub. (7) and (8) "school" means any private trade, correspondence, business or technical school not excepted under sub. (9).

(e) "Course" means an organized unit of subject matter in which instruction is offered within a given period of time or which covers a specified amount of related subject matter.

(f) "Course of instruction" means a series of classroom or correspondence courses having a unified purpose which lead to a diploma or degree or to an occupational or vocational objective.

(2) PURPOSE. The purpose of the board is to approve schools and courses of instruction for the training of veterans of the armed forces and war orphans receiving assistance from the federal government, protect the general public by inspecting and approving private trade, correspondence, business and technical schools doing

business within this state whether located within or outside this state and courses of instruction offered by these schools and to regulate the soliciting of students for correspondence or classroom courses and courses of instruction offered by these schools.

(3) RULE-MAKING POWER. The board shall prescribe rules and establish standards necessary to carry out its purpose.

(5) EMPLOYEES, QUARTERS. The board shall employ a person to perform the duties of an executive secretary and such other persons under the classified service as may be necessary to carry out its purpose. The administrative functions of the board shall be in charge of the person performing the duties of the executive secretary. The board shall keep its office with the board of vocational, technical and adult education.

(6) APPROVAL AGENCY FOR VETERAN'S TRAINING. (a) Except as provided in par. (b) the board shall be the state approval agency for the education and training of veterans and war orphans. It shall approve and supervise schools and courses of instruction for their training under Title 38, U.S.C., and may enter into and receive money under contracts with the veterans administration or other appropriate federal agencies.

(b) The governor may designate the following agencies for approval and supervision of special phases of the program of veterans education:

1. On the job and apprenticeship training program, the department of industry, labor and human relations.

2. On the farm training program, the board of vocational, technical and adult education.

3. Embalmers and funeral directors apprentices, the funeral directors and embalmers examining board.

(7) APPROVAL OF SCHOOLS GENERALLY. In order to protect students, prevent fraud and misrepresentation in the sale and advertising of courses and courses of instruction and encourage schools to maintain courses and courses of instruction consistent in quality, content and length with generally accepted educational standards, the board shall:

(a) Investigate the adequacy of courses and courses of instruction offered by schools to residents of this state and establish minimum standards for such courses of instruction.

(b) Investigate the adequacy of schools' facilities, equipment, instructional materials and instructional programs and establish minimum standards therefor.

(c) Establish rules, standards and criteria to prevent fraud and misrepresentation in the sale

and advertising of courses and courses of instruction.

(d) Establish rules restricting the negotiability of promissory instruments received by schools in payment of tuition and other charges.

(e) Establish minimum standards for refund of the unused portion of tuition, fees and other charges if a student does not enter a course or course of instruction or withdraws or is discontinued therefrom.

(f) Require schools offering courses and courses of instruction to residents of this state to furnish information concerning their facilities, curricula, instructors, enrollment policies, tuition and other charges and fees, refund policies and policies concerning negotiability of promissory instruments received in payment of tuition and other charges.

(g) Approve courses of instruction and schools meeting the requirements and standards established by the board and complying with rules established by the board and publish a list of such schools and courses of instruction.

(h) Issue permits to solicitors when all board requirements have been met.

(8) SOLICITING OF STUDENTS. (a) *In general.* No solicitor representing any school offering any course or course of instruction shall sell any course or course of instruction or solicit students therefor in this state for a consideration or remuneration, except upon the actual business premises of the school, unless he first secures a solicitor's permit from the board. If the solicitor represents more than one school, a separate permit shall be obtained for each school represented by him.

(b) *Solicitor's permit.* The application for a solicitor's permit shall be made on a form furnished by the board and shall be accompanied by a fee set by the board, not to exceed \$50, and a surety bond acceptable to the board in the sum of \$1,000. Such bond may be continuous and shall be conditioned to provide indemnification to any student suffering loss as the result of any fraud or misrepresentation used in procuring his or her enrollment or as a result of the failure of the school to faithfully perform the agreement made with the student by the solicitor, and may be supplied by the solicitor or by the school itself as a blanket bond covering each of its solicitors in the amount of \$1,000. Upon approval of a permit the board shall issue an identification card to the solicitor giving his or her name and address, the name and address of the employing school, and certifying that the person whose name appears on the card is authorized to solicit students for the school. A permit shall be valid for one year from the date issued. Liability of the surety on the bond for each solicitor covered thereby shall not exceed the sum of \$1,000 as an

aggregate for any and all students for all breaches of the conditions of the bond. The surety of a bond may cancel the same upon giving 30 days' notice in writing to the board and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation. An application for renewal shall be accompanied by a fee set by the board, not to exceed \$50, a surety bond if a continuous bond has not been furnished, and such information as the board requests of the applicant.

