

CHAPTER 120

SCHOOL DISTRICT GOVERNMENT

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SUBCHAPTER I

COMMON AND UNION HIGH SCHOOL DISTRICTS

120.001 Applicability. This subchapter applies to common and union high school districts.

History: 1967 c. 92.

Legislative Council Note, 1967: This section is new and specifies the types of school districts to which this subchapter applies. (Bill No. 353-S)

120.01 Number of school board members. In common or union high school districts, school boards shall be composed of the following number of members:

(1) A common school district operating elementary grades or a union high school district shall have 3 school board members, except that if such school district is coterminous with a town or has a population of 500 or more it may have 5 school board members.

(2) A common school district operating elementary and high school grades may have 3, 5, 7 or 9 school board members.

(3) A common or union high school district may have not exceeding 11 school board members if a plan of apportionment is established under s. 120.02 (2).

History: 1967 c. 92.

Legislative Council Note, 1967: Restates and rearranges s. 40.26 (1) and adds a reference to the

special method under present s. 40.26 (8) [s. 120.02 (2) (a)] for increasing school boards to 11 members. (Bill No. 353-S)

120.02 Method of changing number or apportionment of school board members. (1)

CHANGE IN NUMBER OF SCHOOL BOARD MEMBERS. If, at least 30 days prior to a special school district meeting or to the day when school board members are elected in a common or union high school district, a petition requesting a change in the number of school board members is filed with the school district clerk signed by 100 electors residing in the school district, the school district clerk shall incorporate in the notice of the annual or special meeting or election a statement that at such meeting or election the question of changing the number of school board members to the number requested in the petition will be voted upon. If such question is to be determined at an annual meeting at which school board members are elected under s. 120.04, it shall be determined before the election of the school board members and the number of school board members shall be elected at that annual meeting and thereafter in accordance with sub. (3). If, at a special meeting or at an election of school board members under s. 120.05 or 120.06, a resolution based on a petition requesting a change in the number of school board members is

adopted, school board members shall be elected at the next school board election and thereafter in accordance with sub. (3).

(2) PLAN OF APPORTIONMENT. (a) If, at least 30 days prior to the day of the annual meeting or the election of school board members under s. 120.05 or 120.06, a petition requesting the establishment of a plan of apportionment of school board members is filed with the school district clerk signed by at least 100 electors residing in the school district, the school district clerk shall incorporate notice of receipt of such petition in the notice of the annual meeting or election. The petition shall specify the proposed plan of apportionment of school board members among the cities, towns and villages or parts thereof within the school district and set the total number of school board members at not more than 11. If the annual meeting or election approves the plan set forth in the petition, the plan shall remain in operation until revised by the same procedure. School board members elected under this subsection shall be elected by a vote of the electors of the entire school district in accordance with the plan prepared under sub. (3).

(b) Any order of school district reorganization may contain such a plan of apportionment of school board members, and the determination of terms of school board members shall be as provided in sub. (3).

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

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

2. The total number of positions to be filled at the first election for 1, 2 or 3 years.

3. An allocation of the number of candidates to be elected to 1, 2 and 3 year terms at the first election, the 3-year terms to be filled by the appropriate number of candidates receiving the highest number of votes, the 2-year terms to be filled by the appropriate number of candidates receiving the next highest number of votes and the 1-year terms of be filled by the appropriate number of candidates receiving the next highest number of votes.

(b) 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 school board are to be filled.

(c) The tenure of school board members whose terms have not expired shall not be affected.

(d) If an agency school committee in its order creating a school district designates a school board of 5, 7 or 9 members, it shall prepare a plan for allocating terms in accordance with this subsection. If a union high school district is established under s. 117.05, the state superintendent shall prepare a plan for allocating terms in accordance with this subsection.

(e) Whenever a school district with more than 3 school board members votes to reduce the number of school board members, one less school board member shall be elected annually thereafter until the school board is reduced to the approved number of members, but not less than one member shall be elected each year.

History: 1967 c. 92, 313.

Legislative Council Note, 1967: Sub. (1) based on s. 40.26 (2).

Sub. (2) based on s. 40.26 (8).

Sub. (3) (a) to (c) revises s. 40.26 (3). Sub. (3) (d) restates s. 40.26 (7). The last sentence of par. (d) is based in part on s. 40.87 (1) (last sentence) and fills a void in existing law by giving the responsibility for the preparation of an election plan to the state superintendent in those cases where he is required to approve the establishment of a union high school district under the special procedure of s. 117.05. Sub. (3) (e) like s. 40.26 (6). Present s. 40.26 (5) deleted because s. 117.01 (2) (a) and (4) covers the same material. (Bill No. 353-S)

120.03 Election of school board members; general provisions. In a common or union high school district:

(1) School board members shall be electors of the school district and shall be elected at large by a plurality vote of the electors of the school district.

(2) The regular terms of school board members shall be 3 years and until their successors have been elected and qualified.

(3) School board members elected for regular or unexpired terms shall take office, provided they have taken and filed the official oath, as follows:

(a) After the annual meeting or as soon thereafter as conditions permit, when school board members are elected at the annual meeting or on the day of and prior to the annual meeting.

(b) After the annual meeting next succeeding the election, when school board members are elected at the spring election.

(4) Within 5 days after the election or appointment of any person to the school

board, the school district clerk shall notify him of his election or appointment. Within 10 days after such notification, a school board member shall take and file the official oath.

(5) (a) The members of a school board shall be the officers of a school district. The school district president, school district treasurer and school district clerk shall constitute the school board in the case of a 3-member school board. If the school board is made larger in accordance with this subchapter, the school board shall elect the school district president, school district treasurer and school district clerk from among its members for a one-year term at its first regular school board meeting.

(b) At the first election of a 3-member school board, the school district clerk shall be elected for a one-year term, the school district treasurer for a 2-year term and the school district president for a 3-year term.

(6) If the territory of a common school district and a union high school district is identical, the school board of the common school district shall constitute the school board of the union high school district.

(7) A school district which determines to elect its school board members in accordance with s. 120.05 or 120.06 may by the same procedure subsequently determine to elect its school board members in accordance with s. 120.04, 120.05 or 120.06.

(8) An election in accordance with s. 17.26 to fill an unexpired term on a school board shall be held in the same manner as a regular school board election is held. In the case of a school board of more than 3 members, elections to fill unexpired terms shall be held simultaneously with the elections for regular terms, the regular terms to be filled by the appropriate number of candidates receiving the highest number of votes and the unexpired terms to be filled by the appropriate number of candidates receiving the next highest number of votes.

(9) If the school district president, school district treasurer or school district clerk of any school board is unable to discharge the duties of his office due to disability or absence from the school district, the school board may appoint a person to discharge the duties of such person until the disability or absence no longer exists. In the case of a 3-member school board the appointee shall be an elector of the school district. In the case of a larger school board the appointee shall be another school board member. The

school board shall determine the compensation of such appointees. A person acting as school district clerk or school district treasurer shall have the powers of a deputy and shall take and file an official bond covering his acts unless the bond of such officer includes a bond for his deputy. This subsection does not apply to vacancies caused by absence from the school district for a period exceeding 60 days covered by s. 17.03 (4).

(10) At an election of school board members, all ballots, as soon as counted, shall be sealed in the ballot box and kept for 60 days by an inspector who was not a candidate at the election. In the case of an election at an annual meeting, the ballot slips shall be retained by the school district clerk for 60 days.

(11) Recounts at an election of school board members shall be conducted under the direction of the school board in accordance with the general election law, as nearly as possible.

(12) A person attempting to vote at an election of school board members may be challenged as provided in s. 6.92 or 120.08 (3).

History: 1967 c. 92.
Legislative Council Note, 1967: The introductory paragraph makes it clear that the provisions of the section apply to both common and union high school districts. The provisions of s. 40.87 (1) are contained in the appropriate subsections. The last sentence of s. 40.87 (1) is deleted because it is covered in s. 120.02 (3) (d).

Sub. (1) based on part of ss. 40.25 (2nd sentence), 40.26 (4) (last sentence) and 40.27 (4) (a) and (g).

Sub. (2) restates part of ss. 40.25 (2nd sentence) and 40.26 (4) (1st sentence).

Sub. (3) (intro.) and (a) based on ss. 40.25 (4th sentence) and 40.27 (6) (intro.), (c) and (d). Sub. (3) (b) based on s. 40.27 (3) (j).

Sub. (4) based on s. 40.25 (5th and 6th sentences) and part of s. 40.35 (7).

Sub. (5) (a) based on ss. 40.25 (1st and 7th sentences) and 40.26 (4) (2nd and part of 3rd sentences). Present law uses the term "school district director." This act uses the term "president" uniformly, because in city and unified school districts the term "president" is specified by law and because, in fact if not by law, this term also is used in many common and union high school districts.

Sub. (5) (b) revises s. 40.25 (3rd sentence).

Sub. (6) revises s. 40.86 (1).

Sub. (7) based on s. 40.27 (4) (h).

Sub. (8) based on s. 40.27 (4) (f) and clarifies the method of election to fill unexpired terms.

Sub. (9) revises s. 40.28 (4).

Sub. (10) like s. 40.27 (4) (i).

Sub. (11) restates s. 40.27 (4) (j).

Sub. (12) restates s. 40.27 (4) (k). (Bill No. 353-S)

120.04 Election of school board members at annual meeting. (1) In a common school district, school board members shall be elected at the annual meeting, unless the electors of the school district determine to conduct the election under s. 120.05 or 120.06.

(2) The notice of the election of school board members shall be incorporated in the

notice of the annual meeting. In a school district which has a 3-member school board, the notice shall include a list of the school district officers to be elected at the meeting.

(3) At least 35 days before the annual meeting, the school district clerk shall publish in a newspaper having general circulation in the school district and post in 4 public places in the school district a notice stating the date of the annual meeting and the requirements for filing a declaration of candidacy. At least 20 days prior to the annual meeting, any qualified elector of the school district may file with the school district clerk a written declaration of candidacy for the school board stating that he is a qualified elector. In the case of a 3-member school board, he shall state the office for which he is a candidate.

(4) At the annual meeting, the incumbent school district president, or in his absence the school district clerk, shall preside until a chairman has been elected and, in the absence of the school district clerk, a clerk of the meeting shall be elected.

(5) At the annual meeting the school district clerk shall submit to the electors a list of those persons who have filed declarations of candidacy. In the case of a 3-member school board, the list also shall show the office for which each person has filed. Nominations also may be made from the floor at the annual meeting. If there are more than 4 candidates for any office on a 3-member school board or more than 3 times the number of candidates than there are positions to be filled on a school board of more than 3 members, a preliminary vote by ballot shall be taken to determine who is eligible for election to the school board. In a preliminary vote for an office on a 3-member school board, the 3 candidates receiving the highest number of votes for each office shall be nominated. In a preliminary vote for school board members on a school board of more than 3 members, the candidates receiving the largest number of votes, numbering 3 times the positions to be filled, shall be nominated.

(6) The chairman shall indicate clearly the names of the candidates for election to the school board and the election shall be by ballot. The absentee ballot provisions of ss. 6.85 to 6.89 do not apply to elections under this section.

(7) In the case of a school board of more than 3 members, the electors shall vote simultaneously for all positions to be filled. The chairman shall appoint the necessary tellers to assure the expeditious and accurate

handling of the ballots. The chairman shall announce the results of the election at the annual meeting.

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) based on s. 40.27 (1) (a) and states specifically the authority and options of common school districts regarding school board elections.

Sub. (2) based on s. 40.27 (1) (b).

Sub. (3) revises s. 40.27 (1) (d) (1st and 2nd sentences) and adds the first sentence which is a notice requirement presently applicable to elections on the day of the annual meeting.

Sub. (4) revises s. 40.27 (1) (c) (1st sentence).

Sub. (5) based on s. 40.27 (1) (d) (3rd and 4th sentences) and (e).

Sub. (6) based on s. 40.27 (1) (f) (1st and 3rd sentences) and (4) (c).

Sub. (7) based on s. 40.27 (1) (c) (2nd sentence), (f) (2nd sentence) and (g) and clarifies that all positions to be filled are voted upon at the same time. It also clarifies that the results of the election are announced at the annual meeting. (Bill No. 353-S)

120.05 Election of school board members held on day of annual meeting. (1) In a union high school district, the school board shall be elected at an election held on the day of and prior to the annual meeting, except that if the previous annual meeting so determined such election shall be held under s. 120.04.

(2) In a common school district, the school board shall be elected at an election held on the day of and prior to the annual meeting, if the requirements of this subsection are met.

(a) At least 60 days prior to the annual meeting, 100 electors but not less than 3% of the number of heads of families residing in the school district as enumerated in the last school census may file with the school district clerk a petition requesting that the school board members be elected at an election held on the day of and prior to the annual meeting.

(b) If the petition is filed properly, the school district clerk shall incorporate in the notice of the annual meeting a statement that beginning with such annual meeting and annually thereafter the school board members shall be elected at an election on the day of the annual meeting. Within 15 days after the petition is filed, the school district clerk shall publish a notice of the filing of such petition in a newspaper having general circulation in the school district and shall post such notice in 4 public places in the school district. Such notice shall state that the school board election will be held on the day of and prior to the annual meeting, the hours during which the polls will be open on such day and the location of the polling place.

(3) After the first school board election under this section, the notice of the annual

meeting shall include a notice that the school board shall be elected at an election held on the day of and prior to the annual meeting, the hours during which the polls will be open on such day and the location of the polling place.

(4) The polls shall be open from 1 p.m. to 8 p.m. on the day of the annual meeting. The election shall be held in the place fixed for holding the annual meeting except:

(a) If the petition to hold such election or a separate petition filed in accordance with the requirements of sub. (2) (a) requests more than one polling place, the school board shall provide polling places equal to the number requested in such petition but not more than the number of election precincts wholly or partially within the school district.

(b) The school board may establish such additional polling places as it deems necessary and may establish polling places outside the school district.

(5) At least 35 days before the annual meeting, the school district clerk shall publish in a newspaper having general circulation in the school district and post in 4 public places in the school district a notice stating the date of the annual meeting and the requirements for filing a declaration of candidacy. At least 20 days prior to the annual meeting, any qualified elector of the school district may file with the school district clerk a written declaration of candidacy for the school board stating that he is a qualified elector. In the case of a 3-member school board, he also shall state the office for which he is a candidate.

(6) The school board shall provide suitable ballots and ballot boxes. The school district clerk shall prepare an official ballot which shall be substantially in the form provided in s. 5.60 (6). The ballot shall list the offices or number of positions to be filled and the candidates who filed a valid declaration of candidacy and shall provide for write-in votes. The order in which the names of candidates are printed on the ballot shall be determined by, or under the supervision of, the school district clerk by drawing lots at 8 p.m. on the day following the last day for filing written declarations of candidacy.

(7) The absentee ballot provisions of ss. 6.85 to 6.89 apply to elections under this section. Voting machines may be used in any city, town or village lying wholly or partially within a school district conducting an election under this section.

(8) The school board may act as inspectors of an election or may appoint 2 to 4 persons to serve in lieu of school board members as inspectors of an election. The school board shall appoint 2 clerks who shall make and keep duplicate lists of the electors voting at such election. In counties having a population of 500,000 or more, the school board may appoint 5 or more persons who shall act as inspectors, clerks and tellers. The inspectors, clerks and tellers shall be paid as provided in s. 7.03.

(9) Immediately after the polls are closed the ballots shall be counted and the results declared and reported to the school district clerk.

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) restates part of s. 40.85 (3).

Sub. (2) (intro.) is new. Sub. (2) (a) based on s. 40.27 (2) (a) and (b). Sub. (2) (b) revises s. 40.27 (2) (c).

Sub. (3) is new and makes it clear that an election notice shall be included in the notice of the annual meeting in all cases.

Sub. (4) based on ss. 40.27 (2) (d) and 40.27 (4) (L) (intro.), 1 and 2 and specifies that a "separate petition" must meet the requirements of an original petition.

Sub. (5) based on s. 40.27 (2) (e) and adds that the notice of declaration of candidacy requirements shall be published 35 days prior to the meeting to insure that sufficient notice is given.

Sub. (6) revises s. 40.27 (2) (f).

Sub. (7) revises s. 40.27 (4) (c) and (e).

Sub. (8) restates s. 40.27 (2) (g).

Sub. (9) revises s. 40.27 (2) (h) and specifies that election results shall be reported to the school district clerk. (Bill No. 353-S.)

120.06 Election of school board members at spring election. (1) In a common or union high school district, the school board shall be elected at the spring election, if the requirements of this subsection are met.

(a) At least 60 days prior to the annual meeting, 100 electors but not less than 3% of the number of heads of families residing in the school district as enumerated in the last school census may file with the school district clerk a petition requesting that the school board members be elected at the spring election.

(b) If the petition is filed properly, the school district clerk shall incorporate in the notice of the annual meeting a notice of a referendum to determine whether the school board shall be elected at the spring election. The referendum shall be conducted at the election held on the day of and prior to the annual meeting if the school board members are elected under s. 120.05, or at the annual meeting if the school board members are elected under s. 120.04. If the referendum is approved, the school board shall be elected at the next succeeding spring election and annually thereafter. Upon approval of the

referendum, the school district clerk shall notify the municipal clerk of each municipality lying wholly or partially within the school district that thereafter school board members shall be elected at the spring election.

(2) No later than the first Tuesday in February prior to the spring election, the school district clerk shall publish notice of the school district election stating the time, place and manner of filing declarations of candidacy for the school board. No later than the 3rd Tuesday in February prior to the spring election, a qualified elector may file a written declaration of candidacy with the school district clerk stating that he is a qualified elector. In the case of a 3-member school board he also shall state the office for which he is a candidate.

(3) Immediately upon the expiration of the time for filing declarations of candidacy, the school board shall verify the declarations of candidacy. If there are more than 2 candidates for any office on a 3-member school board or more than twice as many candidates as there are members to be elected to a school board of more than 3 members, the school board may require a primary election for such positions. The primary election shall be held at the time specified for the spring primary.

(4) The school district clerk shall notify the municipal clerk of each municipality lying wholly or partially within the school district of the primary election if one is to be held and of the spring election, furnish such clerks with a copy of the notice of the school board election and provide such clerks with an adequate supply of ballots for the primary and spring election. The ballots shall be prepared in accordance with s. 120.05 (6).

(5) If elector registration is required under s. 6.27 in a city, village or town lying wholly or partially within a school district, the same requirement shall apply to electors for school board members within such city, village or town, and provisions shall be made for identifying the electors of the city, village or town who are eligible to vote at the primary and spring elections for school board members.

(6) The absentee ballot provisions of ss. 6.85 to 6.89 apply to elections under this section. Voting machines may be used in any city, village or town lying wholly or partially within a school district conducting an election under this section.

(7) The primary and spring elections for school board members shall be conducted by the election officials for state and municipal elections. In a school board election held in conjunction with a state, municipal or judicial election, the polling places for the state, municipal or judicial election shall be the polling places for the school board election and the municipal election hours shall apply. If no state, municipal or judicial election is held on the day of the school board election, the school board shall set the election hours, the polling places normally used for state, municipal and judicial elections shall be used and the election costs shall be charged to the school district.

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) (intro.) based on s. 40.27 (3) (a). Sub. (1) (a) based on s. 40.27 (3) (b). Sub. (1) (b) based on s. 40.27 (3) (c) and (d).

Sub. (2) revises s. 40.27 (3) (dm) and (e) and adds specific dates for the performance of certain steps in the election process.

Sub. (3) based on s. 40.27 (3) (f).

Sub. (4) based on s. 40.27 (3) (g).

Sub. (5) revises s. 40.27 (4) (b).

Sub. (6) revises s. 40.27 (4) (c) and (e).

Sub. (7) based on ss. 40.27 (3) (h) and (i), 40.27 (4) (d) 4 and 40.27 (4) (L) 3. (Bill No. 353-S)

120.08 School district meetings. Every elector of a common or union high school district is eligible to vote at an annual or special meeting of the school district.

(1) **ANNUAL MEETING.** (a) Common school districts shall hold an annual meeting on the 4th Monday in July at 8 p.m. and union high school districts shall hold an annual meeting on the 3rd Monday in July at 8 p.m. One annual meeting may fix a different hour for the next annual meeting. The first school district meeting in a reorganized school district shall be considered an annual meeting.

(b) The place of the annual meeting shall be in a schoolhouse in the school district. If a schoolhouse which will accommodate the electors is not available, the place of the annual meeting shall be the nearest available place designated by the school board.

(c) The school district clerk shall publish a class 2 notice, under ch. 985, of the time and place of the annual meeting, the last insertion to be not more than 8 days nor less than one day before the annual meeting. The school district clerk shall give like notice for any adjourned meeting, if the adjournment is for more than 30 days. No annual meeting shall be deemed illegal for want of notice.

(2) **SPECIAL MEETING.** (a) Upon the written request of 3% of the number of heads of families residing in the school district as enumerated by the last school census or 100

Sub. (3) based on s. 40.22 (14) and s. 40.26 (4) (part of 3rd sentence). Since the word "teacher" means the same thing it is used in place of the present word "departments."

Sub. (4) restates s. 40.22 (14a). The last sentence of s. 40.22 (14a) is deleted to permit prior authorization for payment of these expenses.

Sub. (5) like s. 40.22 (4) and incorporates s. 40.86 (2).

Sub. (6) restates s. 40.22 (5) and incorporates s. 40.86 (2).

Sub. (7) restates s. 40.22 (6).

Sub. (8) based on s. 40.22 (7).

Sub. (9) like s. 40.22 (9).

Sub. (10) revises s. 40.22 (17) (a). Present s. 40.22 (17) (b) and (c) deleted because the requirement that all territory be in a high school district made these provisions obsolete.

Sub. (11) identical to s. 40.22 (10).

Sub. (12) restates s. 40.22 (8).

Sub. (13) based on s. 40.22 (12) and incorporates s. 40.86 (5).

Sub. (14) like s. 40.22 (13).

Sub. (15) based on s. 40.22 (11) and s. 40.86 (4) which are merged. The "conditions" could mean free books, books supplied on a rental basis or otherwise.

Sub. (16) revises s. 40.22 (15).

Sub. (17) like s. 40.22 (16).

Sub. (18) identical to s. 40.22 (20).

Sub. (19) like s. 40.86 (3). (Bill No. 353-S)

120.11 School board meetings and reports.

(1) The school board in a common or union high school district shall hold a regular meeting at least once each month at a time and place determined by the school board and may hold special school board meetings under sub. (2). A majority of the elected school board members constitute a quorum at a regular or special school board meeting. The school district president shall preside at school board meetings and, in his absence, the school board may select another school board member to preside. The school district clerk shall record the minutes of school board meetings and, in his absence, the school board may select another school board member to act as the clerk of the meeting.

(2) A special school board meeting shall be held upon the written request of any school board member. The request shall be filed with the school district clerk or, in his absence, the school district president who shall notify in writing each school board member of the time and place of the special school board meeting at least 24 hours before such meeting. The notice shall be delivered to each school board member personally or shall be left at the usual place of abode of the school board member. A special school board meeting may be held without prior notice, if all school board members are present and consent, or if every school board member consents in writing even though he does not attend.

(3) Before the annual meeting, the school board shall meet to examine the accounts of the school district treasurer and to prepare a full, itemized written report which shall be

presented and read at the annual meeting. The report shall state all receipts and expenditures of the school district since the last annual meeting, the current cash balance of the school district, the amount of the deficit and the bills payable of the school district, the amount necessary to be raised by taxation for the support of the schools of the school district for the ensuing year and the amount required to pay the interest and principal of any debt due during the ensuing year. The report also shall include the budget summary required under s. 65.90. The school district clerk shall copy the report, with the action taken thereon, and all other proceedings of the annual meeting in full in the school district record book.

(4) The proceedings of a school board meeting shall be published within 45 days after the meeting as a class 1 notice, under ch. 985, in a newspaper published in the school district, if any, or publicized by school district-wide distribution prepared and directed by the school board and paid out of school funds. If there is no newspaper published in the school district, the proceedings shall be posted or published as the school board directs. For the purpose of publication, the proceedings shall include the substance of every official action taken by the school board at the meeting and a statement of each receipt and expenditure exceeding \$100, but salaries may be listed in the aggregate.

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) revises s. 40.28 (1) (1st, 5th, 6th and 7th sentences) and incorporates a portion of s. 40.87 (2).

Sub. (2) based on s. 40.28 (1) (2nd, 3rd and 4th sentences).

Sub. (3) based on s. 40.28 (2).

Sub. (4) based on s. 40.28 (3). (Bill No. 353-S)

120.12 School board duties. The school board of a common or union high school district shall:

(1) **MANAGEMENT OF SCHOOL DISTRICT.** Subject to the authority vested in the annual meeting and to the authority and possession specifically given to other school district officers, have the possession, care, control and management of the property and affairs of the school district.

(2) **GENERAL SUPERVISION.** Visit and examine the schools of the school district, advise the school teachers and administrative staff regarding the instruction, government and progress of the pupils and exercise general supervision over such schools.

(3) **TAX FOR OPERATION AND MAINTENANCE.**

(a) On or before the 3rd Monday in October,

determine the amount necessary to be raised to operate and maintain the schools of the school district if the annual meeting has not voted a tax sufficient for such purposes for the ensuing school term. The school district clerk shall certify the appropriate amount so determined to each appropriate municipal clerk who shall assess the amount certified to him and enter it on the tax rolls as other school district taxes are assessed and entered.

(b) If a tax sufficient to operate and maintain the schools of a school district for the ensuing school year has not been determined, certified and levied prior to the effective date of school district reorganization, except an attachment to a city school district, affecting any territory of the school district, the school board of the reorganized school district shall determine, on or before the 3rd Monday of October following the effective date of the reorganization, the amount of deficiency in operation and maintenance funds on the effective date of the reorganization which should have been paid by the property in the reorganized school district if such tax had been determined, certified and assessed prior to the effective date of the reorganization. The school district clerk shall certify the appropriate amount to each appropriate municipal clerk who shall assess, enter and collect such amount as a special tax on such property. This paragraph does not affect the apportionment of assets and liabilities under s. 66.03.

(4) **TAX FOR DEBT RETIREMENT.** On or before the 3rd Monday of October, determine the amount necessary to meet any irrevocable tax obligations or other financial commitments of the school district not otherwise provided for. The school district clerk shall certify the amount apportioned to each appropriate municipal clerk who shall include the amount certified to him and enter it on the tax rolls as other school district taxes are assessed and entered.

(5) **REPAIR OF SCHOOL BUILDINGS.** Keep the school buildings and grounds in good repair, suitably equipped and in safe and sanitary condition at all times.

(6) **INSURANCE ON SCHOOL BUILDINGS AND GROUNDS.** Keep the school buildings and equipment amply insured. If there are no funds in the school district treasury sufficient to pay the premium, the school board may execute a note for that purpose.

(7) **DEPOSITORY.** Designate one or more banks in which the money belonging to the

school district shall be deposited. When the money is so deposited in the name of the school district, the school district treasurer and his bondsmen are not liable for any loss as defined in s. 34.01 (6). The interest on such deposits shall be paid into the school district treasury.

(8) **INVENTORY.** Annually make an inventory of the school district property.

(9) **DISCUSSION OF PUBLIC QUESTIONS.** Upon the written application of one-half of the electors of the school district, allow the use of the school buildings or grounds for the free discussion of public questions so far as such use does not interfere, in the opinion of the school board, with the prime purpose of the school buildings or grounds.

(10) **CITIZEN ASSOCIATIONS.** If the citizens of any community are organized into a non-partisan, 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, grant to such association the use, when not being used for its prime purpose, of a school building or other school district property which is capable of being used in the work of such association, provide free of charge any necessary light, heat and janitor service and make such other provisions as are necessary for the free and convenient use of such school buildings or property by the association at such times as the association designates. All such gatherings shall be free to the public.

(11) **INDIGENT CHILDREN.** Provide books and school supplies for indigent children residing in the school district.

(12) **SANITARY FACILITIES.** Provide and maintain enough suitable and separate toilets and other sanitary facilities for both sexes at each school.

(13) **MAIL BOX.** Provide and maintain a mail box for each school of the school district located on a rural mail route.

(14) **HIGH SCHOOL COURSE OF STUDY.** In a union high school district or a common school district operating elementary and high school grades, determine the high school course of study, with the advice and consent of the state superintendent.

History: 1967 c. 92.

Legislative Council Note, 1967: Introductory paragraph is new and makes unnecessary the repetition of "the school board shall" in the various subsections. Under s. 40.87 (2) the school boards of union high school districts have the duties of school boards of common school districts.

Sub. (1) restates s. 40.29 (1).

Sub. (2) based on s. 40.29 (12).

Sub. (3) based on s. 40.29 (8) and incorporates s. 40.88 (4). The "3rd Monday in October" date is made uniformly applicable.

Sub. (4) based on s. 40.29 (8a).

Sub. (5) like s. 40.29 (2).

Sub. (6) like s. 40.29 (3).

Sub. (7) restates s. 40.29 (11).

Sub. (8) restates s. 40.29 (5).

Sub. (9) revises s. 40.29 (6).

Sub. (10) based on s. 40.29 (7).

Sub. (11) like s. 40.29 (13).

Sub. (12) like s. 40.29 (4).

Sub. (13) like s. 40.29 (10).

Sub. (14) based on s. 40.89 (1) and makes it clear that this subsection applies to the school board of a union high school district and a K-12 common school district. (Bill No. 353-S)

A school district board has power and authority to permit private school students to attend district school on a part-time basis. 53 Atty. Gen. 187.

120.13 School board powers. The school board of a common or union high school district may:

(1) **SCHOOL GOVERNMENT RULES; SUSPENSION; EXPULSION.** (a) Make rules for the organization, gradation and government of the schools of the school district which shall take effect when signed by a majority of the school board and filed with the school district clerk.

(b) The school district administrator or a teacher designated by the school board also may make rules, with the consent of the school board, and may suspend a pupil for not more than 3 days for noncompliance with such rules or school board rules.

(c) The school board may expel a pupil from school whenever it finds him guilty of persistent refusal or neglect to obey the rules and is satisfied that the interest of the school demands his expulsion. Upon the ordering by the school board of the expulsion of a pupil the school district clerk shall file a notice of such order with the parent or guardian of the pupil. A parent or guardian of an expelled pupil may appeal the expulsion to the state superintendent. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located.

(2) **ACCIDENT INSURANCE.** Provide for accident insurance covering pupils in the school district. Such insurance shall not be paid from school district funds unless the expenditure is authorized by an annual meeting.

(3) **AGREEMENTS WITH GOVERNMENTAL UNITS.** Enter into agreements, including leases for a term not exceeding 50 years, with a school district, city, village, town, county or the state or any department or agency thereof for the purchase, operation and maintenance of land, buildings and equipment for educational purposes, including, without limitation because of enumeration, contracts for

the construction or repair of school drive-ways, roadways and parking areas or for the operation of any school program authorized by law.

(4) **TUITION PAYMENTS.** (a) On its own order, provide for the education of the pupils of the school district on a tuition basis, if it first has made a written finding of fact that an emergency exists, stating the nature thereof, because of the destruction of school buildings of the school district, failure to obtain a qualified teacher or any other emergency which makes it impossible to conduct school within the school district. No state aid may be paid to such school district until a copy of the finding of fact has been filed with the state superintendent. For a period of 2 years after making such order, a school district which suspends its schools under this paragraph is eligible to receive state and county aid in the same amount as if it had operated schools.

(b) On its own order, provide for the education of a portion of the pupils of the school district on a tuition basis, if the enrollment of a school district increases to a number exceeding 30 pupils per classroom. For a period of 2 years after making such order, the school district shall be eligible to receive state and county aid as though the pupils included in the order had been enrolled in the schools of such school district. The state superintendent may extend such period of eligibility from year to year, if he is satisfied on the basis of evidence presented to him that the school district is unable to provide sufficient funds for the construction of additional school buildings because of constitutional limitations on debt or that a school district reorganization which affects the school district is being contemplated under ch. 117. Thereafter the school district is not eligible to receive state and county aid until adequate school building facilities are provided in the school district to properly accommodate pupils eligible to attend the schools of the school district.

(5) **BOOKS, STATIONERY AND EQUIPMENT.** Purchase necessary books and stationery for the proper administration of the school district; purchase equipment, books, school apparatus and heating and ventilating apparatus approved by the state superintendent for the use of the schools of the school district, not exceeding \$600 in any one year, from any funds not otherwise appropriated; and purchase any school books which in its judgment are needed by pupils whose parents are

not able to furnish such books. The \$600 limitation in any one year does not apply to such purchases in a common school district operating elementary and high school grades.

(6) FEDERAL AID. Apply for, receive and expend moneys made available to it by any act of congress for agricultural, vocational or military training, for educational facilities, including teaching staff, or for school lunch programs.

(7) EXCHANGE TEACHERS. Exchange any teacher employed by the school district for a teacher employed by a school district in another state or country. No such exchange may be for a longer period than one year. A teacher of this state exchanged under this subsection shall be deemed to have taught during such period in the school district by which he is employed and shall be assessed, for the benefit of the state teachers retirement system, the full amount which would have been assessed against him had he actually taught in such school district.

(8) SCHOOL HOURS. Establish rules scheduling the hours of each school day during which the schools of the school district shall be in session. The school board may differentiate between the various elementary and high school grades in scheduling such school hours.

(9) ARCHITECTS AND ENGINEERS. Contract with or employ architects and engineers for the preparation of plans and specifications for school buildings, structures and other improvements to school district property and for all other related services.

(10) SCHOOL LUNCHESES. Furnish school lunches to pupils and pay for such lunches out of school district funds. The school board may charge pupils and employes for the cost of school lunches.

(11) NURSES AND DENTISTS. (a) In counties having a population of less than 500,000, employ public health nurses and licensed dentists who shall be under the supervision of the local and state boards of health.

(b) In counties having a population of 500,000 or more, employ qualified public health nurses and licensed dentists who shall co-operate with the local and state boards of health.

(12) HISTORICAL RECORDS. Under s. 44.09, transfer title to any school records to the state historical society which are no longer needed for the proper administration of the school district and which the society determines are of permanent historical interest.

(13) PRE-KINDERGARTEN CLASSES. Establish and maintain classes for children less than 4 years of age under such regulations as it prescribes. The school board may accept and receive federal funds for such purpose and expend such funds in conformity with the purposes and requirements thereof. The school board may charge a reasonable fee for attendance at such classes but may waive the fee or any portion thereof to any person who is unable to make payment.

(14) KINDERGARTEN. In a common school district operating elementary grades or operating elementary and high school grades, establish and maintain a kindergarten. The kindergarten shall constitute a school of the school district and may not be discontinued unless the kindergarten enrollment for the preceding year was less than 15. The school board may discontinue kindergarten classes for 4-year-olds.

(15) SPECIAL HIGH SCHOOL COURSES. In a union high school district or a common school district operating elementary and high school grades, establish and maintain courses in industrial arts, home economics, agriculture or commercial subjects.

(16) SCHOOL BOARD ORGANIZATION; FEE. Pay the membership fee in an organization of school boards in this state and the actual and necessary expenses of its representatives incurred in attending meetings of such organization.

(17) PUBLIC MEETINGS; LIABILITY. Grant the request of any responsible resident of the school district to use a schoolhouse in the school district for such public meetings as, in the judgment of the school board, will aid in disseminating intelligence and promoting good morals. The applicant shall be primarily, and the school board members secondarily, liable to the school district for any injury to property and for any expense incurred in consequence of any such use of a schoolhouse.

(18) SPECIAL ACTIVITIES. Grant the use of a schoolhouse in the school district 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.

(19) PUBLIC MEETINGS. Grant the use of school buildings and grounds to any responsible organization for public meetings to which an admission price is demanded, and to charge for such use an amount fixed by the school board. Amounts so received shall

be paid into the school district treasury to constitute part of the general fund and to be used for the benefit of the schools of the school district.

(20) **CIVIC ACTIVITIES.** Provide for the free use of school property for civic, social and recreational activities which do not interfere with the prime use thereof. The use of school buildings shall not be granted for public dancing, if a majority of the electors of the school district object in writing or if a resolution against public dancing in the school buildings has been adopted at an annual meeting.

(21) **LECTURES.** Provide free lectures on educational subjects in school buildings, public library buildings or other suitable places, and provide for the further education of the adult residents of the school district. The school board may purchase books, stationery, charts and other things necessary to conduct such lectures and may designate a person to manage such lectures.

History: 1967 c. 92.

Legislative Council Note, 1967: Introductory paragraph is new and makes unnecessary the repetition of "the school board may" in the various subsections. Under s. 40.87 (2) the school boards of union high school districts have the powers of school boards of common school districts.

Sub. (1) revises s. 40.30 (17).
 Sub. (2) based on s. 40.30 (19).
 Sub. (3) based on s. 40.30 (14).
 Sub. (4) based on s. 40.30 (11) and (12).
 Sub. (5) based on s. 40.30 (15).
 Sub. (6) revises s. 40.30 (8).
 Sub. (7) restates s. 40.30 (16).
 Sub. (8) restates s. 40.30 (17m).
 Sub. (9) like s. 40.30 (21).
 Sub. (10) restates s. 40.30 (9).
 Sub. (11) revises s. 40.30 (10) and (10c).
 Sub. (12) based on s. 40.30 (13).
 Sub. (13) based on s. 40.30 (7). Last sentence deleted because it is repetitious.
 Sub. (14) based on s. 40.30 (18).
 Sub. (15) based on s. 40.89 (2) (1st sentence).
 See note to s. 120.12 (14).
 Sub. (16) restates s. 40.30 (20).
 Sub. (17) restates s. 40.30 (2).
 Sub. (18) restates s. 40.30 (3).
 Sub. (19) based on s. 40.30 (5).
 Sub. (20) revises s. 40.30 (4).
 Sub. (21) restates s. 40.30 (6). (Bill No. 353-S)

Released time for religious instruction and its constitutionality discussed. 38 Atty. Gen. 281; 48 Atty. Gen. 121.

(3) [40.30 (14)] as amended to allow construction contracts between school districts and other municipalities is a valid enactment. 56 Atty. Gen. 1.

120.14 Audit of school district accounts.

In a common or union high school district:

(1) At the close of each fiscal year, the school board of each school district shall authorize an audit of the school district accounts pursuant to sub. (2) or employ a licensed accountant to audit the school district accounts and certify the audit. The cost of the audit shall be paid from school district funds.

(2) The school board may request the department of administration in accordance with s. 16.58 (4) to audit the school district accounts, install a system of accounts and advise and make recommendations concerning existing systems of accounts.

(3) The annual meeting may authorize and direct an audit of the school district accounts either by a licensed accountant or by the department of administration.

History: 1967 c. 92.

Legislative Council Note, 1967: Consolidates in one section the various references to an audit of school district accounts.

Sub. (1) based on and rearranges s. 40.29 (14). It makes general a requirement that now applies to almost all school districts and thus makes obsolete s. 40.23 (1) and (1m) which are deleted.

Sub. (2) based on s. 40.30 (1). Sub. (3) based on s. 40.22 (18). (Bill No. 353-S)

120.15 School district president; duties.

The school district president of a common or union high school district shall:

(1) Countersign all checks for disbursement of school district moneys.

(2) Defend on behalf of the school district all actions brought against the school district.

(3) Prosecute, when authorized by an annual meeting or the school board, actions brought by the school district.

(4) Prosecute an action for the recovery of any forfeiture incurred under this title in which the school district is interested. If the school district president has incurred the forfeiture, such action shall be prosecuted by the school district treasurer. Of the net sum recovered under such action, one-half shall be paid into the school district treasury and one-half to the county treasury for the benefit of the school fund.

(5) Act as chairman of school board meetings and see that minutes of the meetings are properly recorded, approved and signed.

History: 1967 c. 92.

Legislative Council Note, 1967: Introductory paragraph is from s. 40.33 (intro.) and incorporates a portion of s. 40.87 (2).

Sub. (1) based on ss. 40.33 (1) and 40.88 (1).

Sub. (2) restates first part of s. 40.33 (2).

Sub. (3) revises last part of s. 40.33 (2).

Sub. (4) revises s. 40.33 (3).

Sub. (5) restates s. 40.33 (4). (Bill No. 353-S)

120.16 School district treasurer; duties.

The school district treasurer of a common or union high school district shall:

(1) Within 15 days after his election execute and either file a bond executed by 2 qualified sureties approved by the school board or file a surety company bond in an amount determined by the school board, but at least equal to 5% of the annual school district budget. In no case may the bond be

less than \$1,000. If the school board so determines, the school district treasurer within 15 days thereafter shall file additional personal or surety bonds in such greater amounts as the school board requires. The school district treasurer may purchase surety company bonds with school district funds.

(2) Apply for, receive and sue for all money appropriated to or collected for the school district and disburse the same in accordance with this subsection and s. 66.042. Disbursements from the school district treasury shall be made by the school district treasurer upon the written order of the school district clerk after proper vouchers have been filed with the school district clerk. Such disbursements shall be by check and no check is valid nor may it be released to the payee unless signed by the school district clerk and school district treasurer and countersigned by the school district president. In a school district having 5 or more school board members, another school board member may countersign such checks in lieu of the school district president. No check may be drawn for the payment of which money has not been appropriated according to law. The school district treasurer may receive money raised in extra-curricular activities. The school board may by resolution authorize the use of facsimile signatures as provided in s. 66.042 (3). A certified copy of such resolution shall be filed with the school district clerk and the public depository concerned.

(3) Enter in his account books all money received and disbursed by him, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid.

(4) Present to the annual meeting a written statement of all money received and disbursed by him during the preceding year.

(5) Immediately upon receipt, deposit the funds of the school district in the name of the school district in the public depository designated by the school board. Failure to comply with this subsection shall be prima facie grounds for removal from office. When such funds are so deposited, the school district treasurer and his bondsmen are not liable for losses as defined in s. 34.01 (6). The interest derived from such funds shall be paid into the school district treasury.

History: 1967 c. 92.

Legislative Council Note, 1967: Introductory paragraph is from s. 40.34 (2) (intro.) and incorporates a portion of s. 40.87 (2).

Sub. (1) based on s. 40.34 (1).

Sub. (2) revises s. 40.34 (2) (a) and part of s. 40.88 (1) and restates s. 40.34 (3).

Sub. (3) revises s. 40.34 (2) (b).

Sub. (4) based on s. 40.34 (2) (c) and permits the presentation of a summarized statement of disbursements by the treasurer and eliminates the requirement that he exhibit each voucher.

Sub. (5) revises s. 40.34 (2) (d). (Bill No. 353-S)

120.17 School district clerk; duties. The school district clerk of a common or union high school district shall:

(1) Report the name and post-office address of each officer of the school district, within 10 days after the election or appointment of the officer, to the clerk and treasurer of each municipality having territory within the school district.

(2) Act as clerk and record the proceedings of annual and special meetings.

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

(4) Enter in the record book copies of all his reports to the municipal clerks and the certificates of the proceedings of a meeting returned by a temporary clerk.

(5) Draw orders on the school district treasurer as directed by an annual or special meeting or the school board and record all orders drawn on the school district treasurer.

(6) At the expense of the school district, furnish a school register, in the form prescribed by the state superintendent, for the use of each teacher employed by the school district, require its return to him at the expiration of the teacher's employment and preserve the register with the records of the school district.

(7) Furnish each teacher with a copy of the contract between him and the school board.

(8) (a) Annually on or before August 31, deliver to the clerk of each municipality having territory within the school district a certified statement showing that proportion of the amount of taxes voted and not before reported, and that proportion of the amount of tax to be collected in such year, if any, for the annual payment of any loan to be assessed on that part of the school district territory lying within the municipality. Such proportion shall be determined from the full values certified to the school district clerk under s. 121.06 (2).

(b) When the equalized valuation of that part of a municipality lying within the school district is reduced in any one year to an amount below its equalized valuation of the previous year because of the destruction or removal of taxable property which results in

an excessively inequitable apportionment of the school district tax levy on the remaining taxable property of the municipality, the school district clerk shall notify the supervisor of assessments. If the supervisor of assessments finds that an inequitable apportionment will result, he shall reduce the equalized valuation of the previous year by the full value of the property so destroyed or removed and certify the resulting equalized valuation to the state superintendent and the school district clerk for use in computing the tax levy certifications under this subsection.

(c) If an order of school district reorganization is effective after May 1 and before October 1 of any year, the school district clerks of the school districts affected shall prepare the certified statement under par. (a) based on the equalized valuation of the school districts as altered by the order and related to the equalized valuation of the year upon which the tax levy is required to be made. If the school district clerk has filed such statement prior to the effective date of the order, he shall file a corrected certification which shall be accepted by the clerks of the municipalities affected and acted upon by them as provided in par. (a).

(9) Within 5 days after receipt of notification from the school board of the name of a new school, notify the proper postmaster of the name and location of the school and the number of the school district. If a school is not located on a mail route, the school district clerk shall furnish the 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 school district expense for each school not on a mail route. The school district clerk shall notify the postmaster of school vacations and shall direct what disposition shall be made of the school mail during vacations.

(10) Have authority to administer the oath of office to school board members.

History: 1967 c. 92.

Legislative Council Note, 1967: Introductory paragraph is from s. 40.35 (intro.) and incorporates a portion of s. 40.87 (2).

Sub. (1) revises s. 40.35 (1).

Sub. (2) based on s. 40.35 (2) and clarifies that the school district clerk shall record proceedings of special, as well as annual, meetings.

Sub. (3) like s. 40.35 (3).

Sub. (4) like s. 40.35 (4).

Sub. (5) based on s. 40.35 (5) and clarifies that a special, as well as annual, meeting may direct that orders be drawn on the school district treasurer.

Sub. (6) revises s. 40.35 (6).

Sub. (7) restates last part of s. 40.35 (7).

Sub. (8) based on s. 40.35 (8) and (8a) and incorporates part of s. 40.88 (1), (2) and (3).

Sub. (8) (a) based on s. 40.35 (8) (1st and 2nd sentences). The provisions presently stated sep-

arately for towns within the school district and municipalities within a joint school district are combined and clarified. Sub. (8) (b) based on s. 40.35 (8) (last sentence). Sub. (8) (c) revises s. 40.35 (8a).

Sub. (9) like s. 40.35 (9).

Sub. (10) is new and gives the school district clerk the authority to give the oath of office to school board members. (Bill No. 353-S)

120.18 Annual school district report. Annually at such times as the state superintendent prescribes but on or before August 15, the school district clerk of a common or union high school district shall file a verified annual school district report with the state superintendent, on forms supplied by the state superintendent. At the beginning of the school term, the school district clerk shall send a copy of the annual school district report to the school district administrator and shall notify the person in charge of each school in the school district that the reports are on file in the school district clerk's office. If the school district clerk neglects to make the annual report, he shall be liable to the school district for the whole amount of money lost by the school district because of his neglect. The annual report shall contain:

(1) Except in a union high school district, the school census, showing the names and ages of children between the ages of 4 and 20 residing in the school district, and the names of their parents or other persons with whom such children resided as of June 30. Children cared for at a charitable or penal institution of this state may not be included in the report. The school district clerk may employ a competent person to take the school census.

(2) The number of children between the ages of 4 and 20 taught in the schools of the school district during the school year.

(3) The number of children attending the schools of the school district during the school year under the age of 4 and over the age of 20 years.

(4) The number of school days taught, including holidays, by teachers legally qualified to teach.

(5) The names of all teachers employed by the school district during the school year; the number of days taught by each, including holidays; the monthly salary paid to each; and the time allowed each teacher for attendance at an educational convention for which no wages were deducted.

(6) The amount of money received during the school year, designating separately the amount received from the school fund income, from taxes levied by the county board,

from taxes voted by the school district and from all other sources and the manner in which such money was expended, showing separately the expenditure of school money received from the state.

(7) The amount and character of school district debts.

(8) Such other facts and statistics in relation to the schools, public or private, in the school district as the state superintendent requires.

History: 1967 c. 92.

Legislative Council Note, 1967: Introductory paragraph based on and combines s. 40.74 (1) (intro.), (2) and (3) and incorporates a portion of s. 40.87 (2). Consistent with present departmental practice, the (intro.) provides that the state superintendent can request portions of the annual report at such times as he determines, but all parts of the annual report must be filed by August 15. Since the annual report is of substantial bulk, it is a more realistic procedure than under present law to require that a copy of the report be sent to the school district administrator with notification to the person in charge of the separate schools that the report is on file in the central office.

Sub. (1) based on s. 40.74 (1) (a) and (4) and incorporates a prohibition contained in s. 40.87 (2).

Sub. (2) revises s. 40.74 (1) (b).

Sub. (3) revises s. 40.74 (1) (c).

Sub. (4) revises s. 40.74 (1) (d).

Sub. (5) revises s. 40.74 (1) (e).

Sub. (6) revises s. 40.74 (1) (f).

Sub. (7) like s. 40.74 (1) (g).

Sub. (8) restates s. 40.74 (1) (i). (Bill No. 353-S)

120.19 School building corporations. (1)

In order to provide school buildings and equipment for elementary or high schools and to enable the construction, financing and ultimate acquisition thereof, the school board of a common or union high school district may, when authorized to do so by an annual meeting, make agreements with nonprofit corporations as follows:

(a) The school board may convey, sell or lease part of a school site owned by the school district to the corporation which shall construct and equip a school building on the land designated by the school board. The school board then may lease the land and the building from the corporation for the use of the school district.

(b) The corporation by purchase or gift may acquire land not owned by the school district and construct and equip school buildings on the land designated by the school board. The school board then may lease the land and buildings from the corporation for the use of the school district.

(2) Leases under this section shall be for periods not exceeding 20 years and shall be based on conditions approved by the school board as to annual rental, mainte-

nance and ultimate purchase by the school district.

(3) Buildings, equipment, improvements and the leasehold interest in land designated by the school board under this section shall be exempt from taxation.

(4) (a) The corporation may issue revenue bonds in such amount as is required to pay for the purchase of sites and the construction and equipping of school buildings, and may issue refunding bonds to retire existing bonds at current value and pay the cost of construction of enlargements or improvements to such buildings and construct and equip additional buildings. Additional revenue bonds may be issued to pay the cost of construction of enlargements, additions or improvements.

(b) The bonds may be secured by a pledge of the revenues received from the rental of the school buildings to the school district.

(5) A school board may organize a nonprofit corporation under this section and ch. 181. The corporation shall have the powers enumerated in ch. 181 insofar as applicable. School board members may serve as incorporators, directors and officers of such corporation.

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) based on s. 40.305 (1) and clarifies that this provision applies both to common and union high school districts.

Sub. (2) revises s. 40.305 (2).

Sub. (3) based on s. 40.305 (3).

Sub. (4) identical to s. 40.305 (4).

Sub. (5) based on s. 40.305 (5). (Bill No. 353-S)

120.21 School board contracts for courses.

(1) The school board of a union high school district or a common school district operating elementary and high school grades may contract:

(a) With the university extension division of the university of Wisconsin for extension courses for pupils enrolled in high school.

(b) With flight operator schools, approved by the U. S. civil aeronautics administration, for courses in flight instruction approved by the state superintendent.

(2) The cost of such contracts shall be paid out of school district funds and shall be included in the cost of operation and maintenance of the school district for the purpose of computing tuition costs.

History: 1967 c. 92.

Legislative Council Note, 1967: Revises and consolidates s. 40.89 (3) and (4). (Bill No. 353-S)

120.22 On-farm training to veterans. The school board of a union high school district or a common school district operating elemen-

tary and high school grades may provide institutional on-farm training to veterans who are eligible for such training under any act of congress and may charge tuition on the basis of the cost per week to each veteran enrolled for all classroom, group, individual or other instruction recognized by the veterans administration in the payment of education and training allowances.

History: 1967 c. 92.

Legislative Council Note, 1967: Restates s. 40.89 (6) and replaces an obsolete reference to a specific federal act with a general reference to any act of congress. (Bill No. 353-S)

120.23 Joint ownership of school building.

The electors of a union high school district and of a common school district operating only elementary grades and included within the union high school district territory may direct their respective school boards to jointly erect and maintain school buildings for the elementary and high school grades. If such an agreement is made, the school district administrator of the union high school district shall be the administrative head of both schools.

History: 1967 c. 92.

Legislative Council Note, 1967: Revises s. 40.16. (Bill No. 353-S)

SUBCHAPTER II

CITY SCHOOL DISTRICTS

120.40 Applicability. School districts operating under this subchapter are city school districts.

History: 1967 c. 92.

Legislative Council Note, 1967: This section is new and specifies the type of school district to which this subchapter applies. (Bill No. 353-S)

120.41 General provisions. (1) General school law governs the schools of a city school district, insofar as applicable and in harmony with this subchapter. Every city operating a school system under this subchapter is a single and separate school district, but the school system does not constitute a separate legal entity. Territory outside a city which is joined with city territory in the formation of a city school district is attached to the city for school purposes and such a school district constitutes a joint city school district.

(2) No city school district may be created or abolished except under ss. 117.02, 117.04 and 120.50.

(3) Any territory of a city operating a city school district which lies within another school district shall not pay school tax within such city. The electors residing in territory

which lies within the other school district shall continue to vote on school matters within such other school district and shall not vote on any matter relating to the city school district.

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) based on ss. 40.80 (1) and 40.801 (1). The present reference to "city school plan" is deleted because it is confusing and the thought can be better expressed by referring to a "city school district" or to "this subchapter".

Sub. (1) states specifically the limitation, which necessarily is inferred from present law and which has been ratified by case law, that a city school district is not a separate legal entity. Also, sub. (1) clarifies that a city school district including territory outside the city constitutes a joint city school district.

Sub. (2) based on s. 40.80 (2) (c). With the elimination of municipal boards as reorganization authorities and with other recent major changes in school district reorganization law, present s. 40.13 [ss. 117.02 and 117.03] and allied statutes should be the only vehicle for reorganization. Accordingly, sub (2) expands present s. 40.80 (2) (c) to prohibit the creation or abolition of a city school district in *any* city of the 2nd, 3rd or 4th class, except under the specified sections, and deletes s. 40.80 (2) (a).

Sub. (3) based on s. 40.80 (2) (b) which also is expanded to cover territory in any city of the 2nd, 3rd or 4th class. (Bill No. 353-S)

120.42 Number of school board members.

A city school district operating elementary grades may have 3 or 5 school board members. A city school district operating elementary and high schools grades may have 3, 5, 7, or 9 school board members. A city school board which is not elected at large may have additional school board members.

History: 1967 c. 92.

Legislative Council Note, 1967: Based on ss. 40.26 (1) (c), 40.803 (1) (intro.) (part of 1st sentence) and 40.803 (1) (a) (1st sentence). Section 40.803 (1) (intro.) (remainder of 1st sentence and 2nd to 6th sentences) are deleted because their provisions were transitional and have been implemented, thus making them obsolete.

The term "school board" is used throughout this subchapter. Section 115.01 (4) specifies that "school board" may include "board of education." (Bill No. 353-S)

120.43 Method of selecting school board members.

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

(b) School board members are city officials. Prior to taking office, they shall take and file the official oath.

(2) Electors residing in any territory attached to the city for school purposes may be elected or appointed to and may serve upon the school board in the same manner as electors of the city.

(a) If city school board members are elected by wards, each municipality in the attached territory shall elect the same number of school board members as are elected from each city ward.

(b) If city school board members are appointed by the mayor or the common council, the mayor or common council shall appoint from the entire attached territory a number of school board members obtained by dividing the latest census of population of the attached territory by the city population per city school board member, with a major fraction counting as an additional school board member. The attached territory shall have at least one school board member.

(3) Nomination papers shall be required for electors residing in the attached territory seeking election to the school board. The nomination papers shall be filed with the city clerk in accordance with the laws governing the filing of nomination papers for city officers.

(4) (a) The city clerk shall prepare all ballots for the election of school board members, including ballots solely for the attached territory when the school board is not elected at large.

(b) Voting machines may be used in an election of school board members if an entire precinct is included. For a partial precinct a special poll list shall be prepared by the appropriate municipal clerk and printed ballots shall be supplied by the city clerk.

(5) When an order of school district reorganization attaching territory to a city school district becomes effective, the first additional members on the school board required under sub. (2) (a) or (b) shall be appointed in accordance with s. 17.26 (2).

(6) The regular terms of school board members shall be for 3 years. Unexpired terms shall be filled in accordance with s. 17.26 (2). School board members selected for regular or unexpired terms shall take office, provided they have taken the official oath, on July 1.

History: 1967 c. 92, 313.

Legislative Council Note, 1967: Sub. (1) (a) is new and consolidates in one place various references to the alternative methods which can be employed to select school board members in city school districts and specifies that the plan of apportionment under present s. 40.26 (8) [s. 120.02 (2)] applies to city school districts.

Sub. (1) (b) restates s. 40.803 (1) (b) 1 (part of last sentence) and clarifies that these provisions are generally applicable.

Sub. (2) (intro.) restates s. 40.803 (1) (intro.) (7th sentence). Sub. (2) (a) and (b) revises s. 40.803 (1) (a) (2nd and last sentences).

Sub. (3) restates s. 40.803 (1) (intro.) (9th sentence).

Sub. (4) revises s. 40.803 (1) (intro.) (10th and 11th sentences).

Sub. (5) based on s. 40.803 (1) (intro.) (8th sentence).

Sub. (6) based in part on s. 40.27 (6) (a) and clarifies the commencement date for both regular and unexpired terms of school board members. (Bill No. 353-S)

120.44 Changing number or method of selection of school board members. (1) Within the limitations prescribed in s. 120.42, the number of members of a school board in a city school district or their method of selection, or both, may be changed by any of the following methods:

(a) By adoption of an ordinance by the common council and approval of the ordinance at a referendum of the electors of the city school district.

(b) By adoption of an ordinance initiated under s. 9.20.

(c) By adoption of a resolution by the electors of the city school district at a referendum initiated by a petition signed by 300 electors of the city school district.

(2) An ordinance or resolution under sub. (1) may provide for a plan under either par. (a) or (b) and the provisions thereof shall be set forth in the ordinance or resolution.

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

(b) The plan may provide that a school board consisting of 3, 5, 7 or 9 members shall be appointed by the mayor and confirmed by the common council or appointed by the common council, whichever method is provided in the ordinance or resolution.

History: 1967 c. 92, 313.

Legislative Council Note, 1967: Based on s. 40.803 (1) (b). (Bill No. 353-S)

120.45 Attached territory; elections. The electors residing in territory attached to a city for school purposes may vote on all school matters, including the borrowing of money for school purposes, which are voted upon by the electors residing in the city. Electors residing in such attached territory may vote at the polling place where they vote at state, municipal and judicial elections or at any other convenient polling place agreed upon by the city clerk and the clerk of the municipality whose electors are concerned.

Such electors may initiate and sign petitions pertaining to city bonds for school purposes as provided in s. 67.05 (7) (b). When a school matter is to be voted upon, the city clerk shall ascertain from the clerks of the municipalities in which the attached territory lies the number of ballots each municipality will require and shall prepare and supply sufficient ballots for such purpose at the city's expense. Upon receipt of the election returns, the clerks of such municipalities shall certify to the city clerk the results of an election at which a school matter is voted upon, including the election of school board members.

History: 1967 c. 92.

Legislative Council Note, 1967: Revises s. 40.801 (2). (Bill No. 353-S)

120.46 School board election by classes.

(1) In a joint city school district, the school board may be elected by classes if the school district meets all of the following requirements:

(a) It contains a city of the 2nd class and territory of one or more adjacent cities and one village all of which was attached to the city for school purposes by an order of school district reorganization.

(b) Prior to such attachment, the school board consisted of 7 members elected at large.

(c) Following the attachment, the school board was enlarged to 9 members to provide representation of the village on the school board.

(2) Upon the call of the mayor of the city containing the largest equalized valuation in the joint city school district, the governing bodies of the cities and village shall meet jointly, under the chairmanship of such mayor and each municipality shall have the number of votes prescribed in s. 120.50 (2). Upon a majority vote, the joint meeting may divide the 9-member school board into 2 classes, as follows:

(a) One class shall consist of 7 members elected at large by the entire school district, who shall be residents of the city of the 2nd class or the territory of the adjacent cities.

(b) The other class shall consist of 2 members elected at large by the entire school district, who shall be residents of the village.

(3) The joint meeting shall designate which of the existing school board positions shall be placed into each class.

(4) After action by the joint meeting, the clerk of the city of the 2nd class shall prepare all subsequent election notices and bal-

lots which shall indicate the classifications, the positions to be filled thereunder and the candidates therefor.

(5) The positions shall be filled by the candidates in each respective class who receive the largest plurality of votes from the school district at large.

(6) The election of school board members by classes under this section may be terminated at a joint meeting held in accordance with sub. (2). Thereafter, the school board shall be elected from the school district at large.

History: 1967 c. 92.

Legislative Council Note, 1967: Based on s. 40.803 (1) (c). (Bill No. 353-S)

120.48 School board meetings. (1) The school board in a city school district shall hold regular monthly meetings at such times as it prescribes by rule. Special meetings may be held under rules adopted by the school board. All school board meetings shall be open to the public, except as follows:

(a) If the school board resolves itself into a committee of the whole, the committee may exclude the public from the committee meeting.

(b) The public shall be excluded from a hearing before the school board on charges against an employe, if requested by the employe against whom the charges are preferred.

(2) Annually, the school board in a city school district shall elect a school board president and school board vice president from among its members and a school district clerk who need not be a member of the school board. The city treasurer shall be the school district treasurer.

(3) Annually, the school district clerk shall file the report required under s. 120.18.

(4) Except in school districts operating under ch. 119, the proceedings of a school board meeting in a city school district shall be published within 45 days after the meeting as a class 1 notice, under ch. 985, in a newspaper published in the city. If no newspaper is published in the city, the proceedings may be publicized as the school board directs. The publication of the proceedings shall include a statement of each receipt and expenditure exceeding \$100 except salaries, which may be listed in the aggregate.

(5) Before the annual city budget is prepared, the governing body or, where applicable, the fiscal board under s. 120.50 of a city operating a school system under this sub-

chapter may fix the amount of compensation of school board members for the ensuing year and until changed, which amount shall be included in the annual city school budget and tax.

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) revises s. 40.803 (2). Sub. (2) based on s. 40.803 (3) and for the sake of uniformity refers to "school district clerk" instead of "secretary". Sub. (3) makes the school district clerk responsible for filing the annual school district report (see note to s. 118.24). Sub. (4) revises s. 40.825. Sub. (5) based on s. 40.827. (Bill No. 353-S)

120.49 School board powers and duties.

In a city school district the school board shall have the powers and be charged with the duties of the school board of a common school district, as far as the same are not otherwise provided for or limited by statute. The school board of a city school district may:

(1) **SCHOOLS AND COURSES.** Establish, organize and grade the high schools, elementary schools, night schools and kindergartens and prescribe the courses to be taught therein.

(2) **RULES.** Adopt rules for its meetings and deliberations and for the government of the schools, the faculty and other school board employes.

(3) **EMPLOYES.** (a) Employ a school district superintendent for a period of not more than 3 years, an assistant superintendent, principals and teachers.

(b) The school board may employ janitors and engineers and other needed help to care for the school buildings and other school property.

(c) The school board may fix the compensation and prescribe the duties of all persons employed or appointed by the school board.

(4) **PROPERTY AND BUDGET.** (a) Estimate the expenses of the schools and prepare a budget, purchase sites for school buildings or other school uses and construct buildings or additions thereto. Any action under this paragraph shall be submitted to the common council for approval or, where applicable, the fiscal board under s. 120.50. Deeds and leases taken shall be in the name of the city and the title to all school property shall vest in the city.

(b) The school board may select sites and employ architects and engineers for the preparation of plans and specifications for school buildings and adopt such plans and specifications.

(c) An agreement made by the school board under s. 120.13 (3) shall be approved

by the common council or, where applicable, the fiscal board under s. 120.50.

(d) All money appropriated for school purposes shall be under the direction of and shall be expended by the school board.

(5) **EQUIPMENT.** Purchase and preserve necessary school equipment and apparatus.

(6) **INSURANCE.** Provide for accident insurance covering pupils in the school district. Such insurance shall not be paid from school district funds unless the expenditure is authorized by the common council or, where applicable, the fiscal board under s. 120.50.

(7) **TEXTBOOKS.** (a) Determine the textbooks to be used in the schools and keep a list of such books in the school board office. The school board shall not change such textbooks within 3 years of adoption, unless the school district furnishes free textbooks.

(b) The school board may purchase textbooks and fix the terms and conditions under which they are furnished to pupils, but no book may be used or permitted which tends to teach sectarian ideas.

(8) **UTILITIES.** Contract for the necessary fuel, light, water and supplies for the schools.

(9) **SCHOOL LUNCHESES.** Furnish school lunches to pupils at cost. School lunches may be furnished to needy pupils at such prices and on such conditions as the school board prescribes, but the fact that such lunches are furnished to some pupils at less than cost shall not be disclosed to others.

(10) **PRE-KINDERGARTEN CLASSES.** Establish and maintain classes for children under 4 years of age in accordance with rules and regulations prescribed by the school board. The school board may accept and receive federal funds for the operation of such classes and expend such funds in conformity with the purposes and requirements thereof. The school board may charge a reasonable fee for attendance at such classes in order to sustain the classes but may waive such fee or any portion thereof to any person who is unable to make such payment.

(11) **SCHOOL BOARD ORGANIZATION; FEE.** Pay the membership fee of the school board in an organization of school boards in this state, and the actual and necessary expenses of its representatives in annually attending a meeting of such organization.

History: 1967 c. 92, 313.

Legislative Council Note, 1967: Introductory paragraph restates s. 40.809 (intro.).

Sub. (1) revises and combines s. 40.809 (1) (part) and (3).

Sub. (2) restates s. 40.809 (14).

Sub. (3) restates and combines s. 40.809 (2), (7) and (8).

Sub. (4) (a) restates s. 40.809 (9) and includes those portions of s. 40.809 (4) which are germane to the provisions of s. 40.809 (9). Sub. (4) (b) restates part of s. 40.809 (4). Sub. (4) (c) incorporates a qualified power of school boards under s. 40.30 (14). Sub. (4) (d) identical to s. 40.811 (1).

Sub. (5) identical to s. 40.809 (5).

Sub. (6) restates the relevant portion of s. 40.30 (19).

Sub. (7) restates and combines s. 40.809 (12) and (13).

Sub. (8) identical to s. 40.809 (6).

Sub. (9) restates s. 40.809 (10).

Sub. (10) revises part of s. 40.809 (1). The last sentence of s. 40.809 (1) is deleted because this prohibition is contained in the state aid provisions.

Sub. (11) like s. 40.809 (11). (Bill No. 353-S)

120.50 Fiscal board. (1) Whenever an order of school district reorganization under s. 117.02 or 117.03 affecting a city school district becomes effective, the aldermen, town chairman and village president of the municipalities affected by the reorganization shall determine by the voting method prescribed in sub. (2), whether to:

(a) Abolish the city school district and create a common school district or a unified school district containing the territory of the city school district. If a determination is made under this paragraph, the city clerk shall transmit a certified copy of the determination to the state superintendent who shall make an order in accordance therewith and file it as provided in s. 117.01 (2) (c).

(b) Continue as a city school district with the fiscal control of the school district exercised by a fiscal board constituted under sub. (2).

(2) The fiscal board shall exercise fiscal control of the city school district in the following manner:

(a) Each town chairman and village president shall have one vote for each full \$200,000 of equalized valuation and remaining major fraction thereof of the school district within his town or village, but in no case shall a town chairman or village president have less than one vote.

(b) Each mayor of a city having territory which lies within a city school district operated by another city shall have one vote for each full \$200,000 of equalized valuation and remaining major fraction thereof of the school district within his city, but in no case shall the mayor have less than one vote.

(c) The aldermen of the city operating the city school district shall have one vote for each full \$200,000 of equalized valuation and remaining major fraction thereof of the school district within the city. Each alderman present at a meeting of the fiscal board shall have the number of votes determined

by dividing the total number of votes to which the aldermen are entitled by the total number of aldermen present at such meeting.

(3) The fiscal board shall have the power to approve the school budget, to levy the general property tax for school purposes and to exercise all other fiscal controls over the city school district which were exercised by the common council prior to the establishment of the fiscal board.

(4) (a) Not less than 48 hours prior to a meeting of the fiscal board, the city clerk shall notify in writing each alderman, town chairman, village president and mayor under sub. (2) (b) of the time and place of the meeting.

(b) If a town chairman, village president or mayor under sub. (2) (b) is temporarily incapacitated by illness or accident or will be absent from the school district at the time of the meeting of the fiscal board, he shall so notify the town board, village board or common council which then may appoint and certify in writing to the city clerk at the meeting of the fiscal board a suitable person to attend the meeting and to vote in the place of the town chairman, village president or mayor under sub. (2) (b).

(5) By the adoption of a resolution effective at the end of a school fiscal year, the fiscal board may abolish the city school district and fiscal board and create a common school district or a unified school district containing the territory of the city school district. The city clerk shall transmit a certified copy of such resolution to the state superintendent who shall make an order in accordance therewith and file it as provided in s. 117.01 (2) (c).

(6) An action under sub. (1) or (5) affecting a city school district whose territory contains a village is not effective until approved by the village board.

History: 1967 c. 92, 313.

Legislative Council Note, 1967: Present law does not name the fiscal control body established under this section. Case law has referred to it as the "fiscal board" and that name is used herein.

Sub. (1) revises s. 40.807 (1).

Sub. (2) based on s. 40.807 (2) (1st, 2nd and 3rd sentences). Sub. (2) specifies that a vote is given for remaining fractions of \$200,000 of equalized valuation in determining the number of municipal unit votes on a fiscal board. Sub. (2) (b) is new and gives representation on a fiscal board to territory of a city which is attached to another city for school purposes. Sub. (2) (c) clarifies the vote to which the city operating the city school district and its individual common council members are entitled.

Sub. (3) based on s. 40.807 (3).

Sub. (4) revises s. 40.807 (2) (4th and last sentences).

Sub. (5) based on s. 40.807 (4).

Sub. (6) based on s. 40.095 (1) (last sentence). (Bill No. 353-S)

120.51 Tax levy. (1) Annually, on or before September 30, the school board in a city school district shall make an estimate of the expenses of the public schools for the ensuing year and the amount which must be raised by city taxation and shall certify the estimate to the city clerk who shall submit the estimate to the common council at its next meeting. The common council shall consider such estimate and, by resolution, shall determine and levy the amount to be raised by city taxation for school purposes for the ensuing year. Such amount shall be included in the annual city budget and shall be called the "City School Tax."

(2) In a city school district having a fiscal board, the city clerk shall submit the school board estimate made under sub. (1) to the fiscal board at its next meeting. The fiscal board shall consider the estimate and, by resolution, shall determine and levy the amount to be raised by taxation for school purposes for the ensuing year.

History: 1967 c. 92, 313.

Legislative Council Note, 1967: Revises s. 40.813 (2) and (3). (Bill No. 353-S)

Draftsman's Note, 1967: The language of (2) reflects the Wisconsin Supreme Court holding in *West Milwaukee v. West Allis* (1966), 31 W (2d) 397, that the fiscal board has the sole authority to levy the school tax. (Bill No. 506-S)

120.52 Special tax levy; attached territory. (1) When all or part of the territory of a common school district, union high school district or unified school district is attached to a city school district and the net excess of noncapital assets over the net noncapital liabilities allocable to such attached territory under s. 66.03 (2c), as of the effective date of the attachment, is not equal to the attached territory's proportionate share of the cost of operation and maintenance of the reorganized city school district for the period between the effective date of the attachment and January 1 next succeeding such date, the school board of the reorganized city school district shall forthwith determine and certify to the city clerk an amount of a special tax to be assessed and entered against the territory, describing it, attached to the city school district. The amount determined and certified, as of the effective date of the attachment, shall be the sum of:

(a) The excess, if any, of the noncapital liabilities over the noncapital assets of the attached territory; and

(b) The amount by which the noncapital assets of the attached territory is less than the proportionate share of the operation and maintenance tax that such attached territory

would bear for cost of operation and maintenance if it had been a part of the city school district at the time of the approval of the last city school district budget computed for the period of time between the effective date of the attachment and the next succeeding January 1.

(2) The city clerk to whom such tax was certified shall forthwith certify such tax to the clerk of each municipality in which such specially taxed territory lies and the municipal clerk shall assess and enter such special tax on the tax roll as other taxes are assessed and entered. The amount of the special tax shall be computed on the basis of the ratio of the equalized valuation of the attached territory to the total equalized valuation of the reorganized city school district. This subsection does not affect the apportionment of assets and liabilities under s. 66.03.

History: 1967 c. 92.

Legislative Council Note, 1967: Based on s. 40.813 (2a). (Bill No. 353-S)

120.53 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. The equalized valuation of the property of each municipality lying within the city school district shall be the equalized valuation certified under s. 121.06 (2).

(2) Annually, the city clerk shall ascertain the total taxes levied for city school district purposes and shall apportion to property attached for school purposes its proportionate share thereof, based upon the equalized valuation of all property subject to such taxes within the city school district. Such proportionate amount shall be certified to the clerk of each municipality having territory attached to the city for school purposes and such amount shall be entered on the tax roll, collected and returned in accordance with s. 120.17 (8).

History: 1967 c. 92, 313.

Legislative Council Note, 1967: Based on s. 40.815. (Bill No. 353-S)

120.54 Disbursements. In a city school district, the city clerk shall keep separate accounts of all money raised and apportioned for city school purposes and such money shall be disbursed in accordance with this section and s. 66.042. The school board shall present to the city clerk a certified bill, voucher or schedule, signed by the school board president and school district clerk, giving the name of the claimant and the amount and nature of each claim. Upon such certification, the city

clerk shall issue proper orders to the city treasurer, who shall pay them from the proper funds.

History: 1967 c. 92.

Legislative Council Note, 1967: Based on s. 40.817. (Bill No. 353-S)

120.55 Construction work. (1) In a city school district the construction of school buildings shall be let by the school board to the lowest responsible bidder, in accordance with s. 62.15, and for that purpose the school board shall possess the powers conferred by s. 62.15 on the board of public works.

(2) In a city school district the alteration or repair of school buildings or other construction work, the estimated cost of which exceeds \$1,000, may be done under either par. (a) or (b).

(a) The work may be let by the school board to the lowest responsible bidder, in accordance with s. 62.15, and for that purpose the school board shall possess the powers conferred by s. 62.15 on the board of public works.

(b) Upon the passage of an ordinance under s. 62.15 the work may be done directly by the school board without submitting it to bids.

History: 1967 c. 92.

Legislative Council Note, 1967: Based on s. 40.811 (2). (Bill No. 353-S)

120.56 Sinking fund. A city school district may establish a sinking fund for the purpose of financing the construction of school buildings. All money raised by taxation pursuant to this authorization shall be deposited by the city treasurer in a separate fund, designated a sinking fund, to be used to finance the construction of school buildings. Such money shall not be used for any other purpose, except as provided in s. 67.11 (1), nor shall it be transferred to any other fund unless either so authorized by adoption of a resolution by a three-fourths vote of the school board members and the adoption of a resolution by the common council approving the school board resolution or, where applicable, so authorized by a three-fourths vote of the fiscal board under s. 120.50.

History: 1967 c. 92.

Legislative Council Note, 1967: Based on s. 40.813 (1). (Bill No. 353-S)

120.57 Technical, collegiate and evening programs. (1) Upon the adoption of a resolution by the common council and approval of the resolution by the electors of the city, the common council may establish a technical school or college as a school of the city school district. The resolution shall be submitted

to the electors in substantially the same manner as other school matters are submitted. The resolution shall provide for the organization of such school or college and shall confer the management and control of the school or college on the school board of the city school district. The resolution may be amended or repealed by a resolution submitted and approved in the same manner.

(2) The common council or the school board of a city school district may establish evening and part-time college classes. The common council may appropriate money to maintain such classes and may accept and use donations therefor.

(3) In a city school district having a fiscal board under s. 120.50, any action taken under sub. (1) or (2) shall be by the fiscal board in lieu of the common council.

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) based on s. 40.821. Many of the changes were made so that sub. (1) would contain general language to which new sub. (3) could apply.

Sub. (2) like s. 40.823.

Sub. (3) is new and states that subs. (1) and (2) can be used in a joint city school district. (Bill No. 353-S)

120.58 Transfer of property. (1) (a) All school property, except vocational school property, of a city or city school district operating under this subchapter and located in a unified school district at the time of the creation of the unified school district, and all school property of a city or city school district which abolishes the city school district and creates a common or unified school district shall be sold by such city or city school district to the unified or common school district at a price equal to the principal amount of the then outstanding obligations of such city issued for school purposes.

(b) The unified school district or common school district may issue bonds or promissory notes pursuant to ch. 67 to pay the cost of purchasing such school property. The city shall deposit the proceeds of the sale of the school property in the sinking fund or funds created for the payment of its obligations issued for school purposes. The indebtedness of the city for the purpose of computing its legal debt limit shall be deemed to be reduced by the amount of such deposit. The municipal treasurer shall invest these sinking fund moneys in the name of the city in accordance with s. 66.04 (2). Bonds and notes issued by school districts for the purposes of this section are not subject to referendum. The purchase agreement shall include an irrevocable clause providing that the

school district shall pay annually to the city a sum of money equal to the amount by which the interest received by the city on account of the investment under s. 66.04 (2) is less than the amount of interest paid by the city on the bonds of the city for school purposes other than vocational schools.

(2) With the approval of the common council of the city affected, a unified or common school district required to purchase school property under this section may pay the purchase price by issuing and delivering directly to the city one or more general obligation promissory notes of the school district pursuant to the provisions, including an irrevocable tax levy, of s. 67.12 (12), but no right to a referendum exists on the school board resolution directing the issuance of such notes and the 10-year limitation of time for payment is not applicable to such notes. Such notes shall mature and be payable at such times, in such amounts and at such a rate of interest as will amortize and pay when due the principal and interest on the then outstanding obligations of the city issued for school purposes. Upon execution and delivery to the city, all such notes shall be held and considered as an authorized investment, under s. 66.04 (2), of the sinking fund created for payment of the city obligations issued for school purposes and shall be offset against city indebtedness in computing the city's legal debt limit to the same extent as other authorized investments of the sinking fund. Such notes may be sold and hypothecated. If the offset against any city's indebtedness under this subsection is determined to be invalid in any respect, such city immediately may require the school district issuing promissory notes under this subsection to the city to comply with sub. (1).

History: 1967 c. 92.

Legislative Council Note, 1967: Revises s. 40.807 (4a) (b) and (c). (Bill No. 353-S)

The term "school property" in 40.807 (4a) (b) includes all school assets, tangible and intangible, and tuition payable to a city previously operating under the city school plan becomes payable to the unified school district. *Racine v. Unified School Dist.* 24 W (2d) 521, 129 NW (2d) 246.

SUBCHAPTER III

UNIFIED SCHOOL DISTRICTS

120.70 Applicability. This subchapter applies to unified school districts.

History: 1967 c. 92.

Legislative Council Note, 1967: This section is new and specifies the type of school district to which this subchapter applies. (Bill No. 353-S)

120.71 Establishment; powers of school district. (1) A unified school district may be

established in accordance with ss. 117.04, 117.07 or 120.50 (1) (a) or (5). Upon the establishment of a unified school district, all school districts from which it was formed shall thereupon cease to exist, and all property, assets, claims, contracts, liabilities and obligations of such school districts, except those of a city or city school district operating under subch. II, shall thereupon become the property, assets, claims, contracts, liabilities and obligations of the unified school district.

(2) A unified school district is a body corporate with the power to sue and be sued, to levy and collect taxes, to acquire, hold and dispose of property and to do all other things reasonable for the performance of its functions in operating a system of public education.

History: 1967 c. 92, 313.

Legislative Council Note, 1967: Sub. (1) cross refers to the section containing the provisions of present s. 40.095 (1) and (2) relating to the creation and reorganization of a unified school district and completes the list of appropriate sections providing for the establishment of unified school districts. It also restates s. 40.807 (4a) (a). Sub. (2) like s. 40.095 (4). (Bill No. 353-S)

120.72 Composition of school board. The school board of a unified school district shall be composed of 5, 7 or 9 members as designated in the order of school district reorganization creating the unified school district. The number of school board members may be changed in accordance with s. 120.02 (1). A plan of apportionment of school board members may be adopted in accordance with s. 120.02 (2).

History: 1967 c. 92.

Legislative Council Note, 1967: First sentence restates s. 40.095 (3) (a) (last part of 1st sentence and 2nd sentence).

The 2nd sentence clarifies that a unified school district may change the number of school board members under s. 120.02 (1) [present s. 40.26 (2)].

The 3rd sentence specifies the applicability of s. 120.02 (2) [present s. 40.26 (8)], which presently applies by its general language to unified school districts. (Bill No. 353-S)

120.73 Election of school board members.

(1) (a) School board members in a unified school district shall be electors of the school district and shall be elected at large by a plurality vote of the electors of the school district. School board members shall be elected under s. 120.06 at the spring election.

(b) The regular terms of school board members shall be for 3 years. School board members elected for regular or unexpired terms shall take office, provided they have taken and filed the official oath, on the July 1 next following the election. Elections to fill unexpired terms shall be held simultane-

ously with the elections for regular terms, the regular terms to be filled by the appropriate number of candidates receiving the highest number of votes and the unexpired terms to be filled by the appropriate number of candidates receiving the next highest number of votes.

(c) All vacancies shall be filled by appointment, in accordance with s. 17.26 (1). An election to fill the unexpired term shall be held at the next spring election. The appointee shall serve only until the July 1 when the person elected to the unexpired term takes office and has qualified.

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

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) (a) (1st sentence) revises s. 40.095 (3) (c) and is based in part on s. 40.095 (3) (a) (1st sentence). Sub. (1) (a) (last sentence) combines and revises s. 40.095 (3) (d) (4th and 5th sentences).

Sub. (1) (b) (1st sentence) revises s. 40.095 (3) (d) (1st sentence). Sub. (1) (b) (2nd sentence) based on ss. 40.095 (3) (a) (3rd sentence), 40.095 (3) (d) (last sentence) and 40.27 (6) (b). Sub. (1) (b) (3rd sentence) is new and clarifies the method of election to fill unexpired terms.

Sub. (1) (c) based on s. 40.095 (3) (e).

Sub. (2) based on s. 40.095 (3) (d) (2nd, 3rd, 6th and 7th sentences). The deadline for filing declarations of candidacy is specified and the type and frequency of notice to be given is set forth. (Bill No. 353-S)

120.74 School board meetings. (1) Annually, the school board shall elect a school board president, school board vice president, school district clerk and school district treasurer from among its members and a school

board secretary who need not be a member of the school board.

(2) The school board shall meet at least once each month and at other times upon the call of the school board president or upon the filing of a request with the school district clerk signed by a majority of the school board members.

(3) Each school board member may be paid an amount fixed by the school board not exceeding \$10 for each school board meeting he actually attends.

(4) Proceedings of the school board shall be published in accordance with s. 120.48 (4).

History: 1967 c. 92.

Legislative Council Note, 1967: Sub. (1) based on s. 40.095 (3) (a) (last sentence).

Sub. (2) revises s. 40.095 (3) (f) (1st sentence).

Sub. (3) revises s. 40.095 (3) (b).

Sub. (4) restates s. 40.095 (3) (f) (last sentence). (Bill No. 353-S)

120.75 School board powers and duties.

The public schools of a unified school district shall be under the management, control and supervision of a school board. The school board shall have the powers and duties under ss. 120.12 to 120.17, 120.19 to 120.22 and 120.58. No annual meeting shall be held in a unified school district but the school board shall have the powers of the annual meeting under s. 120.10. Annually, the school district clerk shall file the report required under s. 120.18. The school board shall employ a school district administrator under s. 118.24. The school board shall not, in the name of the school district, issue bonds or incur other indebtedness without approval of the electors of the school district in any instance where the school board of a common school district is not authorized to do so.

History: 1967 c. 92, 313.

Legislative Council Note, 1967: First sentence identical to s. 40.095 (3) (a) (1st part of 1st sentence).

Second and third sentences based on s. 40.095 (5) (1st and 2nd sentences).

Fourth sentence states specifically a duty of the school district clerk.

Fifth sentence based on s. 40.819 (1).

Sixth sentence like s. 40.095 (5) (last sentence). (Bill No. 353-S)

Unified school district is authorized to enter into deferred use plan transaction with U. S. Dept. Health, Educ. and Welfare for acquisition of a site for future school buildings. 51 Atty. Gen. 48.