§ 2218. Partitioning of territory and formation of new school districts by district superintendents. Notwithstanding any other provision of law to the contrary, in addition to the authority granted under the provisions of article thirty-one of this chapter, a district superintendent of schools may order the partitioning of territory from an existing union free, central, central high school or enlarged city school district that is located within his or her supervisory district, the dissolution and reformation of the existing school district where necessary and the formation of a new union free or city school district out of such territory in accordance with the provisions of this section.

1. Definitions: For the purposes of this section and section thirty-six hundred two-f of this chapter:

a. "Actual valuation" means the actual valuation, as defined in paragraph c of subdivision one of section thirty-six hundred two of this chapter, of a school district that would result from reorganization pursuant to this section.

b. "Enlarged city school district" means a city school district of a city having a population of less than one hundred twenty-five thousand inhabitants that includes areas outside of the city boundaries.

c. "Enrollment" means the unduplicated count of all children registered to receive educational services in grades kindergarten through twelve, including children in ungraded programs as registered on the date prior to November first that is specified by the commissioner as the enrollment reporting date for the school district or non-public school, as reported to the commissioner.

d. "Municipality" means a city having a population of less than one hundred twenty-five thousand inhabitants, a village or a town, wholly contained in one school district.

e. "New school district" means the school district formed or reformed from the territory partitioned from the pre-existing school district that is coterminous with a municipality.

f. "Pre-existing school district" means a union free, central, central high school or enlarged city school district from which territory is to be partitioned pursuant to this section.

g. "Remaining school district" means the school district remaining after its boundary is altered to partition a municipality.

h. "Union free school district" means any union free school district other than a special act school district as defined in subdivision eight of section four thousand one of this chapter.

2. Minimum qualifications. To be eligible for reorganization pursuant to this section, the municipality seeking to reorganize a new school district shall have a population of at least ten thousand inhabitants and the remaining school district shall have an enrollment of at least one thousand children, provided that any territory that was added to the pre-existing school district by vote for annexation, centralization or consolidation shall not be eligible for partitioning pursuant to this section until five years after the vote approving such annexation, centralization or consolidation.

3. Procedure for reorganization. a. Reorganization pursuant to this section may be initiated by a petition to the board of education of the pre-existing school district submitted by the governing body of the municipality seeking to reorganize a new school district. If the board of education determines that the petition has been properly submitted and that the territory described in the petition meets the minimum qualifications for reorganization under this section, it shall transmit a copy to the district superintendent with a request for assistance in the development of a plan for reorganization to form a new union free or city school district out of such territory.

b. The district superintendent shall assist the petitioners in developing such reorganization plan in consultation with representatives of the pre-existing school district. Such reorganization plan shall:

(i) describe the boundaries of the new school district;

(ii) state the effective date of the reorganization and indicate whether the new school district will be a union free school district or a city school district and, in the case of reorganization involving a central high school district or a city school district, the type of school district that the remaining school district will be;

(iii) describe how the facilities needs of the new school district will be met;

(iv) describe the impact of the reorganization upon teachers and other employees of the pre-existing school district;

(v) describe the educational programs and services to be provided by the new school district, and for any reorganization that will take effect during a school year, describe how programs and services to students residing in the new school district will be continued without disruption for the balance of such school year;

(vi) set forth any real or personal property of the pre-existing school district that will be transferred to the new school district in accordance with this section;

(vii) provide for a proposed allocation of the bonded indebtedness of the pre-existing school district incurred while the territory to be partitioned was part of such pre-existing school district and for a proposed allocation of other debt of the pre-existing school district;

(viii) describe the impact of the reorganization on the contractual obligations of the pre-existing school district;

(ix) include a proposed budget for the new school district for the first school year of its operation and estimate the impact of the proposed reorganization on school taxes for taxpayers in the new school district and the remaining school district; and

(x) describe any necessary transition procedures for the first school year of operation of the new school district, including but not limited to procedures for the recommendation of special education programs and services for students with disabilities and preschool children with disabilities residing within the new school district.

c. The district superintendent shall review the proposed reorganization plan and determine whether it is in compliance with the requirements of this section. If the district superintendent certifies to the board of education of the pre-existing school district that such

plan is in compliance, such board, within twenty days after receipt of such certification, shall proceed to call a special district meeting to conduct a vote on the proposed reorganization unless such reorganization is approved by a vote of the board of education to the extent provided under paragraph d of this subdivision and shall schedule at least one public hearing on the proposed reorganization, to be held not less than seven days prior to the vote. Notice of such special district meeting shall specify the date and time at which the vote will be held, which shall be not less than twenty nor more than thirty days after the publication or posting of such notice, and the place or places within the pre-existing school district at which the vote will be held. Such notice shall be published at least once a week for three consecutive weeks preceding the meeting in at least one newspaper in general circulation in the pre-existing school district, and if there be no such newspaper in general circulation in the district, such notice shall be posted in at least five conspicuous places in said district at least twenty days before such meeting.

d. The proposed reorganization shall be subject to approval by:

(i) a majority vote of the qualified voters residing in such municipality, or a vote of at least two-thirds of the governing body of such municipality, and

(ii) a majority vote of the qualified voters residing in the remaining school district, or a vote of at least two-thirds of the board of education of the pre-existing school district provided that a member who resides in such municipality shall be ineligible to vote as a school board member on the proposition for reorganization.

e. Notwithstanding any other provision of law to the contrary, the board of education of the pre-existing school district shall be authorized to establish special election districts for the purpose of conducting the votes required under paragraph d of this subdivision, and the district superintendent shall be authorized to order any other modifications in school election procedures that are needed to carry out the provisions of this section.

4. Order of district superintendent. The clerk of the pre-existing

school district shall file with the district superintendent a certification of the results of the votes required by paragraph d of subdivision three of this section. Upon filing of a certification that both required votes are in favor of reorganization, the district superintendent shall issue an order forming or reforming the new school district, altering the boundaries of the pre-existing school district accordingly, and, where necessary, reforming the remaining school district and shall file such order in the manner prescribed in section fifteen hundred six of this chapter. The new school district shall be formed as a union free school district authorized to provide instruction in grades kindergarten through twelve, except that if the new school district is coterminous with a city having a population of one hundred twenty-five thousand inhabitants or less, such order shall designate such district as a city school district. Notwithstanding the foregoing, where the territory partitioned from a central high school district is coterminous with a former component school district of such central high school district, the district superintendent's order shall reform the component school district as a union free school district authorized to provide instruction in grades kindergarten through twelve. The remaining school district shall retain its status as a union free, central, central high school or city school district, except that (i) where the new school district is a city school district, the remaining school district shall be reformed as a union free school district, and (ii) where such reorganization would result in a central high school district with only one component district, the district superintendent shall order reformation of the remaining central high school district into a union free school district.

5. Effect of partitioning of territory. a. If there is outstanding bonded indebtedness chargeable against the pre-existing school district at the time of reorganization incurred while the territory to be partitioned was part of such pre-existing school district, the district superintendent shall apportion such indebtedness between the new school district and the remaining school district according to the actual valuation of the two districts, based on data on file with the commissioner; and any approved expenditures for debt service represented by such apportioned indebtedness shall be eligible for an apportionment

of building aid computed pursuant to subdivision six of section thirty-six hundred two of this chapter using an aid ratio computed for use in any year commencing with the nineteen hundred eighty-one--eighty-two school year for the pre-existing school district. The portion of such bonded indebtedness so apportioned shall become a charge upon the respective districts as though the same had been incurred by said districts separately, and the amount so apportioned shall not be adjusted thereafter.

b. Where the pre-existing school district has incurred indebtedness other than bonds or notes for the benefit of the residents of the municipality such other debt may be apportioned by the district superintendent between the new school district and the remaining school district in the manner and to the extent provided in the reorganization plan.

c. Upon the effective date of the reorganization, legal title and all other property rights to any school facility of the pre-existing school district that is located within the new school district shall be transferred to such new school district, except that school facilities of a central high school district shall remain the property of the central high school district. The district superintendent shall apportion the value of any school facility so transferred between the new school district and the remaining school district according to the actual valuation of the two districts based on data on file with the commissioner. In determining such value, the district superintendent shall deduct from the fair market value of the school facility the amount of any outstanding bonded indebtedness on such facility. The cost of an appraisal to determine fair market value shall be a charge upon the new school district. The board of education of the new school district shall reimburse the board of education of the remaining school district in an amount equal to the remaining school district's share of the value of the school facility as apportioned by the district superintendent, and such amount shall be a charge upon the new school district.

d. Any school bus or personal property of the pre-existing school

district that is no longer needed by the remaining school district may be transferred to the new school district upon such terms and conditions as may be agreed upon by the boards of education of the remaining school district and the new school district.

e. For any reorganization pursuant to this section that takes effect during a school year, the district superintendent shall apportion the administrative expense of the board of cooperative educational services chargeable to the pre-existing school district between the new school district and the remaining district based on the actual valuation of the two districts.

f. Members of the teaching and supervisory staff of the pre-existing school district at the time of the reorganization shall have the right to select the school district in which he or she shall be considered an employee, with the same tenure status he or she maintained in the pre-existing school district. Such selection shall be based on each teacher's seniority in the pre-existing school district, with the right of selection passing from such teachers with the most seniority to such teachers with the least seniority. Any such teacher who is unable to obtain a teaching position in the new school district because the number of positions needed is less than the number of teachers eligible to be considered employees pursuant to this paragraph shall, in such new school district and in the remaining school district, be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in a position similar to the one such teacher filled in the pre-existing school district. Such teachers shall be appointed to vacancies in such corresponding or similar positions in the order of their length of service in the pre-existing school district, within seven years from the date of the reorganization pursuant to this section. For such teachers, for salary, sick leave or any other purpose, the length of service credited in the pre-existing school district shall be credited as employment time with the new school district or the remaining school district, as applicable.

g. Members of the board of education of the pre-existing school district who reside in the territory partitioned pursuant to this

section shall vacate their positions on the effective date of the reorganization, and the vacancies so created shall be filled in the manner provided by law, provided, however, that if the board of education of the remaining school district is unable to obtain a quorum to vote on whether to fill such vacancies by appointment or to call a special district meeting to fill the vacancies by election within thirty days after the reorganization, the district superintendent shall be authorized to fill such vacancies until the next annual meeting and election of the district. Whenever a school district is reformed pursuant to this section, the reformed school district shall be the successor in interest of the former school district and the board of education of the former school district shall continue as the board of education of the reformed school district, except that where a central high school district is reformed as a union free school district the board of education of the component school district that is coterminous with the central high school district shall become the board of education of the reformed school district, and the members of the board of education of the central high school district shall vacate their positions on the effective date of the reorganization.

h. Notwithstanding any other provision of law to the contrary, if a proposal for reorganization pursuant to this section is defeated by the voters, such proposal may not be resubmitted for a vote until two years after the original vote.