CHAPTER 117

SCHOOL DISTRICT REORGANIZATION

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Cross-reference: See definitions in s. 115.001.
Cross-reference: See also ch. PI 2, Wis. adm. code.

117.01 Applicability. This chapter does not apply to any school district reorganization affecting a school district operating under ch. 119.

History: 1989 a. 114.

117.03 Definitions. In this chapter:

(1) "Affected school district" means the entire territory of any of the following school districts:

(a) A school district from which any territory is detached or proposed to be detached.

(b) A school district to which any territory is attached or proposed to be attached.

(c) A school district that is consolidated with one or more other school districts or proposed to be consolidated with one or more other school districts.

(d) A school district that is dissolved or proposed to be dissolved.

(2) "Appeal panel" means a panel appointed by the state superintendent under s. 117.05 (1).

(3) "Board" means the school district boundary appeal board.

(3g) "Boundary dispute" means a dispute between 2 or more school districts concerning whether certain territory is located within a particular school district.

(3m) "Enrollment" means the number of pupils enrolled, as provided under s. 121.05 (1) (a), on the most recent of the preceding 3rd Friday of September or 2nd Friday of January.

(4) "Equalized valuation" has the meaning given under s. 121.004 (2).

(4m) "Interested school district" means a school district involved in a boundary dispute.

(5) "Reorganization" means the consolidation of 2 or more school districts, the dissolution of a school district, the detachment of territory from one school district and its attachment to an adjoining school district or the creation of a school district.

History: 1989 a. 114; 1995 a. 27; 1997 a. 27; 1999 a. 18.

117.05 General provisions. (1) APPEAL PANELS. The state superintendent shall appoint 3 members of the board to hear appeals filed under ss. 117.12 (4) and 117.13 (3). No 2 members of the appeal panel may be board members from any of the following kinds of school districts: those with small enrollments, those with medium enrollments or those with large enrollments.

(1m) BOARD AND APPEAL PANEL MEETINGS. The state superintendent shall set the time and place for meetings of the board under ss. 117.10, 117.105 (2m) and (4m), 117.12 (5) and 117.132 and for meetings of appeal panels under ss. 117.12 (4) and 117.13.

(2) SELECTION OF BOARD MEMBERS FOR EACH REVIEW; BOARD AND SCHOOL BOARD VOTING REQUIREMENTS. (a) *Board.* The state superintendent shall appoint 7 members of the board to perform any review under ss. 117.10, 117.105 (2m) and (4m), 117.12 (5), and 117.132. The 7 members shall include the state superintendent or his or her designee on the board, 2 board members from school districts with small enrollments, 2 board members from school districts with medium enrollments, and 2 board members from school districts with large enrollments. Any action of the board under this chapter requires the affirmative vote of at least 4 of the 7 members appointed under this paragraph.

(b) *School board.* Any action by a school board under this chapter requires the affirmative vote of a majority of its full authorized membership.

(3) JOINT MEETINGS AND HEARINGS. The school boards of the affected school districts may hold joint meetings or joint public hearings in any reorganization proceeding under this chapter.

(4) LIMITATIONS ON PROCEEDINGS. (a) *Pending proceedings.* A reorganization proceeding is pending from the date that a petition is filed under s. 117.105 (1) (a), 117.11 (2) or 117.12 (2) or a resolution is adopted under s. 117.08 (1), 117.09 (1), 117.10 (1), 117.105 (1) (b) or (4m), 117.13 (2) or 117.132 (2) until the date on which the latest of any of the following occurs:

1. An order granting the reorganization takes effect.

2. The reorganization is denied and, following the denial, any time period for requesting a referendum, requesting review by the board or making an appeal to an appeal panel, under ss. 117.08 to 117.132, has expired.

(b) *Limitation if proceeding is pending; state aid apportionment.* While a reorganization is pending, as provided under par. (a) or under s. 117.01 (1) (d), 1987 stats.:

1. Any other reorganization proceeding commenced or order made that includes any territory included in the pending reorganization proceeding is void.

2. State aid shall be apportioned to the affected school districts as if the reorganization had not been initiated.

(c) *One-year limitation on consideration of transfers.* 1. Except as provided under subd. 2., no petition for the detachment of territory from one school district and its attachment to an adjoining school district may be filed under s. 117.11 (2) or 117.12 (2) before the 2nd July 1 following the filing of a petition under s. 117.11 (2) or 117.12 (2) for any reorganization that includes any of the same territory.

2. The limitation under subd. 1. does not apply if the school board of each affected school district adopts a resolution waiving the limitation. If a school board denies a request for a waiver under this subdivision, the denial may not be appealed under this chapter.

(d) *Four-year limitation on consideration of creation of a*

school district. 1. Except as provided in subd. 2., no petition may be filed or resolution adopted for the creation of a new school district under s. 117.105 (1) (a) or (b) before the 5th July 1 following the filing of a petition under s. 117.105 (1) (a) or the adoption of a resolution under s. 117.105 (1) (b) or the date of an order issued under s. 117.105 (4m) (c) for any reorganization that includes any of the same territory.

2. The limitation under subd. 1. does not apply if the school board of each affected school district adopts a resolution waiving the limitation. If a school board denies a request for a waiver under this subdivision, the denial may not be appealed under this chapter.

(5) ALL TERRITORY IN SCHOOL DISTRICT; CONTIGUOUS UNION HIGH SCHOOL DISTRICT TERRITORY. (a) *Territory in district.* All territory within this state shall be included in a school district operating elementary school grades and a school district operating high school grades or in a school district operating both elementary and high school grades, except for territory located in a school district that is not operating certain grades as a result of entering into a whole grade sharing agreement under s. 118.50. No territory may be detached from a school district unless by the same order it is attached to another school district or included in a new school district created by the order. No territory may be detached from a school district that operates high school grades unless by the same order it is attached to or included in another school district that operates high school grades.

(b) *Contiguous union high school district territory.* No territory may be detached from a union high school district so as to make parts of the school district noncontiguous.

(7) VALIDATION OF SCHOOL DISTRICTS. No appeal or other action attacking the legality of the formation of a school district, either directly or indirectly, may be taken after the period provided under s. 893.74. This subsection shall be liberally construed to effect the legislative purpose to validate and make certain the legal existence of all school districts in this state, however created or reorganized, and to bar every right to question the existence of a school district in any manner and to bar every remedy relating to the formation of a school district notwithstanding any defects or irregularities, jurisdictional or otherwise, in any action or proceeding commenced after the expiration of the period provided under s. 893.74.

(8) INFORMATION ON REORGANIZATION PROCEDURES. The department shall prepare a written description of the procedures for school district reorganizations under ss. 117.08 to 117.132 and distribute copies to school district clerks. A school district clerk shall give a copy of the description to any person, upon request, and to any person filing a petition with the clerk under s. 117.08 (3) (a) 2., 117.09 (3) (a) 2., 117.105 (1) (a), 117.11 (2) or (4) (a) 2. or 117.12 (2), at the time the petition is filed.

(9) BOARD AND APPEAL PANEL FEES. (a) The state superintendent may charge the following persons a fee sufficient to reimburse the department for the costs of the board under ss. 117.10, 117.105, 117.132 and 117.35:

1. The school boards of the affected school districts under s. 117.105 if they fail to reach agreement under s. 117.105 (1m) (b).

1m. The village boards of villages and the affected school district under s. 117.105 (4m).

2. A person who files a petition requesting review by the board under s. 117.105 (2m).

3. A school board that adopts a resolution to dissolve the school district under s. 117.10 (2).

4. A school board that requests review by the board under s. 117.132 (4) (a) 1.

5. A person who files a petition requesting review by the board under s. 117.132 (4) (a) 2.

6. A school board requesting resolution of a boundary dispute under s. 117.35 (2).

(b) The clerk of the school district ordering the dissolution or requesting review shall pay the fee under par. (a) 3. or 4. to the state superintendent. The clerk of each affected school district shall pay the fee under par. (a) 1. to the state superintendent. The state superintendent shall allocate the fee under par. (a) 1. among the school districts from which territory is being detached to create a new school district if there is more than one such school district. The secretary of the board shall forward the fees collected under par. (a) 1. and 5. to the state superintendent.

(c) The state superintendent may charge a person filing a notice of appeal under s. 117.12 (4) or 117.13 (3) a fee sufficient to reimburse the department for the costs of the appeal panel under s. 117.12 (4) or 117.13 (3). The secretary of the board shall collect the fee and forward it to the state superintendent. The state superintendent may not charge any person who files a notice of appeal under s. 117.12 (4) and is charged the fee under this paragraph any additional fee for review by the board under s. 117.12 (5).

