

1999 DRAFTING REQUEST

Bill

Received: **01/25/99**

Received By: **grantpr**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-1923**

By/Representing: **Pahnke**

This file may be shown to any legislator: **NO**

Drafter: **grantpr**

May Contact:

Alt. Drafters:

Subject: **Education - MPS**

Extra Copies: **MJL**

Topic:

DOA:.....Pahnke - Use of intradistrict aid to build or lease public schools

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	grantpr 01/25/99	wjackson 01/25/99		_____			S&L
/1			lpaasch 01/26/99	_____	lrb_docadmin 01/26/99		

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **01/25/99**

Received By: **grantpr**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-1923**

By/Representing: **Pahnke**

This file may be shown to any legislator: **NO**

Drafter: **grantpr**

May Contact:

Alt. Drafters:

Subject: **Education - MPS**

Extra Copies: **MJL**

Topic:

DOA:.....Pahnke - Use of intradistrict aid to build or lease public schools

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	grantpr	1-1-25-99 KMG	1-25-99	1-25 LP JF			

FE Sent For:

<END>

1999

Date (time) needed

5050
DN

LRB - 1992, 1

PK: King

DOA BUDGET DRAFT

Use the appropriate components and routines developed for bills.

>>FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT . . . [DO NOT generate catalog]; relating to: the budget.

.....
.....
.....
.....

Analysis by the Legislative Reference Bureau

For the 3 titles used in an analysis, in the component bar:

For the main heading [old =M], execute: create → anal: → title: → head

For the subheading [old =S], execute: create → anal: → title: → sub

For the sub-subheading [old =P], execute: create → anal: → title: → sub-sub



The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

1997 BILL

head EDUCATION
sub PRIMARY AND SECONDARY EDUCATION

1 AN ACT to create 121.85 (6) (h) of the statutes; relating to: the use of
2 intradistrict transfer aid to build or lease public schools.

Analysis by the Legislative Reference Bureau

Under current law, a school district that participates in the intradistrict special transfer program, which allows pupils to attend public school outside their attendance area in order to reduce racial imbalance in the school district, receives additional state aid.

This bill provides that ^{to} beginning in the 1998-99 school year ^{requires} the Milwaukee public school district ~~must~~ use at least 10% of the intradistrict aid that it receives in each school year to build or lease neighborhood schools.

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:

3 SECTION 1. 121.85 (6) (h) of the statutes is created to read:

BILL

1

121.85 (6) (h) *Neighborhood schools.* ~~Beginning in the 1998-99 school year,~~ the

2

school district operating under ch. 119 shall use at least 10% of the amount received

3

under par. (a) in each school year to build or lease neighborhood schools.

4

(END)

02/09/92

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

1992/1
DRBS:amp/eb/dh
DSC:V:ch
PG:kmg

It is possible that a Wisconsin court would find that this legislation is a "private or local bill" which, under art. IV, sec. 18, of the Wisconsin constitution, must be enacted as single-subject legislation. If so, this legislation cannot validly be enacted as part of ~~the~~, which clearly encompasses more than one subject:

The biennice budget act

The Wisconsin supreme court has created 2 tests to determine whether a bill is "private or local". One test applies to bills that are specific as to persons, places or things. See Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services, 130 Wis. 2d 79 (1986). The other test applies to legislation that is general on its face but applicable only to a particular class. See City of Brookfield v. Milwaukee Metropolitan Sewerage District, 144 Wis. 2d 896 (1988), and Davis v. Grover, 166 Wis. 2d 501 (1992).

first
use
(broad) class
city school
districts)

no scoring

This legislation is general on its face but applicable only to a particular class (~~class~~). Under the Brookfield test, the legislation is unconstitutional unless all of the following are true:

1. The classification is based upon substantial distinctions that make one class really different from another.
2. The classification is germane to the purpose of the law.
3. The classification is open to additional members.
4. The law applies equally to all members of the class.
5. The characteristics of each class are so different from those of the other classes that substantially different treatment is justified.

In regard to the first part of the test, note that the Brookfield court and the Davis court both dealt with the classification of first class cities as opposed to other cities, but disagreed on whether there are substantial distinctions between these 2nd classifications of cities. Therefore, it is difficult to predict the potential for and outcome of any court action on this legislation. You may wish to consider introducing the legislation as a separate bill.

Mary Gibson-Glass
Legislative Attorney
267-3215

PG

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1992/1dn
PG:kmg:lp

January 26, 1999

It is possible that a Wisconsin court would find that this legislation is a "private or local bill" which, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as a single-subject legislation. If so, this legislation cannot validly be enacted as part of the biennial budget act, which clearly encompasses more than one subject.

The Wisconsin supreme court has created 2 tests to determine whether a bill is "private or local". One test applies to bills that are specific as to persons, places or things. See *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79 (1986). The other test applies to legislation that is general on its face but applicable only to a particular class. See *City of Brookfield v. Milwaukee Metropolitan Sewerage District*, 144 Wis. 2d 896 (1988), and *Davis v. Grover*, 166 Wis. 2d 501 (1992).

This legislation is general on its face but applicable only to a particular class (1st class city school districts). Under the *Brookfield* test, the legislation is unconstitutional unless all of the following are true:

1. The classification is based upon substantial distinctions that make one class really different from another.
2. The classification is germane to the purpose of the law.
3. The class is open to additional members.
4. The law applies equally to all members of the class.
5. The characteristics of each class are so different from those of the other classes that substantially different treatment is justified.

In regard to the first part of the test, note that the *Brookfield* court and the *Davis* court both dealt with the classification of first class cities as opposed to other cities, but disagreed on whether there are substantial distinctions between 2 classification of cities. Therefore, it is difficult to predict the potential for and outcome of any court action on this legislation. You may wish to consider introducing the legislation as a separate bill.

Peter R. Grant
Managing Attorney
267-3362



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1992/1

PG:kmg:lp

DOA:.....Pahnke – Use of intradistrict aid to build or lease public schools

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

EDUCATION

PRIMARY AND SECONDARY EDUCATION

Under current law, a school district that participates in the intradistrict special transfer program, which allows pupils to attend public school outside their attendance area in order to reduce racial imbalance in the school district, receives additional state aid.

This bill requires the Milwaukee public school district to use at least 10% of the intradistrict aid that it receives in each school year to build or lease neighborhood schools.

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:

2 SECTION 1. 121.85 (6) (h) of the statutes is created to read:

