

1975 Assembly Bill 515

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CHAPTER 138, Laws of 1975

AN ACT to repeal 117.01 (4) (b), 120.03 (intro.), (10) and (11); to renumber 120.03 (1), (5), (6), (8), (9) and (12) and 120.06 (6) and (7); to renumber and amend 117.01 (4) (c), 120.03 (2), (3) and (4) and 120.06 (2) to (4); to

amend 117.04 (2), 120.02 (title), (1), (2) (a) and (3) (a) (intro.), 120.06 (title) and (1), 120.09, 120.43 (1) (a) and (6), 120.44 (2) (a), 120.50 (5), 120.73 (1) (a) and (b) and (2) and 985.05 (1); and to create 120.02 (4), 120.05 (title), 120.06 (intro.) and (15), 120.44 (2) (c) and 120.73 (1) (d) of the statutes, relating to school board elections and officials, and duties of school district clerks.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 117.01 (4) (b) of the statutes is repealed.

SECTION 2. 117.01 (4) (c) of the statutes is renumbered 117.01 (4) (b) and amended to read:

117.01 (4) (b) 1. In creating a new unified, common or union high school district, the order of school district reorganization shall direct the election of a school board under s. 120.06. ~~The clerk of the town, village or city lying wholly or partially within the newly created school district in which the greatest number of electors reside shall act as clerk of the election and declarations of candidacy shall be filed with him. He, insofar as applicable, and shall designate the date of the first election of school board members, which shall be after the time for the appeal to the state appeal board has expired and not later than 4 months after the effective date of the order.~~

2. In the event of an appeal to the state appeal board under sub. (2) (b), the secretary of the agency school committee shall set a new date for the election which shall be at least 30 days after the mailing of the state appeal board order under sub. (2) (c) and not later than 5 months after such mailing. An appeal to the circuit court shall invalidate any election date set after an appeal to the state appeal board. In the event of an appeal to the circuit court, the secretary of the agency school committee shall set a new date for the election which shall be at least 60 days after service of notice of entry of the circuit court order affirming the reorganization order and not later than 6 months after such service. An appeal to the supreme court shall invalidate any election date set after an appeal to the circuit court. In the event of an appeal to the supreme court, the secretary of the agency school committee shall set a new date for the election which shall be not later than 4 months after the date on which the supreme court mandate holding the order valid is filed with the clerk of the circuit court. No election date may be set, either under this subdivision or under subd. 1 which would require the filing of a declaration of candidacy prior to the expiration of the relevant appeal period.

3. At least 12 weeks prior to the date of the election, the clerk of the city, village or town within the school district which has the largest population shall publish a class 1 notice, under ch. 985, stating the date of the primary, if required, the date of the election and the requirements for filing declarations of candidacy. At least 10 weeks prior to the election, any qualified elector may file with such clerk a written declaration of candidacy for the school board stating that he is a qualified elector. Within 8 days after the first election in the newly created school district, such clerk shall notify the successful candidates of their election. On the 2nd Tuesday following the election or on the 2nd Tuesday after the effective date of the reorganization order, whichever is later, such clerk shall administer or receive the official oath and the newly elected members shall take office.

4. If there are more than 2 candidates for any office on a 3-member school board, more than twice as many candidates as there are members to be elected to a school board of more than 3 members, more than twice as many candidates as there are members to be elected from any district of a school board to which members are elected pursuant to a plan of apportionment under s. 120.02 (2) (b), there shall be a

primary election for such positions 4 weeks before the election. The terms of school board members for the first election shall be determined under s. 120.02 (3) (a) 2. The clerk described in subd. 3 shall have charge of the primary and the election and shall conduct the election them in accordance with ~~municipal election procedures s. 120.06, unless otherwise specified in this section.~~

5. The cost of conducting the primary and the election shall become a charge upon the new school district, and the school board of the new district shall pay all such costs of the election.

