Legislative Council Note, 1967: This section combines s. 40.819 and 40.82 and makes the sections applicable to all school districts.

Sub. (1) (1st sentence) based on s. 40.82 which is substantially shortened and consolidated. The separate subsections of present s. 40.82 grant the authority to hire a school district superintendent to all but very small common school districts operating only elementary grades. Sub. (1) makes the grant of authority generally applicable.

Sub. (1) (2nd sentence) restates and combines s. 40.819 (1) and the last portion of s. 40.82 (1), and makes clear that the statement in present s. 40.82 (1) providing that the administrative authority of the school district superintendent is exercised under the direction of the school board is applicable in all instances.

Sub. (2) like s. 40.819 (3) (1st and first part of last sentences).

Sub. (3) restates s. 40.819 (2).

Sub. (4) identical to s. 40.819 (3) (part of last sentence).

Sub. (5) restates s. 40.819 (5).

Present s. 40.819 (3) (last part of last sentence) deleted because the requirement is stated permissively and therefore is meaningless.

Present s. 40.819 (4) is deleted and the responsibility for filing the annual school district report is given to the school district clerk in a city school district under subch. II of ch. 129. As a practical matter, it is likely that the school district superintendent will actually prepare the report; however, the filing of the report is made a responsibility of the appropriate school board member. [Bill 353-S]

119.25 History: 1967 c. 92; Stats. 1967 s. 119.25; 1969 c. 276 s. 598 (1) (a); 1969 c. 366 s. 117 (3) (a), (g).

Legislative Council Note, 1967: Revises s. 40.36 (10m). The word "licensed" before physician is deleted because s. 990.01 (20) defines "physician" as a person holding a license from the state board of medical examiners. Section 121.32 (3) of this act contains the health examination requirements for drivers of privately owned school busses. [Bill 353-S]

For discussion of 40.36 (10m), Stats. 1957, providing for examination of school employees and school children by an optometrist and physician, see 47 Atty. Gen. 62.

119.26 History: 1967 c. 92; Stats. 1967 s. 119.26.

Legislative Council Note, 1967: Revises s. 40.31. [Bill 353-S]

Mandamus will not lie to compel a school district clerk to direct payment of a judgment against a school district which is without money, nor to compel certification of the judgment to the town clerk, for levy to pay it. Slama v. Young, 199 W 82, 225 NW 330.

119.27 History: 1967 c. 93; Stats. 1967 s. 119.27.

Legislative Council Note, 1967: Revises s. 40.301. The last sentence of present s. 40.301 is deleted because it is unnecessarily repetitious. [Bill 353-S]

119.08 (1) 119.10 (1) (1st sentence) 119.34 (1)
(1st phrase) 119.10 (2) (2nd sentence) 119.34 (2)
(2nd phrase) 119.10 (3) (3rd sentence) 119.34 (3)
(1st part) 119.10 (4) (1st phrase) 119.34 (4)
(2nd phrase) 119.10 (5) (last part) 119.34 (11)
(last part) 119.10 (6) (last sentence) 119.34 (12)

119.09 (1) and last phrases) 119.08 (1) (1st sentence) 119.16 (1)
(1st phrase) 119.08 (2) (2nd sentence) 119.16 (2)
(2nd phrase) 119.08 (3) (1st part) 119.16 (7)
(last part) 119.08 (4) (last sentence) 119.16 (17)

119.09 (1) (1st sentence) 119.32 (1); and part deleted; see note to 119.32 (1).
(2nd sentence) 119.32 (1) (1st part) 119.20 (2)
(2nd sentence) 119.32 (2) (last part) 119.20 (1) (a)
(last sentence) 119.32 (3) (1st sentence) 119.20 (3)
(1st part) 119.32 (5) (2nd sentence) 119.20 (4)
(3rd sentence) 119.32 (6) (3rd sentence) 119.20 (1)
(1st phrase) 119.24 to 119.27, except 119.24. (18)

