

CHAPTER 117

SCHOOL DISTRICT REORGANIZATION

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117.005 School district boundary appeal board. (1) **DEFINITION.** In this chapter "board" means the school district boundary appeal board.

(2) **EXPENSES.** The state superintendent shall maintain a record of board expenses, including an allowance of 20 cents per mile for travel to and returning from the place of a board meeting by the usually traveled route, and shall certify the approved amount to the department of administration for payment from the appropriation under s. 20.255 (1) (jz).

History: 1983 a. 27.

117.01 General provisions. (1) **JURISDICTION.** (a) Except as provided in par. (b), jurisdiction of a reorganization authority to make an order of school district reorganization is acquired upon the filing of a petition with the reorganization authority or upon adoption of a resolution by the reorganization authority when it proceeds upon its own motion.

(b) Jurisdiction of an appeal to the board is acquired upon the filing of a notice of appeal with the state superintendent under s. 117.03.

(c) Jurisdiction of a reorganization authority to act in a school district reorganization proceeding continues until the reorganization authority disposes of the matter before it, unless lost by:

1. Failure of the reorganization authority to substantially comply with the procedural steps required by law to be taken by it prior to the making and filing of an order in such proceeding.

2. Failure of the reorganization authority to take final action upon a proposed reorganization within the time prescribed therefor in this chapter.

3. The taking of an appeal from a reorganization authority pursuant to this chapter.

(d) While a reorganization proceeding is pending and until an order granting or denying school district reorganization made therein

takes effect, any other reorganization proceeding commenced or order made, pertaining to any territory included in the reorganization proceeding or order, is void. A reorganization proceeding is pending:

1. Until an order of school district reorganization made in the reorganization proceeding takes effect.

3. Until a school district clerk, county clerk or county board of election commissioners certifies a vote of nonapproval at a referendum of a proposed order of school district reorganization.

4. Until the expiration of the time within which an appeal from the failure of a reorganization authority to make an order may be taken under this chapter.

5. During the pendency of an appeal to the board and until the expiration of 30 days following the date of mailing by the secretary of the board under sub. (2) (c).

6. During the pendency of an appeal to court until the filing with the clerk of the circuit court of final disposition therein by the circuit court, the court of appeals or the supreme court.

(e) All territory within the state shall be included in a school district operating elementary school grades and a school district operating high school grades or in a school district operating both elementary and high school grades. No territory may be detached from a school district unless by the same order it is included in another school district or included in the creation of a new school district. No territory may be detached from a school district which operates high school grades unless by the same order it is attached to another school district which operates high school grades. No territory may be detached from a union high school district so as to make parts of the school district noncontiguous.

(2) **REORGANIZATION ORDER.** (a) Every order of school district reorganization shall state the

school districts from which any territory is detached, describe such territory and indicate the territory included within the reorganized school district. When the order creates a new school district, the order also shall name the school district, state the type of school district pursuant to s. 115.01 (3) and the grades to be taught by the district pursuant to s. 115.01 (2), designate the number of school board members under s. 120.01, 120.42 or 120.72 and the method of election under s. 120.06 or 120.43 and fix the time and place for the first annual meeting if one is to be held. The secretary of the board shall give notice of the first annual meeting, if one is to be held, under s. 120.08 (1) (c) and shall designate a person to act as temporary chairman of the annual meeting until a chairman is elected.

(b) Every order of school district reorganization shall state the date on which it is to take effect, which date shall be not more than one year from the date it is filed nor less than 30 days from the date it is mailed to the proper officials by the secretary of the board. Unless a later date is specified therein, the effective date of an order on which a referendum is held shall be the date the referendum result is certified to the secretary of the board, if the referendum approves the order. An appeal to the board shall stay an order. Unless a later date is specified therein, the effective date of an order of school district reorganization appealed to the board shall be 30 days after mailing of the board order under par. (c), if there has been no appeal to the circuit court within such 30 days. An appeal to circuit court shall stay an order. Unless a later date is specified therein, the effective date of an order of school district reorganization appealed to the circuit court shall be 60 days after service of notice of entry of the circuit court order affirming the order, if there has been no appeal to the court of appeals within such 60 days. An appeal to the court of appeals shall stay an order. The effective date of an order appealed to the court of appeals shall be the date on which the court of appeals mandate holding the order valid is filed with the clerk of the circuit court. An order shall be presumptive evidence of the facts recited therein and of the validity of all proceedings preliminary thereto.

(c) A certified copy of any order reorganizing a school district or denying such reorganization shall be filed within 10 days after it is made with the secretary of the board. Upon receipt of the order, the secretary of the board immediately shall place thereon the date upon which it was received and, within 5 days after receipt thereof, shall send by certified mail a certified copy of the order together with a certification of the date of mailing of the copy to the clerk of each

school district, town, village, city and county affected and to the state superintendent.

(d) The appeal and referendum period shall run from the date the certified copies of the order are mailed by the secretary. When the results of a referendum have been canvassed, the proper clerk shall certify the results to the secretary of the board, and the secretary shall notify the officers who received a copy of the order of the results of the referendum.

