

Sec. 4. Section 152.1, subsection 6, paragraph e, Code 2001, is amended to read as follows:

e. Apply to the abilities enumerated in paragraphs "a" through "d" "dd" of this subsection scientific principles, including the principles of nursing skills and of biological, physical, and psychosocial sciences.

Sec. 5. Section 702.8, Code 2001, is amended to read as follows:
702.8 DEATH.

"Death" means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician; licensed pursuant to chapter 148, 150, or 150A, a physician assistant licensed pursuant to chapter 148C, or a registered nurse or a licensed practical nurse licensed pursuant to chapter 152, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous respiratory and circulatory functions. In the event that artificial means of support preclude a determination that these functions have ceased, a person will be considered dead if in the announced opinion of two physicians, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.

Approved May 3, 2001

CHAPTER 114

AREA EDUCATION AGENCY ACCREDITATION AND REORGANIZATION OR DISSOLUTION

H.F. 674

AN ACT relating to the accreditation and reorganization or dissolution of an area education agency.

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

Section 1. Section 273.10, subsection 3, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Approval, if granted, shall be for a term of ~~three~~ five years. However, the state board may grant conditional approval for a term of less than ~~three~~ five years if conditions warrant.

DIVISION REORGANIZATION OR DISSOLUTION

Sec. 2. NEW SECTION. 273.20 DEFINITIONS.

When used in this division, unless the context otherwise requires:

1. "Affected area education agency" or "affected agency" means an area education agency whose board of directors is contemplating or engaged in reorganization efforts in accordance with this division.
2. "Affected board" means the board of directors of an area education agency that is contemplating or engaged in reorganization efforts in accordance with this division.
3. "Department" means the department of education.
4. "State board" means the state board of education.

Sec. 3. NEW SECTION. 273.21 VOLUNTARY REORGANIZATION.

1. Two or more area education agencies may voluntarily reorganize under this division if the area education agencies are contiguous, a majority of the members of each of the affected boards approve the reorganizations, and the reorganization plan submitted to the state board pursuant to subsection 3 is approved by the state board.

2. If twenty percent or more of the school districts within an affected area education agency file a petition by March 1 with the affected area education agency board to consider reorganization, the affected board shall consider the request and vote on the petition. If a majority of the affected board members vote to study the reorganization of the affected area education agency, the affected board shall immediately begin the study to consider reorganization effective by July 1 of the next year.

3. The affected boards contemplating a voluntary reorganization shall do the following:

a. Develop detailed studies of the facilities, property, services, staffing necessities, equipment, programs, and other capabilities available in each of the affected area education agencies for the purpose of providing for the reorganization of the area education agencies in order to effect more economical operation and the attainment of higher standards of educational services for the schools.

b. Survey the school districts within the affected area education agencies to determine the districts' current and future programs and services, professional development, and technology needs.

c. Consult with the officials of school districts within the affected area and other citizens and periodically hold public hearings during the development of a plan for reorganization, as well as a public hearing on the final plan to be submitted to the department.

d. Consult with the director of the department of education in the development of surveys and plans. The director of the department of education shall provide assistance and advice to the affected area education agency boards as requested.

e. Develop a reorganization plan that demonstrates improved efficiency and effectiveness of programs to meet accreditation standards, includes a preliminary budget for reorganized areas, documents public comment from the public hearings held pursuant to paragraph "c", and provides for a board of directors, and the number of members that the board shall consist of, in accordance with section 273.8.

f. Set forth the assets and liabilities of the affected area education agencies, which shall become the responsibility of the board of directors of the newly formed area education agency on the effective date of the reorganization.

g. Transmit the completed plan to the state board by November 1.

4. The state board shall review the reorganization plan and shall, prior to February 1, either approve the plan or return the plan with the state board's recommendations. An unapproved plan may be resubmitted with modifications to the department not later than February 10. An approved plan shall take effect on July 1 of the fiscal year following the date of approval by the state board.

Sec. 4. NEW SECTION. 273.22 CONTRACTS OF NEW AREA EDUCATION AGENCY.

1. The terms of employment of the administrator and staff of affected area education agencies for the school year beginning with the effective date of the formation of the new area education agency shall not be affected by the formation of the new area education agency, except in accordance with the provisions of sections 279.15 to 279.18, and 279.24, and the authority and responsibility to offer new contracts or to continue, modify, or terminate existing contracts pursuant to sections 279.12, 279.13, 279.15 to 279.21, 279.23, and 279.24 for the school year beginning with the effective date of the reorganization shall be transferred from the boards of the existing area education agencies to the board of the new area education agency on the third Tuesday of January prior to the school year the reorganization is effective.

2. The collective bargaining agreement of the area education agency with the largest basic enrollment, as defined in section 257.6, for the year prior to the year the reorganization is effective, shall serve as the base agreement in the new area education agency and the

employees of the other area education agencies involved in the formation of the new area education agency shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the area education agencies that are party to the reorganization, that agreement shall serve as the base agreement, and the employees of the other agencies involved in the formation of the new area education agency shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the newly formed area education agency, using the base agreement as its existing contract, shall bargain with the combined employees of the affected agencies for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by the dates specified in section 20.17 prior to the school year in which the reorganization becomes effective or within one hundred eighty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the affected agency with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective year of the reorganization, the base agreement shall remain in effect as specified in the agreement.

The provisions of the base agreement shall apply to the offering of new contracts, or continuation, modification, or termination of existing contracts as provided in subsection 1.

3. The terms of a contract between the board of directors of a school district and the board of directors of an affected area education agency shall be carried out by the school board and the board of directors of the newly formed area education agency except as provided in this section.

4. The board of directors of a school district that is under a contract with an affected area education agency may petition the boards of directors of the affected area education agencies for release from the contract. If the petition receives a majority of the votes cast by the members of the boards of the affected area education agencies, the petition is approved and the contract shall be terminated on the effective date of the area education agency reorganization.

5. The board of directors of a school district that is contiguous to a newly reorganized area education agency may petition the board of directors of a contiguous area education agency to join that area education agency. If the contiguous area education agency board approves the petition, the reorganization shall take effect on July 1 of the school year following approval of the petition by the state board.¹ A school district may appeal to the state board the decision of an area education agency board to deny the school district's petition.²

Sec. 5. NEW SECTION. 273.23 INITIAL BOARD.

1. A petition filed under section 273.21 shall state the number of directors on the initial board which shall be either seven or nine directors. The petition shall specify the number of directors to be retained from each area, and those numbers shall be proportionate to the populations of the agencies. If the proportionate balance of directors among the affected agencies specified in the plan is affected by school districts petitioning to be excluded from the reorganization, or if the proposal specified in the plan does not comply with the requirement for proportionate representation, the state board shall modify the proposal. However, all area education agencies affected shall retain at least one member.

2. Prior to the organization meeting of the board of directors of the newly formed area education agency, the boards of the former area education agencies shall designate directors to be retained as members to serve on the initial board of the newly formed area education agency. A vacancy occurs if an insufficient number of former board members reside in the newly formed area education agency's boundaries or if an insufficient number of former

¹ See chapter 176, §36 herein

² See chapter 176, §37 herein

board members are willing to serve on the board of the newly formed area education agency. Vacancies, as defined in section 277.29, in the membership of the newly formed area education agency board shall be filled for the unexpired portion of the term at a special director district convention called and conducted in the manner provided in section 273.8 for regular director district conventions.

3. Prior to the effective date of the reorganization, the initial board shall call a director district convention under the provisions of section 273.8, subsection 2, for the purpose of electing a board for the reorganized area education agency. The new board shall have control of the employment of all personnel for the newly formed area education agency for the ensuing school year. Following the organization of the new board, the board shall have authority to establish policy, enter into contracts, and complete such planning and take such action as is essential for the efficient management of the newly formed area education agency.

4. The initial board of the newly formed district shall appoint an acting administrator and an acting board secretary. The appointment of the acting administrator shall not be subject to the continuing contract provision of sections 279.20, 279.23, and 279.24.

5. The initial board of the newly formed agency shall prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1 to 273.9 and chapter 256B within the limits of funds provided under section 256B.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall not be later than March 1, the time, and the location of the public hearing. The proposed budget as approved by the board shall be submitted to the state board, on forms provided by the department, no later than March 15 for approval. The state board shall review the proposed budget of the newly formed area education agency and shall before April 1, either grant approval or return the budget without approval with comments of the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than April 15. The state board shall give final approval only to budgets submitted by area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

6. For the school year beginning on the effective date of an area education agency reorganization as provided in this division, the media services cost per pupil as determined under section 257.37 for all districts in a newly formed area education agency for the budget year shall be the highest amount of media services cost per pupil for any of the affected area education agencies.

7. For the school year beginning on the effective date of an area education agency reorganization as provided in this division, the educational services cost per pupil as determined under section 257.37 for all districts in a newly formed area education agency for the budget year shall be the highest amount of educational services cost per pupil for any of the affected area education agencies.

8. For the school year beginning on the effective date of an area education agency reorganization as provided in this division, the special education support services cost per pupil shall be based upon the combined budgets for special education support services of the area education agencies that reorganized to form the newly formed area education agency, divided by the total of the weighted enrollment for special education support services in the reorganized area education agency for the budget year.

Within one year of the effective date of the reorganization, a newly formed area education agency shall meet the accreditation requirements set forth in section 273.10, and the standards set forth in section 273.11. The newly formed area education agency shall be considered accredited for purposes of budget approval by the state board pursuant to section 273.3. The state board shall inform the newly formed area education agency of the accreditation on-site visit schedule.

Sec. 6. NEW SECTION. 273.24 COMMISSION TO DISSOLVE AREA EDUCATION AGENCY.