(10) STATE SUPERINTENDENT TO ADVISE. The state superintendent shall advise and consult with school boards regarding school district organization and reorganization. If, in the state superintendent's opinion, one or more school districts should be created, altered, consolidated or dissolved, he or she may make recommendations to the school boards of the affected school districts.

History: 1989 a. 114, 287; 1993 a. 392; 1995 a. 27 ss. 3927 to 3930, 9145 (1); 1997 a. 27, 286; 1999 a. 18, 32; 2015 a. 55; 2017 a. 59; 2017 a. 365 s. 111.

117.08 Consolidation of school districts. (1) INITIATION OF PROCEDURES. The school boards of 2 or more school districts may adopt resolutions stating that they will consider consolidating their school districts. The school district clerk of each school board adopting a resolution under this subsection shall send a certified copy of the resolution to the school boards of each of the other affected school districts and to the secretary of the board.

(2) SCHOOL BOARD ACTION. In the first July beginning after the adoption of resolutions by 2 or more school boards under sub. (1), the school boards of the affected school districts may order the school districts consolidated by the adoption, by each of those school boards, of a resolution ordering the consolidation. Failure of a school board to adopt a resolution either ordering or denying the consolidation before August 1 constitutes a denial of the consolidation by that school board. The school district clerk of each school board adopting a resolution under this subsection, either ordering or denying a consolidation, shall, within 5 days after the adoption of the resolution, send a certified copy of the resolution to the school boards of each of the other affected school districts and file a certified copy of the resolution as provided under s. 117.17 (2). If the school board of each affected school district adopts a resolution ordering the consolidation, the consolidation shall take effect on the following July 1, unless a referendum under sub. (3) is required.

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

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

2. Before the 2nd Tuesday of September following the adoption of the resolutions under sub. (2), a petition conforming to the requirements of s. 8.40 requesting a referendum, signed by at least 10 percent of the electors who reside in any affected school

district, is filed with the clerk of the school district that has the highest equalized valuation of the affected school districts. The validity of the petition shall be governed by the rules promulgated under s. 8.40 (3).

(b) If a referendum is directed or a petition requesting a referendum is filed under par. (a), the school district clerk of the school board adopting the resolution or the school district clerk receiving the petition shall immediately notify the school boards of each of the other affected school districts, the secretary of the board and the clerk of each city, village or town, any part of which is contained within an affected school district. The referendum shall be held in the affected school districts as provided under s. 117.20. Votes shall be counted separately for each affected school district.

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

(5) ALTERNATIVE TIMELINES. (a) If each school board adopting a resolution under sub. (1) specifies in its resolution that the alternative timeline under this paragraph applies, the dates specified in subs. (2), (3) (a) 2., and (4) are changed as follows:

1. The resolutions ordering or denying a consolidation under sub. (2) shall be adopted in the first December beginning after the adoption of resolutions by 2 or more school boards under sub. (1). Failure of a school board to adopt a resolution either ordering or denying the consolidation before January 1 constitutes a denial of the consolidation by that school board.

2. The petition requesting a referendum under sub. (3) (a) 2. shall be filed before the 2nd Tuesday of February following the adoption of the resolutions under sub. (2).

3. If a majority of the votes cast in each affected school district is in favor of consolidation, the school districts shall be consolidated on the 2nd following July 1.

(b) If each school board adopting a resolution under sub. (1) specifies in its resolution that the alternative timeline under this paragraph applies, the dates specified in subs. (2) and (3) (a) 2. are changed as follows:

1. The resolutions ordering or denying a consolidation under sub. (2) shall be adopted in the first May beginning after the adoption of resolutions by 2 or more school boards under sub. (1). Failure of a school board to adopt a resolution either ordering or denying the consolidation before June 1 constitutes a denial of the consolidation by that school board.

2. The petition requesting a referendum under sub. (3) (a) 2. shall be filed before the 2nd Tuesday of July following the adoption of resolutions under sub. (2).

(6) STATE AID. From the appropriation under s. 20.255 (2) (br), the department shall pay to a school district created by a consolidation under this section that takes effect on or after July 1, 2019, the following amounts:

(a) In the school year in which the consolidation takes effect and in each of the subsequent 4 school years, $150 multiplied by the number of pupils enrolled, as defined in s. 115.437 (1), in the school district in that school year.

(b) In the 5th school year following the school year in which the consolidation takes effect, 50 percent of the amount the school district received under par. (a) in the 4th year following the school year in which the consolidation takes effect.

(c) In the 6th school year following the school year in which the consolidation takes effect, 25 percent of the amount the school district received under par. (a) in the 4th year following the school year in which the consolidation takes effect.

History: 1989 a. 114, 192, 287; 1991 a. 32; 2009 a. 307; 2017 a. 59.

117.09 Consolidation of union high and elementary school districts. (1) INITIATION OF PROCEDURES. The school board of a union high school district and the school boards of any of the school districts operating only elementary grades whose territory is included in the union high school district may adopt resolutions stating that they will consider consolidating the union high school district and all of the elementary school districts whose territory is included in the union high school district to create a common or unified school district operating both elementary and high school grades. The school district clerk of each school board adopting a resolution under this subsection shall send a certified copy of the resolution to the school boards of each of the other affected school districts and to the secretary of the board.

(2) SCHOOL BOARD ACTION. (a) In the first July beginning after the adoption of resolutions under sub. (1), the school board of the union high school district and the school boards of one or more of the elementary school districts that adopted resolutions under sub. (1) and that have, in their combined territory, at least 55 percent of the equalized valuation of the union high school district, may order the union high school district and all of the elementary school districts whose territory is included in the union high school district consolidated to create a common or unified school district operating both elementary and high school grades by the adoption of a resolution ordering the consolidation by each school board.

(b) Failure of a school board to adopt a resolution under par. (a) before August 1, either ordering or denying the consolidation, constitutes a denial of the consolidation by that school board. The school district clerk of each school board that adopts a resolution ordering or denying a consolidation under par. (a) shall, within 5 days after the adoption of the resolution, send a certified copy of the resolution to the school boards of the other affected school districts and file a certified copy of the resolution as provided under s. 117.17 (2). If a consolidation is ordered under par. (a), the consolidation shall take effect on the following July 1, unless a referendum is required under sub. (3).

(3) REFERENDUM. (a) If a consolidation is ordered under sub. (2) (a), a referendum on the consolidation shall be held under par. (b) if one of the following occurs:

1. Before the 2nd Tuesday of September following the adoption of the resolution ordering consolidation under sub. (2) (a), the school board of any affected school district directs the holding of a referendum.

2. Before the 2nd Tuesday of September following the adoption of the resolutions under sub. (2) (a), a petition conforming to the requirements of s. 8.40 requesting a referendum, signed by at least 10 percent of the electors who reside in any affected school district, is filed with the clerk of the union high school district. The validity of the petition shall be governed by the rules promulgated under s. 8.40 (3).

(b) If a referendum is directed or a petition requesting a referendum is filed under par. (a), the school district clerk of the school board adopting the resolution or the school district clerk receiving the petition shall immediately notify the school boards of each of the other affected school districts, the secretary of the board and the clerk of each city, village or town, any part of which is contained within an affected school district. The referendum shall be held in the union high school district as provided under s. 117.20. Votes shall be counted separately for the union high school district and each affected elementary school district.

(4) REFERENDUM RESULTS. If a majority of the votes cast in

the union high school district and in a majority of the affected elementary school districts is in favor of consolidation, the union high school district and all of the affected elementary school districts shall be consolidated on the following July 1. At the time of canvassing the returns, the school boards of the affected school districts shall make and file an order of school district reorganization under s. 117.17 (2).

(5) ELEMENTARY SCHOOL DISTRICT IN MORE THAN ONE UNION HIGH SCHOOL DISTRICT. (a) If a school district that operates only elementary grades has territory in more than one union high school district, it may consolidate under this section only with the union high school district in which more than 50 percent of its territory, as measured by equalized valuation, is located. Only the territory of the elementary school district that is located in that union high school district shall be included in the newly created common or unified school district operating both elementary and high school grades.

(b) The remaining territory of the elementary school district shall be attached, by the reorganization order issued under sub. (2) or (4), to a school district that operates only elementary grades and has territory located in the union high school district attended by the high school pupils who reside in the territory being attached.

(c) Upon the request of the school board of any affected school district, or the school board of any other school district operating only elementary grades that has territory in the union high school district identified under par. (b), the board shall determine to which elementary school district territory shall be attached under par. (b). The board shall issue an order that either affirms the attachment of the territory as specified in the order under sub. (2) or (4) or modifies the order under sub. (2) or (4) by attaching all or part of the territory to one or more other school districts identified under par. (b).

