

1999 ASSEMBLY BILL 279

April 9, 1999 - Introduced by Representatives PORTER, AINSWORTH, HAHN, KEDZIE, KELSO, MUSSER, OLSEN and SPILLNER, cosponsored by Senators WIRCH, DRZEWIECKI and FITZGERALD. Referred to Committee on Education.

1 **AN ACT to amend** 117.05 (9) (a) (intro.), 117.17 (1) (d), 117.17 (2) and 117.17 (3);
2 **and to create** 117.03 (3g), 117.03 (4m), 117.05 (9) (a) 6., 117.14 (1m) and 117.35
3 of the statutes; **relating to:** school district boundary disputes.

Analysis by the Legislative Reference Bureau

This bill provides a method for resolving disputes between two or more school districts concerning whether certain territory is located within a particular school district. Under the bill, resolution of a boundary dispute between two or more school districts may proceed along either of the following paths:

1. The school boards involved may resolve the dispute voluntarily. Before doing so, they must notify the electors residing in and owners of real property located in the disputed territory. The notice must specify the time and place of the school board meetings at which the dispute will be discussed.

2. The school board of any school district involved in the dispute may request the school district boundary appeal board to resolve the dispute. The school district boundary appeal board must issue an order resolving the dispute within 60 days of receiving such a request unless the school boards voluntarily resolve the dispute prior to that date. In resolving the dispute, the school district boundary appeal board must consider and give the greatest weight to decisions made previously by that board or any predecessor body.

The bill provides that an order issued by the school district boundary appeal board is effective on the following July 1, although the school district boundary appeal board may stay the effective date until the second following July 1. If the

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order is effective on the following July 1, the school district boundary appeal board may specify in the order that pupils residing in the disputed territory may continue to attend the school district that they have been attending until the July 1 following the effective date of the order.

Finally, the bill provides that a school district involved in a boundary dispute may not commence court action regarding the dispute until the school district boundary appeal board issues an order resolving the dispute.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 117.03 (3g) of the statutes is created to read:

2 117.03 **(3g)** “Boundary dispute” means a dispute between 2 or more school
3 districts concerning whether certain territory is located within a particular school
4 district.

5 **SECTION 2.** 117.03 (4m) of the statutes is created to read:

6 117.03 **(4m)** “Interested school district” means a school district involved in a
7 boundary dispute.

8 **SECTION 3.** 117.05 (9) (a) (intro.) of the statutes is amended to read:

9 117.05 **(9)** (a) (intro.) The state superintendent may charge the following
10 persons a fee sufficient to reimburse the department for the costs of the board under
11 ss. 117.10, 117.105 ~~and~~, 117.132 and 117.35:

12 **SECTION 4.** 117.05 (9) (a) 6. of the statutes is created to read:

13 117.05 **(9)** (a) 6. A school board requesting resolution of a boundary dispute
14 under s. 117.35 (2).

15 **SECTION 5.** 117.14 (1m) of the statutes is created to read:

16 117.14 **(1m)** Any person aggrieved by an order resolving a boundary dispute
17 under s. 117.35 (3) may, within 30 days after copies of the order are filed with the

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1 secretary of the board under s. 117.17 (2), appeal the order to circuit court. The
2 appeal shall be filed with the circuit court of any county in which any portion of the
3 disputed territory is located.

4 **SECTION 6.** 117.17 (1) (d) of the statutes is amended to read:

5 117.17 (1) (d) Every order of school district reorganization and every order
6 under s. 117.35 (3) shall state the date on which it is to take effect. The date shall
7 be as specified under ss. 117.08 to 117.132 and, 117.27 (1) and 117.35 (3). If an appeal
8 is made to court under s. 117.14, the court may stay enforcement under s. 227.54 of
9 the order if a showing is made that there is substantial probability that the party
10 seeking review will prevail on the merits and will suffer irreparable harm if a stay
11 is not granted.

12 **SECTION 7.** 117.17 (2) of the statutes is amended to read:

13 117.17 (2) FILING. A certified copy of any resolution or order granting, affirming
14 or denying a reorganization or resolving a boundary dispute shall be filed, within 5
15 days after it is adopted or issued, with the secretary of the board. Upon receipt of the
16 resolution or order, the secretary of the board shall immediately place on it the date
17 upon which it was received. If the resolution or order affirms or grants a
18 reorganization or resolves a boundary dispute, within 5 days after receipt of the
19 resolution or order the secretary of the board shall send, by certified mail, a certified
20 copy of the resolution or order to the clerk of each city, village, town or county, any
21 part of which is contained within an affected school district, or any part of which is
22 contained within an interested school district if the resolution or order resolves a
23 boundary dispute.

