



2009 ASSEMBLY BILL 204

April 9, 2009 – Introduced by Representative SHERMAN, cosponsored by Senator JAUCH. Referred to Committee on Education.

1 **AN ACT** *to renumber and amend* 115.38 (2) and 118.40 (3) (c) 1.; *to amend*
2 118.30 (1m) (a), 118.30 (1m) (am), 118.30 (1m) (b), 118.33 (1) (f) 1., 118.33 (6) (a),
3 118.40 (7) (ar), 121.02 (1) (a) 2. and 121.02 (1) (r); and *to create* 115.38 (2) (b),
4 118.30 (7), 118.33 (1) (f) 4., 118.33 (6) (b) 3., 118.40 (3) (c) 1. c. and 118.40 (7) (am)
5 4. of the statutes; **relating to:** establishing a charter school in conjunction with
6 an American Indian tribe.

Analysis by the Legislative Reference Bureau

Under current law, with two exceptions, a school board may not enter into a contract for the establishment of a charter school located outside the school district. If two or more school districts jointly establish a charter school, the school must be located within one of the school districts. If one or more school districts enter into an agreement with a cooperative educational service agency (CESA) to establish a charter school, the school must be located within the boundaries of the CESA.

This bill provides that if a school board enters into an agreement with a federally recognized American Indian tribe or band to establish a charter school, the school must be located within the school district or within the boundaries of the tribe's or band's reservation.

The school board that establishes the charter school is responsible for determining whether the charter school is an instrumentality of the school district, for administering the statewide pupil assessments to pupils enrolled in the charter

ASSEMBLY BILL 204

school, for specifying criteria for grade promotion and high school graduation for pupils enrolled in the charter school, and for ensuring that all instructional staff of the charter school hold a license or permit to teach issued by the Department of Public Instruction.

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

1 **SECTION 1.** 115.38 (2) of the statutes is renumbered 115.38 (2) (a) and amended
2 to read:

3 115.38 **(2)** (a) Annually by January 1, each school board shall notify the parent
4 or guardian of each pupil enrolled in the school district of the right to request a school
5 and school district performance report under this subsection. Annually Except as
6 provided in par. (b), annually by May 1, each school board shall, upon request,
7 distribute to the parent or guardian of each pupil enrolled in the school district,
8 including pupils enrolled in charter schools located in the school district, or give to
9 each pupil to bring home to his or her parent or guardian, a school and school district
10 performance report that includes the information specified by the state
11 superintendent under sub. (1). The report shall also include a comparison of the
12 school district's performance under sub. (1) (a) and (b) with the performance of other
13 school districts in the same athletic conference under sub. (1) (a) and (b). If the school
14 district maintains an Internet site, the report shall be made available to the public
15 at that site.

16 **SECTION 2.** 115.38 (2) (b) of the statutes is created to read:

17 115.38 **(2)** (b) If a school board enters into an agreement with a federally
18 recognized American Indian tribe or band in this state to establish a charter school,
19 that school board shall, upon request, distribute to the parent or guardian of each
20 pupil enrolled in the charter school a school and school district performance report

ASSEMBLY BILL 204

1 that includes the information specified by the state superintendent under sub. (1),
2 regardless of the location of the charter school.

3 **SECTION 3.** 118.30 (1m) (a) of the statutes is amended to read:

4 118.30 **(1m)** (a) 1. Except as provided in ~~sub. subs.~~ (6) and (7), administer the
5 4th grade examination adopted or approved by the state superintendent under sub.
6 (1) to all pupils enrolled in the school district, including pupils enrolled in charter
7 schools located in the school district, in the 4th grade.

8 2. ~~Beginning on July 1, 2002, if~~ Except as provided in sub. (7), if the school
9 board has developed or adopted its own 4th grade examination, administer that
10 examination to all pupils enrolled in the school district, including pupils enrolled in
11 charter schools located in the school district, in the 4th grade.

12 **SECTION 4.** 118.30 (1m) (am) of the statutes is amended to read:

13 118.30 **(1m)** (am) 1. Except as provided in ~~sub. subs.~~ (6) and (7), administer the
14 8th grade examination adopted or approved by the state superintendent under sub.
15 (1) to all pupils enrolled in the school district, including pupils enrolled in charter
16 schools located in the school district, in the 8th grade.

