



2011 ASSEMBLY BILL 94

April 13, 2011 – Introduced by Representatives MARKLEIN, KESTELL, KOOYENGA, STRACHOTA, FARROW, PETERSEN, SPANBAUER, KLENKE, RIPP, AUGUST, KNILANS, BROOKS, TRANEL, VOS and STONE, cosponsored by Senators WANGGAARD, DARLING, HOPPER, LAZICH and ZIPPERER. Referred to Committee on Education.

1 **AN ACT to amend** 119.23 (3) (a), 119.23 (4) (b) (intro.), 119.23 (4) (c), 119.23 (4m),
2 119.23 (7) (am) 1. and 2., 119.23 (10) (d) and 119.23 (11); and **to create** 119.23
3 (4) (d) of the statutes; **relating to:** the Milwaukee Parental Choice Program.

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the Milwaukee Parental Choice Program (MPCP), including the following:

1. Under current law, the Department of Public Instruction (DPI) pays a pupil's cost of attending a private school participating in the MPCP by making the check out to the pupil's parent but sending it to the private school. The pupil's parent must endorse the check for the use of the school.

This bill directs DPI to make the payment directly to the private school on behalf of the pupil's parent, and allows DPI to combine payments for all pupils attending a private school under the MPCP into a single check. Payment for summer school programs must be made in November and be by separate check.

2. The bill provides that if more than one pupil from the same family applies to attend the same private school, the pupils may use a single application.

3. DPI's administrative rules provide that, in determining a private school's per pupil operating and debt service cost for the purpose of determining the amount of the state's payment to the private school, certain revenues, such as fees charged pupils for books, are subtracted. This bill codifies this administrative rule, but provides that the amount of each subtraction may not be more than the actual cost to the school of the service or material related to that revenue.

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The bill also allows a private school to include in its cost an amount equal to 10.5 percent of the fair market value of the private school's buildings and premises if legal title to the private school's buildings and premises is held in the name of the private school's parent organization or a related party. Once a private school chooses to include this amount in its cost, it must be included in each subsequent school year.

4. Currently, each private school participating in the MPCP is subject to uniform financial accounting standards established by DPI and annually must submit to DPI an independent financial audit of the private school conducted by a certified public accountant and provide evidence of sound fiscal practices. Each private school must also provide to DPI evidence of the school's financial viability.

This bill requires that the private school's audit must be conducted using the auditing standards established by the American Institute of Certified Public Accountants (AICPA) and that the audit of the private school's fiscal and internal control practices must be conducted in accordance with attestation standards established by the AICPA.

5. Under current law, the state payment for each full-time equivalent (FTE) summer school pupil is approximately 40 percent of the payment for each FTE regular school year pupil. This bill eliminates this reduction.

For further information see the *state* 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.** 119.23 (3) (a) of the statutes is amended to read:

2 119.23 (3) (a) The pupil or the pupil's parent or guardian shall submit an
3 application, on a form provided by the state superintendent, to the participating
4 private school that the pupil wishes to attend. If more than one pupil from the same
5 family applies to attend the same private school, the pupils may use a single
6 application. Within 60 days after receiving the application, the private school shall
7 notify the each applicant, in writing, whether the his or her application has been
8 accepted. If the private school rejects an application, the notice shall include the
9 reason. A private school may reject an applicant only if it has reached its maximum
10 general capacity or seating capacity. The state superintendent shall ensure that the
11 private school determines which pupils to accept on a random basis, except that the

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1 private school may give preference in accepting applications to siblings of pupils
2 accepted on a random basis.

3 **SECTION 2.** 119.23 (4) (b) (intro.) of the statutes is amended to read:

4 119.23 (4) (b) (intro.) Except as provided in par. (bg), upon receipt from the
5 pupil's parent or guardian of proof of the pupil's enrollment in the private school
6 during a school term, the state superintendent shall pay to the ~~parent or guardian~~
7 private school in which the pupil is enrolled on behalf of the pupil's parent or
8 guardian, from the appropriation under s. 20.255 (2) (fu), an amount equal to the
9 lesser of the following:

10 **SECTION 3.** 119.23 (4) (c) of the statutes is amended to read:

11 119.23 (4) (c) The state superintendent shall pay 25% of the total amount under
12 this subsection in September, 25% in November, 25% in February, and 25% in May.
13 Each installment may consist of a single check for all pupils attending the private
14 school under this section. The state superintendent ~~may~~ shall include the entire
15 amount under sub. (4m) in ~~one of those installments or apportion the entire amount~~
16 ~~among one or more of those installments.~~ ~~Except as provided in sub. (4r), the~~
17 ~~department shall send the check to the private school.~~ ~~Except as provided in sub.~~
18 ~~(4r), the parent or guardian shall restrictively endorse the check for the use of the~~
19 ~~private school~~ the November installment, but the payment shall be made in a
20 separate check from the payment under this subsection.