(d) Upon the request of the school board of any affected school district, the board shall review any proposed apportionment of assets and liabilities under s. 66.0235 (2c) (a) 1., between the school district created by the consolidation under par. (a) and any elementary school district to which territory is proposed to be attached under par. (b) or (c), and shall issue an order affirming or modifying that apportionment.

(6) STATE AID. From the appropriation under s. 20.255 (2) (br), the department shall pay to a school district created by a consolidation under this section that takes effect on or after July 1, 2019, the following amounts:

(a) In the school year in which the consolidation takes effect and in each of the subsequent 4 school years, $150 multiplied by the number of pupils enrolled, as defined in s. 115.437 (1), in the school district in that school year.

(b) In the 5th school year following the school year in which the consolidation takes effect, 50 percent of the amount the school district received under par. (a) in the 4th year following the school year in which the consolidation takes effect.

(c) In the 6th school year following the school year in which the consolidation takes effect, 25 percent of the amount the school district received under par. (a) in the 4th year following the school year in which the consolidation takes effect.

History: 1989 a. 114, 192; 1999 a. 150 s. 672; 2017 a. 59.

117.10 Dissolution of a school district. (1) INITIATION OF PROCEDURES. A school board may adopt a resolution stating that it will consider dissolving the school district. The school district clerk of a school board adopting a resolution under this subsection shall send a certified copy of the resolution to the secretary of the board.

(2) SCHOOL BOARD ACTION. In the first July beginning after the adoption of a resolution under sub. (1), the school board may order the school district dissolved by adopting a resolution ordering the dissolution. Failure of a school board to adopt a resolution either ordering or denying the dissolution before August 1 constitutes a denial of the dissolution by the school board. The school district clerk of a school board adopting a resolution under this subsection, either ordering or denying a dissolution, shall file a certified copy of the resolution as provided under s. 117.17 (2). A school board order under this subsection is not effective unless affirmed by the board under sub. (4).

(3) ADVISORY REFERENDUM. (a) If the school board adopts a resolution under sub. (2) ordering a dissolution, an advisory referendum on the dissolution shall be held under this subsection if one of the following occurs:

1. At the time of adopting the resolution under sub. (2), the school board directs the holding of an advisory referendum on the dissolution.

2. Before the 2nd Tuesday of September following the adoption of the resolution under sub. (2), a petition conforming to the requirements of s. 8.40 requesting an advisory referendum, signed by at least 10 percent of the electors who reside in the affected school district, is filed with the school district clerk. The validity of the petition shall be governed by the rules promulgated under s. 8.40 (3).

(b) If an advisory referendum is directed or a petition requesting an advisory referendum is filed under par. (a), the school district clerk shall immediately notify the secretary of the board and the clerk of each city, village or town, any part of which is contained within the school district. The advisory referendum shall be held in the school district as provided under s. 117.20.

(4) BOARD REVIEW. After the 2nd Tuesday of September following the adoption of the resolution under sub. (2), if no advisory referendum is required, or after the advisory referendum, if one is held, the board shall review the dissolution and, before the following January 15, issue an order either affirming or denying the school board's dissolution order. The order shall be in writing, shall include a statement of the reasons for the order and shall be filed as provided under s. 117.17 (2). If the board affirms the school board's dissolution order, the board shall also issue an order assigning the school district's assets and liabilities under s. 66.0235 (2c) (a) 1., and the school district's territory, to one or more other school districts, and providing for the employees of the dissolved school district under s. 117.25 (3). If the board affirms the school board's dissolution order, the school district shall be dissolved on the following July 1.

(5) EFFECT OF NEW BUILDING CONSTRUCTION. A school district may not be dissolved under this section if it has constructed a new school building within the 3 years immediately preceding the adoption of a resolution under sub. (2) and, on the date the resolution is adopted, the school district has outstanding debt for the building. This subsection does not apply if the school district to which the building is assigned under sub. (4) agrees to accept both the school building and the outstanding debt for the school building or, prior to the effective date of the dissolution, the building is sold and the debt is paid.

History: 1989 a. 114, 192, 287; 1999 a. 150 s. 672.

117.105 Creation of a school district. (1) INITIATION OF PROCEDURES. Procedures to create a school district from the territory of one or more existing school districts may be initiated by any of the following methods:

(a) Before July 1 of any year, a written petition requesting the creation of a school district may be filed with the clerk of the school district that has the highest equalized valuation of the affected school districts. The petition shall be signed by at least 20 percent of the total number of electors residing in the affected

school districts and by at least 5 percent of the number of electors residing in each affected school district. The school district clerk with whom the petition is filed shall immediately send a certified notice of the petition to the school board of each affected school district and to the secretary of the board. The petition shall include the approximate boundaries of the proposed school district.

(b) Before July 1 of any year, the school board of each school district from which territory will be detached to create the proposed school district may adopt a resolution stating that the school board will consider the creation of the school district. The resolution shall include the approximate boundaries of the proposed school district. The school district clerk of each school board adopting a resolution under this paragraph shall send a certified copy of the resolution to the school boards of each of the other affected school districts and to the secretary of the board.

(1m) HEARING; BOUNDARIES; ASSETS AND LIABILITIES. (a) Upon receipt of a petition or notice under sub. (1) (a), or upon the adoption of a resolution and the receipt of copies of resolutions adopted by the school board of each of the other affected school districts under sub. (1) (b), the school board shall hold a public hearing on the proposed reorganization.

(b) Before the October 15 following the receipt of a petition or notice under sub. (1) (a) or the adoption of resolutions under sub. (1) (b), the school boards of the affected school districts may, by the adoption of resolutions by the school boards of a majority of the affected school districts, agree on the precise boundaries of the proposed school district and the apportionment of the assets and liabilities between the affected school districts and the proposed school district according to the criteria under s. 66.0235 (2c). The school boards may establish an alternative method to govern the assignment of assets and liabilities as provided in s. 66.0235 (2c) (b). In determining the precise boundaries, the school boards may not detach territory from any additional school districts. The clerk of the school district that has the highest equalized valuation of the affected school districts shall notify the board of their agreement or their failure to reach agreement.

(c) If the school boards of a majority of the affected school districts fail to agree on the precise boundaries or on the apportionment of assets and liabilities by October 15 under par. (b), the board shall issue an order doing so by the following February 15. In determining the precise boundaries of the proposed school district, the board may not detach territory from any additional school districts.

(2) SCHOOL BOARD ACTION. Before the January 15 following the determination of the precise boundaries of the proposed school district and the apportionment of assets and liabilities under sub. (1m) (b), or before the April 15 following an order issued by the board under sub. (1m) (c), the school board of each affected school district shall adopt a resolution ordering or denying the creation of the school district. The resolution shall state the school board's rationale for ordering or denying the reorganization and include an evaluation of each of the factors specified in s. 117.15. Failure of a school board to adopt a resolution either ordering or denying the creation of the school district before the applicable date required under this subsection constitutes a denial of the creation of the school district by that school board. The school district clerk of each school board adopting a resolution under this subsection, either ordering or denying the reorganization, shall, within 5 days after the adoption of the resolution, send a certified copy of the resolution to the school boards of each of the other affected school districts and file a certified copy of the resolution as provided in s. 117.17 (2).

(2m) BOARD REVIEW. (a) The board shall review a proposed reorganization under this section if any of the following occurs:

1. The school board of each affected school district issues an order under sub. (2) granting the proposed reorganization, and a petition for board review of the proposed reorganization, signed by at least 10 percent of the number of electors residing in the territory of the affected school districts that is not within the proposed school district, is filed with the secretary of the board. The petition shall be filed by February 15 following the school board action under sub. (2), or by May 15 following the school board action under sub. (2) if the board issued an order under sub. (1m) (c).

2. The school board of any of the affected school districts issues an order under sub. (2) denying the proposed reorganization, and a petition for board review of the proposed reorganization, signed by at least 10 percent of the number of electors residing in each affected school district, is filed with the secretary of the board. The petition shall be filed by February 15 following the school board action under sub. (2), or by May 15 following the school board action under sub. (2) if the board issued an order under sub. (1m) (c).

(b) Upon receipt of a petition for review under par. (a), the secretary of the board shall immediately notify the school board of each affected school district and the board shall hold a public hearing on the proposed reorganization. After the hearing and after consulting with the school boards of the affected school districts, but before May 15, the board may modify the boundaries of the proposed school district and the apportionment of assets and liabilities between the affected school districts and the proposed school district unless the board determined the boundaries and apportionment under sub. (1m) (c). The board may not modify the boundaries by detaching territory from any additional school districts.

(bm) If the board modifies the boundaries or the apportionment of assets and liabilities under par. (b), it shall immediately notify the school board of each affected school district, and before June 15, the school board of each affected school district may proceed under sub. (2) to issue an order either granting or denying the proposed reorganization, as modified by the board. The board shall then proceed under par. (c) without the filing of a new petition under par. (a) but may not issue an order under par. (c) before June 21.