(3) **INTERIM SCHOOL BOARD.** When a new school district is created, the school board of the district which was dissolved in the creation thereof or, if more than one school district was dissolved, the school board of that dissolved district having the highest equalized valuation as last certified under s. 121.06 (1) shall constitute the school board of the newly created district until a school board of the newly created district is elected and qualified, and shall have the care, custody and control of the property and affairs of the new school district for the sole purpose of preserving and protecting the same and making payment of any current bills or contractual obligations due and payable during such period.

(4) **SCHOOL BOARD ELECTIONS.** (b) 1. In creating a new unified, common or union high school district, the order of school district reorganization shall direct the election of a school board under s. 120.06, insofar as applicable, and shall designate the date of the first election of school board members, which shall be after the time for appeal has expired and not later than 4 months after the effective date of the order.

2. In the event of an appeal to the circuit court, the secretary of the board shall set a new date for the election which shall be at least 60 days after service of notice of entry of the circuit court order affirming the reorganization order and not later than 6 months after such service. An appeal to the court of appeals shall invalidate any election date set after an appeal to the circuit court. In the event of an appeal to the court of appeals, the secretary of the board shall set a new date for the election which shall be not later than 4 months after the date on which the court of appeals mandate holding the order valid is filed with the clerk of the circuit court. No election date may be set, either under this subdivision or under subd. 1 which would require the filing of a declaration of candidacy or nomination papers prior to the expiration of the relevant appeal period.

3. At least 12 weeks prior to the date of the election, the clerk of the city, village or town within the school district which has the largest population shall publish a class 1 notice, under ch. 985, stating the date of the primary, if required, the date of the election and the re-

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quirements for filing declarations of candidacy and nomination papers, where required. At least 10 weeks prior to the election, any qualified elector may file with such clerk a sworn declaration of candidacy for the school board in the form provided in s. 8.21 at the place specified in the notice. In the event of a change in residence for voting purposes to a location outside the school district, a candidate shall file an amended declaration as provided in s. 120.06 (6). If the school district contains territory lying within a 2nd class city, the declaration shall be accompanied by nomination papers in the form prescribed under s. 8.10 (3). Within 8 days after the first election in the newly created school district, such clerk shall notify the successful candidates of their election. On the 2nd Tuesday following the election or on the 2nd Tuesday after the effective date of the reorganization order, whichever is later, such clerk shall administer or receive the official oath and the newly elected members shall take office.

4. If there are more than 2 candidates for any office on a 3-member school board, more than twice as many candidates as there are members to be elected to a school board of more than 3 members, more than twice as many candidates as there are members to be elected from any district of a school board to which members are elected pursuant to a plan of apportionment or district representation plan under s. 120.02 (2) (b) or 120.73 (1) (e), there shall be a primary election for such positions 4 weeks before the election. The terms of school board members for the first election shall be determined under s. 120.02 (3) (a) 2. The clerk described in subd. 3 shall have charge of the primary and the election and shall conduct them in accordance with s. 120.06, unless otherwise specified in this section or s. 120.73 (1) (a) 1.

5. The cost of conducting the primary and the election shall become a charge upon the new school district, and the school board of the new district shall pay all such costs.

(5) **STATE AID APPORTIONMENT.** During the pendency of an appeal from or a referendum on an order, state aid shall be apportioned to the school districts affected as if the order had not been issued.

(6) **VALIDITY OF ORDER.** The failure of any officer to perform a duty imposed upon him by this section shall not affect the validity of any order otherwise lawfully made, but such officer shall be subject to s. 946.12.

(7) **VALIDATION OF SCHOOL DISTRICTS.** No appeal or other action attacking the legality of the formation of a school district, either directly or indirectly, may be taken after the period provided by s. 893.74. This subsection shall be

liberally construed to effect the legislative purpose to validate and make certain the legal existence of all school districts in this state, however created or reorganized, and to bar every right to question the existence thereof in any manner and to bar every remedy therefor notwithstanding any defects or irregularities, jurisdictional or otherwise, after the expiration of the period provided by s. 893.74 except where some action or proceeding has been commenced within that period.

History: 1971 c. 40; 1975 c. 138, 189, 199; 1977 c. 187 ss. 61, 134; 1979 c. 323; 1981 c. 20, 177; 1983 a. 27; 1983 a. 484 ss. 164, 174; 1983 a. 538

The requirement in 116.51 (2) that the agency school committee study and evaluate the existing school organization and, where needs exist for further school district reorganization, formulate a plan to strengthen the administrative districts of the administrative territory, is not one of the "procedural steps" referred to in 117.01 (1) (c) 1 required by law to be taken by a committee prior to the making and filing of an order in a school district reorganization proceeding. *Joint School Dist. No. 1 v. State*, Appeal Bd. 52 W (2d) 162, 187 NW (2d) 836.

