

**Representative Gard will chair for the following bill.**

## **AB 304 – School District Reorganization**

### **Recommendation**

Support bill in its current form (i.e. with standing committee amendment.)

### **Bill History**

Introduced on 04/17/97 by Olsen/Darling; passage recommended by Assembly Committee on Education (7-6) with one amendment (AA 1, adopted 13-0); referred to JFC on 6/17/97.

### **Executive Action Needed**

Act on any amendments introduced today.  
Adopt AA 1.  
Recommend passage as amended.

### **Note**

This bill would establish procedures for creating new school districts in Wisconsin. It is supported, essentially by Republicans from sprawl-land. It would help people in fast growing areas create their own districts, and provide for a 10% increase in the revenue limit for each of the districts from which the new territory would be detached. For the four years following separation, these districts would qualify for additional equalization aid.

Pros: Smaller, more logically-bordered districts will be more responsive to parents and students. It would allow recognition of the new realities, where people have filled in what used to be cornfields. Old district borders weren't designed to serve these people, and force excessive, fuel and time consuming transportation.

Cons: Consolidation has been the policy of the state for a long time. Economies of scale could be lost. Also, equalization aid boosts put even more on stripping out the temporary aid boosts.

It's probably okay to support the bill. It provides a new option and erects plenty of hurdles, including referendums, before new districts can be formed. While this bill doesn't provide new options for Milwaukee, it might provide a model for future reconfiguration of Milwaukee schools into smaller, more responsive units.



## Legislative Fiscal Bureau

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March 11, 1998

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 304: School District Reorganization

Assembly Bill 304 would establish procedures under which a school district could be created out of the territory of one or more existing school districts. Assembly Bill 304 was introduced on April 17, 1997, and referred to the Assembly Committee on Education. On June 3, 1997, that Committee adopted Assembly Amendment 1 on a vote of 13-0 and recommended the bill, as amended, for passage on a vote of 7-6.

### SUMMARY OF BILL

#### Introduction

Under current law, a new school district can only be created through the consolidation of two or more existing school districts. Assembly Bill 304 would establish procedures under which a school district could be created out of a portion or portions of the territory of one or more existing school districts. School district creation could occur using procedures that would involve a number of steps that would take place over a timetable of two years, before a new school district could be created. As with the current law reorganization procedures under Chapter 117 of the statutes, the procedures under the bill would not apply to Milwaukee Public Schools.

#### Initiation of Procedures to Create a New School District

The procedure to create a new school district could be initiated by either of two methods.

Under the first method, before July 1 of any year, a petition requesting the creation of a school district could be filed with the clerk of the school district that has the highest equalized valuation of the affected school districts. The petition would have to include the approximate boundaries of the proposed school district. The petition would have to be signed by at least 20% of the electors residing in the affected school districts and by at least 5% of the electors residing in each affected school district. The school district clerk would be required to immediately send a certified notice of the petition to the school board of each affected school district and to the secretary of the School District Boundary Appeal Board (SDBAB).

Under the second method, the school board of each school district from which territory would be detached could adopt a resolution stating that the school board would consider the creation of the school district. The resolution would have to include the approximate boundaries of the proposed school district. The school district clerk of each school board adopting a resolution would be required to immediately send a certified copy of the resolution to the school boards of each of the other affected school districts and to the secretary of the SDBAB.

Upon receipt of a petition or notice under the first method or upon the adoption of a resolution and the receipt of copies of resolutions under the second method, a school board would be required to hold a public hearing on the proposed reorganization.

#### **Determination of Precise Boundaries and Assets of Proposed New School District**

Before November 1 following the initiation of procedures to create a new school district under either method, the school boards of the affected school districts could agree on: (a) the precise boundaries of the proposed school district; and (b) the apportionment of the assets and liabilities between the affected school districts and the proposed school district according to the criteria of the current law procedure for the adjustment of assets and liabilities on division of territory. This could be done by approval of resolutions by the school boards of a majority of the affected school districts. In determining the precise boundaries, the school boards could not detach territory from any additional school districts. The clerk of the school district with the highest equalized valuation of the affected school districts would be required to notify the SDBAB of the school districts agreement or failure to reach an agreement.

If the school boards of a majority of the affected school districts would fail to agree on the precise boundaries or on the apportionment of assets and liabilities by November 1, the SDBAB would be required to do so by the following March 1. In determining the precise boundaries, the Board could not detach territory from any additional school districts.

#### **School Board Action on Creation of Proposed New School District**

The school board of each affected school district would be required to adopt a resolution ordering or denying the creation of the new school district. This resolution would have to be acted on by: (a) February 1 if the boundaries and assets of the new school district were determined by the affected school districts by November 1; or (b) May 1 if the boundaries and

assets of the new school district were determined by the SDBAB by March 1. The resolution would have to state the school board's rationale for its decision and an evaluation of each of the current law factors established as criteria for school district reorganizations. These current law factors are shown in Attachment 1.

If the school board would not act by the required February 1 or May 1 deadlines, it would be deemed to have denied the creation of the school district. The school district clerk of each school board adopting a resolution relating to the creation of a school district would be required, within five days of board action, to send a certified copy of the resolution to the school boards of each of the other affected school districts and file a certified copy with the SDBAB.

### **School District Boundary Appeal Board Review of Proposed Reorganization**

The School District Boundary Appeal Board would be required to review a proposed reorganization if either of the following occur:

a. The school boards of each affected school district would approve the proposed reorganization and a petition would be filed for Board review, signed by at least 10% of the electors residing in the territory of the affected school districts that would not be within the proposed school district. The petition would have to be filed by March 1 if school boards had to act by February 1, or by June 1 if school boards had to act by May 1.

b. The school board of any affected school district would deny the proposed reorganization and a petition would be filed for Board review, signed by at least 10% of the electors residing in the territory of each affected school district. The petition would have to be filed by March 1 if school boards had to act by February 1, or by June 1 if school boards had to act by May 1.

Upon receipt of a petition for review, the Secretary of the Board would be required to immediately notify the school board of each affected school district and the Board would be required to hold a public hearing on the proposed reorganization. After the public hearing and after consulting with the school boards of the affected school districts, but before July 1, the Board could modify the boundaries and the apportionment of assets and liabilities of the proposed school district, unless the Board had previously determined these items. The Board could not modify the boundaries by detaching territory from any additional school districts.

If the Board would modify the boundaries or the apportionment of assets and liabilities, it would be required to immediately notify the school board of each affected school district. Before August 15, the school board of each affected school district would have to adopt a resolution ordering or denying the creation of the new school district, as modified by the Board.

No earlier than August 21, but by October 1, the Board would be required to issue an order either granting or denying the proposed school district reorganization. The order would have to state the Board's rationale for its decision and an evaluation of each of the current law factors

established as criteria for school district reorganizations. The Board could overturn the decision of the school boards only if it would find that the school boards' conclusions regarding the current law factors are not supported by the facts or that the school boards did not properly apply these factors.

### **Referendum Approval of Reorganization**

A referendum to approve the proposed reorganization would be required to be held if any of the following would occur:

- a. The school boards of all of the affected school districts would approve the proposed school district and there is no petition for Board review;
- b. The school boards of all of the affected school districts would approve the proposed school district, there is a petition for Board review and the Board approves the proposed reorganization; or
- c. The school board of one or more of the affected school districts would deny the proposed school district, there is a petition for Board review and the Board approves the proposed reorganization.

If a referendum would be required, the Board would have to immediately notify the school boards of each of the affected school districts and the clerk of each city, village or town with any territory within an affected school district. The referendum would have to be held in the territory of the proposed school district on the Tuesday after the first Monday in the second November following the petition or resolution initiating the proposed school district reorganization procedure.

If the voters would approve the referendum, at the time of canvassing the returns, the school boards would be required to file an order of school district reorganization under current law governing school district reorganization. The reorganization would take effect on the following July 1, unless the school board of the newly-created school district would file a resolution stating that the reorganization would take effect on the second July 1 following the filing of the order of school district reorganization. The order of school reorganization would have to describe the territory of the school districts from which territory would be detached, state the new school district and describe the territory of the new school district.