119.09 (1) (1st part) 119.20 (2) (1st sentence) 119.20 (1) (a)
(2nd sentence) 119.20 (3) (2nd sentence) 119.20 (4)
(last part) 119.20 (5) (3rd sentence) 119.20 (6)

119.09 (1) (1st part) 119.20 (2) (1st sentence) 119.20 (1) (a)
(2nd sentence) 119.20 (3) (2nd sentence) 119.20 (4)
(last part) 119.20 (5) (3rd sentence) 119.20 (6)

119.09 (1) (1st part) 119.20 (2) (1st sentence) 119.20 (1) (a)
(2nd sentence) 119.20 (3) (2nd sentence) 119.20 (4)
(last part) 119.20 (5) (3rd sentence) 119.20 (6)
provision is removed which related to vacan­
(1st sentence). The language of the 3rd and 4th sentences of sub. (2) is taken from parallel provisions in s. 120.06 (7). The 2nd sentence is new and, in conformity with present practice, provides that if a can­
didate is running for a position to be filled for an unexpired term, he files for the specific position.

Sub. (3) based on s. 119.02 (2) (last part of last phrase).

Sub. (4) based on s. 119.03 (4) (1st sentence and 1st part of 2nd sentence).

Section 119.02 (last part of 2nd sentence) de­
leted. This provision is superseded by s. 6.40 which requires voting machines in Milwau­
kee.

Section 119.02 (last sentence) deleted be­
cause obsolete. [Bill 2-S]

119.06 History: 1960 c. 45; Stats. 1969 s. 119.06.

Legislative Council Note, 1969: This sec­tion brings together in one place various pro­
visions dealing with the initial establish­
ment of a board of school directors in a city of the 1st class.

Sub. (1) based on s. 119.03 (4) (2nd sentence) (last part).

Sub. (2) based on s. 119.03 (1) and removes a potentially confusing requirement that the secretary-business manager of the board act as the secretary of the commission.

Sub. (3) based on s. 119.03 (2) (1st, 2nd and 3rd phrases).

Sub. (4) based on s. 119.03 (3). The refer­
ence in present law to publishing the notice under sub. (4) “at least once” is changed to re­
quire publication of “a class I notice, under ch. 989,” in the interest of conforming to the
general notice requirements.

Sub. (5) based on s. 119.04 (1) (1st part of 1st sentence).

Sub. (6) based on s. 119.03 (2) (1st part of last phrase) and s. 119.02 (part of 1st sentence).

Sub. (7) based on s. 119.20 and an obsolete provision is removed which related to vacan­
cies in office at the time of the 1941 Milwau­
kee school law codification. [Bill 2-S]

119.08 History: 1969 c. 45; Stats. 1969 s. 119.08.

Legislative Council Note, 1969: Sub. (1) based on s. 119.013 (1) (last part of 1st sentence).

A provision making judicial office compatible with membership on the board is deleted because it conflicts with s. 356.22 (2) which makes judges ineligible to “hold any office of public trust.”

Sub. (2) based on s. 119.02 (part of 1st sentence and 2nd and 3rd sentences). The lan­
guage of the 3rd and 4th sentences of sub. (2) is taken from parallel provisions in s. 120.06 (7). The 2nd sentence is new and, in conformity with present practice, provides that if a can­
didate is running for a position to be filled for an unexpired term, he files for the specific position.

Sub. (3) based on s. 119.02 (2) (last part of last phrase).

Sub. (4) based on s. 119.03 (4) (1st sentence and 1st part of 2nd sentence).

Section 119.02 (last part of 2nd sentence) de­
leted. This provision is superseded by s. 6.40 which requires voting machines in Milwau­
kee.

Section 119.02 (last sentence) deleted be­
cause obsolete. [Bill 2-S]

119.10 History: 1960 c. 45; Stats. 1969 s. 119.10.

Legislative Council Note, 1969: Sub. (1) based on s. 119.016 (1).

Sub. (2) based on s. 119.04 (1) (last part of 1st sentence and 2nd and last sentences).

Sub. (3) revises and rearranges s. 119.05 (4).

Sub. (4) restates s. 119.05 (3).

Sub. (5) (1st sentence) revises s. 119.04 (2).

Sub. (6) (2nd sentence) restates on s. 119.04 (3).

Sub. (7) restates s. 119.04 (5). Throughout this section where “officer” was used in connection with elections or appoint­
ments by the board, “person” has been substi­
tuted since “officer” is an undesirably limit­
ing term. [Bill 2-S]

119.12 History: 1969 c. 45; Stats. 1969 s. 119.12.

Legislative Council Note, 1969: Sub. (1) restates s. 119.05 (3).

Sub. (2) restates s. 119.06 (2).

Sub. (3) restates s. 119.015 (2).

Sub. (4) like s. 119.02 (2).

Sub. (5) based on s. 119.04 (4). The specific enumeration of boards in present s. 119.04 (4) was deleted as unnecessary because they are covered by the general reference to boards and commissions.

Sub. (6) like s. 119.09 (5). [Bill 2-S]

119.16 History: 1969 c. 45; Stats. 1969 s. 119.16.

Legislative Council Note, 1969: Sub. (1) restates s. 119.015 (1) (1st part of 1st sentence).

Sub. (2) based on and combines s. 119.07 (1) and 119.13 (1) (1st part). In the 1st sen­tence, the present enumeration of the types of schools to be established is deleted to more accurately reflect the board’s authority to es­
tablish the kinds of schools in such combina­
tions as it determines. Also, the last sentence clarifies that the board’s districting duty is
to divide the city into “attendance” districts. Present s. 119.07 (5) (1st part) is deleted because its provisions are covered in this subsection.

Sub. (3) (a) revises s. 119.07 (2) (1st part).

Sub. (3) (b) revises s. 119.07 (4).

Sub. (4) restates s. 119.08 (2) (1st part of 2nd phrase).

Sub. (5) based on s. 119.08 (3).

Sub. (6) revises and rearranges s. 119.07 (6) (last 2 sentences).

Sub. (7) based on s. 119.09 (1) (1st part of 2nd and last sentences).

Sub. (8) (a) revises and rearranges s. 119.16 (6).

Sub. (8) (b) restates s. 65.02 (1) (last sentence). That sentence presently is misplaced. Although part of a definition section, it sets substantive requirements for the budgets of the board of school directors and the Milwaukee city vocational board. When vocational districting is completed by July 1, 1979, this sentence will apply only to the board of school directors’ budget. Accordingly, the appropriate requirement is inserted in this paragraph. The corresponding provision in s. 65.02 (1) is not deleted by this act, but will be deleted in a vocational law recodification [LRB-1] which has an effective date of July 1, 1970.

In sub. (8) (b) and elsewhere in this bill “auditing officer of the city” has been substituted for various references to “comptroller” or “comptroller or other auditing officer of the city.”

Sub. (9) restates s. 119.22. [Bill 2-S]

Although property acquired for school purposes, but no longer so required, may be disposed of by sale, the common council of the city of Milwaukee may not, without the consent of the board of school directors of the city, sell property, such as buildings and sites, acquired by the board for school purposes. State ex rel. Roelvink v. Zeidler, 268 W 34, 66 NW (2d) 652.

119.18 History: 1969 c. 45, 174, 301; 1969 c. 392 ss. 49, 50; Stats. 1969 s. 119.18.

Legislative Council Note, 1969: Sub. (1) revises s. 119.08 (2) (last part of 2nd phrase) and deletes s. 119.08 (2) (3rd phrase) which is a highly unnecessary proviso that board rules shall not conflict with the constitution or state law.

Sub. (2) revises s. 119.08 (4) (b).

Sub. (3) restates s. 119.07 (5) (last part).

Sub. (4) based on s. 119.08 (1) and (2) (1st phrase).

Sub. (5) restates s. 119.08 (4) (m). The term “welfare worker” is used to conform with the terminology in s. 119.16 (2) (b).

Sub. (6) restates s. 119.08 (4) (d).

Sub. (7) restates s. 119.08 (4) (dm).

Sub. (8) restates s. 119.08 (4) (c).

Sub. (9) based on s. 119.08 (4) (g) which was considerably shortened by deleting unnecessary language.

Sub. (10) (a) restates s. 119.08 (4) (a) (1st part). The designation of the retirement fund conforms to the nomenclature of ch. 237, laws of 1967. Sub. (10) (b) restates and rearranges s. 119.08 (4) (a) (last part). Section 119.07 (6) (1st sentence) is deleted because its specific provisions are covered under the general language of sub. (10) (b).

Sub. (11) restates and arranges s. 119.10 (last part of 3rd sentence).

Sub. (12) restates and arranges s. 119.08 (4) (l).

Sub. (13) restates and arranges s. 119.08 (4) (m).

Sub. (14) restates s. 119.08 (4) (h). A statement in present law that sales and charges under this subsection do not constitute a proprietary function is deleted, because it was made obsolete by the Holytz decision. [Holytz v. City of Milwaukee, 17 Wis. 2d 26 (1962)]. The court ruling in that decision stated: “In determining the tort liability of a municipality it is no longer necessary to divert its operations into those which are proprietary and those which are governmental.” The statute enacted as a result of the Holytz case (s. 895.43) makes no distinction between proprietary and governmental functions.

Sub. (15) restates s. 119.08 (4) (x). A non-sensical reference to a dollar limitation on the purchase price of motor vehicles is deleted.

Sub. (16) restates s. 119.083. The reference to the “general educational fund” is corrected to refer to “school operations fund”.

Sub. (17) restates s. 119.08 (4) (e).

Sub. (18) restates s. 119.08 (4) (f).

Sub. (19) based on s. 119.08 (4) (h) and deletes an unnecessary reference to fence height.

Sub. (20) restates s. 119.15 (last phrase).

Present s. 119.08 (4) (intro.) deleted because unnecessary. [Bill 2-S]

119.20 History: 1969 c. 45; Stats. 1969 s. 119.20.

Legislative Council Note, 1969: Sub. (1) (a) establishes a definition for this section based on a reference in s. 119.09 (3) (last part of 1st phrase of 1st sentence).

Sub. (1) (b) is new. The name of the committee is broadened to more accurately reflect the statutory duties of the committee by using the name given this committee in the rules of the board.

Sub. (2) restates s. 119.09 (3) (1st part of 1st phrase of 1st sentence).

Sub. (3) restates s. 119.09 (3) (2nd and last phrases of 1st sentence).

Sub. (4) based on s. 119.09 (3) (3rd, 7th, and 8th sentences).

Sub. (5) restates s. 119.09 (3) (9th sentence). [Bill 2-S]

119.22 History: 1969 c. 45; Stats. 1969 s. 119.22.

Legislative Council Note, 1969: Sub. (1) restates s. 119.09 (3) (4th and 5th sentences).

Sub. (2) restates s. 119.09 (3) (6th sentence) and generally provides the same directive as in s. 119.15 (except last phrase) which is deleted.

Present s. 119.14 is deleted because covered by general language in the appropriate sections of ch. 119. [Bill 2-S]

119.34 History: 1969 c. 45; Stats. 1969 s. 119.34.

Legislative Council Note, 1969: Sub. (1) based on s. 119.13 (1) (last part) and reflects the establishment of the term “attendance district” elsewhere in this draft.
April is deleted which is applicable only to the su-
restates s. 119.09 (1) (1st sentence) and (1st
part

Provisions of s. 119.04 (4) (1st phrase). Instead of
the

obsolete provision relating to trade school
pedrentent of schools who was in office on
(2) (1st sentence).

Sub. (3) like s. 119.09 (4) (3rd phrase).
Sub. (4) like s. 119.09 (4) (1st part of 3rd
phrase).

