



1995 ASSEMBLY BILL 400

May 24, 1995 - Introduced by Representatives SCHNEIDERS, DUFF, GOETSCH, HAHN and SKINDRUD, cosponsored by Senator DARLING. Referred to Committee on Education.

1 **AN ACT** *to renumber* 117.22 (1) (a); *to amend* 117.05 (1m), 117.05 (2) (a), 117.05
2 (4) (a) (intro.), 117.05 (5) (a), 117.05 (8), 117.05 (9) (a) (intro.), 117.05 (9) (b),
3 117.05 (10), 117.14 (1) (intro.), 117.14 (1) (b), 117.17 (1) (a), 117.20 (1), 117.22
4 (1) (b) 1. and 2m., 117.22 (2) (a) 1. and 117.22 (2) (b); and *to create* 117.03 (4m),
5 117.05 (4) (d), 117.05 (9) (a) 2., 117.105, 117.17 (1) (bm), 117.22 (1) (a) 2. and
6 117.25 (4) of the statutes; **relating to:** procedures to create a school district out
7 of the territory of one or more existing school districts and information provided
8 to persons filing a petition for a referendum on the detachment of large territory
9 from one school district and its attachment to another school district.

Analysis by the Legislative Reference Bureau

This bill creates procedures under which a new school district may be created out of a portion or portions of the territory of one or more existing school districts. The procedures created by the bill are as follows:

1. Initiation of reorganization

The reorganization may be initiated by either of the following:

a. The filing of a petition to create the new school district by owners of more than 25% of the territory proposed to be included in the new school district, as measured by its assessed valuation divided by the assessment ratio of the taxation district, or more than 25% of the electors residing in that territory; or

b. The adoption of resolutions to create the new school district by the school boards of all of the school districts containing territory within the proposed district.

2. Information

Following the filing of the petition or the adoption of the resolutions to initiate the reorganization process, the department of public instruction (DPI) must provide the person petitioning for the reorganization, if applicable, and each affected school board, with information relating to each affected school district's enrollment, school locations, valuation, operating costs, debt, shared costs, state aid, federal aid, tax levy, recent construction and recent referenda on the issuance of bonds or promissory notes that failed to win approval. Some of this information must be provided separately for the territory from each affected school district that is proposed to be transferred to the school district created by the reorganization. The department must update this information prior to the referendum on the reorganization if a referendum is required.

3. Opportunity for referendum if reorganization initiated by school boards

If the reorganization is initiated by the adoption of resolutions by the affected school boards, owners of more than 10% of the territory proposed to be included in the new school district, as measured by its assessed valuation divided by the assessment ratio of the taxation district, or more than 10% of the electors residing in that territory, may petition for a referendum on the creation of the proposed new school district. Alternatively, the school board of any school district that will lose 7% or more of its equalized valuation or enrollment may direct that a referendum be held. If no petition for a referendum is filed and no school board directs that a referendum be held, the new school district is created as proposed by the school boards.

4. Referendum if reorganization is initiated by petition

If the reorganization is initiated by the filing of a petition by property owners or electors, a referendum must be held on the creation of the proposed new school district.

5. Referendum vote counting

If a referendum is held, the new school district must be approved by a majority of the persons voting who reside in each affected school district.

6. Allocation of assets and liabilities

If the reorganization is approved, the school district boundary appeal board must issue an order assigning the existing school districts' assets and liabilities among the existing school districts and the school district created by the reorganization. The affected school boards may establish an alternative method to govern the apportionment of assets and liabilities, but the resulting apportionment is subject to approval by the school district boundary appeal board.

7. Treatment of employes

Any employe of a school district from which territory is detached to create the new school district who is laid off as a result of the reorganization has priority over other persons, for 3 years after the effective date of the reorganization, for new positions and vacant positions for which the employe is qualified in the new school district. Any employe who wishes to exercise this priority must notify the new school district in writing.

