

CHAPTER 40.
SCHOOL DISTRICTS.

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40.01 Definitions and interpretations. As used in this chapter, unless a contrary meaning is manifest:

"Board" means school district board or other body having charge of the schools of any district.

"District" means school district.

"District schools" mean the kind of schools which the legislature is commanded, by section 3, article X, of the constitution, to establish and make as nearly uniform as practicable.

"Grade teacher" means a person who teaches in grades below the ninth.

"Joint school district" means a school district whose territory is not wholly in one municipality.

"Municipality" includes town, city and village.

"Public schools" means the common schools and the high schools supported by public taxation.

"Parents" include guardians and other persons who occupy the place of parents.

"Rural school" and "rural district" means a school or a district which is wholly outside of villages and cities.

The distance between a pupil's home and school, or between two schools, shall be measured from building to building, along the usually traveled route.

[40.015 Stats. 1925 renumbered section 40.32 by 1927 c. 425 s. 71]

40.02 Classification. (1) **SCHOOL GRADES; MINIMUM AGE.** The primary and secondary educational work of the public schools is divided into 12 grades (besides the kindergarten) which are numbered from one to 12 beginning with the lowest. The first 8 are the common school grades. The other 4 are the high school grades. This classification is not a limitation of the character of work or the studies that may be carried on in either the common or the high schools. No child shall be admitted to the first grade unless he has attained the age of 6 years on or before December 1 of the year in which he proposes to enter such grade. The state department of public instruction shall prescribe procedures, conditions and standards under which admissions to the first grade may be made at an earlier age in exceptional cases.

(2) **SCHOOLS.** The common schools are classified as graded and ungraded. A common school which has only one teacher is ungraded. All other common schools are graded schools.

(3) **DISTRICTS.** The territorial unit for school work is the school district. School districts are classed as common school districts and high school districts and city school districts.

[40.025 Stats. 1925 repealed by 1927 c. 425 s. 107]

40.03 Common school district meetings; notice, time, conduct. (1) The annual meeting in all common school districts shall be on the second Monday of July, at eight o'clock in the afternoon, but a different hour may be fixed by an annual meeting for the next annual meeting.

(2) The first school meeting in any district shall be considered an annual meeting.

(3) The clerk shall give at least six days' notice of the annual meeting by posting notices therefor in four or more public places in the district, one of which shall be affixed to the outer door of the schoolhouse, if there be one; and he shall give like notice for any adjourned meeting, if the adjournment be for more than one month, but no annual meeting shall be deemed illegal for want of notice.

(4) Special meetings to transact any business properly within the powers of the annual district meeting as provided in section 40.04 shall be called by the clerk, or, in his absence, by the director or treasurer, on the written request of 5 electors, or may be called by the board on its own motion, and notice thereof, specifying particularly the business to be transacted, shall be given in the manner prescribed for noticing the annual meeting. If the request for such special meeting includes any subject beyond the power of the district meeting to transact, the clerk shall reject such subject and notify each elector signing the request.

(5) If a newspaper is published in the school district, the notice of a school meeting shall be given by publication in such newspaper by printing the notice in two successive issues, the last of which shall be not more than eight days nor less than one day before the day of the meeting. The special meeting, if no hour is fixed in the notice, shall be held at eight o'clock in the afternoon. Proper newspaper publication of the notice of a school meeting shall be in lieu of the posting and of the personal service of the notice.

(6) If any person offering to vote at a school district meeting shall be challenged, the chairman shall state to the person challenged the qualifications of a voter, and if such person shall declare that he is a voter, and if such challenge shall not be withdrawn, the chairman shall tender to him the following oath or affirmation: You do solemnly swear (or affirm) that you are an actual resident of this school district and that you are qualified, according to law, to vote at this meeting. Every person taking such oath or affirmation shall be permitted to vote, but if he shall refuse to take such oath or affirmation his vote shall be rejected.

40.036 Inspection of school busses prior to sale, penalty. (1) Any person who purchases a motor vehicle to be used as a school bus shall prior to purchase give the seller thereof notice in writing of such intended use.

(2) The seller shall thereupon obtain from the motor vehicle department a certificate of compliance with the conditions prescribed by its school bus regulations, which certificate shall be carried upon the vehicle at all times. Subsection (1) shall not preclude a licensed motor vehicle dealer from securing a certificate of approval at any time.

(3) The seller of any such vehicle who fails to obtain such certificate prior to sale shall be liable to the purchaser thereof for all repairs and improvements required by such regulations for a period of 9 months after sale and shall be punished by a fine of \$50 for the first offense and for the second and each subsequent conviction by a fine of \$100.

(4) The provisions of this subsection shall not apply to school busses already licensed by the motor vehicle department and which carry a certificate not more than one year old.

History: 1951 c. 99.

40.04 Powers of annual district meeting. The annual common school district meeting shall have power:

(1) **CHAIRMAN AND CLERK.** To appoint a chairman and, in the absence of the clerk, to appoint some person to act in his stead.

(2) **ADJOURNMENT.** To adjourn, from time to time.

(3) **ELECT SCHOOL BOARDS.** Except as provided in subsection (8) of section 40.07, to choose a director, treasurer and clerk, by ballot, and a majority of the votes shall be necessary for a choice.

(4) **BUILDING SITES.** To designate sites for district schoolhouses or teacherages.

(5) **TAX FOR SITES, BUILDINGS, MAINTENANCE.** To vote a tax to purchase or lease suitable sites for school buildings, to build, hire or purchase schoolhouses or teacherages or outbuildings, and to furnish, equip and maintain the same.

(5a) **TAX FOR TRANSPORTATION VEHICLES.** To vote a tax to purchase, operate and maintain transportation vehicles and finance contracts for the use and services of such transportation vehicles and to purchase liability insurance for the same.

(6) **TAX FOR OPERATION, LIMITATION.** To vote a tax for the operation of the school, but the total tax voted in any year shall not exceed 20 mills of the last state equalized valuation of the taxable property in the district, unless the district maintains a high school, in which case the tax limit shall be 25 mills on such valuation, except that in integrated districts as classified in section 40.371, the tax voted in any year for school operation shall not exceed 15 mills of such equalized valuation. Limitations established by this section shall apply only to levies for operation of the schools, exclusive of capital outlay and debt service.

(7) **SALE OF PROPERTY, PROVISIO.** To authorize and direct the sale of any property belonging to the district, when the same shall be no longer needed for the use of the district. Provided, that if the school site or other lands are to be abandoned but were acquired or are held upon condition that they should revert to the prior owner when no longer used for school purposes, the board shall sell the buildings or move them to another site within eight months after the buildings shall cease to be used for school purposes or the site ceases to be maintained as a district playground or park.

(8) **PAY DEBTS.** To levy such a tax as may be necessary to discharge any debts or liabilities of the district.

(9) **RECREATION AUTHORITY.** To vote a tax for the purposes specified in section 66.527.

(10) **FREE TEXTBOOKS.** To authorize the board to furnish free textbooks for use in the school.

(11) **SCHOOL YEAR, NINE MONTHS MINIMUM.** To determine the length of time the school shall be taught during the current year (not less than nine months) but if it shall not be so determined the district board shall determine the same.

(12) **CONTROL OF LEGAL PROCEEDINGS.** To give direction and make provision for the prosecution or defense of any action or proceeding in which the district is interested.

(13) **SALARIES OF SCHOOL BOARD MEMBERS, LIMITATION.** To vote annual salaries to the members of the school board, but the salary to the treasurer and the director shall not exceed \$100 each and the salary to the clerk shall not exceed \$125, except that in districts with more than one common school the salary of each board member may be \$5 additional for each additional school, unless the district maintains a state graded or a high school. Limitations herein set forth shall not apply to school districts operating state graded schools, high schools with grades or high schools. In districts which vote to suspend their schools the salaries of the treasurer and director shall not exceed \$20 each and the salary of the clerk shall not exceed \$25.

(15) **SCHOOL LUNCHESES.** To direct the school board to furnish hot lunches to the pupils of the district and appropriate funds for that purpose.

(16) **NURSES AND DENTISTS.** To authorize the school district board of districts in counties containing less than 500,000 population to employ public health nurses and licensed dentists and to vote a tax for that purpose.

(17) **SCHOOL BUILDING SINKING FUND.** (a) To vote a tax for the purpose of creating a sinking fund for the purpose of financing all current and future capital expenditures

and for paying all current bonded indebtedness for capital expenditures. All money raised through taxation or otherwise collected pursuant to the provisions of this subsection shall be deposited by the district treasurer in a separate fund to be designated as a sinking fund, and such money shall not be used for any other purpose or be transferred to any other fund except by authorization by a two-thirds majority vote, of the total number of residents of the district who are eligible to vote at a school district meeting.

(b) In the event the tax in paragraph (a) is levied by a district operating an elementary school, each district of residence shall pay to such operating district the sum of \$15 per pupil enrolled from such district of residence in addition to the tuition fees provided in section 40.21 (5) (a), such fees to be deposited and expended as provided in paragraph (a).

(c) In the event the tax in paragraph (a) is levied by a district operating a high school, that portion of the county outside of the operating district shall pay to such district in lieu of the 2 per cent item for building and equipment costs provided for in section 40.47 (5) (a) \$15 per nonresident pupil enrolled in addition to the tuition fees therein provided, to be deposited and expended as provided in paragraph (a).

(18) **AUDIT.** To authorize and direct an audit of the books and affairs of the district either by private auditors or by the department of state audit.

History: 1951 c. 207, 272, 311, 525, 734.

40.05 Special duties of district meeting. (1) **AUDITING COMMITTEE.** It shall be the duty of each annual common school meeting to appoint three competent electors of the district to examine all accounts, books, vouchers, money and property of the district after the last day of June following, and report their findings in writing to the next annual district meeting.

(2) **ADDITIONAL SCHOOL ROOM.** Whenever any school district, having a one-room schoolhouse shall have an average yearly attendance of more than fifty pupils, the next annual meeting shall make provision for an additional room and an additional teacher. Failure to comply with this subsection shall cause the district to forfeit the right to share in the apportionment in that part of the public money which said district would otherwise receive from the public school fund income as provided by law.

40.06 Powers of special district meeting. Special district meetings shall have the powers of the annual meeting, excepting the election of officers, but not more than two special meetings shall be held in any year to consider or act upon the same subject, except that in counties having a population of five hundred thousand or more, not more than four special meetings shall be held in any year to consider or act upon the same subject. No tax shall be voted at a special meeting unless three-fourths of the electors shall have been notified in writing either personally or by written notice left at their places of residence, or by publication of the notice in a newspaper published in the district, stating the time, place and object of the meeting, and specifying the amount proposed to be voted, at least seven days before the time appointed therefor. The electors at a special meeting may vote a less amount than that stated in said notice but not a greater amount.

40.065 Safety zones. (1) Every school district maintaining a school without the limits of a city or village shall provide at the school site a zone which will provide safety for pupils from vehicular traffic during loading and unloading operations at the school. The zone may consist of a widening toward or into the school yard of the traveled portion of the adjacent highway so as to permit a vehicle to stop in the extended area completely clear of such traveled portion of the adjacent highway, or may be constructed wholly within the school yard with connecting roads to the adjacent highway. The zone and approaches from the highway for use of vehicles shall be graveled or hard-surfaced.

(2) The district shall work in co-operation with the agency of the town, county or state having jurisdiction of the highway to the end that matters pertaining to the highway will be properly protected. Contracts for the necessary materials and construction and maintenance (which shall include snow removal) may be entered into with the county or town, or with private persons; but if the contracting party does not have jurisdiction over the highway, the contract shall be approved by the agency of the state, county or town having jurisdiction over the highway before any work is commenced thereunder.

(3) School district meetings, school boards and all officials of school districts affected by this section shall take such steps within their powers and duties which will provide schools within their districts with safety zones before the beginning of the 1949-1950 school year. When any new school is constructed it shall at the same time be provided with such safety zone.

(4) All loading and unloading of pupils at the school, whether transported by a public or a private vehicle, shall take place in the safety zone. The operator of a vehicle

under contract to transport pupils to such school shall have necessary police powers so that pupils will be properly safeguarded in the loading and unloading operations at the zone and also while his vehicle is approaching and leaving the zone. He shall first alight before discharging or receiving pupils at the zone, and while at stops on his highway route to receive and discharge pupils, he shall exhibit the vehicle's stop sign.

40.07 District board; election, term, referendum. (1) The officers of the common school district shall be a director, treasurer and clerk, who shall be electors of the district, and shall hold their respective offices for three years and until their successors have been elected or appointed and qualified. At the first election of officers, the clerk shall be chosen for a term to expire on the second Monday of July following, and the treasurer for a term to expire one year later, and the director for a term to expire two years later than that of the clerk. The officers elected shall be notified thereof by the clerk of the meeting, within five days thereafter, and unless a person elected and notified shall, within ten days after his election, file with the clerk his refusal in writing to accept the office, he shall be deemed to have accepted the same.

(1a) Any school district, except those operating pursuant to sections 40.50 to 40.60, may at any annual school district meeting or at any special school district meeting called for such specific purpose, by resolution initiated upon the petition of 30 electors filed with the district clerk and adopted by a majority of the ballots cast in favor of such resolution, change the number of school board members in the district as follows:

(a) Any school district with a population of 500 or more may have either 3 or 5 school board members.

(b) Any school district operating grades one through 12 or kindergarten through 12 may have either 3, 5 or 7 school board members.

(c) Any school district containing a city of the fourth class in which a high school is maintained may have either 3, 5 or 7 school board members.

(d) Any school district containing a city or cities of the second, third or fourth classes and operating schools with grades one through 12 or kindergarten through 12 may have a school board of 3, 5, 7 or 9 members.

(1b) When a petition is presented to change the number of school board members under subsection (1a), the district clerk shall incorporate into his notice of the annual or special district meeting a statement that at such meeting the question of changing the number of school board members will be voted upon. If no annual or special district meetings are held in the district, such question shall be determined by referendum as provided in section 40.07 (2a).

(1c) (a) Whenever any of the school districts described in subsection (1a) with more than 3 school board members shall vote to reduce the number of members on the school board at any annual or special school district meeting called for the purpose, or at any referendum election, one less school board member shall be elected annually thereafter until the total number of school board members shall be reduced to the approved number, but not less than one shall be elected each year.

(b) Whenever a school district shall vote to increase the number of school board members the school district clerk shall prepare a plan for the selection of the school board members to be elected in the future, providing:

1. The number of school board members thereafter to be elected each year, distributing the number as evenly as possible.

2. The number of vacancies to be filled in the first election for 1, 2 and 3 years and thereafter to be filled for 3 years.

3. The method of allocating the specific positions for 1, 2 and 3 year terms to be filled in the first election by the successful candidates taking into consideration that the 3-year terms be filled by the candidate or candidates receiving the highest number of votes, the 2-year terms to be filled by the candidate or candidates receiving the next highest number of votes and the one-year terms to be filled by the successful candidate or candidates receiving the next highest number of votes.

4. In case of a tie vote in the election of school board members, the election shall be determined by lot and the loser by lot shall become next in order of election if additional positions on the board are to be filled.

5. The tenure of members whose terms have not expired shall not be affected.

(1d) After the first election under subsection (1c) each member of the board shall be elected for a term of 3 years, and until his successor is elected and qualifies. Said board at its first regular meeting shall elect new officers of the board from among its members as follows for a term of one year: A director, a clerk and a treasurer except as otherwise provided in this subsection. All provisions of this chapter relating to the power and duties of the school district board and of the officers of the school district shall apply to the board and the director, clerk and treasurer provided for by this subsection. All mem-

bers of such board shall be officers of the district, and the compensation of the director, clerk, treasurer and other members of the board shall be the amount fixed at each annual district meeting for the ensuing year. All members shall be chosen from the district at large except as hereinafter enumerated.

(2) When a petition signed by 100 electors in any common school district asking that the district officers be chosen at an election shall be filed with the district clerk at least 30 days prior to the annual meeting date, the clerk shall incorporate, in his notice of the annual district meeting a statement that such election will be held and shall within 3 days after filing of such petition, publish notice of the filing of such petition in 4 public places in the school district or in a newspaper having general circulation in the district; and that the polls will be open therefor from 3 p. m. to 8 p. m. of the annual meeting day; except that in counties having a population of 500,000 or more, the polls shall be open from 1 p. m. to 8 p. m. and except that in any county the polls may be open from 1 p. m. to 8 p. m. on the day of the annual school meeting. Whenever such petition asking that the district officers shall be chosen at an election shall be filed as hereinbefore provided, such election shall be held annually thereafter, unless the electors shall by resolution adopted pursuant to a petition requesting a return to the former procedure of electing district officers or a change to another date provided by law, filed as hereinbefore provided, determine otherwise. If in such petition or in any separate petition a request is made for more than one polling place, the board shall provide polling places to the number requested, not exceeding the number of election precincts in the district.

(2a) When a petition signed by 100 electors in any common school district asking that a referendum be held on a special subject or item of business shall be filed with the district clerk at least 30 days prior to the day when the district officers are elected, the clerk shall incorporate such referendum subject or item of business in his notice of election or notice of the annual meeting as the case may be. He shall prepare the proper ballot to permit voting on such referendum subject.

(3) The election shall be in the place fixed for holding the annual school meeting.

(4) The election shall be by ballot, and suitable ballot boxes shall be provided. The provisions of sections 11.54 to 11.68 shall apply to the operation of this section so far as applicable. Except in counties having a population of 500,000 or more, the polls shall be open from 1 p. m. to 8 p. m., and except that in any county the polls may be open from 1 p. m. to 8 p. m. The time of opening and closing the polls and the place of holding the election shall be specified in the notice, but a failure to so specify the time and the place shall not invalidate the election.

(4a) The board may establish such additional polling places for the election of board members as it may deem necessary. Whenever practical, such polling places shall be established in the building where the annual school meeting is held. In such counties, the board shall also provide for an official ballot for the election of board members upon which shall be printed only the name of each person who files with the district clerk a written declaration of his candidacy at least 20 days prior to the date of such election. The school board shall cause notice to be published at least 10 days previous to the closing date for filing such declarations stating clearly the conditions which must be met for filing. Such primary and regular election ballots shall be so arranged as to admit of any other person being voted for by the elector if he so desires, and if more than 2 candidates have filed for any school district office, the clerk shall have ballots printed and shall within 3 days after the last legal date for filing such candidacy cause notice to be published as specified in subsection (2) which notice shall state that a primary election will be held at the district polling place 10 days preceding the date of the annual meeting, except if such day should be a legal holiday, the notice of such primary election shall be for the day preceding the holiday. Two copies of the results of the canvass of the vote of such primary election shall be made by the inspectors and signed by them. One copy, together with one registry of voters, shall be sealed in a ballot box to be retained for 60 days by an inspector of the election who was not a candidate, and the other shall be forwarded to the district clerk. The district clerk shall cause ballots to be prepared for the regular election on which shall appear the names of the 2 persons receiving the highest and next to the highest number of votes respectively in the primary.

(5) The school board shall act as inspectors of such election, and shall appoint two clerks who shall make and keep duplicate lists of the electors voting at such election. A plurality shall elect. Provided that in counties having a population of five hundred thousand or more the board shall appoint five persons who shall act as inspectors, clerks and tellers of such election. Nothing in this subsection shall be construed to prevent the appointment of additional inspectors, clerks and tellers, and to provide additional voting facilities, should conditions warrant.

(6) Immediately after the polls are closed, the ballots shall be counted, the results shall be declared, all ballots, as soon as counted, shall be sealed in the ballot box and kept for sixty days by an inspector who was not a candidate at the election.

(6m) Recounts shall be conducted under the direction of the school board using the procedure followed under general election laws as nearly as possible.

(7) The inspectors and clerk of this election shall be paid three dollars each; except that in counties having a population of five hundred thousand or over, they shall be paid five dollars each.

(8) (a) In counties having a population of 500,000 or more, any school district, the boundaries of which are co-extensive with those of a village, may at any election called and held as provided in the pertinent provisions of subsections (2), (3), (4), (4a), (5), (6) and (7) of this section by resolution, adopted by a majority of the votes cast in favor thereof, determine to elect its officers on any date, except Sundays, between the first Tuesday of April and the second Monday of July, both days inclusive. In the event of such determination such election shall be held annually thereafter on the date so fixed and until the electors shall determine otherwise. All of the pertinent provisions of subsections (2), (3), (4), (4a), (5), (6) and (7) of this section shall apply to such elections; but if the date of election is fixed for the first Tuesday of April, the hours of opening and closing of the polls, the polling places and the officers of election shall be the same as for the village election held on said day and the election officers shall serve without compensation additional to that provided by the village. When the school district election is conducted jointly with the village election pursuant to the provisions of this subsection and where registration of voters is required for the election of village officers, the same registration requirements shall also apply to the voting for school district officers. In such joint elections voting machines may be used. The term of office of officers so elected prior to the second Monday of July shall begin on the second Monday of July following said election. However, elections held pursuant to the provisions of this subsection shall not be subject to the provisions of section 40.07 (4a) relating to a primary election.

(b) Any school district maintaining a school or schools offering instruction in grades one through 12 or kindergarten through 12 and containing within its boundaries a city of the second, third or fourth class, or village, may adopt the method provided in paragraph (a) for the election of its school board, but such election shall be held on the first Tuesday in April. At such elections the electors of the district shall vote at the polling place where they normally vote for state, local and judicial officers, and the election officials for state and local elections shall serve.

(8m) When, in any school district the boundaries of which are coincident with the limits of a city of the fourth class, a petition signed by 100 electors is filed with the district clerk at least 30 days prior to the day when the district officers are elected asking that thereafter the school district officers be chosen at the regular spring election, the district clerk shall forthwith notify the city clerk thereof and the city clerk shall incorporate such information in the notice of the regular spring election. Candidates for school district offices shall thereafter be nominated and elected as are other city officials, until 100 electors by signed petition request a different procedure.

(9) (a) When a common school district is created, the municipal board shall fix the time and place for the first district meeting, and shall give 6 days' notice thereof in the manner provided for giving notice of an annual district meeting, and proof of such notice shall be filed with the municipal clerk.

(b) When the municipal board or boards are satisfied that the territory comprising the newly created school district contains a population of 500 or more it may, upon creating the order for a new district, direct that a district board of 5 members shall be elected; the state superintendent, acting under the authority of this section, may likewise in his order creating a new district containing a population of 500 or more direct that a board of 5 members be elected. When a 5-member board is elected either at a district meeting or at an election held pursuant to the provisions of this section, the 5 members shall be elected for terms as follows: The 2 candidates receiving the highest vote shall serve for a term expiring 2 years after the next annual meeting, the 2 receiving the next highest vote for a term expiring one year after the next annual meeting, and the candidate receiving the next highest number of votes for a term expiring the second Monday in July following. Thereafter each member shall be elected for a term of 3 years and until his successor is elected and qualifies. The board shall organize and elect officers as provided in subsection (1d).

(c) When the municipal board or boards or the state superintendent, in creating a new district, deems it advisable to conduct the election of officers by using the polling places and election procedure set forth in subsections (2), (2a), (3), (4), (4a), (5), (6) and (7) they may so order in the creation of the new district, and the municipal clerk of the

municipality in which the greatest number of electors reside shall act as clerk of the election and declarations of candidacy shall be filed with him. Such clerk shall have charge of the election and provide all necessary materials and equipment to conduct such election in a manner similar to that used for conducting municipal elections. The cost of conducting such election shall become a charge upon the new school district, and the board of such new district, upon taking office shall pay all costs of such election upon claims duly filed. When the board of the newly created district is elected under the provisions of this subsection the first district meeting shall await the call of the clerk of the district board.

40.08 School ground fences. In all cases where a schoolhouse site or playground is held in fee simple or by conditional lease, it shall be the duty of the district to erect and maintain all the fence necessary, or voted by the electors to inclose such district site or grounds without any financial burden on the holders of adjoining properties, other than the due proportion of the school tax levy needed to meet the cost.

[40.085 Stats. 1925 renumbered section 40.07 by 1927 c. 425 s. 48]

40.09 Duties of director. It shall be the duty of the district director:

(1) To countersign all orders legally drawn by the clerk upon the treasurer of the district.

(2) To appear on behalf of the district in all actions brought by and against it, when no other direction shall have been given by a district meeting.

(3) To prosecute an action for the recovery of any forfeiture incurred under the provisions of this chapter, and in which his school district is interested, except when by him incurred, in which case such action shall be prosecuted by the treasurer. One-half of the net sum recovered shall be paid into the district treasury and the other half to the county treasury for the benefit of the school fund.

40.10 Bond and duties of treasurer. (1) The treasurer shall, within fifteen days after his election or appointment, execute and file an official bond at least equal to the amount of all the moneys to come to his hands, with sufficient sureties approved by the director and the clerk. He may buy a surety company bond with district funds. He shall file an additional bond in such sum as the director and clerk shall demand, within fifteen days after demand.

(2) (a) He shall apply for, and receive, and if necessary sue for all money appropriated to or collected for the district, and disburse the same in the manner provided by section 66.042 on the order of the clerk, countersigned by the director.

Note: (2) (a) is printed as last amended (ch. 63, Laws 1951) is not shown here. See (ch. 407, Laws 1951). An earlier amendment 40.115, created by ch. 63.

(b) He may receive all money raised from any source for extra curricular activities.

(3) He shall enter in the account books of his office all the money received and disbursed by him, specifying particularly the sources from which the same has been received, the persons to whom and the object for which the same has been paid.

(4) He shall present to the annual meeting a written statement of all the moneys received by him during the preceding year, and of each disbursement made by him and shall exhibit the voucher therefor.

(5) He shall deposit immediately upon receipt thereof the funds of the district in the name of the district in the public depository designated by the board. Failure to comply with the provisions hereof shall be prima facie grounds for removal from office. When the money is so deposited, the treasurer and his bondsmen shall not be liable for such losses as are defined by subsection (6) of section 34.01. The interest arising therefrom shall be paid into the school district treasury.

History: 1951 c. 63, 407.

40.11 Duties of clerk. (1) The district clerk shall report the name and post-office address of each officer of his district to the clerk and treasurer of each municipality in which his district is situated, within ten days after the election or appointment of such officer.

(2) He shall act as clerk and record the proceedings of the district meetings.

(3) He shall enter in the record book provided by the board, the minutes of its meetings, orders, resolutions and other proceedings.

(4) He shall enter in said record book copies of all his reports to the municipal clerk, and the certificate of the proceedings of a meeting returned by a temporary clerk.

(5) He shall draw orders on the treasurer as directed by the district meeting and the board.

(6) He shall make a record in a suitable book of all orders drawn on the treasurer.

(7) He shall furnish, at the expense of the district, for the use of each teacher, a school register in the form prescribed by the state superintendent; procure the same to be re-

turned to him at the expiration of the teacher's employment; and preserve the same with the records and papers of the district.

(8) He shall notify each person of his election or appointment to a district office within five days thereafter; and furnish each teacher a copy of the contract made with her by the board.

(9) He shall deliver to the town clerk, before September 1 in each year, a certified statement showing the amount of taxes voted and not before reported, and also the amount of tax to be collected in such year, if any, for the annual payment of any loan. In case of a joint district, he shall deliver to the clerk of each municipality in which any part of the district is situated, a certified statement showing the proportion of such taxes to be assessed in that part of the district within his municipality, which proportion shall be ascertained from the full valuations to be certified to him and the county superintendent by the state superintendent from the certification of the full valuations of each part of a joint district made to the state superintendent by the state department of taxation under section 40.87. When the equalized valuation of one of the municipalities or of a portion of one of the municipalities that comprises a part of a joint school district is reduced in any one year to an amount below its equalized valuation of the previous year by reason of the destruction or removal of all or of a portion of the property of a part of the freeholders with a resulting excessively inequitable apportionment of the school district tax levy on the remaining equalized valuations, the school district clerk shall call in the supervisor of assessments, who if he finds that such inequities will result shall reduce the equalized valuations of the previous year by the full value of the property so destroyed or removed and certify the resulting values to the school clerk for use in computing the tax levy certifications required by this section.

History: 1951 c. 224, 270.

40.115 Disbursements, how made. In every school district specified in section 40.02, except a city school district, all disbursements from the treasury shall be made by the treasurer upon the written order of the clerk after proper vouchers have been filed with the clerk. Such disbursements shall be by order check and no order check shall be released to the payee, nor shall it be valid, unless signed by the clerk and treasurer and countersigned by the director. The provisions of this section shall apply to, and to the extent of any conflict supplant, any special and general provisions of the statutes relative to the disbursement of money from the treasury of any such school district.

History: 1951 c. 63.

40.12 Forfeitures enforced by voter. When any person or officer designated in this chapter to prosecute an action for a forfeiture or for neglect of duty shall fail to prosecute within ten days after being requested in writing by an elector of the school district, so to do, any elector therein may prosecute such action.

40.13 Census report of clerk. (1) The district clerk shall during each July, make and transmit to the county superintendent, a verified report as of the thirtieth day of June of such year, showing:

(a) The names and ages of children over the age of four and under the age of twenty years residing in the district, and the names of their parents or other persons with whom such children resided, respectively, on said date, but no children cared for at any charitable or penal institution of this state shall be included in such report.

(b) The whole number of children between said ages taught in the district school during the last year.

(c) The number attending school during that year under the age of four and the number over the age of twenty years.

(d) The number of days school was taught, including holidays, by teachers legally qualified.

(e) The names of all teachers employed during the year, the number of days taught by each, including holidays, and the monthly wages paid to each, and the time allowed any teacher for attendance on any institute for which no wages were deducted.

(f) The amount of money received during the year, designating separately the amount received from the school fund income, from taxes levied by the county board, from taxes voted by the district, and from all other sources, and the manner in which the same has been expended, showing separately the expenditure of school money received from the state.

(g) The amount and character of district debts.

(h) Names and addresses of native-born men and women attaining their majority in the twelve-month period ending the third Sunday of May and such other facts and statistics in relation to the schools, public or private, in such districts as the state superintendent may require.

(3) Every district clerk who shall wilfully neglect to make such annual report shall be liable to his district for the whole amount of money lost by such district in consequence of his neglect.

(4) The school clerk in any school district may employ some competent person to take such census.

[40.135 Stats. 1925 renumbered section 40.37 by 1927 c. 425 s. 76]

40.14 School officers, not to be book agents. Neither the state superintendent, nor any person in his office, nor any county superintendent, nor any officer or teacher connected with any public school, shall act as agent or solicitor for the sale of any schoolbooks, maps, charts, school library books, school furniture, apparatus or stationery, or furnish any assistance to or receive any reward therefor from any author, publisher, bookseller or dealer doing the same. Every person violating this section shall forfeit not less than fifty nor more than two hundred dollars for each offense and be liable to removal from office therefor.

40.15 District board; meetings, duties. (1) The director, treasurer and clerk shall constitute the board of the common school district, and shall meet on the day following each annual district meeting at seven o'clock in the afternoon at the place where the annual meeting was held, and at such other times and places as the board shall determine. A meeting of the board may be called by two members by serving on the other member a written notice of the time and place of such meeting at least twenty-four hours before such meeting. A meeting may be held, without notice, when all members are present and consent.

(2) The board shall meet on the Saturday preceding the annual district meeting to carefully examine the accounts of the treasurer and make a full and itemized written report of all receipts and expenditures since the last annual meeting, and of the amount in the hands of the district treasurer, the amount of the deficit or bills payable, if any, for which the district is liable; the amount necessary to be raised by taxation for the support of the school for the ensuing year; and of the amount required to pay the interest or principal of any debt due during the year. The report shall be presented and read at the annual district meeting. The district clerk shall copy such report, with the action taken thereon, and all other proceedings of the meeting in full, in the district record book.

(3) The proceedings of all school boards, except in cities of the first class and except school boards included in section 40.60, including a statement of all receipts and expenditures, shall be printed and published within thirty days after the annual school meeting in a newspaper having a general circulation in the school district or in such manner as the board shall direct.

40.16 School board; powers and duties; school property and affairs; custody and management. (1) Subject to the authority vested in the district meeting and to the authority and possession specifically given to other officers, the common school board shall have the possession, care, control and management of the property and affairs of the district and shall have authority to request the state department of audit to audit the books of the school district, to install a system of accounts and to advise and make recommendations concerning existing systems of accounts and to pay for the same as provided in section 15.22 (12) (d).

(2) The board shall keep the buildings and grounds in good repair, suitably equipped and in safe and sanitary condition at all times. It shall also be the duty of the board to keep the buildings and equipment amply insured. If there are no funds in the school treasury sufficient to pay the premium the board may execute a note for that purpose.

(3) The board shall provide and maintain enough suitable and separate privies or water-closets for both sexes, at each school.

(4) The board shall file an inventory of the district property annually.

(5) The board may grant the request of any responsible inhabitant of the district to occupy the schoolhouse for such public meetings as will, in the judgment of the board, aid in disseminating intelligence and promoting good morals. The applicant shall be primarily, and the members of the board secondarily, liable to the district for any injury done to any property and for any expense incurred in consequence of any such use of the schoolhouse.

(6) The board may grant the use of the schoolhouse for lectures, entertainments and school exercises held under the auspices of and for the benefit of the school, and permit an admission fee to be charged.

(7) Upon the written application of one-half of the voters of the district, the board shall allow the use of the school buildings or grounds for the open presentation and free discussion of public questions, so far as such use shall not, in the opinion of the board, interfere with the prime purpose of the buildings or grounds.

(8) Where the citizens of any community are organized into a nonpartisan, nonsectarian, nonexclusive association for the discussion of public questions, or for the promotion of public health, by instruction in physical culture and hygiene or by physical exercises, the board shall grant to such association the use of the schoolhouse or other public property which is capable of being used in the work of such association (when not being used for their prime purpose), shall provide (free of charge) light, heat and janitor service, when necessary, and shall make such other provisions as may be necessary for the free and convenient use of such buildings or grounds by such organization, at such times as the organization shall designate. All such gatherings shall be free to the public.

(9) The board may provide for the free use of such property for such other civic, social and recreational activities that do not interfere with the prime use thereof; provided, that the use of school buildings shall not be granted for public dancing, over the written protest of a majority of the electors of the district, or if a resolution against public dancing in the schoolhouses shall have been adopted at the annual meeting. If the persons applying for the use of the schoolhouse or property for public meetings shall fail to respond in damages for any injuries to the property, the board may refuse all future applications for such use of the property until such injury is repaired without public expense.

(10) If any district shall not have voted a tax sufficient to maintain its school for the term of 9 months during the ensuing year, the board shall, on the third Monday of November, determine the sum necessary to be raised to maintain such school, and the clerk shall forthwith certify to the municipal clerk the amount so fixed, and he shall assess the same and enter it in the tax roll as other district taxes are assessed and entered. If the annual school meeting for the 1947-1948 school year voted a tax levy in excess of the amount required to maintain and operate its school for the 1947-1948 school year under the provisions of chapter 573, laws of 1947, the school board may on its own order certify to the municipal clerk or clerks an amount adjusted to meet the provisions of said chapter 573, laws of 1947.

(11) The school board may provide for, establish and maintain nursery schools for children under 4 years of age under such rules and regulations as it may prescribe. The school board shall be authorized to accept and receive federal funds for such purpose and to expend such funds in conformity with the purposes and requirements thereof. The school board may require and charge a reasonable fee for attendance in such schools in order to sustain the project but may waive such charge or fee or any portion thereof to any person who is unable to make such payment. The school district shall not be entitled to additional state aid for the operation and maintenance of a nursery school.

(12) The boards of common school districts, high school districts and city school districts are authorized to apply for, receive and expend moneys made available to them by any act of congress for agricultural, vocational or military training or for enlargement of educational facilities including teaching staff due to activities of the federal government in connection with the present emergency; provided that the acceptance of such money shall not be conditioned upon or result in the expenditure of funds by such districts.

(13) The school district board may furnish lunches to the pupils of the district and pay for same out of district funds.

(14) (a) The school district board of districts in counties containing less than 500,000 population may employ public health nurses and licensed dentists. The work of such public health nurses and licensed dentists shall be under the supervision of the local and state boards of health.

(b) The school district board of districts in counties containing less than 500,000 population, may, as a condition of employment, require periodic health examinations of all school employes. If such examinations are ordered, they shall be required of every school employe of the district except those objecting thereto on religious grounds. No employe shall be discriminated against for raising such objection unless there is reasonable cause to believe that he is infected with a communicable disease. The cost of such examinations, including X-rays, shall be paid out of district funds. The employe may be examined by any licensed physician selected by the employe. Such physician shall make confidential a report of such examination and chest X-rays on a standard form to be prepared by the state board of health to a licensed physician employed by the board of education, who shall make recommendations therefrom to the board and to the employe.

(c) For the purpose of paragraph (b) a "school employe" is defined as anyone employed by the board of education of the school district who comes in contact with children or who handles or prepares food for children while they are under the supervision of school authorities.

(d) The school district board of districts in counties containing less than 500,000 population, may require periodic health examinations of school children, by licensed physicians, under supervision of local and state boards of health, and may pay the cost of such examinations out of district funds.

(15) In case of destruction of school district buildings or if a qualified teacher cannot be obtained or if there is any other emergency which makes it impossible to conduct school within the district, the school board may, on its own order, provide for the educational needs of the district on a tuition basis, provided that the county superintendent of schools shall have first made a written finding of fact that such an emergency exists, stating the nature thereof. In addition to other requirements, no state aid shall be paid to any such suspended district until a copy of such finding of fact has been filed with the state superintendent of public instruction. For a period of 2 years districts which suspend their schools under this subsection shall be eligible to receipt of state and county aids in the same amounts that they would be eligible to receive had they operated their schools.

(15a) When the enrollment of a district increases to a number that is in excess of 30 pupils per room, the district board may on its own order provide for the education of a portion of the pupils on a tuition basis. The tuition shall be paid out of school district funds in accordance with section 40.21 (5). For a period of 2 years after making such order under this subsection a district shall continue to be entitled to aids on the same basis as though all children of school age included in such order residing in the district had been enrolled in the school of such district. Thereafter such district shall not be eligible for or receive aids until sufficient school building facilities are provided in the district to properly accommodate all of the resident children eligible to attend the school of such district.

(16) The boards of common school districts, high school districts and city school districts may transfer to the state historical society under section 44.02 (9) title to any school records deemed by said society to be of permanent historical interest which are no longer needed for the proper administration of the affairs of the school district.

(17) The boards of common school districts, high school districts and city school districts are authorized to enter into agreements, including leases for a term not exceeding 50 years, with the state or any department or agency thereof for the purchase, operation and maintenance of land, buildings and equipment for educational purposes, upon approval thereof and by the town or village board or the city council, whether acting in a proprietary or a governmental capacity.

(18) When the equalized valuation of one of the municipalities or of a portion of one of the municipalities that comprises a part of a joint school district is reduced in any one year to an amount below its equalized valuation of the previous year by reason of the destruction or removal of all or a portion of the property of a part of the freeholders with a resulting increase in the taxes of the remaining freeholders which is in an excessive ratio to the total taxes levied by the joint school district, the school district board shall refund to the taxpayers whose taxes have been so increased and who have paid such increased taxes the amount of the increased taxes so paid. The provisions of this subsection shall apply only to taxes of 1949, 1950 and 1951.

History: 1951 c. 268, 270, 346.

40.17 School equipment. (1) The board may purchase necessary books and stationery for keeping the records and for doing the business of the district in an orderly manner, and such equipment, books, school apparatus and heating and ventilating apparatus, as may be approved by the state superintendent or by the county superintendent for the use of schools, not exceeding three hundred dollars in value in any one year, from any funds not otherwise appropriated, and such schoolbooks as in their judgment may be needed by pupils whose parents are not able to furnish the same. Said limitation of three hundred dollars in any one year shall not apply to school boards in districts maintaining a high school and at least one graded school.

(2) Every school board and the governing body of every private or parochial school shall cause the United States flag to be displayed in the schoolroom or from a flagstaff on each school ground, during the school hours of each day's session of school.

(3) Every school board and the governing body of every private or parochial school shall provide a standard first aid kit for use in cases of emergency in every school in this state.

Replacement of a school's heating plant of \$300 is precluded by (1), unless authorized involving purchases of equipment in excess by specific appropriation. 38 Atty. Gen. 561.

40.171 Poor school children; temporary aid. It shall be the duty of any principal or teacher in charge of any common or district school of this state to report to the authority administering poor relief for the municipal unit wherein such school is situated, the name and address of any child in such school whose parent, guardian or other person having control, charge or custody of any such child, is without sufficient means to furnish any such child with books, school supplies or clothing necessary for such child to attend school as required by law. Such authority administering relief shall thereupon investigate such report, and upon verification thereof, furnish such child with said books, school supplies and

clothing, and the cost thereof shall be paid out of the poor relief fund of said municipal unit. In case relief is administered by a system other than the county system and the children given such relief are necessarily attending school in a municipal unit other than that of their legal residence as defined in chapter 49, the actual cost of the relief so furnished such children shall be a charge against the municipality of their legal settlement for relief purposes. School books furnished under this section shall become and remain the property of the municipality wherein such children shall have a legal settlement but subject to disposal as ordered by the governing body thereof.

40.18 Claim against district, enforcement. No action shall be maintained against a school district upon any claim until it shall have been presented to the board and disallowed, in whole or in part. Failure of the board to allow the claim within sixty days after it is filed with the clerk is a disallowance. The clerk shall serve on the claimant notice of disallowance by registered mail, and receipt therefor, signed by the claimant, shall be proof of service. The claimant may accept a portion of his claim without waiving his right to recover the balance. No interest shall be recovered on an allowed claim after an order of the board is available to the claimant. If the claimant recovers a greater sum than was allowed, he shall recover costs, otherwise the board shall recover costs. Disallowance by the board shall bar an action on the claim six months after service of notice of disallowance.

40.19 Conduct of school; school month; teacher's allowance. (1) The common school board shall contract in writing with qualified teachers, which contract, with a copy of the teacher's authority attached thereto, shall be filed with the clerk. Such contract, in addition to fixing the teacher's wage, may provide for compensating the teacher for necessary travel expense in going to and from the schoolhouse at a rate not to exceed 6 cents per mile. No teaching contract with any person not legally authorized to teach the named school or subject shall be valid; and all teaching contracts shall terminate if, and when, the authority to teach terminates.

(1a) School district boards may provide in the contracts of teachers of agricultural and homemaking courses for payment for services performed outside of the district and connected with the performance of their regular teaching duties, and for the payment of the traveling expenses connected with such services out of school district funds.

(2) No order shall be drawn, for the payment of which money has not been appropriated according to law, and no order shall be drawn for money received from the school fund income for any other purpose than the payment of teacher's wages.

(3) Twenty school days shall constitute a school month and all legal holidays occurring on the usual school days shall be counted whether school be taught or not. Not to exceed five Saturdays may be counted in any school year when school is taught thereon with the consent of the board.

(4) On the twelfth and twenty-second days of February school shall be taught regularly in the forenoon, but in the afternoon of these days appropriate exercises shall be held in commemoration of the life and services of Abraham Lincoln and George Washington, respectively.

(4a) On the 11th day of November, school shall be taught regularly for one-half of said day, but at least two hours of the other half of said day shall be devoted to the holding of appropriate exercises within the school or to the participation in appropriate public exercises in the vicinity of said school, to commemorate the historical event associated with Armistice Day.

(4m) The pupils of every public, private, parochial and denominational school shall, by appropriate instruction and ceremonial to be formulated by the state superintendent of public instruction, be taught the proper reverence and respect for and the history and meaning of the American flag, the Declaration of Independence, the United States Constitution, as well as the duties and responsibilities of citizenship, so that government of the people, by the people and for the people may function and endure in the United States of America.

(5) The board may give to any teacher, without deduction from her wages, the whole or part of any time spent by her in attending a teacher's institute held in the county, or a school board convention or the meeting of any teachers' association, upon such teacher's filing with the school clerk a certificate of regular attendance at such institute, convention or association, signed by the person conducting the institute or convention, or by the secretary of the association.

(6) The board shall visit the school, examine into its condition, advise with the teacher in regard to the instruction, government, progress of the pupils, and exercise general supervision over the school.

A new consolidated school district decided not to operate the S. school and canceled the plaintiff's contract to teach at such school; the county superintendent failed to request of the state superintendent a renewal of the plaintiff's teaching permit to teach in the S. school solely because of the action of the new district; there was a breach of contract, en-

titling the plaintiff to recover damages, if any, from the new district, notwithstanding provisions in (1) that no teaching contract with any person not legally authorized to teach a named school shall be valid, and that all teaching contracts shall terminate when the authority to teach terminates. *Nyre v. Joint School Dist. 258 W 248, 45 NW (2d) 614.*

40.20 Exchange of teachers. The school board may exchange any teacher employed by it for a teacher of any school district of any other state. No such exchange shall be for a longer period than one year, and any teacher of this state, so exchanged, shall be deemed to have taught during said period in the school district by which she was employed; and shall be assessed, for the benefit of the Wisconsin teachers' insurance and retirement fund, the full amount which would have been assessed against her had she actually taught in such district.

40.21 Conduct of common schools. (1) **REGISTRATION OF PUPILS; TEACHER'S REPORT.** The teacher in each common school shall enter in the school register, the names, ages and studies of all pupils and their daily attendance, and such other facts as the county superintendent or state superintendent may require, which register the teacher shall deliver to the clerk at the close of each term, and whenever it may be required for the use of the board. The teacher shall make a written report to the board or to the county superintendent concerning any matters relating to the school in such form or manner as the board or superintendent may prescribe; and any teacher who shall wilfully neglect or refuse to so keep the register shall forfeit her wages during the time of such neglect or refusal.

[*(2) Stats. 1939 repealed by 1941 c. 122 and 264*]

[*(2) Stats. 1943 omitted because probably obsolete*]

(2a) **CHILDREN'S HOMES.** All children in children's homes, regardless of whether they were sent there by parents or guardians or by any county, shall be subject to the payment of the legal tuition whenever they attend the public schools of the locality in which the home is located. At the close of each year the school clerk of any district attended by any of such pupils shall certify under oath to the state superintendent the names of all such children who have attended the school in his district during such year, the number of months each attended, and the amount of tuition due the district. The state superintendent shall check such report, and if he finds it correct shall certify the amount due such district to the director of budget and accounts who shall draw his warrant on the state treasurer for the amount so certified. The state treasurer shall forward said amount to the treasurer of the school district and charge the same to the appropriation made by section 20.25 (3).

(2b) **CHILDREN ON MILITARY CAMP AND FEDERAL VETERANS' HOSPITAL SITES.** All children residing on any military encampment owned or used by the state or federal government or on a site of a federal veterans' hospital who are children of parents or guardians employed at such encampment or hospital and who attend the public schools of the district in which such encampment or hospital is located or when necessary to attend other public schools within a reasonable distance from such encampment or hospital shall be subject to the payment by the state of the legal tuition on account of such attendance. At the close of each year the school clerk of any district attended by any of such pupils shall certify under oath to the state superintendent the names of all such children who have attended the school in his district during such year, the number of months each attended, and the amount of tuition due the district. The state superintendent shall check such report, and if he finds it correct shall certify the amount due such district to the director of budget and accounts who shall draw his warrant on the state treasurer for the amount so certified. The state treasurer shall forward such amount to the treasurer of the school district and charge the same to the appropriation made by section 20.275. The school board of any district to which tuition herein provided for is payable shall file tuition statements with the state superintendent on or before August 1 following the close of the school year on forms provided by said superintendent. When transportation is furnished as provided by law governing elementary and high school transportation, application for state aid shall be made, allowed, certified and paid in the same manner provided in the case of state aid for transportation of all other elementary and high school pupils.

(2c) **FOSTER HOMES.** The provisions of subsection (2a) shall also apply to children in duly licensed foster homes attending high school in the locality in which such duly licensed foster home is located, except that the tuition in such cases shall be paid out of the appropriation made by section 20.25 (6). If in any year the claims for tuition under this section shall exceed the amount appropriated by section 20.25 (6), the state superintendent shall equitably prorate the amount available among the several school districts making claims.

(2m) **COUNTY TO PAY TUITION.** The elementary and high school tuition of every person of school age, excepting county charges, as provided in subsection (2) [Stats. 1931]

of this section, residing at a county institution shall be paid by the county. The county board may charge such tuition to the account of the county asylum or the county home.

(3) RULES, EXPULSION. The board may make rules for the organization, gradation and government of the schools, such rules to take effect when signed by a majority of the board and filed with the clerk; may suspend any pupil not to exceed three days for non-compliance with such rules or those of the teacher made with its consent; may expel any pupil whenever it shall find him guilty of persistent refusal or neglect to obey the rules and become satisfied that the interests of the school demand his expulsion. Upon ordering the expulsion of a pupil by the board the school district clerk shall file a notice of such order with the parent or guardian of the pupil. Parents or guardians of expelled pupils may appeal to the state superintendent. An appeal may be taken within thirty days from the decision of the state superintendent to the circuit court of the county in which the school is located.

(4) ADULT PUPILS. Residents above twenty years of age may be admitted to the district schools when in the judgment of the board they will not interfere with the pupils of school age.

(5) NONRESIDENT PUPILS, TUITION. (a) When there is sufficient room the school board shall admit nonresident children to the school and shall fix the tuition for children in grades below the ninth as follows:

1. In a basic district: From the total cost of operating and maintaining the school including the salary of the principal, supervising teachers and superintendent for that portion of time devoted to the teaching of or supervision of grades below the ninth grade and excluding that portion of costs for the operation and maintenance of grades above the eighth grade, including an item for building and equipment costs equal to 2 per cent of the original expenditures by the districts for buildings and equipment thereof as certified by the state superintendent of public instruction, such charge not to apply for a greater period of time than 50 years in the case of a new building or for the unexpired portion of 50 years of life of an old building, excluding land costs. There shall be subtracted an amount equal to the sum of the county aid and the difference so determined shall be divided by the average daily attendance for the given year.

2. In an integrated district: From the total cost of operating and maintaining the school including the salary of the principal, supervising teachers and superintendent for that portion of time devoted to the teaching of or supervision of grades below the ninth grade and excluding that portion of costs for the operation and maintenance of grades above the eighth grade, including an item for building and equipment costs equal to 2 per cent of the original expenditures by the districts for buildings and equipment thereof as certified by the state superintendent of public instruction, such charge not to apply for a greater period of time than 50 years in the case of a new building or for the unexpired portion of 50 years of life of an old building, excluding land costs. There shall be subtracted an amount equal to the sum of the county aid and the difference so determined shall be divided by the average daily attendance for the given year and the quotient shall be reduced by the state average daily attendance aid per nonresident pupil.

(b) The board shall enter into a written agreement with the parents prior to the admission of such nonresidents to the school for the payment of tuition at the rate legally fixed, except when the tuition is a public charge.

(6) PUPILS REMOTE FROM SCHOOL. In case children of school age reside more than two and one-half miles from the schoolhouse in the home district, and one-half mile nearer another public school, and transportation is not provided by the home district, such children may attend the nearer school if the facilities for seating and instruction will permit. The clerk of the school which such children attend shall file with the clerk of the home district, a statement before the first day of July of each year, showing the name, age, residence, date of admission, and the attendance of each child admitted from said district, the rate of tuition per week, month or year, and the amount of tuition due for each, provided the tuition below the ninth grade shall not exceed the per capita cost of instruction, determined as provided in this section. Upon the filing of such statement, the school board of the home district shall allow and pay to the treasurer of the other district, the tuition due. If the school attended is more than two and one-half miles from the pupil's home the pupil's home district shall be liable for transportation as provided for under subsection (1) of section 40.34.

(7) EQUAL RIGHTS OF PUPILS, COMPUTATION OF TIME. Tuition pupils shall have all the rights and privileges enjoyed by resident pupils. In computing tuition, 5 school days, including the legal holidays, shall constitute a school week; 20 school days, including legal holidays, shall constitute a school month. No deduction of tuition shall be made on account of absence on the part of any pupil, unless such pupil shall have been absent 10 consecutive school days. In case of a longer absence at one time, deduction shall be

made only for the absence in excess of 10 days, provided that when a school is closed pursuant to an order of the health officer during the term regularly established by the school board, and the expenses of instruction and maintenance are incurred by the district the same as if the school were operating, tuition shall be charged the same as if the school had been in session. This amendment (1945) shall be applicable to the 1944-1945 school year.

History: 1951 c. 225.

40.22 Curriculum. (1) **FUNDAMENTAL COURSE.** Reading, writing, spelling, English grammar and composition, geography, arithmetic, elements of agriculture and conservation of natural resources, history and civil government of the United States and of Wisconsin, citizenship and such other branches as the board may determine shall be taught in every common school. All instruction shall be in the English language, except that the board may cause any foreign language to be taught to such pupils as desire it, not to exceed one hour each day.

(2) **PHYSIOLOGY AND HYGIENE.** Physiology and hygiene, sanitation, the effects of stimulants and narcotics upon the human system, symptoms of disease and the proper care of the body, shall be taught daily for one-half of the school year in either the sixth, seventh or eighth grade, but no pupil shall be required to take such instruction if the parents shall file with the teacher a written objection thereto. A semester of work of physiology and hygiene shall be offered in each high school curriculum.

(3) **PHYSICAL EDUCATION.** (a) Physical instruction and training shall be provided for all pupils in conformity with the course of instruction in physical education prescribed by the state superintendent. In one and two-room schools such instruction and training shall take the form of supervised playground work. The time devoted to such course by each pupil above the kindergarten shall aggregate at least two and one-half hours each school week, exclusive of recess periods.

(b) Every county normal school and every high school course for the training of teachers shall require all students to take a course in physical education and playground games and management.

(c) Physical education as used herein is instruction in the theory and practice of physical exercise and instruction in hygiene, but does not include medical supervision.

(4) **PREVENTION OF ACCIDENTS.** Each public school teacher shall devote not less than thirty minutes in each month to teaching her pupils how to prevent accidents and promote safety on the public highways.

(5) **MORALS.** Every public school teacher shall teach her pupils morality and how to conduct themselves as social beings.

(6) **ANIMAL LIFE.** Each public school teacher shall devote not less than thirty minutes each month to teaching the pupils kindness to and the habits, usefulness and importance of animals and birds, and the best methods of protecting, preserving and caring for all animal and bird life.

(7) **FIRE DRILL.** (a) The person having direct charge of any public, private or parochial school shall, at least once each month without previous warning, drill all pupils in the proper method of departure from the building as if in case of fire. The foregoing provisions shall be observed except when, in the judgment of the principal or person having such direct charge, he shall deem that the health of the pupils may be endangered by inclement weather conditions.

(b) The principal or person having direct charge of any public, private or parochial school shall annually render a brief concise report pertaining to the drills provided for in this section on forms furnished by the industrial commission. Such reports shall be made to the state department of public instruction, the industrial commission, and in each community having a recognized fire department to the chief of such fire department.

(8) **FIRE PREVENTION.** Each public school teacher shall devote not less than one-half hour each month to teaching the pupils fire prevention.

(9) **KINDERGARTEN.** Any board which has control of primary grades may, and upon petition of the parents of twenty-five children, more than four and not more than six years of age, shall establish and maintain a kindergarten, provided such parents reside not more than one mile from the school building. Such kindergarten shall constitute a part of the public schools of the district, and shall not be discontinued unless the kindergarten enrollment for the preceding year shall have been less than fifteen.

(11) **CO-OPERATION AND CONSERVATION.** (a) Every high school and school of vocational and adult education shall prescribe adequate and essential instruction in co-operative marketing and consumers' co-operatives.

(b) Every high school and school of vocational and adult education shall offer adequate instruction in conservation of natural resources.

(12) **TEACHER TRAINING.** (a) The governing boards of the university, state colleges and county normal schools shall provide in their respective institutions adequate and essential instruction in co-operative marketing and consumers' co-operatives.

(b) The governing boards of the university, state colleges and county normal schools shall provide in their respective institutions adequate instruction in conservation of natural resources.

(13) **TEXT MATERIAL.** (a) The state superintendent of public instruction and the dean of the college of agriculture at the state university shall co-operate in the preparation of outlines to be used by teachers in the courses offered under subsections (11) (a) and (12) (a) and they shall have power to request the assistance of any teacher or professor in any of the schools of the state in the preparation of such outlines. They may also make a recommended list of material now in pamphlets or books for guidance to teachers of these courses.

(b) The state superintendent of public instruction and the conservation commission shall co-operate in the preparation of material to be used in the courses offered under subsections (11) (b) and (12) (b) and they shall have power to request the assistance of any teacher or professor in any of the schools of the state in the preparation of such material. They may also make a recommended list of material now in pamphlets or books for guidance of teachers of these courses.

(14) **TEACHERS' CERTIFICATES.** (a) In granting certificates for the teaching of the courses in economics, the social studies and agriculture, adequate instruction in co-operative marketing and consumers' co-operatives shall be required.

(b) In granting certificates for the teaching of the courses in science and social studies adequate instruction in the conservation of natural resources shall be required.

History: 1951 c. 33, 548.

[40.225 Stats. 1937 repealed by 1939 c. 272]

40.226 Instruction in food and health value of dairy products. In all rural and urban, public and private, ungraded, graded and high schools in Wisconsin at least fifteen minutes in each school week shall be devoted to instruction in and study of the true and comparative vitamin content and food and health values of dairy products and their importance for human diet. The course of such instruction and the educational material therefor shall be prescribed by the superintendent of public instruction and shall be included in the instruction manuals for such schools. Such educational program shall be directed by the superintendent of public instruction through county and city superintendents of schools and such other educational officials whose co-operation may be deemed necessary to insure its success. The state department of agriculture, the state board of health and the college of agriculture of the University of Wisconsin and the extension division thereof shall co-operate with and assist the superintendent of public instruction in the development and execution of such educational program.

40.23 School funds; depositories. Every district board or board of education shall designate the bank or banks where the money belonging to the school district shall be deposited. When the money is so deposited in such depository in the name of the school district, the treasurer and his bondsmen shall not be liable for such losses as are defined by subsection (6) of section 34.01. The interest arising therefrom shall be paid into the school district treasury.

40.24 Uniform textbooks for county. (1) **COUNTY BOARD OF EDUCATION.** When a majority of all the districts shall vote, at any annual county school board convention in favor of adopting county uniform school textbooks, each school district being entitled to one vote, the convention shall immediately elect a county board of education of not less than three nor more than five persons. And said school board convention shall, at a regular meeting every five years thereafter, elect not less than three nor more than five persons who shall constitute said county board of education; provided that said convention may at any time by a majority vote discontinue such board. School districts which maintain high schools shall not be entitled to vote on the question of uniformity of textbooks, nor in the election of the county board of education.

(2) **TERM OF BOARD MEMBERS.** The members of the county board of education shall hold office for five years and until their successors are elected and qualified.

(3) **ELIGIBILITY, VACANCY.** No person shall be eligible to said county board of education who is not a legally qualified teacher and has not had five years of experience in teaching or in the supervision of public schools, or who is a dealer in textbooks, or is an agent of, or interested in, any person, firm or corporation engaged in publishing or furnishing school textbooks, or who shall be interested in any book or series of books as the author, associate author, or in any manner whatsoever; and if any member shall be so interested, his office shall ipso facto become vacant.

(4) OATH OF OFFICE. Each member of said county board of education shall, before entering upon the duties of his office, take the constitutional oath of office; and shall in addition thereto swear that he is not directly or indirectly interested in or related to any publishing house, person, firm or corporation, engaged in publishing or furnishing school textbooks, or any of their agents, and that he is not interested directly or indirectly in any book or series of books as the author, associate author, or otherwise; which oath shall be filed with the county clerk.

(5) ORGANIZATION OF BOARD. The members of said board of education shall, within ten days after their election, meet at the county seat and organize by electing one of their number president, and one secretary, and said board shall adopt such rules and regulations as may be necessary to the transaction of its business.

(6) ADOPTION OF TEXTBOOKS. A majority vote of all the members of the board shall be necessary to adopt or change any textbook.

(7) CONTRACTS WITH BOARD. The president and secretary shall sign all contracts on behalf of said board, and the secretary shall keep a full record of all proceedings of said board in a book kept for that purpose, which book shall be a public record and be kept in the office of the county superintendent of schools.

(8) MEETINGS OF BOARD. Said board of education shall meet at the county seat on the first Saturday in May, and at such other times as the board shall deem necessary, and the president shall call a meeting upon the written request of a majority.

(9) EXPENSES PAID. The members of the county board of education shall be reimbursed their actual and necessary expenses in the performance of their duties; the same to be paid out of county funds.

40.25 Uniform textbooks; selection and use. (1) Every county board of education shall, as soon as may be, and every fifth year after the first adoption of textbooks, meet at the county seat and select and adopt a series of textbooks, covering all branches of study required to be taught below the ninth grade.

(2) The books so selected shall be used in all school districts of the county, except those maintaining high schools and graded schools of the first class.

(3) The books so selected shall be introduced in the schools the following September, and shall remain in use until displayed or replaced by said county board of education; but no books so adopted and introduced into said schools shall be changed within five years from the date of adoption.

(4) In districts furnishing free textbooks, it shall be optional with the school board whether or not a change of the textbooks shall be made; but, whenever a change is made, only such textbooks shall be selected as have been adopted under the provisions of this section.

(5) A graded school may, by a unanimous vote of the school board, adopt in lieu of the textbooks selected by the county board of education, the books used in the grades of the nearest city schools.

(6) The textbooks adopted by said board of education shall be selected after a careful examination of all sets of books presented, and taking into consideration the material used, illustrations, binding, price, and all other things that go to make up a desirable textbook; merit, however, shall be the main point to be considered in their selection.

(7) School districts or the county board of education, may, nevertheless, select, introduce and use additional and supplementary books at any time when they deem it necessary in order to establish and maintain the highest standard of excellence in their schools.

(8) Such supplementary books shall not be used to the exclusion of the series books adopted by the county board of education.

[40.255 Stats. 1925 renumbered section 40.18 by 1927 c. 425 s. 58]

40.26 Purchase of textbooks; bids. (1) The county board of education shall at least thirty days before meeting to adopt textbooks, send notice to textbook publishers and advertise in a newspaper of general circulation in the county that said board will on a day named, meet at the county seat and select and adopt textbooks for use in the district schools of said county, and shall invite bids to furnish such books, giving a list of textbooks to be selected. Said notice shall also state the time when bids and samples of books must be submitted to them, and such further facts as the board may deem necessary.

(2) Any person desiring to furnish such books shall, at or before the time for filing his bid, deposit in the office of the county superintendent of schools samples of all textbooks included in his bid, together with lists giving the lowest exchange price, wholesale price and retail price to pupils or school districts for the same.

(3) Said samples and lists shall remain in the said superintendent's office and shall be open at all times to public inspection.

(4) Said board shall require any person who contracts for furnishing the books to give a good and sufficient bond to the board in such sums as the board may require, with sureties and conditioned for the faithful performance of such contract.

(5) Said board shall arrange for such depositories as it may deem necessary for furnishing the adopted books to school boards or local dealers. Such depositories shall furnish a sufficient bond to protect publishers. Depositories shall receive books displaced by the uniform adoption and return them to publishers at agreed allowances. Depositories shall accept books on the uniform list at reasonable prices from people who are moving out of the county; such books to be resold to pupils in the county at a slight advance on cost.

40.27 Application of sections 40.24 to 40.26. In the administration of sections 40.24 to 40.26, a district situated in more than one county shall be deemed to be fully within the county in which the schoolhouse is located.

[40.275 Stats. 1925 renumbered section 40.36 by 1927 c. 425 s. 75]

40.28 Textbooks; home-study courses; conditions of sale; bond, penalties. (1) No person shall offer for sale, or sell, any school textbooks or any encyclopedias or other reference books or any home-study courses either in sets or in series for adoption, sale or exchange in Wisconsin, until he shall have complied with the conditions of this section.

(1m) The term "home-study course" is any course, text or matter for study offered by any school, preparatory school, college, academy, university or other institution not created or maintained, in whole or in part, by public funds, that operates in this state by teaching or undertaking or proposing to teach or preparing students to study any subject in this state through the use of the mail, express or other common carrier or by contract or private carriers or by any other means of communication, other than resident instruction, except an employer who offers instruction for training of his employes in the work of his establishment.

(1n) Every such school, college, academy, university or other institution not created or maintained, in whole or part, by public funds, that operates in this state by teaching, or undertaking or proposing to teach, or preparing students to study, any subject in this state through the use of the mail, shall comply with the provisions of this section.

(2) He shall file copies of such textbooks, encyclopedias, reference books and home-study courses proposed to be sold in Wisconsin in the office of the state superintendent, with a sworn statement of the list price, the lowest wholesale price, and the lowest exchange price, at which said books or home-study courses are sold or exchanged for old books or home-study courses on the same subject and of like grade and kind but of a different series in the United States. He shall likewise file, in connection with the sale or proposed sale of home-study courses, forms of proposed contracts to be used in making or attempting to make such sales.

(3) He shall file with the state superintendent a bond to the state with a licensed surety company as surety in a penal sum to be determined by the state superintendent, not less than two thousand dollars nor more than ten thousand dollars, conditioned that he will furnish any of the books or home-study courses listed in said statement and in any statement subsequently filed by him within five years and in accordance with such statement, to any school district, corporation or person in the state at the lowest price shown in said statement, and that he will maintain said price uniformly throughout the state, provided, however, that in sales of home-study courses discounts may be made in respect to sales to educational institutions and school districts and in respect to second course enrollments; that he will reduce such prices in Wisconsin whenever reductions are made elsewhere in the United States, so that at no time shall any book or home-study course so filed and listed by him be sold in Wisconsin at a higher net price than the lowest price received for such book or home-study course in the United States; that all textbooks, encyclopedias, reference books and home-study courses offered for sale, adoption or exchanged in this state shall be equal in quality to those deposited in the office of the state superintendent; that in case he shall prepare an abridged or special edition of any of the books or home-study courses so listed by him, and shall sell such special edition at a lower wholesale price than the wholesale price of the earlier or unabridged edition scheduled with the state superintendent, he will file a copy of such special edition together with the price therefor, as above stated, with the state superintendent; that he will not enter into any understanding, agreement or combination to control the prices or to restrict competition in the sale of school textbooks, encyclopedias, reference books or home-study courses.

(4) Such bond shall be approved by the attorney-general and shall continue in force for the period of five years after its filing, at or before the expiration of which period a new bond shall be given, or the right to continue such business within the state shall terminate.

(5) All teachers shall notify their superintendent of schools of any violation of any of the conditions of said bond that shall come to their knowledge, and it shall thereupon be

the duty of such superintendent to investigate the alleged violation, and if he shall find that there is good ground for believing that said conditions have been violated, he shall forthwith report the matter to the state superintendent, who shall notify the obligor to comply with the conditions of his bond, and to make good any loss or injury that may have been occasioned by such violation, within a reasonable time to be inserted in said notice. If the person so notified shall fail to comply with the requirements of the notice, the state superintendent may suspend his right to sell school textbooks, encyclopedias, reference books and home-study courses within the state until he shall comply. In case he shall refuse to comply with the provisions of his bond, or shall violate the same a second time, the state superintendent shall declare his bond forfeited, and the attorney-general shall bring suit thereon. In case judgment shall be rendered in favor of the state on such bond, it shall be for the penal amount thereof, and the proceeds shall be placed to the credit of the common school fund, and shall bar the principal from further continuance of such business within the state for five years.

(6) No person shall secure or attempt to secure the sale of any school textbooks, encyclopedias, reference books or home-study courses to any school district by rewarding or promising to aid or reward any teacher. No person shall offer or give any money or other valuable thing, promise of work or any other inducement to any teacher or school officer for any vote or promise of vote or for the use of his influence for any school textbooks, any encyclopedias, reference books or home-study courses; provided, that nothing in this section shall be construed to prevent any person from giving, or any school officer or teacher from receiving, a reasonable number of sample copies of school textbooks for examination with a view of obtaining information as to the book or series of books for which such officer may give his vote.

(7) Any person violating any of the provisions of this section shall be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment.

(8) No person shall represent, as an inducement to the sale of any home-study course, whether orally or in writing, that he or the school offering such course will, upon the purchaser's completion of such course, place such purchaser in employment, unless in fact at the time of such representation, there is a written contract between such school and an employer whereby the latter is bound to furnish such employment as represented. Such purchaser shall be entitled, in the event that such representation is made and no such contract then exists, to have the purchase price, tuition or fee or other consideration paid for such course refunded and may recover the same in an action of debt.

(9) This act [1937 c. 384] shall not apply to any college or university organized and operating in the state of Wisconsin whose credits are accepted by the North Central Association of Colleges and Secondary Schools, or to any correspondence course or courses they may offer.

40.29 Textbooks; lists, purchase, agents. (1) **LISTS.** In June of each year the state superintendent shall send copies of the list of the schoolbooks filed in his office, giving the publisher's prices, to the school superintendents, sufficient to supply a copy to each common school clerk.

(2) **ADOPTED, FURNISHED.** Subject to the power of the county board of education to adopt and supply books, the common school board shall adopt from the list of school textbooks on file with the state superintendent, all the textbooks necessary for use in the schools under its charge, and file a list of the adopted books with the school clerk and keep a copy of it posted in the school, and such textbooks shall not be changed for five years; and it may purchase textbooks direct from the publishers at the prices listed with the state superintendent and sell them to the pupils at cost.

(3) **AGENTS' COMMISSION.** The school board may designate agents of the district to sell the textbooks to the pupils. The agents shall, at stated times, make settlement with the district for such books as have been sold. Such agents may add a selling commission which shall not exceed ten per cent of the net prices as listed with the state superintendent.

(4) **AGENTS' PRICE LIMIT.** No dealer in textbooks shall sell any books listed with the state superintendent, as provided by law, at a price to exceed fifteen per cent advance on the net list prices, transportation added thereto. Any agent or dealer, violating the provisions of this section, shall be fined not less than twenty-five dollars and not more than one hundred dollars.

40.30 Common school districts; creation, alteration, dissolution. (1) **NAME, CONTIGUOUS TERRITORY.** (a) Upon the filing of a petition by an elector with the municipal clerk, any town or village board or council of a city of the second, third or fourth class may, by order, create, alter, consolidate or dissolve school districts. Such districts shall be known by the names of the municipalities in which they lie, and if there is more than

one district in a municipality, those districts shall be further designated by numbers. No territory shall be detached from a district unless it be by the same order attached to another district or districts, and no district shall be created having less than \$150,000 of taxable property as shown by the last assessment roll.

(b) Any person aggrieved by any order of a municipal board or council issued and recorded pursuant to the provisions of this section or aggrieved by the refusal of a municipal board or council to file orders of alteration, dissolution, consolidation or creation when petitioned to do so may appeal therefrom to the state superintendent within 30 days following the issuing and recording of any such order, or where a board or boards, or council or councils, refuses or neglects to issue and record an order of alteration, dissolution, consolidation or creation then within 90 days following the filing of the petition. After determining the appeal the state superintendent shall enter an order affirming, modifying or reversing the order appealed from, or where the appeal is from the refusal of a municipal board or council to file orders of alteration, dissolution, creation or consolidation when petitioned to do so, the state superintendent may in the event that he finds the municipal board or council erred in refusing to file such an order, make such order as he deems proper under the circumstances. An appeal from any order of the state superintendent made under this paragraph may be taken to the circuit court of any county affected thereby within 30 days from the date of said order. Such appeal shall be taken by serving upon the state superintendent within 30 days after the date of the order appealed from, a written notice of appeal which shall state the ground or grounds upon which said appeal is based.

(c) If within 30 days after the issuing and recording of an order by a municipal board, city council or state superintendent under section 40.30 (1) (a) and (b), creating, altering, consolidating or dissolving school districts, 10 per cent of the electors voting at the last gubernatorial election or 500 electors, whichever is smaller, file a petition in the manner provided in section 40.30 (1) (a), requesting a referendum election on such order, such order shall not become effective until it has been approved by both a majority vote of the resident electors within all of the territory outside the city or village limits of any city or village involved in the proposed reorganized district, voting at such election, and by a majority vote of the electors residing within city or village limits of all cities and villages involved in the proposed reorganized district voting at such election. The electors residing in that portion of any municipality not included in the area proposed to be reorganized shall not vote in such referendum. The referendum shall be conducted in the manner provided for referendums in section 40.303 (8) except as herein set forth.

(1m) SPECIAL DISTRICT FOR ISLANDS. A common school district may be established in the following described territory: all islands or parts of islands situated in sections 3, 10, 11, 12, 13, 14 and 15, town of Trenton, Pierce county.

(2) NOTICE OF PROPOSED ACTION. Whenever a petition for such alteration, creation, consolidation or dissolution shall be filed, the municipal board or boards or council or councils shall within 30 days meet and by resolution or joint resolution set a date for hearing within 10 days and give at least 5 days' notice, in writing, to the clerk of each district to be in any way affected thereby of the day, hour and place it will meet to decide upon the proposed changes. Each district clerk shall immediately notify the other members of his board.

(3) JOINT ACTIONS OF BOARD. When the territory to be affected by a proposed order, other than one commenced by the state superintendent upon his own motion, lies in more than one municipality, the municipal boards shall act jointly, and the concurrence of a majority of each board shall be necessary to a valid order. The meeting of the several municipal boards or councils shall be called by the clerk of the municipality with whom the petition is filed and he shall give at least 5 days' notice in writing of the time and place of meeting to each member of each board or council.

(4) ORDER AS EVIDENCE. Such order shall be presumptive evidence of the facts recited therein and of the validity of all proceedings preliminary thereto.

(5) DISTRICT NUMBERED. An order creating a district shall number the district and mention the municipality in which it is situated.

(6) ORDER FILED AND RECORDED. Every order shall be promptly filed and recorded in the office of the clerk of the municipality in which the school districts affected by the order are situated (and if in more than one, a sufficient number of originals shall be executed so that one may be filed with each municipal clerk), and one copy of such order shall be mailed to the county superintendent, and one copy of such order shall be mailed to the state superintendent.

History: 1951 c. 707.

The creation or alteration of a school district under 40.303 does not prevent later alteration under 40.30. 39 Atty. Gen. 302.

40.303 County school committee. (1) **CREATION, MEMBERSHIP.** There shall be created in each of the counties of this state a county school committee consisting of 6 members to be elected by the county board. Three of such committee members shall be residents of incorporated cities or villages of the county and 3 shall be residents of towns of the county. If there is one city within the county at least one of the city-village members shall be a resident of that city. If there are 2 or more cities in the county, that are subject to the provisions of this section, at least 2 of the city-village members shall be residents of cities. One member of the committee may be a member of the county board. Of the village or city members first elected one shall serve for a term of one year; one for a term of 2 years and one for a term of 3 years; and of the town members first elected one shall serve for a term of one year; one for a term of 2 years and one for a term of 3 years. Thereafter members shall each be elected for a term of 3 years. All members shall serve until their successors have qualified. Any vacancy caused by resignation, death, removal of residence from the county or any other cause shall be filled by appointment by the chairman of the county board for the remainder of the unexpired term, subject to confirmation by the county board at its next succeeding meeting. Upon failure of the county board to approve of an appointment made by the chairman of the county board, the board shall elect a successor to fill the vacancy for the balance of the unexpired term. Resignations shall be made in writing to the county school committee and shall be filed with the county superintendent of schools. The county superintendent shall serve as secretary of the committee but shall not be entitled to vote.

