

WISCONSIN STATE  
LEGISLATURE  
COMMITTEE HEARING  
RECORDS

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1997-08

(session year)

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Senate

(Assembly, Senate or Joint)

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Committee on  
Education  
(SC-Ed)

COMMITTEE NOTICES ...

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

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INFORMATION COLLECTED BY COMMITTEE  
CLERK FOR AND AGAINST PROPOSAL

➤ Appointments ... Appt

➤ \*\*

Name:

➤ Clearinghouse Rules ... CRule

➤ \*\*

➤ Hearing Records ... HR (bills and resolutions)

➤ **97hr\_sb0188\_SC-Ed\_pt01**

➤ Miscellaneous ... Misc

➤ \*\*

# Vote Record

SB 188

## Senate Committee on Education

Date: May 11  
 Moved by: Rob Schmidt      Seconded by: Huelsman  
 AB: \_\_\_\_\_      Clearinghouse Rule: \_\_\_\_\_  
 AB: \_\_\_\_\_      SB: \_\_\_\_\_      Appointment: \_\_\_\_\_  
 AJR: \_\_\_\_\_      SJR: \_\_\_\_\_      Other: \_\_\_\_\_  
 A: \_\_\_\_\_      SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

### Committee Member

Sen. Calvin Potter, Chair  
 Sen. Robert Jauch  
 Sen. Kevin Shibilski  
 Sen. Richard Grobschmidt  
 Sen. Alberta Darling  
 Sen. Joanne Huelsman  
 Sen. Carol Roessler

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Sen. Calvin Potter, Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Jauch	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kevin Shibilski	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Richard Grobschmidt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Joanne Huelsman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_

Motion Carried

Motion Failed

# Vote Record

*EPEC*

## Senate Committee on Education

Date: \_\_\_\_\_  
 Moved by: \_\_\_\_\_ Seconded by: \_\_\_\_\_  
 AB: \_\_\_\_\_ Clearinghouse Rule: \_\_\_\_\_  
 AB: \_\_\_\_\_ SB: \_\_\_\_\_ Appointment: \_\_\_\_\_  
 AJR: \_\_\_\_\_ SJR: \_\_\_\_\_ Other: \_\_\_\_\_  
 A: \_\_\_\_\_ SR: \_\_\_\_\_

A/S Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_  
 A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_  
 A/S Amdt: \_\_\_\_\_ to A/S Amdt: \_\_\_\_\_ to A/S Sub Amdt: \_\_\_\_\_

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

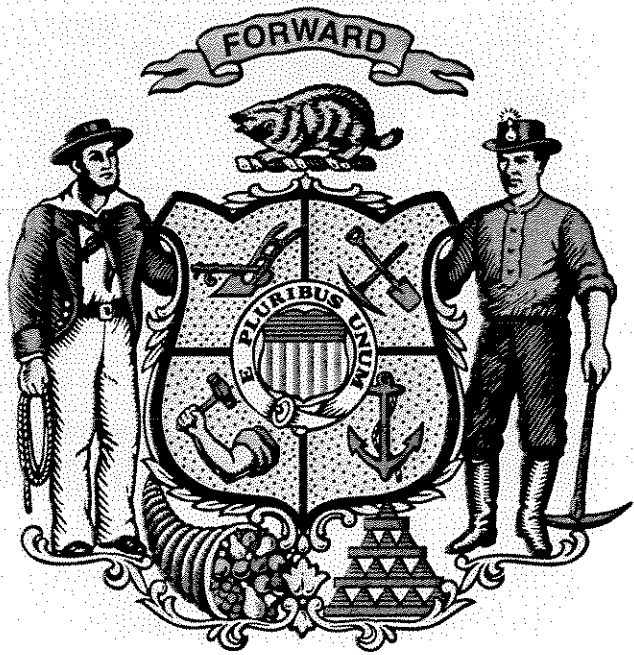
Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Sen. Calvin Potter, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Robert Jauch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Kevin Shibilski	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Richard Grobschmidt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Alberta Darling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Joanne Huelsman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: \_\_\_\_\_

