

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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November 20, 1998

At your request, this bill modifies 1995 AB-824 (which provides that school boards may adopt school uniform policies) to require all school boards to adopt school uniform policies. By modifying AB-824, you may be making the bill vulnerable to first amendment challenge. Although pupils in other states have challenged mandatory dress codes, with varying degrees of success, there are no reported Wisconsin cases on point. Nonetheless, in *Peppies Courtesy Cab. Co. v. City of Kenosha*, 165 Wis. 2d 397 (1991), the Wisconsin Supreme Court held that a Kenosha city ordinance that established a dress and grooming code for taxicab drivers violated the first amendment because the adoption of the code lacked a rational relationship to the public good ("cleaning up" the city's image). The Court noted that the code was adopted because of the subjective complaints of the police department and not because the city had gathered any concrete evidence to suggest that the adoption of the code would further the ostensible goal of improving the city's image. While AB-824 allows a school board to adopt a uniform policy if the school board determines that the policy is necessary for the health and safety of the pupils, this bill does not require a rational relationship between the adoption of a policy and a public good; instead, it simply requires all school boards to adopt a policy, even in the absence of evidence that the policy would protect the health and safety of the pupils.

Note that I delayed the bill's effective date for a year because the bill requires six months' written notice to parents before implementation of the policy and because some school boards that already have dress codes will need time to conform those codes with the requirements of this bill.

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