The first election of school board members would be held at the spring election following approval of the referendum. The bill would specify that a candidate for school board who resides in the territory of the proposed school district and is otherwise a qualified elector, would be considered a qualified elector in the school board election. Any person who would be elected to the school board of the reorganized school district who is also a school board member of an affected school district, could not serve as a member of the new school board unless the person would resign from the other school board prior to receiving the official oath of office.

The bill would specify that school board members elected to the school board under the school district reorganization provisions of the bill would have to reside in the new school district.

### **Limits on Applicability of these Procedures**

The bill would specify that the proposed procedures for school district reorganization would not apply to certain reorganizations. The procedures would not apply to a reorganization that would result in the creation of a school district that would have the same boundaries that an existing school district would have, if territory were detached from one or more other school districts and attached to the existing school district under current law governing detachment and attachment of small territory and territory annexed to certain municipalities, unless the school district would operate only elementary grades.

### **Limitation on Future Reorganization**

The bill would specify that no district created under the proposed procedures could consolidate with another school district under current law governing consolidation of school districts or union high and elementary school districts within ten years of its creation. In addition, no district created under the proposed procedures could have all of its territory attached to another school district under current law governing dissolution of a school district, detachment or attachment of large territory and territory annexed to certain municipalities within ten years of its creation.

This limitation on further reorganization would not apply if the school district was created by detaching territory from a single school district, and the consolidation or attachment would consolidate or attach the school district with the school district from which its territory was detached by the reorganization which created the school district.

### **Hiring Preference for Laid Off Employees**

Assembly Bill 304 would provide that any employe of a school district from which territory would be detached under the procedures established in the bill who is laid off as a result of the reorganization would have priority over other persons for three years after the reorganization. This priority would apply to hiring for new positions and vacant positions for which the person is qualified in the new school district. Any person who wishes to exercise his or her priority, would have to notify the new school district in writing that he or she wishes to be considered for any new position or vacant position. In addition, the person would have to include the address that the school district could use to notify the person of such positions.

## **Waiver from Consolidation for Failure to Operate School as Required by Law**

Under current law, the SDBAB is required to attach the territory of a school district that fails to operate a school as required by law for two or more successive years, to one or more school districts that do so. Assembly Bill 304 would replace the requirement to operate a school as required by law with the requirement that the school district operate sufficient classes at each grade level to provide all pupils who reside in the school district an opportunity to attend class at the appropriate grade level.

In addition, the bill would create an exception to this requirement for school districts created using the procedures established under the bill. Under this exception, before the end of the first school year after a reorganization, the new school district could request the Department of Public Instruction (DPI) to extend the two-year time period by one year. DPI could grant the extension, and additional one-year extensions, if DPI would determine that the school board has adequate plans and is making adequate progress toward operating sufficient classes at each grade level to meet the requirement.

If a school district created using the procedures established under the bill would fail to meet the requirement before the end of the first school year, plus the period of any DPI extensions, the SDBAB would be required to reattach the territory of the school district. The territory would be reattached to each of the school districts from which the territory was detached, unless that school district was no longer an operating school district.

## **Revenue Limit and Aid Increases for School Districts Creating New School District**

Each school district from which territory would be detached to create a school district using the procedures established under the bill, would have its revenue limit in the year that the reorganization takes effect increased by 10% of the school district's state aid.

In the four years following the reorganization, these school districts would qualify for additional equalization aid. This additional aid amount would be calculated by multiplying by 1.1 the state guaranteed valuations used in the three-tier equalization aid formula as well as the district's primary and secondary cost ceilings. This additional aid would be excluded from the calculation of revenue limits.

## **Attendance Allowed in Former School District for Certain Pupils**

If the new school district created under the procedures established under AB 304 would not offer instruction at a pupil's grade level, the pupil could continue to attend his or her old school district, until the new school district would offer such instruction. The new school district would be required to pay tuition to the old school district for the pupil.

A 12th grade pupil could continue to attend school in his or her old school district, rather than in the new school district created under the procedures established under AB 304. The new school district would be required to pay tuition to the old school district for the pupil.

### **Revenue Limit Calculation for the New School District**

The revenue limit that would apply to the new school district for the school year beginning with the effective date of the reorganization would be calculated as follows:

a. For each of the existing school districts, take the prior year per pupil amount and multiply by the number of pupils in the prior year enrolled in the existing district who resided in territory that was detached to create the new school district. The result would be the total revenue associated with each of these areas of territory.

b. Add these amounts to arrive at a total revenue amount, and then divide that total by the number of pupils in the prior year enrolled in the existing district who resided in territory that was detached to create the new school district. The result would be a per pupil revenue amount for the new school district.

c. Add \$206 to the per pupil revenue amount, and multiply the result by the greater of: (1) the number of pupils in the prior year enrolled in the existing district who resided in territory that was detached to create the new school district; or (2) the number of pupils enrolled in the current school year. The result would be the revenue limit amount that would apply to the new school district.

In the first year after reorganization, the base year per pupil amount would be calculated using the prior year number of pupils, and the amount of revenue available to the school district would be calculated using the average number of pupils in the current and prior year. In the second year after reorganization, the base year per pupil amount would be calculated using the average of number of pupils in the two prior years. In the third year after reorganization, the new school district would have three years of enrollment data available, and the current three-year rolling average calculation would be used without modification.

### **Borrowing without Referenda and Related Revenue Limit Exception**

Under current law, a referendum on school district borrowing using promissory notes in excess of \$5,000 or using any amount of bonds may be required if the borrowing amount would cause the school district's outstanding indebtedness incurred without a referendum since August 9, 1989, to exceed the lesser of: (a) \$1 million; or (b) 1.5% of the statewide average equalized value per member multiplied by the school district's membership.

Assembly Bill 304 would provide that the current law amounts above would be increased for a school district from which territory would be detached to form a new school district under



the bill, for purposes of the construction of, or addition to, a building. The amount of borrowing increase would be calculated as follows:

a. Determine the number of pupils in each grade level who attended school in the previous year in a building that was allocated to another school district under the procedures created in the bill and who resided in the previous year in territory that was not transferred to the other school district. The number would be the average of such pupils enrolled on the third Friday of September and the second Friday of January.

b. The Department of Commerce would determine for each grade level in which pupils formerly attended school in the transferred building, the average cost per square foot for, and the average number of square feet per pupil included in, two recently constructed school buildings that were designed to serve pupils of the grade level, as selected by Commerce.

c. For each grade level, multiply the number of pupils determined under (a) by the appropriate square footage and cost per square foot determined under (b) and total the results.

Assembly Bill 304 would provide that borrowing by the newly-created school district for the purpose of financing any assets or liabilities apportioned to the school district or assets apportioned to another school district under the reorganization provisions of the bill would not be subject to a referendum.

The bill would specify that funds needed for the payment of any general obligation debt service authorized by resolution of the school board and secured by the full faith and credit of the school district if the issuance of the debt was not subject to a referendum under these provisions, would not be subject to revenue limits. This would include debt service on debt issued or reissued to fund or refund outstanding municipal obligations, interest on outstanding municipal obligations or the payment of issuance costs or redemption premiums.

#### **Four-Year Limitation on Consideration of Creation of School District**

Assembly Bill 304 would specify that no petition could be filed or resolution adopted for the creation of a new school district under the reorganization provisions of the bill, before the fifth July 1 following a petition filing or resolution, if any of the same territory would be involved. This restriction would not apply if the school board of every affected school district would adopt a resolution waiving the restriction. If a school board denies a waiver request, the denial could not be appealed under the statutes governing school district reorganization.

#### **Information on Reorganization Procedures**

Under current law, DPI is required to prepare a written description of school district reorganization procedures and distribute copies to school district clerks. In addition, school district clerks are required to give a copy of the description to any person, upon request, and to

any person filing a reorganization related petition with the clerk. These current law requirements would apply to the reorganization procedures established under the bill.

