



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 437

**Senate Substitute
Amendment 1**

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This Memo describes Senate Substitute Amendment 1 to 2009 Senate Bill 437, relating to low-performance schools and, school districts, prohibiting tenure for principals and assistant principals, and authorizing the State Superintendent of Public Instruction to intervene with the school district under certain conditions.

Tenure Provisions

Under Senate Substitute Amendment 1, no principal or assistant principal may be granted tenure or permanent employment. The legislation provides that this provision first applies to contracts entered into, modified, or renewed on the effective date of the Act, which would be the day following publication of the Act.

Low-Performing School Districts

1. If the State Superintendent determines that a *school district* has been in need of improvement for four consecutive school years, the *school board* shall do all of the following:
 - a. Employ a standard, consistent, research-based curriculum that is aligned with the state's model academic standards.
 - b. Use pupil academic performance data, including data indicating improvement in pupil academic achievement and acquisition of English, to differentiate instruction to meet individual needs.
 - c. Implement a system of academic and behavioral supports and early intervention for pupils.

- d. Provide additional learning time to address the academic needs of pupils who are struggling academically, including pupils whose proficiency in English is limited. The additional learning time may include an extended school day, an extended school year, summer school, or inter-session courses.

2. If the State Superintendent determines that a particular *public school* was in the lowest performing 5% of all public schools in the state in the previous school year and is located in the *school district* that has been in need of improvement for four consecutive years, the *school board* shall do all of the following in the *school*:

- a. Use vigorous and equitable performance evaluation systems for teachers and principals that include annual performance evaluations; multiple rating categories; multiple rating criteria, including improvement in pupil academic achievement as a significant factor; observation-based performance assessments; and an up-to-date collection of professional practice materials. School boards must ensure that improvement in academic achievement is based on at least two measures. A school board shall include a method of identifying mitigating factors that could affect a teacher's or principal's performance.
- b. Adopt a policy establishing criteria for evaluating whether the distribution of teachers and principals within the affected schools relative to the distribution of teachers and principals throughout the school district, based on their qualifications and effectiveness is equitable. Using this criteria, the school board must determine whether the distribution of principals and teachers is equitable and if the board determines that distribution is inequitable, the school board must do the following:
 - (1) Perform a comprehensive review of current policies and constraints that prevent low-performing school from recruiting, placing, and retaining effective teachers and principals, and implement strategies to eliminate those policies and constraints.
 - (2) Provide additional support to teachers and principals, which may include professional development that is incorporated into their work and tuition reimbursement for courses related to their professional duties.
- c. Establish teacher and principal improvement programs that include supplemental mentoring for those with emergency licenses or permits; opportunities to pursue other professional certifications; annually provide at least 60 hours of professional development that is incorporated into their work and create a joint labor-management program designed to objectively identify teachers and principals to demonstrate serious performance deficiencies and provide them with opportunities for improvement. The school board must offer career counseling and other career transition benefits to those teachers and principals who continue to demonstrate performance deficiencies.
- d. Adopt placement criteria for principals that include performance evaluations and measures of pupil academic achievement.

3. If the school superintendent determines that a *school district* has been in need of improvement for four consecutive years, the State Superintendent may direct the *school board* to do one

or more of the following in the school district after consulting with the school board, school superintendent, and collective bargaining units in the school district:

- a. Implement or modify activities enumerated for low-performing school districts in the sections above.
- b. Implement a new or modified instructional design which may include expanded hours, or additional pupil support or services.
- c. Implement professional development programs that focus on improving pupil academic achievement.
- d. Implement changes in administrative and personnel structures that are consistent with applicable collective bargaining agreements.
- e. Adopt accountability measures to monitoring the school district's finance or to monitor other interventions by the State Superintendent.

4. If the State Superintendent determines that a *public school* is located in the school district that has been in need of improvement for four consecutive years, and if the school has been in need of improvement for five consecutive school years, or was among the lowest performing 5% of all public schools in the state in the previous school year, the State Superintendent may, after consulting with the school board, the school district superintendent, and the collective bargaining units, direct the school board to do one or more of the following in the school:

- a. Implement a new or modified instructional design, which may include expanded hours or additional pupil support and services.
- b. Create a school improvement council consisting of the State Superintendent, school board president, school district administrator, the school district principal, and representatives of each collective bargaining unit in the school district (or their designees), to make recommendations to the State Superintendent regarding improving the school.
- c. If the State Superintendent issues a directive to a school or school district he or she must notify each legislator whose district includes any portion of the school district and must provide a system of support and improvement, including technical assistance to the board. If a school district receives a directive from the State Superintendent under the legislation, the school board must seek input from school district staff, parents, and community leaders on implementing the directive.

