



ENGROSSED 2011 SENATE BILL 2

1 **AN ACT** *to repeal* 118.51 (3) (a) 5.; *to renumber and amend* 118.51 (5) (d) and
2 118.51 (15) (c); *to amend* 118.22 (2), 118.51 (3) (a) 1., 118.51 (3) (a) 2., 3. and 4.,
3 118.51 (3) (a) 6., 118.51 (3) (a) 7., 118.51 (3) (b), 118.51 (5) (a) (intro.), 118.51 (5)
4 (a) 1. (intro.), 118.51 (5) (a) 1. b., 118.51 (5) (a) 1. c., 118.51 (8), 118.51 (9), 118.51
5 (12) (b) 1. and 118.51 (15) (a); and *to create* 118.51 (3) (intro.), 118.51 (3) (a) 1m.,
6 118.51 (3m), 118.51 (5) (d) 2., 118.51 (12) (am), 118.51 (15) (c) 2. and 121.91 (4)
7 (p) of the statutes; **relating to:** the deadline for renewal of teacher contracts,
8 changing timing of application process under the open enrollment program,
9 and permitting certain pupils to submit open enrollment applications outside
10 of the regular application period.

Analysis by the Legislative Reference Bureau

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

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1 **SECTION 1b.** 118.22 (2) of the statutes is amended to read:

2 118.22 (2) On or before ~~March~~ May 15 of the school year during which a teacher
3 holds a contract, the board by which the teacher is employed or an employee at the
4 direction of the board shall give the teacher written notice of renewal or refusal to
5 renew the teacher's contract for the ensuing school year. If no such notice is given
6 on or before ~~March~~ May 15, the contract then in force shall continue for the ensuing
7 school year. A teacher who receives a notice of renewal of contract for the ensuing
8 school year, or a teacher who does not receive a notice of renewal or refusal to renew
9 the teacher's contract for the ensuing school year on or before ~~March~~ May 15, shall
10 accept or reject in writing such contract not later than the following ~~April~~ June 15.
11 No teacher may be employed or dismissed except by a majority vote of the full
12 membership of the board. Nothing in this section prevents the modification or
13 termination of a contract by mutual agreement of the teacher and the board. No such
14 board may enter into a contract of employment with a teacher for any period of time
15 as to which the teacher is then under a contract of employment with another board.

16 **SECTION 1d.** 118.51 (3) (intro.) of the statutes is created to read:

17 118.51 (3) (intro.) Except as provided under sub. (3m), the following procedures
18 govern pupil applications to attend a public school in a nonresident school district
19 under this section:

20 **SECTION 1e.** 118.51 (3) (a) 1. of the statutes is amended to read:

21 118.51 (3) (a) 1. The parent of a pupil who wishes to attend a public school in
22 a nonresident school district under this section shall submit an application, on a form
23 provided by the department under sub. (15) (a), to the school board of the nonresident
24 school district that the pupil wishes to attend, not earlier than the first Monday in
25 February and not later than the ~~3rd Friday following the first Monday in February~~

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1 last weekday in April of the school year immediately preceding the school year in
2 which the pupil wishes to attend. Applications may be submitted to no more than
3 3 nonresident school boards in any school year. ~~On the 4th Monday in February the~~
4 The nonresident school board shall send a copy of the application to the pupil's
5 resident school board and the department by the end of the first weekday following
6 the last weekday in April. The application may include a request to attend a specific
7 school or program offered by the nonresident school district.

8 **SECTION 1m.** 118.51 (3) (a) 1m. of the statutes is created to read:

9 118.51 **(3)** (a) 1m. By the first Friday following the first Monday in May, the
10 resident school board shall send to the nonresident school district a copy of the
11 individualized education program developed under s. 115.787 (2) for a child with a
12 disability whose parent submitted an application under subd. 1.

13 **SECTION 1s.** 118.51 (3) (a) 2., 3. and 4. of the statutes are amended to read:

14 118.51 **(3)** (a) 2. A nonresident school board may not act on any application
15 received under subd. 1. ~~until after the 3rd Friday following the first Monday in~~
16 ~~February~~ before May 1. If a nonresident school board receives more applications for
17 a particular grade or program than there are spaces available in the grade or
18 program, the nonresident school board shall determine which pupils to accept,
19 including pupils accepted from a waiting list under sub. (5) (d), on a random basis,
20 after giving preference to pupils and to siblings of pupils who are already attending
21 the nonresident school district and, if the nonresident school district is a union high
22 school district, to pupils who are attending an underlying elementary school district
23 of the nonresident school district under this section. If a nonresident school board
24 determines that space is not otherwise available for open enrollment pupils in the
25 grade or program to which an individual has applied, the school board may

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1 nevertheless accept a pupil or the sibling of a pupil who is already attending the
2 nonresident school district and, if the nonresident school district is a union high
3 school district, a pupil who is attending an underlying elementary school district of
4 the nonresident school district under this section.