Motion Carried

Motion Failed





## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536  
Telephone (608) 266-1304  
Fax (608) 266-3830

DATE: September 9, 1997

TO: SENATOR RICHARD GROBSCHMIDT AND OTHER INTERESTED LEGISLATORS

FROM: Russ Whitesel, Senior Staff Attorney

SUBJECT: 1997 Senate Bill 188, Relating to Contracts Between the Milwaukee Public Schools Board of School Directors and Nonsectarian Private Schools or Agencies to Provide Educational Services and the Prohibition Against Collective Bargaining With Respect to Such Contracts

This memorandum describes the provisions of 1997 Senate Bill 188, relating to contracts between the Milwaukee Public Schools Board of School Directors (MPS Board) and nonsectarian private schools or agencies to provide educational services and the prohibition against collective bargaining with respect to such contracts. The memorandum also provides a description of a proposed substitute amendment (LRBs0184/1) to the original Bill. Finally, a brief description is provided of a proposal contained in the budget amendments adopted by the Assembly Republican Caucus.

### A. 1997 SENATE BILL 188

Under current law, the MPS Board of School Directors is authorized to contract with any nonsectarian private school or agency located in the City of Milwaukee to provide educational programs for pupils enrolled in MPS. [s. 119.235, Stats.] The MPS Board, under the statutes, is prohibited from bargaining collectively with respect to a decision of the MPS Board to contract with a nonsectarian private school or agency to provide these educational programs or with respect to the impact of such a decision on the wages, hours or conditions of employment of the municipal employees who perform services for the MPS Board. The current statutes also specify the obligations of a private school or agency that contracts with the MPS Board to provide services.

In August of 1996, the Milwaukee Teachers' Education Association (MTEA) initiated a suit against the MPS Board alleging, among other things, that the statutes authorizing these MPS contracts and prohibiting collective bargaining with respect to these contracts are "private or local laws." The suit alleged that enactment of the provision as part of 1995 Wisconsin Act 27

(the 1995-97 Biennial Budget Act) violates Wis. Const. art. IV, s. 18. That section provides that no private or local bill that is passed by the Legislature may embrace more than one subject. This challenge was ultimately upheld by the circuit court in Milwaukee in a decision issued on June 2, 1997 by Circuit Court Judge Frank T. Crivello. [*Milwaukee Teachers' Education Association v. Milwaukee Board of School Directors*, Case No. 96-CV-005849.]

Senate Bill 188 repeals and recreates the relevant statutes without change. It should also be noted that the original package of legislation also authorized the Superintendent of the Milwaukee Schools to close any failing school and to reassign teachers from those schools. Those provisions were also challenged in the lawsuit and found to be enacted in violation of Wis. Const. art. IV, s. 18, but are *not* recreated in Senate Bill 188.

**B. SENATE SUBSTITUTE AMENDMENT-- (LRB-0184/1)**

The substitute amendment makes the following changes in the original legislation:

1. The MPS Board's authority to contract with any nonsectarian private school or private agency is modified to require that the school also be a *nonprofit* school or private agency. [See s. 119.235 (1), Stats.]
2. The MPS Board is authorized to enter into contracts under a phase-in program as follows:
  - a. In the 1997-98 school year, contracts may be entered into to provide programs only for four-year olds and five-year olds who are residents of the city and for first grade pupils who are enrolled in the school district operating under ch. 119.
  - b. In the 1998-99 school year, the MPS Board is authorized to provide educational programs for pupils described in item a. *and* for second grade pupils who are enrolled in the school district.
  - c. In the 1999-2000 school year, the MPS Board is authorized to provide educational programs for those children specified under item b. *and* for third grade pupils.
  - d. In the 2000-01 school year, the MPS Board is authorized to provide additional educational programs for fourth grade pupils in addition to those described in item c.

Under the original legislation, there were no restrictions on the age or grade level for contracts.

3. Modifies the requirements placed on any private school or agency under contract with the board with regard to parental involvement. The original legislation required schools to offer "diverse opportunities for parents to participate in the school's programs." The substitute amendment expands the requirement to require the following:

- a. Direct involvement in decision-making in program planning and analysis.
- b. Participation in classroom and program activities.
- c. Participation in training session on child growth and development.
- d. Participation in activities that support and enhance the parents' role in their child's education and development.

