

1989 Assembly Bill 831

Date of enactment: **April 23, 1990**Date of publication\*: **May 7, 1990**

# 1989 WISCONSIN ACT 287

**AN ACT** *to repeal* 117.05 (9) (a) 1 and 2 and 117.22 (1) (b) 2; *to renumber and amend* 117.25 (2); *to amend* 117.05 (1m), (2) (a) and (9) (a) (intro.), 117.05 (9) (b), 117.08 (2) and (3) (a), 117.10 (4), 117.12 (3), 117.12 (5) (am) 1 and 2, 117.14 (1) (intro.), 117.15 (7), 117.22 (1) (b) 2m and 117.25 (title); *to repeal and recreate* 117.08 (4); and *to create* 117.25 (1m), 117.25 (2) (b) and 117.25 (3) of the statutes; and *to affect* 1989 Wisconsin Act 114, section 22 (3), **relating to:** school district consolidations, school district boundary appeal board review of a denial of the detachment of territory from one school district and its attachment to another school district, the rights of employes who are laid off as a result of school district reorganization and agreements between consolidating school districts to continue operating a program or facility after consolidation.

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

**SECTION 1.** 117.05 (1m), (2) (a) and (9) (a) (intro.) of the statutes, as affected by 1989 Wisconsin Act 114, are amended to read:

117.05 (1m) BOARD AND APPEAL PANEL MEETINGS. The state superintendent shall set the time and place for meetings of the board under ss. ~~117.08~~, 117.10, 117.12 (5) and 117.132 and for meetings of appeal panels under ss. 117.12 (4) and 117.13.

(2) (a) *Board.* The state superintendent shall appoint 7 members of the board to perform any review under ss. ~~117.08~~, 117.10, 117.12 (5) and 117.132. The 7 members shall include the state superintendent or his or her designee on the board, 2 board members from school districts with small enrollments, 2 board members from school districts with medium enrollments and 2 board members from school districts with large enrollments. Any action of the board under this chapter requires the affirmative vote of at least 4 of the 7 members appointed under this paragraph.

(9) (a) (intro.) The state superintendent may charge the following persons a fee sufficient to reimburse the department for the costs of the board under ss. ~~117.08~~, 117.10 and 117.132:

**SECTION 2.** 117.05 (9) (a) 1. and 2. of the statutes, as affected by 1989 Wisconsin Act 114, are repealed.

**SECTION 3.** 117.05 (9) (b) of the statutes, as affected by 1989 Wisconsin Act 114, is amended to read:

117.05 (9) (b) ~~The school district clerk with whom a petition is filed shall collect the fee under par. (a) 1. and forward it to the state superintendent.~~ The clerk of the school district ~~directing the referendum~~, ordering the dissolution or requesting review shall pay the fee under par. (a) 2, 3 or 4 to the state superintendent. The secretary of the board shall forward the fee collected under par. (a) 5. to the state superintendent.

**SECTION 4.** 117.08 (2) and (3) (a) of the statutes, as affected by 1989 Wisconsin Act 114, are amended to read:

117.08 (2) SCHOOL BOARD ACTION. In the first July beginning after the adoption of resolutions by 2 or more school boards under sub. (1), the school boards of the affected school districts may order the school districts consolidated by the adoption, by each of those school boards, of a resolution ordering the consolidation. Failure of a school board to adopt a resolution either ordering or denying the consolidation before August 1 constitutes a denial of the consolidation by that school board. The school district clerk of each school board adopting a resolution under this subsection, either ordering or denying a

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consolidation, shall, within 5 days after the adoption of the resolution, send a certified copy of the resolution to the school boards of each of the other affected school districts and file a certified copy of the resolution as provided under s. 117.17 (2). If the school board of each affected school district adopts a resolution ordering the consolidation, the consolidation shall take effect on the following July 1, unless a referendum under sub. (3) ~~and board review under sub. (4) are~~ is required.

**(3) REFERENDUM.** (a) If the school board of each affected school district adopts a resolution ordering a consolidation under sub. (2), a referendum on the consolidation shall be held under par. (b), ~~followed by board review under sub. (4),~~ if one of the following occurs:

1. At the time of adopting the resolution under sub. (2), the school board of any affected school district directs the holding of a referendum ~~followed by board review.~~

2. Before the 2nd Tuesday of September following the adoption of the resolutions under sub. (2), a petition requesting a referendum ~~and board review,~~ signed by at least 10% of the electors who reside in any affected school district, is filed with the clerk of the school district that has the highest equalized valuation of the affected school districts. The preparation, form and validity of the petition shall be governed by s. 8.15 (2) and (4) (a) and the rules promulgated under s. 8.07.

**SECTION 5.** 117.08 (4) of the statutes, as affected by 1989 Wisconsin Act 114, is repealed and recreated to read:

117.08 **(4) REFERENDUM RESULTS.** If a majority of the votes cast in each affected school district is in favor of consolidation, the school districts shall be consolidated on the following July 1. At the time of canvassing the returns, the school boards of the affected school districts shall make and file an order of school district reorganization under s. 117.17 (2).

**SECTION 6.** 117.10 (4) of the statutes, as affected by 1989 Wisconsin Act 114, is amended to read:

117.10 **(4) BOARD REVIEW.** After the 2nd Tuesday of September following the adoption of the resolution under sub. (2), if no advisory referendum is required, or after the advisory referendum, if one is held, the board shall review the dissolution and, before the following January 15, issue an order either affirming or denying the school board's dissolution order. The order shall be in writing, shall include a statement of the reasons for the order and shall be filed as provided under s. 117.17 (2). If the board affirms the school board's dissolution order, the board shall also issue an order assigning the school district's assets and liabilities under s. 66.03 (2c) (a) 1., and the school district's territory, to one or more other school districts, and providing for the employes of the dissolved school district under s. 117.25 (3). If the board affirms the school board's dissolution order, the school district shall be dissolved on the following July 1.

**SECTION 7.** 117.12 (3) of the statutes, as created by 1989 Wisconsin Act 114, is amended to read:

117.12 **(3) SCHOOL BOARD ACTION.** In the first February beginning after receipt of a petition under sub. (2), the school boards of the affected school districts may order the territory detached from the school district in which it is located and attached to the adjoining school district by the adoption, by each of those school boards, of a resolution ordering the reorganization. Before adopting a resolution under this subsection that grants or denies the reorganization, each school board shall give the electors and owners who signed the petition under sub. (2) an opportunity to meet with the school board to present their reasons for the proposed reorganization. Failure of a school board to adopt a resolution before March 1 either ordering or denying the reorganization constitutes a denial of the reorganization by the school board. The school district clerk of each school board adopting a resolution under this subsection that orders or denies a reorganization shall, within 5 days after the adoption of the resolution, send a certified copy of the resolution to the school board of the other affected school district and file a certified copy of the resolution as provided under s. 117.17 (2). If the school board of each affected school district adopts a resolution ordering the detachment and attachment, the reorganization shall take effect on the following July 1, ~~unless an appeal is filed under sub. (4).~~

**SECTION 8.** 117.12 (5) (am) 1 and 2 of the statutes, as created by 1989 Wisconsin Act 114, are amended to read:

117.12 **(5) (am) 1.** The assessed valuation of the territory proposed to be detached under the appeal, divided by the assessment ratio of the taxation district, when added to the total assessed valuation of all territory detached from that school district in the ~~5~~ 2 years preceding the date on which the petition was filed under sub. (2), divided by the appropriate assessment ratios, is equal to or greater than 2% of the school district's equalized valuation.

2. The number of pupils residing in the territory proposed to be detached under the appeal who are included in the enrollment of the school district from which the territory is proposed to be detached, when added to the number of pupils who resided in territory detached from that school district, and were included in previous enrollments of that school district, in the ~~5~~ 2 years preceding the date on which the petition was filed under sub. (2), constitute 2% or more of the school district's enrollment.

**SECTION 9.** 117.14 (1) (intro.) of the statutes, as created by 1989 Wisconsin Act 114, is amended to read:

117.14 **(1) (intro.)** Any person aggrieved by the denial of a consolidation under s. ~~117.08 (2) or~~ 117.09 (2), the granting of a detachment and attachment of territory under s. 117.11 (3) or any order of the board or an appeal panel under this chapter may, within 30 days after copies of the order are filed with the secretary of the

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board under s. 117.17 (2), appeal the order to a circuit court as follows:

**SECTION 10.** 117.15 (7) of the statutes, as created by 1989 Wisconsin Act 114, is amended to read:

117.15 (7) The results of any referendum held under s. ~~117.08~~ or 117.10.

