

1979 Assembly Bill 1212

Date published: May 14, 1980

CHAPTER 301, Laws of 1979

AN ACT to amend 17.26 (1), 34.01 (1), (3) to (5) and (7), 34.105 (1), 40.20 (1), (4) and (5), 115.01 (5), 115.29 (3), 115.96 (2), 116.03 (9), 118.01 (2), (3) and (11), 118.02, 118.12 (1) (a), 118.18, 118.21 (1), 118.25 (2) (a), 120.08 (2) (a) and (c), 120.10 (3), (5) and (6), 120.12 (6) and (14), 120.13 (1) (c), (5) to (7), (10), (15) and (23), 120.49 (9) and (13), 120.74 (3) and 121.93; and to create 120.13 (9m) of the statutes, relating to various changes pertaining to primary and secondary education and granting rule-making authority.

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

SECTION 1. 17.26 (1) of the statutes is amended to read:

17.26 (1) In the case of common, unified and union high school districts, by appointment by the remaining members. Such appointees shall hold office until a successor is elected and takes office under s. 120.06 (4) or 120.73 (1). When a vacancy occurs in the office of a board member who is in the last year of his or her term, or when a vacancy occurs after the spring election but on or before the ~~2nd last~~ Tuesday in ~~December~~ November in the office of a board member who is not in the last year of his or her term, the successor shall be elected at the next spring election. When a vacancy occurs between the ~~2nd last~~ Tuesday in ~~December~~ November and the next spring election in the office of a board member who is not in the last year of his or her term, the successor shall be elected at the 2nd following spring election.

SECTION 2. 34.01 (1), (3) to (5) and (7) of the statutes are amended to read:

34.01 (1) "Public deposit" means moneys deposited by the state or any county, city, village, town, drainage district, power district, school district, cooperative educational service agency, sewer district or any commission, committee, board or officer of any governmental subdivision of the state or any court of this state, or by the housing finance authority, if the authority elects to be bound by all or part of ch. 34 under s. 234.32 (2), in any state bank, savings and trust company, mutual savings bank, savings and loan association or national bank in this state or in the local government pooled-investment fund or the local government trust-investment fund, including private funds held in trust by a public officer.

(3) "Public depositor" means the state or any county, city, village, town, drainage district, power district, school district, cooperative educational service agency, sewer district, or any commission, committee, board or officer of any governmental subdivision of the state or any court of this state, or the housing finance authority if the authority elects to be bound by all or part of ch. 34 under s. 234.32 (2), which deposits any moneys in a public depository.

(4) "Governing board" means the investment board in the case of the state, the housing finance authority if the authority elects to be bound by all or part of this chapter under s. 234.32 (2), the county board or committee designated by the county board to desig-

nate public depositories in the case of a county, the city council in the case of a city, the village board in the case of a village, the town board in the case of a town, the school board in the case of a school district, the board of control in the case of a cooperative educational service agency, the clerk of court in the case of any court in this state, and any other commission, committee, board or officer of any governmental subdivision of the state not mentioned in this subsection.

(5) "Public moneys" shall include all moneys coming into the hands of the state treasurer or the treasurer of any county, city, village, town, drainage district, power district, school district, cooperative educational service agency, sewer district, or of any commission, committee, board or officer of any governmental subdivision of the state, or of the clerk of any court in this state, or of the housing finance authority if the authority elects to be bound by all or part of ch. 34 under s. 234.32 (2), by virtue of his or her office without regard to the ownership thereof.

(7) "Treasurer" ~~shall mean~~ means any duly elected, appointed or acting official of the state or of any county, city, village, town, drainage district, power district, school district, cooperative educational service agency, sewer district, or of any commission, committee, board or authority, or any officer or employe of any governmental subdivision of the state, or the clerk of any court in this state, whose duties require that he or she receive and account for public moneys.

SECTION 3. 34.105 (1) of the statutes is amended to read:

34.105 (1) Withdrawal or disbursement by a treasurer of any county, city, village, town ~~or~~, school district or cooperative educational service agency of moneys deposited in a public depository shall be made as provided by s. 66.042 (1) to (5). "Treasurer" as used ~~herein in this subsection~~ means only the elected, appointed or acting official treasurer of a county, city, village, town or, school district or cooperative educational service agency and does not include all of the other persons within the definition of that term in s. 34.01 (7). This section shall does not affect s. 67.10 (2).

SECTION 4. 40.20 (1), as affected by chapter 102, laws of 1979, and (4) of the statutes are amended to read:

40.20 (1) The board shall make the group life insurance provided under this subchapter available to any employer ~~as defined in s. 41.02 (4)~~ for the purpose of providing the employes ~~thereof~~ with group life insurance in amounts based upon their annual earnings under a plan contributed to by the employer, thereby improving morale and efficiency in the public service. The board shall have the option of providing such insurance under a separate contract. Any insurer authorized to sell life insurance in this state may provide such insurance. For the purposes of this section, "employer" has the meaning designated in s. 41.02 (4) except that a city school district shall be considered a separate employer.

(4) The governing body of any employer may elect to provide group life insurance ~~pursuant to under~~ this subchapter for the employes ~~thereof~~ by the adoption of a resolution in the form prescribed by the board. A certified copy of ~~such the~~ resolution shall be filed with the board and if received on or before November 15 in any year shall be effective as of the beginning of the ensuing calendar year. For purposes of this section, the governing body of a city school district is the city school district board.

SECTION 5. 40.20 (5) of the statutes, as affected by chapter 34, laws of 1979, is amended to read:

40.20 (5) Except as provided by sub. (5m), whenever any school district is created, the territory of which includes more than one-half of the last assessed valuation of ~~either~~ a school district which was an employer included under this subchapter at the time of such creation ~~or a city which at the time of such creation was an employer included under this subchapter and which operated a city school district~~, the school district so created shall

automatically be included under this subchapter from its inception in accordance with rules adopted by the board.

SECTION 6. 115.01 (5) of the statutes is amended to read:

115.01 (5) NAME. Each school district shall be known by the designation "School District of" followed by the name of the municipalities in which any high schools operated by the district lie, except that a school board may, by resolution ~~enacted within 90 days of April 9, 1976,~~ designate a different name for the school district; however, such name shall contain the words "School District". A school district which does not operate a high school shall be known by number and by the name of the municipalities in which it lies.

SECTION 8. 115.29 (3) of the statutes, as affected by chapter 32, laws of 1979, is amended to read:

115.29 (3) (title) AUXILIARY INSTRUCTIONAL EMPLOYEES. By order, establish classes of ~~nonprofessional school~~ auxiliary instructional employes and authorize their employment in the instructional program of the elementary and high schools for specific purposes and their reimbursement from the instructional budget. Such employes shall not be covered under ch. 42 or ss. 118.21 to 118.23 or 121.006 (2) but shall be eligible under the Wisconsin retirement fund if it is made applicable to the school district employing them.

SECTION 9. 115.96 (2) of the statutes is amended to read:

115.96 (2) NOTIFICATION. Annually, on or before April 1, a school board which may be required to offer a bilingual-bicultural education program shall send to the parent ~~or~~, legal custodian or guardian of every limited-English speaking pupil identified under sub. (1) who is eligible for participation in such a program, a notice which states that a bilingual-bicultural education program may be instituted, contains information on the procedures for registering a pupil in such a program, and provides notice of the consent required under sub. (3). The notice shall be in English and in the non-English language of ~~each bilingual-bicultural education program~~ the limited-English speaking pupil.

SECTION 10. 116.03 (9) of the statutes is amended to read:

116.03 (9) Require a bond of the ~~treasurer and~~ agency administrator and such other employes as determined by the board of control. The agency ~~treasurer within 15 days following election and the~~ agency administrator, within 15 days following the beginning of contractual duties ~~each~~, shall file a bond executed by 2 qualified sureties approved by the board of control or ~~each~~ may file a surety company bond in an amount determined by the board of control, but at least equal to 5% of the current administrative budget of the agency. If the board of control so determines, the agency treasurer ~~and the agency administrator~~ shall file additional personal or surety bonds in such ~~greater~~ amounts as the board of control requires. The agency may purchase surety company bonds with agency funds.

