



2005 ASSEMBLY BILL 562

July 18, 2005 - Introduced by Representative SCHNEIDER. Referred to Committee on Education.

- 1 **AN ACT** *to amend* 119.04 (1); and *to create* 118.60 of the statutes; **relating to:**
2 the implementation and administration of federal education laws.

Analysis by the Legislative Reference Bureau

This bill directs the Department of Public Instruction (DPI) and each school board to do all of the following:

1. Resolve conflicts between provisions of federal education laws and between provisions of state and federal education laws by giving first priority to meeting state goals, program needs, and accountability requirements.

2. Construe federal education laws to advance the best interest of pupils and to maximize local control and flexibility.

3. Minimize the amount of additional state resources that are diverted to implement federal education laws.

4. Request changes to federal education laws and regulations, especially those that are underfunded or that conflict with state laws or rules or with other federal laws or regulations.

5. Seek waivers from federal education laws and regulations to maximize this state's flexibility in implementing them and to obtain a reasonable time to comply with them.

In addition, the bill directs DPI and each school board to request a waiver from any provision of the federal No Child Left Behind Act that mandates, directs, or controls the allocation of state or local resources or any school district's or school's curriculum or program of instruction, or mandates the state or any political subdivision of the state to spend any funds or incur any costs not paid for under the act.

ASSEMBLY BILL 562

Finally, the bill provides that if a school board determines that there is a conflict between a provision of the federal No Child Left Behind Act and the federal Individuals with Disabilities Education Act with respect to a child with a disability, the parents of the child in conjunction with the appropriate school officials must determine which provision best meets the educational needs of the child.

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.** 118.60 of the statutes is created to read:

2 **118.60 Federal programs; department and school board duties. (1)** The
3 department and each school board shall do all of the following:

4 (a) Resolve conflicts between provisions of federal education laws and between
5 provisions of state and federal education laws in the following manner:

6 1. Give first priority to meeting state goals, program needs, and accountability
7 requirements.

8 2. Give second priority to meeting federal goals, program needs, and
9 accountability requirements that do not directly and simultaneously advance state
10 goals, program needs, and accountability requirements.

11 (b) Construe the provisions of federal education laws to advance the best
12 interests of pupils and to maximize local control and flexibility.

13 (c) Minimize the amount of additional state resources that are diverted to
14 implement federal education laws beyond the federal moneys that are provided to
15 implement those laws.

16 (d) Request changes to federal education laws and regulations, especially those
17 that are determined to be underfunded or that conflict with state laws or rules or
18 with other federal laws or regulations.

ASSEMBLY BILL 562

1 (e) Seek waivers from federal education laws and regulations to maximize this
2 state's flexibility in implementing them and to obtain a reasonable time to comply
3 with them.

4 (2) (a) In this subdivision, "act" means the federal No Child Left Behind Act,
5 20 USC 6301 to 7941.

6 (b) The department and each school board shall determine whether the act
7 requires it to expend state or local resources in order to comply with the act. Each
8 school board shall also determine whether the act requires it to modify any
9 curriculum or program of instruction.

10 (c) The department and each school board shall request a waiver under 20 USC
11 7861 (b) of any provision of the act that, notwithstanding 20 USC 7907 (a), mandates,
12 directs, or controls the allocation of state or local resources or any school district's or
13 school's curriculum or program of instruction, or mandates the state or any political
14 subdivision of the state to spend any funds or incur any costs not paid for under the
15 act.

16 (d) If a school board determines that there is a conflict between a provision of
17 the act and a provision of the federal Individuals with Disabilities Education Act
18 under 20 USC 1400 to 1491 with respect to a child with a disability who is enrolled
19 in or resides in the school district, the parents of the child in conjunction with the
20 appropriate school district employees shall determine which provision best meets
21 the educational needs of the child.

22 **SECTION 2.** 119.04 (1) of the statutes is amended to read:

23 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
24 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38
25 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12, 118.125 to

ASSEMBLY BILL 562**SECTION 2**

1 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,
2 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.291,
3 118.30 to 118.43, 118.51, 118.52, 118.55, 118.60, 120.12 (5) and (15) to (26), 120.125,
4 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and (37), 120.14 and
5 120.25 are applicable to a 1st class city school district and board.

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(END)