24 **SECTION 8.** 117.17 (3) of the statutes is amended to read:

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1 117.17 (3) PRESUMPTION; VALIDITY OF ORDER. (a) A reorganization order or order
2 resolving a boundary dispute shall be presumptive evidence of the facts recited
3 therein and of the proceedings preliminary to the issuance of the order.

4 (b) The failure of any officer to perform a duty imposed upon him or her by this
5 chapter does not affect the validity of a reorganization order or order resolving a
6 boundary dispute otherwise lawfully made, but the officer is subject to s. 946.12.

7 **SECTION 9.** 117.35 of the statutes is created to read:

8 **117.35 School district boundary disputes. (1) SCHOOL BOARD ACTION.** (a)
9 If there is a boundary dispute, the school boards of the interested school districts may
10 resolve the dispute by the adoption, by each of the school boards, of a resolution
11 resolving the dispute. Before adopting such a resolution, the school boards jointly
12 shall notify the electors residing in and owners of real property located in the
13 disputed territory by certified mail. The notice shall include a description of the
14 territory, as certified by the clerk of each city, town or village within which all or any
15 part of the territory is located, shall indicate that the school boards are considering
16 resolving the boundary dispute and shall specify the time and place of the school
17 board meeting at which the boundary dispute will be discussed.

18 (b) Each of the resolutions adopted under par. (a) shall include a legal
19 description of the territory in dispute and a legal description of that portion of the
20 disputed territory that is to be included in each interested school district. The school
21 district clerk of each school board that adopts a resolution under this subsection
22 shall, within 5 days after adopting the resolution, send a certified copy of the
23 resolution to the school board of each of the other interested school districts, file a
24 certified copy of the resolution as provided in s. 117.17 (2) and notify the electors
25 residing in and owners of real property located in the disputed territory. If the school

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1 board of each of the interested school districts adopts a resolution under this
2 subsection, the resolution of the dispute shall take effect on the first July 1 after the
3 March 1 following the adoption of the resolutions.

4 **(2) REQUEST FOR RESOLUTION.** (a) If there is a boundary dispute, the school board
5 of any interested school district may submit a written request to the board for the
6 resolution of the boundary dispute. The request shall state the particulars of the
7 boundary dispute, including a legal description of the territory involved and the
8 names of all interested school districts. The school board making the request shall
9 send a copy of the request by 1st class mail to each interested school district at the
10 time that the request is submitted to the board.

11 (b) Upon receipt of a request under par. (a), the board shall determine or
12 request the school boards of the interested school districts to provide all of the
13 following:

14 1. A description of the territory in dispute, as certified by the clerk of each city,
15 town or village within which all or any part of the territory is located.

16 2. The number of pupils residing in the disputed territory who, on the most
17 recent of the preceding 3rd Friday of September or 2nd Friday of January, were
18 enrolled in each interested school district.

19 **(3) ORDER.** (a) Unless the school boards of the interested school districts have
20 resolved the boundary dispute under sub. (1), within 60 days after receipt of a request
21 under sub. (2) (a) the board shall issue an order resolving the boundary dispute. The
22 board shall send a certified copy of the order to the school board of each interested
23 school district and shall file a certified copy of the resolution as provided in s. 117.17
24 (2). The order shall take effect on the following July 1 unless the board stays the
25 effective date of the order until the 2nd following July 1.

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1 (b) In making a decision under par. (a), the board shall consider and give the
2 greatest weight to decisions made previously by the board or any predecessor body.
3 The board shall also consider the criteria specified in s. 117.15 and other evidence,
4 including applicable property tax records.

5 (c) If the order under par. (a) takes effect on the following July 1, the board may
6 specify in the order that pupils residing in the disputed territory may continue to
7 attend school in the school district that they are attending before the order takes
8 effect until the July 1 following the effective date of the order. The board shall base
9 its decision on the estimated fiscal and other effects of the decision on the interested
10 school districts.

11 **(4) LIMITATION ON COURT ACTION.** If there is a boundary dispute, the school board
12 of any interested school district may not commence court action regarding that
13 dispute until an order issued under sub. (3) is filed with the secretary of the board
14 under s. 117.17 (2).

15 (END)