(c) *Refusal or revocation of permit.* The board may refuse to issue or renew, or may revoke, any solicitor's permit upon one or any combination of the following grounds:

1. Wilful violation of this subsection or any rule promulgated by the board under this section;

2. Furnishing false, misleading or incomplete information to the board;

3. Presenting information to prospective students relating to the school, a course or course of instruction which is false, fraudulent or misleading;

4. Refusal by the school to be represented to allow reasonable inspection or to supply information after written request therefor by the board;

5. Failure of the school which the solicitor represents to meet requirements and standards established by and to comply with rules prescribed by the board pursuant to sub. (7);

6. Cancellation of the solicitor's bond by surety;

7. That the applicant or holder of the permit is not of good moral character.

(d) *Notice of refusal to issue or renew permit.* Notice of refusal to issue or renew a permit or of the revocation of a permit shall be sent by registered mail to the last address of the applicant or permit holder shown in the records of the board. Revocation of a permit shall be effective 10 days after the notice of revocation has been mailed to the permit holder.

(e) *Request for appearance.* Within 20 days of the receipt of notice of the board's refusal to issue or renew a permit or of the revocation of a permit, the applicant or holder of the permit may request that he be permitted to appear before the board in person, with or without counsel, to present reasons why the permit should be issued or reinstated. Upon receipt of such request the board shall grant a hearing to the applicant or holder of the permit within 30 days giving him at least 10 days' notice of the date, time and place.

(f) *Recovery by students.* The bond in force under par. (b) shall not limit or impair any right of recovery otherwise available under law, nor

shall the amount of the bond be relevant in determining the amount of damages or other relief to which any plaintiff may be entitled.

(g) *Recovery on contracts.* No recovery shall be had by any school or its assignee on any contract for or in connection with a course or course of instruction if the representative who sold or solicited the course was not the holder of a solicitor's permit under this subsection at the time of the sale or solicitation.

(h) *Enforcement.* The attorney general or any district attorney may bring any appropriate action or proceeding in any court of competent jurisdiction for the enforcement of this subsection.

(i) *Penalty.* Whoever violates this subsection may be fined not more than \$500 or imprisoned not more than 3 months or both.

(9) **EXCEPTIONS.** This section, except the provisions of sub. (6), shall not apply to the following:

(a) Schools organized on a nonprofit basis as defined by the U.S. internal revenue code.

(b) Schools that are supported mainly by taxes.

(c) Schools of a parochial or denominational character offering courses having a sectarian objective.

(d) Schools primarily offering instruction avocational or recreational in nature and not leading to a vocational objective.

(e) Courses conducted by employers exclusively for their employees.

(f) Schools, courses of instruction and training programs which are approved or licensed and supervised by other state agencies and boards.

(g) Schools approved by the department of public instruction for the training of teachers.

(h) Schools accredited by accrediting agencies recognized by the board.

(10) **PROPRIETARY SCHOOL APPROVAL.** (a) *Authority.* All proprietary schools shall be examined and approved by the board before operating in this state. Approval shall be granted to schools meeting the criteria established by the board for a period not to exceed one year. Existing schools on November 5, 1971, have until September 1, 1973, to receive approval. No school may advertise in this state unless approved by the board. All approved schools shall submit quarterly reports, including information on enrollment, number of teachers and their qualifications, course offerings, number of graduates, number of graduates successfully employed and such other information as the board deems necessary.

(b) *Application.* Application for initial approval of a school or a course of instruction, renewal of approval of a school or reinstatement

of approval of a school or course of instruction which has been revoked shall be made on a form furnished by the board and shall be accompanied by a fee set by the board, not to exceed \$500, and such other information as the board

deems necessary to evaluate the school in carrying out the purpose of this section.

History: 1971 c. 125 ss. 249, 448; 1971 c. 211 s. 51; 1973 c. 12, 90; 1975 c. 39, 224, 422