These requirements are similar to the parental involvement requirements contained in s. 119.72, Stats., relating to early childhood education contracts with day care centers.

4. Record and periodically report to the board, pupil attendance data and parental involvement activities as enumerated in the Bill.

5. Require that at each program site at least one person be employed or utilized who is appropriately licensed by the department and represented by a collective bargaining unit consisting of school district professional employees performing services for a school district operating under ch. 119. The original legislation did not contain any requirement with regard to license status or presence at the program site.

6. Provides that the authority to contract under these provisions will not apply after *July 1, 2001*.

The substitute amendment, in all other respects, is the same as the original legislation, Senate Bill 188.

### **C. PROPOSED BUDGET AMENDMENT**

The Assembly Republican Caucus has adopted a proposed budget modification to the 1997-99 State Budget as included in Assembly Substitute Amendment 1 to Assembly Bill 100. This proposal, as described by the Legislative Fiscal Bureau, provides that school districts that have more than 1,000 dropouts from high school in the previous school year and more than 300 third grade pupils that did not meet the state minimum standards for reading proficiency in the previous year could contract with nonsectarian schools and agencies for educational services. Based on 1996-97 school district statistics, only the MPS would be eligible to participate in the program. The provision specifies that the following would apply:

1. Participation of a school district in the program would be a prohibited subject of collective bargaining starting the day the current collective bargaining agreement expires or is extended, modified or renewed, whichever occurs first.

2. Private schools and agencies participating in the program would have to conform with the state law governing confidentiality of pupil records and the prohibition of pupil discrimination as well as meet all health and safety laws and rules that apply to public school districts. In addition, the provision specifies that federal laws governing pupil records, privacy and non-discrimination would apply.

3. Private schools and agencies contracting with a school board under the program would have to: (a) offer a full school year educational program; (b) participate in the school board's parent information program; (c) offer diverse opportunities for parents that participate in the school's program; (d) meet insurance and financial requirements established by the school board; (e) develop a pupil recruitment enrollment plan that incorporates a good faith effort to achieve racial balance, a pupil selection process that gives preference to the siblings of enrolled pupils and that gives no other preference except those approved by the school board and a statement describing how the plan would serve the needs of low-income achievers and pupils from low-income families; and (f) report to the school board any information requested by the board.

4. Any pupil enrolled in the school district under the program would be entitled to attend the private school or agency, at no charge, subject to space availability.

5. Participating school boards would have to establish appropriate, quantifiable performance standards for pupils at each private school or agency with which they contract in such areas as attendance, reading achievement, pupil retention, pupil promotion, parent surveys, credits earned and grade point average.

6. Under the program, participating school boards would have to annually monitor the performance of the program and submit their findings to the State Superintendent of Public Instruction. School boards would be permitted to use the results of standardized basic education skills tests to monitor pupil performance.

No contract could extend beyond June 30, 2002.

The Fiscal Bureau noted that under s. 119.235, Stats., MPS is authorized to engage in a nearly identical program which would be repealed under the proposed budget amendment. On June 2, 1997, as noted above, the Wisconsin Circuit Court in Milwaukee County declared the MPS program unconstitutional, due to a violation of the procedural requirements for local law legislation under the Wisconsin Constitution.

Although the eligibility to enter into the contracts is somewhat different, the scope of the authority contained in this proposal is nearly identical to that contained in s. 119.235. It can be assumed that the inclusion of this provision in the budget could be subject to the same legal challenge as the earlier inclusion in the state budget. Based on the precedent set in the *Milwaukee Teachers' Education Association* case (cited above), the inclusion in the 1997-99 Biennial Budget would likely be found to be unconstitutional. It should be noted that if there is no challenge to the inclusion of the proposal, the enactment would be presumed to be constitutional.

If you have any further questions on this matter, please feel free to contact me directly at the Legislative Council Staff offices.

RW:jt:rv;ksm