(c) By August 1 following receipt of a petition for review under par. (a), the board shall issue an order either granting or denying the proposed reorganization. The order shall state the board's rationale and include an evaluation of each of the factors specified in s. 117.15. The board may overturn the decision of the school boards only if it finds that the school boards' conclusions regarding the factors specified in s. 117.15 are not supported by the facts or that the school boards did not properly apply these factors.

(3) REFERENDUM. (a) A referendum shall be held under par. (b) if any of the following occurs:

1. The school boards of all of the affected school districts grant the proposed reorganization and there is no petition filed for board review.

2. The school boards of all of the affected school districts grant the proposed reorganization, a petition for board review is filed and the board grants the proposed reorganization.

3. The school board of one or more of the affected school districts denies the proposed reorganization, a petition for board review is filed and the board grants the proposed reorganization.

(b) If a referendum is required under par. (a), the board shall immediately notify the school boards of each of the affected school districts and the clerk of each city, village or town, any part of which is contained within an affected school district. The referendum shall be held in the territory of the school district proposed to be created by the reorganization.

(c) In addition to the referendum under par. (a) 3., a referendum shall be held under par. (d) if par. (a) 3. applies and a petition conforming to the requirements of s. 8.40 requesting a referendum, signed by at least 20 percent of the number of electors residing in the territory of the affected school districts, is filed with the clerk of the affected school district with the largest equalized valuation before the 2nd Tuesday of September following issuance of the board's order under sub. (2m) (c).

(d) If a referendum is required under par. (c), the school district clerk receiving the petition shall immediately notify the school boards of each of the affected school districts and the clerk of each city, village or town, any part of which is contained within an affected school district. The referendum shall be held in the territory of the affected school districts as provided under s. 117.20.

(4) ORDER OF REORGANIZATION IF APPROVED AT REFERENDUM. If a majority of the votes cast in the referendum held under sub. (3) (b) in the territory of the school district proposed to be created by the reorganization is in favor of the creation of the proposed school district, and a majority of the votes cast in the referendum held under sub. (3) (d) in the territory of the affected school districts is in favor of the creation of the proposed school district, at the time of canvassing the returns the school boards of the affected school districts shall make and file an order of school district reorganization under s. 117.17 (2). The reorganization shall take effect on the following July 1 unless the school board of the newly created school district adopts and files a resolution, as provided in s. 117.17 (2), stating that the reorganization shall take effect on the 2nd July 1 following the order of reorganization.

(4m) PROCEDURES FOR CREATION OF A SCHOOL DISTRICT BASED ON AN OPPORTUNITY SCHOOLS AND PARTNERSHIP PROGRAM; CERTAIN VILLAGES. (a) In this subsection:

1. "Eligible unified school district" has the meaning given in s. 115.999 (2m) (a).

2. "Village board" means the village board of a village located in an eligible unified school district.

(b) If a village board adopts a resolution under s. 115.999 (2m) (c) affirming the village board's intent to create a new school district or a resolution to provide a referendum under s. 115.999 (2m) (d), the village board shall submit the resolution to the board.

(c) 1. Upon receipt of a resolution under par. (b), the board shall hold a public hearing on the proposed reorganization. After the hearing and after consulting with the school board of the eligible unified school district and the village boards of the villages located within the proposed school district, the board shall determine the apportionment of assets and liabilities between the eligible unified school district and the proposed school district according to the criteria under s. 66.0235 (2c).

2. By no later than 180 days after the village board receives notice under s. 115.28 (10o) (d), the board shall issue an order that includes the territory of the new school district, as described in the resolution adopted by the village board, and the apportionment of assets and liabilities as determined under subd. 1.

(d) A binding referendum on a proposed reorganization ordered by the board under par. (c) 2. shall be held in the territory of the school district proposed to be created by the reorganization.

(e) 1. If a majority of the votes cast in the referendum held under par. (d) is in favor of the creation of the proposed school district, no later than 60 days after the referendum is held, the village boards of the villages included in the proposed school district shall adopt a resolution to designate all of the following for the proposed school district:

a. The number of school board members under s. 120.01 or 120.41.

b. The terms of initial members of the school board under s. 120.02 (3) (a).

c. The method of election of school board members under s. 120.06 or 120.42.

2. A village that adopts a resolution under subd. 1. shall submit the resolution to the eligible unified school district.

3. If a majority of the votes cast in the referendum held under par. (d) is in favor of the creation of the proposed school district, after receiving a resolution under subd. 2., the school board of the eligible unified school district shall make and file an order of school district reorganization under s. 117.17 (2). In the order, the school board shall designate that the first election of school board members of the newly created school district shall occur at the regularly scheduled spring election immediately following the date on which the order is filed with the board. The reorganization shall take effect on the July 1 described in the resolution adopted by the village board under s. 115.999 (2m) (c).

(f) Subsections (1) to (4) and ss. 117.14 and 117.15 do not apply to a reorganization under this subsection.

(5) APPLICABILITY. This section does not apply to a reorganization that would result in the creation of a school district that has the same boundaries that an existing school district would have if territory were detached from one or more other school districts and attached to the existing school district under s. 117.12, 117.13 or 117.132 unless the existing school district operates only elementary grades.

(6) LIMITATION ON FURTHER REORGANIZATION. No school district created by a reorganization under this section may consolidate with another school district under s. 117.08 or 117.09, or have all of its territory attached to another school district under s. 117.10, 117.11 or 117.132, within 10 years after the effective date of the reorganization under this section. This subsection does not apply if the school district was created by detaching territory from a single school district, and the consolidation under s. 117.08 or 117.09 or the attachment under s. 117.10, 117.11 or 117.132 will consolidate the school district with, or reattach its territory to, the school district from which its territory was detached by the reorganization which created the school district.

History: 1997 a. 286; 2001 a. 30; 2017 a. 59.

117.11 Detachment and attachment of large territory.

(1) APPLICATION. This section applies to the detachment of territory from one school district and its attachment to an adjoining school district if one of the following applies:

(a) The assessed value of the territory proposed to be detached from one school district and attached to an adjoining school district, divided by the assessment ratio of the taxation district, is equal to or greater than 7 percent of the equalized valuation of the school district from which the territory is proposed to be detached.

(b) Seven percent or more of the enrollment of the school district from which the territory is proposed to be detached resides in the territory proposed to be detached from that school district.

(2) INITIATION OF PROCEDURES. A majority of the electors residing in territory proposed to be detached from one school district and attached to an adjoining school district, or owners of more than 50 percent of the territory proposed to be detached from one school district and attached to an adjoining school district, as measured by its assessed valuation divided by the assessment ratio of the taxation district, may file a written petition with the clerk of the school district in which the territory is located requesting the detachment of the territory from that school district and its attachment to an adjoining school district. The petition shall include a description of the territory sufficiently accurate to determine its location in the school district in which it is located,

as certified by the clerk of each city, town or village within which all or part of the territory is located, and the number of pupils residing in that territory who, on the most recent of the preceding 3rd Friday of September or 2nd Friday of January, were enrolled in the school district from which the territory is proposed to be detached, as certified by the clerk of that school district. Upon receipt of the petition, the school district clerk shall send a certified notice of the petition to the school board of the school district to which the territory is proposed to be attached and to the secretary of the board.

(3) SCHOOL BOARD ACTION. In the first July beginning after receipt of a petition under sub. (2), the school boards of the affected school districts may order the territory detached from the school district in which it is located and attached to the adjoining school district by the adoption, by each of those school boards, of a resolution ordering the detachment and attachment. Failure of a school board to adopt a resolution either ordering or denying the detachment and attachment before August 1 constitutes a denial of the reorganization by that school board. The school district clerk of each school board that adopts a resolution ordering or denying the reorganization under this subsection shall, within 5 days after the adoption of the resolution, send a certified copy of the resolution to the school board of the other affected school district and file a certified copy of the resolution as provided under s. 117.17 (2). If the school board of each affected school district adopts a resolution ordering the detachment and attachment, the reorganization shall take effect on the July 1 following the adoption of the resolutions, unless a referendum is required under sub. (4).

(4) REFERENDUM. (a) A referendum on the proposed reorganization shall be held if one of the following occurs before the 2nd Tuesday of September following the adoption of a resolution under sub. (3):

1. The school board of either affected school district directs the holding of a referendum.

2. A petition conforming to the requirements of s. 8.40 requesting a referendum, signed by at least 10 percent of the electors who reside in either affected school district, is filed with the clerk of the school district from which the territory is proposed to be detached. The validity of the petition shall be governed by the rules promulgated under s. 8.40 (3).

(b) If a referendum is directed or a petition requesting a referendum is filed under par. (a), the school district clerk of the school board adopting the resolution or the school district clerk receiving the petition shall immediately notify the school board of the other affected school district, the secretary of the board and the clerk of each city, village or town, any part of which is contained within an affected school district. The referendum shall be held in the affected school districts as provided under s. 117.20. Votes shall be counted separately for each affected school district.

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

History: 1989 a. 114, 192.

117.12 Detachment and attachment of small territory initiated by owner. (1) APPLICATION. This section applies to the detachment of territory from one school district and its attachment to an adjoining school district if all of the following apply:

(a) The assessed value of the territory proposed to be detached from one school district and attached to an adjoining school district, divided by the assessment ratio of the taxation district, is less than 7 percent of the equalized valuation of the school district from which it is proposed to be detached.

(b) Less than 7 percent of the enrollment of the school district from which the territory is proposed to be detached resides in the territory proposed to be detached from that school district.

(2) PETITION. A majority of the electors residing in the territory described under sub. (1) or owners of 50 percent or more of that territory may file a written petition with the clerk of the school district in which the territory is located requesting the detachment of the territory from that school district and its attachment to an adjoining school district. The petition shall include a description of the territory sufficiently accurate to determine its location in the school district in which it is located, as certified by the clerk of each city, town or village within which all or part of the territory is located, and the number of pupils residing in that territory who, on the most recent of the preceding 3rd Friday of September or 2nd Friday of January, were enrolled in the school district from which the territory is proposed to be detached, as certified by the clerk of that school district. Upon receipt of the petition, the school district clerk shall send a certified copy of the petition to the school board of the school district to which the territory is proposed to be attached and to the secretary of the board.

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

(4) APPEAL TO PANEL. If the detachment and attachment of territory is denied by either school board under sub. (3), a majority of the electors residing in the territory or the owners of 50 percent or more of the territory may appeal the denial to an appeal panel by filing notice of appeal with the secretary of the board before the March 15 following the denial. The secretary of the board shall send a copy of the notice of appeal to the school board of each affected school district. Except as provided under sub. (5), the appeal panel shall issue an order either affirming the school board's denial of the proposed reorganization or ordering all or any part of the territory described in the petition under sub. (2) detached from the school district in which it is located and attached to the adjoining school district. The order shall be issued before the June 15 following the filing of the notice of appeal. The order shall be in writing, shall include a statement of reasons for the order and shall be filed as provided under s. 117.17 (2). If the appeal panel orders territory detached from one school district and attached to an adjoining school district, the reorganization shall take effect on the following July 1.

(5) BOARD REVIEW. (a) If more than one appeal to detach territory from a single school district is filed under sub. (4) before March 15 and any of the following applies, the board shall review all of those appeals:

1. The total assessed valuation of the territory proposed to be detached under the appeals, divided by the assessment ratio of the taxation district, is equal to or greater than 7 percent of the equalized valuation of the school district from which the territory is proposed to be detached.

2. The total number of pupils residing in the territory proposed to be detached under the appeals who, on the most recent of the preceding 3rd Friday of September or 2nd Friday of January, were enrolled in the school district from which the territory is proposed to be detached is equal to or greater than 7 percent of that school district's enrollment.

(am) In addition to reviewing appeals described under par. (a), the board shall review an appeal if any of the following applies:

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

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

(b) The secretary of the board shall notify the school board of each affected school district and each owner or elector who signed the notice of appeal under sub. (4) that the appeal or appeals will be reviewed by the board under this subsection rather than by an appeal panel under sub. (4). The board shall issue an order either affirming the school boards' denial of all or any of the proposed reorganizations under par. (a) or the proposed reorganization under par. (am) or ordering all or any part of the territory described in all or any of the petitions under sub. (2) or included in the appeal filed under par. (am) detached from the school district in which it is located and attached to an adjoining school district. In addition to the criteria under s. 117.15, in making its decision the board also shall consider the effect that the proposed detachments under par. (a), taken as a whole, will have on the school district from which the territory is proposed to be detached, or the cumulative effect on that school district of the proposed detachment under par. (am). The board's order shall be issued before the June 15 following the filing of the notice of appeal. The order shall be in writing, shall include a statement of reasons for the order and shall be filed as provided under s. 117.17 (2). If the board orders territory detached from one school district and attached to an adjoining school district, the reorganization shall take effect on the following July 1.

History: 1989 a. 114, 287.

Sub. (1) allows the detachment of "island" parcels from school districts that adjoin. A detached parcel need not adjoin the school district to which it is attached. Stockbridge School Dist. v. DPI, 202 Wis. 2d 214, 550 N.W.2d 96 (1996), 94-1867.

117.13 Detachment and attachment of small territory initiated by school boards. (1) APPLICATION. This section applies to the detachment of territory from one school district and its attachment to an adjoining school district if all of the following apply:

(a) The assessed value of the territory proposed to be detached from one school district and attached to an adjoining school district, divided by the assessment ratio of the taxation district, is less than 7 percent of the equalized valuation of the school district from which the territory is proposed to be detached.

(b) Less than 7 percent of the enrollment of the school district from which the territory is proposed to be detached resides in the territory proposed to be detached from that school district.

(2) SCHOOL BOARD ACTION. The school boards of 2 adjoining school districts may order territory detached from one of the school districts and attached to the other school district by the adoption, by each of the school boards, of a resolution ordering the detachment and attachment. The resolution shall include a description of the territory sufficiently accurate to determine its location in the school district in which it is located, as certified by the clerk of each city, village or town within which all or any part of the territory is located, and the number of pupils residing in that territory who, on the most recent of the preceding 3rd Friday of September or 2nd Friday of January, were enrolled in the school district from which the territory is proposed to be detached, as certified by the clerk of that school district. Prior to adopting a resolution under this subsection, the school board of each affected school district shall give the electors residing in and the owners of the territory notice of the proposed reorganization and an opportunity to meet with the school board to present reasons for or against the proposed reorganization. The school district clerk of each school board that adopts a resolution under this subsection shall, within 5 days after adopting the resolution, send a certified copy of the resolution to the school board of the other affected school district and file a certified copy of the resolution as provided under s. 117.17 (2). If the school board of each of the affected school districts adopts a resolution ordering the detachment and attachment, the reorganization shall take effect on the first July 1 after the March 1 following the adoption of the resolutions, unless an appeal is filed under sub. (3).

(3) APPEAL TO PANEL. A majority of the electors residing in or the owners of 50 percent or more of the territory detached from one school district and attached to an adjoining school district under sub. (2) may appeal the reorganization to an appeal panel by filing notice of appeal with the secretary of the board before the first March 15 following the adoption of the resolution under sub. (2). The secretary of the board shall send a copy of the notice of appeal to the school board of each affected school district. If an appeal is filed under this subsection, the appeal panel shall issue an order detaching all or any part of the territory described in the resolution adopted under sub. (2) from the school district in which it is located and attaching it to the adjoining school district, or denying the reorganization. The order shall be issued before the June 15 following the filing of the notice of appeal. The order shall be in writing, shall include a statement of reasons for the order and shall be filed as provided under s. 117.17 (2). If the appeal panel affirms the school boards' order, the reorganization shall take effect on the following July 1.

History: 1989 a. 114.

117.132 Territory annexed to certain municipalities. (1) APPLICATION. This section applies to the proposed attachment to a school district of territory that is located wholly in a county with a population of more than 325,000 and less than 750,000.

(1m) DEFINITIONS. In this section:

(a) "Annexed" means annexed or attached under s. 66.0217, 66.0219, 66.0221, 66.0223, 66.0225, 66.0227, 66.0301 (6), or 66.0307.

(b) "Less than 50 percent of the land in the annexed territory is developed" means that on the date of annexation, less than 50 percent of the land in the annexed territory, as measured by geographic area, is occupied by permanent improvements, including

buildings, streets, sidewalks, parking lots, driveways, sewers or utilities, or is incidental to such improvements.

(c) "Municipality" means any city or village any portion of which is located in a county that has a population of more than 325,000 and less than 750,000.

(d) "Municipal school district" means a school district whose territory includes more than 50 percent of the territory of a municipality, as measured by geographic area.

(2) INITIATION OF PROCEDURES. (a) If territory is annexed to a municipality, the territory is not included in the municipal school district and less than 50 percent of the land in the annexed territory is developed, the school board of the municipal school district may adopt a resolution requesting the school board of the school district in which the annexed territory is located to meet with it to discuss the detachment of the annexed territory from the school district in which it is located and its attachment to the municipal school district. The resolution shall include a description of the territory sufficiently accurate to determine its location in the school district in which it is located, as certified by the clerk of the annexing municipality. The clerk of the municipal school district shall send a certified copy of the resolution to the school board of the school district in which the annexed territory is located, to all owners of territory located in the annexed territory and to the secretary of the board.

(b) If territory is annexed to a municipality and the territory is not included in the municipal school district, the owners of more than 50 percent of the annexed territory, as measured by its assessed valuation divided by the assessment ratio of the taxation district, may file a written petition with the clerk of the school district in which the territory is located requesting the detachment of the annexed territory from the school district in which it is located and its attachment to the municipal school district. The petition shall include a description of the territory sufficiently accurate to determine its location in the school district in which it is located, as certified by the clerk of the annexing municipality. Upon receipt of the petition, the school district clerk shall send a certified copy of the resolution to the school board of the municipal school district, to all owners of territory located in the annexed territory and to the secretary of the board.

(3) SCHOOL BOARD ACTION. In the first July beginning after the adoption of a resolution under sub. (2) (a) or the receipt of a petition under sub. (2) (b), the school boards of the affected school districts may order the territory detached from the school district in which it is located and attached to the municipal school district by the adoption, by each of the school boards, of a resolution ordering the detachment and attachment. Failure of a school board to adopt a resolution before August 1 either ordering or denying the detachment and attachment constitutes a denial of the reorganization by that school board. The school district clerk of each school board adopting a resolution under this subsection that orders or denies the reorganization shall, within 5 days after adopting the resolution, send a certified copy of the resolution to the school board of the other affected school district and to each of the owners of territory in the annexed territory and file a certified copy of the resolution as provided under s. 117.17 (2). If the school board of each affected school district adopts a resolution under this subsection ordering the detachment and attachment, the reorganization shall take effect on the following July 1.

(4) BOARD REVIEW. (a) The board shall review a reorganization proposed under this section if one of the following occurs:

1. Less than 50 percent of the land in the annexed territory is developed, one of the school boards under sub. (3) adopts a resolution ordering the reorganization, the other school board denies the reorganization and, before the following September 1, either of the school boards files a petition with the secretary of the board requesting board review of the proposed reorganization.

2. Before the September 1 following the granting or denying of the proposed reorganization under sub. (3), the owners of more than 50 percent of the annexed territory, as measured by its assessed valuation divided by the assessment ratio of the taxation district, file a petition with the secretary of the board requesting board review of the proposed reorganization.

(b) If a petition requesting review is filed under par. (a) 1., the secretary of the board shall immediately notify the school board of the other affected school district and each of the owners of territory in the annexed territory. If a petition requesting review is filed under par. (a) 2., the secretary of the board shall immediately notify the school board of each affected school district. Before the following January 15, the board shall issue an order either affirming the denial of the proposed reorganization or detaching all or part of the annexed territory described in the resolution or petition under sub. (2) from the school district in which it is located and attaching it to the municipal school district. The board's order shall be in writing, shall include a statement of reasons for the order and shall be filed as provided under s. 117.17 (2). If the board orders territory detached from the school district in which it is located and attached to the municipal school district, the reorganization shall take effect on the following July 1.

History: 1989 a. 114; 1991 a. 269; 1999 a. 150; 2007 a. 43; 2017 a. 207 s. 5.

117.14 Appeal to court. (1) Any person aggrieved by the denial of a consolidation under s. 117.08 (2) or 117.09 (2), the granting of a detachment and attachment of territory under s. 117.11 (3) or any order of the board or an appeal panel under this chapter may, within 30 days after copies of the order are filed with the secretary of the board under s. 117.17 (2), appeal the order to a circuit court as follows:

(a) If the order is issued under ss. 117.08, 117.09 or 117.10, the appeal shall be filed with the circuit court of any county in which any territory of any affected school district is located.

(b) If the order is issued under ss. 117.105 to 117.132, the appeal shall be filed with the circuit court of any county in which any of the territory proposed to be detached from one school district and attached to, or included in, another school district is located or with the circuit court of any county in which any territory of the school district to which the territory is proposed to be attached, or the school district that is proposed to be created, is located.

(1m) Any person aggrieved by an order resolving a boundary dispute under s. 117.35 (3) may, within 30 days after copies of the order are filed with the secretary of the board under s. 117.17 (2), appeal the order to circuit court. The appeal shall be filed with the circuit court of any county in which any portion of the disputed territory is located.

(2) A person appealing under this section shall serve a written notice of appeal stating specifically the grounds upon which the appeal is based on the secretary of the board and file the notice with the clerk of the circuit court.

History: 1989 a. 114, 287; 1997 a. 286; 1999 a. 18.

117.15 Criteria for school district reorganizations. In making any decision under ss. 117.08 to 117.132, a school board, the board and an appeal panel shall consider the following factors as they affect the educational welfare of all of the children residing in all of the affected school districts, and may consider other appropriate factors:

(1) The geographical and topographical characteristics of the affected school districts, including the estimated travel time to and from school for pupils in the school districts.

(2) 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 educational programs.

(2m) If territory is proposed to be detached from one school district and attached to an adjoining school district or proposed to be included in a new school district under s. 117.105, whether the proposed detachment will have any adverse effect on the program currently offered by the school district from which the territory is proposed to be detached, including both curricular and extracurricular aspects of that program.

(3) The testimony of and written statements filed by the residents of the affected school districts.

(4) The estimated fiscal effect of the proposed reorganization on the affected school districts, including the effect of the apportionment of assets and liabilities.

(5) Whether the proposed reorganization will make any part of a school district's territory noncontiguous.

(6) The socioeconomic level and racial composition of the pupils who reside or will reside in territory proposed to be detached from one school district and attached to an adjoining school district, in territory proposed to be included in a new school district under s. 117.105 or in school districts proposed to be consolidated or in a school district proposed to be dissolved; the proportion of the pupils who reside in such territory who are children at risk, as defined under s. 118.153 (1) (a); and the effect that the pupils described in this paragraph will have on the present and future socioeconomic level and racial composition of the affected school districts and on the proportion of the affected school districts' enrollments that will be children at risk.

(7) The results of any referendum held under s. 117.10.

History: 1989 a. 114, 287; 1997 a. 286.

On review of a decision under this section, the only issues to be considered are whether the reorganization authority acted within its jurisdiction and whether the determination was arbitrary and capricious. While an authority is bound to consider all the factors enumerated in this section, it may consider information from other sources, including matters within its knowledge and expertise. School District of Waukesha v. School District Boundary Appeal Board, 201 Wis. 2d 109, 548 N.W.2d 122 (Ct. App. 1996), 95-0905.

117.17 Reorganization order. (1) CONTENTS; EFFECTIVE DATE. (a) Every order of school district reorganization under s. 117.08, 117.09 or 117.105 that creates a new school district shall state the school districts which are dissolved or from which territory is detached to create the new school district, name the new school district, state the type of school district and the grades to be taught by the new school district pursuant to s. 115.01 (2), (3) and (5), designate the number of school board members under s. 120.01 or 120.41, designate the terms of initial members of the school board under s. 120.02 (3) (a), designate the method of election of school board members under s. 120.06 or 120.42, direct the election of school board members under s. 120.06 or 120.42, insofar as applicable, designate the date of the first election of school board members, as provided under s. 117.22 (2) (b), and fix the time and place for the first annual meeting of the new school district, if one is to be held. The secretary of the board shall give notice of the first annual meeting, if one is to be held, under s. 120.08 (1) (c), and shall designate a person to act as temporary chairperson of the annual meeting until a chairperson is elected.

(b) Every order of school district reorganization under s. 117.10 that dissolves a school district shall state the school district that is dissolved and describe the territory, assets and liabilities of the school district. Every order of school district reorganization issued under s. 117.10 (4) shall describe the territory, assets and liabilities allocated to each other school district under that subsection.

(bm) Every order of school district reorganization under s. 117.105 shall describe the territory of the school districts from which territory is detached to create the new school district, state the school district created by the order and describe the territory of the school district created by the order.

(c) Every order of school district reorganization under ss. 117.11 to 117.132 shall state the school districts from which any territory is detached and the school district to which any territory is attached and describe the territory.

(d) Every order of school district reorganization and every order under s. 117.35 (3) shall state the date on which it is to take effect. The date shall be as specified under ss. 117.08 to 117.132, 117.27 (1) and 117.35 (3). If an appeal is made to court under s. 117.14, the court may stay enforcement under s. 227.54 of the order if a showing is made that there is substantial probability that the party seeking review will prevail on the merits and will suffer irreparable harm if a stay is not granted.

(2) FILING. A certified copy of any resolution or order granting, affirming or denying a reorganization or resolving a boundary dispute shall be filed, within 5 days after it is adopted or issued, with the secretary of the board. Upon receipt of the resolution or order, the secretary of the board shall immediately place on it the date upon which it was received. If the resolution or order affirms or grants a reorganization or resolves a boundary dispute, within 5 days after receipt of the resolution or order the secretary of the board shall send a certified copy of the resolution or order by certified mail to the following:

(a) Except as provided in par. (b), the clerk of each city, village, town, or county, any part of which is contained within an affected school district, or any part of which is contained within an interested school district if the resolution or order resolves a boundary dispute.

(b) If the order is issued under s. 117.12 or 117.13, the clerk of each city, village, or town in which any part of the territory is located, and the clerk of each county in which any part of an affected school district is located.

(3) PRESUMPTION; VALIDITY OF ORDER. (a) A reorganization order or order resolving a boundary dispute shall be presumptive evidence of the facts recited therein and of the proceedings preliminary to the issuance of the order.

(b) The failure of any officer to perform a duty imposed upon him or her by this chapter does not affect the validity of a reorganization order or order resolving a boundary dispute otherwise lawfully made, but the officer is subject to s. 946.12.

History: 1989 a. 114; 1993 a. 392; 1997 a. 286; 1999 a. 18; 2005 a. 120.

117.20 Referendum procedures. (1) (a) Except as provided in par. (b), if a referendum is required under ss. 117.08 to 117.11, it shall be held on the Tuesday after the first Monday in November following receipt of the petition or adoption of the resolution under s. 117.08 (3) (a), 117.09 (3) (a), 117.10 (3) (a) or 117.11 (4) (a). If a referendum is required under s. 117.105 (3), it shall be held on the Tuesday after the first Monday in the 2nd November following receipt of the petition or adoption of the resolution under s. 117.105 (1). If a referendum is required under s. 117.105 (4m), it shall be held on the Tuesday after the first Monday in November following the date an order is issued by the board under s. 117.105 (4m) (c).

(b) 1. If the alternative timeline under s. 117.08 (5) (a) is used and a referendum is required, it shall be held on the first Tuesday in April following receipt of the petition or adoption of the resolution under s. 117.08 (3) (a).

2. If the alternative timeline under s. 117.08 (5) (b) is used and a referendum is required, it shall be held on the 2nd Tuesday

in September following receipt of the petition or adoption of the resolution under s. 117.08 (3) (a).

(2) The clerk of each affected school district shall publish notice, as required under s. 8.55, in the territory of that school district. The procedures for school board elections under s. 120.06 (9), (11), (13), and (14) apply to a referendum held under this section. The school board and school district clerk of each affected school district shall each perform, for that school district, the functions assigned to the school board and the school district clerk, respectively, under those subsections. The form of the ballot shall correspond to the form prescribed by the elections commission under ss. 5.64 (2) and 7.08 (1) (a). The clerk of each affected school district shall file with the secretary of the commission a certified statement prepared by the school district board of canvassers of the results of the referendum in that school district.

History: 1989 a. 114; 1997 a. 286; 2003 a. 265; 2007 a. 1; 2009 a. 307; 2015 a. 118; 2017 a. 59.

117.22 School boards in new school districts. (1) JOINT INTERIM SCHOOL BOARDS. (a) If school districts are consolidated under s. 117.08 or 117.09, the school boards of the consolidating school districts shall constitute the joint interim school board of the new school district.

(b) The joint interim school board under par. (a) constitutes the school board of the new school district beginning on the following date:

1. If no referendum is required, on the 2nd Tuesday of September following the adoption of the resolution under s. 117.08 (2) or 117.09 (2); except that if the alternative timeline under s. 117.08 (5) (a) is used, on the 2nd Tuesday of February following the adoption of the resolution under s. 117.08 (2); and if the alternative timeline under s. 117.08 (5) (b) is used, on the 2nd Tuesday of July following the adoption of the resolution under s. 117.08 (2).

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

(c) The joint interim school board shall constitute the school board of the new school district until a school board is elected and qualified under sub. (2). The joint interim school board shall have all the powers and duties of a school board elected for the school district. Any action by the joint interim school board requires an affirmative vote of a majority of a quorum of the joint interim board.

(2) SCHOOL BOARD ELECTIONS. (a) In this subsection, "school district clerk" means:

1. The clerk of the affected school district that has the highest equalized valuation, if an order of reorganization is issued under s. 117.08 or 117.105.

2. The clerk of the affected union high school district, if an order of reorganization is issued under s. 117.09.

(b) An order of school district reorganization issued under s. 117.08 or 117.09 shall designate the date of the first election of school board members, which shall be not later than 4 months after the effective date of the order, except as provided under par. (cm).

(bm) If an order of reorganization is issued under s. 117.105, the first election of school board members shall be held at the spring election following the referendum under s. 117.105 (3) or (4m).

(cm) No election under par. (b) may be held after February 1 and before the date of the spring election, nor after September 1 and before the date of a general election held in the same year.

(d) At least 12 weeks prior to the date of the election, the school district clerk shall publish a type A notice of the school board election, under s. 10.01 (2) (a). No later than 5 p.m. on the date 10 weeks prior to the election, any qualified elector of the school district created by the reorganization may file with the school district clerk a sworn declaration of candidacy for the school board and, if required, nomination papers, as provided under s. 120.06 (6) (b). For purposes of this paragraph, a candidate who resides in the territory of the school district created pursuant to a reorganization under s. 117.105 and is otherwise a qualified elector shall be considered a qualified elector for a school board election under par. (bm). A candidate shall file an amended declaration with the school district clerk as provided in s. 120.06 (6) (b) 5. Within 8 days after the first election in the newly created school district, the school district clerk shall notify the successful candidates of their election. On the 2nd Tuesday following the election, the clerk shall administer or receive the official oath and the newly elected members shall take office.

(e) If a primary election for the school board positions is required under s. 120.06 (7) (b), it shall be held on the day which is 4 weeks before the election, except that if the school board election is held on the day of the general election, the primary shall be held on the day of the partisan primary, and if the school board election is held on the day of the spring election, the primary shall be held on the day of the spring primary. The school district clerk shall notify the clerk of each city, village or town, any part of which is contained within an affected school district, of the primary election. The school district clerk shall give the notices under s. 120.06 (8) (c) on the Monday before the primary election, if one is held, and on the Monday before the school board election.

(f) Costs chargeable to the school district under ss. 5.68 and 7.03 shall become a charge upon the new school district and the school board of the new school district shall pay all such costs.

(3) INELIGIBILITY. Any person elected to a school board in an election under sub. (2) (bm) who is also a member of the school board of an affected school district is not eligible to serve as a member of the school board for the school district created by the reorganization unless the person resigns as a member of the school board of the affected school district prior to receiving the official oath of office under sub. (2) (d).

History: 1989 a. 114, 287; 1993 a. 392; 1997 a. 286; 1999 a. 83; 2009 a. 307; 2011 a. 75; 2017 a. 59.

117.25 Transfer of assets, liabilities and employees; agreements between consolidating school districts. (1) CONSOLIDATIONS. On the effective date of a consolidation of school districts under s. 117.08 or 117.09, all of the following apply:

(a) The school districts that were consolidated cease to exist.

(b) Title to all property and the assets of the school districts under par. (a) become vested in the new consolidated school district.

(c) Claims, obligations and contracts of the school districts under par. (a) become claims, obligations and contracts of the new consolidated school district.

(d) 1. Employees of the school districts under par. (a) become employees of the new consolidated school district.

2. The new consolidated school district assumes the rights and obligations of the school districts under par. (a), under the provisions of any collective bargaining agreement that applies to these employees.

3. The collective bargaining agreement remains in effect until the expiration date of the agreement or until a new collective bargaining agreement between the school district and representatives of these employees is effective, whichever occurs first.

(1m) CONSOLIDATIONS; AGREEMENTS TO CONTINUE PROGRAMS OR FACILITIES. (a) A written agreement between the school boards of 2 or more school districts that are considering

consolidating under s. 117.08 or 117.09 to continue operating a program or facility at a specific location for a specified period after consolidation, not to exceed 5 years, shall be binding upon the joint interim school board of the new school district under s. 117.22 and any subsequently elected school board of the new school district. The school district clerk of the school district with the largest equalized valuation shall file a copy of the agreement with the state superintendent.

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

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

(a) Assets and liabilities are assigned to the school districts under s. 66.0235 on the effective date of the reorganization.

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

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

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

(4) CREATIONS. When a school district is created under s. 117.105, all of the following apply:

(a) Any employee of a school district from which territory is detached by the reorganization who is laid off as a result of the reorganization has priority over other persons for 3 years after the effective date of the reorganization for new positions and vacant positions for which he or she is qualified in the school district that is created by the reorganization.