1. As an alternative to area education agency reorganization prescribed in this division, the board of directors of an area education agency may establish an area education agency dissolution commission to prepare a proposal of dissolution of the area education agency and attachment of all of the area education agency to one or more contiguous area education agencies and to include in the proposal a division of the assets and liabilities of the dissolving area education agency. If twenty percent or more of the school districts within an area education agency file a petition by March 1 with the area education agency board to consider dissolving, the area education agency board shall consider the request and vote on the petition. If a majority of the board members vote to study dissolving the area education agency, the agency board shall immediately begin a study to consider such action effective by July 1 of the next calendar year or the area education agency board may establish a dissolution commission.

An area education agency dissolution commission established by the board of directors of an area education agency shall consist of a minimum of seven members appointed by the board of directors of the area education agency for a term of office ending either with a report to the board that no proposal can be approved or on the date of the vote on the proposal. Members of the dissolution commission must be board members of school districts within the area served, not more than three of whom may be members of the board of directors of the area education agency. Members shall be appointed from throughout the area served and should represent the various school districts present in the area served.

Members of the dissolution commission shall serve without compensation and may be appointed to a subsequent commission. A vacancy on the commission shall be filled in the same manner as the original appointment was made.

The board of the area education agency shall certify to the department of education that a commission has been formed, the names and addresses of commission members, and that the commission members represent the various geographic areas and socioeconomic elements present in the school districts that the area serves.

Sec. 7. NEW SECTION. 273.25 MEETINGS.

The commission shall hold an organizational meeting not more than fifteen days after its appointment and shall elect a chairperson and vice chairperson from its membership. Thereafter the commission may meet as often as deemed necessary upon the call of the chairperson or a majority of the commission members.

The commission shall request statements from contiguous area education agencies outlining each agency's willingness to accept attachments of the affected area education agency to the contiguous agencies and what conditions, if any, the contiguous agency recommends. The commission shall meet with boards of contiguous area education agencies and with boards of directors of the affected school districts to the extent possible in drawing up the dissolution proposal. The commission may seek assistance from the department of education.

Sec. 8. NEW SECTION. 273.26 DISSOLUTION PROPOSAL.

Not later than one year following the date of the organizational meeting of the commission, the commission shall send a copy of its dissolution proposal to the affected area education agency board or shall inform the affected area education agency board that it cannot agree upon a dissolution proposal. The commission shall also send a copy of the dissolution proposal by certified mail to the boards of directors of all school districts and other area education agencies affected. If the board of a school district or the board of an area education agency affected by the dissolution proposal objects to the proposal, either board shall send its objections in writing to the commission within ten days following receipt of the dissolution proposal. The commission may consider the objections and may modify the dissolution proposal. If the dissolution proposal is modified, the commission shall notify by certified mail the boards of directors of all area education agencies to which

an area of the affected area education agency will be attached and shall notify by certified mail the board of directors of all school districts in the affected area education agencies.

If the commission cannot agree upon a dissolution proposal prior to the expiration of its term, the affected area education agency board may appoint a new commission.

Sec. 9. NEW SECTION. 273.27 HEARING — VOTE — STATE BOARD APPROVAL.

1. Within ten days following the filing of the dissolution proposal with the affected area education agency board, the affected board shall fix a date for a hearing on the proposal which shall not be more than sixty days after the dissolution petition was filed with the affected board. The affected board shall publish notice of the date, time, and location of the hearing at least ten days prior to the date of the hearing by one publication in a newspaper in general circulation in the area. The notice shall include the content of the dissolution proposal. Representatives of school districts in the area served may present evidence and arguments at the hearing. The president of the affected board shall preside at the hearing. The affected board shall review testimony from the hearing and shall adopt or amend and adopt the dissolution proposal.

The affected board shall notify by certified mail the boards of directors of all school districts in the affected area education agency and the contiguous area education agencies to which the districts of the affected area education agency will be attached and the director of the department of education of the contents of the dissolution proposal adopted by the affected board.

2. Within thirty days of the hearing, the affected board shall call a director district convention, which shall include the boards of directors in the area served by the area education agencies to which an area of the affected area education agency will be attached under the dissolution proposal, for the purpose of voting on the dissolution proposal.

3. If the dissolution proposal is approved by a majority of all directors voting on the proposal, the proposal shall be forwarded to the state board by November 1. The state board shall review the dissolution plan proposal and shall prior to January 1 either grant approval for the proposal or return the proposal with recommendations. An unapproved proposal may be resubmitted with modifications to the state board not later than February 1. A proposal shall take effect on July 1 of the fiscal year following the date of approval by the state board.

Approved May 3, 2001

CHAPTER 115

TAXATION OF ELECTRICITY, NATURAL GAS, AND FUELS USED FOR RESIDENTIAL ENERGY

H.F. 705

AN ACT relating to sales and use taxes on the delivery of electricity and natural gas and to the rate of tax for providing metered gas, electricity, and fuel to provide energy for residential customers.

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

Section 1. Section 422.45, Code 2001, is amended by adding the following new subsection:
NEW SUBSECTION. 2A. The gross receipts from charges paid for the delivery of electricity or natural gas if the sale, furnishing, or service of the electricity or natural gas or its use