



2011 SENATE BILL 2

January 11, 2011 – Introduced by Senators OLSEN, DARLING, GROTHMAN, LAZICH and VUKMIR, cosponsored by Representatives JACQUE, PRIDEMORE and THIESFELDT. Referred to Committee on Education.

1 **AN ACT** *to repeal* 118.51 (3) (a) 5.; *to renumber and amend* 118.51 (5) (d); *to*
2 *amend* 118.51 (3) (a) 1., 2., 3. and 4., 118.51 (3) (a) 6., 118.51 (3) (a) 7., 118.51
3 (3) (b), 118.51 (5) (a) 1. (intro.), 118.51 (8) and 118.51 (12) (b) 1.; and *to create*
4 118.51 (5) (d) 2. and 118.51 (12) (am) of the statutes; **relating to:** changes to
5 timing of application process under the open enrollment program.

Analysis by the Legislative Reference Bureau

Under the Open Enrollment Program (OEP), a pupil may apply to attend a public school in a school district other than the pupil's resident school district (nonresident school district) if certain conditions are met. Current law establishes a time line for filing and processing applications under the OEP. An application to attend a school in a nonresident school district is due between the first Monday in February and the third Friday following the first Monday in February. A school board that receives an application must forward a copy of the application to the pupil's resident school board by the fourth Monday in February, and may not act on the application until after the third Friday following the first Monday in February. The resident school board may, under certain conditions, deny the pupil's enrollment in the nonresident school district; the resident school board must notify the applicant that its application has been rejected by the first Friday following the first Monday in April.

The nonresident school board must notify the pupil whether it has accepted the application by the first Friday following the first Monday in April and must provide

SENATE BILL 2

the pupil with information about the specific program or school the pupil would attend by the second Friday following the first Monday in May. The pupil must inform the nonresident school board whether he or she will attend a school in the nonresident school district by the first Friday following the first Monday in June. By June 30, the nonresident school board must report the name of each pupil accepted under the OEP to the pupil's resident school board. Current law permits a nonresident school district to deny enrollment to a pupil who has been expelled from school for certain reasons, including for engaging in conduct while at school that endangered the health safety or property of others. A resident school district must provide copies of the disciplinary records of a pupil who has applied under the OEP to a nonresident school district that makes a request for such records.

This bill changes the time line for filing and processing applications under the OEP. Under the new time line, the nonresident school district must determine the number of regular education and special education spaces available within the school district at the January meeting of the nonresident school board (and, for the 2011–12 school year, at the February meeting of the nonresident school board). An application to attend a school in a nonresident school district is due between the first Monday in February and the last weekday in April. A nonresident school board that receives an application must forward a copy of the application to the pupil's resident school district by the end of the first weekday following the last weekday in April. The nonresident school board may not act on the application before May 1. The bill requires a resident school district to provide to a nonresident school district records pertaining to disciplinary proceedings involving a pupil who has applied to the nonresident school district under the OEP by the first Friday following the first Monday in May. This bill requires the nonresident school district to prepare an estimate of the costs to implement an individualized education program prepared for a child with a disability who has applied to attend a school or program in the nonresident school district, and to provide the resident school district with a copy of the estimate by the third Friday following the first Monday in May. If the nonresident school district fails to provide the information by the required date, the nonresident school district may not charge the resident school district for the costs to provide the special education and related services to the child with a disability. If the resident school board will deny the pupil's enrollment in the nonresident school district, the resident school board must notify the applicant that its application has been rejected on or before the second Friday following the first Monday in June.

The nonresident school board must notify the pupil whether it has accepted the application on or before the first Friday following the first Monday in June, and if the school board has accepted the application, it must provide the pupil with information about the specific program or school the pupil would attend at that time. The pupil must inform the nonresident school board whether he or she will attend a school in the nonresident school district by the last Friday in June. By July 7, the nonresident school board must report the name of each pupil accepted under the OEP to the pupil's resident school board.

SENATE BILL 2

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

- 1 **SECTION 1.** 118.51 (3) (a) 1., 2., 3. and 4. of the statutes are amended to read:
- 2 118.51 (3) (a) 1. The parent of a pupil who wishes to attend a public school in
3 a nonresident school district under this section shall submit an application, on a form
4 provided by the department under sub. (15) (a), to the school board of the nonresident
5 school district that the pupil wishes to attend, not earlier than the first Monday in
6 February and not later than the ~~3rd Friday following the first Monday in February~~
7 last weekday in April of the school year immediately preceding the school year in
8 which the pupil wishes to attend. Applications may be submitted to no more than
9 3 nonresident school boards in any school year. ~~On the 4th Monday in February the~~
10 The nonresident school board shall send a copy of the application to the pupil's
11 resident school board and the department by the end of the first weekday following
12 the last weekday in April. The application may include a request to attend a specific
13 school or program offered by the nonresident school district.
- 14 2. A nonresident school board may not act on any application received under
15 subd. 1. ~~until after the 3rd Friday following the first Monday in February~~ before May
16 1. If a nonresident school board receives more applications for a particular grade or
17 program than there are spaces available in the grade or program, the nonresident
18 school board shall determine which pupils to accept, including pupils accepted from
19 a waiting list under sub. (5) (d), on a random basis, after giving preference to pupils
20 and to siblings of pupils who are already attending the nonresident school district
21 and, if the nonresident school district is a union high school district, to pupils who