### **Fees to Cover Costs of School District Boundary Appeal Board**

Assembly Bill 304 would provide that DPI could charge fees to cover the costs of the SDBAB relating to its responsibilities under the bill. These fees would be paid by the affected school districts if they fail to reach agreement on the precise boundaries of the proposed school district and the apportionment of assets and liabilities. These fees would be paid by the person filing the petition for Board review of school district decisions relating to a proposed reorganization.

### **SUMMARY OF ASSEMBLY AMENDMENT 1**

Assembly Amendment 1 would establish a requirement for an additional referendum for approval of the creation of a new school district under certain circumstances. This referendum would be required if: (a) the school board of one or more of the affected school districts would deny the proposed reorganization, but upon review the School District Boundary Appeal Board would approve the reorganization; and (b) a petition conforming to current law requirements governing petitions would be signed by at least 20% of the electors in the territory of the affected school districts and filed with the clerk of the affected school district with the largest equalized value before the second Tuesday of September following the Board's order approving the reorganization.

If a referendum would be required, the school district clerk receiving the petition would be required to immediately notify the school boards of the affected school districts and the clerk of each city, village or town, any part of which is contained in an affected school district. The referendum would have to be held in the territory of the affected school districts and would have to be approved by a majority of the votes cast in the territory of the affected school districts.

Assembly Amendment 1 would also modify the various dates associated with the proposed procedure to create a new school district. Attachment 2 provides a comparison of the timing of the various stages of the proposed procedure under AB 304 and under the amendment, for the situation where the affected school districts agree on the precise boundaries and allocation of assets and liabilities between the affected school districts. Attachment 3 presents the same comparison, for the situation where the affected school districts cannot agree on the precise boundaries and allocation of assets and liabilities between the affected school districts.

As noted, AA 1 to AB 304 was adopted on a 13-0 vote of the Assembly Committee on Education.

## **FISCAL EFFECT**

The fiscal effect of this bill would depend on how many petitions or resolutions would be initiated under the bill and how many would be successful. However, it is not possible to predict this, and therefore no specific fiscal estimate can be provided for the bill.

In general terms, the potential impact of the bill for the state's general fund would be attributable to the proposed revenue limit adjustments that school districts could use if a new school district would be created. Under these provisions, the cost of the state's commitment to fund two-thirds of partial school revenues would increase from current law.

For existing school districts, school district administrative costs could increase if the district would be involved in a proposed reorganization. These costs would relate to reviewing petitions, determining precise boundaries and the allocation of assets and liabilities, holding referenda, and preparing whatever submissions would be necessary for school board and School District Boundary Appeal Board review.

If a new school district would be created, there would be changes to each affected school district, resulting from the transfer of assets and liabilities, taxable property and membership. Changes in these factors would affect the school districts' revenue limits, costs and state aid. In addition, the bill provision that would provide increased equalization aid to each affected school district would result in a redistribution of equalization aid from other school districts to these school districts.

Prepared by: Dave Loppnow and Bob Soldner

## ATTACHMENT 1

### Current Law Criteria for School District Reorganization under s. 117.15 of the Statutes

**117.15 Criteria for school district reorganization.** In making any decision under ss.117.08 to 117.132, a school board, the board and an appeal panel shall consider the following factors as they affect the educational welfare of all the children residing in all of the affected school districts, and may consider other appropriate factors:

(1) The geographical and topographical characteristics of the affected school districts, including the estimated travel time to and from school for pupils in the school districts.

(2) The educational needs of all of the children residing in the affected school districts, the educational programs currently offered by each affected school district and the ability and commitment of each school district to meet those needs and continue to offer those educational programs.

(2m) If territory is proposed to be detached from one school district and attached to an adjoining school district, whether the proposed detachment will have any adverse effect on the program currently offered by the school district from which the territory is proposed to be detached, including both curricular and extracurricular aspects of that program.

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

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

(5) Whether the proposed reorganization will make any part of a school district's territory noncontiguous.

(6) The socioeconomic level and racial composition of the pupils who reside in or will reside in territory proposed to be detached from one school district and attached to an adjoining school district or in school districts proposed to be consolidated or in a school district proposed to be dissolved; the proportion of the pupils who reside in such territory who are children at risk, as the pupils who reside in such territory who are children at risk, as defined under s. 118.153(1)(a); and the effect that the pupils described in this paragraph will have on the present and future socioeconomic level and racial composition of the affected school districts and on the proportion of the affected school districts' enrollment that will be children at risk.

(7) The result of any referendum held under s. 117.10.

## ATTACHMENT 2

### Timing of Various Steps Under AB 304 and Under AA 1 -- Situation Where School Districts Agree on Boundaries and Allocation of Assets and Liabilities

	<u>Bill</u>	<u>Assembly Amendment 1</u>
Initiation of procedure	July 1	July 1
Public hearing by affected school boards	Not specified	Not specified
School boards agree on boundaries and allocation of assets and liabilities	November 1	October 15
School board action ordering or denying creation of school district	February 1	January 15
Petition for School District Boundary Appeal Board (SDBAB) review of proposed reorganization, if any	March 1	February 15
SDBAB public hearing	Before July 1	Before May 15
SDBAB could modify boundaries and allocation of assets and liabilities, if petitioned	July 1	May 15
School board action ordering or denying creation of school district based on modifications of SDBAB	August 15	June 15
SDBAB action granting or denying creation of school district	Between August 21 and October 1	Between June 21 and August 1
Deadline for petition for referendum in territory of all affected school districts	No provision in Bill	Second Tuesday of September
Referendum for voters in territory of all affected school districts	No provision in Bill	Tuesday after 1st Monday of November
Referendum for voters in territory of proposed new school district	Tuesday after 1st Monday of November	Tuesday after 1st Monday of November
School board election in new school district (if referenda approved)	Spring election	Spring election
School district reorganization takes effect	July 1 or following July 1	July 1 or following July 1

### ATTACHMENT 3

#### Timing of Various Steps Under AB 304 and Under AA 1 -- Situation Where School Districts Cannot Agree on Boundaries and Allocation of Assets and Liabilities

	<u>Bill</u>	<u>Assembly Amendment 1</u>
Initiation of procedure	July 1	July 1
Public hearing by affected school boards	Not specified	Not specified
School boards agree on boundaries and allocation of assets and liabilities	November 1	October 15
School District Boundary Appeal Board (SDBAB) determination of boundaries and allocation of assets and liabilities	March 1	February 15
School board action ordering or denying creation of school district	May 1	April 15
Petition for SDBAB review of proposed reorganization, if any	June 1	May 15
SDBAB public hearing	Before July 1	Before May 15
SDBAB could modify boundaries and allocation of assets and liabilities, if petitioned	July 1	May 15
School board action ordering or denying creation of school district based on modifications	August 15	June 15
SDBAB action granting or denying creation of school district	Between August 21 and October 1	Between June 21 and August 1
Deadline for petition for referendum in territory of all affected school districts	No provision in Bill	Second Tuesday of September
Referendum for voters in territory of all affected school districts	No provision in Bill	Tuesday after 1st Monday of November
Referendum for voters in territory of proposed new school district	Tuesday after 1st Monday of November	Tuesday after 1st Monday of November
School board election in new school district (if referenda approved)	Spring election	Spring election
School district reorganization takes effect	July 1 or following July 1	July 1 or following July 1

MO# AA1

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	N	A
JAUCH	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	N	A
COWLES	<input checked="" type="radio"/>	N	A
PANZER	<input checked="" type="radio"/>	N	<input checked="" type="radio"/> A
SCHULTZ	<input checked="" type="radio"/>	N	A
ROSENZWEIG	<input checked="" type="radio"/>	N	A
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KAUFERT	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 15 NO 0 ABS 1

MO# passage as amended

BURKE	<input checked="" type="radio"/>	N	A
DECKER	<input checked="" type="radio"/>	<input checked="" type="radio"/> N	A
JAUCH	<input checked="" type="radio"/>	N	A
SHIBILSKI	<input checked="" type="radio"/>	<input checked="" type="radio"/> N	A
COWLES	<input checked="" type="radio"/>	N	A
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KAUFERT	<input checked="" type="radio"/>	N	A
LINTON	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 13 NO 2 ABS