

(2) noncompliance with a mandatory rule or regulation of general application promulgated by the state board in accordance with statute in the absence of special circumstances making enforcement thereof inequitable, contrary to the best interest of, or imposing an extraordinary hardship on, the district affected, or

(3) continued performance by the district of a contract made for the rental of rooms or buildings for school purposes, or for the free transportation of children to and from school or for the rental of any facility owned or operated by or under the direction of any private organization, which contract has been disapproved where time for review of the determination of disapproval has expired and no proceeding for review is pending, or

(4) any practice which is a violation of section 2 of article 8 of the Constitution of the state of Minnesota, or

(5) failure to provide reasonably for the school attendance to which a resident pupil is entitled under Minnesota Statutes,

the special state aid to which a district is otherwise entitled for any school year shall be reduced in the amount and upon the procedure provided in this section.

Approved April 30, 1975.

CHAPTER 60—H.F.No.319

[Coded]

An act relating to health; providing for location and zoning regulation of residences for mentally retarded and physically handicapped persons; amending Minnesota Statutes 1974, Sections 252.28, by adding a subdivision; and 462.357, by adding subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1974, Section 252.28, is amended by adding a subdivision to read:

Subd. 3. HEALTH; MENTALLY RETARDED AND PHYSICALLY HANDICAPPED; LOCATION OF FACILITIES. (1) No new license shall be granted pursuant to this section when the issuance of the license would substantially contribute to an excessive concentration of community residential facilities within any town, municipality or county of the state.

(2) In determining whether a license shall be issued pursuant to this subdivision, the commissioner of public welfare shall specifically

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consider the population, size, land use plan, availability of community services and the number and size of existing public and private community residential facilities in the town, municipality or county in which a licensee seeks to operate a residence. Under no circumstances may the commissioner newly license any facility pursuant to this section if the facility will be within 300 feet of any existing community residential facility, unless the appropriate town, municipality or county zoning authority grants the facility a conditional use or special use permit. The commissioner of public welfare shall establish uniform rules and regulations to implement the provisions of this subdivision.

(3) Licenses for community facilities and services shall be issued pursuant to section 245.821.

Sec. 2. Minnesota Statutes 1974, Section 462.357, is amended by adding subdivisions to read:

Subd. 7. In order to implement the policy of this state that mentally retarded and physically handicapped persons should not be excluded by municipal zoning ordinances from the benefits of normal residential surroundings, a state licensed group home or foster home serving six or fewer mentally retarded or physically handicapped persons shall be considered a permitted single family residential use of property for the purposes of zoning.

Subd. 8. Unless otherwise provided in any town, municipal or county zoning regulation as authorized by this subdivision, a state licensed residential facility serving from 7 through 16 mentally retarded or physically handicapped persons shall be considered a permitted multi-family residential use of property for purposes of zoning. A township, municipal or county zoning authority may require a conditional use or special use permit in order to assure proper maintenance and operation of a facility, provided that no conditions shall be imposed on the homes which are more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the residents of the residential facility for the mentally retarded or the physically handicapped. Nothing herein shall be construed to exclude or prohibit residential homes for the mentally retarded or physically handicapped from single family zones if otherwise permitted by a local zoning regulation.

Sec. 3. This act shall become effective the day following final enactment.

Approved April 30, 1975.

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