Collective Bargaining Agreements

The substitute amendment provides that nothing in the section regarding school improvement powers and interventions alters or otherwise affects the rights or remedies afforded school districts or school employees under federal or state law or under the terms of any applicable collective bargaining agreement.

Provisions Applicable to Milwaukee

The substitute amendment amends the applicable sections of ch. 119, Stats., to specify the provisions that apply to the Milwaukee public schools, as follows:

1. The substitute amendment provides that by July 1, 2011, the Milwaukee Public Schools school board (MPS) must evaluate all school buildings in the school district operating under ch. 119, Stats., according to the criteria adopted by MPS and must develop a master plan governing the use, repair, renovation, and demolition of buildings in the school district. MPS is directed, under the bill, to establish criteria to evaluate the safety, structural integrity, utility, and cost of maintenance and repair of school buildings in the school district. The criterion is required to include consideration of the advantages and disadvantages of repairing versus demolishing older buildings having high maintenance or operating costs.

2. The substitute amendment requires MPS to annually prepare a budget for each *school* in the school district operating under ch. 119, Stats.

3. The substitute amendment further authorizes MPS to collaborate with nonprofit organizations and government agencies to provide pupils with comprehensive social services and educational support, which may include a program that offers comprehensive services that address the needs of children and youth from before the time they are born through postsecondary education.

4. Under the substitute amendment, MPS is required to provide alternative methods of attaining a high school diploma for those pupils who are unlikely to graduate in a traditional manner, including a program allowing a pupil or former pupil to retake a course in which he or she was not originally successful.

5. The substitute amendment provides that if MPS determines that state or federal aid is available for the purpose, the board shall participate in an educational research consortium, similar to the Consortium on Chicago's School Research and the Boston Plan for Excellence, to provide research and policy recommendations for the Department of Public Instruction and MPS and the Legislature.

6. Under the substitute amendment, MPS is required to conduct a survey of parents of pupils enrolled in the school districts operating under ch. 119, Stats., and use the results of the survey to develop or modify parent involvement in school improvement plans, which may include school-based community resource centers, regularly scheduled public meetings, or parent education classes.

7. If MPS determines that state or federal aid is available, any school in the school district that enrolls pupils in grades K to 5 is eligible to apply to the board for funding to participate in pilot program designed to develop innovative instructional programs in science, technology, engineering, and mathematics; support pupils who are typically under-represented in those subjects; and increase the academic achievement of pupils in those subjects.

Other Provisions

The substitute amendment provides that if the State Superintendent withholds aid from a school district under s. 121.006, Stats., the school board may request a hearing under the ch. 227, Stats., provisions contained in s. 227.42, Stats.

The substitute amendment also requires school districts to comply with a directive issued by the State Superintendent under s. 118.42 (3) (a) or (b), Stats., described above.

Rule-Making Authority

In promulgating rules required under the legislation, the State Superintendent of Public Instruction shall consult with the school district or school board president, the school district administrator, and local labor organizations representing employees, of each school district, that the state is immediately affected by the sections dealing with school improvement and intervention, as created by this Act, and state legislators whose districts include any part of a school district.

The substitute amendment also specifically requires the State Superintendent to promulgate rules establishing criteria and procedures for determining whether a school or school district is in need of improvement and whether a school is among the lowest performing 5% of all public schools in the state for purposes of the legislation.

Legislative History

2009 Senate Bill 437 was introduced on December 22, 2009 by the Senate Committee on Education. The Senate Committee on Education held a public hearing on January 5, 2010. At an executive session held on April 14, 2010, the committee voted to introduce and adopt Senate Substitute Amendment 1 on a vote of Ayes, 5; Noes, 2. The committee voted to recommend passage of the bill, as amended, by a vote of Ayes, 5; Noes, 2.

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