Under (1) (d) reorganization authority has jurisdiction to conduct simultaneous reorganization proceedings affecting same school district if the proceedings do not affect the same geographical area. *Jt. School Dist. No. 2 v. State*, 71 W (2d) 276, 237 NW (2d) 739.

117.03 Appeals. (1) (a) Any person aggrieved by an order under s. 117.08 (2) or (3) (b) may appeal to the board by filing a notice of appeal with the state superintendent within 30 days following the mailing of the order under s. 117.01 (2) (c).

(b) Any person aggrieved by the failure to make an order under s. 117.08 (2) or (3) (b) within 60 days after the filing of a petition or resolution may appeal to the board within 30 days following the expiration of said 60 days.

(c) No appeal to the board may be withdrawn.

(3) (a) The state superintendent shall set a time and place for the board to meet. The board by a majority vote of its members shall make such order as it deems proper under the circumstances to affirm, reverse or modify the order appealed from under sub. (1) (a) or shall make an order granting or denying school district reorganization upon an appeal under sub. (1) (b). The order shall include a statement of the reasons for the order and shall be filed under s. 117.01 (2) (c). Failure of the board to make an order within 120 days after notice of appeal is filed under sub. (1) shall constitute a denial of the appeal.

(b) The board shall consider and weigh the following factors as they affect the educational welfare of all the children of all the school districts affected by the proposed reorganization in reaching its decision under par. (a), and may consider and weigh other appropriate factors:

1. The geographical characteristics of the school districts affected.

2. The educational needs of all the pupils enrolled in the school districts affected and the ability of each school district to meet those needs.

3. The testimony of and written statements filed by the residents of the school districts affected.

4. The estimated fiscal effect of the proposed reorganization on the school districts affected, including the effect of the apportionment of assets and liabilities.

(4) Any person aggrieved by an order of the board which provides school district reorganization may appeal therefrom to a circuit court of any county in which any territory of the proposed reorganized school district lies. Within 30 days after the date the copies of the order of the board are mailed under s. 117.01 (2) (c), a written notice of appeal stating specifically the grounds upon which the appeal is based shall be served on the state superintendent as chairman of the board and filed with the clerk of court.

History: 1977 c. 29, 187; 1979 c. 303; 1981 c. 20; 1983 a 27 ss. 1451r, 1457 to 1459m; 1983 a 219

Judicial review of reorganization orders is not subject to the review provisions of ch. 227, Stats. 1969. *Joint School Dist. No. 1 v. State Appeal Bd.* 52 W (2d) 162, 187 NW (2d) 836.

The merits of school district reorganization is a legislative determination. On appeal the court can consider only whether the reorganization authority acted within its jurisdiction and whether its order was arbitrary or capricious. The appeal board makes a de novo determination. When the matter is appealed to the appeal board any error in regard to the agency school committee cannot be raised. *Joint School District v. State Appeal Bd.* 56 W (2d) 790, 203 NW (2d) 1.

117.035 Referendum. (1) ON ORDER OF SCHOOL BOARDS. (a) If within 30 days after the date of mailing of an order of school district reorganization issued under s. 117.08 a petition requesting a referendum on the order and signed by a sufficient number of the electors of the territory included in the proposed reorganized school district is filed under par. (c), the order shall not become effective until it has been approved at the referendum by each affected school district by a majority vote of the electors within that school district. A sufficient number of petitioners is 500 of the electors who reside in the proposed reorganized school district, or 10% of the electors who reside in either of the school districts affected by the order. Upon their own motion at the time of issuing an order of school district reorganization under s. 117.08, the school boards may direct the holding of a referendum upon the order. By resolution adopted within 30 days after the order is mailed, the common council of any city affected by an order of school district reorganization

issued under s. 117.08 may demand the holding of a referendum upon such order.

(b) When an order of school district reorganization issued under s. 117.08 either consolidates 2 or more common school districts operating high school grades or attaches territory to a common school district operating high school grades and 2 or more sites have been proposed for the high school in the proposed reorganized school district, the referendum petition may designate one of the proposed sites and, at the discretion of the school boards acting under s. 117.08, the referendum may be upon approval of such site as well as upon approval of the order. In such case, the ballots shall contain a single question on the approval of the order and the site of the high school.

(c) The petition, resolution or demand for a referendum shall be filed with the county clerk of the county having the largest equalized valuation in the proposed reorganized school district. The county clerk shall notify the clerk of each city, village and town affected that a referendum will be held on the order. The referendum shall be called by the county clerk for a date not less than 30 days nor more than 90 days from the date the petition, resolution or demand is filed, but if the spring or general election is to be held within 90 days from the date of filing, the referendum shall be held on the date of the spring or general election. The county clerk shall publish, as a class 2 notice under ch. 985 in the territory included in the order, the purpose, time and place of holding the referendum and the hours of opening and closing of the polls.

(d) Electors shall vote at the polling places at which they would be required to vote at a general election, except when the municipal clerk deems it feasible to designate other polling places. In such case, he shall so inform the county clerk immediately upon being notified by the county clerk that a referendum will be conducted, and the county clerk shall thereupon include in the notice only those polling places where the referendum will be conducted.