(2) **NOMINATION OF COMMITTEE MEMBERS.** The education committee of the county board, or if no such committee exists, a committee designated by the chairman of the county board, shall nominate candidates for the county school committee equal in number to the number of committee members to be elected. Such nominations shall be made at least 30 days before the meeting of the board at which the election is held, except that the 30-day provision shall not apply to the initial election if the first meeting of the county board following August 27, 1947 is held less than 30 days after such effective date. Persons nominated shall have a recognized interest in and understanding of, and sympathy for the problems of common schools.

(3) **ELECTION OF COMMITTEE MEMBERS.** Committee members elected in the year 1949 and thereafter shall be elected at the annual November meeting of the county board and their term of office shall run from January 1 following their election. If appointments are not made by any county board or boards within the time limitations herein specified, the state superintendent shall forthwith make said appointments. The members of the county school committee elected pursuant to section 40.303, statutes of 1947, shall continue in office until the members of the county school committee elected pursuant to this act qualify.

(4) **DUTIES OF COMMITTEE.** The county school committee shall:

(a) In counties in which a city of the first class is located, on or before July 1, 1953, and in all other counties on or before July 1, 1951, file with the superintendent of public instruction a plan for the development of the educational system of the county. The plan shall provide a comprehensive program of improved educational opportunity for the school children of the county and shall provide for the establishment of substantial administrative districts covering grades from kindergarten or first through twelfth which may be the pattern for the future development of the educational system of the county. The plan shall be based upon reliable data on census, enrollment, location, financial status, geography and the general needs of each community of the county. If the committee shall fail within such respective times to prepare and file such plan the committee shall automatically be removed from office and it shall be the duty of the county board within 90 days to elect a new committee with different personnel who shall immediately succeed the committee removed from office, which committee shall prepare such a plan within one year from the date of its appointment. Nothing in this subsection shall be interpreted as prohibiting the committee from issuing any orders under paragraph (b) prior to July 1, 1951.

(b) Have the power, upon the petition of an elector of the county or upon its own motion, to order the creation, alteration, consolidation or dissolution of school districts within the county, subject to the referendum provisions of subsection (8) but all orders of the county school committee providing for the reorganization of school districts shall not take effect until the end of the school year except those involving one or less school districts. Before voting upon any such order it shall be the duty of the committee, at a regular or special meeting, by resolution, to provide for a public hearing on the proposed reorganization which shall be held not more than 30 days after the date of resolution at a place within the district proposed to be reorganized or within a reasonable distance of such district. Notice in writing of the time and place of the hearing shall be served forthwith

upon the clerks of the school districts affected by the proposed reorganization. It shall be the duty of the clerks of the districts affected to post notices of such hearing in 4 or more public places in their respective districts and cause such notice to be published once in a newspaper having general circulation in the area affected, not less than 10 days before such hearing. One of the notices shall be posted on the outer door of the school house. Failure of the school clerk to post such notices shall constitute malfeasance in office. Within 30 days after the hearing on any proposed plan of reorganization and prior to the issuance of any order thereon, the county committee shall hold a conference on the plan of reorganization which they propose to order with the school boards of the districts involved in the proposed plan, and the order issued shall represent the decision reached at this conference.

(c) Call the first annual meeting of any district created by its order under the provisions of paragraph (b).

(d) Determine the amount to be allowed in excess of the established maximum on claims for transportation of nonresident high school students as provided in section 40.34 (10).

(e) Approve all school bus routes established by the several school districts of the county.

(f) When applicable to cities of the first class: 1. Notice of hearing provided for in paragraph (b) shall be served upon the secretary-business manager of the board of school directors, who shall cause to be published in any such city the notice of such hearing 2 times in a daily newspaper or newspapers published in such city not less than 10 days before such hearing; 2. No such notices need be posted as in paragraph (b); 3. In lieu of the call for the first annual district meeting as provided in paragraph (c), the county school committee shall make a written demand upon the county clerk to issue a call for the election of a board of school directors for any newly created school district of which such city of the first class shall by creation, alteration or consolidation become a part, at the time and in the manner as the legislature may hereinafter prescribe; 4. Any referendum election held pursuant to subsection (8) shall be called and held in such manner and at such time and upon such notice and under the auspices of the board of election commissioners created and maintained under section 10.01, as the legislature shall hereinafter prescribe, provided, that the electors shall have 90 days after the date of issuance of any order of the county school committee in the premises in which to file the required petition; and the referendum shall not be held prior to 40 days after the filing of such petition or prior to 40 days from the time the county school committee by its own motion shall provide for such referendum, and provided that no such referendum shall be held at any time other than on a regular election date in April or November in any year; 5. The county shall reimburse any city of the first class for any and all necessary expenditures incurred and paid incident to any such referendum; and 6. The board of school directors in any city of the first class shall in behalf of such city perform the duties provided in subsection (10).

(5) STATE SUPERINTENDENT TO ADVISE. The state superintendent shall advise and consult with the several county school committees. Whenever in his opinion any school district or districts shall be created, altered, consolidated or dissolved, he may make his recommendations to the county school committee or committees of the county or counties within which the territory affected is situated.

(6) JOINT COUNTY COMMITTEE ACTION. When any territory to be affected by a proposed school district creation, alteration, consolidation or dissolution lies in 2 or more counties the county school committees of said counties shall act as a joint committee. If the joint committee cannot agree, they shall appoint an additional member. The additional member shall be a resident of the state but shall not be a resident of either county affected.

(7) COMPENSATION. Each member of the county school committee, except the county superintendent of schools, shall receive per diem, as fixed by the county board, of not less than \$4 nor more than \$8 per day for each day he attends a meeting of said county school committee. Each member of the committee shall also receive for each day he attends a meeting of the committee compensation for other necessary expenses and mileage at the rate of 6 cents per mile for each mile traveled in going to and returning from the place of meeting by the most usual traveled route. Such per diem, mileage and expenses shall be paid by the county.

(8) REFERENDUM. (a) If within 30 days after the date of issuance of any order of the county school committee creating, altering, consolidating or dissolving school districts within the county, a petition signed by 500 of the qualified electors of the territory to be included in the reorganized district or signed by a number of such electors, residing in

the incorporated cities and villages, equal to not less than 10 per cent of the vote cast in the last general election within these incorporated cities and villages or signed by a number of such electors residing in all the territory outside the incorporated cities and villages within the reorganized district equal to not less than 10 per cent of the vote cast in the last general election or by 500 of the qualified electors from such territory outside such cities and villages, whichever number is smaller, is filed with the county school committee requesting a referendum election on the order, such order shall not become effective until it has been approved by both a majority vote of the electors residing within all of the territory outside the city or village limits of any city or village involved in the proposed reorganized district voting at such election and by a majority vote of the electors residing within the city or village limits of all cities and villages involved in the proposed district voting at such election. The county school committee may upon its own motion provide for the holding of a referendum election upon an order issued by it, provided such motion is made within 30 days of the issuance of the order. As an alternative to making and filing the foregoing petition the common council of any city affected by an order of the county school committee may by resolution provide for the holding of a referendum election upon such order, provided such resolution is adopted within 30 days of the issuance of the order. If the proposed order is not approved by the referendum, the county school committee, with the advice of the school boards of the several districts included in the reorganized district or districts may not within one year reconsider the first plan but may prepare a second plan of reorganization and the county school committee may within one year from the date of the first referendum election order the establishment of such reorganized district or districts except that such order shall be subject to the same referendum provisions as the first reorganization order. If the second referendum does not approve the order, the county school committee, with the advice of the local school boards, shall continue its work, issue orders and provide for further referenda on its own motion or upon petition as provided in this subsection so long as the need for reorganization continues to exist, but after the second referendum, at least one school year shall elapse between referendums.

(b) The referendum election provided for in this subsection shall be called by the county clerk and it shall be set for a date not more than 30 days from the time the petition for a referendum is filed with the county committee or 30 days from the time the county school committee by its own motion provides for a referendum. The county clerk shall cause notice of the purpose, time and place of holding such election and the hours of opening and closing of the polls to be published at least twice one week apart in a newspaper or newspapers of general circulation in the territory involved in the reorganization, if there be any, and if there are none, he shall post or cause to be posted such notices at least 15 days before the date set for such election in at least 3 public places in each of the school districts involved in the reorganization.

(c) Electors shall vote at the polling place at which they would be required to vote at a general election. The polls shall open at 7 a. m. and be closed at 8 p. m. or at an earlier hour to be determined by the local governing body. The election officials shall be selected by the governing body of the municipality where the polling place is located. The municipality shall compensate the election officials and shall provide the necessary ballot boxes and voting booths. Such elections shall be held and conducted and the votes cast thereat counted, canvassed and the results returned to the county clerk as at general elections as provided in chapter 6.

(d) The county clerk or the county election commission, as the case may be, shall provide for the printing and distribution of ballots and other election supplies. The form of the ballot provided shall correspond as near as may be with form "D" annexed to section 6.23. In the case of a reorganized district which overlaps county lines, the election shall be conducted and the vote counted and canvassed in each county separately, but a tabulation of the vote in each county shall be forwarded to the county clerk of the county having the greatest equalized valuation within the reorganized district for a final consolidated tabulation and determination of the result.

(e) When a reorganized district includes territory in more than one county, the county clerk of the county having the largest assessed valuation within the reorganized district shall be responsible for conducting the referendum election as provided in this subsection but the cost of election shall be borne equally by all of the counties concerned.

(9) APPEAL. All orders of the county school committee creating, altering, consolidating or dissolving school districts shall be final except that a referendum election may be had upon them as provided in subsection (8) and except that any person aggrieved by any order of a county school committee issued and recorded pursuant to the provisions of this section or aggrieved by the refusal or neglect of a county school committee to file orders of alteration, dissolution, consolidation or creation when petitioned to do so may

appeal therefrom to the circuit court of the county in which the territory described in the petition lies, by serving written notice of such appeal upon the secretary of the county school committee or committees within 30 days following the issuing and recording of any order, or where the county committee or committees refuse or neglect to issue and record an order of creation, alteration, dissolution or consolidation, then by serving such notice of appeal within 90 days following the filing of the petition. No school district shall be denied payment of school aid solely because of any appeal from an order of a county school committee.

(10) LOCAL GOVERNING BODIES TO ADVISE. It shall be the duty of the governing bodies of all towns, villages, and cities of the second, third and fourth class, within 30 days after receipt of a written request from the county school committee, to advise and make recommendations to the committee in writing concerning the division of existing school districts within the limits of their respective municipalities which the committee proposes to include in any reorganization of school districts.

(11) ORDER AS EVIDENCE. Any order of the county school committee issued as provided in subsection (4) (b) shall be presumptive evidence of the facts recited therein and of the validity of all proceedings preliminary thereto.

(12) DISTRICT NUMBERED. An order of the county school committee creating a district shall number the district and mention the municipalities in which it is situated.

(13) ORDER FILED AND RECORDED. Every order issued as provided in subsection (4) (b) shall be promptly filed and recorded in the office of the clerk of the municipality in which the school districts affected by the order are situated (and if in more than one, a sufficient number of originals shall be executed so that one may be filed with each municipal clerk), and a copy of such order shall be mailed to the clerk of each school district affected, to the county superintendent, and to the state superintendent.

(14) REFERENDA ON PRIOR ORDERS. (a) Except as provided in paragraph (b), a referendum election may be held to approve any order of a county school committee creating, altering, consolidating or dissolving school districts entered after August 26, 1947 and prior to July 1, 1949, provided a petition for such referendum election, signed by either 25 per cent of the electors or 1,000 of the electors residing within all of the territory outside the city or village limits of any city or village involved in the proposed reorganized district, or by either 25 per cent of the electors or 1,000 of the electors residing within the city or village limits of all cities and villages involved in the proposed district, is filed with the county school committee within 30 days after such reorganized district has been operating one school year under the state aid system provided by the 1949 legislature. Such referendum election shall be held and the vote counted and canvassed in the same manner as provided in subsection (8) for referendum elections held on orders entered after July 1, 1949. Such order shall not become effective unless it is approved by both a majority vote of the electors residing within all of the territory outside the city or village limits of any city or village involved in the reorganized district voting at such election, and by a majority vote of the electors residing within the city or village limits of all cities and villages involved in the district voting at such election.

(b) The provisions of paragraph (a) shall not apply to any school district reorganized by such order of the county school committee whose first officers had not qualified before March 15, 1949, but in such instance if on or before August 1, 1949 a petition signed by 500 of the qualified electors of the territory to be placed in the reorganized district or signed by a number of such electors equal to not less than 10 per cent of the total vote cast for governor therein in the last general election is filed with the county school committee requesting a referendum election on the order, such order shall be void unless approved at a referendum election held for that purpose by a majority vote of the electors voting at such election residing in any city or village involved in the reorganized district and by a majority vote of the electors voting at such election residing in the territory involved in the reorganized district lying outside any such city or village. Such referendum election shall be held and the vote counted and canvassed in the same manner as provided in subsection (8) for referendum elections held on orders entered after July 1, 1949.

History: 1951 c. 246, 422, 664.

Ch. 501, Laws 1949, provides for election of a complete new county school committee of 6 members. "Shall be residents of cities" means that more than one city is to be represented on the committee where there is more than one city in the county. 38 Atty. Gen. 576.

The county school committee has authority under (4) (b) to detach a single farm from one school district and to add it to

another. A petition for referendum signed only by electors from the district from which land is detached does not require a referendum under (8) (a). 39 Atty. Gen. 39.

Where the members of committee travel in car driven by one of members, each member is entitled to 6 cents per mile for each mile traveled in going to and returning from the place of meeting by the most usual traveled route. 39 Atty. Gen. 130.

The school year referred to in (14) (a) expires at the end of the school term fixed by the district meeting or board authorized under the statutes to fix such term for the district involved. 39 Atty. Gen. 158.

The duty of determining the sufficiency of a petition to invoke an election under (8) is upon the county clerk. The sufficiency of the percentage of signatures of electors from territory outside cities and villages to invoke an election must be based upon the total of electors in all such territory within the district as reorganized, including not only such territory as is to be added by the particular order in question but all such territory previously within the district. The period allowed by statute for the filing of a petition for referendum may not be changed because of erroneous advice from any public official respecting the statutory requirements. 39 Atty. Gen. 251.

A county clerk may not call a referendum pursuant to a petition filed after the statutory period for filing has expired. 39 Atty. Gen. 277.

County school committee's order under (4) (b) is not issued within the meaning of (8) (a) until the order has been filed as provided in (13). 39 Atty. Gen. 318.

The procedure for an appeal from an order of a county school committee under (9) should follow that outlined in School

Dist. v. Callahan, 237 W 560. 39 Atty. Gen. 349.

The county school committee is not precluded from entering an order under (4) by lack of consent of the school boards of the districts involved. Where territory formerly comprising a city school district is affected by an order of the county school committee under 40.303, the board of education for future operation of the district is to be provided under 40.07 if the order results in such a reorganization as to abolish the city district; or under 40.52 if it merely results in alteration of the existing city district. The authority of the county school committee under 40.303 to alter and consolidate districts includes power to annex one district to another. A city involved in a school district consolidation order issued under 40.303 (4) retains title to schools owned by it until divested in the manner provided by 66.03. 39 Atty. Gen. 414.

County school committee does not have power to create union high school districts without approval of plats required by 40.64 (1). It cannot safely be assumed that a union high school district has been created by order of a county school committee until a certificate of establishment has been issued by the state superintendent of public instruction under 40.64 (4) (c). 40 Atty. Gen. 62.

40.31 School district; validation; lost records. (1) When a district has exercised the rights and privileges of a school district for a period of four months, no appeal or other action attacking the legality of the formation of such district, either directly or indirectly, shall be taken.

(2) If the order creating a school district, and the record thereof shall be lost or destroyed, the order may be restored, filed and recorded by the same authority and procedure as an original order of like character would be presently made, filed and recorded and shall be presumptive evidence of the regularity of all prior proceedings pertaining thereto, of the legality of the formation of such district, of the boundaries thereof and of the loss or destruction of the record of its formation. Parties aggrieved by any order made under the provisions of this section may appeal therefrom to the state superintendent within thirty days.

[40.32 Stats. 1943 repealed by 1945 c. 121]

40.32 Creation of joint school districts between states. (1) **AUTHORITY.** Upon approval by the state superintendent, the county school committee of any county or the municipal board of any municipality in Wisconsin bordering on the boundary of Wisconsin and an adjoining state, may by joint action with bodies authorized to do so by the laws of such adjoining states, issue and file orders of creation of joint school districts comprised of territory lying in Wisconsin and in such adjoining states and by such order provide for the operation of either elementary grades or high school grades, or for both elementary and high school grades by such districts. Such orders may be subject to a referendum election as provided by section 40.303.

(2) **GOVERNMENT.** (a) The order creating the district shall fix the date, time and place of holding the first annual meeting of the district and shall provide for a board of 7 members. Thereafter the district annual meeting shall be held on the corresponding date, time and place. The annual meeting will elect a chairman and secretary and shall elect the officers of the district by ballot. The 3 candidates receiving the highest number of votes shall hold office for 3 years; the 2 candidates receiving the next highest number of votes shall hold office for 2 years and the 2 candidates receiving the next highest number of votes shall hold office for one year. The elected candidate shall file statements of acceptance of office with the county superintendents of the counties concerned within 5 days after the election.

(b) Vacancies caused by reason of failure to qualify, death, removal of residence from the district, resignation, removal from office or for any other reason shall be filled by the remaining members of the board. Members so appointed shall serve for the unexpired remainder of the term. The board shall be vested with the powers and charged with the duties of common school district boards that are provided in the statutes of both states. The board shall contract in writing with teachers who possess the legal qualifications required by either state.

(3) **TAX LEVY.** The taxes for the maintenance, operation, transportation and capital expenditures of such school district shall be apportioned between the areas in each state in accordance with the full or equalized valuation of the identical types of taxable property in each state, and shall not exceed the legal maximum in the state with the lower

maximum. The tax levy shall be apportioned within the portion of the district within each state by the municipal officials thereof in accordance with the requirements of that state.

(4) STATE AIDS. For the purposes of computing and apportioning state aids to such districts, each state shall consider that portion of said district lying within its boundaries as an independent school district and compute and apportion the aids accordingly.

(5) IRRECONCILABILITY OF STATUTES. In case of the irreconcilability of the statutes of both states regarding any matter not covered herein, the school board of the interstate district shall, in co-operation with the county superintendent of each county in which territory of the district is located, consider the problem and make recommendations to the state superintendents of the states involved. The latter shall review the recommendations and reach an agreement which shall be submitted to the board and shall be spread on the minutes of the school board of such district and shall constitute the effective regulation until the next meeting of the legislatures of the states involved. The legislatures shall review the regulation as an amendment to this section, and it shall continue in effect only if approved by both legislatures.

History: 1951 c. 267.

40.33 Dissolution of district by neglect to keep school. (1) If a district for two or more successive years neglects to furnish schooling for its children as required by law, the town board shall, upon the recommendation of the county superintendent, attach the same, or so much thereof as lies in the town, to other districts in the town.

(2) If the territory of the dissolved district is attached to more than one district, then the assets and liabilities of the dissolved district shall be apportioned by said board to the receiving districts, as provided in section 66.03.

40.34 Transportation, board, lodging. (1) SCHOOL TRANSPORTATION. The school boards of all school districts operating public elementary schools or public high schools of any type shall provide transportation to and from school for all pupils residing in the district and over 2 miles from the nearest public school they may attend. The school boards of all school districts operating public elementary schools or public high schools of any classification may provide transportation for teachers to and from school subject to the same controls and limitations as provided by this section for the transportation of public school children. In districts operating public high schools, the board may also provide transportation for nonresident high school pupils residing over 2 miles from the schoolhouse within areas served from the school by bus routes approved by the county school committee and the state superintendent. If the district operating the public high school does not provide transportation for nonresident high school pupils, it shall be the duty of the municipality in which the nonresident pupils reside to arrange for such transportation and such municipality shall make claim to the county clerk for the cost of transportation so provided in the manner specified in section 40.34 (10). The annual or special school meeting of any school district operating a public elementary school or a public high school of any type, or if no such meeting is held, then the school board of any such district may authorize the transportation of all or any part of the students of such school district, including nonresident high school students, provided that if such transportation is furnished to less than all of the students there shall be reasonable uniformity in the minimum distance that students will be transported. The board of any public elementary school district which has suspended school shall provide transportation to and from school for all children residing more than 2 miles from the nearest district school which they may attend, or more than 2 miles from the school of any other district which in the opinion of the state department of public instruction it is more feasible for them to attend, and such transportation shall be provided until the district has been attached to another district by order of the proper authority. Transportation may be provided by the school board or in the case of nonresident high school students by the municipal board by any of the following methods:

- (a) By contract with a common carrier;
- (b) By contract with the parent or guardian of the children to be transported or with other parties;
- (c) By joint contract with another public school district;
- (d) By joint contract between 2 or more public school districts and a third party who is either an individual or a common carrier;
- (e) By the purchase and operation of a district-owned vehicle approved by the commissioner of the motor vehicle department and operated by a competent driver employed by the school board in the name of the district;
- (f) By contract with a taxi company;
- (g) When transportation is furnished under contract with parents, the compensation shall be at the rate of not less than 20 cents per day for each child transported.

When the district board and the parents cannot agree upon the amount of compensation, the case shall be appealed to the state superintendent who shall determine the amount of compensation to be designated in the contract.

(2) **PHYSICALLY DISABLED CHILDREN.** Every district shall provide transportation for physically disabled children, as defined in section 41.01 (4), to any elementary or secondary schools regardless of distance, provided the request for such service is approved by the state superintendent. State aid for such approved cases will be granted on the same basis as transportation of normal children. These aids are to be supplemented by the aids provided for by section 41.03 in an amount not to exceed the full cost. The approval of such cases shall be based on whether or not the child can walk to school with safety and comfort.

(3) The board, when authorized or required to provide transportation, shall have power to purchase busses, or otherwise provide means of transporting school pupils to and from school in accordance with the provisions of this section or sections 40.04 (5a), 40.55 and 65.90. The commissioner of the motor vehicle department shall adopt and enforce rules and regulations to cover the design, construction, inspection and operation of all vehicles used for the transportation of school children, and such rules and regulations shall by reference be made a part of any contract for transportation of school children. All drivers or operators of school busses shall be under written contract with the school district for which such drivers or operators transport pupils. The form of contract shall be prescribed by the state superintendent of public instruction and shall provide that any party to such contract shall be at all times subject to any rules the commissioner of the motor vehicle department and the school board may adopt for the protection of the children or to govern the conduct of the person in charge of the conveyance. All transportation vehicles purchased or contracted for shall meet the specifications prescribed by the commissioner of the motor vehicle department. School district boards and persons independently engaged in transportation of public school pupils shall discontinue any school bus route being operated by them and discontinue the use of any vehicle used by them upon receipt of an order signed by the state superintendent ordering such discontinuance.

(4) **BOARD AND LODGING.** If, in the judgment of the school board or municipality board providing the transportation and the parent or guardian, it is to the advantage of the district or municipality and also to the advantage of the child to provide board and lodging in lieu of transportation for all or part of the time for children of the district for whom transportation must be provided or for whom it has been authorized under the provisions of subsection (1), the board or municipality shall enter into a written contract under which such children shall be properly boarded and lodged, and the board or municipality shall pay for such board and lodging from the general fund, except that in the case of nonresident high school pupils the cost shall be paid by the portion of the county lying outside of high school districts in the same manner as is provided for the payment of nonresident high school tuition. This provision shall also apply to physically disabled children. The district or municipality shall be reimbursed by the state at the rate of 60 per cent of the actual cost, but not to exceed \$6 per week of 5 days for each child so boarded and lodged. In the case of handicapped children the aids herein provided for are to be supplemented from the aids provided for by section 41.03 in an amount which, when added to the aids herein provided, will not be in excess of the cost of such board and lodging. It shall also be the privilege of the parent or guardian to select the home in which the child be boarded and lodged. The board and lodging costs paid under the provisions of this section and section 41.03 (1) (a) shall not be classified as public relief. The board may, if in its judgment it is to the interest of the district, in lieu of furnishing transportation or board and lodging, pay the tuition of such children in a school in another district which such children can conveniently attend without transportation and the state superintendent may grant permission for a handicapped child to be transported to a school in another district if he resides on an established bus route and if this results in equal or better educational opportunities for the child and an acceptable form of transportation is provided.

(5) **TRANSPORTATION AND LODGING; RECORDS AND REPORT; STATE ALLOWANCE.** The school clerk shall give the teacher at the opening of the school the names of all children of school age in the district, residing more than two miles from the school, and the teacher shall inquire of every such child when enrolled, whether he is to be transported, and the manner of transportation, and shall keep a record that will show every day each child is transported and, at the close of the term, the teacher shall file a special report of such attendance with the clerk, who shall include such report with his annual report, to the county superintendent, giving the names of the parents, the names and ages of the children, the distance transported, the number of days transported, the amount due for each

child, and the total sum paid by the district. The parent shall keep a daily record of such attendance and present such record with his bill for transportation. A similar report and record shall be kept and made for all children who are boarded and lodged. The county superintendent shall make personal inspection of the transportation and lodging furnished, and shall report his findings thereon to the state superintendent at the close of the school year. If the state superintendent shall be satisfied that the law and the contracts for the transportation and board and lodging of pupils have been substantially complied with, he shall certify to the director of budget and accounts the sum due each district under the provisions of this section. In case of differences concerning the character and sufficiency of the transportation or board and lodging, the state superintendent shall have power to determine such matter and his decision thereon shall be final.

(6) RENT HOUSE FOR FAMILY. Whenever in the judgment of the board it is to the interest of the district in lieu of transportation to rent a house for the family of children required to be transported, it may enter into a written lease for such house and pay as rental therefor not more than the amount which would have to be paid for transportation pursuant to subsection (3).

(7) LIMITATION. This section does not apply to children who reside in cities; except that where a city determines to furnish transportation for such school children, the same state aid shall be allowed as is provided by this section.

(8) SUSPENDED DISTRICTS; SCHOOL ACTIVITIES. (a) When the transportation routes established under this section pass through suspended common school districts, contracts may be entered into with the boards of the suspended districts for the transportation of the elementary pupils who reside in the suspended districts.

(b) The school board of any school district, or the county board of any county in the case of county agricultural schools may utilize the vehicles owned or under written contract for the transportation of school children and teachers to and from all extra-curricular school activities in which the schools under their jurisdiction may participate.

(8a) TRANSPORTATION FOR EXTRACURRICULAR ACTIVITIES. (a) Any school district or other governmental agency authorized to operate or contract for the operation of a school bus may provide transportation for the persons defined in section 40.345 (3) (a) to and from any extracurricular school activity defined in section 40.345 (3) (b) when:

1. A school bus which is regularly used by or for such school district or other such governmental agency is used for such transportation, and such transportation is under the immediate supervision of a competent adult employe of such school district or other governmental agency and such bus shall be operated by a competent driver regularly used as a bus driver by such school district, school or such other governmental agency;

2. Such school has an actual educational interest in such activity;

3. Such use does not extend more than 50 miles beyond the boundary of the state;

4. The principal or other person with comparable authority authorizes such use; and

5. Such school bus is insured as defined in section 40.345.

(b) Any such school, school district or other governmental agency may make or authorize a charge for such transportation to be paid by the persons transported in an amount:

1. Sufficient to reimburse it for the use of such school bus, or

2. If such school bus is operated by a person under contract with such school district or other governmental agency, sufficient to adequately reimburse the owner or operator thereof for such use.

(9) SCHOOL BUS ROUTES. The location and extent of all school bus routes shall be determined by the school board of the district operating such routes, but no route shall be put into operation until a certificate of approval shall be obtained from both the county school committee and the state superintendent and no state aids shall be granted any district which operates routes not so approved. Routes shall be established in such manner that transportation will be provided all students residing 2 miles or more from the nearest public school they are eligible to attend in the case of students residing in the district and in the case of nonresident high school students living 2 miles or more from the school and in the area served by the approved bus route of that school, except for those students for whom board and lodging is provided.

(10) PAYMENT OF TRANSPORTATION COSTS. The cost of furnishing transportation to public school children as provided in this section, except in the case of nonresident high school pupils, shall after July 1, 1949 be paid by the district in which they reside, and no part of such cost shall be charged to the children, their parents or guardians. The cost of transporting nonresident public high school pupils, or the cost of board and lodging for such pupils furnished in lieu of transportation, shall be borne by those municipalities, or portions thereof, within the county which lie outside of districts operating high

schools. Claims for transportation provided nonresident public high school pupils, or for board and lodging provided in lieu of transportation, after July 1, 1949, shall be made to the county clerk and a tax levied for the payment of the same in the manner provided in section 40.47 (5) and (6) for the payment of nonresident high school tuition. Claims for the transportation provided nonresident high school pupils after July 1, 1949 shall not exceed \$26 per year per pupil except that a greater amount may be allowed when a certificate of approval of the same shall have been filed with the county clerk by the county school committee. The claim per pupil shall be reduced, pro rata, if such transportation is furnished for less than a full school year because of nonenrollment.

(11) **STATE AIDS FOR TRANSPORTATION.** School districts and municipalities which furnish transportation to and from a public school as provided in this section shall be entitled to receive state aid on account of such transportation at the rate of \$24 per school year per child transported to and from school whose residence is at least 2 miles and not more than 5 miles by the nearest traveled route from the public school attended and \$36 per school year per child transported to and from school whose residence is more than 5 miles by the nearest traveled route from the public school attended. Such aids shall be reduced, pro rata, in the case of children transported for less than a full school year because of nonenrollment. Transportation aid to any district or municipality shall not exceed the actual cost of transportation to the district or municipality. No state aid of any kind shall be provided to any district which after July 1, 1949 charges any part of the cost of the transportation furnished under the provisions of this section against the pupils transported, their parents or guardians, nor shall any state aid of any kind be provided to any district which fails to transport all of the pupils attending the district's school and whose transportation is required under the provision of this section.

(12) **APPROPRIATION PRORATED.** If in any year the total of the claims for state aid under this section shall exceed the amount appropriated in subsection (2) of section 20.25, the state superintendent shall equitably prorate the amount available among the several school districts entitled to share in this state aid.

History: 1951 c. 25, 513, 734.

The statutes do not authorize a school district to transport children to a parochial or private school in a bus owned and operated by the district, either free or upon payment of fares. If a school district contracts with an independent contractor to transport children to a public school over approved routes, the contract need not require the operator to exclude parochial school children from riding on the bus at the same time over the same route. The propriety of the amount paid to the operator by the school district will depend upon the particular circumstances, but the district may pay only for the transportation the law authorizes it to furnish. No state transportation aid may be paid on account of such parochial school students. 40.34 (8), (ch. §11, Laws 1949), does not authorize transportation of parochial or private school pupils to and from school or to and from extracurricular school activities. 38 Atty. Gen. 582.

40.343 Transportation to vocational schools. The governing body of any school district operating high schools or the municipality providing high school transportation may provide or contract for transportation for nonresident full-time pupils attending schools of vocational and adult education who are required by section 40.70 (1) to attend school, and such district or municipality shall be eligible for transportation aids under the same conditions as a district or municipality transporting pupils to high schools. Claims for transportation of such nonresident pupils attending schools of vocational and adult education shall be submitted to the county clerk in the same manner as claims for transportation of nonresident high school pupils. This section shall not apply to cases where the distance a pupil is transported to and from school exceeds 30 miles.

[40.344 (1) to (6) and (8) to (10) repealed; (7) renumbered 40.34 (8) by 1949 c. 500]

40.345 Compulsory insurance on school busses; penalty. (1) No motor vehicle shall be used as a school bus unless a policy of automobile bodily injury and property damage liability insurance, issued by an insurer authorized to transact business in this state, shall be maintained thereon. Such policy shall provide bodily injury liability coverage with limits of not less than \$10,000 for each person, and subject to such limit for each person.

(a) \$30,000 for each accident for each such motor vehicle having a seating capacity of 7 passengers or less;

(b) \$40,000 for each accident for each such motor vehicle having a seating capacity of more than 7 but less than 16 passengers;

(c) \$50,000 for each accident for each such motor vehicle having a seating capacity of more than 15 but less than 25 passengers;

(d) \$75,000 for each accident for each such motor vehicle having a seating capacity of more than 24 but less than 37 passengers;

(e) \$100,000 for each accident for each such motor vehicle having a seating capacity of more than 36 but less than 50 passengers; and

(f) Not less than \$2,000 for each accident for each passenger seat accommodation for each such motor vehicle having a seating capacity of more than 49 passengers.

(2) Such policy shall also provide property damage liability coverage with a limit of not less than \$5,000.

(3) Coverage under such policy of insurance shall apply:

(a) To the transportation of school children and students; their parents or guardians; members of the faculty and school doctors, dentists and nurses, to and from the school or district which operates such bus or which contracts for its operation; and

(b) To the transportation of such persons in connection with any extracurricular school activity, such as a school athletic contest, school game, school outing or school field or any other similar school trip when made in conformity with section 40.34 (8) (a). But when so used, unless otherwise provided in the policy, such insurance shall apply only to accidents occurring in the state and not to exceed 50 miles beyond its boundaries.

(4) Any insurer issuing any such policy may exclude coverage for public or livery use of any such school bus, but any such exclusion shall not apply:

(a) When any such school bus, while regularly used as such, is also used to transport students of another school, public or parochial, whether or not a charge is made for such transportation; nor

(b) When used in accordance with subsection (3), whether or not any person lawfully transported is required to pay a charge therefor.

(5) The school district or other governmental agency responsible for the operation of any such school bus, or which lawfully contracts for its operation, shall procure such insurance, and the district in which the students or children reside or the governmental agency responsible shall pay for the cost thereof.

(6) If, with respect to the maintenance, operation or use of any such school bus, the defense of governmental function is available to any such school district or other such governmental agency, such defense shall not apply to the extent of the insurance coverage afforded by any such policy of insurance, nor shall such defense be available to any such insurer under any such policy.

(7) This section shall not apply to any motor vehicle owned or operated by a parent or guardian of a child or student transported whether or not any contract is made with or compensation paid to such parent or guardian for such transportation by any school district or other governmental agency.

(8) Every such policy of insurance shall be filed with the board of the school district in which such children reside or with the governmental agency responsible for the operation of any such school bus.

This section requires school districts which contract with common carriers, to provide insurance coverage additional to that which the carrier may have under 194.41 and to keep on file either a policy of insurance or a memorandum of insurance. 38 Atty. Gen. 635.

40.345 (ch. 311, Laws 1949), specifies insurance requirements, but neither grants

authority nor imposes a duty to transport. The provision that the district must pay for liability insurance is not rendered unconstitutional by the provision that such insurance must cover a school bus transporting public school pupils even though pupils of a parochial or other public school are riding on the bus at the same time. 38 Atty. Gen. 532.

40.347 Color of school busses. (1) In order to conform to the uniform school bus color standards prescribed by the national commission on safety education, all motor vehicles known, denominated or used as school busses, designed and constructed especially for the transportation of school children, or owned by any political subdivision and used for the purpose of transporting school children to and from school except busses which may be jointly used in regular urban service shall be painted as follows: With the exception of fenders and trim, the body, including hood, cowl and roof shall be painted a uniform color, national school bus chrome, according to national bureau of standards specifications; the fenders and body trim, if used, shall be black; and the words, "SCHOOL BUS", in black letters at least 8 inches high shall appear on both the front and rear of the body or on a sign attached thereto. The provisions of this amendment (1949) shall apply to all school busses placed in operation or repainted after its effective date and shall apply to all school busses in operation after September 1, 1953.

(2) The school district meeting or other governing body of the district or political subdivision whose duty it is to let contracts for the transportation of school children shall provide in each contract that the color scheme of the motor vehicle doing the transportation shall be as provided in subsection (1) of this section. In the event of contracts existing at the effective date of this section, the trustees or other governing body shall appropriate sufficient money to the holders of said contracts so that the motor vehicles being used may be repainted in accordance with said subsection (1).

(3) The provisions of this section do not apply to automobiles regularly purchased for private or family use which may be used for the transportation of school children.

Cross Reference: See 85.355 for penalty for painting other vehicles like school busses.

40.348 Term of transportation contracts. Any governing body having authority to enter into a contract for the transportation of school children may enter such contract for a term not to exceed 3 years.

40.35 Consolidation of schools by referendum. (1) This section shall not apply to a school district, any part of which is within a city. When fifteen per cent of the electors, in each of two or more contiguous common school districts, shall petition therefor, the school boards shall meet at a time and place designated by the school board of the most populous district, to fix a time for an election to determine whether the district shall be consolidated, which election shall be not less than two, nor more than four weeks from the date of their meeting. Such election shall be called for eight o'clock in the afternoon, at the regular places for holding the district meeting. The district clerk of the respective districts shall give notice of the election as notices of annual school district meetings are given. The elections shall be conducted by the school officers of the respective districts, and the vote shall be by ballot. They shall, within three days, report the result of the elections in their respective districts to the clerk of the district in which the meeting to fix the time of the election was held. The several school boards, one week after the election, shall meet at said place and shall canvass the returns.

(2) If a majority of the votes cast in each district is in favor of consolidation, the school districts shall thereby be consolidated into a single school district, and the school boards, at the time of canvassing the returns, shall name and number the new district, and shall appoint a time and place for the first district meeting, and they shall give notice thereof as notices of annual meetings of common school districts are given.

(3) When a consolidated school district shall be organized, the school districts out of which it shall have been formed shall cease to exist, and the title to all property and the assets of every nature of such several school districts shall thereupon become vested in the consolidated school district, and claims and obligations and contracts of said several school districts shall become the claims and obligations and contracts of such consolidated district. The consolidated district shall conduct the schools theretofore maintained and conducted by the several districts until such time as the consolidated district shall have made new provisions therefor.

[40.355 Stats. 1925 renumbered section 40.29 by 1927 c. 425 s. 68]

40.36 Rural schools named; mail facilities. (1) The county superintendent of schools shall name each rural schoolhouse in his district, and notify the district clerk thereof.

(2) The board shall provide and maintain a mail box for each school located on or near a rural mail route.

(3) The district clerk shall, within five days after receipt of notification from the county superintendent of such name, notify the proper postmaster of the name and location of the school, and the number of the district.

(4) In case a school is not located on any mail route, the district clerk shall furnish the local postmaster with the names of persons to whom the mail for the school may be delivered. The school board may rent a lock box at district expense for each school not on a mail route.

(5) The district clerk shall notify the postmaster of school vacations, and shall direct what disposition shall be made of the school mail during vacations.

40.37 State aid for public schools, purpose. It is hereby declared to be the policy of this state that education is a state function and that some relief should be provided from local general property tax as a source of school revenues where it is excessive, and that other sources of revenue should contribute a larger percentage of the total funds needed; that in order to provide reasonable equality of educational opportunity for all the children of the state, the state must guarantee that a basic educational opportunity be available to each student, but that the state should be obligated to contribute to the educational program only if the district provides a program which meets state standards.

40.371 State aid, districts classified. For the purpose of computing aids under the provisions of sections 40.372, 40.373 and 40.374 the following classes of school districts are established:

(1) **BASIC DISTRICT.** A basic district shall meet the following requirements:

(a) All teachers, including supervisory and administrative personnel, must possess certificates, licenses or permits, as established by the state superintendent of public instruction, to teach the subjects or grades they are to teach before they enter on duty in such positions.

(b) Teaching personnel must be paid at least the minimum salaries and must be granted the sick leave provided in section 40.374 (7).

(c) School must be held at least 180 days per year, the days to be computed as provided in section 40.19.

(d) It must comply with the provisions of sections 40.05 (2), 40.19 (4), (4a) and (4m), 40.22 (1) to (11), 42.41 and 42.43.

(2) INTEGRATED DISTRICT. An integrated district shall meet the following requirements:

(a) All of the requirements established in subsection (1).

(b) It must be organized as a common school district or a city system.

(c) It must operate grades one through 12 or kindergarten through 12 in any acceptable combination.

(d) It must have sufficient students, proper teacher-pupil ratio to be able to provide a modern enriched educational program as determined from time to time by the state department of public instruction.

(e) In addition to the minimum professional qualifications required by subsection (1) (a), it must furnish satisfactory evidence to the state department of public instruction of continuous in-service improvement of its professional staff, such as summer session attendance, participation in workshops, extension classes and similar activities.

(f) It must make adequate provision for healthful, safe school facilities in accordance with standard established by the state department of public instruction.

(g) It must provide a modern enriched educational program as approved by the state department of public instruction which, except for such modification as the state department of public instruction shall approve, in addition to the proper academic subjects, shall include:

1. Training in the elementary schools, by a qualified teacher at regular intervals, in health and physical education and in at least 2 of the following fields: Music (including vocal), kindergarten, arts and applied arts.

2. More than 5 teachers in high school and at least 2 subjects in the field of home economics, industrial arts, commercial work and agriculture; and at least one subject from the general field of physical education for both boys and girls, and music (including vocal) and art, taught by teachers who teach in no more than one other field.

3. At least 2 of the following auxiliary services: Hot lunch program, periodic dental inspection, periodic medical examination, school nurse service, at least one-quarter of the time of one teacher devoted to guidance and counseling, provision for at least one type of mentally or physically handicapped children, available audio-visual aids and library facilities.

4. Instruction in the conservation and wise use of natural resources in both elementary and secondary schools.

History: 1951 c. 495.

40.372 State aid, computation rate. State aids shall be paid annually to the school districts of the state for the support of education as follows:

(1) BASIC DISTRICTS. (a) There shall be paid to basic districts in which the costs of education for the previous school year required that the districts levy and the districts did levy a tax of 3 mills or more in the year prior to that in which the aids are granted on the equalized valuation of the district for the year prior to the levy of such tax, elementary aids as follows:

1. If the district has a total of one to 9 resident pupils in average daily attendance, \$25 per resident pupil in average daily attendance.

2. If the district has a total of 10 or more resident pupils in average daily attendance, a sum equal to the mill rate levied by the district up to 9 mills on the amount by which the equalized valuation per resident pupil in average daily attendance is less than \$17,000 per resident pupil in average daily attendance not to exceed 25 resident pupils in average daily attendance per teacher, but not less than \$25 per resident pupil in average daily attendance, except that the state shall provide not less than: (a) In a one-teacher unit school district with 12 or more resident pupils in average daily attendance, a sum equal to the amount produced by applying the mill rate levied by the district not to exceed 9 mills on the amount by which the equalized valuation of the district is less than \$300,000; (b) in a 2-teacher unit school district with 26 or more resident pupils in average daily attendance, a sum equal to the amount produced by applying the mill rate levied by the district not to exceed 9 mills on the amount by which the equalized valuation of the district is less than \$600,000; (c) in a 3-teacher unit school district with 45 or more resident pupils in average daily attendance a sum equal to the amount produced by applying the mill rate levied by the district not to exceed 9 mills on the amount by which the equal-

ized valuation of the district is less than \$900,000; but (d) in no case less than \$25 per resident pupil in average daily attendance not exceeding 25 pupils per teacher.

(b) High school aids shall be paid to basic districts operating high schools at the rate of \$30 per pupil in average daily attendance during the previous year in grades 9 through 12 for both resident and nonresident pupils, except as provided in section 40.374 (6) (c). Aid paid on account of nonresident pupils shall be deducted from the nonresident tuition claims made under the provisions of section 40.47 (5) and (6).

(c) In union free high school districts that meet the requirements of high schools in a basic district the aid shall be \$30 per pupil in average daily attendance during the previous year in grades 9 through 12 for both resident and nonresident pupils.

(2) INTEGRATED DISTRICTS. (a) State aids paid to integrated districts shall be for both elementary and high school resident pupils on the following basis: The state shall provide a sum equal to the amount produced by applying the required mill rate levied by the district on that equalized valuation indicated in section 40.372 (1) (a) upon which eligibility for receipt of aids is determined up to 9 mills on the amount by which that equalized valuation per resident pupil in average daily attendance for the previous year not exceeding 25 resident pupils in average daily attendance per teacher is less than \$19,000 but in no case shall the state pay less than \$30 per resident elementary pupil in average daily attendance and \$35 per resident high school pupil in average daily attendance, not exceeding 25 resident pupils in average daily attendance per teacher. Aids under this subsection shall be payable only to such integrated districts in which the cost of education required that the districts levy, and the districts did levy, a tax of 5 mills or more in the year prior to that in which the aid is granted on the equalized valuation of the districts for the year prior to the levy of such tax.

(b) State aid shall be paid to integrated districts for nonresident pupils at the rate of \$30 per nonresident elementary pupil in average daily attendance and \$35 per nonresident high school pupil in average daily attendance which sum shall be deducted from the nonresident tuition claim made under the provisions of section 40.47 (5) and (6).

History: 1951 c. 11, 233, 344, 734.

40.373 State aids, computation. (1) METHOD OF COMPUTATION. (a) In computing the valuation per resident pupil in average daily attendance for aid purposes, the amount shall be determined by dividing the total equalized valuation of the district by the total number of resident pupils in average daily attendance, except that the total number of pupils shall not exceed an average of 25 pupils per professional worker who has certification from the state department of public instruction.

(b) The number of resident pupils in average daily attendance shall be computed to the nearest whole number on a district-wide basis, and where a major fraction occurs, the next higher whole number shall be used. In computing the number of pupils in average daily attendance under the provisions of this section no first grade pupil shall be counted unless he attains the age of 6 years on or before December 1 of the school year in which he enters first grade. A pupil enrolled in a recognized half-day kindergarten program shall be counted as one-half pupil provided he attains the age of 5 years on or before December 1 of the year in which he enrolls. A pupil enrolled in a 4-year-old-half-day kindergarten program shall be counted as one-half pupil provided he attains the age of 4 years on or before December 1 of the year in which he enrolls. Handicapped children for whom full-time special instruction is provided and teachers who devote full time to handicapped children shall not be counted in computing average daily attendance for aid purposes. In computing the number of teachers employed, professional workers who devote less than full time to their professional duties shall be counted in proportion to the time devoted to such duties.

(c) In the computation of aids for all districts the average daily attendance and the teacher-pupil ratio for the previous school year shall be used, except that in districts newly altered, created, reestablished or recreated, the computation of aids for the first year shall be based on the average daily attendance and the teacher-pupil ratio of the district for the first half year of operation on such newly altered, created, reestablished or recreated basis and the estimated budget of said year of operation and the estimated required tax levy rate on the equalized valuation of territory comprising said district as determined by the department of taxation for the year prior to said year of operation and maintenance.

(2) STUDENTS INCLUDED. Aids shall be paid on the total number of pupils in average daily attendance both resident and nonresident, per teacher subject to the provisions of section 40.372 and approval of the teacher-pupil ratio by the state superintendent.

History: 1951 c. 115.

40.374 State aids, miscellaneous provisions. (1) BIENNIAL AID ADJUSTMENT. Biennially following the release of data on property valuations by the state department of

taxation in even-numbered years, the subcommittee on education of the legislative council shall, with the co-operation of the state department of public instruction and representatives of the local school administrators, consider the advisability of readjusting the valuation of \$15,000 and \$17,000 per resident pupil in average daily attendance in the basic and integrated districts upward or downward in terms of changes in valuations or school costs, and shall report their findings to the governor and to the legislature, recommending action to be taken to properly adjust the aid program to the appropriation provided by section 20.25 (3) and (4).

(2) **METHOD OF APPLICATION FOR AID.** At the time of submitting to the state superintendent the annual report required by section 14.57 (18) the administrative officer or clerk of the school board of each district shall also submit to the state superintendent a statement on a form provided by the latter, of the aid level for which the district will seek to qualify in the ensuing year, together with such supporting evidence as the state department of public instruction shall request. The state department shall review these reports, and upon that basis together with the supervisory and consultative reports which the department shall have prepared, as well as other evidence which the supervisory staff may provide, determine the aid level for which the district shall qualify. The state department shall notify the district on or before August 15 of its determination, and the recommended changes necessary to qualify for the aid level sought. Any person dissatisfied with the decision of the state department may, within 15 days from the date thereof, apply for and receive in writing an explanation of the basis for such decision by the state superintendent.

(3) **PRORATION OF AIDS.** In the event that the appropriations available for state aids in any one year are insufficient to pay the full amount as provided in section 40.372, the payment shall be prorated among the various districts entitled thereto.

(4) **APPROVAL OF BUDGETS.** Where the state aid contribution to be received by a district is over 50 per cent of the total receipts of any district in any one year, the state department of public instruction shall approve the budget of the district before granting any aids.

(5) **COUNTY AND TRANSPORTATION AIDS.** (a) In addition to the state aids provided in section 40.372, school districts shall receive transportation aids as provided in this chapter and county aids as provided in section 59.075.

(b) Whenever any county shall fail to raise for the support of the common schools by taxation, upon the aggregate valuation of the whole county, an amount at least equal to \$350 for each public elementary teacher employed in the county, as determined in section 59.075 and as certified to the county clerk by the state superintendent, and shall fail to apportion to each district such amount for each elementary teacher employed, the aid for the schools of that county shall be withheld from the next succeeding apportionment except that aid may be apportioned by the state for distribution to all districts which have received a county apportionment for the preceding year.

(6) **STATE SUPERINTENDENT MAY VARY AIDS.** (a) The state superintendent of public instruction may, at his discretion, provide a higher level of aids than the district would be entitled to under the provisions of this section and sections 40.371, 40.372 and 40.373, if in his judgment the geography, sparsity of population, inadequacy of property valuation, difficulties of transportation, or other factors, make it impossible for the district to qualify for the higher level of aids, provided that the school district levies a tax for school purposes of at least 5 mills in the year for which the aid is granted on the equalized valuation of the district for the year previous. He may also withhold the aids from any school in which the scope and character of the work are not maintained in such manner as to meet his approval.

(b) In the event that the state superintendent is satisfied that the educational program of any union free high school district meets the requirements of section 40.371 (1), (2) (d), (f), (g), 2 and 3 and that the cost of education for the previous school year required that the union free high school district levy, and the district did levy, a tax of 3 mills, or more, except that such districts during the first 2 years of operation, during which the state aids are based upon the mill levy for the first year as provided by section 40.373 (1) (c) shall be required to levy at least one mill, in the year prior to that in which the aid is granted on the equalized valuation of the district for the year prior to the levy of such tax, the state department of public instruction shall grant in aids an amount equal to the required mill levy made by the district up to 5 mills on the amount by which the equalized valuation per resident pupils in average daily attendance up to 25 resident pupils in average daily attendance per teacher is less than \$50,000, but not less than \$35 per resident pupil in average daily attendance up to 25 resident pupils in average daily attendance per teacher. State aids shall be paid on account of nonresident union

free high school pupils at the rate of \$35 per nonresident in average daily attendance which \$35 shall be deducted from the nonresident tuition claims under the provisions of section 40.47 (5) and (6). Any district which was unable to qualify for state aids by reason of not levying 3 mills on equalized valuation in 1949 shall not be penalized a second time for that action, and for the purpose of qualifying for state aids payable in the school year 1950-1951 the tax levy made in such districts in 1950 shall be used.

(c) In the event that the state superintendent is satisfied that the educational program of any union free high school district meets the requirements of a high school in a basic district and that the cost of education for the previous school year required that the union free high school district levy, and the district did levy, a tax of 3 mills, or more, except that such district during the first year 2 years of operation during which the aids are based upon the mill levy for the first year as provided in section 40.373 (1) (c) shall be required to levy at least one mill, in the year prior to that in which the aid is granted on the equalized valuation of the district for the year prior to the levy of such tax, the state department of public instruction shall grant in aids an amount equal to the required mill levy made by the district up to 5 mills on the amount by which the equalized valuation per resident pupil in average daily attendance up to 25 resident pupils in average daily attendance per teacher is less than \$45,000, but not less than \$30 per resident pupil in average daily attendance up to 25 resident pupils in average daily attendance per teacher. State aids shall be paid on account of nonresident union free high school pupils at the rate of \$30 per nonresident in average daily attendance which \$30 shall be deducted from the nonresident tuition claims under the provisions of section 40.47 (5) and (6). Any district which was unable to qualify for state aids by reason of not levying 3 mills on equalized valuation in 1949 shall not be penalized a second time for that action, and for the purpose of qualifying for state aids payable in the school year 1950-1951 the tax levy made in such districts in 1950 shall be used.

(7) TEACHERS' SALARIES, SICK LEAVE. No aid as provided in this section and sections 40.372 and 40.373 shall be paid to any school district except to a city school district in a city of the first class, for any year during which such district shall not have maintained a common school for at least 9 months taught by a qualified teacher under a contract providing for leave of absence of the teacher by reason of personal sickness, without deduction from the salary of such teacher at the rate of at least 5 days per year and for accumulation of at least 30 days of unused sick leave from year to year and at a salary of not less than \$1,200 per school year, if the certificate of such teacher is based on 4 years or more of professional training with a degree and \$1,000 per school year if such teaching certificate is based on less than 4 years of professional training; unless the state superintendent shall be satisfied that such school was maintained and so taught for at least 3 months, and the failure to maintain and so teach it for 9 months was occasioned by some extraordinary cause not arising from intention or neglect on the part of the responsible officers. Time spent by the teacher or teachers of such districts in attendance upon an institute in the county, shown by due reports to have been allowed by the district board without deduction from such teacher's wages, shall be counted as a part of such 9 months. No aid shall be paid to any city school district of a city of the first class for any year during which such city school district of a city of the first class shall not have maintained common schools taught by qualified regular teachers at salaries of not less than \$140 a month, and by qualified continuous substitute teachers at salaries of not less than \$6 a day, for the full period during which such schools were in session during such year as provided by the rules and regulations of the board of school directors of such city school district of such city of the first class; unless the state superintendent shall be satisfied that any failure to so maintain such schools and so teach them for such full period was occasioned by some extraordinary cause not arising from intention or neglect on the part of the responsible officers. No aid shall be paid for or on account of any public school as defined in section 42.20, unless the employer as defined in section 42.20 has complied with the provisions of sections 42.39 to 42.43, inclusive.

(8) USE OF AIDS, EXEMPTION FROM EXECUTION. All moneys appropriated, allotted and paid to any school district under the provisions of section 20.25 and all moneys appropriated, allotted and paid by any county to any school district from tax revenues derived under the provisions of section 59.075 shall be used, disbursed and expended by the school district receiving such moneys solely for the school purposes and expenses for which apportioned under the provisions of sections 40.37, 40.371, 40.372, 40.373 and 40.374. Such moneys, wherever the same may be, shall at all times be exempt from execution, attachment, garnishment or other process in favor of creditors except as to claims for salaries or wages of teachers and other school employes and as to claims for school materials, supplies, fuel and current repairs.

(9) PUPILS ATTENDING OUT OF STATE SCHOOLS. Any district or city or municipality

of residence of children attending out of state schools as provided for by section 40.47 (4), excluded from any state aid because of some mistake or omission by some officer may, at any time within 2 years after such state aid first becomes payable, furnish proof to the state superintendent of the facts of such mistake or omission and that the same has been corrected or remedied. If such proof be satisfactory to the state superintendent he shall certify such facts to the director of budget and accounts with the amount due such district or city because of such mistake or omission and the director of budget and accounts shall, thereupon draw his warrant for such amount in favor of such district, or city.

(10) STATE AID ON HIGH SCHOOL STUDENTS WHO ATTEND OUT-OF-STATE SCHOOLS. Upon making payment of high school tuition to out-of-state school districts, the county clerk shall make application to the state superintendent for state aids on forms provided by the department of public instruction. The state superintendent shall upon receipt of such application, and upon having satisfied himself of the correctness of same, shall certify the claim for payment in the same manner and from the same appropriation as aids are certified and paid to school districts. The provisions of this act [subsection] shall apply to claims during the 1946-1947 school year and all succeeding years. The amount of such aid received by any county in any year shall be applied to the next payment of high school tuition, and the amount to be levied on the tuition-paying area of the county reduced accordingly in the next tax levy.

History: 1951 c. 233, 353, 598.

40.375 Payments for prior years. (1) From the appropriation made by section 20.25 (7) (a) the state superintendent is directed to pay to the union free high school districts for the school year 1949-1950 a sum equal to the difference between the sum allocated for that school year to said districts (from the appropriation made by section 20.25 (3), statutes of 1949, for the fiscal year beginning July 1, 1949) and the aids which would have been provided said districts by subsection (3) and (4) had said subsections then been in effect; and if the amount appropriated is not sufficient it shall be prorated.

(2) From the appropriation made by section 20.25 (7) (b) the state superintendent is directed to pay to the union free high school districts for the school year 1950-1951 a sum equal to the difference between the sum allocated for that school year to said districts (from the appropriation made by section 20.25 (3), statutes of 1949, for the fiscal year beginning July 1, 1950) and the aids which would have been provided by subsection (3) and (4) had said subsections then been in effect; and if the amount appropriated is not sufficient it shall be prorated.

(3) In the event that the state superintendent is satisfied that the educational program of any union free high school district meets the requirements of section 40.371 (1), (2) (d), (f), (g) 2 and 3 and that the cost of education for the previous school year required that the union free high school district levy, and the district did levy, a tax of 3 mills, or more, in the year prior to that in which the aid is granted on the equalized valuation of the district for the year prior to the levy of such tax, the state department of public instruction shall grant in aids an amount equal to the required mill levy made by the district up to 5 mills on the amount by which the equalized valuation per resident pupils in average daily attendance up to 25 resident pupils in average daily attendance per teacher is less than \$50,000, but not less than \$35 per resident pupil in average daily attendance up to 25 resident pupils in average daily attendance per teacher. State aids shall be paid on account of nonresident union free high school pupils at the rate of \$35 per nonresident in average daily attendance which \$35 shall be deducted from the nonresident tuition claims under the provisions of section 40.47 (5) and (6).

(4) In the event that the state superintendent is satisfied that the educational program of any union free high school district meets the requirements of a high school in a basic district and that the cost of education for the previous school year required that the union free high school district levy, and the district did levy, a tax of 3 mills, or more in the year prior to that in which the aid is granted on the equalized valuation of the district for the year prior to the levy of such tax, the state department of public instruction shall grant in aids an amount equal to the required mill levy made by the district up to 5 mills on the amount by which the equalized valuation per resident pupil in average daily attendance up to 25 resident pupils in average daily attendance per teacher is less than \$45,000, but not less than \$30 per resident pupil in average daily attendance up to 25 resident pupils in average daily attendance per teacher. State aids shall be paid on account of nonresident union free high school pupils at the rate of \$30 per nonresident in average daily attendance which \$30 shall be deducted from the nonresident tuition claims under the provisions of section 40.47 (5) and (6).

(5) In the case of nonresident high school pupils the difference between the aid received under the 1949 law and the provisions of this section shall be credited against the

nonresident tuition claims made by the operating districts under section 40.47 (5) and (6) for the school year 1951-1952.

History: 1951 c. 236.

40.38 School property for public meetings, rents. Except in cities of the first class the school board of any school district which holds an annual district meeting, after being first so authorized so to do by the electors of any such meeting, and the school board or board of education of any other school district, in its discretion, is hereby empowered to grant the use of school buildings and school grounds to any responsible organization for public meetings to which an admission price is demanded, and to charge for such grant or use such sums as may be fixed by the school board or the board of education by a majority vote of the board members taken at a regular or special board meeting, all sums so received to be accounted for and paid into the school treasury to constitute part of the general fund and to be used for the benefit of the schools.

[40.385 Stats. 1939 renumbered section 38.22 by 1941 c. 213 s. 25]

[40.39 (2) to (7) and (9) Stats. 1947 repealed and (8) renumbered section 40.374 (9) by 1949 c. 600]

[40.395 Stats. 1947 repealed by 1949 c. 643]

40.40 High school district meetings and elections; call, notice, conduct. (1) Except as provided otherwise in this chapter, the high school district meetings and elections shall be noticed, called and conducted as common school district meetings are, and the first meeting shall be deemed an annual meeting.

(2) The annual meeting of high school districts shall be on the last Monday in June at eight o'clock in the afternoon, unless another hour be fixed by a previous annual meeting.

(3) The district officers shall be elected by ballot and the polls of the election shall be open from one to eight o'clock in the afternoon of the annual meeting day; except that if the previous annual meeting shall have so determined, such election shall be held at the time of the annual meeting and after the presentation of the officers' reports. The time and place of the election and annual meeting shall be specified in the notice. A plurality shall elect.

(4) Special district meetings may be called by the high school district board, and shall be called by the clerk upon the written request of fifteen electors.

40.41 Powers of high school district meetings. (1) The annual high school district meeting shall have power to elect a high school board. When the territory which constitutes a common school district is identical with that which supports a high school, the common school district board shall also be the high school board.

(2) To vote a tax to purchase or lease a site for the high school; to build, hire or purchase a schoolhouse; to repair, equip and furnish the same and to provide for the maintenance of the high school.

(3) To vote to consolidate schools or to discontinue a school where more than one high school is operated by the district.

(4) To authorize the school board to purchase textbooks to be furnished to the pupils of the high schools under such conditions as may be prescribed by the meeting or by regulation of the board.

(5) To determine the length of time the high school shall be taught during the year, which shall not be less than nine months.

(6) To establish and maintain, with the approval of the state superintendent, seventh and eighth grades in connection with the high school.

(7) To exercise all the powers relative to the high school district which are conferred by statute upon the meetings of common school districts, relative to the affairs of such district.

40.42 High school board; election, terms, powers. (1) The officers of high school districts (except city districts) shall be a director, a treasurer and a clerk, and they shall constitute the school board. The term of each shall be three years and until his successor shall have qualified. They shall be elected and notified and shall qualify in the same manner and time as the officers of common school districts. At the first election, the clerk shall be chosen for one year, the treasurer for two years and the director for three years, and the time preceding the next annual meeting shall be counted as a year in determining their terms of office.

(1m) Any union free high school district may elect to increase membership on the board to 5, 7 or 9 in the manner provided by section 40.07.

(2) The high school board shall conduct the affairs of the district on the general plan provided for common school districts, and shall possess, with respect to such high school district, all the powers exercised by and be charged with all the duties and liabilities conferred and imposed on the officers and board of the common school district. The treasurer

shall give a like bond to be approved by the director and filed with the clerk. The clerk shall report to the state and county superintendent the facts required by section 40.13, excepting paragraph (a) of subsection (1) thereof.

40.43 City school superintendent. In all school districts which embrace all of the territory of any city, however organized, and including joint districts the district board, board of education or other board in charge may employ for a period not longer than 3 years at a time, a superintendent to supervise and manage the schools under the direction of such employing board.

40.44 Vocational training in high schools. (1) Any high school board may establish and maintain, in connection with the school, courses in manual training, domestic economy, agriculture, or commercial subjects.

(2) The state superintendent shall establish a standard of qualification for teachers for such courses, and may grant special certificates to qualified applicants, which certificates shall be in such form and for such time as he may prescribe, and shall qualify the holders to teach the courses or subjects named in the certificates.

[40.445 Stats. 1925 renumbered section 40.61 by 1927 c. 425 s. 88]

[40.45 Stats. 1937 repealed by 1939 c. 145]

40.46 Junior high school; senior high school. (1) A school in which only the seventh to ninth, or seventh to tenth grades, inclusive, are taught is denominated a junior high school, and one in which only grades ten, eleven and twelve are taught is denominated a senior high school.

(2) Any district maintaining a high school, or a graded school in which five teachers are employed may maintain a junior high school; provided, the aggregate enrollment in the seventh and eighth grades the preceding year was forty or more. The laws relating to district high schools shall govern in the establishment and maintenance of junior high schools so far as such laws are applicable except as hereinafter provided.

(3) A junior high school in a district maintaining a high school, shall include only grades seven, eight and nine.

(4) A junior high school shall employ at least three teachers, one of whom shall be qualified to teach manual training or agriculture and one qualified to teach domestic science.

40.47 High schools; admittance; tuition. (1) **COURSE OF STUDY.** The high school board shall determine, with the advice and consent of the state superintendent the course of study and the minimum standard of qualifications for admission.

(2) **ENTRANCE REQUIREMENT.** (a) A certificate or common school diploma issued by the county superintendent that the holder thereof has completed the course of study in the school district in which he resides, or one at least equivalent to the course of study provided by the state superintendent for the common schools, shall be evidence of the completion of the course of study required by this section. Such certificate or diploma, or a certified copy thereof, shall be filed with the school district clerk upon admission of the holder to the high school, and shall be attached to the claim for tuition.

(b) A certificate or diploma, issued by the superintendent of a parochial school system or of a private school, that the holder thereof has completed the course of study prescribed by such parochial school system or private school, which shall be substantially equal to the course of study provided by the state superintendent for the common schools, shall be evidence of the completion of the course of study required by this section and shall entitle the holder thereof to admission to a high school, provided that such school system or private school shall meet the requirements of paragraph (c) of this subsection. Such certificate or diploma, or a certified copy thereof, shall be filed with the school district clerk or clerk or secretary of a city board of education, upon admission of the holder to the high school and shall be attached to the claim for tuition. Such tuition shall be collected from the municipality where such pupil resides as provided in subsections (5) and (6) of this section.

(c) When the superintendent of such parochial school system or head of such private school shall have filed with the state superintendent of public instruction the course of study mentioned in paragraph (b) of this subsection, pupils from any such school system or school shall be admitted to any high school in the state in accordance with the provisions of paragraph (b) of this subsection.

(3) **NONRESIDENTS.** The board shall admit to the high school, when facilities will warrant, any person of school age who resides in the state, but not within any high school district, and who shall have complied with the entrance requirements of subsection (2). Nonresidents so admitted shall be entitled to the same privileges and be subject to the same rules and regulations as resident pupils.

(4) TUITION. Every high school shall be free to all persons of school age resident in the district. The board may charge a tuition for each nonresident pupil, excepting a nonresident pupil having a legal settlement as defined in section 49.10 in the high school district, and this provision for tuition shall be available to a public high school without this state; provided, its course of study is equivalent to Wisconsin's and provided it is at least 1½ miles nearer the pupil's home than is any Wisconsin high school. The provisions of this subsection existing prior to the effective date hereof shall apply to pupils then enrolled in high school and until such pupils complete the prescribed courses for graduation therefrom. The boards of districts which operate high schools may upon their own order provide for the enrollment of pupils in high schools located in states other than Wisconsin and pay for the tuition that accrues on account of such enrollment and for the transportation costs necessitated by such enrollment on account of such pupils who reside 2 miles or over from such schools out of school district operation and maintenance funds. The cost of such tuition shall be treated as a part of the cost of instruction of such districts and they shall be credited with the enrollment and average daily attendance of such tuition pupils for aids purposes as though they had been enrolled in the schools of the districts of their residence. The districts shall be entitled to receipt of aids on account of the transportation of such pupils on the same basis as though they had been transported to the schools of the districts of their residences.

(4a) OTHER TUITION. The board of any school district which operates a high school may contract with the university extension division of the university of Wisconsin for extension courses for pupils enrolled in such high schools. The cost of such contract shall be paid out of school district funds and shall be included in the cost of operation and maintenance of the high school districts which enter into such contract for the purpose of computing tuition costs.

(4b) FLIGHT INSTRUCTION. The board of any school district which operates a high school may contract with flight operator schools approved by the civil aeronautics administration for courses in flight instruction approved by the state superintendent. The cost of such contract shall be paid out of school district funds and shall be included in the cost of operation and maintenance of the high schools districts which enter into such contract for the purpose of computing tuition costs.

(4c) TUITION, REORGANIZED DISTRICTS. The board of any school district which operates a high school shall permit a high school pupil who resides in the district but who has completed at least 2 years of his high school course in a school outside the district and was placed in the district where he now resides by virtue of a school district reorganization effected under the provisions of this chapter subsequent to August 26, 1947, to complete his high school course in the high school which he has been attending. The school board shall provide for the payment of tuition of such student out of district funds. In the event the parent or guardian of any such high school pupil has paid tuition at any time since August 26, 1947 in order to keep such student enrolled in the school he was attending at the time of the district reorganization, the parent or guardian shall be entitled to reimbursement for any tuition so paid from the high school district of which the pupil is a resident provided a claim is filed with the school board of such district within 3 years from the time such tuition was paid.

(5) CLAIM FOR TUITION. (a) The tuition for any given year for nonresident pupils who have pursued high school work shall be determined as follows: From the sum total of money expended by the school district in operating and maintaining grades 9 through 12, including either the sum of \$15 per nonresident pupil to be deposited and expended as provided in 40.04 (17) or an item for building and equipment costs equal to 2 per cent of the original expenditures by the districts for buildings and equipment thereof as certified by the state superintendent of public instruction, such charge not to apply for a greater period of time than 50 years in the case of a new building or for the unexpired portion of 50 years of life of an old building, excluding land costs, there shall be subtracted an amount equal to the sums of federal aids, county aids, the cost of transportation and money expended for the payment of principal and interest of bonded indebtedness or other building loans, and the difference so determined shall be divided by the average daily attendance for the given year. From this amount shall be subtracted the state aid received per nonresident pupil in average daily attendance. The amount so determined shall be the amount per pupil chargeable as nonresident high school tuition, but in no case shall the amount of the claim per week be more than \$6 less the sum of the state aids, county aids received from the county of residence of tuition pupils, and federal aids, except that a greater amount shall be payable when a certificate of approval of the same shall have been filed with the county clerk by the county school committee. Upon receipt of tuition claims in excess of the maximum specified in this paragraph the county clerk shall immediately notify the county school committee and the clerks of the school

districts concerned to meet at the county courthouse at a specified time not later than August 15. A majority vote of the committee shall determine the amount to be allowed in excess of the maximum specified in this paragraph. The amount determined shall be immediately certified by the committee to the county clerk.

(b) Before August 1 in each year, beginning with the year 1947, the school clerk shall file with the clerk of each county and municipality from which any tuition pupil was admitted, a sworn statement of claim against the county setting forth the residence, name, age, date of entrance and the number of weeks' attendance, during the preceding school year, of each person admitted from such county, the average daily attendance of the high school for the year, the statement of the cost of operation and maintenance of the high school as computed in accordance with the provisions of this section, the amount of tuition to which the district lays claim for each pupil, and the aggregate sum for tuition due the district from the county. This statement shall be rendered on a form prescribed by the state superintendent of public instruction. Within 10 days of the receipt of such statement the clerk of each municipality receiving the same shall make return to the county clerk of any suggested corrections therein together with all necessary factual information in support of such corrections.

(bb) Any errors, omissions or other corrections in the high school tuition claims or apportionment of the high school tuition tax for a given year after 1946 may be corrected in the certification of such tax for a subsequent year.

(c) The school district clerk shall file certified copies of all tuition billed with the state superintendent of public instruction before August 15 of each year.

(6) TUITION TAX. (a) Except as provided in subsection (6) (b) upon receipt of the high school tuition claims from the respective school clerks and before submitting those required by section 40.47 (5) (a) to the county school committee, the county clerk shall examine all the claims for the purposes of establishing the accuracy of the data on residence, period of attendance, and mathematical calculations, and the legal authority for claiming tuition. For that purpose the county clerk may call upon school or other local officials to supply information and data which will verify the claims and satisfy the county clerk as to their accuracy. After examining the claims, the county clerk shall notify each district clerk of the results of his examination of such claims, and in cases where corrections are necessary, notify the clerk of the school district, who shall meet with the county clerk, at the school district's expense, to make such corrections. He shall then submit those claims provided for in section 40.47 (5) (a) to the county school committee. When they are returned, he shall apportion the amount thereof on the basis of the ratio of the equalized valuation of that portion of each municipality within the county that lies outside of districts which operate high schools to the total equalized value of all of the territory within the county that lies outside of high school districts and certify the amount so obtained to the clerks of said municipalities. The aforesaid equalized valuation shall be determined and certified to the county clerk annually on or before August 1 by the department of taxation. The municipal clerk shall enter upon the next tax roll in a local column such sums as may be due for such tuition from his municipality and the amount so entered shall be collected when and as other taxes are collected. If a portion of such municipality forms a part of a high school district, the taxable property in that portion shall be exempt from such tuition tax.

(b) In counties containing a city of the first class the county clerk shall upon receipt of the high school tuition claims from the respective school clerks transmit the same to the secretary of the county school committee. The secretary shall have the duty given to the county clerk in other counties of examining and verifying claims. In performing this duty he may call upon and receive assistance from the county auditor if such is deemed necessary. The procedure for the apportionment, collection and payment of claims allowed shall in all other respects be that set forth in paragraph (a).

(c) In lieu of placing the amount due for high school tuition upon the tax roll as provided in paragraph (a), the governing body of any municipality required to pay such tuition may by resolution authorize its treasurer to pay the amount of such tuition as certified by the county clerk out of surplus municipal funds, provided no portion of such municipality forms a part of a high school district.

(7) STATE GRADED SCHOOL; NONRESIDENT TUITION. The school board of any district which maintains grades above the eighth shall admit nonresident pupils of school age to these grades whenever the facilities will warrant; providing such pupils shall satisfy the conditions of subsection (2). The school board shall fix the tuition of said nonresident pupils. And such tuition shall be collected and paid in the same manner as tuition is collected by and paid to high school districts for the attendance of nonresident pupils.

(8) CONDITION OF TUITION. No district shall collect tuition as provided in subsection (7) unless the work done in said grades shall have been approved by the state superintendent.

ent, and unless the work done in the first eight grades shall have been up to the required standard.

(9) UNIVERSITY HIGH SCHOOL. The proper authorities of any town, village or city, the whole or a portion of which is not within a free high school district, may authorize residents of such town, village or city who do not live within a free high school district to attend the high school maintained by the University of Wisconsin. The tuition shall be the same as required of other students.

(10) TUITION AT UNIVERSITY HIGH SCHOOL. The clerk of the town, city or village shall file with the bursar of the university a copy of the resolution authorizing attendance at the university high school, and the bursar shall on or before the first day of July of each year make a sworn statement to the clerk of such town, city or village showing the amount of tuition due as required by subsection (4) of this section. Upon receipt of such statement taxes shall be levied for payment of the tuition, and the tuition shall be paid the university in the same manner as taxes are levied and moneys paid for tuition for attendance at free high schools. Nothing in subsections (9) and (10) shall be construed to require the university to admit persons to the high school, and it shall be the sole judge of its capacity for seating and instruction and the qualifications of the applicant for admission.

(11) FEDERAL SCHOOLS. (a) When the superintendent of a federal school shall have filed with the state superintendent of public instruction a course of study approved by said state superintendent, pupils from such federal school systems shall be admitted to any high school in the state when holding elementary school diplomas signed by the superintendent of the federal school and by the county superintendent of schools.

(b) Residents of Wisconsin who are graduates of federal schools within this state and who hold common school diplomas signed by the superintendent of a federal school and by the county superintendent of the county in which the federal school is located, shall upon application be admitted to any high school or federal school in this state. Tuition bills for attendance of qualified pupils at federal high schools shall be computed, filed, allowed, the tax levy for payment of same made, the tax for payment of same collected, and payment made in the same manner as provided in this section except that payment shall be made to the superintendents of the federal high schools. Tuition claims for attendance at federal high schools shall not be allowed for pupils who are of one-quarter or more Indian blood.

History: 1951 c. 12, 66, 114, 249, 338, 525, 654.

Where clerk of school district fails to file high school tuition claim under (5) (b), or fails to include all pupils in claim, the school district under (6) is entitled to receive from county treasurer out of taxes collected under that section no more money than that for which claim has been filed and county treasurer is not authorized to prorate such tax money among districts which have complied with the law and those which have not. No state aid under (6) may be paid to make up the deficiency. 38 Atty. Gen. 552.

Tuition of non-Indian children residing on Indian reservation not located in any

municipality is to be paid under (6), as amended by ch. 573, Laws 1947, in the same manner as tuition of pupils residing elsewhere in the county. 38 Atty. Gen. 613.

Property not in a district operating a high school, annexed to a high school district, is not exempt from tuition tax under (6), until after it has been part of the high school district for a full school year and is not to be subjected to operating tax of the high school district until in that tax year in which it is a part of the high school district prior to the start of the school year. 39 Atty. Gen. 593.

[40.475 Stats. 1947 repealed by 1949 c. 500]

40.48 High school taxes. (1) High school district taxes shall, except as herein otherwise provided, be levied and collected, and all money belonging to a high school district shall be paid out on orders drawn and countersigned in the manner prescribed for levying and collecting taxes, and making payments in common school districts.

(2) The school clerk shall certify all taxes levied for high school purposes to the municipal clerk. If any high school district is joint, the clerk of the high school board shall certify to the clerk of each municipality the amount to be raised by each. The apportionment shall be determined and shall be equalized in the manner provided in section 40.11 (9).

(3) The high school district taxes shall be entered on the next tax rolls of the municipalities and collected and returned as other taxes are, and shall be paid to the high school district treasurer.

(4) If any high school district meeting shall not have voted a tax sufficient to operate its high school at least nine months during the current year, the high school board shall, before the third Monday of November, determine the sum necessary to be raised to so maintain such high school and to furnish additional necessary equipment, and the clerk shall forthwith certify to the proper municipal clerk the amount so fixed and it shall be collected as provided in this section.

40.49 Free lectures. (1) Any school board may provide free lectures on educational subjects, in the school buildings, in public library buildings or in other suitable places, and provide for the further education of the adult residents of the district.

(2) The board may purchase books, stationery, charts and other things necessary and expedient to successfully conduct said lectures and may designate some person to manage such lectures.

40.50 City school plan. (1) Sections 40.50 to 40.60 provide a plan or system of school administration for each city of the fourth class whose territory constitutes an entire school district, except as herein provided, and each city of the second or third class, to the end that city schools shall be as nearly uniform as practicable. A fourth class city with not more than ten per cent of its territory in another school district may adopt the plan or system of school administration provided by such sections 40.50 to 40.60, but in such event such territory lying within the other school district shall not pay school tax in such fourth class city. Such territory lying within the other school district shall continue to vote on school matters within said district and shall not vote on any matter relating to the city school plan within said city. All general school statutes govern city schools as far as applicable, and as they are in harmony with this plan. This plan shall become effective on July 1, 1928, except that the members of school boards shall be elected the first Tuesday of the preceding April.

(2) (a) Any fourth class city whose territory now or any time hereafter, constitutes all or part of one school district and which has at least 80 per cent of the entire population of such school district may proceed under section 40.52 or 66.01 to adopt or abandon the plan of school administration provided by sections 40.50 to 40.60, or may operate or continue to operate under the common school district plan. No action taken by the school board of any such city nor any act of such school district in the levying of taxes, borrowing of money, issuance of bonds, execution of contracts or other corporate acts shall be invalidated by failure to comply with sections 40.50 to 40.60.

(b) Any territory in the same school district but outside of such city adopting the city school plan is hereby attached to such city as provided by section 40.51.

(3) Whenever any city shall operate under the city school plan as provided by sections 40.50 to 40.60, all of the area within the corporate limits of such city shall automatically be included under such city school plan and be a part of such city school district. The provisions of this subsection shall not affect or change the plan or territorial limits of any school system now operating in any city of the fourth class under a special charter heretofore granted to such city.

(4) Whenever a plan of reorganization which involves a city school system has been made effective either by order of the county school committee or by referendum, and a board of education of 3, 5, 7 or 9 members has been created, the city council or commission and the town chairmen and village presidents of the municipalities involved in the reorganization shall determine by the method of voting prescribed in paragraph (b) which of the following plans shall be put into operation for the fiscal control of the school affairs of the school district:

(a) Abolish the fiscal controls of the city council or commission over the city school system and create an integrated common school district operating as an independent fiscal unit with power to tax, to hold property for school purposes and to incur indebtedness.

(b) Provided that for fiscal control of the school affairs of the school district the several municipalities in which part of the reorganized district is located shall act with the city council or commission in the following manner: the town chairmen, village presidents and each member of the city council or commission shall have one vote for each full \$200,000 of equalized valuation of the school district which is within their municipality. In the case of city council or commission members, the amount of equalized valuation per councilman or commissioner shall be determined by dividing the total equalized valuation of the city within the school district by the total number of city councilmen or commissioners. In no case shall any town chairman or village president have less than one vote. The city council or commission acting with the town chairmen and village presidents shall have the power to approve the school budget, levy the general property tax for school purposes, and all other fiscal controls now exercised by the city council or commission over city school systems. The provisions of this subsection shall not apply to cities of the first class.

(5) The city council or commission and the town chairmen and village presidents of the municipalities voting as prescribed in subsection (4) (b) may at the end of any school fiscal year abandon the method of fiscal control in use by the school district and adopt the alternate plan provided under subsection (4).

40.51 City is a school district. (1) Each city, affected by this plan, is a single and separate school district; and any territory outside of the city which is joined with city territory in the formation of a school district, when this plan becomes effective, is hereby attached to the city for school purposes.

(2) The electors residing in such attached territory shall have the right to vote on all school matters which are submitted to or are voted on by city electors, and may exercise such right at the polling place where they are required to vote at state, local and judicial elections.

[40.515 Stats. 1925 renumbered section 40.68 by 1927 c. 425 s. 95]

40.52 City school board. (1) **ELECTION, TERM, OATH, CHANGES.** The school affairs of each city referred to in section 40.50 shall be managed by a board of education consisting of the same number of members and selected in the same manner as such board was constituted and selected at the time of the taking effect of this subsection. Electors residing in any area attached to the city for school purposes may be elected or appointed to and may serve upon the city board of education in the same manner as electors of the city. If the members of the city board of education are not elected at large the school board members to serve the attached area shall be chosen as follows: If city board members are elected by wards then each municipality in the attached area shall elect the same number of board members as are elected from each city ward; if city board members are appointed by the mayor or elected by the council then there shall be elected from the entire attached area a number of school board members equal to the quotient obtained by dividing the latest census population of the attached area by the city population per city school board member, with a major fraction counting as an additional board member. In no case shall the attached have less than one school board member. The electors residing in such attached territory shall vote on all school matters in the manner and at the time provided in section 40.51 (2). Such board shall continue to be so constituted and selected until and unless changed by referendum vote of the electors of such city school district as herein provided. Any such city school districts desiring to change the number of members of such board or the manner of selecting them, or both, may do so either by an ordinance adopted by the council and approved by a referendum vote of the electors of the city school district or by an initiated ordinance under the provisions of section 10.43 or by resolution adopted by the electors of the city school district at a referendum election initiated by a petition signed by 300 electors of the district. Either of the following 2 plans may be adopted and the provisions thereof shall be set forth in the ordinance:

(a) A board chosen from the city at large at the regular city election for the term of three years from the first day of July following. One-third of the members of the board (as nearly as may be) shall be elected annually. The number of members shall be not less than five nor more than seven. Of the members first elected, in case of a board of five members, the member receiving the highest vote shall serve for three years, the two members receiving the next highest vote shall serve for two years, and the two lowest for one year; in case of a board of six members, the two members receiving the highest vote shall serve for three years, the two next highest for two years and the two lowest for one year; in case of a board of seven members, the three members receiving the highest vote shall serve for three years, the two next highest for two years and the two lowest for one year. Thereafter members shall be elected for a term of three years. The members of such board are city officials, shall be nominated and elected as are other city officials and shall take and file the official oath.

(b) A board consisting of not less than five nor more than seven members, to be appointed by the mayor and confirmed by the council, or elected by the council, whichever method is provided for in the ordinance. In cities of the fourth class the board may consist solely of three commissioners at large. The first commissioners shall be divided by the council into three classes, one of the commissioners at large being in each class, one class to hold office for three years, one for two years and one for one year. Thereafter all commissioners shall be selected for a term of three years. The commissioners shall take and file the official oath.

(2) **MEETINGS.** The board shall hold regular monthly meetings at such times as it shall by rule prescribe; special meetings may be held under such standing rules as the board may adopt. All said meetings shall be open to the public, except that in cases where the board resolves itself into a committee of the whole the public shall be excluded from such committee meeting if the committee so desires and except that hearings before the board on charges against an employe shall be closed to the public if requested by the employe against whom the charges were preferred.

(3) **ORGANIZATION.** The board shall elect one of its members president and another vice president; and shall elect a secretary (the city clerk or other competent person being eligible). The city treasurer shall be the treasurer of the school board.

An ordinance changing the size of a city school board, in order to be effective, must be voted upon favorably by a referendum of the electors, even when the ordinance is initiated by a petition under 10.43 and approved by the council. (21 Atty. Gen. 540, not followed.) 39 Atty. Gen. 103.

40.53 City school board, powers and duties. (1) The school board shall have the powers and be charged with the duties of common school district boards as far as the same are not otherwise provided for or limited by statute.

(2) The school board shall have power to establish and organize such high schools, elementary schools, night schools, and kindergartens as it shall deem expedient and it may also provide for, establish and maintain nursery schools for children under 4 years of age under such rules and regulations as it may prescribe. The school board shall be authorized to accept and receive federal funds for the operation of such nursery schools and to expend such funds in conformity with the purposes and requirements thereof. The school board may require and charge a reasonable fee for attendance in such nursery schools in order to sustain the project but may waive such charge or fee or any portion thereof to any person who is unable to make such payment. The school district shall not be entitled to additional state aid for the operation and maintenance of a nursery school.

(3) To establish or consolidate, from time to time, subschool districts.

(4) To employ a city superintendent but for not longer than three years at a time; and to employ assistant superintendents, school principals and teachers.

(5) To grade the schools and prescribe the courses to be pursued therein, subject to the authority vested in the state superintendent.

(6) To select and acquire sites, to employ architects and engineers for the preparation of plans and specifications for school buildings and to adopt the same, but deeds and leases taken shall be in the name of the city, and the title to all school property shall vest in the city.

(7) To purchase and preserve necessary school equipment and apparatus.

(8) To contract for the necessary fuel, light, water and supplies for the schools.

(9) To employ janitors and engineers and other needed help to care for the school buildings and other property.

(10) To fix the compensation and prescribe the duties of all persons employed or appointed by the board.

(11) To estimate the expenses of the city schools and prepare a budget, which shall be submitted to the common council for its approval. Approval of the council shall also be necessary before the board may purchase any site for a school building or other school uses, or construct school buildings or additions thereto.

(12) To furnish lunches to pupils, at cost; provided, they may be furnished to needy pupils at such prices and on such conditions as the board may prescribe, but the fact that such lunches are furnished to some at less than cost shall not be disclosed to others.

(13) To pay the membership fee of the board in an organization of high school boards in this state, and the actual and necessary expenses of its representatives in annually attending a meeting of such organization.

(14) To determine what textbooks shall be used in the schools, a list of which books shall be kept in its office and posted in each school building, but shall not change such textbooks within three years of adoption, unless the city furnishes free textbooks.

(15) To purchase such textbooks and fix the terms and conditions upon which they shall be furnished to pupils, but no book shall be used or permitted which tends to teach sectarian ideas.

(16) To adopt rules for its own meetings and deliberations; and for the government of the schools, the faculty, and other employes of the board.

(17) To provide for periodic health examinations for school employes and school children as specified in section 40.16 (14) (b), (c) and (d).

40.535 Tuition in schools above eighth grade. (1) The school board or board of education of any city maintaining a graded system of schools of at least twelve grades, but no free high school, the four upper grades of which contain substantially the same amount of work as adopted and offered in free high schools established under section 40.62, the board of any district maintaining a free high school, and the board of any state graded school offering an approved course of instruction in the ninth or in the ninth and tenth grades shall be entitled to charge nonresident pupils as tuition an amount to be determined by or agreed upon by one of the methods provided in subsection (2).

(2) Such tuition shall be computed, the claims for same rendered, tax levies for same certified, collection of tax levies made and payments to the school district treasurers made in accordance with the provisions of subsections (5) and (6) of section 40.47.

40.54 City school funds; construction work. (1) All money appropriated for school purposes shall be under the direction of and shall be expended by the school board.

(2) (a) The erection of buildings shall be let by the school board to the lowest responsible bidder, as provided in section 62.15, and the school board shall, for that purpose, possess the powers conferred by that section on the board of public works.

(b) The alteration or repair of buildings or other construction work (the estimated cost of which exceeds \$1,000) may be let by the school board to the lowest responsible bidder, as provided in section 62.15, and the school board shall, for that purpose, possess the powers conferred by that section on the board of public works, or it may be done directly by said school board without submitting the same to bids upon the passage of an ordinance as provided for in said section.

40.55 City school building sinking fund; school budget and tax. (1) City school districts are authorized to create and establish sinking funds for the purpose of financing the construction of school buildings. All money raised through taxation pursuant to this authorization shall be deposited by the city treasurer in a separate fund to be designated as a sinking fund to be used for the financing of the construction of school buildings, and such money shall not be used for any other purpose or be transferred to any other fund except by authorization of a three-fourths majority vote of the members of the board of education and the adoption of a resolution by the city council approving the resolution of authorization adopted by the board of education.

(2) The school board shall annually, before October, make an estimate of the expenses of the public schools for the ensuing year, and of the amount which it will be necessary to raise by city taxation, and certify the same to the city clerk who shall lay the same before the common council at its next meeting. It shall be the duty of the common council to consider such estimate, and by resolution determine and levy the amount to be raised by city taxation for school purposes for the ensuing year, which amount shall be included in the annual city budget and be called the "City School Tax."

40.56 Taxation of attached territory. (1) All property attached to a city for school purposes shall be taxed for such purposes the same as property within the city.

(2) Each year the city clerk shall ascertain the total of taxes levied by the city for school purposes, and shall apportion to such outside property its pro rata share thereof, based upon the full value of all property subject to such taxes, within and without the city; and such portion or share shall be certified to the clerk of the municipality in which such attached territory lies, be entered on the tax roll, collected and returned as provided in section 40.48.

(3) The full value of the property within and without the city shall be ascertained from the report filed pursuant to section 39.03 (1) (g).

Territory in a city school district but outside of the city limits is not subject to the county tax under 70.62 (1) for the operation of the office of county superintendent of schools. 39 Atty. Gen. 356.

40.57 Disbursements of city school funds. The city clerk (or comptroller where applicable) shall keep separate accounts of all moneys raised and apportioned for city school purposes. Said moneys shall be paid out as follows: The school board shall present to the city clerk a certified bill, voucher or schedule signed by its president and secretary, giving the names of the claimants and the amount and nature of each claim. The city clerk shall issue proper orders upon such certification, to the city treasurer, who shall pay them from the proper funds in the manner provided by section 66.042.

[40.571 Stats. 1925 renumbered section 14.57 by 1927 c. 425 s. 1]

[40.575 Stats. 1925 repealed by 1927 c. 425 s. 109]

40.58 City superintendent of schools; powers, duties, eligibility. (1) The city superintendent of schools shall have general supervision of the professional work of the schools, and the promotion of pupils.

(2) He shall make written recommendations to the school board relative to teachers, courses of study, discipline and such other matters as he may deem for the best interests of the schools; and shall perform such other duties as the board may require.

(3) He shall not be a member of the school board. He shall not engage in any pursuit which shall interfere with the proper discharge of his duties, but he is eligible to act as principal or teacher in any school under his supervision, and he shall possess the legal qualifications required for the principalship of a high school.

(4) He shall make the report required by section 39.11, directly to the state superintendent.

(5) He shall attend annually one convention called by the state superintendent for the purpose of consultation upon matters pertaining to the supervision and management of city schools. He shall be reimbursed his actual and necessary expenses incurred for travel, board and lodging because of attendance upon such convention, such bills to be audited and allowed by the school board upon presentation of an itemized statement of expense accompanied by a certificate of attendance signed by the state superintendent.

40.59 City technical schools. Any city may, by ordinance, establish a technical school or college as a part of its public school system; provided, the ordinance establishing such school or college shall be submitted to the electors of the city in substantially the same manner as other city ordinances are submitted to the electors. The ordinance shall provide for the organization of such school or college, and may confer the management and control on the existing school board or on a special board created thereby. The ordinance may be amended or repealed by an ordinance submitted and adopted in the same manner.

[40.595 Stats. 1925 repealed by 1927 c. 425 s. 94]

40.60 City school board proceedings; publication. The proceedings of city school boards, except in cities of the first class, including a statement of all receipts and expenditures, shall be printed and published within thirty days in a newspaper printed in the city, if there be one, and if there be none, in such manner as the board shall direct.

[40.605 Stats. 1925 renumbered section 40.69 by 1927 c. 425 s. 96]

40.605 Power of cities to provide salaries for board members. The governing body of any city may, before the annual city budget is prepared, provide for and fix the amount of compensation of city school board members for the ensuing year. Such amount shall be included in the annual city budget as part of the city school tax.

[40.606 Stats. 1925 renumbered section 40.69 by 1927 c. 425 s. 96]

40.61 County high schools. (1) The county board of any county having a population of not more than twelve thousand may establish a free high school in such county to be known as the "County High School."

(2) The property of any existing high school district in any such county shall not be subject to any tax for the construction or operation of any county high school, until and unless it dissolves and becomes a part of the county high school district.

(3) Territory included within a county high school district may withdraw therefrom and organize a separate high school district, in which event the property of such new high school district shall be subject to a tax only for its proportionate share of the indebtedness of the county high school district which existed at the time of such withdrawal.

(4) Pupils residing in such new high school district attending the county free high school shall be subject to the payment of tuition, as provided for in section 40.47, and the provisions of said section shall be applicable to said county high school.

(5) All of the county except as above provided shall be a part of said county high school district and constitute a county high school district, and the said high school shall be free to all pupils resident in said district.

(6) Upon receiving written notice of the action of the county board, the state superintendent shall issue a certificate of establishment of a county free high school in such county.

(7) The county board shall select and purchase the site for the high school building and shall supervise the construction thereof.

(8) The county board shall elect a school board of three members, which shall have charge of the administration of such school. The county board shall designate the terms of the members of the school board, fill vacancies therein and discharge any member therefrom, and fix the compensation of such members.

(9) A county high school shall possess all the rights and privileges and shall be subject to all the liabilities of other high schools.

(10) Any person eligible to attend such county high school, but who lives nearer to some other high school, may attend such other high school, and in such case shall be entitled to have his tuition paid by the county high school district.

40.62 High school; how established in common school district. (1) Any common school district having an assessed valuation of one million two hundred fifty thousand dollars or more may establish a high school, except that if such district irrespective of valuation has a junior high school, the state superintendent may, after an investigation, permit the establishment of a high school, if he is satisfied that the district, together with the aid provided by law, and prospective tuition, can maintain such high school without exacting an undue hardship upon the taxpayers of the district.

(1a) The state superintendent may, after investigation, discontinue any high school if he is satisfied that such discontinuation is for the best interests of the taxpayers of the district and of the students of such high school.

(2) The question of establishing such a school may, and upon the written petition of one-tenth of the electors shall, be submitted by the school board to an annual or a special meeting, upon written resolution therefor proposed for adoption.

(3) Notice of such proposal, embodying the resolution, shall be given by the district clerk in the manner provided for giving notice of a district meeting.

(4) The vote on such proposal shall be taken by ballot. The ballots shall be "For High School" and "Against High School." If the resolution be adopted, the clerk shall report the resolution and the action thereon to the state superintendent for his approval. If he approve it, he shall issue a certificate of establishment of a high school, otherwise he shall veto the proposal.

(5) In all school districts wherein a high school shall have been established, pursuant to this section, the district board shall be the high school board.

(6) No such high school shall be established unless at least twenty-five persons of school age, residents of the district, give evidence, satisfactory to the state superintendent, that they are prepared and desire to attend a high school.

(7) An election for the establishment of a high school shall become void unless such school functions within two years from the date of the election.

(8) A common school district which maintains a high school may discontinue such school by submitting the proposal therefor to the electors in the manner that the establishment of such school was submitted, but a two-thirds vote shall be necessary to effect a discontinuance.

40.63 Joint high school district; established by common districts. (1) In case two or more common school districts propose to jointly establish a high school, action shall be taken by each district as in the case of the establishment of such school by a single district.

(2) Within six days after the proposal is voted on, the school boards of the districts shall meet in joint session and canvass the returns and certify the results to the state superintendent. If the proposal be adopted by each district, and such action meets the approval of the state superintendent, he shall issue a certificate of establishment of a high school district, and thereupon the territory of said common school districts shall constitute a high school district; otherwise the proposal shall stand rejected.

(3) If a high school district is created, all procedure subsequent to the issuance of said certificate shall be governed by section 40.64; and the officers of the high school district and their election and term of office shall be as provided in that section.

[40.635 Stats. 1925 renumbered section 40.46 by 1927 c. 425 s. 83]

40.64 Union high school district; established. (1) A high school district may be established in any contiguous compact territory with an assessed valuation of \$1,250,000 or more, and the plat of the territory to be included in the proposed district approved by the state superintendent of public instruction. A high school district or a consolidated free high school district may also be established in any township comprising only island territory. The clerks of each governmental subdivision affected by the establishment of such district shall submit jointly a plat of the territory proposed to be included therein. No election shall be held in such territory unless the state superintendent of public instruction has approved such plat.

(2) In case the territory is entirely in one municipality, the question of establishing such district shall be submitted to the voters of such territory, whenever a petition, signed by one-tenth of the electors of the territory, is filed with the municipal clerk praying for the submission of such question. The clerk shall, at once, set a time for the special election, and shall give ten days' notice thereof by posting the notice in six different places in such territory, or by publishing such notice in a newspaper published therein, once each week for two successive weeks immediately prior to the election. The election shall be conducted and the votes canvassed as in the case of local elections. A majority of all the votes cast shall determine the result.

(3) In case the territory lies in more than one municipality the petition may be presented to any municipal clerk and he shall, within five days after receipt of said petition, notify the other clerks of the receipt of such petition, and shall set a date and place for a meeting with them to fix the time and place for holding the election. Said clerks shall meet accordingly and fix the time and place for holding such election and shall give notice thereof. Unless a village is included, the election shall be noticed for the entire territory proposed to be included in the district, and shall be conducted by the town board of the town in which the election is held.

(4) (a) In case the proposed district contains a village or villages, a city or cities, the election for the village or villages, a city or cities shall be in the village or villages, city or cities. The election for the town territory may be held in the village or villages, city or cities or at any other convenient place. The election for the village or villages, city or cities shall be conducted, and the votes canvassed in the manner provided for village or city elections; and the election for the town territory shall be conducted and the votes canvassed in the manner provided for town elections. If the outlying territory is in more than one town, the election for the part in each town shall be conducted separately.

(b) The ballots shall be provided by the clerks and shall be so printed as to plainly indicate how the electors may vote. The proposal shall not be deemed adopted unless a majority of the electors voting in the territory outside of the village or villages, city or cities and a majority of the electors voting in the village or villages, city or cities shall vote for the high school district.

(c) The result of the election shall be certified at once by the election officers to the clerk or clerks of the village or villages, city or cities; and if the proposal be adopted, the result shall be so certified to the state superintendent by the village clerk or village clerks, city clerk or city clerks, within 6 days after the election. If the proposal meets the approval of the state superintendent, he shall issue a certificate of establishment of a high school district in said territory.

(5) If an existing high school district is included in the new high school district territory, the establishment of a high school district, as herein provided, shall annul such existing high school district, and the property and liabilities thereof shall become the property and liability of the new district.

(6) The tuition of pupils who reside in territory comprising a newly created union free high school district and outside of districts operating high schools shall continue to be the liability of the municipality or municipalities of their residences as provided in section 40.47 until such time as the newly created district shall have provided adequate building facilities for its needs.

