

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2007 ASSEMBLY BILL 870**

February 28, 2008 – Offered by Representative DAVIS.

1     **AN ACT** *to renumber* 120.21 (1); *to renumber and amend* 118.40 (3) (c) and  
2           120.21 (2); *to amend* 118.15 (1) (a), 118.19 (1), 118.40 (4) (b) 1., 118.51 (2),  
3           118.51 (3) (a) 6., 118.51 (3) (b), 118.51 (15) (a), 119.04 (1) and 121.02 (1) (a) 2.;  
4           and *to create* 115.001 (16), 115.28 (53), 118.15 (1) (g), 118.19 (13), 118.40 (2r)  
5           (b) 4., 118.40 (8), 118.51 (3) (a) 7., 118.51 (18), 120.21 (3) and 121.83 (4) of the  
6           statutes; **relating to:** virtual charter schools.

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

7           **SECTION 1.** 115.001 (16) of the statutes is created to read:  
8           115.001 (16) VIRTUAL CHARTER SCHOOL. “Virtual charter school” means a charter  
9           school under contract with a school board under s. 118.40 in which all or a portion  
10          of the instruction is provided through means of the Internet, and the pupils enrolled  
11          in and instructional staff employed by the school are geographically remote from  
12          each other.

1           **SECTION 2.** 115.28 (53) of the statutes is created to read:

2           115.28 **(53)** ONLINE COURSES. Make online courses available for a reasonable  
3 fee, through a statewide web academy, to school districts, cooperative educational  
4 service agencies, and charter schools and private schools located in this state.

5           **SECTION 3.** 118.15 (1) (a) of the statutes is amended to read:

6           118.15 **(1)** (a) Except as provided under pars. (b) to (d) and (g) and sub. (4),  
7 unless the child is excused under sub. (3) or has graduated from high school, any  
8 person having under control a child who is between the ages of 6 and 18 years shall  
9 cause the child to attend school regularly during the full period and hours, religious  
10 holidays excepted, that the public or private school in which the child should be  
11 enrolled is in session until the end of the school term, quarter or semester of the  
12 school year in which the child becomes 18 years of age.

13           **SECTION 4.** 118.15 (1) (g) of the statutes is created to read:

14           118.15 **(1)** (g) Paragraph (a) does not apply to a person having under control  
15 a child who is enrolled in a virtual charter school.

16           **SECTION 5.** 118.19 (1) of the statutes is amended to read:

17           118.19 **(1)** Any Except as provided in s. 118.40 (8) (b) 2., any person seeking to  
18 teach in a public school, including a charter school, or in a school or institution  
19 operated by a county or the state shall first procure a license or permit from the  
20 department.

21           **SECTION 6.** 118.19 (13) of the statutes is created to read:

22           118.19 **(13)** Beginning July 1, 2010, no person may teach an online course in  
23 a public school, including a charter school, unless he or she has completed at least  
24 30 hours of professional development designed to prepare a teacher for online  
25 teaching.

1           **SECTION 7.** 118.40 (2r) (b) 4. of the statutes is created to read:

2           118.40 **(2r)** (b) 4. No chartering or contracting entity under subd. 1. may  
3 establish or enter into a contract for the establishment of a virtual charter school.

4           **SECTION 8.** 118.40 (3) (c) of the statutes is renumbered 118.40 (3) (c) 1. and  
5 amended to read:

6           118.40 **(3)** (c) 1. A school board may not enter into a contract for the  
7 establishment of a charter school located outside the school district, except that if 2  
8 or more school boards enter into an agreement under s. 66.0301 to establish a charter  
9 school, the charter school shall be located within one of the school districts, and if one  
10 or more school boards enter into an agreement with the board of control of a  
11 cooperative educational service agency to establish a charter school, the charter  
12 school shall be located within the boundaries of the cooperative educational service  
13 agency. This subdivision does not apply to the establishment of a virtual charter  
14 school.

15           2. A school board may not enter into a contract that would result in the  
16 conversion of a private, sectarian school to a charter school.