5 3. On Except as provided under sub. (5) (d) 1., on or before the first Friday
6 following the first Monday in ~~April~~ June following receipt of the application, the
7 nonresident school board shall notify the applicant, in writing, whether it has
8 accepted the application. If the nonresident school board has accepted the applicant,
9 the school board shall identify the specific school or program that the applicant may
10 attend in the following school year. If the nonresident school board rejects an
11 application, it shall include in the notice the reason for the rejection.

12 4. On or before the first 2nd Friday following the first Monday in ~~April~~ June
13 following receipt of a copy of the application, if a resident school board denies a pupil's
14 enrollment in a nonresident school district under sub. (6), (7) or (12) (b) 1., the
15 resident school board shall notify the applicant and the nonresident school board, in
16 writing, that the application has been denied and include in the notice the reason for
17 the denial.

18 **SECTION 2.** 118.51 (3) (a) 5. of the statutes is repealed.

19 **SECTION 3.** 118.51 (3) (a) 6. of the statutes is amended to read:

20 118.51 (3) (a) 6. If Except as provided in sub. (5) (d) 2., if an application is
21 accepted, on or before the first last Friday ~~following the first Monday~~ in June
22 following receipt of a notice of acceptance, or within 10 days of receiving a notice of
23 acceptance if a pupil is selected from a waiting list under sub. (5) (d) or s. 118.40 (8)
24 (h) 5., the pupil's parent shall notify the nonresident school board of the pupil's intent
25 to attend school in that school district in the following school year.

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1 **SECTION 4.** 118.51 (3) (a) 7. of the statutes is amended to read:

2 118.51 **(3)** (a) 7. If the department has not notified a virtual charter school of
3 the pupils who may attend the school under s. 118.40 (8) (h) by the deadline for
4 informing applicants under subd. 3. ~~or 5.~~, the nonresident school district shall specify
5 in its notices under subd. 3. ~~or 5.~~ that the school district's acceptance is conditional.

6 **SECTION 5.** 118.51 (3) (b) of the statutes is amended to read:

7 118.51 **(3)** (b) *Notice to resident school district.* Annually by ~~June 30~~ July 7,
8 each nonresident school board that has accepted a pupil under this section for
9 attendance in the following school year shall report the name of the pupil to the
10 pupil's resident school board. If a pupil is selected from a waiting list under s. 118.40
11 (8) (h) 5., the nonresident school board shall report the name of the pupil to the pupil's
12 resident school board within 10 days of receiving notice of the pupil's selection from
13 the department.

14 **SECTION 5g.** 118.51 (3m) of the statutes is created to read:

15 118.51 **(3m)** ALTERNATIVE APPLICATION PROCEDURES UNDER CERTAIN
16 CIRCUMSTANCES. (a) Notwithstanding sub. (3), the parent of a pupil who wishes to
17 attend a public school in a nonresident school district under this section may, in lieu
18 of applying under sub. (3), submit an application under this subsection, on a form
19 provided by the department under sub. (15) (a), to the school board of the nonresident
20 school district that the pupil wants to attend if the pupil satisfies at least one of the
21 criteria under par. (b). Applications may be submitted to no more than 3 nonresident
22 school boards in any school year.

23 (b) The parent of a pupil may apply under this subsection only if the pupil meets
24 one of the following criteria, and shall describe the criteria that the pupil meets in
25 the application:

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1 1. The resident school board determines that the pupil has been the victim of
2 a violent criminal offense, as defined by the department by rule. An application
3 made on the basis of this criteria is not valid unless the nonresident school board
4 receives the application within 30 days after the determination of the resident school
5 board.

6 2. The pupil is or has been a homeless pupil in the current or immediately
7 preceding school year. In this subdivision, “homeless pupil” means an individual who
8 is included in the category of homeless children and youths, as defined in 42 USC
9 11434a (2).