Sub. (5) based on s. 119.09 (4) (last part of
3rd phrase).

Present s. 119.09 (4) (last phrase) is deleted
because it is covered by cross reference under
s. 119.04.

Present s. 119.13 (3) (2nd phrase) is deleted
because it is covered in s. 119.18 (2) (b) (last
sentence) which applies to Milwaukee by cross
reference in s. 119.04.

Present ss. 119.13 (3) (last 4 phrases) and
119.08 (4) (i) are deleted because the same ma-
terial is covered in the basic law relating to
handicapped children (see s. 119.02) which ap-
plies to Milwaukee by cross reference in s.
119.04. Also, the deletions are warranted be-
cause in some instances the provisions of ss.
119.13 (3) and 119.08 (4) (i) conflict with the
provisions of s. 115.82. [Bill 2-S]

119.30 History: 1969 c. 45; Stats. 1969 s.
119.30.

Legislative Council Note, 1969: Restates s.
119.28 (1) and (2) (last phrase of 2nd sentence).

Editor's Note: The following cases among
them which was enacted for a specific pur-
pose and is no longer necessary. [Bill 2-S]

Editor's Note: Sec. 3, ch. 29, Spl. S. 1920,
providing that the Milwaukee school board
shall annually determine and fix a schedule of
salaries for all 'teachers' in the common or
graded schools of such city" was discussed
and applied in Peterson v. Milwaukee, 226
W 546, 273 NW 128.

119.42 History: 1969 c. 45; Stats. 1969 s.
119.42.

Legislative Council Note, 1969: Sub. (1)
based on s. 119.16 (4) (a). The 3rd sentence mod-
ifies existing law so that it is clear that this
is an initial provision.

Sub. (2) restates s. 119.16 (1) (d). [Bill 2-S]

Editor's Note: The following cases (among
others) dealt with the application of prior stat-
utory provisions to questions concerning dis-
charge, probation and acquisition of tenure in
the Milwaukee school system: State ex rel.
Thompson v. Board of School Directors, 179 W
264, 191 NW 746; State ex rel. Mellen v. Trus-
tees, 165 W 663, 201 NW 383; State ex rel.
Ny-
berg v. School Directors, 199 W 570, 299 NW
883; State ex rel. Schroeder v. Board of School
Directors, 225 W 444, 274 NW 301; Blau v.
Mil-
aukee, 232 W 197, 276 NW 567, 289 NW 874,
297 NW 594; Morgan v. Potter, 228 W 246, 286
NW 760; and State ex rel. Wasilewski v. Board
of School Directors, 14 W (2d) 245, 111 NW (2d
196.)
Legislative Council Note, 1969: Based on s. 119.235, [Bill 2-S]

119.46 History: 1969 c. 45; 1969 c. 154 ss. 295g, 295p; Stats. 1969 s. 119.46.

Legislative Council Note, 1969: Sub. (1) based on s. 119.16 (1) (a) (1st sentence). The specific reference in present law to "trade schools" is deleted because the general language of this subsection covers those schools.

Sub. (2) based on s. 119.16 (1) (b) (1st sentence, 1st part). The present law is considerably shortened by deleting the specific levy rate requirements and inserting a cross reference to s. 65.07 (1) (e), which states the specific requirements. [Bill 2-S]

119.47 History: 1969 c. 45; Stats. 1969 s. 119.47.

Legislative Council Note, 1969: New and is designed primarily to cross refer to board functions in s. 43.50. [Bill 2-S]

119.48 History: 1969 c. 45; Stats. 1969 s. 119.48.

Legislative Council Note, 1969: Sub. (1) based on s. 119.16 (1) (a) (2nd sentence) and (b) (part of last part of 1st sentence and last sentence)

Sub. (2) restates s. 119.16 (1) (b) (2nd sentence).