17           **SECTION 9.** 118.40 (4) (b) 1. of the statutes is amended to read:

18           118.40 **(4)** (b) 1. Charge tuition, except as otherwise provided in s. 121.83 (4).

19           **SECTION 10.** 118.40 (8) of the statutes is created to read:

20           118.40 **(8)** VIRTUAL CHARTER SCHOOLS. (a) *Location.* For the purposes of sub.  
21 (7) (a), (am), and (ar), a virtual charter school is considered to be located in the  
22 following school district:

23           1. If a school board contracts with a person to establish the virtual charter  
24 school, in the school district governed by that school board.

1           2. If 2 or more school boards enter into an agreement under s. 66.0301 to  
2 establish the virtual charter school, or if one or more school boards enter into an  
3 agreement with the board of control of a cooperative educational service agency to  
4 establish the virtual charter school, in the school district specified in the agreement.

5           (b) *Licensure.* 1. The governing body of a virtual charter school shall assign  
6 an appropriately licensed teacher for each online course offered by the virtual  
7 charter school. No person holding only a permit to teach exclusively in a charter  
8 school may teach in a virtual charter school, and no person holding both a license to  
9 teach exclusively in a charter school and a license to teach in other public schools may  
10 teach, in a virtual charter school, a subject or at a level that is not authorized by the  
11 latter license.

12           2. If a pupil attends a virtual charter school, any person providing educational  
13 services to the pupil in the pupil's home, other than instructional staff of the virtual  
14 charter school, is not required to hold a license or permit to teach issued by the  
15 department.

16           (c) *Staff duties.* In a virtual charter school, an instructional staff member is  
17 responsible for all of the following for each pupil the instructional staff member  
18 teaches:

- 19           1. Improving learning by planned instruction.
- 20           2. Diagnosing learning needs.
- 21           3. Prescribing content delivery through class activities.
- 22           4. Assessing learning.
- 23           5. Reporting outcomes to administrators and parents and guardians.
- 24           6. Evaluating the effects of instruction.

1           (d) *Required days and hours.* A virtual charter school shall do all of the  
2 following:

3           1. Provide educational services to its pupils for at least 150 days each school  
4 year.

5           2. Ensure that its teachers are available to provide direct pupil instruction for  
6 at least the applicable number of hours specified in s. 121.02 (1) (f) 2. each school year.  
7 No more than 10 hours in any 24–hour period may count toward the requirement  
8 under this subdivision.

9           3. Ensure that its teachers respond to inquiries from pupils and from parents  
10 or guardians of pupils by the end of the first school day following the day on which  
11 the inquiry is received.

12           (e) *Parent advisory council.* The governing body of a virtual charter school shall  
13 ensure that a parent advisory council is established for the school and that it meets  
14 on a regular basis. The governing body shall determine the selection process for  
15 members of the parent advisory council.

16           (f) *Required notices.* At the beginning of each school term, the governing body  
17 of a virtual charter school shall inform the parent or guardian of each pupil attending  
18 the virtual charter school, in writing, the name of, and how to contact, each of the  
19 following persons:

20           1. The members of the school board that contracted for the establishment of the  
21 virtual charter school and the administrators of that school district.

22           2. The members of the virtual charter school’s governing body, if different than  
23 the persons under subd. 1.

24           3. The members of the virtual charter school’s parent advisory council  
25 established under par. (e).

1           4. The staff of the virtual charter school.

2           (g) *Pupil's failure to participate.* 1. Whenever a pupil attending a virtual  
3 charter school fails to respond appropriately to a school assignment or directive from  
4 instructional staff within 5 school days, the governing body of the virtual charter  
5 school shall notify the pupil's parent or guardian.