10 3. The pupil has been the victim of repeated bullying or harassment and all of
11 the following apply:

12 a. The pupil’s parent has reported the bullying or harassment to the resident
13 school board.

14 b. Despite action taken under subd. 3. a., the repeated bullying and harassment
15 continues.

16 4. The place of residence of the pupil’s parent or guardian and of the pupil has
17 changed as a result of military orders. An application made on the basis of this
18 criteria is not valid unless the nonresident school board receives the application no
19 later than 30 days after the date on which the military orders changing the place of
20 residence were issued.

21 5. The pupil moved into this state. An application made on the basis of this
22 criteria is not valid unless the nonresident school board receives the application no
23 later than 30 days after moving into this state.

24 6. The place of residence of the pupil has changed as a result of a court order
25 or custody agreement or because the pupil was placed in a foster home or with a

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1 person other than the pupil's parent, or removed from a foster home or from the home
2 of a person other than the pupil's parent. An application made on the basis of this
3 criteria is not valid unless the nonresident school board receives the application no
4 later than 30 days after the pupil's change in residence.

5 7. The parent of the pupil, the resident school board, and the nonresident school
6 board agree that attending school in the nonresident school district is in the best
7 interests of the pupil.

8 8. The parent of the pupil and the nonresident school board agree that
9 attending school in the nonresident school district is in the best interests of the pupil.
10 If the resident school board notifies the parent of the pupil who applies under this
11 subdivision that the pupil may not attend the nonresident school district, the parent
12 may appeal the resident school district's decision to the department and must
13 explain in the appeal why the pupil applied to attend school in the nonresident school
14 district. The resident school district must respond to the appeal and provide an
15 explanation for rejecting the pupil's transfer into the nonresident school district. If
16 the department determines that the resident school district's decision to deny the
17 pupil's transfer into the nonresident school district is not in the best interests of the
18 pupil, the department shall notify the resident and nonresident school districts and
19 the pupil's parent that the pupil may attend the nonresident school district. The
20 department's determination under this subdivision is final.

21 (c) If a nonresident school board receives an application under par. (a), the
22 nonresident school board shall immediately forward a copy of the application to the
23 resident school board, and shall notify the applicant, in writing, whether it has
24 accepted the application no later than 20 days after receiving the application. If the

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1 nonresident school board has accepted the application, the nonresident school board
2 shall identify the specific school or program that the pupil may attend.

3 (d) A resident school district may notify an applicant under par. (a) that the
4 pupil may not attend a school or program in the nonresident school district only for
5 the following reasons:

6 1. The resident school district determines that the criteria relied on by the
7 applicant under par. (b) does not apply to the pupil.

8 2. a. Except as provided in subd. 2. b., the resident school district determines
9 that the costs of the special education or related services required in the
10 individualized education program under s. 115.787 (2) for a child with a disability
11 whose parent has submitted an application under par. (a), as proposed to be
12 implemented by the nonresident school district, would impose upon the child's
13 resident school district an undue financial burden in light of the resident school
14 district's total economic circumstances, including its revenue limit under subch. VII
15 of ch. 121, its ability to pay tuition costs for the pupil, and the per pupil special
16 education or related services costs for children with disabilities continuing to be
17 served by the resident school district.

18 b. Subdivision 2. a. does not apply to a pupil who submits an application under
19 par. (a) if the pupil relied upon the criteria set forth in par. (b) 1.

20 (e) If an application is accepted by the nonresident school board under par. (c),
21 the pupil may immediately begin attending the school or program in the nonresident
22 school district and shall begin attending the school or program no later than the 15th
23 day following receipt by the parent of the pupil of the notice of acceptance under par.

24 (c). If the pupil has not enrolled in or attended school in the nonresident school
25 district by the day specified in this paragraph, the nonresident school district may

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1 notify the pupil's parent, in writing, that the pupil is no longer authorized to attend
2 the school or program in the nonresident school district.