8. *Timetable*

The following timetable applies to these reorganizations:

a. Before June 1: A petition to initiate the process must be filed or the school boards must vote to initiate the process.

b. Before July 15: DPI must provide information.

c. Before August 1: School boards must act if they initiated the process.

d. Before the 2nd Tuesday in September: If the school boards initiated the process, an elector petition for a referendum may be filed.

e. Before October 15: DPI must update the previously provided information.

f. Tuesday following first Monday in November: A referendum must be held, if required.

g. Generally, before or at the spring election: The election for school board members for the new school district must be held (assuming there is no court appeal).

h. July 1 or the following July 1: Effective date of reorganization.

No specific date is established for the order of the school district boundary appeal board apportioning assets and liabilities.

9. *Other*

The bill provides that a person filing a petition for a referendum on the transfer of large territory must be given a written description of reorganization procedures prepared by DPI. Currently, this information must be given to a person filing a petition to initiate a reorganization procedure that may be initiated by petition (i.e., transfers of large or small territory) or a person filing a petition for a referendum on any other reorganization that may be decided by referendum (i.e., consolidations).

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 (4m) of the statutes is created to read:

2 117.03 (4m) "Membership" has the meaning given in s. 121.004 (5).

3 **SECTION 2.** 117.05 (1m) of the statutes is amended to read:

4 117.05 (1m) BOARD AND APPEAL PANEL MEETINGS. The state superintendent shall
5 set the time and place for meetings of the board under ss. 117.10, 117.105 (6), 17.12
6 (5) and 117.132 and for meetings of appeal panels under ss. 117.12 (4) and 117.13.

7 **SECTION 3.** 117.05 (2) (a) of the statutes is amended to read:

1 117.05 (2) (a) *Board*. The state superintendent shall appoint 7 members of the
2 board to perform any review under ss. 117.10, 117.105 (6), 117.12 (5) and 117.132.
3 The 7 members shall include the state superintendent or his or her designee on the
4 board, 2 board members from school districts with small enrollments, 2 board
5 members from school districts with medium enrollments and 2 board members from
6 school districts with large enrollments. Any action of the board under this chapter
7 requires the affirmative vote of at least 4 of the 7 members appointed under this
8 paragraph.

9 **SECTION 4.** 117.05 (4) (a) (intro.) of the statutes is amended to read:

10 117.05 (4) (a) *Pending proceedings*. (intro.) A reorganization proceeding is
11 pending from the date that a petition is filed under s. 117.105 (1) (a), 117.11 (2) or
12 117.12 (2) or a resolution is adopted under s. 117.08 (1), 117.09 (1), 117.10 (1), 117.105
13 (1) (b), 117.13 (2) or 117.132 (2) until the date on which the latest of any of the
14 following occurs:

15 **SECTION 5.** 117.05 (4) (d) of the statutes is created to read:

16 117.05 (4) (d) *One-year limitation on consideration of creation of a school*
17 *district*. 1. Except as provided in subd. 2., no petition for the detachment of territory
18 from one school district and its inclusion in a school district proposed to be created
19 under s. 117.105 (1) (a) may be filed under s. 117.105 (1) (a) before the 2nd June 1
20 following the filing of a petition under s. 117.105 (1) (a) for any reorganization that
21 includes any of the same territory.

22 2. The limitation under subd. 1. does not apply if the school board of each
23 affected school district adopts a resolution waiving the limitation. If a school board
24 denies a request for a waiver under this subdivision, the denial may not be appealed
25 under this chapter.

1 **SECTION 6.** 117.05 (5) (a) of the statutes is amended to read:

2 117.05 **(5)** (a) *Territory in district.* All territory within this state shall be
3 included in a school district operating elementary school grades and a school district
4 operating high school grades or in a school district operating both elementary and
5 high school grades. No territory may be detached from a school district unless by the
6 same order it is attached to another school district or included in a new school district
7 created by the order. No territory may be detached from a school district that
8 operates high school grades unless by the same order it is attached to or included in
9 another school district that operates high school grades.

10 **SECTION 7.** 117.05 (8) of the statutes is amended to read:

11 117.05 **(8)** INFORMATION ON REORGANIZATION PROCEDURES. The department shall
12 prepare a written description of the procedures for school district reorganizations
13 under ss. 117.08 to 117.132 and distribute copies to school district clerks. A school
14 district clerk shall give a copy of the description to any person, upon request, and to
15 any person filing a petition with the clerk under s. 117.08 (3) (a) 2., 117.09 (3) (a) 2.,
16 117.105 (1) (a) or (3) (b) 2., 117.11 (2) or (4) (a) 2. or 117.12 (2), at the time the petition
17 is filed.

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

19 117.05 **(9)** (a) (intro.) The state superintendent may charge the following
20 persons a fee sufficient to reimburse the department for the costs of the board under
21 ss. 117.10, 117.105 and 117.132:

22 **SECTION 9.** 117.05 (9) (a) 2. of the statutes is created to read:

23 117.05 **(9)** (a) 2. Each school board that issues an order to create a school district
24 under s. 117.105 (2) or (4).

25 **SECTION 10.** 117.05 (9) (b) of the statutes is amended to read:

1 117.05 (9) (b) The clerk of the school district ordering the dissolution or
2 requesting review shall pay the fee under par. (a) 3. or 4. to the state superintendent.
3 The clerk of each school district issuing an order to create a school district shall pay
4 the fee under par. (a) 2. to the state superintendent. The state superintendent shall
5 allocate the fee under par. (a) 2. among the school districts from which territory is
6 being detached to create a new school district if there is more than one such school
7 district. The secretary of the board shall forward the fee collected under par. (a) 5.
8 to the state superintendent.

9 **SECTION 11.** 117.05 (10) of the statutes is amended to read:

10 117.05 (10) STATE SUPERINTENDENT TO ADVISE. The state superintendent shall
11 advise and consult with school boards regarding school district organization and
12 reorganization. If, in the state superintendent's opinion, one or more school districts
13 should be created, altered, consolidated or dissolved, he or she may make
14 recommendations to the school boards of the affected school districts.

15 **SECTION 12.** 117.105 of the statutes is created to read:

16 **117.105 Creation of a school district. (1) INITIATION OF PROCEDURES.**
17 Procedures to create a school district from the territory of one or more existing school
18 districts may be initiated by any of the following methods:

19 (a) Before June 1 of any year, 25% or more of the electors residing in the
20 territory of the proposed school district, or owners of 25% or more of that territory,
21 as measured by its assessed valuation divided by the assessment ratio of the taxation
22 district, may file a written petition requesting the creation of a school district with
23 the clerk of the school district that has the highest equalized valuation of the affected
24 school districts. The school district clerk with whom the petition is filed shall
25 immediately send a certified notice of the petition to the school board of each affected

1 school district and to the secretary of the board. The petition shall include all of the
2 following:

3 1. A description of the territory of the proposed school district that is
4 sufficiently accurate to determine its location in the school districts from which it is
5 proposed to be detached, as certified by the clerk of each city, town or village within
6 which all or part of the territory is located.

7 2. The number of pupils residing in the territory of the proposed school district
8 who, on the most recent of the preceding 3rd Friday of September or 2nd Friday of
9 January, were enrolled in the school districts from which the territory is proposed to
10 be detached, as certified by the clerks of those school districts.

11 3. The name of the school district proposed to be created by the reorganization.

12 4. The type of school district to be created and the grades to be taught by the
13 proposed school district pursuant to s. 115.01 (2), (3) and (5).

14 5. The number of school board members for the proposed school district under
15 s. 120.01 or 120.41, the terms of initial members of the school board under s. 120.02
16 (3) (a), and the method of election of school board members under s. 120.06 or 120.42.

17 6. The date of the first election of school board members of the proposed school
18 district, as provided under s. 117.22 (2) (b).

19 7. The time and place for the first annual meeting of the proposed school
20 district, if one is to be held.

21 (b) Before June 1, the school board of each school district from which territory
22 will be detached to create the proposed school district may adopt a resolution stating
23 that the school board will consider the creation of the school district. The resolution
24 shall include a description of the territory sufficiently accurate to determine its
25 location in the school districts from which it is proposed to be detached, as certified

1 by the clerk of each city, town or village within which all or part of the territory is
2 located, and the number of pupils residing in that territory who, on the most recent
3 of the preceding 3rd Friday of September or 2nd Friday of January, were enrolled in
4 the school districts from which the territory is proposed to be detached, as certified
5 by the clerks of those school districts. The school district clerk of each school board
6 adopting a resolution under this paragraph shall send a certified copy of the
7 resolution to the school boards of each of the other affected school districts and to the
8 secretary of the board.