6           2. Subject to subd. 2m., the third time in the same semester that a pupil  
7 attending a virtual charter school fails to respond appropriately to a school  
8 assignment or directive from instructional staff within 5 school days, the governing  
9 body of the virtual charter school shall also notify the school board that contracted  
10 for the establishment of the virtual charter school, the school board of the pupil's  
11 resident school district, and the department. The school board that contracted for  
12 the establishment of the virtual charter school may transfer the pupil to his or her  
13 resident school district. If the pupil is a resident of the school district that contracted  
14 for the establishment of the virtual charter school, the school board may assign the  
15 pupil to another school or program within that school district. If the school board  
16 transfers or assigns a pupil, it shall notify the pupil's parent or guardian and the  
17 department.

18           2m. If the parent or guardian of a pupil attending a virtual charter school  
19 notifies the virtual charter school in writing before a school assignment or directive  
20 is given that the pupil will not be available to respond to the assignment or directive  
21 during a specified period, the school days during that period do not count for purposes  
22 of subd. 2. The virtual charter school shall require the pupil to complete any  
23 assignment missed during the period. This subdivision applies to no more than 10  
24 school days in a school year.

1           3. The parent or guardian of a pupil transferred to the pupil's resident school  
2 district under subd. 2. may appeal the transfer to the department within 30 days  
3 after receipt of the notice of transfer. The department shall affirm the school board's  
4 decision unless the department finds that the decision was arbitrary or  
5 unreasonable.

6           (h) *Enrollment limit.* 1. Subject to subds. 2., 3., and 5., the total number of  
7 pupils attending virtual charter schools through the open enrollment program under  
8 s. 118.51 in the 2009–10 school year and in each of the 5 succeeding school years may  
9 not exceed a number determined as follows:

10           a. For the limit in the 2009–10 school year, multiply the statewide total  
11 membership, as defined in s. 121.004 (5), that was used to calculate state aid under  
12 s. 121.08 for the 2008–09 school year by 1 percent.

13           b. For the limit in each of the 5 succeeding school years, multiply the statewide  
14 total membership, as defined in s. 121.004 (5), that was used to calculate state aid  
15 under s. 121.08 for the previous school year or for the 2008–09 school year, whichever  
16 is greater, by 1 percent.

17           2. The limit under subd. 1. does not apply to the sibling of a pupil who is enrolled  
18 in a virtual charter school.

19           3. The limit under subd. 1. does not apply to a pupil if the school board of the  
20 school district in which the pupil resides notifies the school board of the school  
21 district that the pupil wishes to attend, by the first Monday in March following the  
22 close of the open enrollment application period under s. 118.51 (3) (a) 1., that it  
23 approves the pupil's application.

1           4. By the 3rd Friday following the close of the open enrollment application  
2 period under s. 118.51 (3) (a) 1., the governing body of each virtual charter school  
3 shall report to the department all of the following:

4           a. The number of pupils who have applied to attend the virtual charter school  
5 through the open enrollment program under s. 118.51, excluding pupils described  
6 under subds. 2. and 3.

7           b. The number of pupils attending the virtual charter school through the open  
8 enrollment program under s. 118.51 in the current school year who are expected to  
9 continue attending the virtual charter school through the open enrollment program  
10 under s. 118.51 in the succeeding school year, excluding pupils described under  
11 subds. 2. and 3.

12           5. If the department determines that the sum of the pupils reported under subd.  
13 4. b. by all virtual charter schools is equal to or greater than the limit allowed under  
14 subd. 1., the department shall notify the virtual charter schools that all pupils  
15 reported under subd. 4. b. may attend virtual charter schools in the succeeding school  
16 year notwithstanding the limit under subd. 1., and that no pupils reported under  
17 subd. 4. a. may do so.

18           6. If the department determines that the sum of the pupils reported under subd.  
19 4. b. by all virtual charter schools is less than the limit allowed under subd. 1., the  
20 department shall add to the sum the number of pupils reported under subd. 4. a. for  
21 all virtual charter schools. For the purpose of performing this calculation, the  
22 department shall count a pupil who has applied to more than one virtual charter  
23 school only once. If the new sum is less than the limit allowed under subd. 1., the  
24 department shall notify the virtual charter schools that all pupils reported under  
25 subd. 4. may attend virtual charter schools in the succeeding school year. If the new



1 sum is greater than the limit allowed under subd. 1., the department shall notify the  
2 virtual charter schools that all pupils reported by the virtual charter schools under  
3 subd. 4. b. may attend virtual charter schools in the succeeding school year. The  
4 department shall select pupils for the remaining available spaces on a random basis  
5 from the pupils reported by the virtual charter schools under subd. 4. a. and shall  
6 notify the virtual charter schools of the selections.

7 7. The department shall maintain a waiting list for those pupils not selected  
8 at random under subd. 6. Each virtual charter school shall notify the department  
9 whenever it determines that a pupil determined to be eligible to attend the virtual  
10 charter school under subd. 6. will not be attending the virtual charter school. The  
11 department shall select pupils on a random basis from the waiting list to fill the  
12 newly available spaces.

13 **SECTION 11.** 118.51 (2) of the statutes is amended to read:

14 118.51 (2) APPLICABILITY. A pupil may attend a public school, including a  
15 charter school, prekindergarten, 4-year-old kindergarten, or early childhood or  
16 school-operated day care program, in a nonresident school district under this  
17 section, except that a pupil may attend a prekindergarten, 4-year-old kindergarten,  
18 or early childhood or school-operated day care program in a nonresident school  
19 district only if the pupil's resident school district offers the same type of program that  
20 the pupil wishes to attend and the pupil is eligible to attend that program in his or  
21 her resident school district.

22 **SECTION 12.** 118.51 (3) (a) 6. of the statutes is amended to read:

23 118.51 (3) (a) 6. If an application is accepted, on or before the first Friday  
24 following the first Monday in June following receipt of a notice of acceptance, or  
25 within 10 days of receiving a notice of acceptance if a pupil is selected from a waiting

1 list under s. 118.40 (8) (h) 7., the pupil's parent shall notify the nonresident school  
2 board of the pupil's intent to attend school in that school district in the following  
3 school year.

4 **SECTION 13.** 118.51 (3) (a) 7. of the statutes is created to read:

5 118.51 (3) (a) 7. If the department has not notified a virtual charter school of  
6 the applications it may accept under s. 118.40 (8) (h) by the deadline for informing  
7 applicants under subd. 3. or 5., the nonresident school district shall specify in its  
8 notices under subd. 3. or 5. that the school district's acceptance is conditional.

9 **SECTION 14.** 118.51 (3) (b) of the statutes is amended to read:

10 118.51 (3) (b) *Notice to resident school district.* Annually by June 30, each  
11 nonresident school board that has accepted a pupil under this section for attendance  
12 in the following school year shall report the name of the pupil to the pupil's resident  
13 school board. If a pupil is selected from a waiting list under s. 118.40 (8) (h) 7., the  
14 nonresident school board shall report the name of the pupil to the pupil's resident  
15 school board within 10 days of receiving notice of the pupil's selection from the  
16 department.

17 **SECTION 15.** 118.51 (15) (a) of the statutes is amended to read:

18 118.51 (15) (a) *Application form.* Prepare, distribute to school districts and  
19 make available to parents an application form to be used by parents under sub. (3)  
20 (a). The form shall include provisions that permit a parent to apply for  
21 transportation reimbursement under sub. (14) (b). The form shall require an  
22 applicant who is applying to attend a virtual charter school to indicate that he or she  
23 is applying to attend a virtual charter school, the number of virtual charter schools  
24 to which he or she is applying, and whether he or she is a sibling of a pupil currently  
25 enrolled in a virtual charter school through the open enrollment program.

1           **SECTION 16.** 118.51 (18) of the statutes is created to read:

2           118.51 **(18)** LOCATION OF VIRTUAL CHARTER SCHOOLS. For purposes of this section,  
3 a virtual charter school is located in the school district specified in s. 118.40 (8) (a).

4           **SECTION 17.** 119.04 (1) of the statutes, as affected by 2007 Wisconsin Act 20,  
5 is amended to read:

6           119.04 **(1)** Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
7 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,  
8 115.345, 115.361, 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045, 118.06,  
9 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16,  
10 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8),  
11 118.245, 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12  
12 (5) and (15) to (26), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34),  
13 (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are applicable to a 1st class  
14 city school district and board.