21 **SECTION 4.** 119.23 (4) (d) of the statutes is created to read:

22 119.23 (4) (d) In determining a private school's operating and debt service cost
23 per pupil under par. (b) 1., the department shall do all of the following:

24 1. Subtract only the following, up to the actual cost of the service or material
25 related to each item:

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1 a. Fees charged pupils for books and supplies used in classes and programs.

2 b. Rentals for school buildings.

3 c. Food service revenues.

4 d. Governmental financial assistance.

5 e. Interest and other income resulting from the investment of debt proceeds.

6 2. If legal title to the private school's buildings and premises is held in the name
7 of the private school's parent organization or other related party, there is no other
8 mechanism to include the private school's facilities costs in the calculation of its
9 operating and debt service cost, and the private school requests that the department
10 do so, include an amount equal to 10.5 percent of the fair market value of the school
11 and its premises. A request made by a private school under this subdivision remains
12 effective in subsequent school years and may not be withdrawn by the private school.

13 3. If immediately prior to the effective date of this subdivision [LRB inserts
14 date], a private school's operating and debt service costs, as determined by the
15 department, included the amount described in subd. 2., continue to include the
16 amount described in subd. 2. in subsequent school years.

17 **SECTION 5.** 119.23 (4m) of the statutes is amended to read:

18 119.23 (4m) In addition to the payment under sub. (4) the state superintendent
19 shall pay to ~~the parent or guardian of each pupil enrolled in a private school~~
20 participating in the program under this section, on behalf of the parents or guardians
21 of all pupils attending the private school under this section, in the manner described
22 in sub. (4) (c), an amount determined by multiplying ~~40%~~ of the payment under sub.
23 (4) by ~~the quotient determined by dividing the summer choice average daily~~
24 ~~membership equivalent of the private school by the total number of pupils for whom~~
25 ~~payments are being made under sub. (4).~~

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1 **SECTION 6.** 119.23 (7) (am) 1. and 2. of the statutes are amended to read:

2 119.23 **(7)** (am) 1. An independent financial audit of the private school
3 conducted by an independent certified public accountant, accompanied by the
4 auditor's statement that the report is free of material misstatements and fairly
5 presents pupil costs under sub. (4) (b) 1. The audit under this subdivision shall be
6 limited in scope to those records that are necessary for the department to make
7 payments under subs. (4) and (4m). The auditor shall conduct his or her audit,
8 including determining sample sizes and evaluating financial viability, in accordance
9 with the auditing standards established by the American Institute of Certified
10 Public Accountants. The department may not require an auditor to comply with
11 standards that exceed the scope of the standards established by the American
12 Institute of Certified Public Accountants.

13 2. Evidence of sound fiscal and internal control practices, as prescribed by the
14 department by rule. An auditor engaged to evaluate the private school's fiscal and
15 internal control practices shall conduct his or her evaluation, including determining
16 sample sizes, in accordance with attestation standards established by the American
17 Institute of Certified Public Accountants.

18 **SECTION 7.** 119.23 (10) (d) of the statutes is amended to read:

19 119.23 **(10)** (d) The state superintendent may withhold payment from a ~~parent~~
20 ~~or guardian~~ private school under subs. (4) and (4m) if the private school attended by
21 ~~the child of the parent or guardian~~ violates this section.

22 **SECTION 8.** 119.23 (11) of the statutes is amended to read:

23 119.23 **(11)** The department shall promulgate rules to implement and
24 administer this section. The department may not by rule establish standards under

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SECTION 8

1 sub. (7) (am) that exceed the standards established by the American Institute of
2 Certified Public Accountants.

3 **SECTION 9. Initial applicability.**

4 (1) This act first applies to applications to attend a private school and payments
5 made to a private school in the 2012-13 school year.

6 (END)