(e) The election officials shall be selected by the governing body of the municipality where the polling place is located under s. 7.30. Each municipality shall compensate the election officials and shall provide the necessary voting machines, electronic voting systems or ballot boxes and voting booths. The county clerk shall provide for the printing and distribution of ballots and other election supplies at county expense. The form of the ballot shall correspond to the form prescribed by the elections board under ss. 5.64 and 7.08 (1) (a). The referendum shall be conducted and the votes

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canvassed and the results returned to the county clerk as at a general election.

(f) If a proposed reorganized school district lies in more than one county, the county clerk of the county having the largest equalized valuation within the proposed reorganized school district shall be responsible for conducting the referendum, but the cost of ballots and other election supplies shall be borne by each of the counties in such proportion as the equalized valuation of the property in each county affected by the referendum bears to the total equalized valuation of the property in the proposed reorganized school district. If the proposed reorganized school district lies in more than one county, the referendum shall be conducted and the vote counted and canvassed in each county separately and a tabulation of the vote in each county shall be forwarded to the county clerk of the county having the largest equalized valuation within the proposed reorganized school district for a final consolidated tabulation and determination of the result.

(g) The cost to the county under this subsection shall be ascertained by the county clerk and certified for payment by him to the clerk of each school district affected by the referendum in the county in such proportion as the equalized valuation of that portion of the proposed reorganized school district lying in each such school district bears to the total equalized valuation of the proposed reorganized school district. Such payments shall be made by the school boards to the county. When necessary, such charge shall be included in the succeeding budget and become part of the next school district tax levy.

(h) In any county which has a county board of election commissioners such board shall act in all matters pertaining to a referendum in lieu of the county clerk.

(2) CONCURRENT APPEAL AND REFERENDUM. If under sub. (1) a petition is filed or resolution adopted or the school boards direct the holding of a referendum, and an appeal is filed under s. 117.03 relating to the same order of school district reorganization, the referendum shall not be held until after an order has been issued by the board under s. 117.03. If the board affirms the order appealed from without modification, the referendum shall be conducted as provided under sub. (1) not less than 30 days nor more than 90 days from the date of mailing under s. 117.01 (2) (c), except that if the spring or general election is to be held within 90 days from the date of mailing, the referendum shall be held on the date of the spring or general election. If the board modifies or reverses the order appealed from, no referendum shall be held unless a separate petition is filed under sub.

(3) or a referendum is directed or demanded under sub. (3).

(3) ON ORDER OF THE BOARD. Any order issued by the board under s. 117.03 which constitutes, affirms or modifies an order of school district reorganization is subject to approval at a referendum if a petition for a referendum has been or is subsequently filed as provided under subs. (1) and (2) in the case of school board orders, or if a referendum is directed by the motion of the board, or if, within 30 days after the date of mailing of the order under s. 117.01 (2) (c), a referendum is demanded by adoption of a resolution by the common council of any city affected by the order. The referendum shall be conducted as provided under subs. (1) and (2).

History: 1977 c. 427; 1979 c. 303 ss. 1, 3 and 4; 1979 c. 311 s. 73; 1981 c. 377; 1983 a. 27, 479.

Section 117.02 (4) (a), 1977 stats., [now 117.035 (1) (a)] does not authorize state appeal board to order referendum. Joint Sch. Dist. No. 2 v. State Appeal Board, 83 W (2d) 711, 266 NW (2d) 374 (1978).

117.043 Unified or common school district; creation by school board or electors. (1) (a)

The electors in a city school district may petition to change the school district into either a unified school district or a common school district containing only the territory of the city school district. So far as possible, s. 9.20 shall be applicable to this subsection. The required number of signatures on such a petition shall be determined in accordance with s. 115.01 (13). The petition shall meet the requirements of s. 117.01 (2) (a), and shall state the school district structure, either common or unified, into which the city school district shall be reorganized. The petition shall state that the school board of the city school district shall become the first school board of the unified district or common school district. The petition shall be submitted to the city clerk. Within 7 days, the city clerk shall publish, as a class 1 notice under ch. 985, a concise statement of the substantive provisions of the petition, a statement of the requirements for filing a petition under par. (b) and the time and place for filing a petition under par. (b). If within 30 days of the date of publication of the notice no petition has been filed with the city clerk under par. (b), the city clerk shall refer the petition submitted under this paragraph to the common council where appropriate or to the fiscal board under s. 120.50 in lieu of the common council. Unless the school board has adopted a resolution under sub. (2) (a) or the fiscal board has adopted a resolution under s. 117.045 (1), the common council or the fiscal board shall either adopt the petition submitted under this paragraph without alteration or refer it without alteration to a vote of the electors of

the school district at a referendum. If a referendum is held, the proposed reorganization shall become effective if it is approved at the referendum by a majority of electors voting at the referendum. Adoption by the fiscal board or common council or approval at a referendum shall constitute the making of an order of school district reorganization, which shall be effective the July 1 following the date on which the petition is filed with the city clerk. The form of the ballot shall correspond to the form prescribed by the elections board under ss. 5.64 (2) and 7.08 (1) (a) and the question on the ballot shall be:

"Shall the (*name of school district*) be a (*type of school district structure set forth in the school board resolution*)?"