9 **(2) SCHOOL BOARD ACTION.** Before the August 1 following the adoption of
10 resolutions under sub. (1) (b), the school boards of the affected school districts may
11 order the creation of the proposed school district by the adoption, by each of those
12 school boards, of a resolution ordering the creation of the school district. Failure of
13 a school board to adopt a resolution either ordering or denying the reorganization
14 before August 1 constitutes a denial of the reorganization by that school board. The
15 school district clerk of each school board adopting a resolution under this subsection,
16 either ordering or denying the reorganization, shall, within 5 days after the adoption
17 of the resolution, send a certified copy of the resolution to the school boards of each
18 of the other affected school districts and file a certified copy of the resolution as
19 provided in s. 117.17 (2). If the school board of each affected school district adopts
20 a resolution ordering the creation of a proposed school district, the reorganization
21 shall take effect on the following July 1, unless the school board of each affected
22 school district orders that the reorganization shall take effect on the 2nd July 1
23 following the order of reorganization or a referendum is required under sub. (3) (b).

24 **(3) REFERENDUM.** (a) A referendum shall be held under par. (c) on each
25 reorganization petition filed under sub. (1) (a) before June 1 of that year.

1 (b) A referendum shall be held under par. (c) on any reorganization ordered by
2 the school boards of all of the affected school districts under sub. (2) if any of the
3 following occurs:

4 1. At the time of adopting the resolution under sub. (2), the school board of any
5 affected school district directs the holding of a referendum under this subdivision.
6 A school board may direct the holding of a referendum under this subdivision if 7%
7 or more of the enrollment of the school district resides in the territory proposed to be
8 detached from that school district by the reorganization or the assessed value of the
9 territory of that school district that is proposed to be detached from the school district
10 by the reorganization, divided by the assessment ratio of the taxation district, is 7%
11 or more of the equalized valuation of the school district.

12 2. Before the 2nd Tuesday of September following the adoption of the
13 resolutions under sub. (2), a petition conforming to the requirements of s. 8.40
14 requesting a referendum, signed by at least 10% of the electors who reside in any
15 affected school district, is filed with the clerk of the school district that has the
16 highest equalized valuation of the affected school districts. The validity of the
17 petition shall be governed by the rules promulgated under s. 8.40 (3).

18 (c) If a referendum is required under par. (a) or (b), the school district clerk of
19 the school board adopting the resolution or the school district clerk receiving the
20 petition shall immediately notify the school boards of each of the other affected school
21 districts, the secretary of the board and the clerk of each city, village or town, any part
22 of which is contained within an affected school district. The referendum shall be held
23 in the affected school districts as provided in s. 117.20. Votes shall be counted
24 separately for each affected school district.

1 **(4) REFERENDUM RESULTS.** If a majority of the votes cast in each affected school
2 district is in favor of the creation of the proposed school district, at the time of
3 canvassing the returns the school boards of the affected school districts shall make
4 and file an order of school district reorganization under s. 117.17 (2). The
5 reorganization shall take effect on the following July 1 unless, within 30 days after
6 canvassing the returns, the school board of each affected school district adopts and
7 files a resolution, as provided in s. 117.17 (2), stating that the reorganization shall
8 take effect on the 2nd July 1 following the order of reorganization.

9 **(5) INFORMATION.** Before the July 15 following the filing of a petition under sub.
10 (1) (a) or the adoption of a resolution by the school board of each affected school
11 district under sub. (1) (b), the department shall provide the information described in
12 pars. (a) to (g) to the person who filed the petition under sub. (1) (a), if applicable, and
13 to each affected school board, based on the most recent available information that
14 will provide consistent information to the affected school boards and the public, as
15 determined by the department. If a referendum is required under sub. (3), the
16 department shall provide updated information to the person who filed the petition
17 under sub. (1) (a), if applicable, and to each affected school board not later than
18 October 15 of that year. Each affected school board shall provide information
19 requested by the department to assist the department in complying with this
20 subsection. The department shall provide the following information under this
21 subsection:

22 (a) *Grade structure.* The grade level structure of each affected school district,
23 as described in s. 115.01 (2), including which grades are included in the school
24 district's elementary grades, middle schools, junior high schools and high schools.

1 (b) *Enrollment.* 1. The enrollment of each affected school district, the
2 enrollment of each affected school district in each of the preceding 5 years and the
3 projected enrollment of each affected school district in each of the succeeding 5 years.

4 2. The enrollment of each affected school district attributable to pupils residing
5 in territory of the school district that is proposed to be included in the school district
6 created by the reorganization, the enrollment of each affected school district
7 attributable to that territory in each of the preceding 5 years, and the projected
8 enrollment of each affected school district attributable to that territory in each of the
9 succeeding 5 years.

10 3. Separate totals shall be given for the information described in subds. 1. and
11 2. for each grade, for all of the elementary grades, for all of the middle school grades,
12 for all of the junior high school grades, for all of the high school grades and for all
13 grades.

14 (c) *Schools.* The name, location, number of classrooms, grades taught,
15 enrollment by grade, number of teachers by grade and area of certification and
16 number of administrators for each school in each affected school district and whether
17 that school is located in the territory proposed to be included in the school district
18 created by the reorganization.

19 (d) *Valuation.* 1. The equalized valuation and equalized valuation per member
20 of each affected school district.

21 2. For each affected school district, the assessed value of the property of the
22 school district that is proposed to be included in the school district to be created by
23 the reorganization, divided by the assessment ratio of the appropriate taxation
24 district.

1 3. For each affected school district, the amount determined under subd. 2. for
2 that school district divided by the school district's membership residing on the
3 property of the school district that is proposed to be included in the school district to
4 be created by the reorganization.

5 4. The assessed value of the property of the school district proposed to be
6 created by the reorganization, divided by the assessment ratio of the appropriate
7 taxation district.

8 5. The amount determined under subd. 4. divided by the estimated
9 membership of the school district that is proposed to be included in the school district
10 to be created by the reorganization residing on that property.

11 (e) *Operating costs and debt.* 1. For each affected school district, the net and
12 gross costs of the general fund and debt service fund, as defined in s. 121.004 (3), (4)
13 and (6), including the net cost of the debt service fund, as described in s. 121.07 (6)
14 (a).

15 2. The total outstanding debt of each affected school district; the type of debt
16 outstanding, such as whether the debt is in the form of bonds, trust fund loans under
17 s. 24.61 or promissory notes to private lenders; a description of any capital projects
18 funded by the debt; the amount and type of the debt attributable to each such project;
19 and the annualized debt service attributable to each such project.

20 (f) *Shared costs; state and federal aid; tax levy.* For each affected school district,
21 the school district's shared cost, state aid under ss. 121.08, 121.10 and 121.105 and
22 total state aid; the school district's federal aid; the school district's property tax levy
23 rate and total property tax levy; and the school district's revenue from other sources.

24 (g) *Recent construction and referenda.* 1. A description, including location and
25 costs, of any school district building constructed during the preceding 5 years in any

1 affected school district and whether the building is located in territory proposed to
2 be included in the school district created by the reorganization.

3 2. A description, including location and costs, of any planned school district
4 building construction.

5 3. The date, amount and purpose of any proposal to issue a bond or promissory
6 note for which a referendum was held during the preceding 5 years under s. 67.05
7 (6a) or 67.12 (12) if the issuance was not approved by the voters at the referendum.

8 **(6) BOARD ORDER.** If an order of reorganization is issued under sub. (2) or (4),
9 the board shall review any apportionment of assets and liabilities proposed by the
10 person filing the petition under sub. (1) (a) or by the school board of any affected
11 school district and shall issue an order apportioning the assets and liabilities
12 according to the criteria under s. 66.03 (2c) (a) 1. The order shall be filed and
13 distributed as provided under s. 117.17 (2). The school boards of the affected school
14 districts may establish an alternative method to govern the assignment of assets and
15 liabilities as provided in s. 66.03 (2c) (b), except that the resulting apportionment of
16 assets and liabilities is subject to approval by the board and, if approved by the board,
17 shall be incorporated into an order by the board under this subsection. If the board
18 does not approve the apportionment of assets and liabilities resulting from the
19 alternative method, it shall proceed to issue an order apportioning the assets and
20 liabilities.