3 **SECTION 5r.** 118.51 (5) (a) (intro.) of the statutes is amended to read:

4 118.51 (5) (a) *Permissible criteria.* (intro.) Except as provided in sub. (3) (a)
5 2., the criteria for accepting and rejecting applications from nonresident pupils
6 under ~~sub.~~ subs. (3) (a) and (3m) (a) may include only the following:

7 **SECTION 6.** 118.51 (5) (a) 1. (intro.) of the statutes is amended to read:

8 118.51 (5) (a) 1. (intro.) The availability of space in the schools, programs,
9 classes, or grades within the nonresident school district. The nonresident school
10 board shall determine the number of regular education and special education spaces
11 available within the school district in the January meeting of the school board, except
12 that for the 2011–12 school year the board shall determine the number of regular
13 education and special education spaces available within the school district in the
14 February meeting of the school board. In determining the availability of space, the
15 nonresident school board may consider criteria such as class size limits,
16 pupil–teacher ratios, or enrollment projections established by the nonresident school
17 board and may include in its count of occupied spaces all of the following:

18 **SECTION 6g.** 118.51 (5) (a) 1. b. of the statutes is amended to read:

19 118.51 (5) (a) 1. b. Pupils and siblings of pupils who have applied under sub.
20 (3) (a) or (3m) (a) and are already attending the nonresident school district.

21 **SECTION 6r.** 118.51 (5) (a) 1. c. of the statutes is amended to read:

22 118.51 (5) (a) 1. c. If the nonresident school district is a union high school
23 district, pupils who have applied under sub. (3) (a) or (3m) (a) and are currently
24 attending an underlying elementary school district of the nonresident school district
25 under this section.

ENGROSSED SENATE BILL 2**SECTION 7**

1 **SECTION 7.** 118.51 (5) (d) of the statutes is renumbered 118.51 (5) (d) 1. and
2 amended to read:

3 118.51 **(5)** (d) 1. The school board of a nonresident school district may create
4 a waiting list of pupils whose applications were rejected under sub. (3) (a) 3. The
5 nonresident school board may accept pupils from a waiting list created under this
6 paragraph until the 3rd Thursday in September but only if the pupil will be in
7 attendance at the school or program in the nonresident school district on the 3rd
8 Friday in September. Notwithstanding sub. (3) (a) 6., if a pupil is accepted from a
9 waiting list created under this paragraph after the start of the school term, the
10 parent shall immediately notify the resident school district of the pupil's intent to
11 attend school in the nonresident school district for the current school term.

12 3. The department shall promulgate rules to implement and administer this
13 paragraph.

14 **SECTION 8.** 118.51 (5) (d) 2. of the statutes is created to read:

15 118.51 **(5)** (d) 2. A pupil accepted from a waiting list created under this
16 paragraph may attend the school or program in the nonresident school district even
17 if the pupil has attended a school or program in the pupil's resident school district
18 in the current school term, but not if the pupil has attended a school or program in
19 a nonresident school district in the current school term.

20 **SECTION 9.** 118.51 (8) of the statutes is amended to read:

21 118.51 **(8)** DISCIPLINARY RECORDS. Notwithstanding s. 118.125, for an
22 application submitted under sub. (3) (a), by the first Friday following the first
23 Monday in May, and within 10 days of receiving a copy of an application under sub.
24 (3m) (c), the resident school board shall provide to the nonresident school board to
25 which a pupil has applied under this section, upon request by that school board, a

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1 copy of any expulsion findings and orders pertaining to the pupil, a copy of records
2 of any pending disciplinary proceeding involving the pupil, a written explanation of
3 the reasons for the expulsion or pending disciplinary proceeding and the length of
4 the term of the expulsion or the possible outcomes of the pending disciplinary
5 proceeding.

6 **SECTION 9m.** 118.51 (9) of the statutes is amended to read:

7 118.51 (9) APPEAL OF REJECTION. If the nonresident school board rejects an
8 application under sub. (3) (a) or (7), the resident school board prohibits a pupil from
9 attending public school in a nonresident school district under sub. (3m) (d), (6), (7)
10 or (12) (b) 1., or the nonresident school board prohibits a pupil from attending public
11 school in the nonresident school district under sub. (11), the pupil's parent may
12 appeal the decision to the department within 30 days after the decision. If the
13 nonresident school board provides notice that the special education or related service
14 is not available under sub. (12) (a), the pupil's parent may appeal the required
15 transfer to the department within 30 days after receipt of the notice. If the resident
16 school board provides notice of transfer under sub. (12) (b) 2., the pupil's parent may
17 appeal the required transfer to the department within 30 days after receipt of the
18 notice. The department shall affirm the school board's decision unless the
19 department finds that the decision was arbitrary or unreasonable.