15           **SECTION 18.** 120.21 (1) of the statutes is renumbered 120.21 (1) (a).

16           **SECTION 19.** 120.21 (2) of the statutes is renumbered 120.21 (1) (b) and  
17 amended to read:

18           120.21 **(1)** (b) The cost of such contracts under this subsection shall be paid out  
19 of the school district general fund.

20           **SECTION 20.** 120.21 (3) of the statutes is created to read:

21           120.21 **(3)** Any contract entered into by a school board that relates to providing  
22 online courses is open to public inspection and copying.

23           **SECTION 21.** 121.02 (1) (a) 2. of the statutes is amended to read:

24           121.02 **(1)** (a) 2. Ensure Subject to s. 118.40 (8) (b) 2., ensure that all  
25 instructional staff of charter schools located in the school district hold a license or

1 permit to teach issued by the department. For purposes of this subdivision, a virtual  
2 charter school is located in the school district specified in s. 118.40 (8) (a). The state  
3 superintendent shall promulgate rules defining “instructional staff” for purposes of  
4 this subdivision.

5 **SECTION 22.** 121.83 (4) of the statutes is created to read:

6 121.83 (4) Notwithstanding subs. (1) and (2), if a pupil who is not a resident  
7 of this state attends a virtual charter school in this state, the school board that  
8 contracted for the establishment of the virtual charter school shall charge tuition for  
9 the pupil in an amount equal to at least the amount determined under s. 118.51 (16)  
10 (a) 3.

11 **SECTION 23. Nonstatutory provisions.**

12 (1) AUDIT.

13 (a) The legislative audit bureau shall perform a financial and performance  
14 evaluation audit of virtual charter schools. The audit shall do all of the following:

15 1. Compare the amount paid by the state for pupils attending a virtual charter  
16 school through the Open Enrollment Program to the actual educational costs of  
17 pupils attending virtual charter schools.

18 2. Compare the cost of educating pupils in virtual charter schools to the cost  
19 of educating pupils in other public schools.

20 3. Determine the actual and potential effects of state payments for pupils  
21 attending virtual charter schools through the Open Enrollment Program on the  
22 budgets of the school districts in which the pupils reside and on other school districts.

23 4. Compare the academic achievement of pupils who attend virtual charter  
24 schools to the academic achievement of pupils of similar socioeconomic backgrounds  
25 who attend other public schools.

1           5. Determine the amount of pupil–teacher contact and one–on–one  
2 pupil–teacher interaction, categorized by grade level, occurring in virtual charter  
3 schools, as compared to other public schools.

4           6. Determine the percentage of pupils attending virtual charter schools to  
5 which each of the following applied in the previous school year:

6           a. The pupils did not attend school.

7           b. The pupils attended a public school other than a virtual charter school.

8           c. The pupils attended a private school.

9           d. The pupils attended a home–based private educational program.

10          7. Determine the level of satisfaction that pupils attending virtual charter  
11 schools and their parents or guardians enjoy with their schools.

12          8. Determine the extent to which virtual charter schools have created  
13 innovative educational programs.

14          9. Determine the extent to which special education and related services are  
15 provided to children with disabilities who attend virtual charter schools.

16          10. Determine the effect of the enrollment limit under section 118.40 (8) (h) of  
17 the statutes, as created by this act, on the ability of pupils to attend virtual charter  
18 schools.

19           (b) The bureau shall submit copies of the audit report to the chief clerk of each  
20 house of the legislature for distribution to the appropriate standing committees in  
21 the manner provided in section s. 13.172 (3) of the statutes by December 30, 2009.

22           **SECTION 24. Effective dates.** This act takes effect on the day after publication,  
23 except as follows:

24           (1) The treatment of sections 118.40 (4) (b) 1. and (8) (d) and 121.83 (4) of the  
25 statutes takes effect on July 1, 2008.