Yes

No"

(b) Within 30 days of the date of publication of the notice of a petition to reorganize under par. (a), a petition signed by 15% of the electors included in the territory of the city school district in accordance with s. 115.01 (13) may be filed with the city clerk requesting that the referendum include a question on the form of district structure into which the city school district shall be reorganized. The petition shall contain the provisions of the petition filed under par. (a), and shall specify the form of district structure, either common or unified, which is not specified in the petition under par. (a). The electors shall determine whether the school district structure shall be common or unified. The form of the ballot shall correspond to the form prescribed by the elections board under ss. 5.64 (2) and 7.08 (1) (a) and the question on the ballot shall be:

"Shall the (*name of school district*) be reorganized into a unified or common school district?"

Unified School District

Common School District"

(c) If a referendum is held under par. (b), the district structure of the city school district shall be that form, either common or unified, for which the majority of votes are cast on the question. Selection of a form of school district structure at a referendum shall constitute an order of school district reorganization, which shall be effective the July 1 following the adoption of the resolution.

(2) (a) Unless a petition is pending under sub. (1) or a referendum has been held under sub. (1) resulting in the reorganization of the city school district into either a common or unified school district or the fiscal board has adopted a resolution under s. 117.045 (1), the school board of a city school district may, by resolution adopted prior to January 1, 1983, abolish the city school

district and fiscal board and create a common school district or unified school district containing only the territory of the city school district. The school district clerk shall publish the resolution as a class 1 notice, under ch. 985. The resolution shall meet the requirements of s. 117.01 (2) (a) and (c), so far as applicable, and shall state which type of school district, either common or unified, into which the city school district shall be reorganized. The resolution shall state that the school board of the city school district, if it is an elected board, shall become the first school board of the unified or common school district. If no referendum is held under par. (b), adoption of a resolution by the school board shall constitute an order of school district reorganization which shall be effective the July 1 following the adoption of the resolution. If a referendum is not requested under par. (b), not less than 45 days from the date of adoption of the resolution, the school district clerk shall transmit a certified copy of the order to the common council or fiscal board under s. 120.50 (2), if applicable, and shall file an order as provided under s. 117.01 (2) (c).

(b) Within 45 days after the date of publication of the resolution under par. (a), a petition may be filed signed by 15% of the electors of the territory of the city school district in accordance with s. 115.01 (13) requesting that a referendum be held on the form of district structure into which the city school district shall be reorganized. The form of the ballot shall correspond to the form prescribed by the elections board under ss. 5.64 (2) and 7.08 (1) (a) and the question on the ballot shall correspond to the question set forth in sub. (1) (b).

(c) If a referendum is held under par. (b), the district structure of the city school district shall be that form, either common or unified, for which the majority of votes are cast on the question. Selection of a form of school district structure at a referendum shall constitute an order of school district reorganization, which shall be effective the July 1 following the adoption of the resolution.

(3) (a) Any resolution or petition for a referendum under sub. (2) shall be filed with the city clerk of the city having the largest equalized valuation within the city school district. The clerk of such city shall notify the clerk of each city, village and town with territory in the city school district that a referendum shall be held. The notification shall state the subject of the referendum. The referendum shall be called by the city clerk for a date not more than 30 days from the date the petition is filed. If the spring primary or spring election is to be held within 90 days, but more than 30 days from the date of filing, the referendum shall be held on the date

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of the spring primary or spring election. Except where a type "B" notice is already published under s. 10.06 (3), the city clerk shall cause notice of the purpose, time and place of holding the referendum and the hours of opening and closing of the polls to be published as a class 2 notice, under ch. 985, in the city school district.

(b) Electors shall vote at the polling place or places at which they would be required to vote at a general election. Notwithstanding s. 6.77 (1), if the municipal clerk deems it feasible to designate other polling places, he or she shall inform the city clerk immediately upon being notified by the city clerk that a referendum will be conducted. The city clerk shall include in the notice of the referendum only those polling places where the referendum will be conducted.

(c) The election officials shall be selected by the governing body of the municipality where the polling place is located. Each municipality shall compensate the election officials and shall provide the necessary machines, ballot boxes and voting booths. The city clerk shall provide for the printing and distribution of ballots and other election supplies at the expense of the city school district. Voting machines may be used as provided in s. 120.43 (4) (b). The referendum shall be conducted and the votes canvassed and the results returned to the city clerk as at a general election.

(4) Section 120.58 applies to this section.

History: 1981 c. 340 ss. 3, 5, 6; 1981 c. 391.