**SECTION 11.** 117.22 (1) (b) 2. of the statutes, as created by 1989 Wisconsin Act 114, is repealed.

**SECTION 12.** 117.22 (1) (b) 2m of the statutes, as created by 1989 Wisconsin Act 114, is amended to read:

117.22 (1) (b) 2m. If a referendum is required under s. ~~117.08 (3)~~ or 117.09 (3), on the 31st day following the date the order of reorganization is filed under s. ~~117.08 (4)~~ or 117.09 (4).

**SECTION 13.** 117.25 (title) of the statutes, as created by 1989 Wisconsin Act 114, is amended to read:

**117.25 (title) Transfer of assets, liabilities and employees; agreements between consolidating school districts.**

**SECTION 14.** 117.25 (1m) of the statutes is created to read:

117.25 (1m) CONSOLIDATIONS; AGREEMENTS TO CONTINUE PROGRAMS OR FACILITIES. (a) A written agreement between the school boards of 2 or more school districts that are considering consolidating under s. 117.08 or 117.09 to continue operating a program or facility at a specific location for a specified period after consolidation, not to exceed 5 years, shall be binding upon the joint interim school board of the new school district under s. 117.22 and any subsequently elected school board of the new school district. The school district clerk of the school district with the largest equalized valuation shall file a copy of the agreement with the state superintendent.

(b) Ten or more electors of the new school district may jointly petition the circuit court of the county in which any portion of the new school district is located to enforce an agreement under par. (a).

**SECTION 15.** 117.25 (2) of the statutes, as created by 1989 Wisconsin Act 114, is renumbered 117.25 (2) (intro.) and amended to read:

117.25 (2) DETACHMENT AND ATTACHMENT OF TERRITORY. (intro.) When territory is detached from one school district and attached to an adjoining school district under ss. 117.11 to 117.132, assets all of the following apply:

(a) Assets and liabilities are assigned to the school districts under s. 66.03 on the effective date of the reorganization.

**SECTION 16.** 117.25 (2) (b) of the statutes is created to read:

117.25 (2) (b) 1. Any employee of the school district from which territory is detached who is laid off as a result of the reorganization has priority over other persons, except employees of the school district to which the territory is attached and former employees of that school district who were laid off from that school district, for 3 years after the effective date of the reorganization for new positions and vacant positions for which he or she is qualified in the school district to which the territory is attached.

2. Any person who wishes to exercise his or her priority under subd. 1 shall notify the school district to which the territory is attached, in writing, that he or she wishes to be considered for any new position or vacant position and shall include in the notice the address to be used by the school district to notify the person of such positions.

**SECTION 17.** 117.25 (3) of the statutes is created to read:

117.25 (3) DISSOLUTIONS. If the board affirms the school board's dissolution order under s. 117.10 (4), the board's order shall specify that either sub. (1) (d) 1. or (2) (b) applies to employees of the dissolved school district and shall identify the other school district or school districts that shall be treated as the new consolidated school district or school district to which territory is attached for the purposes of sub. (1) (d) 1. or (2) (b). If the board's order identifies more than one such school district, it shall also identify which of the employees of the dissolved school district become employees of which of the identified school districts under sub. (1) (d) 1., or have priority for employment in which of the identified school districts under sub. (2) (b).

**SECTION 18.** 1989 Wisconsin Act 114, section 22 (3) is created to read:

[1989 Wisconsin Act 114] Section 22 (3) Section 117.25 (1) (d) 1. of the statutes, as created by this act, first applies to consolidations of school districts that take effect on January 1, 1990.

**SECTION 19. Initial applicability.** (1) The creation of section 117.25 (2) (b) of the statutes first applies to layoffs that take effect on the effective date of this subsection.

(2) The treatment of sections 117.10 (4), 117.12 (5) (am) 1 and 2 and 117.25 (3) of the statutes first applies to resolutions adopted under section 117.10 of the statutes, and to petitions filed under section 117.12 of the statutes, on January 1, 1990.