SECTION 2m. 117.04 (2) of the statutes is amended to read:

117.04 (2) The electors in a joint city school district may petition to change the school district into a unified school district. So far as possible, s. 9.20 shall be applicable to this section. The required number of signatures on such a petition shall be determined in accordance with s. 115.01 (13). The petition shall meet the requirements of s. 117.01 (2) (a). If the boundaries of the joint city school district and the proposed unified school district are identical, the petition shall state whether the school board of the joint city school district, if it is an elected school board, shall become the first school board of the unified district. The petition shall be submitted to the city clerk and referred by him to the fiscal board under s. 120.50 in lieu of the common council for either adoption without alteration or referral without alteration to a vote of the electors of the school district at a referendum. If a referendum is held, the proposed reorganization shall become effective if it is approved at the referendum by a majority of those electors voting at the referendum who reside within that portion of the proposed unified school district territory lying in each city and village and a majority of those electors voting at the referendum who reside within that portion of the proposed unified school district territory lying in towns. Adoption by the fiscal board or approval at a referendum shall constitute the making of an order of school district reorganization, which shall be effective the next following July 1.

SECTION 3. 120.02 (title) of the statutes is amended to read:

120.02 (title) Method of changing number, apportionment or election of school board members.

SECTION 4. 120.02 (1) of the statutes is amended to read:

120.02 (1) If, at least 30 days prior to ~~a special~~ the day of the annual school district meeting or to the day when school board members are elected, in a common or union high school district, or at least 30 days prior to the day of the election of school board members in a unified school district, a petition requesting a change in the number of school board members is filed with the school district clerk ~~signed by 100 electors residing in the school district, the school district clerk he~~ shall incorporate in the notice of the annual ~~or special~~ meeting or election a statement that at ~~such~~ the meeting or election the question of changing the number of school board members to the number requested in the petition will be voted upon. The petition shall be signed by not less than 100 electors residing in the school district, except that in school districts which contain, in whole or in part, a city of the 2nd or 3rd class, the petition shall be signed by not less than 500 electors residing in the school district. If, at ~~a special~~ the meeting or at an election of school board members under s. 120.06, a resolution based on a petition requesting a change in the number of school board members is adopted by a majority vote, school board members shall be elected at the next school board election and thereafter in accordance with sub. (3).

SECTION 5. 120.02 (2) (a) of the statutes is amended to read:

120.02 (2) (a) If, at least 30 days prior to the day of the annual meeting, in a common or union high school district, or at least 30 days prior to the day of the election of school board members under s. 120.06 in a unified school district, a petition

requesting the establishment of a plan of apportionment of school board members is filed with the school district clerk ~~signed by at least 100 electors residing in the school district, the school district clerk~~ he shall incorporate notice of receipt of such petition in the notice of the annual meeting or election. The petition shall specify the proposed plan of apportionment of school board members among the cities, towns and villages or parts thereof within the school district and set the total number of school board members at not more than 11. The petition shall be signed by not less than 100 electors residing in the school district, except that in school districts which contain, in whole or in part, a city of the 2nd or 3rd class the petition shall be signed by not less than 500 electors residing in the school district. If ~~the~~ a majority vote of the annual meeting or election approves the plan set forth in the petition, the plan shall remain in operation until revised by the same procedure. School board members elected under this subsection shall be elected by a vote of the electors of the entire school district in accordance with the plan prepared under sub. (3).

SECTION 6. 120.02 (3) (a) (intro.) of the statutes is amended to read:

120.02 (3) (a) (intro.) If a common, unified or union high school district votes to increase the number of school board members, the school district clerk shall promulgate, before the next election of school board members, a plan providing:

SECTION 7. 120.02 (4) of the statutes is created to read:

120.02 (4) ELECTION TO NUMBERED SEATS. If, at least 30 days prior to the day of the annual meeting, in a common or union high school district, or at least 30 days prior to the day of the election of school board members in a unified school district, a petition which sets forth a plan for the assignment of a number to each seat on the school board is filed with the school district clerk, the school district clerk shall incorporate notice of receipt of such petition in the notice of the annual meeting or election required under s. 120.06 (8) (c). The petition shall be signed by not less than 100 electors residing in the school district, except that in school districts which contain, in whole or in part, a city of the 2nd or 3rd class, the petition shall be signed by not less than 500 electors residing in the school district. If a majority vote of the annual meeting or election approves the plan set forth in the petition, the plan shall remain in operation until revised by the same procedure.

SECTION 8. 120.03 (intro.) of the statutes is repealed.

SECTION 9. 120.03 (1) of the statutes is renumbered 120.06 (2).

SECTION 10. 120.03 (2) of the statutes is renumbered 120.06 (3) and amended to read:

120.06 (3) The regular terms of school board members shall be 3 years ~~and~~. All members shall hold office until their successors have been elected and qualified except as otherwise provided under s. 17.26.

SECTION 11. 120.03 (3) of the statutes is renumbered 120.06 (4) and amended to read:

120.06 (4) School board members elected for regular or unexpired terms shall take office, provided they have taken and filed the official oath, ~~as follows: (b) After the annual meeting next succeeding the election, when school board members are elected at the spring election on the 4th Monday in April.~~

SECTION 12. 120.03 (4) of the statutes is renumbered 120.06 (10) and amended to read:

120.06 (10) Within ~~5~~ 8 days after the election or appointment of any person to the school board, the school district clerk shall notify him of his election or appointment. ~~Within 10 days after such notification, On or prior to the day provided~~

for taking office, a school board member shall take and file the official oath.

SECTION 13. 120.03 (5), (6) and (9) of the statutes are renumbered 120.05 (1), (2) and (3).

SECTION 14. 120.03 (8) of the statutes is renumbered 120.06 (12).

SECTION 15. 120.03 (10) of the statutes is repealed.

SECTION 16. 120.03 (11) of the statutes is repealed.

SECTION 17. 120.03 (12) of the statutes is renumbered 120.06 (13).

SECTION 18. 120.05 (title) of the statutes is created to read:

120.05 (title) School board officials.

SECTION 19. 120.06 (title) of the statutes is amended to read:

120.06 (title) Election of school board members.

SECTION 20. 120.06 (intro.) of the statutes is created to read:

120.06 (intro.) In a common or union high school district:

SECTION 21. 120.06 (1) of the statutes is amended to read:

120.06 (1) ~~In every school district, the~~ The school board shall be elected at the spring election.

SECTION 22. 120.06 (2) of the statutes is renumbered 120.06 (6) and amended to read:

120.06 (6) No later than the ~~2nd Tuesday in January~~ 3rd Tuesday in December prior to the spring election, the school district clerk shall publish a class 1 notice, under ch. 985, of the school district election stating the time, place and manner of filing declarations of candidacy for the school board. No later than 5 p.m. on the ~~4th~~ 2nd Tuesday in January prior to the spring election, a qualified elector may file a written declaration of candidacy with the school district clerk at the place specified in the notice stating that he is a qualified elector. In the case of a 3-member apportioned or numbered school board he also shall state the office, apportioned area or numbered seat for which he is a candidate.

SECTION 24. 120.06 (3) of the statutes is renumbered 120.06 (7) and amended to read:

120.06 (7) (a) Immediately upon the expiration of the time for filing declarations of candidacy, but no later than 5 p.m. on the 3rd Tuesday in January, the school ~~board~~ district clerk shall verify the declarations of candidacy. Once filed, a declaration may not be withdrawn.

(b) If there are more than 2 candidates for any office on a 3-member school board or more than twice as many candidates as there are members to be elected to ~~a~~ an unnumbered school board of more than 3 members the school board shall require a primary election. If there are more than twice as many candidates as there are members to be elected from any district of a school board to which members are elected pursuant to a plan of apportionment under s. 120.02 (2), or more than 2 candidates for any seat on a numbered school board, the school board shall require a primary election for such positions. ~~The~~

(c) In school districts which include, in whole or in part, a city of the 2nd class, the school board shall require a primary election if there are more than 2 candidates for any seat on a 3-member board or more than twice as many candidates as there are members to be elected to an unnumbered school board of more than 3 members. In school districts which include, in whole or in part, a city of the 2nd class and in which a plan of apportionment of school board members under s. 120.02 (2) or a plan for election of school board members to numbered seats has been adopted, the school

board shall require a primary election for particular apportioned areas for which there are more than twice as many candidates as there are members to be elected and for any numbered seat for which there are more than 2 candidates. When there is a primary election it shall be held at the time specified for the spring primary.