SECTION 11. 118.01 (2), (3) and (11) of the statutes are amended to read:

118.01 (2) PHYSIOLOGY AND HYGIENE. Physiology and hygiene, sanitation, the effects of controlled substances under ch. 161 and alcohol upon the human system, symptoms of disease and the proper care of the body shall be taught ~~in either the 6th, 7th or 8th grade,~~ but no pupil ~~shall~~ may be required to take such instruction if his or her parents file with the teacher a written objection thereto. Instruction in physiology and hygiene shall be offered in every high school.

(3) PHYSICAL EDUCATION. Physical instruction and training in physical education shall be provided for all pupils. ~~In 1 and 2 room schools such instruction and training shall take the form of supervised playground work.~~ In this subsection "physical education" means instruction in the theory and practice of physical exercise and instruction in hygiene, but does not include medical supervision. No person may be denied, on the basis of sex, necessary physical education facilities, equipment, instruction or financial support,

or the opportunity to participate in any physical education activity, as provided in 20 U.S.C. USC 1681 et seq.

(11) FAMILY AND CONSUMER EDUCATION. Every public high school shall provide instruction, as part of one or more existing courses developed by the school district in which the school is located ~~and approved by the state superintendent~~, on the rights and responsibilities of the family and consumer, including, without limitation because of enumeration, the consumer and the economy; consumer behavior and decision-making; contracts; credit alternatives; budgeting and family finances, with emphasis on frugality and thrift; savings and investments; insurance; profit and loss; the responsibility and morality of family living; and other societal concerns for instilling qualities of integrity and fiscal competence in young persons during their formative family years in accord with sub. (5). At the option of the school district, such instruction may also be provided in a separate course.

SECTION 12. 118.02 of the statutes is amended to read:

118.02 Special observance days. On the following days when school ~~shall be~~ is held, ~~unless the dates fall on a Saturday or Sunday, and~~ the day shall be appropriately observed: January 15, Dr. Martin Luther King, Jr. Day; February 12; February 15, Susan B. Anthony's birthday; February 22; April 13, American Creed Day; September 28, Frances Willard Day; October 9, Leif Erikson Day; October 12; and November 11. If any such day falls on a Saturday or Sunday, the observance shall be on a school day immediately preceding or following. If school is held on June 14, that day shall be appropriately observed as Robert M. La Follette, Sr. Day.

SECTION 13. 118.12 (1) (a) of the statutes is amended to read:

118.12 (1) (a) Within the school district of his or her jurisdiction or employment, no school teacher, agency ~~coordinator~~ administrator or employe, school district administrator or other school employe connected with any public school may act as an agent or solicitor for the sale of school books, school supplies or school equipment, or solicit or promote such sales to individuals or the school district or receive any fee or reward for any such sales.

SECTION 14. 118.18 of the statutes is amended to read:

118.18 Teacher reports. Every teacher shall record the names, ages and studies of all pupils under his or her charge and their daily attendance and such other facts or matters relating to the school as the state superintendent or school board requires. ~~Any teacher who fails to comply with this section shall forfeit his wages during the time of such failure.~~

SECTION 15. 118.21 (1) of the statutes is amended to read:

118.21 (1) The school board shall contract in writing with qualified teachers. The contract, with a copy of the teacher's authority to teach attached, shall be filed with the school district clerk. Such contract, in addition to fixing the teacher's wage, may provide for compensating the teacher for necessary travel expense ~~in going to and from the school-house at a rate not to exceed 6 cents per mile~~. A teaching contract with any person not legally authorized to teach the named subject or at the named school shall be void. All teaching contracts shall terminate if, and when, the authority to teach terminates.

SECTION 16. 118.25 (2) (a) of the statutes is amended to read:

118.25 (2) (a) As a condition of employment, the school board, except in ~~cities of the 1st class cities~~, shall require a physical examination, including a chest X-ray or tuberculin test, of every school employe of the school district. Freedom from tuberculosis in a communicable form is a condition of employment. In the case of a new school employe, the school board may permit the school employe to submit proof of an examination, chest X-ray or tuberculin test complying with this section which was taken within the past 2 ~~years~~ 90 days in lieu of requiring such examination, X-ray or test. If the reaction to the tuberculin test is positive, a chest X-ray shall be required. Additional physical examina-

tions shall be required thereafter at intervals determined by the school board. ~~A chest X-ray or tuberculin test shall be required at least once every 3 years. If the reaction to such tuberculin test is positive, a chest X-ray shall be required.~~ The school employe shall be examined by a physician in the employ of or under contract with the school district, but if a physician is not employed or under contract, the examination shall be made by a physician selected by the school employe.

SECTION 17. 120.08 (2) (a) and (c) of the statutes are amended to read:

120.08 (2) (a) ~~Upon the written request of~~ petition filed with the school district clerk signed by 3 % of the number of heads of families residing in the school district as enumerated by the last school census or 100 electors, whichever is less, or upon the motion of the school board in a common or union high school district, a special meeting shall be called by the school district clerk or, in his or her absence, by the school district president or school district treasurer. If the written request ~~petition~~ includes a subject beyond the power of the special meeting to transact, the school district clerk shall reject such subject and so notify each elector signing the ~~request~~ petition.

(c) A special meeting has the powers of the annual meeting, ~~except the power to elect school board members.~~ No more than 2 special meetings may be held between annual meetings to consider or act upon the same subject, except that in counties having a population of 500,000 or more no more than 4 such meetings may be held. No tax may be voted at a special meeting, unless notice thereof is included in the notice under par. (b). The amount of the tax proposed to be voted shall be set forth in the notice. The special meeting may vote a tax of a lesser amount than stated in the notice, but not a greater amount.

SECTION 18. 120.10 (3), (5) and (6) of the statutes are amended to read:

120.10 (3) SALARIES OF SCHOOL BOARD MEMBERS. ~~Vote annual salaries for school board members. In a school district operating only schools with 2 teachers or less the annual salary of the school district president, the school district treasurer and any other members of the school board, except the school district clerk, may not exceed \$100 each, and the annual salary of the school district clerk may not exceed \$125, except that in a school district which does not operate schools, the annual salary limitations shall be \$20 and \$25, respectively. or an amount for each school board meeting the member actually attends.~~

(5) BUILDING SITES. ~~Designate sites for school district schoolhouses or teacherages buildings and provide for the erection thereon of suitable buildings or for the lease of suitable buildings for a period not exceeding 20 years with annual rentals as fixed by the lease.~~

(6) TAX FOR SITES, BUILDINGS AND MAINTENANCE. ~~Vote a tax to purchase or lease suitable sites for school buildings, to build, rent, lease or purchase and furnish, equip and maintain schoolhouses, teacherages or outbuildings school district buildings. Such~~ The tax may be spread over as many years as are required to pay any obligations approved or authorized at the annual meeting including rental payments due in future years under an authorized lease.

SECTION 19. 120.12 (6) and (14) of the statutes are amended to read:

120.12 (6) (title) INSURANCE ON SCHOOL PROPERTY. ~~Keep the school buildings and, equipment and other property~~ amply insured. If there are no funds in the school district treasury sufficient to pay the premium, the school board may execute a note for that purpose.

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

SECTION 20. 120.13 (1) (c), (5) to (7), (10), (15) and (23) of the statutes are amended to read:

120.13 (1) (c) The school board may expel a pupil from school whenever it finds ~~him~~ the pupil guilty of repeated refusal or neglect to obey the rules, or finds that ~~he~~ the pupil engaged in conduct while at school or while under the supervision of a school authority which ~~endangers~~ endangered the property, health or safety of others, and is satisfied that the interest of the school demands ~~his~~ the pupil's expulsion. Prior to such expulsion, the school board shall hold a hearing ~~thereon~~. Not less than 5 days' written notice of the hearing shall be sent to the pupil and, if the pupil is a minor, to ~~his~~ the pupil's parent or guardian, specifying the particulars of the alleged refusal, neglect or conduct, stating the time and place of the hearing and stating that the hearing may result in the pupil's expulsion. Upon request of the pupil and, if the pupil is a minor, the pupil's parent or guardian, the hearing shall be closed. The pupil and, if the pupil is a minor, ~~his~~ the pupil's parent or guardian may be represented at the hearing by counsel. The school board shall keep written minutes of the hearing. Upon the ordering by the school board of the expulsion of a pupil, the school district clerk shall mail a copy of the order to the pupil and, if the pupil is a minor, to ~~his~~ the pupil's parent or guardian. The expelled pupil or, if the pupil is a minor, ~~his~~ the pupil's parent or guardian may appeal the expulsion to the state superintendent. An appeal from the decision of the state superintendent may be taken within 30 days to the circuit court of the county in which the school is located. This paragraph shall be printed in full on the face or back of the notice.

(5) BOOKS, STATIONERY AND EQUIPMENT. Purchase necessary books and stationery for the proper administration of the school district; purchase equipment, books, school apparatus and heating and ventilating apparatus ~~approved by the department~~ for the use of the schools of the school district, ~~not exceeding \$600 in any one year~~, from any funds not otherwise appropriated; and purchase any school books which in its judgment are needed by pupils whose parents are not able to furnish such books. ~~The \$600 limitation in any one year does not apply to such purchases in a common school district operating elementary and high school grades.~~

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

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

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

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

(23) **BONDS FOR OFFICERS AND EMPLOYEES.** Require an officer or employe of the board to give security for the faithful performance of his or her duties in such form and amount as the board determines, and may require at any time additional bonds and sureties of any officer or employe.

SECTION 21. 120.13 (9m) of the statutes is created to read:

120.13 (9m) **LEGAL SERVICES.** Retain an attorney or attorneys to represent the board or school district in any action or proceeding brought for or against the board or district and provide for any other legal service for the welfare of the school district.

SECTION 22. 120.49 (9) and (13) of the statutes are amended to read:

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

(13) **BONDS FOR OFFICERS AND EMPLOYEES.** Require an officer or employe of the board to give security for the faithful performance of his or her duties in such form and amount as the board determines, and may require at any time additional bonds and sureties of any officer or employe.

SECTION 23. 120.74 (3) of the statutes is amended to read:

120.74 (3) Each school board member may be paid an annual salary or an amount fixed by the school board for each school board meeting the member actually attends.

SECTION 25. 121.93 of the statutes is amended to read:

121.93 Referendum requirements. (1) Notwithstanding any other statutes, school boards and school district annual meetings shall follow the procedures set forth in this section prior to final adoption of any school district budget which contains an excess cost; an "excess cost" is the amount by which the budgeted controllable cost exceeds the controllable cost allowed under this subchapter.

(2) (a) Whenever a school board or annual meeting recommends the adoption of a school district budget which contains an excess cost, it shall promptly adopt a resolution supporting inclusion in the final school district budget of an amount equal to the excess cost.

(b) Upon adoption of the resolution, the school board shall direct its clerk to call a special election referendum for the purpose of submitting the resolution to the electors for approval or rejection. In lieu of special election separately held referendum, the school board may specify that the election referendum be held at the next succeeding spring primary or election or September primary or general election, if such election is to be held within 90 days of the adoption of the resolution of the school board.

(3) The school district clerk shall publish a class 2 notice, under ch. 985, containing a statement of the purpose of the referendum and the amount of money specified in sub. (2) (a), and stating the time, date and place of holding such referendum election, polling places and the hours during which the polls will be open.

(4) The clerk of the school board shall provide the election officials with all necessary election supplies, registration lists if the district has a register of its electors, and, for a special election referendum held at other than a spring primary or election or September primary or general election, shall provide or arrange for the necessary voting machine or ballot boxes and booths and shall select the necessary election officials. The form of the ballot shall correspond substantially with form "D1" annexed to s. 5.64 (2). The notice of the election and the ballot to be used ~~thereat~~ shall embody a copy of the resolution, and the question submitted shall be whether the resolution shall or shall not be approved.

(5) ~~The election shall be held and conducted and the votes cast thereat~~ Votes cast at the referendum shall be counted and canvassed as at regular municipal elections and the results certified to the school district clerk. A majority of all votes cast in the school district shall decide the question.

SECTION 26. Municipal employers insurance plan. Each city school district that is included in the municipal employers insurance plan under section 40.20 of the statutes on the effective date of this act by virtue of a prior resolution of a city as an employer is presumed to have elected to continue participating in the plan until submission of a resolution terminating the participation as provided in section 40.20 (10) of the statutes.
