

1999 Assembly Bill 279

Date of enactment: **December 17, 1999**
Date of publication*: **December 31, 1999**

1999 WISCONSIN ACT 18

AN ACT *to amend* 117.05 (9) (a) (intro.), 117.17 (1) (d), 117.17 (2) and 117.17 (3); and *to create* 117.03 (3g), 117.03 (4m), 117.05 (9) (a) 6., 117.14 (1m) and 117.35 of the statutes; **relating to:** school district boundary disputes.

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

SECTION 1. 117.03 (3g) of the statutes is created to read:

117.03 (3g) "Boundary dispute" means a dispute between 2 or more school districts concerning whether certain territory is located within a particular school district.

SECTION 2. 117.03 (4m) of the statutes is created to read:

117.03 (4m) "Interested school district" means a school district involved in a boundary dispute.

SECTION 3. 117.05 (9) (a) (intro.) of the statutes is amended to read:

117.05 (9) (a) (intro.) 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 ~~and~~, 117.132 ~~and~~ 117.35:

SECTION 4. 117.05 (9) (a) 6. of the statutes is created to read:

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

SECTION 5. 117.14 (1m) of the statutes is created to read:

117.14 (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.

SECTION 6. 117.17 (1) (d) of the statutes is amended to read:

117.17 (1) (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 ~~and~~, 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.

SECTION 7. 117.17 (2) of the statutes is amended to read:

117.17 (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, by certified

* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

mail, a certified copy of the resolution or order to 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.

SECTION 8. 117.17 (3) of the statutes is amended to read:

117.17 (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.

SECTION 9. 117.35 of the statutes is created to read:

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).