117.045 Reorganization of city school districts to common or unified districts by order of the fiscal board.

(1) Except as provided in sub. (5), the fiscal board under s. 120.50 or common council, where applicable, for each city school district shall, by January 1, 1983, adopt a resolution and make an order, effective July 1, 1983, to abolish the city school district and fiscal board and create either a common or a unified school district containing the territory of the city school district. The order shall meet the requirements of s. 117.01 (2) (a) and (c), so far as applicable.

(2) Within 30 days of adoption of the resolution under sub. (1), a petition signed by 15% of the electors included in the territory of the city school district in accordance with s. 115.01 (13) may be filed requesting a referendum on the form of district structure into which the city school district shall be reorganized. The petition shall meet the requirements of s. 117.01 (2) (a), so far as applicable, and shall specify the form of district structure, either common or unified, which is not specified in the reorganization order under sub. (1). The electors shall choose between the reorganization plan specified by the fiscal board or common council,

where applicable, and the plan specified in the petition. If a referendum is held, the district structure of the city school district shall be that form, either common or unified, for which the majority of votes are cast at such referendum. The form of the ballot shall correspond to the form prescribed by the elections board under ss. 5.64 (2) and 7.08 (1) (a) and the question on the ballot shall be:

"Shall the (*name of school district*) be reorganized into a common school district or a unified school district?"

Common School District ... Unified School District ..."

(3) (a) If the fiscal board or common council, where applicable, fails to make an order as prescribed under sub. (1), the district attorney of the county having the largest equalized valuation within the city school district shall bring an action of mandamus by February 1, 1983. The action of mandamus shall require the board or council to adopt a resolution and make an order abolishing the city school district and creating a unified school district. This order shall meet the requirements of s. 117.01 (2) (a), so far as applicable.

(b) The order under par. (a) shall be subject to a referendum as provided in sub. (2).

(4) Section 120.58 is applicable to this section.

(5) No resolution may be adopted nor may an order be made under sub. (1):

(a) Prior to July 21, 1982.

(b) If a referendum has been held under s. 117.043 resulting in the reorganization of the city school district into either a common or unified school district.

(c) If the school board has adopted a resolution under s. 117.043 (2) (a).

(6) Section 117.043 (3) applies to this section.

History: 1981 c. 340, 391.

117.05 Union high school district; establishment.

(1) (a) Ten per cent of the electors residing in any territory having an equalized valuation of \$9,000,000 or more may file a petition with the clerk of any city, village or town in which such territory lies requesting a referendum on the establishment of a union high school district in such territory. The petition may request that the referendum also be upon approval of the location for a school building. At the time of filing the petition, the petitioners shall submit to the state superintendent and to the clerk of each town, village or city in which territory in the proposed union high school district lies a legal description and map of the territory proposed to be included in the union high school district.

(b) No union high school district may be established unless the petitioners give evidence satisfactory to the state superintendent that at least 200 persons of school age who are residents of the proposed school district are prepared and desire to attend the public high school.

(c) No referendum on the establishment of a union high school district may be held unless the state superintendent, after considering all relevant factors, has approved it as a proper school district to provide high school education. If the state superintendent approves the establishment of the proposed union high school district, he shall transmit a copy of the legal description and map, with his approval indorsed thereon, to the clerk of each town, village and city in which territory in the proposed union high school district lies.

(2) If the state superintendent gives his approval under sub. (1) (c) and the territory lies entirely in one municipality, the municipal clerk, within 5 days of receipt of such approval, shall set a time for the referendum and shall give notice of the referendum as a class 2 notice, under ch. 985. The referendum shall be conducted and the votes canvassed as for a municipal election.

(3) If the state superintendent gives his approval under sub. (1) (c) and the territory lies in more than one municipality, the municipal clerk with whom the petition was filed, within 5 days of receipt of such approval, shall set a date and place for a meeting with the clerks of all other municipalities in which the territory lies to fix the time and place for holding the referendum. The clerks shall fix the time and place for holding the referendum at the meeting and shall give notice of the referendum in accordance with sub. (2).

(a) If the proposed union high school district does not contain a city or village, the referendum shall be conducted by the town board of the town in which the referendum is held.

(b) If the proposed union high school district contains a city or village, the referendum for such city or village shall be held therein and the referendum for any territory in a town may be held in a city or village or any other convenient place. The referendum for the city or village shall be conducted and the votes canvassed as for a city or village election, and the referendum for the town territory shall be conducted and the votes canvassed as for a town election. If such territory lies in more than one town, the referendum for the territory in each town shall be conducted separately. The union high school district shall not be established unless it is approved at the referendum by both a majority of those electors voting at the referendum who

reside within that portion of the proposed district territory lying in cities and villages and by a majority of those electors voting at the referendum who reside within that portion of the proposed district territory lying in towns.

(4) The ballots shall be provided by the municipal clerks and shall plainly indicate the question before the voters. The result of the referendum shall be certified immediately to the clerk of each city, village and town affected. The result of the referendum shall be certified to the state superintendent by each such clerk within 6 days after the referendum. If the proposal is adopted, the state superintendent shall issue an order of school district reorganization creating the union high school district and file it as provided in s. 117.01 (2) (c).