(7) The territory comprising a newly created union free high school district shall continue to furnish high school opportunity on the same basis and under the same conditions as prevailed prior to the creation of such district until such time as adequate building facilities are provided by the new high school district. The boards of the newly created high school districts shall perform all of the duties pertaining to the negotiation of loans for buildings, letting of contracts for construction of new buildings, noticing and conducting meetings of the district for the purpose of securing authorization of loans for building purposes and all other necessary powers and duties delegated by statute to union free high school district boards.

[40.645 See 1927 c. 425 s. 87]

40.65 Joint ownership of school building. The electors of any high school district, outside of cities, and the electors of any common school district, included within the high school district, may authorize and direct their respective school boards to join in the erection and maintenance of a school building for housing the high school and the common school. Where such agreement shall have been entered into, the principal of the high school shall be the administrative head of both schools.

40.66 Alteration of union high school districts. (1) A petition signed by one-tenth of the voters of a high school district organized under section 40.64, asking for an alteration of the district, may be presented to the chairman of the town, or the president of the village, or the mayor of the city, in which the high school building is situated. Such officer shall fix a time and place for meeting of the boards of the municipalities in which the district lies, which shall not be less than ten nor more than twenty days from the time the petition was received. He shall give written notice of the time and place of the meeting to each member of the municipal boards, at least five days prior to the meeting. Such meeting shall be held at the high school building, unless some other convenient place shall be designated in the notice.

(2) Said boards shall jointly act upon the petition, but it shall not be granted except by a majority of each of the boards. Their decision shall be in the form of an order, and such order shall be subject to appeal to the state superintendent within thirty days.

(3) In case the officer to whom such petition shall have been presented, shall neglect or refuse to arrange such meeting, or in case the board or council of any municipality in which any part of such district shall be located, shall neglect or refuse to be present at such meeting, or shall refuse or neglect to vote upon the petition, the petition shall be deemed denied, and an appeal may be taken as provided in subsection (2).

(4) The area of such a high school district shall not be rendered noncontiguous by detaching territory therefrom. No order annexing territory, under this section, shall be effective without the consent of a majority of the electors residing therein, expressed at an election held upon petition signed by at least one-tenth of them, and conducted in the manner provided for the establishment of a high school in territory lying wholly in towns.

(5) Orders altering high school districts and copies of such orders shall be filed in the manner and places provided by law for filing the orders and copies thereof creating such districts.

History: 1951 c. 499.

[40.665 Stats. 1925 renumbered section 40.60 by 1927 c. 425 s. 87]

[40.67 Stats. 1927 renumbered section 40.53 by 1927 c. 425 s. 87]

[40.675 Stats. 1925 renumbered section 40.53 by 1927 c. 425 s. 87]

40.68 Annexation to high school district. (1) Territory not in but adjoining a high school district may be annexed thereto, upon a petition therefor presented to the board of such high school district signed by ten per cent of the electors in such adjacent territory.

(2) If the high school board approve the petition, the matter shall be submitted to a meeting of the electors of said territory, fairly called, noticed and conducted, and if approved by a majority of the voters present and by the owners of at least fifty per cent of the property by assessed value in the territory proposed to be annexed, it shall thereby be annexed.

[40.685 Stats. 1939 renumbered section 38.21 (2) by 1941 c. 213 s. 24]

40.69 High school districts, dissolution. (1) Any high school district (except a city district) may be dissolved as in this section provided.

(2) A petition signed by one-tenth of the electors in such district shall be filed with the clerk, requesting that an election be called to vote on the question of dissolution.

(3) Said clerk shall, within five days after receipt of such petition, fix the date and give ten days' notice of the time and place of holding such election, by posting copies thereof in at least eight public places in such district. The election shall be held in the high school building, if possible.

(4) The clerk shall prepare a sufficient number of ballots on which shall be printed "For Dissolution

and "Against Dissolution .

(5) The polls at such election shall be open at one and close at seven o'clock in the afternoon, and the officers of such election shall be the district clerk and two other persons to be selected by the school board.

(6) The election shall be conducted and the votes counted and canvassed as in the case of town elections.

(7) If two-thirds of the votes cast at such election shall be for dissolution, the results shall be at once certified to the clerk of each municipality concerned, and the state superintendent and such district shall be dissolved as of July first, following such election.

(8) Such dissolution shall have the effect of transferring the property, assets and liabilities of the high school district to the common school districts which were, in whole or in part, embraced in the high school district; and shall be awarded, apportioned and distributed subject to and in the manner provided by section 66.03, as far as the same is applicable.

[40.695 Stats. 1925 renumbered section 40.52 by 1927 c. 425 s. 87]

40.70 Compulsory school attendance. (1) GENERAL PROVISIONS. (a) Any person having under his control a child between the ages of 7 and 16 years shall cause such child to attend some school regularly to the end of the school term, quarter, semester or other division of the school year in which he is 16 years of age (unless the child has a legal excuse) during the full period and hours (religious holidays excepted) that the public, parochial or private school in which such child should be enrolled may be in session.

(b) This subsection does not apply to any child not in proper physical or mental condition to attend school (the certificate of a reputable physician in general practice to that effect shall be sufficient proof thereof), to any child exempted by a juvenile judge under the provisions of section 48.24, nor to any child who has completed the full 4-year high school course. Any child who has completed the course of study for the common schools, or the first 8 grades of school work or the equivalent thereof, may at his option attend a vocational and adult education school full time in lieu of attendance at any other school.

(c) Instruction during the required period elsewhere than at school may be substituted for school attendance; provided, that such instruction be substantially equivalent to instruction given to children of like ages in the public, parochial or private schools where such children reside.

(2) VOCATIONAL AND ADULT EDUCATION SCHOOLS. Any unmarried person who is not indentured as an apprentice, who resides or is employed in a district which maintains a vocational and adult education school, who has attained the age of 16 years and who has not completed a full 4-year high school course shall, if not attending a high school full time, continue to attend a vocational and adult education school for at least one full school day of not less than 6½ hours a week if regularly, lawfully and gainfully employed, half time if employed at home, and full time if unemployed, until he is 18 years of age; and the parents of such minors shall compel such school attendance. In cases where there are no parents or not more than one parent living at home in which there

is at least one child, and it is necessary for one of the children who is over 16 and under 18 years of age to be employed at home in order to maintain the household, such child, for the purpose of school attendance under the provisions of this subsection, shall be deemed to be regularly, lawfully and gainfully employed.

(3) **PENALTY.** Any violation of the provisions of this section shall be punished by a fine of not less than five dollars nor more than fifty dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment. In a prosecution under this section, if the defendant proves that he is unable to comply with the law because of the disobedience of the child in question, it shall be a good defense and such child shall be proceeded against as delinquent, and in case of commitment, if the parents desire it, he shall be committed to a school or association controlled by persons of his religious faith, which is willing and able to receive and maintain him without compensation from the public treasury. Every violation of this section may be prosecuted in the manner and in the courts specified in chapter 48.

History: 1951 c. 38.

[40.71 Stats. 1949 repealed by 1951 c. 13]

40.72 School census and reports. (1) Every officer, whose duty it is to take the school census (except in cities of the first class), shall make three copies of such census on blanks furnished by the state superintendent, and shall send one to the proper superintendent, before the fifteenth day of July, and, at the opening of the school in his district, shall deliver a copy to the teacher or the principal in charge of each schoolhouse in the district.

(2) In case the school district extends into two or more counties, the clerk of such district shall make separate census reports for the part in each county and forward the same to the proper superintendents.

(3) The superintendent may require the principals of all public schools to report to him the name of the school and its location, the name and address of the teachers, the number of months of school maintained during the year, the opening and closing dates, the names and ages of all children enrolled between the ages of seven and eighteen, the names and post-office addresses and places of residence of the parents of such children, the number of the district and the distance such children reside from the schoolhouse, the number of days each child was present during each month, and any other information requested by him, said reports to be made on blanks to be furnished by the superintendent.

(4) All teachers of private and parochial schools shall keep a record embodying the data enumerated in this section, and such record shall be open to the inspection of truant officers at all reasonable times, and when called upon by any truant officer, such teachers shall furnish, on blanks supplied by the truant officer, the above mentioned data in regard to children between the ages of seven and eighteen, who claim, or who are claimed to be in attendance at such schools, and every school teacher shall promptly notify the proper truant officer of any child whose attendance is habitually and inexcusably irregular.

(5) Any officer or teacher who shall fail or neglect to make the reports, or who shall fail to keep the records, required by this section, shall be subject to a forfeiture of not less than five nor more than twenty-five dollars for each such failure or neglect.

40.73 Truancy. (1) **OFFICERS, DUTIES.** In cities of the first class, the school board shall appoint welfare workers or attendance officers who, when employed, shall have and possess the legal authority and powers of truant officers. To qualify for employment such welfare workers shall possess the legal qualifications required for teachers in such cities and, when employed, shall have all the rights and privileges of teachers. In school districts other than cities of the first class, not under the jurisdiction of the county superintendent, the board of education shall appoint as truant officer any professional employe of the school system. In school districts under the jurisdiction of the county superintendent, the supervising teachers, the county superintendent and principals shall be truant officers.

(2) **POWERS OF OFFICERS.** A truant officer shall have the power to visit factories, workshops, mercantile establishments and other places of employment in his locality, and ascertain whether any minors are employed therein contrary to law. He shall require that the school certificates and lists of minors who are there employed shall be produced for inspection, and he shall report all cases of illegal employment to the proper school authorities and to the industrial commission. When a truant officer receives a delinquent report or learns by investigation or by personal observation that any child is unlawfully and habitually absent from school, he shall immediately proceed in accordance with the provisions of subsection (5).

(3) **TRUANCY DEFINED.** Truancy or delinquency shall consist of any absence from school during which the teacher or principal has not been notified officially of the cause of such absence by the parent or guardian of the absent pupil. In the case of illness for

more than 3 days, or upon request of the truant officer, a statement from the local health officer or nurse or attending physician shall be submitted.

(4) **REPORTS ON TRUANCY.** City superintendents shall require the teachers under their supervision to report all absences daily to the truant officer, and all county superintendents shall require the teachers under their supervision and teaching in schools of 3 or more teachers to report all absences to the principal of said schools daily, and in all other schools under his supervision the county superintendent shall require the responsible teacher to report all absences to him at the end of each week of school.

(5) **PURSUIT OF TRUANT.** (a) The truant officer shall, within 12 hours from his receipt of such delinquent report made as required by subsection (4), or other information of delinquencies, give written notice by personal service to the parents or guardians of delinquent children, to send such children to some school at least by the next following day in which school is in session unless an excuse from the proper health or judicial authority is filed. The officer shall at once notify the school principal or responsible teacher in writing of such service of notice; and a return of the child to school shall be promptly reported by the school principal or responsible teacher to the truant officer. The failure of the child to return to school on the next school day shall be reported at once to the truant officer by the school principal or responsible teacher. The truant officer shall again give notice to the parent or guardian of the child, and notify the school administrator of such service in writing. If the child does not return to school on the day following the service of the second notice the truant officer shall proceed to take the necessary action in accordance with section 40.70 (3) of the statutes.

(b) The notice shall inform the parents as to the legal requirements for school attendance. A copy of section 40.70 shall be printed on the face or back of such notice. It shall be the duty of all truant officers, after having given such notice, to ascertain whether the parents have complied with the notice; and in case of failure to so comply within 3 days the officer shall begin and prosecute criminal proceedings against offending parents.

(c) Truant officers shall have the power to apprehend without warrant any child found violating the provisions of sections 40.70 to 40.73, and cause such child to be placed in some school.

(6) **COMPENSATION OF TRUANT OFFICERS.** (a) Truant officers in cities shall receive such compensation as shall be fixed by the school boards.

(b) When the county superintendent, supervising teachers and principals are acting as truant officers, they shall receive their actual and necessary expenses incurred in the performance of their duties as truant officers.

(7) **PENALTY.** Any superintendent of schools, or any truant officer who violates any of the provisions of this section, shall be subject to a forfeiture of not less than 5 nor more than 25 dollars for each such offense.

40.74 Frances Willard Day. The twenty-eighth day of September is "Frances Willard Day," and when it does not fall upon a school day, the school day nearest such date shall be Frances Willard Day. On Frances Willard Day one and one-half hours may be devoted in the schools to instruction and exercises relative to the life of Frances Willard and to the principles and ideals she fostered.

40.75 Columbus Day. The twelfth day of October is "Columbus Day," and when it does not fall upon a school day, the school day nearest such date shall be Columbus Day. On Columbus Day one and one-half hours may be devoted in the schools to instruction and appropriate exercises relative to the life of Christopher Columbus and to the principles and ideals he fostered.

40.76 Leif Erikson Day. The ninth day of October is hereby designated as "Leif Erikson Day" and when it does not fall upon a school day, the school day nearest such date is designated as "Leif Erikson Day." On such day one-half hour may be devoted in the schools to instruction and appropriate exercises relative to and in commemoration of the life and history of Leif Erikson and the principles and ideals he fostered.

40.765 American Creed Day. The thirteenth day of April is designated and established as "American Creed Day." On such day one-half hour may be devoted in the schools to instruction and appropriate exercises relative to the origin and principles of the American Creed. If the thirteenth day of April falls on a Saturday or a Sunday, such instruction and exercises shall be held on the preceding Friday.

40.766 Indian Rights Day. July fourth is designated as "Indian Rights Day," and in conjunction with the celebration of Independence Day, appropriate exercises or celebrations may be held in commemoration of the granting by congress of home rule and a bill

of rights to the American Indians. When the fourth of July falls on Sunday, exercises or celebrations of Indian Rights Day may be held on either the third or the fifth.

40.77 Textbooks censored. (1) No history or other book shall be adopted for use or be used in any district school, city school, vocational school or high school which falsifies the facts regarding the war of independence, or the war of 1812, or which defames our nation's founders, or misrepresents the ideals and causes for which they struggled and sacrificed, or which contains propaganda favorable to any foreign government.

(2) Upon complaint of any five citizens filed with the state superintendent of public instruction that any history or other book which is being used in any such school contains any matter prohibited by this section, the state superintendent shall fix a time for a public hearing upon such complaint, which shall be not more than thirty days from the date of filing said complaint, and such hearing shall be conducted either by the state superintendent or the assistant state superintendent, or by one of the state inspectors of schools, to be designated by the state superintendent, which hearing shall be held at the county seat of the county where the complainants reside. Notice of such hearing shall be given at least ten days prior to the date thereof through the public press and by registered mail to the complainants, the school board interested and to the publishers of such book.

(3) Within ten days after such hearing the state superintendent shall make a finding upon such complaint. If he finds that the book in question contains matter prohibited by this section, he shall make note of such finding in the list of textbooks which he is required annually to publish. Such book shall not thereafter be placed on the list of textbooks which may be adopted, sold or exchanged in this state.

(4) Every school board, board of education, board of vocational education, or county board of education, which has control over the textbooks used in any school, shall cause every book which the state superintendent has found contains matter prohibited by this section to be withdrawn from use in such school prior to the opening of the school year following the publication of such finding of the state superintendent. No state aid shall be paid for the support of any such school during any year in which any such textbook is used in such school after such finding of the state superintendent.

40.775 Race, religious, political discrimination as to teachers prohibited. (1) No discrimination shall be practiced in the employment of teachers in public schools because of their race, nationality or political or religious affiliations, and no questions of any nature or form shall be asked applicants for teaching positions in the public schools relative to their race, nationality or political or religious affiliations, either by public school officials or employes or by teachers' agencies and placement bureaus.

(2) Any person who shall violate the provisions of this section shall be punished by a fine of not less than twenty-five dollars nor more than fifty dollars, or by imprisonment in the county jail not less than five days nor more than thirty days. Violation of this section shall be cause for the removal of any superintendent, member of a board of education or school board, or other public school official.

40.777 Exclusion on account of religion, nationality or color a misdemeanor. No child between the ages of 4 and 20 years shall be excluded from any public school on account of his religion, nationality or color. No separate school or department shall be kept for any person or persons on account of his religion, nationality or color. A member of any board of education who shall vote to exclude from any public school any child, on account of his religion, nationality or color shall be punished by a fine not to exceed \$100 or by imprisonment for not less than 30 days, nor more than 6 months, or by both such fine and imprisonment.

40.78 School board election, second class cities. Whenever any city of the second class has by referendum as provided for in this chapter, voted to adopt the elective system of selecting and appointing members of the board of education, a special election for members of such board shall be held within 30 days at a date to be determined by the city council. A call for such special election shall be issued by the council in accordance with law. The members of the board of education chosen in such special election shall take office on the second Monday following such election. The 2 persons receiving the highest number of votes shall hold office until their successors elected 3 years after the preceding spring election have qualified; and the 2 persons receiving the next highest number of votes shall hold office until their successors elected 2 years after the preceding spring election have qualified; and the 3 persons receiving the next highest number of votes shall hold office until their successors elected one year after the preceding spring election have qualified.

40.79 Curative act; pay for benefit received. (1) Whenever any school district shall have received, prior to July 1, 1926, and shall be enjoying any benefits or improvements

furnished under any contract which shall have been or shall hereafter be declared as imposing no legal obligation upon such school district, and which contract was entered into in good faith, and imposes upon such school district a moral obligation, and for which said school district shall at the time be legally able to pay, such school district may upon consideration of such moral obligation, pay the fair and reasonable value of such benefits or improvements upon the conditions hereinafter provided.

(2) The fair and reasonable value of such benefits and improvements shall be determined by the district board of such school district, and shall be by such board submitted to the electors of said school district at any annual meeting or adjournment thereof, or at a special meeting called for the purpose of authorizing and directing the payment for such benefits and improvements. Notice of the proposed action, whether at an annual meeting or adjournment thereof or at a special meeting called for the purpose, shall be given in the same manner as is required for notice of the annual meeting of the electors. Any action taken at any such meeting in respect to such payment shall be final, and shall not be subject to further action by the electors of said school district, and the action shall be determined by a majority vote of the electors present at such meeting.

(3) Any payment authorized under the provisions of this section may be met by levying of taxes or the issuance of bonds therefor, as determined by the electors of said school district; provided, however, that the indebtedness of said school district, including any obligations assumed pursuant to this section, shall not exceed the debt limit now imposed by law.

[40.85 Stats. 1937 repealed by 1939 c. 342]

40.86 Towns made school districts in Milwaukee county. (1) Each town in counties having a population of two hundred and fifty thousand or more, is declared and constituted a school district, provided, however, that such district shall not be organized and in effect as such until July 1, 1932, or if within six months after the passage of this act a petition shall be filed with the town clerk of such town signed by a number of electors thereof equal to not less than seven per cent of the votes cast therein for governor at the last general election, praying that the question of the creation of such school district be submitted to the electors of such town, in which event the creation of the district shall abide the approval and be determined by a majority vote of the electors voting thereon.

(2) Whenever a referendum shall be petitioned for, as herein provided, and a petition filed therefor, such question shall be voted on at the next regular election and the voting thereupon shall be by ballot. The ballots used shall have printed thereon the words: "Town School District — Yes" or the words: "Town School District — No." A separate ballot box shall be provided for the reception of said ballots, and the votes cast shall be counted, canvassed, and a record made, as in the case of votes cast at any election in said town, and if it should appear that a majority of the ballots cast have thereon the words: "Town School District — Yes," then the provisions of this act creating such district shall become effective as herein provided, otherwise the same shall have no force or effect therein.

(3) (a) If such school district be created as herein provided, and become effective, the town clerk of such town shall, immediately following July 1, 1932, cause notice to be given to the electors of such town of a meeting of the electors for the purpose of electing the school officers of such district. Such notice shall be made by posting five copies thereof in five public places in said town, and by publishing a copy of said notice in a newspaper circulated in such town, such posting and publication to be at least ten days before the holding of such meeting, and the notice thereof to set forth the day and the hour and the place at which such meeting shall be held.

(b) At such first meeting of such school district a board of five members shall be elected, for terms of one, two, three, four and five years, respectively. Thereafter, at each annual meeting a member of such board shall be elected for a term of five years. Said board shall elect a president, clerk and treasurer for such terms as it shall determine.

(4) When such town school district shall be organized and the district board shall have been elected, the school districts out of which it shall have been formed shall cease to exist as school districts, or bodies corporate, and the title to all property, and the assets of every nature of the school districts out of which it was organized, shall thereupon become vested in the town school district, and all valid existing claims and obligations against and contracts of the said several school districts shall continue to be valid claims and obligations against such town school district. All claims and obligations arising after the formation of the town school district shall be against the town school district. The town school district shall maintain and conduct the schools theretofore maintained and conducted by the several districts, and such other school or schools as it may thereafter provide for such school district.

(5) The town school district organized as herein provided shall be a body corporate and possesses the usual powers of a public corporation by the name and style of: "Town

School District of the Town of . . . ,” and shall possess and there is imposed upon such town school district all of the powers now possessed by law by the common schools of the state of Wisconsin, including the powers defined by chapter 40 of the statutes.

(6) All such town school districts shall have the authority to borrow money under the condition specified in chapter 67 of the statutes, and shall be entitled to and shall share in the distribution of the common school fund income, and other school funds, in the same manner as school districts maintaining common and graded schools. In case a high school is maintained, the town district school shall be entitled to share as in the case of union free high schools.

(7) The clerk of the school board of each town school district shall on or before the fifteenth day of July of each year make to the state superintendent of public instruction a report stating the number of departments in the schools, total expense for the previous year, and such other information as the state superintendent of public instruction may require.

(8) Upon the formation of a town school district as in this act provided, if there shall be in such territory any joint school district or districts, the same shall be dissolved upon the creation of the town school district and following the election of the town school district board, and that part of the territory of such joint school district which lies within the town school district shall become a part thereof, and thereupon there shall be an adjustment of the assets and liabilities, in the manner provided in section 66.03 of the statutes, of the assets and liabilities of such joint school district and the town school district.

(9) Nothing in this section shall operate to limit in any way or to prevent the annexation to any city of any territory forming any part of such school district.

40.87 Valuation determined and certified. The full valuation expressed in the nearest thousand dollars of the property in each school district and the full valuation expressed in the nearest thousand dollars of the property in each part of a joint school district shall be determined and certified to the state superintendent annually on or before August 1, by the department of taxation.

History: 1951 c. 33, 224.

[40.875 Stats. 1947 repealed by 1949 c. 643]

40.88 Aid to counties maintaining institutions having schools. Any county, which maintains a county home for dependent children or other institution in which children are received for care, and in which institution or institutions the educational facilities required to be provided by a common school district are maintained, shall be entitled to state educational aids granted under sections 40.37, 40.371, 40.372, 40.373 and 41.03 as though such institution or institutions constituted a common school district. The educational facilities offered in such institutions shall be under the supervision of the county superintendent and state superintendent of schools.

40.89 School safety patrols. Any school district board or city school board or the board of school directors of any city of the first class, is empowered to organize school safety patrols and with the permission of the parents to appoint pupils as members thereof for the purpose of influencing and encouraging the other pupils to refrain from crossing public highways at points other than at regular crossings and for the purpose of directing pupils not to cross highways at times when the presence of traffic would render such crossing unsafe. Nothing herein contained shall be construed to authorize or permit the use of any safety patrol member for the purpose of directing vehicular traffic nor shall any safety patrol member be stationed in that portion of the highway intended for the use of vehicular traffic; except that this section shall not affect any plan in operation on July 11, 1939, under which a junior police patrol directs traffic under the authorization, supervision and control of either the sheriff's department or of the chief of police or traffic department of the police department of any city, town or village. No liability shall attach either to the school district or any individual, director, superintendent, teacher or other school authority by virtue of the organization, maintenance or operation of school safety patrol organized, maintained and operated under authority of this section.

40.895 Marking school zones. (1) On any street or highway which passes along the grounds of any public or parochial school in which there is teaching during a school term of not less than 6 months in a year, the authority in charge of the maintenance of said street or highway shall erect black and yellow "school" warning signs.

(2) On every highway entering an incorporated city or village, there shall be erected near the corporate limits in plain view of entering motorists, and maintained in good condition, signs bearing the words "Drive Carefully in School Zones".

(3) All signs required by this section and their installation shall comply with standards which shall be adopted by the state highway commission.

(4) Signs in place on July 1, 1949, which comply with section 40.895 statutes of 1947, until requiring replacement, may be continued in service in lieu of signs complying with this section.

40.90 Senior students entering military service; diplomas and credits. Any senior student of a high school in this state who, during the school year and prior to April 1, 1947 entered any branch of the military or naval service of the United States and who would have graduated during such school year, shall be granted a diploma of graduation from such school. Such diploma shall have all the rights and privileges of diplomas regularly granted to graduates of such school. Any senior student of a county normal school or state college in this state who entered during the school year and prior to April 1, 1947 any branch of the military or naval service of the United States shall be given credit for the first semester's work for such school year to the same extent as though he had successfully completed such work.

History: 1951 c. 548.

40.99 Retirement; election. Any common school district or high school district, at any annual or special meeting, by a majority vote of the electors present, may elect to be included in, and be subject to, the provisions of the Wisconsin retirement fund, established by sections 66.90 to 66.919.