SECTION 25. 120.06 (4) of the statutes is renumbered 120.06 (8) and amended to read:

120.06 (8) The school district clerk shall ~~notify~~:

(a) Notify the municipal clerk of each municipality lying wholly or partially within the school district of the primary election if one is to be held and of the spring election, and furnish such clerks with a copy of the notice of the school board election and provide such clerks with an adequate supply of ballots for the primary and spring election;

(b) Determine for the primary, if any, and again for the spring election the order in which the names of candidates are printed on the ballot by supervising the drawing of lots at 8 p.m. on the day following the last day for filing written declarations of candidacy and the day following the completion of the canvass of the primary election, if any;

(c) Cause to be given a class 1 notice, in accordance with ch. 985, at least 7 days prior to the primary election, if one is to be held, and 7 days prior to the spring election. The notice shall contain the following information:

1. The date of the election;
2. The names of all candidates in the order in which they are listed on the ballot;
3. The location and open hours of polling places and a designation of which persons should vote at each polling place;

(d) Provide the municipal clerk an adequate supply of ballots for the primary and spring election at least 10 days before the applicable election;

(e) Receive all ballots after they have been counted, reported and secured;

(f) After the primary, if any, and again after the spring election, canvass the election returns pursuant to s. 7.60 (3), insofar as applicable;

1. The school district clerk shall choose 2 reputable citizens who shall, with him, constitute the board of canvassers; and
2. The canvass shall begin within 24 hours after the polls close, and continue, without adjournment, until completed.

(g) Retain and supervise the destruction of election materials from the primary, if any, and the spring election pursuant to s. 7.23 in so far as applicable; and

(h) Supervise a recount of the primary, if any, or the spring election, pursuant to s. 9.01 by the board of canvassers named in par. (f).

SECTION 26. 120.06 (6) of the statutes is renumbered 120.06 (11).

SECTION 27. 120.06 (7) of the statutes is renumbered 120.06 (9).

SECTION 28. 120.06 (15) of the statutes is created to read:

120.06 (15) Unless otherwise provided by this chapter, s. 117.01, or other applicable law, the elections for school board members shall be guided by the municipal election laws.

SECTION 29. 120.09 of the statutes is amended to read:

120.09 (title) **Consideration of special subject.** If in a common or union high school district at least 60 days prior to the ~~day when the school board members are elected~~ annual meeting a petition is filed with the school district clerk signed by 100 electors requesting that a ~~referendum be held on the annual meeting~~ consider a special subject or item of business which is a proper subject or item for consideration at the annual meeting, the school district clerk shall incorporate a statement of the ~~referendum subject or item~~ in the notice of the annual meeting ~~or election~~. The school district clerk shall prepare the proper ballot to permit voting on ~~such referendum the subject or item~~ at the annual meeting ~~or election~~. If the petition includes a subject beyond the power of the annual meeting, the school district clerk shall reject that part of the petition which contains such subject and notify the proper person within 20 days of his receipt of the petition. The petition shall designate a person or a representative of an organization to be notified in case of its rejection.

SECTION 30. 120.43 (1) (a) and (6) of the statutes are amended to read:

120.43 (1) (a) School board members shall be electors of the school district and may be elected at large, ~~at large~~ to numbered seats or by wards at the spring election, may be appointed by the mayor and confirmed by the common council or may be appointed by the common council. A plan of apportionment of school board members may be adopted in accordance with s. 120.02 (2).

(6) The regular terms of school board members shall be for 3 years. Unexpired terms shall be filled in accordance with s. 17.26 (2). School board members selected for regular terms shall take office, ~~provided if~~ they have taken and filed the official oath, on ~~July 4 the 4th Monday in April~~. School board members appointed for unexpired terms under s. 17.26 (2) shall take office immediately upon their having taken and file the official oath.

SECTION 31. 120.44 (2) (a) of the statutes is amended to read:

120.44 (2) (a) The plan may provide that school board members shall be chosen at large at the spring election for terms of 3 years beginning ~~on the succeeding July 4~~ 4th Monday in April. If the number of school board members is increased, the city clerk shall prepare an election plan under s. 120.02 (3) and, prior to the first election of such additional members, he shall publish notice of the plan as a class 1 notice, under ch. 985. They shall be nominated and elected as are other city officials.

SECTION 32. 120.44 (2) (c) of the statutes is created to read:

120.44 (2) (c) The plan may provide that school board members shall be elected at large to numbered seats and that the school board shall, at its first meeting after the adoption of the ordinance or resolution, assign a number to each seat on the school board. Thereafter, candidates for school board membership shall file as candidates for a particular numbered seat on the school board.

SECTION 32m. 120.50 (5) of the statutes is amended to read:

120.50 (5) By the adoption of a resolution effective at the end of a school fiscal year, the fiscal board may abolish the city school district and fiscal board and create a common school district or a unified school district containing the territory of the city school district. In a joint city school district, if the boundaries of the joint city school district and the proposed unified school district are identical, any such resolution shall state whether the school board of a joint city school district, if it is an elected school board, shall become the first school board of the unified school district. The city clerk shall transmit a certified copy of such resolution to the state superintendent who shall make an order in accordance therewith and file it as provided in s. 117.01 (2) (c).

SECTION 33. 120.73 (1) (a) and (b) of the statutes are amended to read:

120.73 (1) (a) School board members in a unified school district shall be electors of the school district and shall be elected at large, or at large to numbered seats or at large to an apportioned election district by a plurality vote of the electors of the school district. School board members shall be elected under s. 120.06 at the spring election.

(b) The regular terms of school board members shall be for 3 years. School board members elected for regular or unexpired terms shall take office, ~~provided if~~ they have taken and filed the official oath, on the ~~July 1 next following the election~~ 4th Monday in April. Elections to fill unexpired terms shall be held simultaneously with the elections for regular terms, the regular terms to be filled by the appropriate number of candidates receiving the highest number of votes and the unexpired terms to be filled by the appropriate number of candidates receiving the next highest number of votes.

SECTION 34. 120.73 (1) (d) of the statutes is created to read:

120.73 (1) (d) If a school district votes, pursuant to s. 120.02 (4) to adopt a plan requiring school board members to be elected to numbered seats, the school board shall, at its first meeting after the adoption of such plan, assign a number to each seat on the school board. Thereafter candidates for school board membership shall file as candidates for a particular numbered seat on the school board.

SECTION 35. 120.73 (2) of the statutes is amended to read:

120.73 (2) The order of school district reorganization creating a unified school district shall designate the date of the first election of school board members, which shall be subsequent to and within 4 months of the effective date of such order. ~~At least 35 days prior to the date of the election, the clerk of the most populous city, village or town lying wholly or partially within the school district shall publish a class 1 notice, under ch. 985, stating the date of the election and the requirements for filing declarations of candidacy. At least 20 days prior to the election, any qualified elector may file with such clerk a written declaration of candidacy for the school board stating that he is a qualified elector. The terms of school board members for the first election shall be determined under s. 120.02 (3) (a) 3 and (b). The first election of school board members under the order of school district reorganization shall be conducted pursuant to s. 117.01 (4) (b).~~

SECTION 36. 985.05 (1) of the statutes is amended to read:

985.05 (1) The governing body of every municipality not required to have an official newspaper may designate a newspaper published or having general circulation in the municipality and eligible under s. 985.03 as its official newspaper or utilize the same for specific notices. The governing body of such municipality may, in lieu of newspaper publication, direct other form of publication or posting under s. 985.02 (2). Other publication or posting, however, shall not be substituted for newspaper publication in proceedings relating to: tax sales; tax sales certificates or tax redemptions; civil annexations, detachments, consolidations or incorporations under chs. 59 to 66; or legal notices directed to specific individuals. Posting may not be substituted for publication in school board elections conducted pursuant to s. 120.06. If an eligible newspaper is published in the municipality, other publication or posting shall not be substituted for newspaper publication under s. 61.32 or 61.50.

SECTION 37. **Cross reference change.** Wherever the reference "120.03 (3)" appears in section 17.26 (1), the reference "120.06 (4)" is substituted.