21 **SECTION 13.** 117.14 (1) (intro.) of the statutes is amended to read:

22 117.14 **(1)** (intro.) Any person aggrieved by the denial of a consolidation under
23 s. 117.08 (2) or 117.09 (2), the granting of a detachment and attachment of territory
24 under s. 117.11 (3), the denial of the creation of a school district under s. 117.105 (2)
25 or any order of the board or an appeal panel under this chapter may, within 30 days

1 after copies of the order are filed with the secretary of the board under s. 117.17 (2),
2 appeal the order to a circuit court as follows:

3 **SECTION 14.** 117.14 (1) (b) of the statutes is amended to read:

4 117.14 (1) (b) If the order is issued under ss. ~~117.11~~ 117.105 to 117.132, the
5 appeal shall be filed with the circuit court of any county in which any of the territory
6 proposed to be detached from one school district and attached to, or included in,
7 another school district is located or with the circuit court of any county in which any
8 territory of the school district to which the territory is proposed to be attached, or the
9 school district that is proposed to be created, is located.

10 **SECTION 15.** 117.17 (1) (a) of the statutes is amended to read:

11 117.17 (1) (a) Every order of school district reorganization under s. 117.08 ~~or~~,
12 117.09 or 117.105 that creates a new school district shall state the school districts
13 which are dissolved or from which territory is detached to create the new school
14 district, name the new school district, state the type of school district and the grades
15 to be taught by the new school district pursuant to s. 115.01 (2), (3) and (5), designate
16 the number of school board members under s. 120.01 or 120.41, designate the terms
17 of initial members of the school board under s. 120.02 (3) (a), designate the method
18 of election of school board members under s. 120.06 or 120.42, direct the election of
19 school board members under s. 120.06 or 120.42, insofar as applicable, designate the
20 date of the first election of school board members, as provided under s. 117.22 (2) (b),
21 and fix the time and place for the first annual meeting of the new school district, if
22 one is to be held. The secretary of the board shall give notice of the first annual
23 meeting, if one is to be held, under s. 120.08 (1) (c), and shall designate a person to
24 act as temporary chairperson of the annual meeting until a chairperson is elected.

25 **SECTION 16.** 117.17 (1) (bm) of the statutes is created to read:

1 117.17 (1) (bm) Every order of school district reorganization under s. 117.105
2 shall describe the territory of the school districts from which territory is detached to
3 create the new school district, state the school district created by the order and
4 describe the territory of the school district created by the order.

5 **SECTION 17.** 117.20 (1) of the statutes is amended to read:

6 117.20 (1) If a referendum is required under ss. 117.08 to 117.11, it shall be held
7 on the Tuesday after the first Monday in November following receipt of the petition
8 or adoption of the resolution under s. 117.08 (3) (a), 117.09 (3) (a), 117.10 (3) (a),
9 117.105 (1) or (3) (b) or 117.11 (4) (a).

10 **SECTION 18.** 117.22 (1) (a) of the statutes is renumbered 117.22 (1) (a) 1.

11 **SECTION 19.** 117.22 (1) (a) 2. of the statutes is created to read:

12 117.22 (1) (a) 2. If a school district is created under s. 117.105, the school boards
13 of the school districts from which territory is detached to create the school district
14 shall constitute the joint interim school board of the new school district.

15 **SECTION 20.** 117.22 (1) (b) 1. and 2m. of the statutes are amended to read:

16 117.22 (1) (b) 1. If no referendum is required, on the 2nd Tuesday of September
17 following the adoption of the resolution under s. 117.08 (2) ~~or~~, 117.09 (2) or 117.105
18 (2).

19 2m. If a referendum is required under s. 117.08 (3) ~~or~~, 117.09 (3) or 117.105 (3),
20 on the 31st day following the date the order of reorganization is filed under s. 117.08
21 (4) ~~or~~, 117.09 (4) or 117.105 (4).

22 **SECTION 21.** 117.22 (2) (a) 1. of the statutes is amended to read:

23 117.22 (2) (a) 1. The clerk of the affected school district that has the highest
24 equalized valuation, if an order of reorganization is issued under s. 117.08 or 117.105.

25 **SECTION 22.** 117.22 (2) (b) of the statutes is amended to read:

