



1997 SENATE BILL 267

July 24, 1997 - Introduced by Senator ROESSLER. Referred to Committee on Education.

1 **AN ACT to renumber and amend** 120.02 (3) (e); **to amend** 5.58 (3), 17.26 (1),
2 120.02 (1), 120.02 (2) (a), 120.02 (2) (b), 120.02 (3) (a) 3., 120.02 (3) (b), 120.02
3 (3) (c), 120.02 (4), 120.06 (2), 120.06 (3), 120.06 (7) (b), 120.06 (12) and 120.42
4 (1) (a); and **to create** 5.15 (2) (f) 5., 5.58 (1g) (bm), 5.60 (4) (bm), 117.09 (6),
5 117.11 (6), 117.12 (6), 117.13 (4), 117.132 (5), 120.02 (3) (e) 2. and 120.045 of the
6 statutes; **relating to:** election of school board members from apportioned areas
7 by the electors of those areas.

Analysis by the Legislative Reference Bureau

Currently, school districts other than 1st class city school districts elect school board members at large. Members may be elected to unnumbered seats, in which those candidates who receive the greatest numbers of votes on a district-wide basis are elected, to numbered seats, in which those candidates who receive the greatest numbers of votes on a district-wide basis for each numbered seat are elected, or from apportioned areas, in which those candidates residing in each apportioned area who receive the greatest numbers of votes on a district-wide basis are elected. Apportioned areas need not be equal in population.

This bill provides that when a school district elects school board members from apportioned areas, only the electors of each apportioned area may vote in the election to determine the winner from that area. To facilitate the change, all school districts

SENATE BILL 267

which, on October 1, 1998, elect school board members from apportioned areas must reapportion the boundaries of their apportioned areas so that each apportioned area consists of contiguous whole wards or municipalities and is equal in population, insofar as practicable. The terms of all school board members in such districts expire on the 4th Monday in April of 1999 and new school board members are elected from the reapportioned areas at the 1999 spring election. In a unified school district in which the school board receives a valid petition by October 1, 1998, requesting discontinuance of the election of school board members from apportioned areas, the bill provides for a referendum to be held on that question at the 1999 spring election and for implementation to occur at the 2000 spring election if the question is rejected.

The bill also requires all school districts which elect school board members from apportioned areas to reapportion the boundaries of their apportioned areas following each federal decennial census to maintain population equality.

For further information see the *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.** 5.15 (2) (f) 5. of the statutes is created to read:

2 5.15 (2) (f) 5. That part of a school district required to create an apportioned
3 area under s. 120.02 (2) that has a population which is as nearly as practicable equal
4 to other apportioned areas in the school district.

5 **SECTION 2.** 5.58 (1g) (bm) of the statutes is created to read:

6 5.58 (1g) (bm) In a common, union high or unified school district that elects
7 school board members from apportioned areas, there shall be a separate ballot giving
8 the names of candidates for any seat to be filled on the school board from each
9 apportioned area.

10 **SECTION 3.** 5.58 (3) of the statutes is amended to read:

11 5.58 (3) NAMES ON SPRING BALLOT. Only 2 candidates for state superintendent,
12 for any judicial office, for any elected seat on a metropolitan sewerage commission
13 or town sanitary district commission, in counties having a population of 500,000 or
14 more only 2 candidates for member of the board of supervisors within each district,

SENATE BILL 267

1 in counties having a population of less than 500,000 only 2 candidates for each
2 member of the county board of supervisors from each district or numbered seat or
3 only 4 candidates for each 2 members of the county board of supervisors from each
4 district whenever 2 supervisors are elected to unnumbered seats from the same
5 district, in 1st class cities only 2 candidates for any at-large seat and only 2
6 candidates from any election district to be elected to the board of school directors, in
7 school districts electing school board members to numbered seats, or pursuant to an
8 apportionment plan ~~or district representation plan~~, only 2 school board candidates
9 for each numbered seat or ~~within~~ for each district apportioned area, and twice as
10 many candidates as are to be elected members of other school boards or other elective
11 officers receiving the highest number of votes at the primary shall be nominees for
12 the office at the spring election. Only their names shall appear on the official spring
13 ballot.

14 **SECTION 4.** 5.60 (4) (bm) of the statutes is created to read:

15 5.60 (4) (bm) In a common, union high or unified school district that elects
16 school board members from apportioned areas, there shall be a separate ballot giving
17 the names of candidates for any seat to be filled on the school board from each
18 apportioned area.

19 **SECTION 5.** 17.26 (1) of the statutes is amended to read:

20 17.26 (1) In a common, union high or unified school district, by appointment
21 by the remaining members. The loser of a tie vote at the last election for school board
22 member shall be appointed upon his or her request to fill a vacancy if the vacancy
23 occurs during the term for which the loser was a candidate, except that if the school
24 district elects school board members from apportioned areas, the loser shall be
25 appointed only to fill a vacancy that occurs within the apportioned area in which the

SENATE BILL 267**SECTION 5**

1 loser was a candidate at the last election. Each appointee shall hold office until a
2 successor is elected and takes office under s. 120.06 (4) or 120.42 (2). When a vacancy
3 occurs in the office of a board member who is in the last year of his or her term, or
4 when a vacancy occurs after the spring election but on or before the last Tuesday in
5 November in the office of a board member who is not in the last year of his or her term,
6 the successor shall be elected at the next spring election. When a vacancy occurs
7 after the last Tuesday in November and on or before the date of the next spring
8 election in the office of a board member who is not in the last year of his or her term,
9 the successor shall be elected at the 2nd following spring election.

10 **SECTION 6.** 117.09 (6) of the statutes is created to read:

11 117.09 (6) REAPPORTIONMENT. If only a portion of the territory of a school district
12 is attached or detached under the order, and if the school board of the attaching or
13 detaching school district is elected from apportioned areas, the school board of that
14 school district shall reapportion the apportioned areas within the school district if
15 required under s. 117.11 (6) in accordance with that subsection.

16 **SECTION 7.** 117.11 (6) of the statutes is created to read:

17 117.11 (6) REAPPORTIONMENT. If the school board of the attaching or detaching
18 school district is elected from apportioned areas, and the school district clerk of either
19 school district determines that territory which is transferred between the school
20 districts has a population that exceeds 2% of the population of that school district,
21 the terms of office of all members of the school board of that school district shall
22 expire on the 4th Monday of April following the effective date of the transfer. At the
23 spring election preceding that date, new school board members shall be elected in
24 accordance with s. 120.02 to represent the school district. No later than November
25 15 following the effective date of the transfer the school board of the school district

SENATE BILL 267

1 electing members from apportioned areas shall adopt a revised plan of
2 apportionment for elections under s. 120.045. Notwithstanding s. 120.045, the
3 apportioned areas contained in the plan need not consist of whole wards or
4 municipalities, if the territory that is attached or detached does not consist of whole
5 wards or municipalities, but the school district clerk shall attempt to determine the
6 population of each apportioned area using the best evidence available and shall
7 ensure that the population of each apportioned area is as nearly uniform as
8 practicable.

9 **SECTION 8.** 117.12 (6) of the statutes is created to read:

10 117.12 (6) REAPPORTIONMENT. If the school board of the attaching or detaching
11 school district is elected from apportioned areas, the school board of that school
12 district shall reapportion the apportioned areas within the school district if required
13 under s. 117.11 (6) in accordance with that subsection.

14 **SECTION 9.** 117.13 (4) of the statutes is created to read:

15 117.13 (4) REAPPORTIONMENT. If the school board of the attaching or detaching
16 school district is elected from apportioned areas, the school board of that school
17 district shall reapportion the apportioned areas within the school district if required
18 under s. 117.11 (6) in accordance with that subsection.

19 **SECTION 10.** 117.132 (5) of the statutes is created to read:

20 117.132 (5) REAPPORTIONMENT. If the school board of the attaching or detaching
21 school district is elected from apportioned areas, the school board of that school
22 district shall reapportion the apportioned areas within the school district if required
23 under s. 117.11 (6) in accordance with that subsection.

24 **SECTION 11.** 120.02 (1) of the statutes is amended to read:

SENATE BILL 267**SECTION 11**

1 120.02 (1) CHANGE IN NUMBER OF SCHOOL BOARD MEMBERS. If, at least 30 days
2 prior to the day of the annual school district meeting, in a common or union high
3 school district, or at least 45 days prior to the day of the election of school board
4 members in a unified school district, a petition conforming to the requirements of s.
5 8.40 requesting a change in the number of school board members is filed with the
6 school district clerk the clerk shall incorporate in the notice of the annual meeting
7 or election a statement that at the meeting or election the question of changing the
8 number of school board members to the number requested in the petition will be
9 voted upon. If the school district elects school board members under sub. (2), the
10 petition shall specify a proposed reapportionment of the apportioned areas within
11 the school district in such manner that each apportioned area consists of contiguous
12 whole wards or municipalities and each apportioned area is of equal population,
13 insofar as practicable. If the proposed apportioned areas are not of equal population,
14 insofar as practicable, the petition is invalid. The petition is not subject to
15 modification at the annual meeting. The petition shall be signed by not less than 100
16 electors residing in the school district, except that in school districts which contain,
17 in whole or in part, a city of the 2nd or 3rd class, the petition shall be signed by not
18 less than 500 electors residing in the school district. If, at the meeting or election of
19 school board members, a resolution based on a petition requesting a change in the
20 number of school board members is adopted by a majority vote, school board
21 members shall be elected at the next school board election and thereafter in
22 accordance with sub. (3).

23 **SECTION 12.** 120.02 (2) (a) of the statutes is amended to read:

24 120.02 (2) (a) If, at least 30 days prior to the day of the annual meeting, in a
25 common or union high school district, or at least 45 days prior to the day of the

SENATE BILL 267

1 election of school board members in a unified school district, a petition conforming
2 to the requirements of s. 8.40 requesting the establishment of a plan of
3 apportionment of school board members is filed with the school district clerk the
4 clerk shall incorporate notice of receipt of such petition in the notice of the annual
5 meeting or election. The petition shall specify the proposed plan of apportionment
6 of school board members among the cities, towns and villages or parts thereof within
7 the school district and set the total number of school board members at not more than
8 11. The proposed plan shall divide the school district into apportioned areas
9 consisting of contiguous whole wards or municipalities of equal population, insofar
10 as practicable. If the proposed apportioned areas are not of equal population, insofar
11 as practicable, the petition is invalid. The proposed plan is not subject to
12 modification at the annual meeting. Apportioned areas established under a plan
13 shall remain in effect until the school board reapportions the areas under s. 120.045,
14 unless the plan is discontinued earlier. The petition shall be signed by not less than
15 100 electors residing in the school district, except that in school districts which
16 contain, in whole or in part, a city of the 2nd or 3rd class the petition shall be signed
17 by not less than 500 electors residing in the school district. If a majority vote of the
18 annual meeting or election approves the plan set forth in the petition, the plan shall
19 remain in operation until revised by the same procedure. School board members
20 elected under this subsection shall be elected by a vote of the electors of the ~~entire~~
21 ~~school district~~ each apportioned area in accordance with the plan prepared under
22 sub. (3).

23 **SECTION 13.** 120.02 (2) (b) of the statutes is amended to read:

24 120.02 (2) (b) An order of school district reorganization issued under s. 117.08,
25 117.09 or 117.27 may contain such a plan of apportionment of school board members,

SENATE BILL 267**SECTION 13**

1 and the. In such case, the order shall contain a description of the apportioned areas
2 to be created within the school district in accordance with s. 120.045. The
3 determination of terms of school board members shall be as provided in sub. (3).

4 **SECTION 14.** 120.02 (3) (a) 3. of the statutes is amended to read:

5 120.02 (3) (a) 3. An allocation of the number of candidates to be elected to 1,
6 2 and 3 year terms at the first election, ~~the.~~ If the school district elects school board
7 members at large, the 3-year terms to shall be filled by the appropriate number of
8 candidates receiving the highest number of votes, the 2-year terms to shall be filled
9 by the appropriate number of candidates receiving the next highest number of votes
10 and the 1-year terms to shall be filled by the appropriate number of candidates
11 receiving the next highest number of votes. If the school district elects school board
12 members from apportioned areas, the plan shall designate which apportioned areas
13 shall elect school board members to initial 3-year terms, 2-year terms and 1-year
14 terms.

15 **SECTION 15.** 120.02 (3) (b) of the statutes is amended to read:

16 120.02 (3) (b) ~~In case of~~ If the school district elects school board members at
17 large and there is a tie vote in the election of school board members, the election shall
18 be determined by lot and the loser by lot shall become next in order of election if
19 additional positions on the school board are to be filled. If the school district elects
20 school board members from apportioned areas and there is a tie vote between the
21 candidates for the seat representing one apportioned area, the election shall be
22 determined by lot and the loser may fill any vacancy that occurs within the same
23 apportioned area in which the loser is a candidate before the next election from that
24 apportioned area under s. 17.26 (1).

25 **SECTION 16.** 120.02 (3) (c) of the statutes is amended to read:

SENATE BILL 267

1 120.02 (3) (c) ~~The~~ If the school district elects school board members at large,
2 the tenure of school board members whose terms have not expired shall not be
3 affected. If the school district elects school board members from apportioned areas,
4 the terms of all incumbent members shall expire on the 4th Tuesday of April
5 following the election at which the plan is implemented.

6 **SECTION 17.** 120.02 (3) (e) of the statutes is renumbered 120.02 (3) (e) (intro.)
7 and amended to read:

8 120.02 (3) (e) (intro.) Whenever a school district with more than 3 school board
9 members votes to reduce the number of school board members, ~~one~~:

10 1. If the school district elects school board members at large, one less school
11 board member shall be elected annually thereafter until the school board is reduced
12 to the approved number of members, but not less than one member shall be elected
13 each year.

14 **SECTION 18.** 120.02 (3) (e) 2. of the statutes is created to read:

15 120.02 (3) (e) 2. If the school district elects school board members from
16 apportioned areas, new members shall be elected to fill all seats on the school board
17 at the first election following adoption of the change in the number of school board
18 members.

19 **SECTION 19.** 120.02 (4) of the statutes is amended to read:

20 120.02 (4) ELECTION TO NUMBERED SEATS. If a school district elects members of
21 the school board at large and if, at least 30 days prior to the day of the annual
22 meeting, in a common or union high school district, or at least 45 days prior to the
23 day of the election of school board members in a unified school district, a petition
24 conforming to the requirements of s. 8.40 which sets forth a plan for the assignment
25 of a number to each seat on the school board is filed with the school district clerk, the

SENATE BILL 267**SECTION 19**

1 school district clerk shall incorporate notice of receipt of such petition in the notice
2 of the annual meeting or election required under s. 120.06 (8) (c). The petition shall
3 be signed by not less than 100 electors residing in the school district, except that in
4 school districts which contain, in whole or in part, a city of the 2nd or 3rd class, the
5 petition shall be signed by not less than 500 electors residing in the school district.
6 If a majority vote of the annual meeting or election approves the plan set forth in the
7 petition, the plan shall remain in operation until revised by the same procedure.

8 **SECTION 20.** 120.045 of the statutes is created to read:

9 **120.045 Reapportionment of apportioned areas within school**
10 **districts.** In a common, union high or unified school district in which the school
11 board members are elected from apportioned areas, within 60 days after the
12 municipal governing body of each municipality that is wholly or partly contained
13 within the school district enacts an ordinance or adopts a resolution under s. 5.15
14 dividing the municipality into wards, if the municipality is required to do so, or
15 otherwise within 60 days after the necessary population data becomes available from
16 the federal government or is published by an agency of this state, the school board
17 shall, by vote of a majority of the members of the board, adopt a revised plan for the
18 apportioned areas of the school district. Each apportioned area under the plan shall
19 consist of contiguous whole wards or municipalities and shall be equal in population
20 insofar as practicable. The plan shall designate the length of terms of school board
21 members who are initially elected under the plan in accordance with s. 120.02 (3) (a)
22 3. Except as otherwise required under ss. 117.09 (6), 117.11 (6), 117.12 (6), 117.13
23 (4) and 117.132 (5), the plan shall be effective until the school board adopts a revised
24 plan under this section following the next federal decennial census, unless the
25 method of election of school board members is changed prior to that date or unless

SENATE BILL 267

1 a court of competent jurisdiction orders the school board to revise the plan at an
2 earlier date. If the school board is ordered to revise the plan, the revised plan shall
3 be effective until the school board adopts a revised plan under this section following
4 the next federal decennial census.

5 **SECTION 21.** 120.06 (2) of the statutes is amended to read:

6 120.06 (2) School board members shall be electors of the school district and
7 shall be elected at large by a plurality vote of the electors of the school district unless
8 the school district elects school board members from apportioned areas, in which case
9 the school board members shall be elected by a plurality vote of the electors of the
10 apportioned areas from which they seek office.

11 **SECTION 22.** 120.06 (3) of the statutes is amended to read:

12 120.06 (3) The regular terms of school board members shall be 3 years, except
13 as otherwise provided under s. ss.17.26, 117.11 (6) and 120.02 (3) (c).

14 **SECTION 23.** 120.06 (7) (b) of the statutes is amended to read:

15 120.06 (7) (b) The school board shall require a primary election if there are
16 more than 2 candidates for any seat on a 3-member board or more than twice as
17 many candidates as there are members to be elected to an unnumbered school board
18 of more than 3 members. In school districts in which a plan of apportionment of
19 school board members under s. 120.02 (2) or a plan for election of school board
20 members to numbered seats has been adopted, the school board shall require a
21 primary election for particular apportioned areas for which there are more than
22 twice as many candidates as there are members to be elected and for any numbered
23 seat for which there are more than 2 candidates. In a primary election for school
24 board members to represent an apportioned area, only electors of the apportioned
25 area within the school district where the election is held may vote in the election.

SENATE BILL 267**SECTION 23**

1 When there is a primary election it shall be held in conjunction with the spring
2 primary.

3 **SECTION 24.** 120.06 (12) of the statutes is amended to read:

4 120.06 (12) An election in accordance with s. 17.26 to fill an unexpired term
5 on a school board shall be held in the same manner as a regular school board election
6 is held. In the case of a school board of more than 3 members, elections to fill
7 unexpired terms shall be held simultaneously with the elections for regular terms,
8 ~~the. If the school district elects school board members at large, the regular terms to~~
9 shall be filled by the appropriate number of candidates receiving the highest number
10 of votes and the unexpired terms ~~to~~ shall be filled by the appropriate number of
11 candidates receiving the next highest number of votes. The unexpired term of a
12 member who represented an apportioned area shall be filled by the electors of that
13 apportioned area.

14 **SECTION 25.** 120.42 (1) (a) of the statutes is amended to read:

15 120.42 (1) (a) Except as provided in par. (b), school board members in a unified
16 school district shall be electors of the school district and shall be elected at large, or
17 at large to numbered seats ~~or at large to an apportioned election district area~~ by a
18 plurality vote of the electors of the school district or from apportioned areas by a
19 plurality vote of the electors of each apportioned area. School board members in a
20 unified school district shall be elected under s. 120.06 at the spring election. All
21 candidates for school board seats shall file a declaration of candidacy as provided in
22 s. 120.06 (6) (b).

23 **SECTION 26. Nonstatutory provisions; reapportionment of existing**
24 **apportioned areas of school districts.**

SENATE BILL 267

1 (1) (a) Except as provided in paragraph (b), no later than October 1, 1998, the
2 school board of each school district which on that date elects school board members
3 from apportioned areas under section 120.02 (2) of the statutes, as affected by this
4 act, shall adopt a revised plan of apportionment for the election of school board
5 members. Under the revised plan, each apportioned area shall consist of contiguous
6 whole wards or municipalities and shall be equal in population, insofar as
7 practicable. The plan shall designate the length of terms of school board members
8 who are initially elected under the plan in accordance with section 120.02 (3) (a) 3.
9 of the statutes, as affected by this act. The plan shall be effective for all elections until
10 a revised plan is adopted under section 120.045 of the statutes, as created by this act.
11 Except as provided in paragraph (b) and notwithstanding section 120.06 (3) of the
12 statutes, as affected by this act, the terms of office of all school board members in
13 school districts which, on October 1, 1998, elect school board members from
14 apportioned areas under section 120.02 (2) of the statutes, as affected by this act,
15 shall expire on the 4th Monday in April of 1999.

16 (b) In a unified school district where school board members are elected from
17 apportioned areas under section 120.02 (2) of the statutes, as affected by this act, if
18 the school board receives a valid petition under section 120.02 (2) (a) of the statutes,
19 as affected by this act, for discontinuance of the election of school board members
20 from apportioned areas prior to October 1, 1998, the school board shall call a
21 referendum on the question of adoption of the change proposed in the petition to be
22 held at the spring election in 1999 and shall not reapportion the existing apportioned
23 areas in the school district unless the electors of the school district reject the
24 question. If the question is rejected, the school board shall complete its
25 reapportionment no later than one year later than the date prescribed under

SENATE BILL 267**SECTION 26**

1 paragraph (a) and the terms of the school board members shall expire in that school
2 district one year later than the date prescribed in paragraph (a).

3 (c) Notwithstanding section 5.15 (1) (a) of the statutes, a municipality may
4 create a new ward under section 5.15 (2) (f) 5. of the statutes, as created by this act,
5 to facilitate creation of apportioned areas of a school district that are of equal
6 population for purposes of compliance with paragraphs (a) and (b) during the period
7 in which paragraphs (a) and (b) apply.

8 **SECTION 27. Effective date.**

9 (1) This act takes effect on May 15, 1998.

10 (END)