(b) Any person who wishes to exercise his or her priority under par. (a) shall notify the school district that is created by the reorganization, in writing, that he or she wishes to be considered for any new position or vacant position and shall include in the notice the address to be used by the school district to notify the person of such positions.

History: 1989 a. 114, 287; 1995 a. 27 s. 9145 (1); 1997 a. 27, 286; 1999 a. 150 s. 672.

The relief afforded in sub. (2) (b) applies to teachers laid off after May 8, 1990 as the result of reorganization, regardless of the authority under which the reorganization was initiated. Laid off teachers may maintain a private action for damages for a violation of sub. (2) (b), as that provision creates a right to hiring priority, but not a remedy. Anderson v. School District of Ashland, 181 Wis. 2d 502, 510 N.W.2d 822 (Ct. App. 1993).

117.27 Change of district type. (1) A common or union high school district may be changed into a unified school district, a unified school district operating only high school grades may be changed into a union high school district, and a unified school district operating only elementary grades or both elementary and high school grades may be changed into a common school district, if at least 30 days prior to the spring election a petition conforming to the requirements of s. 8.40 requesting the change is filed with the school district clerk signed by at least 10 percent of the electors residing in the school district. The validity of the petition shall be governed by the rules promulgated under s. 8.40 (3).

(2) (a) The petition shall state that the school board of the predecessor school district shall become the first school board of the successor school district. Upon receipt of the petition, the school district clerk shall publish a class 1 notice, under ch. 985, of the filing of the petition. The notice shall include the date, time and place at which the school board shall hold a public hearing on the proposed change. The public hearing shall be held at least 7 days prior to the date of the spring election.

(b) The school district clerk shall include in the notice of the spring election a statement that the election ballot will include a question on the change requested by the petition. The form of the ballot shall correspond to the form prescribed by the elections commission under ss. 5.64 (2) and 7.08 (1) (a) and the question on the ballot shall be:

"Shall the .... (name of school district) be a .... (type of school district structure set forth in the petition)?

Yes .... No ...."

(3) If a majority of the electors voting at the spring election vote in favor of the change, the school board shall issue an order of school district reorganization effective on the July 1 following the spring election. A certified copy of the order shall be filed as provided under s. 117.17 (2).

(4) When the type of school district is changed, all property, assets, claims, contracts, liabilities and obligations of the predecessor school district become the property, assets, claims, contracts, liabilities and obligations of the successor school district.

History: 1983 a. 27; 1985 a. 218; 1985 a. 225 ss. 57, 82; 1985 a. 332; 1989 a. 114 s. 11; Stats. 1989 s. 117.27; 1989 a. 192; 2007 a. 1; 2015 a. 118.

A nonbinding resolution declaring an intent to purchase real estate in the future does not create an "obligation" under sub. (4). Perritt Limited Partnership v. Kenosha Unified School District #1, 153 F.3d 489 (1998).

117.30 Attachment upon failure to operate school. (1) (a) Except as provided under pars. (b) to (d), if a school district for 2 or more successive years has failed to operate sufficient classes at each grade level to provide all pupils who reside in the school district an opportunity to attend class at the appropriate grade level, the board shall attach the territory of the school district to one or more school districts that do so. Within 60 days of the date on which a school district becomes subject to this section, the state superintendent shall so notify the school district clerk and the clerk of each municipality in which part of the school district lies. Prior to August 30 of the year in which the school district becomes subject to this section, the board shall issue an order of school district reorganization attaching the school district to one or more operating school districts. Orders issued under this section take effect upon being filed as provided in s. 117.17 (2). The school board of each district to which any territory is attached under this section shall levy and collect a special tax against the property in the territory so attached for such amount as is payable for tuition and transportation, at the time of the attachment, by the school district in which the attached territory was located prior thereto, in the proportion that the equalized valuation of the attached territory bears to the total equalized val-

uation of the school district in which such territory was located prior to such attachment.

(b) Before the end of the first school year beginning after the effective date of a reorganization under s. 117.105, the school board of the school district created by the reorganization may request the department to extend the 2-year time period under par. (a) by one year. The department may grant the extension, and may renew the extension for additional one-year periods, if the department determines that the school board has adequate plans and is making adequate progress toward operating sufficient classes at each grade level to provide all pupils who reside in the school district an opportunity to attend class at the appropriate grade level.

(c) If a school district created under s. 117.105 fails to operate sufficient classes at each grade level to provide all pupils who reside in the school district an opportunity to attend class at the appropriate grade level before the end of the first school year beginning after the effective date of the reorganization under s. 117.105, plus the period of any extension granted under par. (b), the board's order under par. (a) shall reattach the territory of the school district to each of the school districts from which the territory was detached by the reorganization under s. 117.105, unless the school district from which the territory was detached is no longer an operating school district.

(d) Paragraph (a) does not apply if the school district fails to operate one or more grades but provides for their operation by another school district pursuant to a whole grade sharing agreement under s. 118.50.

(3) If an order issued under this section is voided, the nonoperating school district shall arrange for the attendance of its pupils at the schools of one or more other school districts on a nonresident tuition basis, and shall provide transportation to and from such schools by the methods provided in s. 121.55 for all of its pupils who reside 2 miles or more from the school they attend. Until a valid order has been issued, the nonoperating school district may use such funds on hand as have been raised or appropriated for operation and maintenance or levy taxes to pay for such tuition and transportation. If an order is voided, the board shall issue new orders of school district reorganization within the succeeding year.

History: 1979 c. 303; 1983 a. 27; 1989 a. 114 s. 13; Stats. 1989 s. 117.30; 1995 a. 27 s. 9145 (1); 1997 a. 27, 286; 1999 a. 32; 2015 a. 55.

117.35 School district boundary disputes. (1) SCHOOL BOARD ACTION. (a) If there is a boundary dispute, the school boards of the interested school districts may resolve the dispute by the adoption, by each of the school boards, of a resolution resolving the dispute. Before adopting such a resolution, the school boards jointly shall notify the electors residing in and owners of real property located in the disputed territory by certified mail. The notice shall include a description of the territory, as certified by the clerk of each city, town or village within which all or any part of the territory is located, shall indicate that the school boards are considering resolving the boundary dispute and shall specify the time and place of the school board meeting at which the boundary dispute will be discussed.

(b) Each of the resolutions adopted under par. (a) shall include a legal description of the territory in dispute and a legal description of that portion of the disputed territory that is to be included in each interested school district. The school district clerk of each school board that adopts a resolution under this subsection shall, within 5 days after adopting the resolution, send a certified copy of the resolution to the school board of each of the other interested school districts, file a certified copy of the resolution as provided in s. 117.17 (2) and notify the electors residing in and owners of real property located in the disputed territory. If the school board of each of the interested school districts adopts a resolution under this subsection, the resolution of the dispute shall take effect on the first July 1 after the March 1 following the adoption of the resolutions.

(2) REQUEST FOR RESOLUTION. (a) If there is a boundary dispute, the school board of any interested school district may submit a written request to the board for the resolution of the boundary dispute. The request shall state the particulars of the boundary dispute, including a legal description of the territory involved and the names of all interested school districts. The school board making the request shall send a copy of the request by 1st class mail to each interested school district at the time that the request is submitted to the board.

(b) Upon receipt of a request under par. (a), the board shall determine or request the school boards of the interested school districts to provide all of the following:

1. A description of the territory in dispute, as certified by the clerk of each city, town or village within which all or any part of the territory is located.

2. The number of pupils residing in the disputed territory who, on the most recent of the preceding 3rd Friday of September or 2nd Friday of January, were enrolled in each interested school district.

(3) ORDER. (a) Unless the school boards of the interested school districts have resolved the boundary dispute under sub. (1), within 60 days after receipt of a request under sub. (2) (a) the board shall issue an order resolving the boundary dispute. The board shall send a certified copy of the order to the school board of each interested school district and shall file a certified copy of the resolution as provided in s. 117.17 (2). The order shall take effect on the following July 1 unless the board stays the effective date of the order until the 2nd following July 1.

(b) In making a decision under par. (a), the board shall consider and give the greatest weight to decisions made previously by the board or any predecessor body. The board shall also consider the criteria specified in s. 117.15 and other evidence, including applicable property tax records.

(c) If the order under par. (a) takes effect on the following July 1, the board may specify in the order that pupils residing in the disputed territory may continue to attend school in the school district that they are attending before the order takes effect until the July 1 following the effective date of the order. The board shall base its decision on the estimated fiscal and other effects of the decision on the interested school districts.

(4) LIMITATION ON COURT ACTION. If there is a boundary dispute, the school board of any interested school district may not commence court action regarding that dispute until an order issued under sub. (3) is filed with the secretary of the board under s. 117.17 (2).

History: 1999 a. 18.