Sub. (3) (a) based on s. 119.16 (1) (b) (part of last part of 1st sentence). The present law is shortened by deleting the specific levy rate requirement and inserting a cross reference to s. 65.07 (1) (f), which states the specific requirement.

Sub. (3) (b) restates s. 119.16 (1) (b) (2nd sentence). [Bill 2-S]

119.49 History: 1969 c. 45; Stats. 1969 s. 119.49.

Legislative Council Note, 1969: Revises s. 119.17. [Bill 2-S]

119.50 History: 1969 c. 45; Stats. 1969 s. 119.50.

Legislative Council Note, 1969: Revises s. 119.16 (2). The reference to the "finance committee of the board" is deleted. This committee is not created by statute and does not in fact perform the function indicated. [Bill 2-S]

119.52 History: 1969 c. 45; Stats. 1969 s. 119.52.

Legislative Council Note, 1969: Revises and rearranges s. 119.07 (2) (last part) and (3). [Bill 2-S]

119.54 History: 1969 c. 45; Stats. 1969 s. 119.54.

Legislative Council Note, 1969: Based on s. 119.16 (1) (c). In sub. (2), the necessary additions are made to take into account the possibility that an insufficient petition may be filed. In sub. (3) (a), the "regular election" date is geared to "the date of such certificate". [Bill 2-S]

119.58 History: 1969 c. 45; Stats. 1969 s. 119.58.

Legislative Council Note, 1969: Based on s. 119.21 (3). [Bill 2-S]

119.60 History: 1969 c. 45; Stats. 1969 s. 119.60.

Legislative Council Note, 1969: Restates s. 119.21 (1). [Bill 2-S]

119.62 History: 1969 c. 45; Stats. 1969 s. 119.62.

Legislative Council Note, 1969: Restates s. 119.18. [Bill 2-S]

119.66 History: 1969 c. 45; Stats. 1969 s. 119.66.

Legislative Council Note, 1969: Revises s. 119.18. The word "janitor" was deleted in the enumeration in the 2nd sentence, since it is assumed this position is covered by the term "or other employee of the board". [Bill 2-S]

119.68 History: 1969 c. 45; Stats. 1969 s. 119.68.

Legislative Council Note, 1969: Sub. (1) restates s. 119.11 (1) (3rd, 4th and last sentence).

Sub. (2) restates s. 119.11 (2). Present s. 119.11 (2) is deleted. The provision authorized a procedure for making payments for invalid contracts under certain circumstances. This provision was enacted as continuing law in the 1941 codification of the Milwaukee school laws, in the mistaken belief that it served as a counterpart to a provision in the general school laws. That general school law provision, however, was not continuing law but was limited to pre-1926 actions. In the 1953 recodification of the school laws, this provision was repealed as obsolete. [Bill 2-S]

In an action for negligence against a third party the school board cannot be impleaded as a defendant; such an action lies only against the city. Helmin v. Student Transportation Co. 29 W 2d 302, 139 NW (2d) 103. [Bill 2-S]

CHAPTER 120.

School District Government.

120.01 History: 1967 c. 22; Stats. 1967 s. 120.011.

Legislative Council Note, 1987: This section is new and specifies the types of school districts to which this subchapter applies. [Bill 355-S]

120.01 History: 1967 c. 22; Stats. 1967 s. 120.01.

Legislative Council Note, 1987: Restates and rearranges s. 40.26 (1) and adds a reference to the special method under present s. 40.26 (6) (s. 120.02 (2) (a) for increasing school boards to 11 members. [Bill 355-S]

120.02 History: 1967 c. 82; Stats. 1967 s. 120.02; 1969 c. 165 ss. 4, 10.

Legislative Council Note, 1967: Sub. (1) based on s. 40.26 (2).

Sub. (2) based on s. 40.26 (3).

Sub. (3) (a) to (c) restates 40.26 (3). Sub. (3) (d) restates 40.26 (7). The last sentence of par. (d) is based in part on s. 40.87 (1) (last sentence) and fills a void in existing law by giving the responsibility for the preparation.