



1997 ASSEMBLY BILL 183

March 13, 1997 - Introduced by Representative WILLIAMS. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to repeal** 119.23 (5) (d), 119.23 (7) (c) and 119.23 (10); **to repeal and**
2 **recreate** 119.23 (2) (a) (intro.), 119.23 (2) (a) 2., 119.23 (2) (a) 3., 119.23 (2) (b),
3 119.23 (3), 119.23 (4), 119.23 (7) (am) and 119.23 (9); and **to create** 119.23 (5)
4 (e) of the statutes; **relating to:** the Milwaukee parental choice program.

Analysis by the Legislative Reference Bureau

The current statutes allow up to 15% of the enrollment of the Milwaukee Public Schools (MPS) to attend, at no charge, any private school located in the city of Milwaukee under certain circumstances. To be eligible to participate in the Milwaukee parental choice program (MPCP), in the previous school year a pupil had to be enrolled in MPS, attending a private school under the MPCP, enrolled in grades kindergarten to 3 in a private school located in the city of Milwaukee other than under the MPCP, or not enrolled in school. The state pays the parent or guardian of the pupil an amount equal to the amount of per pupil aid that MPS receives from the state or an amount equal to the private school's educational cost per pupil, whichever is less. Payment is made in 4 instalments, in September, November, February and May. The parent or guardian must endorse the checks for the use of the private school. The state reduces the MPS school aid entitlement, for each pupil participating in the MPCP, by the amount of per pupil aid that MPS would otherwise receive.

On January 15, 1997, the Dane County Circuit Court ruled in *Jackson v. Benson*, Nos. 95 CV 1982, 1997 and 1889, slip op. (1997), that the changes made to the MPCP by 1995 Wisconsin Act 27 (the 1995-97 biennial budget act) were

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unconstitutional. The court found, *inter alia*, that the amended MPCP violated article IV, section 18, of the Wisconsin Constitution which provides that no private or local bill may embrace more than one subject.

This bill recreates portions of the MPCP, as follows:

1. The current statutes authorize a pupil to attend any private school located in the city of Milwaukee. The statutes prohibit a private school from requiring a pupil who is attending the school under the MPCP to participate in any religious activity if the pupil's parent or guardian objects. This bill specifies that the private school must be nonsectarian and eliminates the provision relating to religious activities.

2. Current law requires a private school to notify the department of public instruction (DPI) of the school's intent to participate in the MPCP by May 1 of the previous school year. This bill changes the date to March 1.

3. This bill reduces the percentage of the enrollment of MPS that may participate in the MPCP to 5% in the 1997-98 school year and to 10% thereafter.

4. If a pupil participates in the MPCP, current statutes direct DPI to pay to the pupil's parent or guardian an amount equal to the general school aid to which MPS is entitled divided by the MPS enrollment, or an amount equal to the private school's cost per pupil, whichever is less. DPI must send the check to the private school and the parent or guardian must endorse the check for the use of the private school. This bill provides that the amount of the payment is the amount of general school aid to which MPS is entitled divided by the MPS enrollment. The bill also directs DPI to pay the private school directly.

5. This bill directs DPI biennially to submit to the legislature and to each participating private school a report comparing the academic achievement, daily attendance record, percentage of dropouts, percentage of pupils suspended and expelled and parental involvement activities of pupils attending a participating private school and pupils enrolled in MPS.

6. Current statutes require the legislative audit bureau (LAB) to perform a financial and performance evaluation audit of the MPCP and to submit copies of its audit report to the legislature by January 15, 2000. This bill requires the LAB to perform a financial and performance evaluation audit of the MPCP once every 5 years and submit copies of the audit report to the legislature. The first report must be submitted by January 15, 2000.

7. This bill authorizes the state superintendent of public instruction to conduct one or more financial or performance evaluation audits of the MPCP.

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

1 **SECTION 1.** 119.23 (2) (a) (intro.) of the statutes is repealed and recreated to
2 read:

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1 119.23 (2) (a) (intro.) Subject to par. (b), beginning in the 1990-91 school year,
2 any pupil in grades kindergarten to 12 who resides within the city may attend, at no
3 charge, any nonsectarian private school located in the city if all of the following
4 apply:

5 **SECTION 2.** 119.23 (2) (a) 2. of the statutes is repealed and recreated to read:

6 119.23 (2) (a) 2. In the previous school year the pupil was enrolled in the school
7 district operating under this chapter, was attending a private school under this
8 section, was enrolled in grades kindergarten to 3 in a private school located in the
9 city other than under this section or was not enrolled in school.

10 **SECTION 3.** 119.23 (2) (a) 3. of the statutes is repealed and recreated to read:

11 119.23 (2) (a) 3. The private school notified the department of its intent to
12 participate in the program under this section by March 1 of the previous school year.
13 The notice shall specify the number of pupils participating in the program under this
14 section for which the school has space.

15 **SECTION 4.** 119.23 (2) (b) of the statutes is repealed and recreated to read:

16 119.23 (2) (b) In the 1997-98 school year, no more than 5% of the school
17 district's membership may attend private schools under this section. Beginning in
18 the 1998-99 school year, no more than 10% of the school district's membership may
19 attend private schools under this section. If in any school year there are more spaces
20 available in the participating private schools than the maximum number of pupils
21 allowed to participate, the department shall prorate the number of spaces available
22 at each participating private school.

23 **SECTION 5.** 119.23 (3) of the statutes is repealed and recreated to read:

24 119.23 (3) (a) The pupil or the pupil's parent or guardian shall submit an
25 application, on a form provided by the department, to the participating private school

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1 that the pupil wishes to attend. Within 60 days after receiving the application, the
2 private school shall notify the applicant, in writing, whether the application has been
3 accepted. The department shall ensure that the private school determines which
4 pupils to accept on a random basis, except that the private school may give preference
5 in accepting applications to siblings of pupils accepted on a random basis.

6 (b) If the private school rejects an applicant because it has too few available
7 spaces, the pupil may transfer his or her application to a participating private school
8 that has space available.

9 **SECTION 6.** 119.23 (4) of the statutes is repealed and recreated to read:

10 119.23 (4) Upon receipt from the pupil's parent or guardian of proof of the
11 pupil's enrollment in the private school, the department shall pay to the private
12 school, from the appropriation under s. 20.255 (2) (fu), an amount equal to the total
13 amount to which the school district is entitled under s. 121.08 divided by the school
14 district membership. The department shall pay 25% of the total amount in
15 September, 25% in November, 25% in February and 25% in May.

16 **SECTION 7.** 119.23 (5) (d) of the 1993 statutes is repealed.

17 **SECTION 8.** 119.23 (5) (e) of the statutes is created to read:

18 119.23 (5) (e) Biennially submit to the chief clerk of each house of the
19 legislature for distribution to the appropriate standing committees under s. 13.172
20 (3), and to each private school participating in the program under this section, a
21 report comparing the academic achievement, daily attendance record, percentage of
22 dropouts, percentage of pupils suspended and expelled and parental involvement
23 activities of pupils attending a private school under this section and pupils enrolled
24 in the school district operating under this chapter.

25 **SECTION 9.** 119.23 (7) (am) of the statutes is repealed and recreated to read:

