

No. 147, S.]

[Published July 15, 1927.]

**CHAPTER 352.**

AN ACT to repeal section 40.85; to amend section 25.07; and to create a new section 40.85 of the statutes, relating to the detachment of territory from school districts which maintain a high school, other than union free high school districts.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section 40.85 of the statutes is repealed.

SECTION 2. Section 25.07 of the statutes is amended to read: 25.07 All taxable property in any municipality which has obtained or shall obtain any loan from the state or from any of its trust funds shall stand charged for the payment of the principal and interest thereof \* \* \*. The annual tax levied as provided by subsection (5) of section 25.05 shall be a special charge to be paid next after the state tax out of any moneys collected as taxes within said municipality.

SECTION 3. A new section is added to the statutes to be numbered and to read: 40.85 (1) Whenever a school district maintaining a high school, other than a union free high school district, consists of territory both within and without the corporate limits of any city or village, the territory lying outside such limits, or any portion thereof adjoining another existing school district, may be detached as herein provided. But no detachment of territory shall be made in a manner so that the remainder of the district shall consist of noncontiguous territory.

(2) An application shall be filed with the clerk of the school board signed by at least three-fourths of the electors and by the owners of more than one-half of the taxable property by assessed value of the territory which is petitioned to be detached.

(3) Said application may be on one sheet or separate sheets, shall describe the territory to be detached by map, survey or any other way which will reasonably show what territory is intended. No error in such description shall invalidate the application, if it can be ascertained therefrom what territory was intended.

(4) Said application shall be accompanied by affidavit proof of three electors and freeholders from such territory that the necessary number of electors and owners of properties have joined in such application as required by subsection (2).

(5) Upon the filing of such application the clerk shall call a joint meeting of the school board and of the board of the town or boards of the towns in which the territory to be detached is located, said meeting to be held within twenty days from the date of filing. Notice of such meeting shall be given to each member of said board or boards personally, if it be found within the county, at least two days before the date set for such meeting. Such notice shall state the place, hour and date of meeting and the purpose of such meeting. At such joint meeting the following business shall be transacted:

(a) If the application complies with the requirements of this section, the school board shall forthwith make and enter a written order detaching the territory as requested in such application, and describing such territory. Copies of such order shall be filed in the manner as provided by subsection (1) of section 40.02.

(b) The town board or boards shall forthwith make and enter a written order creating a new school district of such detached territory or any part thereof or attaching all or part of such territory to some adjacent existing district or districts. If the territory detached is located in two or more towns, the supervisors of such towns shall vote jointly, and a majority vote of those present shall control. A new school district shall not be created unless the territory comprising the same shall be contiguous and unless it shall have an assessed value of at least seventy-five thousand dollars. Such order shall describe the territory so detached and shall provide that all of such territory shall either be attached to some adjacent existing school district or be included in a new school district, if a new school district is created, so that all of such territory shall be either in a new district or be attached to an adjacent existing district. Copies of such order shall be filed as provided by subsection (1) of section 40.02.

(c) If a new district is created, the town clerk or clerks of the towns in which such new district is located shall promptly call a meeting of the electors of such district for the election of a school board and the transaction of other necessary business. At such meeting the electors may transact any business provided for in section 40.09. The notice of such meeting shall designate the time and place thereof and shall be posted in at least six public places in such district, at least ten days before the meeting. The notice shall recite that the purpose thereof is to elect

a school board and to transact any business that might be transacted at an annual district meeting.

(d) The assets and liabilities of the former district shall be determined, adjusted, transferred and assigned in the manner provided in section 66.03, except as provided in paragraph (e).

(e) No distribution, transfer or assignment of the assets of the district from which territory is detached, shall be made, so long as said district continues to receive and adequately provide school facilities for both grade and high school pupils from the detached territory on the legal tuition basis. In the event of failure or refusal of the said district to so provide for and receive such pupils, or if the provisions of this paragraph be declared unconstitutional, then the assets shall be adjusted, assigned, and transferred as provided by paragraph (d), as of the date of detachment.

(f) Where there is no adjustment, assignment and transfer of assets and liabilities under the provisions of section 66.03, the detached territory shall continue to pay its proportionate share, based on assessed valuation, of the bonded indebtedness and of any loan from the state trust funds of the former district and existing at the time of detachment.