SENATE BILL 2**SECTION 1**

1 are attending an underlying elementary school district of the nonresident school
2 district under this section. If a nonresident school board determines that space is not
3 otherwise available for open enrollment pupils in the grade or program to which an
4 individual has applied, the school board may nevertheless accept a pupil or the
5 sibling of a pupil who is already attending the nonresident school district and, if the
6 nonresident school district is a union high school district, a pupil who is attending
7 an underlying elementary school district of the nonresident school district under this
8 section.

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

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

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

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

24 118.51 (3) (a) 6. If Except as provided in sub. (5) (d) 2., if an application is
25 accepted, on or before the first last Friday following ~~the first~~ Monday in June

SENATE BILL 2

1 following receipt of a notice of acceptance, or within 10 days of receiving a notice of
2 acceptance if a pupil is selected from a waiting list under sub. (5) (d) or s. 118.40 (8)
3 (h) 5., the pupil's parent shall notify the nonresident school board of the pupil's intent
4 to attend school in that school district in the following school year.

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

6 118.51 (3) (a) 7. If the department has not notified a virtual charter school of
7 the pupils who may attend the school under s. 118.40 (8) (h) by the deadline for
8 informing applicants under subd. 3. ~~or 5.~~, the nonresident school district shall specify
9 in its notices under subd. 3. ~~or 5.~~ that the school district's acceptance is conditional.

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

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

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

19 118.51 (5) (a) 1. (intro.) The availability of space in the schools, programs,
20 classes, or grades within the nonresident school district. The nonresident school
21 board shall determine the number of regular education and special education spaces
22 available within the school district in the January meeting of the school board, except
23 that for the 2011–12 school year the board shall determine the number of regular
24 education and special education spaces available within the school district in the
25 February meeting of the school board. In determining the availability of space, the

SENATE BILL 2**SECTION 6**

1 nonresident school board may consider criteria such as class size limits,
2 pupil–teacher ratios, or enrollment projections established by the nonresident school
3 board and may include in its count of occupied spaces all of the following:

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

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

15 3. The department shall promulgate rules to implement and administer this
16 paragraph.

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

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

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

24 118.51 (8) DISCIPLINARY RECORDS. Notwithstanding s. 118.125, by the first
25 Friday following the first Monday in May, the resident school board shall provide to

SENATE BILL 2

1 the nonresident school board to which a pupil has applied under this section, ~~upon~~
2 ~~request by that school board~~, a copy of any expulsion findings and orders pertaining
3 to the pupil, a copy of records of any pending disciplinary proceeding involving the
4 pupil, a written explanation of the reasons for the expulsion or pending disciplinary
5 proceeding and the length of the term of the expulsion or the possible outcomes of the
6 pending disciplinary proceeding.

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

8 118.51 **(12)** (am) *Estimate of costs.* The nonresident school district shall
9 prepare an estimate of the costs to provide the special education or related services
10 required in the individualized education program developed under s. 115.787 (2) for
11 a child with a disability whose parent has submitted an application under sub. (3)
12 (a) and shall provide a copy to the resident school district by the 3rd Friday following
13 the first Monday in May. If the nonresident school district fails to comply with the
14 requirement under this section by the date specified, the nonresident school district
15 may not charge the resident school district for any actual, additional costs incurred
16 by the nonresident school district to provide the special education and related
17 services for the child with a disability.

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

19 118.51 **(12)** (b) 1. If the estimate of the costs of the special education or related
20 services required in the individualized education program under s. 115.787 (2) for a
21 child with a disability whose parent has submitted an application under sub. (3) (a),
22 as proposed to be implemented by the nonresident school district and as provided to
23 the resident school district as required under par. (am), would impose upon the
24 child's resident school district an undue financial burden in light of the resident
25 school district's total economic circumstances, including its revenue limit under

SENATE BILL 2**SECTION 11**

1 subch. VII of ch. 121, its ability to pay tuition costs for the pupil, and the per pupil
2 special education or related services costs for children with disabilities continuing
3 to be served by the resident school district, the child's resident school board may
4 notify the child's parent and the nonresident school board by the ~~first~~ 2nd Friday
5 following the first Monday in ~~April~~ June that the pupil may not attend the
6 nonresident school district to which the child has applied.

7 (END)