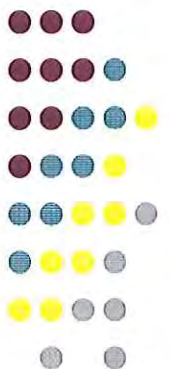




School District Reorganization

Wisconsin Legislative Fiscal Bureau
January, 2011



School District Reorganization

Prepared by

Layla Merrifield

Wisconsin Legislative Fiscal Bureau
One East Main, Suite 301
Madison, WI 53703

School District Reorganization

In recent years, interest has grown in public school district reorganization options, including consolidation, creation, dissolution, and the transfer of large territory. In general, statutory provisions allow for the reorganization by any of these methods for any school district except Milwaukee Public Schools. This paper describes the provisions of Chapter 117 of the statutes, including the procedures that govern major school district reorganization, and the general school aid and revenue limit adjustments applicable to reorganized districts. In addition, the School District Boundary Appeal Board and evaluation criteria for school district reorganizations are discussed.

School District Boundary Appeal Board

The School District Boundary Appeal Board (SDBAB) is an attached board in the Department of Public Instruction (DPI). The Board comprises 12 school board members appointed by the State Superintendent of Public Instruction for staggered two-year terms and the State Superintendent or designee, who serves as the chairperson of the Board. Four Board members must be school board members of school districts with small enrollments, four must be school board members of school districts with medium enrollments, and four must be school board members of school districts with large enrollments. No two Board members may reside within the boundaries of the same cooperative educational service agency. Small, medium, and large school districts are defined by rule as the bottom, middle, and top thirds of school districts when placed in order of enrollment.

The State Superintendent appoints three members of the Board to hear appeals filed regarding the detachment and attachment of territory, one each from small, medium, and large school districts. For other types of reviews, the State Superin-

tendent appoints seven members, including the State Superintendent or his or her designee, and two members each from small, medium, and large districts. Any action of the Board requires the affirmative vote of four of the seven members appointed.

School District Consolidation

School district consolidation may be initiated by the adoption of resolutions by two or more school boards stating that they will consider consolidating their school districts. The school district clerk of each school board adopting such a resolution must 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 SDBAB. If the school boards do not specify an alternative timeline as described below, the following timeline and procedures apply.

In the first July following adoption of the resolutions to consider consolidation, the affected school boards may order the school districts consolidated by adoption of resolutions ordering the consolidation. A consolidation may occur only if all of the affected school boards agree by August 1. The school district clerk of each school board must, within five days after the adoption of a resolution either ordering or denying a consolidation, 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 with the SDBAB. If the resolution approves reorganization, within five days after receipt of the resolution, the Secretary of the SDBAB must send a certified copy to the clerk of each city, village, town or county, any part of which is contained within an affected school district.

If the school board of each affected school dis-

tract adopts a resolution ordering the consolidation, the consolidation takes effect on the next July 1, unless a referendum is required. If the affected school boards agree to consolidate, a referendum must be held if a petition requesting a referendum is filed before the second Tuesday of September. The petition must be signed by at least 10% of the electors who reside in any affected school district and must be filed with the clerk of the school district that has the highest equalized valuation of the affected school districts. Alternatively, a referendum must be held if, at the time of adopting a resolution ordering the consolidation, the school board of any affected school district directs the holding of a referendum. The results of the referendum vote are binding, and the referendum must pass in each affected school district for the consolidation to occur. The consolidation referendum is held on the Tuesday following the first Monday in November. If the consolidation is approved, then the school districts are consolidated as of the next July 1.

Alternative Timelines. Under 2009 Act 307, two alternative timelines are established, either of which a school board may elect to follow by specifying their chosen timeline in the resolution to consider consolidation.

Under the first alternative, the resolutions ordering or denying a consolidation must be adopted in the first December beginning after the adoption of resolutions by two or more school boards that they will consider consolidating their districts. Failure of a board to order or deny a consolidation before January 1 constitutes denial of the consolidation by that board.

The petition requesting a referendum must be filed before the second Tuesday in February under this timeline, and if a referendum is required it must be held on the first Tuesday in April. If a majority of referendum voters in each affected school district are in favor of consolidation, the school districts are consolidated on the second following July 1.

Under the second alternative timeline, the reso-

lutions ordering or denying a consolidation must be adopted in the first May beginning after the adoption of resolutions by two or more school boards stating that they will consider consolidating their school districts. 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. A petition requesting a referendum on the consolidation must be filed before the second Tuesday of July following adoption of the resolutions ordering consolidation. If a referendum is required, it must be held on the second Tuesday of September following receipt of the petition or adoption of the resolution. If a majority of referendum voters in each affected school district are in favor of consolidation, the school districts are consolidated on the following July 1.

Consolidated Districts. On the effective consolidation date of two or more districts, the school districts that were consolidated cease to exist. Title to all property and the assets of the school districts become vested in the new consolidated district. Claims, obligations, and contracts of the school districts become claims, obligations, and contracts of the new consolidated school district. Employees of the school districts become employees of the new consolidated district. The new consolidated district assumes the rights and obligations of the consolidating districts under the provisions of any collective bargaining agreement that applies to these employees. 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. A written agreement between two or more school districts considering consolidation to continue to operate a program or facility at a specific location for a specified period after consolidation, not to exceed five years, is binding on the new joint interim school board or elected school board.

The school boards of the consolidating school districts make up the joint interim school board of

the new school district. The joint interim school board begins its duties, if no referendum is required, on the second Tuesday of September following the adoption of the resolution to consolidate, or, if a referendum is required, on the 31st day following the date the order of reorganization is filed.

Under the alternative timelines established under Act 307, the joint interim school board begins its duties, if no referendum is required, on either the second Tuesday of February under the first alternative, or the second Tuesday of July under the second alternative, following a school board's adoption of a consolidation resolution.

The joint interim board has all of the powers and duties of a school board elected for the school district and performs those duties until a new school board is elected. The date of the next election is set in the resolution to consolidate, usually within four months after the consolidation effective date. Any action of the joint interim school board requires an affirmative vote of a majority of a quorum of the joint interim board.

Any person aggrieved by the denial of the consolidation by the school boards may appeal the decision to a circuit court. To begin the appeal, the aggrieved person must serve written notice, specifically stating the grounds for the appeal, upon the Secretary of the SDBAB and file the notice with the clerk of circuit court of any county in which any territory of any affected school district is located. The appeal must be initiated within 30 days after copies of the school boards' decisions are filed with the Secretary of the SDBAB.

Recent School District Consolidation. School district consolidation, while relatively rare, has become more common in the last five years as more districts have studied their options for reorganization. The recent consolidations began with two K-8 school districts (the Trevor School District and the Wilmot School District). In November, 2005, voters in each of these districts approved a referendum for consolidation, and the

consolidated Trevor Wilmot School District took effect in the 2006-07 school year.

In July, 2008, the school boards of the Park Falls School District and the Glidden School District voted to consolidate to form the Chequamegon School District, beginning in the 2009-10 school year. This consolidation was approved by voters in each of the school districts.

The Chetek and Weyerhaeuser school district boards voted to consolidate in June, 2009, and the consolidation was approved by voters in each of the districts in November, 2009. The consolidation and formation of the Chetek-Weyerhaeuser School District took effect on July 1, 2010. Because of these consolidations, the number of school districts in the state was reduced from 426 in 2008-09 to 424 in 2010-11.

Consolidation Aid Adjustments. In the school year in which a school district consolidation takes effect and in each of the subsequent four school years, the consolidated school district's state general school aids cannot be less than the total aggregate state general school aids received by the consolidating school districts in the school year prior to the consolidation. In addition, an aid incentive is provided for those districts that do consolidate. In calculating state general school aids, for a school district created by a consolidation, in the school year in which the consolidation takes effect and in each of the subsequent four school years, the primary and secondary ceiling cost amounts for shared costs are multiplied by 1.15 and rounded to the next lowest dollar. The same is true for a consolidated district's primary, secondary, and tertiary guaranteed valuations per member, which are multiplied by 1.15 and rounded to the next lowest dollar, for the same period of time. Further, any additional state aid generated by these three provisions for a consolidated district is outside of revenue limits.

Consolidation Feasibility Study Grants. Under 2007 Act 20, a new program was created to provide grants to school districts for consolidation feasibility

ity studies. One-time funding of \$250,000 state, general purpose revenue (GPR) in 2008-09 was provided. A consortium of two or more school districts could apply to DPI for a grant of up to \$10,000 to conduct a study. Initial grants were provided to six consortia of school districts: (a) Chetek and Weyerhauser, which later consolidated; (b) Glidden and Park Falls, which later consolidated; (c) Bruce and Ladysmith-Hawkins; (d) Benton, Cuba City, Southwestern, and Shullsburg; (e) Montello and Westfield; and (f) Prairie Du Chien and Wauzeka-Steuben. DPI allowed a second round of grant applications through the end of October, 2008, and awarded grants to two groups of school districts: (a) Pecatonica and Argyle; and (b) Cornell and Gilman. DPI then accepted a third round of grant applications, funding studies by (a) Belleville, Monticello, and New Glarus; (b) Boscobel and North Crawford; and (c) Wabeno and Laona. DPI was prohibited from encumbering any funds from the appropriation after June 30, 2009.

A consortium applying for a grant was required to submit a plan identifying the districts engaged in the study, the issues the study will address, and how the grant funds will be expended. A district could not be a member of more than one consortium. DPI was required to give priority to applications that demonstrated prior attempts to address underlying issues associated with management and operation of the districts' programs. A consortium that received a grant is required to submit the results of the study to DPI.

Act 20 also required DPI to award one or more grants to study consolidation totaling \$30,000 to school districts in Ashland, Price, or Sawyer Counties in 2007-08 from an existing appropriation for supplemental aid. Under this provision, DPI awarded grants of \$9,000 each to the Glidden, Park Falls, and Butternut School Districts, and \$3,000 to the Mellen School District.

School District Creation

Under 1997 Act 286, a procedure was estab-

lished under which a school district can be created out of a portion or portions of the territory of one or more existing districts. The reorganization to create a new school district may be initiated before July 1 of any year by the adoption of resolutions to consider creating the new district by the school boards of all of the school districts containing territory within the proposed district. Alternatively, a written petition may be filed with the clerk of the district that has the highest equalized valuation of the affected districts. The petition must be signed by electors who total: (a) at least 20% of the total number of electors residing in the affected school districts; and (b) at least 5% of the electors residing in each affected district. In either case, the petition or resolution must include the approximate boundaries of the proposed district. Before agreeing on the precise boundaries of the new school district and the allocation of assets and liabilities, each affected school board must hold a public hearing, or joint school board hearings, on the reorganization.

Before October 15, the school boards of a majority of the affected school districts may, by adoption of a resolution, agree on the precise boundaries and the allocation of assets and liabilities between the affected school districts and the proposed school district. When territory is transferred from one school district to another, each district involved must be assigned assets and liabilities based on the proportion of the equalized valuation of all taxable property in the territory transferred to the equalized valuation of all taxable property of the school district from which territory is taken.

The affected school boards may, by resolution, establish an alternative method of asset and liability apportionment if the boards find that it is necessary to provide a more equitable method than is described above. 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, the SDBAB will do so by the following February 15. Neither the school boards nor the SDBAB may detach territory from any additional district.

If, by October 15, the affected districts agree on precise boundaries and the apportionment of assets and liabilities, each affected school board has until January 15 to adopt a resolution ordering or denying the creation of the school district. If, by October 15, the affected districts do not agree on precise boundaries and the apportionment of assets and liabilities and the SDBAB makes the determination, each affected school board has until April 15 to adopt a resolution ordering or denying the creation of the school district.

In both cases, the resolution must state the school board's rationale for ordering or denying the reorganization and include an evaluation of the criteria specified in law. If a school board fails to adopt a resolution either ordering or denying the creation of the school district before the applicable date, it is considered a denial of the creation of the school district by that school board. If any one of the affected school boards denies the reorganization and no petition for SDBAB review is filed, then the process ends and there is no reorganization. If all of the affected school boards grant the reorganization and no petition for SDBAB review is filed, then a referendum is held.

The SDBAB must review a proposed reorganization if: (a) all of the affected school districts grant the reorganization and a petition for SDBAB review, signed by at least 10% of the number of electors residing in the territory of the affected school districts that is not within the proposed school district, is filed; or (b) any of the affected school districts deny the reorganization and a petition for SDBAB review, signed by at least 10% of the number of electors residing in each affected school district, is filed.

The petition for SDBAB review must be filed by February 15, if the districts originally agreed on the precise boundaries and assets and liabilities, or by May 15, if the Board determined the precise boundaries and assets and liabilities. Upon receipt of a petition for review, the SDBAB must 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 SDBAB may modify the boundaries and the apportionment of assets and liabilities. (If the SDBAB originally drew the boundaries and made the allocation of assets and liabilities, the SDBAB may not modify their original plan.) The SDBAB may not detach territory from any additional school districts if it modifies the boundaries. If the SDBAB modifies the boundaries or the apportionment of assets and liabilities at this point, each affected school board, before June 15, may issue an order to grant or deny the proposed reorganization, as modified by the Board.

If another petition for SDBAB review is not filed at this point, the SDBAB can proceed to issue an order granting or denying the proposed reorganization, but not before June 21. By August 1, the SDBAB must issue its order either granting or denying the proposed reorganization. The order must state the Board's rationale and include an evaluation of the statutory criteria. The SDBAB may overturn the decision of the local school boards only if it finds that the local school boards' conclusions regarding the criteria are not supported by the facts or that the local school boards did not properly apply these factors. If the SDBAB does not grant the reorganization, there is no reorganization. If the SDBAB grants the reorganization, then a referendum is held.

If the reorganization is granted by the affected school boards or the SDBAB, before the reorganization may take effect, it must also be approved at a referendum by electors residing in the territory of the proposed new school district. A referendum is held in the territory of the school district proposed to be created by the reorganization in any of the following circumstances: (a) the school boards of all of the affected districts grant the proposed reorganization, and there is no petition for SDBAB review; (b) the school boards of all of the affected districts grant the proposed reorganization, a petition for SDBAB review is filed, and the SDBAB grants the proposed reorganization; or (c) the school board of one or more of the affected school districts denies the proposed reorganization, a peti-

tion for SDBAB review is filed, and the Board grants the reorganization.

A second referendum on the proposed reorganization may be held in the territory of the affected school districts (the entire territory of all of the school districts from which territory will be detached to create the new district) at the same time as the first referendum if: (a) the school board of one or more of the affected school districts denies the proposed reorganization, a petition for SDBAB review is filed, and the SDBAB grants the reorganization; and (b) a petition requesting a referendum, signed by at least 20% of the number of electors residing in the territory of the affected school districts, is filed with the district with the largest equalized valuation before the second Tuesday of September.

If voters approve the reorganization in the first referendum from above, if only one referendum is required, or in both referenda if two are required, the school boards of the affected districts must make and file an order of school district reorganization with the Secretary of the SDBAB. The reorganization takes effect on the following July 1 unless the school board of the newly created school district adopts and files a resolution stating that the reorganization takes effect on the second July 1 following the order of reorganization.

Within 30 days after copies of any order from SDBAB are filed with the Secretary of the SDBAB, an appeal may be filed. The appeal is filed with circuit court of any county in which any of the territory proposed to be detached from, or included in, another school district is located or with the circuit court of any county in which any territory proposed to be attached, or the school district that is proposed to be created, is located.

The first election of school board members in a newly-created school district is held at the spring election following the referendum. School board members elected to a school board in an election in a newly-created district must reside in the territory

of the new school district. Any person elected to the school board in a newly-created school district who is also a member of the school board of an affected school district is not eligible to serve unless the person resigns as a member of the other school board.

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 three years for new positions and vacant positions for which he or she is qualified in the newly-created school district. Any person who wishes to exercise his or her priority must 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.

Recent School District Creation. There has been one school district created under these provisions in recent years, although there have been discussions of potential new districts in several areas of the state. After a series of actions by the school board of the Shawano-Gresham School District in conformance with the statutes governing school district creation, voters approved a referendum on the question of creating the Gresham School District in November, 2006. The new school district began operations in the 2007-08 school year, and there now is a separate Shawano School District and Gresham School District.

School District Creation Revenue Limit--New Districts. For a newly-created district, the revenue limit for its first year of operation is the weighted average of prior year revenues per pupil of the school districts from which territory was detached to create the new district, plus the allowable revenue increase for the current year. The computation is as follows: (a) for each of the existing school districts, multiply its prior year per-pupil revenue by the number of pupils enrolled in that district during the prior year who resided in territory that was detached from that district to create the new district; (b) sum the amounts determined in (a), and divide that sum by the total

number of pupils residing in the detached territory who were enrolled in the prior year in a school district from which the territory was detached; (c) add the allowable per-pupil revenue increase; (d) multiply the amount in (c) by the greater of: (1) the total number of pupils residing in the detached territory who were enrolled in the prior year in the school district from which the territory was detached; or (2) the number of pupils enrolled in the new school district as determined by its third Friday in September pupil count for the current school year.

Thereafter, the revenue limit for the new school district is computed as for other school districts, with the exception of the membership used in the computation. In the first school year starting after the school year beginning with the effective date of the reorganization, the base year per-pupil amount is calculated using the prior year number of pupils, and the amount of revenue available to the school district is calculated using the average number of pupils in the current and prior year. In the second year starting after the school year beginning with the effective date of the reorganization, the base year per-pupil amount is calculated using the average of number of pupils in the two prior years, and the amount of revenue available to the school district is calculated using the average number of pupils in the current and prior two years. In the third year, the new school district would have three years of pupil counts available, and the three-year rolling average calculation is used.

School District Creation Aid Adjustments--Existing Districts. Each school district from which territory is detached to create a school district has its revenue limit increased in the year that the reorganization takes effect by 5% of its general school aid. For a school district from which territory was detached to create a school district, in each of the three years beginning on the July 1 following the effective date of the reorganization: (a) the primary and secondary cost ceilings are multiplied by 1.05 and rounded to the next lower dollar; and (b) the primary, secondary, and tertiary guarantees are multiplied by 1.05 and rounded to the next lower dol-

lar. The additional aid generated by these adjustments is excluded from the calculation of revenue limits.

Revenue Limits -- Existing Districts. For revenue limits, for each school district in the school year beginning with the effective date of the reorganization, the prior year's revenue per pupil is determined. Then, the per pupil adjustment under revenue limits is added to that per pupil amount. Finally, this per pupil amount is multiplied by the greater of: (a) the number of pupils who in the previous school year were enrolled in the school district and who did not reside in the detached territory; or (b) the number of pupils enrolled in the school district in the current school year.

For the first school year starting after the school year beginning with the effective date of the reorganization, base revenues are divided by the number of pupils in the previous school year, rather than by the number of pupils in the three previous school years. In addition, the revenue limit calculation is made using the average of the number of pupils in the current school year and the previous school year, instead of the average of the current and two preceding school years. For the second school year starting after the school year beginning with the effective date of reorganization, base revenues would be divided by the average of the number of pupils in the previous two school years, rather than by the number of pupils in the three previous school years.

These methods of calculating revenue limits avoid using pupil counts from years prior to the reorganization, so that revenue limits are not affected by the larger pupil counts of these school districts before territory was detached.

Special Adjustment Aid -- Existing Districts. In general, special adjustment aid is provided to districts either to cushion the effect of reductions in general school aid from one year to the next, commonly referred to as a "hold harmless" payment, or as an incentive for school district consolidation. This aid ensures that a district's general school aid

payment is no less than 85% of its prior year payment.

A separate provision applies to a district from which territory was detached to create a new school district. For the school year beginning on the first July 1 following the effective date of the reorganization, if the school district would receive less than 85% of the amount determined as follows, then its state aid is increased to 85% of the amount determined as follows: (a) divide the school district's membership in the preceding school year (the year the reorganization takes effect) by the school district's membership in the second preceding year (the year before the reorganization); and (b) multiply the amount of state aid received by the school district in the preceding school year by the quotient under (a). In this way, before calculating the 85% hold harmless, the prior year aid amount is adjusted to reflect the proportion of membership remaining in the district following reorganization.

100% Declining Enrollment Adjustment -- Existing Districts. In general, if a school district's three-year rolling average pupil enrollment was less than the prior year three-year rolling average, the district receives a one-year, nonrecurring adjustment to its revenue limit equal to 100% of what the decline in membership would have generated. This declining enrollment adjustment under revenue limits does not apply to school districts from which territory was detached to create a new school district in the school year beginning with the effective date of the reorganization. For the first school year starting after the year beginning with the effective date of reorganization, the calculation of the 100% adjustment is modified to compare only the pupil count in the current year with the count in the previous year, rather than comparing three-year rolling averages. For the next year, the calculation is modified to compare only the average of the pupil count in the current and preceding school years with the average of the pupil count in the two previous years, rather than comparing three-year rolling averages. In this way, the declining enrollment calculation is not affected by the larger pupil counts of the affected districts prior to the

reorganization.

In the year of the reorganization, the affected school districts would not be eligible for the adjustment, because the reorganization would reduce their enrollment, and as part of the reorganization the affected districts would have an opportunity to adjust their operations to reflect this reduced enrollment.

Debt Service. For both existing and new districts, funds needed for the payment of debt service of certain debt associated with reorganizations under these provisions are not subject to revenue limits. Funds needed for the payment of any general obligation debt service authorized by resolution of any school board and secured by the full faith and credit of the school district, if the issuance of the debt was not subject to a referendum under these provisions, is not subject to revenue limits. This includes debt service on the debt issued or reissued to fund or refund outstanding municipal obligations, interest on outstanding municipal obligations, or the payment of issuance costs or redemption premiums. Both the new school district and the school district from which territory was detached are permitted to issue bonds or promissory notes for the purpose of financing any assets or liabilities apportioned to them under the reorganization. The school district's revenue limit is increased by the amount of the funds needed for the payment of the general obligation debt service on the amounts borrowed for this purpose.

Attachment and Detachment of Large Territory

A majority of the electors residing in a territory, or the owners of more than 50% of the territory as measured by assessed valuation, 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.

For the purpose of the transfer of large territory between school districts, a territory is defined as large if: (a) the assessed value of the territory

proposed to be transferred divided by the assessment ratio of the taxation district is equal to or greater than 7% of the equalized valuation of the school district from which the territory would be detached; or (b) 7% or more of the enrollment of the district from which the territory would be detached resides in that territory.

Petitions for the detachment and attachment of any large territory must be filed before July 1 with the clerk of the current school district in which the territory is located. The petition must include a sufficiently accurate description of the parcel proposed for transfer to determine its location in the district, as certified by the clerk of each city, town or village within which all or part of the territory is located, and the number pupils residing in the territory and enrolled in the district, as certified by the school district clerk. The petition must state the number of pupils residing in the territory who, on the most recent third Friday in September or second Friday in January count, were enrolled in the district. Upon receipt of the petition, the district clerk must notify the school board of the district to which the territory is proposed to be attached and the Secretary of the SDBAB.

The school boards of the affected territory, meeting jointly or separately in the first July beginning after receipt of the petition, may grant or deny the detachment and attachment of territory by adoption of a resolution. Each school board must file a copy of the resolution ordering or denying the reorganization with the SDBAB within five days after the adoption of the resolution. If both school boards agree to the attachment and detachment, then there is no referendum, and the territory is transferred effective on the July 1 following the school board approval. Failure of a school board to adopt a resolution either ordering or denying the transfer before August 1 constitutes a denial of the reorganization by that school board.

Regardless of whether the transfer is ordered or denied, a binding referendum is held if either of the following happens before the second Tuesday of September following the school board decision:

(a) either of the affected school boards directs a referendum be held; or (b) a petition requesting a referendum, signed by at least 10% of the electors residing in either affected district, is filed with the clerk of the school district from which the territory would be detached. If a referendum is necessary, it must be held on the Tuesday after the first Monday in November following the receipt of the petition or school board resolution. The transfer of the large territory must be approved by a majority of the votes cast in each affected school district in order to be approved, or the territory is not transferred.

Following the approval of a transfer of territory, assets and liabilities are assigned to the school districts according to statutory procedure, either proportionally, based on the ratio of equalized valuation of the territory to the detaching district, or according to an alternate agreement of the affected districts. The alternate agreement must pass by a three-fourths vote in each school board. Any employee of the detaching district who is laid off as a result of the transfer has priority over other persons, except current and former employees of the attaching district, for three years after the effective date of the reorganization for positions in the attaching district.

Any person aggrieved by the transfer of large territory may appeal to a circuit court within 30 days after the reorganization order is filed with the SDBAB.

School District Dissolution

The dissolution of a school district may be initiated by the adoption of a resolution by the affected school board stating it will consider dissolving the school district. The resolution must then be filed with the SDBAB and is subject to review by that board. For this type of review, the State Superintendent appoints seven members of the Board. The seven members include the State Superintendent or a designee, as well as two members each from school districts with small enrollments, districts with medium enrollments, and districts with large enrollments. The State Superintendent's designee

can be the Deputy State Superintendent or an employee of DPI. Any action of the Board requires the affirmative vote of four of the seven members, and may be appealed to a circuit court.

In the July following the adoption of the resolution to dissolve, the school board may order the school district dissolved by adopting a resolution. Failure of a school board to adopt a resolution either ordering or denying the dissolution before August 1 constitutes denial of the dissolution. If the school board's order is approved by the SDBAB, the dissolution becomes effective the following July 1.

If a school board determines to dissolve, an advisory referendum on the dissolution must be held if: (a) at the time of adopting the resolution ordering the dissolution, the school board directs the holding of an advisory referendum; or (b) before the second Tuesday of September, a petition for an advisory referendum signed by at least 10% of the electors residing in the school district is filed with the district clerk. The school district clerk must file the results of the referendum with the Secretary of the SDBAB.

After the second Tuesday in September following the adoption of a resolution to dissolve, or after the advisory referendum, the SDBAB must review the dissolution and, before the following January 15, issue an order either affirming or denying the dissolution. If the SDBAB determines that the school district should dissolve, the SDBAB is responsible for assigning the district's territory, assets, and liabilities to one or more other school districts.

Also, if dissolution is affirmed, the SDBAB must specify if the employees of the dissolving district become employees of the school district(s) to which territory is to be attached. Alternatively, the SDBAB can determine that any employee laid off as a result of district dissolution has priority over other persons, for a period of three years after the effective date of dissolution, for new or vacant positions for which they are qualified. Those laid

off employees would not have priority, however, over laid off current or former employees of the school district(s) to which the territory is to be attached.

A school district may not dissolve if it has constructed a new school building within the preceding three years for which it still has outstanding debt. This limitation does not apply if: (a) the district to which the building is assigned agrees, by vote of its school board, to accept the building and the debt; or (b) prior to dissolution, the building is sold and the debt paid.

Recent Use of Dissolution Law. There have been two recent instances of school districts proposing to dissolve under the statutes governing school district dissolution. In 2005, the School Board of the Florence School District voted to dissolve the District. After that vote, in November, 2005, two referenda were approved by voters in the District. One was advisory and supported keeping the District open. The second approved nonrecurring increases under revenue limits for school district operations for five years. After conducting a number of hearings in conformance with the statutes, the seven members of the SDBAB involved in this matter voted unanimously in December, 2005, to reverse the School Board's order and to deny the dissolution, so that the Florence School District continues in operation.

In July, 2008, the School Board of the Wausaukee School District voted to dissolve the District. After that vote, in August, 2008, a referendum was approved by voters to provide nonrecurring increases under revenue limits for school district operations for ten years. At the end of September, 2008, the seven members of the SDBAB appointed to consider this issue voted unanimously to reverse the School Board's order to dissolve the District, so the Wausaukee School District did not dissolve.

Attachment upon Failure to Operate School

If a school district for two or more successive years has failed to operate sufficient classes at each

grade level to accommodate all pupils residing in the district at the appropriate grade level, the SDBAB must attach the territory of the school district to one or more districts that do so. The school boards to which territory is attached must levy and collect a special tax against the property in the territory for the amount payable as tuition and transportation, at the time of attachment, by the detaching district.

Current law establishes an exception to the two-year limit on failing to operate sufficient classes for a newly created school district. If a school district has been created from the territory of one or more other districts, then, before the end of the first school year after the reorganization takes effect, the school board may request a one-year extension. DPI may grant such an extension, and additional one-year renewals, if it determines that the board is making progress toward sufficient operation. If a newly created district fails to operate classes within the required time period, then the SDBAB must reattach the territory to each of the districts from which territory was detached.

If an order under these provisions is voided, the non-operating district must arrange for the attendance of its pupils at other school districts on a nonresident tuition basis, and must provide transportation for pupils residing two or more miles from the school they attend. If an order is voided, then the SDBAB must issue new orders of reorganization within the succeeding year.

Staff from DPI indicate that this provision has not been invoked in recent decades.

Recent Reorganization Decisions

In 2008-09, a total of 31 reorganization proposals were considered by school boards. One was approved and transferred small territory between school districts. One resulted in the consolidation of two districts. A total of 28 petitions were denied by school boards. Of those, five were reversed by the SDBAB and later appealed in circuit court. One order of dissolution was reversed by the SDBAB.

Appendix I shows a list prepared by DPI of the reorganization orders for 2008-09.

For 2009-10, school boards considered 23 reorganizations. Of those, two transfers of territory were approved and one consolidation was ordered. A total of 20 reorganizations were denied or had no action taken by school boards. Eleven decisions were appealed to the SDBAB. Of those, four decisions were reversed and two were modified by the SDBAB. Five decisions were affirmed by the SDBAB, and one of those has been appealed to the circuit court. Appendix II shows the reorganization orders considered in 2009-10.

Criteria for School District Reorganizations

The statutes list a number of criteria by which school boards and the SDBAB must evaluate school district dissolution or reorganization requests. The effect of the reorganization is assessed for the educational welfare of all the children residing in all of the affected school districts. The following items must be considered:

- (a) geographical and topographical characteristics of the affected school districts, including the estimated travel time to and from school for pupils in the school districts;
- (b) the educational needs of students, 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;
- (c) if territory is proposed to be detached from one school district and attached to an adjoining school district, 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;
- (d) the testimony of and written statements filed by the residents of the affected school

districts;

(e) the estimated fiscal effect of the proposed reorganization on the affected school districts, including the effect of the apportionment of assets and liabilities;

(f) whether the proposed reorganization will make any part of a school district's territory non-contiguous;

(g) 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 or in a school district proposed to be dissolved;

(h) the proportion of the pupils who reside in such territory who are children at risk;

(i) the effect that the pupils affected by a reorganization 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;

(j) the results of any referendum relating to dissolution; and

(k) other appropriate factors may be considered.

APPENDIX I

2008-09 Reorganization Orders

<u>Detaching District</u>	<u>Attaching District</u>	<u>School District Order</u>	<u>Appeal Filed with DPI</u>	<u>SDBAB Decision</u>	<u>Appealed to Circuit Court</u>
Glidden	Park Falls	Consolidation		Reversed	
Wausaukee		Dissolution			
River Falls	St. Croix Central	Denial			
Sevastopol	Gibraltar Area	Denial	March 12, 2009	Affirmed	
Crivitz	Wausaukee	Denial	March 12, 2009	Affirmed	
Sauk Prairie	River Valley	Denial			
North Cape	Waterford Graded	Denial	March 10, 2009	Modified	
Norway Jt. #7	Muskego-Norway	Denial			
Princeton	Green Lake	Denial	March 13, 2009	Affirmed	
Luxemburg-Casco	Kewaunee	Denial			
Kettle Moraine	Mukwonago	Denial			
River Valley	Sauk Prairie	Denial			
River Valley	Sauk Prairie	Denial			
Glenwood City	New Richmond	Denial	March 12, 2009	Affirmed	
New Richmond	Glenwood City	Denial			
Glenwood City	Baldwin-Woodville Area	Denial			
Baldwin-Woodville Area	Spring Valley	Denial			
Merrill Area	Marathon City	Denial			
Luxemburg-Casco	Kewaunee	Denial			
Edgar	Marathon City	Denial			
Evansville Community	Oregon	Denial			
Athens	Edgar	Denial			
Stevens Point Area	Auburndale	Denial	March 13, 2009	Affirmed	
Ladysmith-Hawkins	Flambeau	Denial	March 10, 2009	Reversed	June 16, 2009
Ladysmith-Hawkins	Flambeau	Denial	March 10, 2009	Reversed	June 16, 2009
Ladysmith-Hawkins	Flambeau	Denial	March 10, 2009	Reversed	June 16, 2009
Ladysmith-Hawkins	Flambeau	Denial	March 10, 2009	Reversed	June 16, 2009
Wisconsin Dells	Portage Community	Denial/No Action			
Weyerhaeuser Area	Bruce	Reorganization			
Waukesha	Elmbrook	Denial	March 13, 2009	Affirmed	

APPENDIX II

2009-10 Reorganization Orders

<u>Detaching District</u>	<u>Attaching District</u>	<u>School District Order</u>	<u>Appeal Filed with DPI</u>	<u>SDBAB Decision</u>	<u>Appealed to Circuit Court</u>
Chetek	Weyerhaeuser Area	Consolidation			
Waupun	Randolph	Denial			
Oregon	McFarland	Denial	April 29, 2010	Affirmed	
Mauston	Wisconsin Dells	Denial	May 11, 2010	Modified	
Wisconsin Heights	Sauk Prairie	Approve			
Wausau	Marathon City	Denial	April 29, 2010	Affirmed	
Wausaukee	Wabeno Area	Denial	May 17, 2010	Affirmed	July 14, 2010
Stockbridge	Chilton	Denial	May 17, 2010	Affirmed	
Middleton-Cross Plains	Wauwaukee Community	No Action/ Denial			
Sheboygan Area	Sheboygan Falls	Denial			
River Falls	Hudson	Denial	April 28, 2010	Reversed	
Baldwin-Woodville Area	Saint Croix Central	Denial	April 29, 2010	Reversed	
Waukesha	Pewaukee	Denial	May 17, 2010	Affirmed	
Random Lake	Plymouth	Denial			
Phillips	Flambeau	Denial	April 11, 2010	Reversed	
Luxemburg-Casco	Kewaunee	Denial			
Luxemburg-Casco	Kewaunee	Denial			
Waupun	Rosendale-Brandon	No Action/ Denial	May 11, 2010	Reversed	
Middleton-Cross Plains	Madison Metropolitan	Approve			
Chippewa Falls Area	Bloomer	No Action/ Denial			
Washburn	Ashland	Denial	April 28, 2010	Modified	
Glenwood City	Baldwin-Woodville Area	Denial			
Waterford UHS	Muskego-Norway	Denial			