(6) Failure of the clerk to call the joint meeting or of the school board to enter the order of detachment, as required in subsection (5), may be appealed from, at any time within six months after such failure, by any five or more of the applicants, to the county superintendent of schools of any county in which such territory or any part thereof is located. Such appeal shall be perfected by filing the same with the clerk of the school board and by serving a copy thereof on the county superintendent of schools. On the filing with such clerk of such appeal he shall forthwith transmit the same to the county superintendent of schools to whom the appeal is made, together with all papers that have been filed in connection with such application. Upon being served with such appeal, such superintendent shall call a joint meeting of all the members of the town board or boards in which the territory to be detached is located. Such meeting shall be held in one of the towns involved or in an adjoining municipality, within ten days after such appeal is served upon such superintendent. Notice of such meeting shall be given to each member of said board or boards as provided in subsection (5), and the county superintendent shall personally attend such meeting.

(7) At such joint meeting the following business shall be transacted:

(a) If the application complies with the requirements of this section, such superintendent shall forthwith make and enter the order provided for in paragraph (a) of subsection (5), and copies of such order shall be filed as provided in subsection (1) of section 40.02.

(b) The town board or boards shall forthwith make and enter the written order required by paragraph (b) of subsection (5) and shall otherwise comply with the requirements of said paragraph.

(8) If the application is filed within thirty days of the close of any school year or during vacation but more than thirty days before the opening of the next school year, the order shall be effective from and after the date of filing. If the application is filed during any school year and more than thirty days prior to the close thereof, the order shall not be effective before the end of such school year.

(9) The method of detachment provided for in this section shall be an additional and alternative method to that provided in other sections of the statutes for the alteration of the boundaries of and the detachment of territory from school districts, other than union free high school districts.

(10) There is hereby created an appeal board hereinafter designated as the board, which is authorized and empowered to hear appeals and determine whether any final order of detachment, or attachment or creation of new district, made under the provision hereof shall be set aside in whole or in part. Such board shall consist of a member of the county board of supervisors of the county in which the school building of the affected district is located, together with the chairman and town clerk of each township containing any part of the land described in the detachment order. Such member of the county board, in the case of each appeal, shall be appointed by the chairman of the county board from a township in the county not containing any territory described in the detachment order, and notice of such appointment shall be attached to the notice of meeting served upon such appointee as a member of the appeal board as provided by subsection (12) hereof. In the event that any member or members of the board reside on or own real estate detached by the order appealed from, the chairman of the county

board shall name a supervisor or supervisors of the same town to act in place of such interested member or members on the appeal board.

(11) Any person considering himself aggrieved by any order of detachment or attachment or creation of new district made hereunder, may within twenty days after such order is made, appeal therefrom in writing, setting forth the interest of the appellant and the nature of the grievance complained of and a copy of the same, together with a copy of the order appealed from, shall be filed with the county clerk and delivered to the chairman of the county board of the county in which is located the school building of the district from which the land is ordered detached.

(12) Such county board chairman shall within three days after receipt of such notice cause to be issued a notice of meeting of the appeal board at a date not less than five nor more than fifteen days thereafter at the town hall or other convenient place in a township containing land detached, attached or formed into a new district, by the order appealed from. Such notice shall be served and given by delivering a copy thereof to at least one petitioner and the appellant and to each member of the board if to be found within his town, and by posting a copy thereof in three public places in each village, city and township containing any part of the school district as it existed before the order for detachment was made. The notice shall state the place, date, hour and purpose of the meeting.

(13) The appeal board shall take such evidence and hear such arguments as are produced and offered by the appellants and petitioners and all other interested parties, in such manner as the board shall determine, and may sustain or set aside the order of detachment in whole or in part, and may also correct, amend or set aside the order of attachment or creating a new district or both as it shall deem proper.

(14) Only one appeal shall be heard from any order and the decision of the board shall be final, shall be made within ten days after the hearing is closed, shall be filed as provided in subsection (1) of section 40.02 and no review of such decision shall be had, except upon certiorari commenced within twenty days, for the purpose of reviewing errors appearing upon the record.

SECTION 4. This act shall take effect upon passage and publication.

Approved July 14, 1927.