20 **SECTION 10.** 118.51 (12) (am) of the statutes is created to read:

21 118.51 (12) (am) *Estimate of costs.* 1. The nonresident school district shall
22 prepare an estimate of the costs to provide the special education or related services
23 required in the individualized education program developed under s. 115.787 (2) for
24 a child with a disability whose parent has submitted an application under this
25 section. For an application submitted for a child with a disability under sub. (3) (a),

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1 the nonresident school district shall provide a copy of the estimate of costs to the
2 resident school district by the 3rd Friday following the first Monday in May. For an
3 application submitted for a child with a disability under sub. (3m) (a), the
4 nonresident school district shall provide a copy of the estimate of costs to the resident
5 school district within 10 days after receiving or developing the individualized
6 education program for the applicant.

7 2. Except as provided in subd. 3., if the nonresident school district fails to
8 comply with the requirement under this section by the date specified, the
9 nonresident school district may not charge the resident school district for any actual,
10 additional costs incurred by the nonresident school district to provide the special
11 education and related services for the child with a disability.

12 3. Subdivision 2. does not apply if the resident school district fails to comply
13 with the requirements under sub. (3) (a) 1m.

14 **SECTION 11.** 118.51 (12) (b) 1. of the statutes is amended to read:

15 118.51 (12) (b) 1. If the estimate of the costs of the special education or related
16 services required in the individualized education program under s. 115.787 (2) for a
17 child with a disability whose parent has submitted an application under sub. (3) (a),
18 as proposed to be implemented by the nonresident school district and as provided to
19 the resident school district as required under par. (am), would impose upon the
20 child's resident school district an undue financial burden in light of the resident
21 school district's total economic circumstances, including its revenue limit under
22 subch. VII of ch. 121, its ability to pay tuition costs for the pupil, and the per pupil
23 special education or related services costs for children with disabilities continuing
24 to be served by the resident school district, the child's resident school board may
25 notify the child's parent and the nonresident school board by the ~~first~~ 2nd Friday

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1 following the first Monday in ~~April~~ June that the pupil may not attend the
2 nonresident school district to which the child has applied.

3 **SECTION 11g.** 118.51 (15) (a) of the statutes is amended to read:

4 118.51 (15) (a) *Application form.* Prepare, distribute to school districts, and
5 make available to parents an application form to be used by parents under sub. (3)
6 (a) and an application form to be used by parents under sub. (3m) (a). The form shall
7 include provisions that permit a parent to apply for transportation reimbursement
8 under sub. (14) (b). The form shall require an applicant who is applying to attend
9 a virtual charter school to indicate that he or she is applying to attend a virtual
10 charter school, the number of virtual charter schools to which he or she is applying,
11 and whether he or she is a sibling of a pupil currently enrolled in a virtual charter
12 school through the open enrollment program.

13 **SECTION 11k.** 118.51 (15) (c) of the statutes is renumbered 118.51 (15) (c)
14 (intro.) and amended to read:

15 118.51 (15) (c) *Annual report.* (intro.) Annually submit a report to the governor,
16 and to the appropriate standing committees of the legislature under s. 13.172 (3), ~~on~~
17 ~~the.~~ The report under this paragraph shall include all of the following information:

18 1. The number of pupils who applied to attend public school in a nonresident
19 school district under this section, ~~the.~~

20 3. The number of applications denied and the bases for the denials, ~~and the.~~

21 4. The number of pupils attending public school in a nonresident school district
22 under this section. The department shall specify, separately, the number of pupils
23 attending public school in a nonresident school district whose applications were
24 accepted under subs. (3) (a) 3. and (3m) (c), and, for the applications accepted under

ENGROSSED SENATE BILL 2**SECTION 11k**

1 sub. (3m) (c), the number of pupils attending under each of the criteria listed in sub.
2 (3m) (b).

3 **SECTION 11n.** 118.51 (15) (c) 2. of the statutes is created to read:

4 118.51 (15) (c) 2. The number of applications received under subs. (3) (a) and
5 (3m) (a) and, for the applications received under sub. (3m) (a), the number of
6 applications received under each of the criteria listed in sub. (3m) (b).

7 **SECTION 11r.** 121.91 (4) (p) of the statutes is created to read:

8 121.91 (4) (p) The limit otherwise applicable to a school district under sub. (2m)
9 in any school year is increased by the amount of any reduction to that school district's
10 state aid payment made under s. 118.51 (16) (b) 2. and (c) in the previous school year
11 for a pupil who was not included in the calculation of the number of pupils enrolled
12 in that school district in the previous school year.

13 (END)