(5) Upon the establishment of a union high school district, any school district operating high school grades whose territory is wholly included in the new union high school district territory shall cease to exist and the property and liabilities thereof shall become the property and liabilities of the new union high school district.

(6) An order creating a union high school district becomes inoperative 3 years after the effective date of the order unless the union high school district is operating a high school or is in the process of constructing a high school building at the expiration of the 3-year period.

(7) The territory comprising a newly created union high school district shall continue to furnish high school opportunity on the same basis and under the same conditions as prevailed prior to the creation of the union high school district until such time as adequate building facilities are provided by the new union high school district. The school board of the newly created union high school district shall perform all of the duties pertaining to the negotiation of loans for buildings, letting of contracts for construction of buildings, noticing and conducting meetings of the school district for the purpose of securing authorization of loans for building purposes and all other necessary powers and duties delegated by law to school boards of union high school districts.

117.06 Consolidation of school districts by referendum. (1) Upon the filing of a petition signed by 10% of the electors in each of 2 or more school districts requesting a consolidation of their school districts, or upon the adoption of a resolution to consolidate by the school boards of such school districts, the school boards of the districts affected shall meet at a time and place designated by the school board of the most populous school district to fix a time for a

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referendum to determine whether the school districts shall be consolidated. Each school board receiving a petition or adopting a resolution under this section immediately shall send notice of the filing of the petition or adoption of the resolution to the secretary of the board. The referendum shall be not less than 2 nor more than 4 weeks from the date of such meeting. The referendum shall be called for 8 p. m. at the regular places for holding the school district meetings. The school district clerks shall give notice of the referendum as notice of an annual school district meeting is given. The referendum shall be conducted by the respective school boards, and the vote shall be by ballot. Within 3 days after the referendum, each school board shall report the result of the referendum in its school district to the clerk of the school district in which the meeting was held to fix the time of the referendum. One week after the referendum the school boards shall meet at said place, shall canvass the returns and shall file a report of the results with the state superintendent.

(2) If a majority of the votes cast in each school district is in favor of consolidation, the school districts shall be consolidated into a single school district, and the school boards at the time of canvassing the returns shall make and file an order of school district reorganization creating a new school district comprised of the area of the former school districts, as provided in s. 117.01 (2).

(3) When a consolidation under this section takes effect, the school districts which were consolidated shall cease to exist, and title to all property and the assets of such school districts shall become vested in the consolidated school district and claims, obligations and contracts of such school districts shall become claims, obligations and contracts of the consolidated school district.

(4) The state superintendent shall advise and consult with the school boards. If in the state superintendent's opinion one or more school districts should be created, altered, consolidated or dissolved, he or she may make recommendations to the school boards.

History: 1983 a. 27 ss. 1456, 1462

117.07 Change of common or union high school district to unified school district; change of unified or union high school district to common school district. (1) A common school district operating elementary and high school grades or a union high school district may be changed into a unified school district, and a unified school district or a union high school district may be changed into a common school district, if at least 30 days prior to the

spring election a petition requesting such a change is filed with the school district clerk signed by 10% of the electors residing in the school district.

(2) (a) The petition shall state that the school board of the common, union high or unified school district shall become the first school board of the unified or common school district. Upon receipt of the petition, the school district clerk shall publish a class 1 notice, under ch. 985, of the filing of the petition. The notice shall include the date, time and place at which the school board shall hold a public hearing on the proposed change. The public hearing shall be held at least 7 days prior to the date of the spring election.

(b) The school district clerk shall include in the notice of the spring election a statement that the election ballot will include a question on the change requested by the petition. The form of the ballot shall correspond to the form prescribed by the elections board under ss. 5.64 (2) and 7.08 (1) (a) and the question on the ballot shall be:

"Shall the (name of school district) be a (type of school district structure set forth in the petition)?

Yes No"

(3) If a majority of the electors voting at the spring election vote in favor of the change, the school board shall issue an order of school district reorganization effective on the July 1 following the spring election. A certified copy of the order shall be filed as provided under s. 117.01 (2) (c).

History: 1983 a. 27

117.08 Attachment of parcels by school boards. (1) (a) The owner of an individual parcel of property or 10% of the electors residing in territory proposed to be detached from one school district and attached to an adjoining school district may file a written petition with the clerks of the school boards of the affected school districts requesting that the parcel or territory be detached from its present school district and attached to an adjoining school district. The petition shall include a description of the parcel or territory sufficiently accurate to determine its location and the school district in which it is located, as certified by the clerk of each city, town or village within which all or part of the parcel or territory is located. Upon receipt of the petition, each school board shall send a copy of the petition to the state superintendent.

