

**ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2007 ASSEMBLY BILL 870**

February 28, 2008 – Offered by Representatives POPE-ROBERTS, MASON, HIXSON and  
VAN AKKEREN.

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

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

6           **SECTION 1.** 115.001 (16) of the statutes is created to read:  
7           115.001 (16) VIRTUAL CHARTER SCHOOL. “Virtual charter school” means a charter  
8           school under contract with a school board under s. 118.40 in which all or a portion  
9           of the instruction is provided through means of the Internet, and the pupils enrolled  
10          in and instructional staff employed by the school are geographically remote from  
11          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. The third time in the same semester that a pupil attending a virtual charter  
7 school fails to respond appropriately to a school assignment or directive from  
8 instructional staff within 5 school days, the governing body of the virtual charter  
9 school shall notify the pupil's parent or guardian, 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           3. The parent or guardian of a pupil transferred to the pupil's resident school  
19 district under subd. 2. may appeal the transfer to the department within 30 days  
20 after receipt of the notice of transfer. The department shall affirm the school board's  
21 decision unless the department finds that the decision was arbitrary or  
22 unreasonable.

23           (h) *Enrollment limit.* 1. Except as provided in subds. 2. and 3., in the 2009–10  
24 and 2010–2011 school years, a virtual charter school may not enroll more pupils

1 through the open enrollment program under s. 118.51 than it enrolled through the  
2 open enrollment program under s. 118.51 on September 19, 2008.

3 2. The limit under subd. 1. does not apply to the sibling of a pupil who was  
4 enrolled in the virtual charter school on September 19, 2008.

5 3. The limit under subd. 1. does not apply to a pupil who was enrolled in a  
6 different virtual charter school on September 19, 2008, or to a sibling of that pupil.

7 (i) *Enrollment increases.* In the 2011–12 to 2014–15 school years, the number  
8 of pupils attending a virtual charter school through the open enrollment program  
9 under s. 118.51 may not exceed the number determined as follows:

10 1. Divide the number of pupils attending the virtual charter school through the  
11 open enrollment program under s. 118.51 on September 19, 2008, by the total  
12 number of such pupils attending all virtual charter schools on September 19, 2008.

13 2. Subtract from 4,500 the total number of pupils attending virtual charter  
14 schools through the open enrollment program under s. 118.51 on September 19,  
15 2008.

16 3. Add to the number of pupils attending the virtual charter school through the  
17 open enrollment program under s. 118.51 on September 19, 2008, a number equal to  
18 the following percentage of the result of the quotient under subd. 1. multiplied by the  
19 difference under subd. 2.:

20 a. In the 2011–12 school year, 25 percent.

21 b. In the 2012–13 school year, 50 percent.

22 c. In the 2013–14 school year, 75 percent.

23 d. In the 2014–15 school year, 100 percent.

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

1           118.51 (2) APPLICABILITY. A pupil may attend a public school, including a  
2 charter school, prekindergarten, 4-year-old kindergarten, or early childhood or  
3 school-operated day care program, in a nonresident school district under this  
4 section, except that a pupil may attend a prekindergarten, 4-year-old kindergarten,  
5 or early childhood or school-operated day care program in a nonresident school  
6 district only if the pupil's resident school district offers the same type of program that  
7 the pupil wishes to attend and the pupil is eligible to attend that program in his or  
8 her resident school district.

9           **SECTION 12.** 118.51 (18) of the statutes is created to read:

10           118.51 (18) LOCATION OF VIRTUAL CHARTER SCHOOLS. For purposes of this section,  
11 a virtual charter school is located in the school district specified in s. 118.40 (8) (a).

12           **SECTION 13.** 119.04 (1) of the statutes, as affected by 2007 Wisconsin Act 20,  
13 is amended to read:

14           119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
15 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,  
16 115.345, 115.361, 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045, 118.06,  
17 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16,  
18 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8),  
19 118.245, 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12  
20 (5) and (15) to (26), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34),  
21 (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are applicable to a 1st class  
22 city school district and board.

23           **SECTION 14.** 120.21 (1) of the statutes is renumbered 120.21 (1) (a).

24           **SECTION 15.** 120.21 (2) of the statutes is renumbered 120.21 (1) (b) and  
25 amended to read:



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

3           **SECTION 16.** 120.21 (3) of the statutes is created to read:

4           120.21 (3) Any contract entered into by a school board that relates to providing  
5 online courses is open to public inspection and copying.

6           **SECTION 17.** 121.02 (1) (a) 2. of the statutes is amended to read:

7           121.02 (1) (a) 2. Ensure Subject to s. 118.40 (8) (b) 2., ensure that all  
8 instructional staff of charter schools located in the school district hold a license or  
9 permit to teach issued by the department. For purposes of this subdivision, a virtual  
10 charter school is located in the school district specified in s. 118.40 (8) (a). The state  
11 superintendent shall promulgate rules defining “instructional staff” for purposes of  
12 this subdivision.

13           **SECTION 18.** 121.83 (4) of the statutes is created to read:

14           121.83 (4) Notwithstanding subs. (1) and (2), if a pupil who is not a resident  
15 of this state attends a virtual charter school in this state, the school board that  
16 contracted for the establishment of the virtual charter school shall charge tuition for  
17 the pupil in an amount equal to at least the amount determined under s. 118.51 (16)  
18 (a) 3.

19           **SECTION 19. Nonstatutory provisions.**

20           (1) AUDIT.

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

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

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

4           3. Compare the academic achievement of pupils who attend virtual charter  
5 schools to the academic achievement of pupils of similar socioeconomic backgrounds  
6 who attend other public schools.

7           4. Determine the amount of pupil–teacher contact, categorized by grade level,  
8 occurring in virtual charter schools.

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

11           a. The pupils did not attend school.

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

13           c. The pupils attended a private school.

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

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

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

21           **SECTION 20. Effective dates.** This act takes effect on the day after publication,  
22 except as follows:

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

