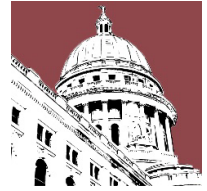

Wisconsin Legislative Council

STUDY COMMITTEE MEMO



Memo No. 1

TO: MEMBERS OF THE STUDY COMMITTEE ON SHARED SCHOOL DISTRICT SERVICES

FROM: Emily Hicks and Raine Black, Staff Attorneys

RE: School District Consolidation

DATE: August 15, 2022

School district consolidation is the process by which two or more school districts combine to form a new school district. The process involves the affected school boards and, on occasion, the electors of the affected school districts. This memo provides background on current law and data regarding school district consolidation, followed by a description of recommendations of the 2017 Blue Ribbon Commission on School Funding related to school district consolidation.

FACTORS SCHOOL BOARDS MUST CONSIDER

When making any decisions related to consolidation, **current law requires school boards to consider how the consolidation may affect the educational welfare of all of the children residing in all of the affected school districts**, by considering all of the following factors:

- The geographical and topographical characteristics of the affected school districts, including the estimated travel time to and from school for pupils in the affected school districts.
- The educational needs of all of the children residing in the affected school districts, the educational programs currently offered by each affected school district, and the ability and commitment of each school district to meet those needs and continue to offer those programs.
- The testimony of and written statements filed by the residents of the affected school districts.
- The estimated fiscal effect of the proposed consolidation on the affected school districts, including the effect of the apportionment of assets and liabilities.
- Whether the proposed consolidation will make any part of a school district's territory noncontiguous.
- The effect that consolidation will have on the present and future socioeconomic level and racial composition of the affected school districts and on the affected school districts' enrollments that will be children at risk¹.

¹ "Children at risk" means students in grades 5 to 12 who are at risk of not graduating from high school because they are dropouts or are two or more of the following: one or more years behind their age group in the number of high school credits attained; two or more years behind their age group in basic skill levels; habitual truants; parents; adjudicated delinquents; or eighth grade students whose score in each subject area on the eighth grade assessment was below the basic level, who failed the assessment, and who failed to be promoted to the ninth grade. [s. [118.153 \(1\) \(a\)](#), Stats.]

Additionally, a school board may consider other appropriate factors. [s. [117.15](#), Stats.]

DATA ON SCHOOL DISTRICT CONSOLIDATION 2000-2022

According to the data obtained from the Department of Public Instruction, five district consolidations occurred from 2000-2022:

Year	School Districts Consolidated	Newly Consolidated District
2007	<ul style="list-style-type: none">• Trevor Grade• Wilmot Grade	Trevor-Wilmot Consolidated
2008	<ul style="list-style-type: none">• Glidden• Park Falls	Chequamegon
2010	<ul style="list-style-type: none">• Chetek• Weyerhauser	Chetek-Weyerhauser Area School District
2016	<ul style="list-style-type: none">• Herman• Neosho• Rubicon	School District of Herman-Neosho-Rubicon
2018	<ul style="list-style-type: none">• Friess Lake• Richfield Jt. 1	Holy Hill Area School District

PROCESS OF CONSOLIDATION

Consolidation, regardless of the school district types, requires passage of two school board resolutions and filing of an order of school district reorganization. Additionally, consolidation may require a passage of a referendum.

Common School Districts²

Adoption of Consideration Resolution

If two or more school districts plan to consolidate, each school board must first adopt a resolution stating that they will consider consolidation (“consideration resolution”). Each school district clerk must send a certified copy of this resolution to the school board of each of the other affected school districts and to the secretary of the school district boundary appeal board (SDBAB)³. [s. [117.08 \(1\)](#), Stats.]

² For a primer on the different types of school districts see Legislative Council, [Public School District Governance](#), Issue Brief (February 2021).

³ The SDBAB is attached to the Department of Public Instruction (DPI) and consists of 12 school board members appointed by the State Superintendent of Public Instruction for staggered two-year terms and the State Superintendent of Public Instruction or his or her designee. [s. [15.375](#), Stats.].

Adoption of Consolidation Resolution

In the first July following the adoption of the consideration resolutions, the affected school boards must each adopt a second resolution ordering or denying consolidation of the school districts (“consolidation resolution”). Failure of a school board to adopt a resolution either ordering or denying the consolidation before August 1 constitutes a denial of the consolidation by that school board. **If all of the affected school boards adopt a resolution ordering consolidation, the order must include all of the following information:**

- The school districts which are dissolved to create the new school district.
- The name of the new school district.
- The type of school district and the grades to be taught by the new school district.
- The number of school board members the new school district will have. [See ss. [120.01](#) and [120.41](#), Stats.]
- The term of initial members of the new school board.
- The method of election of new school board members. [See ss. [120.06](#) and [120.42](#), Stats.]
- The date of the first election of school board members.
- The time and place for the first annual meeting of the new school district, if one is to be held. [See ss. [120.08 \(1\)](#) and [120.10](#), Stats.]

[s. [117.17 \(1\)](#), Stats.]

The school district clerk must send a certified copy of the consolidation resolution to the school boards of each of the affected school districts within five days of the adoption of the resolution. Within the same time frame, the school district clerk must also file a copy of the consolidation resolution with the clerk of each city, village, town, or county in which any part of an affected school district is located. [s. [117.08 \(2\)](#), Stats.]

Approval by Referendum

School district consolidation may involve a referendum, but it is not required unless certain actions occur before the second Tuesday in September following adoption of the consolidation resolution. Specifically, **a referendum is required if either: (1) at the time of adopting the consolidation resolution, the school board of any affected district requires a referendum; or (2) a petition requesting a referendum is filed.** This petition must be signed by at least 10 percent of the electors who reside in one of the affected school districts and be filed with the clerk of the school district with the highest equalized valuation of the affected school districts. If required, a referendum is held in each of the affected school districts and passes if a majority of the votes cast in each affected school district is in favor of consolidation. [s. [117.08 \(3\) \(a\)](#) and [\(b\)](#), Stats.]

If the referendum passes, each affected school board must make and file an order of school district reorganization that contains information identical to that required in the consolidation resolution, described above, regarding the new district and how the new school board will be established. [s. [117.17 \(1\)](#), Stats.]

Reorganization Order and Timeline

Regardless if a referendum is required, a certified copy of the school district reorganization order must be filed, within five days after it is adopted or issued, with the secretary of the SDBAB. The secretary

must immediately label the order with the date it was received, and must send a certified copy of the order, by certified mail, to the clerk of each city, village, town, or county in which any part of an affected school district is located. [s. [117.17 \(2\)](#), Stats.]

School district consolidation may take place on one of three timelines, as shown in the table below. The intention to use an alternative timeline must be specified in each affected school district’s consideration resolution. Assume for each timeline’s example dates (in parentheses) that the school districts filed consideration resolutions on January 1, 2022:

	Consolidation Order Adopted	Petition Requesting Referendum Must Be Filed By	Referendum Held On	Consolidation Takes Effect On
Default Timeline [s. 117.08 (2) and (3) , Stats.]	July following adoption of consideration resolutions (7/1/22-7/31/22)	Second Tuesday in September (9/13/22)	First Monday in November (11/7/22)	Following July 1 (7/1/23)
Alternative Timeline 1 [s. 117.08 (5) (a) , Stats.]	December following adoption of consideration resolutions (12/1/22-12/31/22)	Second Tuesday in February (2/14/23)	First Tuesday in April (4/11/23)	The second following July 1 (7/1/24)
Alternative Timeline 2 [s. 117.08 (5) (b) , Stats.]	May following adoption of consideration resolutions (5/1/22-5/31/22)	Second Tuesday in July (7/12/22)	Second Tuesday in September (9/13/22)	Following July 1 (7/1/23)

Union High and Elementary School Districts

Elementary school districts are districts that serve only the elementary grades (K-8). Union high school districts (UHSD) are districts that serve only the high school grades (9-12). Elementary school districts are smaller districts that are located in the territory of, and feed into, UHSDs (“included elementary districts”). The process for consolidation of union high and included elementary school districts is similar to the process for the consolidation of other school districts, as it requires two resolutions and may require a referendum. However, as described below, there are certain key differences.

Consolidation Must Propose Consolidation of UHSD and All Included Elementary Districts

To initiate consolidation in a UHSD, the UHSD school board and the school boards of **any** of the included elementary districts must adopt resolutions stating that they will consider consolidating the UHSD and **all** of the included elementary districts. The school district clerk of each school board that

adopts a consideration resolution must send a certified copy of that resolution to the school boards of each of the other affected school districts and the secretary of the SDBAB. [s. [117.09 \(1\)](#), Stats.]

Adoption of Resolution to Order or Deny Consolidation

In the first July following the adoption of the consideration resolutions, the UHSD school board and the school boards of **one or more** elementary school districts that: (1) adopted consideration resolutions; and (2) have in their combined territory **at least 55 percent of the equalized valuation⁴ of the UHSD** must each adopt a second resolution ordering or denying consolidation of the school districts (“consolidation resolution”). Failure of a school board to adopt a resolution either ordering or denying the consolidation before August 1 constitutes a denial of the consolidation by that school board. [s. [117.09 \(2\) \(a\) and \(b\)](#), Stats.]⁵

If the school boards described above each adopt a resolution ordering consolidation, the order must include the same information regarding the new school district and how the new school board will be established as is required in a consolidation resolution for common school districts, described above. [s. [117.17 \(1\)](#), Stats.]

Each school district clerk must send a certified copy of the school board’s consolidation resolution to the school boards of each of the affected school districts within five days of the adoption of the resolution. Within the same time frame, the school district clerk must also file a copy of the consolidation resolution with the clerk of each city, village, town, or county in which any part of an affected school district is located. [s. [117.09 \(2\) \(b\)](#), Stats.]

Approval by Referendum

A referendum on consolidation is **required if either of the following occurs** before the second Tuesday in September following adoption of the resolution ordering consolidation: **(1) the school board of any affected school district requires a referendum to be held**; or **(2) a petition requesting a referendum is filed**. [s. [117.09 \(3\) \(a\)](#), Stats.] This petition must be signed by at least 10 percent of the electors who reside in any affected school district and must be filed with the clerk of the UHSD. [s. [117.09 \(3\) \(a\) 2](#), Stats.] The referendum passes if a majority of the votes cast in the UHSD and in a majority of the affected elementary school districts is in favor of consolidation. [s. [117.09 \(4\)](#), Stats.]

If the referendum passes, each affected school board must make and file an order of school district reorganization that contains information identical to that required in the consolidation resolution, described above, regarding the new district and how the new school board will be established. [ss. [117.09 \(4\)](#) and [117.17 \(1\)](#), Stats.]

Reorganization Order and Timeline

Regardless if a referendum is held, a certified copy of the school district reorganization order must be filed, within five days after the order is adopted or issued, with the secretary of the SDBAB. The secretary must immediately label the order with the date it was received. Additionally, the secretary

⁴ The “equalized valuation” of a school district is the full value of the taxable property of the territory in the school district as certified in the prior year by DPI, excluding certain value adjustments. [s. [121.004 \(2\)](#), Stats.]

⁵ An elementary school district may be located within more than one UHSD. In that case, s. [117.09 \(5\)](#), Stats., applies.

must send a certified copy of the order, by certified mail, to the clerk of each city, village, town, or county in which any part of an affected school district is located. [s. [117.17 \(2\)](#), Stats.]⁶

If approved, consolidation of the union high district and **all** its included elementary school districts takes effect on the July 1 following the referendum, or, if no referendum is required, the July 1 following the adoption of the resolution ordering consolidation. [s. [117.09 \(2\) \(b\)](#) and [\(4\)](#), Stats.]

SCHOOL BOARDS IN NEWLY CONSOLIDATED DISTRICTS

Upon consolidation, the school boards of the consolidating school districts join to form the joint interim school board of the new district. The joint interim school board governs the new school district from the time of installation until the new board is elected. The time of installation varies depending on whether a referendum was required and the consolidation timeline used by the affected school boards, as described above.

If no referendum was held, the joint interim school board is installed on the date following adoption of the consolidation resolution, according to the applicable timeline, as follows:

- Default Timeline: 2nd Tuesday in September.
- Alternative Timeline 1: 2nd Tuesday in February.
- Alternative Timeline 2: 2nd Tuesday in July.

[s. [117.22 \(1\)](#), Stats.]

If a referendum was held, the joint interim school board is installed on the 31st day following the filing of the school district reorganization order.

The first election of school board members for a newly consolidated school district must take place no later than four months after the effective date of the school district reorganization order. This order must designate the date of the first election of school board members, though the election may not take place between February 1 and the spring primary or September 1 and the general election held in the same year. [s. [117.22 \(2\) \(b\)](#) and [\(cm\)](#), Stats.]

EFFECT ON ASSETS, LIABILITIES, AND EMPLOYEES

On the effective date of the consolidation, the school districts that were consolidated cease to exist and the title to all property and the assets of the school districts become vested in the new consolidated school district. Additionally, **all claims, obligations, and contracts of the original school districts become the claims, obligations, and contracts of the new consolidated school district.** The employees of the original school districts become the employees of the new consolidated district, and the new district assumes the rights and obligations of the original school districts under the provisions of any collective bargaining agreement that applies to those employees. [s. [117.25 \(1\)](#), Stats.]

Consolidating school districts may agree in writing to continue operating a program or facility at a specific location for a specified period after consolidation, not to exceed five years. Any such agreement is binding on the joint interim school board of the new school district and any subsequently elected school board. The school district clerk of the participating school district with the largest equalized valuation must file this agreement with the State Superintendent of Public Instruction. This agreement

⁶ Note that this is the same information and filing procedure required for the consolidation resolution filed ordering consolidation.

may be enforced by a circuit court upon petition by 10 or more electors of the new school district. [s. [117.25 \(1m\)](#), Stats.]

STATE AID

School districts have two sources of funding: taxes levied under chs. 120 and 121, Stats., and state aid. State aid generally falls into three categories: equalization aid, categorical aid, and grants.⁷ Generally, each of these funding sources depend on a school district’s pupil enrollment and territory, both of which are affected by consolidation.

Under current law, **school districts that consolidate on or after July 1, 2019 receive two types of additional aid: consolidation aid and sparsity aid.** A consolidated district receives the following additional amounts of consolidation aid for up to seven years after the consolidation:

Year of Consolidation	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
\$150 for each pupil enrolled	\$150 for each pupil enrolled	\$150 for each pupil enrolled	\$150 for each pupil enrolled	\$150 for each pupil enrolled	50 percent of what district received in Year 5	25 percent of what district received in Year 5

[ss. [117.08 \(6\)](#) and [117.09 \(6\)](#), Stats.]

Additionally, in the year of the consolidation and the subsequent four school years, a consolidated district receives sparsity aid equal to not less than 50 percent of the aggregate amount of sparsity aid received by the consolidating school districts in the school year prior to the year of the consolidation. [s. [115.436 \(3\) \(ap\)](#), Stats.]⁸

RECOMMENDATIONS OF THE BLUE RIBBON COMMISSION ON SCHOOL FUNDING

In 2017, Speaker Vos and Senate Majority Leader Fitzgerald established the Blue Ribbon Commission on School Funding. The Commission was charged with examining how tax dollars are distributed to schools and making recommendations to better meet the needs of students across the state. In 2019, the Commission published a report that includes a recommendation that the Legislature consider the

⁷ For an in-depth explanation of school funding mechanisms, see Legislative Fiscal Bureau, [School District Reorganization](#), Informational Paper 32 (Jan. 2021); Legislative Fiscal Bureau, [School District Revenue Limits and Referenda](#), Informational Paper 26 (Jan. 2021); and Legislative Fiscal Bureau, [State Aid to School Districts](#), Informational Paper 27 (Jan. 2021).

⁸ A school district is eligible for sparsity aid in the amount of \$400 per pupil if the district’s membership in the previous school year was 745 or less and if the school district’s membership in the previous school year divided by the school district’s area in square miles is less than 10. [s. [115.436 \(2\)](#), Stats.] Additionally, a school district is eligible for sparsity aid in the amount of \$100 per pupil if the district’s membership in the previous school year was between 745 and 1,000 and if the school district’s membership in the previous school year divided by the school district’s area in square miles is less than 10. [s. [115.436 \(2m\)](#) and [\(3\) \(c\)](#), Stats.]

following options to incentivize school districts to consolidate with the goal of reducing costs or increasing educational opportunities in rural districts:

- Modify current law to allow two or more districts to jointly create new K-8 or UHSDs, allowing smaller districts to continue operating their own K-8 schools but share a combined high school.
- Provide a \$150 per pupil incentive for up to five years for school districts that enter into a whole grade sharing agreement⁹ **and** declare an intent to explore consolidation, and appropriate \$750,000 in general purpose revenue (GPR) annually towards the program.
- Provide consolidated districts with a recurring revenue limit adjustment of \$150 per pupil rather than categorical aid.
- Provide one-time funding of \$250,000 GPR in a continuing appropriation for a grant program to fund feasibility studies for consolidation **or** whole grade sharing. Two or more school districts may apply for grants of up to \$10,000 each for a professional financial analysis of how consolidation or whole grade sharing would affect the district.
- Reduce mill rates¹⁰ for consolidating school districts by setting the newly consolidated district's mill rate equal to the lowest mill rate among the consolidating districts in the year prior to consolidation.¹¹

[[Blue Ribbon Commission on School Funding Report \(2019\).](#)]

EH:RB:jal

⁹ A whole grade sharing agreement is an agreement between two or more school boards that provides that all or a substantial portion of the students in one or more grades will attend school in the other school districts for all or a substantial portion of a school day. [s. [118.50](#), Stats.]

¹⁰ The mill rate is the amount of taxes levied for every \$1,000 in equalized property value. For more information, please see Legislative Fiscal Bureau, [State Aid to School Districts](#), Informational Paper 27 (Jan. 2021).

¹¹ This recommendation included a methodology to accomplish this change, which is detailed on pp. 8-9 of the Blue Ribbon Commission on School Funding Report.