(b) Within 45 days of receipt of the petition under par. (a), the school boards shall hold a joint public hearing at a time and place designated by the school board of the school district

from which the parcel or territory is proposed to be detached. Notice of the proposed transfer and of the hearing, with a description of the parcel or territory proposed to be transferred, shall be published at least 10 days prior to the hearing by the clerk of each school district as a class 1 notice, under ch. 985, in the school districts affected by the proposed transfer. The school board of the school district from which the property is proposed to be detached shall designate a chairman for the hearing and provide for a stenographic record or an electronic recording of the hearing.

(c) The school boards may detach all or a portion of the parcel or territory from its present school district and attach it to the adjoining school district by a resolution adopted by a majority of the members of each school board present and voting, after considering and weighing the factors under s. 117.03 (3) (b). The resolution shall constitute an order of school district reorganization and shall be filed as required by s. 117.01 (2). Action by either school board denying the petition or failure to act on the petition within 45 days after its filing constitutes denial of the petition and termination of jurisdiction.

(2) If the assessed value of the parcel or territory described in the petition under sub. (1) (a), multiplied by its assessment ratio, is equal to or greater than 5% of the equalized valuation of the school district from which the parcel or territory is proposed to be detached, an order of school district reorganization under sub. (1) (c) is appealable under s. 117.03.

(3) (a) If the assessed value of the parcel or territory described in the petition under sub. (1) (a), multiplied by its assessment ratio, is less than 5% of the equalized valuation of the school district from which the parcel or territory is proposed to be detached, any person aggrieved by an order or failure to make an order under sub. (1) (c) may request review by a mediator by filing a written request with the state superintendent within 30 days of the date of the order under sub. (1) (c). Upon receipt of the request, the state superintendent shall appoint a qualified disinterested person to act as a mediator.

(b) The mediator shall inform himself or herself relative to the review by methods established by the state superintendent by rule. The mediator shall make written findings of fact and recommendations for resolution of the review and shall send the findings and recommendations, by registered mail, to the person aggrieved and to the school boards of the school districts affected by the transfer or proposed transfer within 60 days of his or her appointment as a mediator. The school boards shall act

on the recommendations within 30 days of receipt of the recommendations by adopting a resolution affirming, modifying or reversing the resolution adopted under sub. (1) (c). This resolution shall constitute an order of school district reorganization, shall be filed as required under s. 117.01 (2) and is appealable under s. 117.03.

(4) The state superintendent may charge a person requesting review by a mediator under sub. (3) (a) or appealing to the board under subs. (2) and (3) (b) a fee sufficient to reimburse the department for the costs of the mediator and the board.

History: 1979 c. 173; 1981 c. 177; 1983 a. 27.

117.09 Attachment upon failure to operate school. (1) If a school district for 2 or more successive years has failed to operate a school as required by law, the territory of such school district shall be attached to one or more school districts that do operate schools by the board under this section. Within 60 days of the date on which a school district becomes subject to this section, the state superintendent shall so notify the school district clerk and the clerk of each municipality in which part of the school district lies. Prior to August 30 of the year in which the school district becomes subject to this section, the board shall issue an order of school district reorganization attaching the school district to one or more operating school districts. Notwithstanding s. 117.01 (2) (b), orders issued under this section shall take effect upon being filed as provided in s. 117.01 (2) (c). The school board of each district to which any territory is attached under this section shall levy and collect a special tax against the property in the territory so attached for such amount as is payable for tuition and transportation, at the time of the attachment, by the school district in which the attached territory was located prior thereto, in the proportion that the equalized valuation of the attached territory bears to the total equalized valuation of the school district in which such territory was located prior to such attachment.

(3) If an order issued under this section is voided, the nonoperating school district shall arrange for the attendance of its pupils at the schools of one or more other school districts on a nonresident tuition basis, and shall provide transportation to and from such schools by the methods provided in s. 121.55 for all of its pupils who reside 2 miles or more from the school they attend. Until a valid order has been issued, the nonoperating school district may use such funds on hand as have been raised or appropriated for operation and maintenance or levy taxes to pay for such tuition and transpor-

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tation. If an order is voided, the board shall issue new orders of school district reorganization within the succeeding year.

History: 1979 c. 303; 1983 a. 27.

117.10 High school establishment in common school district. (1) A common school district operating only elementary grades and having an assessed valuation of \$2,500,000 or more may establish a high school if evidence satisfactory to the state superintendent is given that at least 75 persons of school age who are residents of the school district are prepared and desire to attend a high school.

(2) Upon the filing of a petition with the school board signed by 10% of the electors residing in the school district or upon adoption by the school board of a resolution requesting the establishment of a high school in the school district, the school board shall submit the ques-

tion to the annual or a special school district meeting. Notice that the annual or special school district meeting will vote on the question of establishment of a high school shall be given by the school district clerk as notice of an annual meeting is given.

(3) The vote on the question shall be by ballot. The ballots shall be worded "For High School" and "Against High School". If the question is adopted, the school district clerk shall report the action to the state superintendent for his approval. If the state superintendent approves, he shall issue a certificate of establishment of a high school; otherwise he shall disapprove the action. The certificate for establishment of a high school shall become void unless the school functions within 3 years from the date of the vote.