17 2. ~~Beginning on July 1, 2002, if~~ Except as provided in sub. (7), if the school
18 board has developed or adopted its own 8th grade examination, administer that
19 examination to all pupils enrolled in the school district, including pupils enrolled in
20 charter schools located in the school district, in the 8th grade.

21 **SECTION 5.** 118.30 (1m) (b) of the statutes is amended to read:

22 118.30 **(1m)** (b) ~~Administer~~ Except as provided in sub. (7), administer the 10th
23 grade examination to all pupils enrolled in the school district, including pupils
24 enrolled in charter schools located in the school district, in the 10th grade.

25 **SECTION 6.** 118.30 (7) of the statutes is created to read:

ASSEMBLY BILL 204**SECTION 6**

1 118.30 (7) If a school board enters into an agreement with a federally recognized
2 American Indian tribe or band in this state to establish a charter school, that school
3 board shall administer the examinations under sub. (1m) regardless of the location
4 of the charter school.

5 **SECTION 7.** 118.33 (1) (f) 1. of the statutes is amended to read:

6 118.33 (1) (f) 1. By September 1, 2004, each school board operating high school
7 grades shall develop a written policy specifying criteria for granting a high school
8 diploma that are in addition to the requirements under par. (a). The criteria shall
9 include the pupil's academic performance, and the recommendations of teachers.
10 Except as provided in ~~subd.~~ subds. 2. and 4., the criteria apply to pupils enrolled in
11 charter schools located in the school district.

12 **SECTION 8.** 118.33 (1) (f) 4. of the statutes is created to read:

13 118.33 (1) (f) 4. If a school board enters into an agreement with a federally
14 recognized American Indian tribe or band in this state to establish a charter school,
15 the criteria specified in the policy developed by that school board under subd. 1. apply
16 to pupils enrolled in the charter school, regardless of the location of the charter
17 school.

18 **SECTION 9.** 118.33 (6) (a) of the statutes is amended to read:

19 118.33 (6) (a) 1. Each school board shall adopt a written policy specifying the
20 criteria for promoting a pupil from the 4th grade to the 5th grade and from the 8th
21 grade to the 9th grade. The criteria shall include the pupil's score on the examination
22 administered under s. 118.30 (1m) (a) or (am), unless the pupil has been excused from
23 taking the examination under s. 118.30 (2) (b); the pupil's academic performance; the
24 recommendations of teachers, which shall be based solely on the pupil's academic
25 performance; and any other academic criteria specified by the school board. Except

ASSEMBLY BILL 204

1 as provided in par. (b) 1. and 3., the criteria apply to pupils enrolled in charter schools
2 located in the school district.

3 2. Except as provided in par. (b) 2., ~~beginning on September 1, 2002~~ and 3., a
4 school board may not promote a 4th grade pupil enrolled in the school district,
5 including a pupil enrolled in a charter school located in the school district, to the 5th
6 grade, and may not promote an 8th grade pupil enrolled in the school district,
7 including a pupil enrolled in a charter school located in the school district, to the 9th
8 grade, unless the pupil satisfies the criteria for promotion specified in the school
9 board's policy adopted under subd. 1.

10 **SECTION 10.** 118.33 (6) (b) 3. of the statutes is created to read:

11 118.33 **(6)** (b) 3. If a school board enters into an agreement with a federally
12 recognized American Indian tribe or band in this state to establish a charter school,
13 the criteria specified in the policy adopted by that school board under par. (a) 1. apply
14 to pupils enrolled in the charter school and that school board is subject to the
15 prohibitions in par. (a) 2. with respect to pupils enrolled in the charter school,
16 regardless of the location of the charter school.

17 **SECTION 11.** 118.40 (3) (c) 1. of the statutes is renumbered 118.40 (3) (c) 1.
18 (intro.) and amended to read:

19 118.40 **(3)** (c) 1. (intro.) A school board may not enter into a contract for the
20 establishment of a charter school located outside the school district, except ~~that if~~ as
21 follows:

22 a. If 2 or more school boards enter into an agreement under s. 66.0301 to
23 establish a charter school, the charter school shall be located within one of the school
24 districts, ~~and if,~~

ASSEMBLY BILL 204**SECTION 11**

1 **b.** If one or more school boards enter into an agreement with the board of control
2 of a cooperative educational service agency to establish a charter school, the charter
3 school shall be located within the boundaries of the cooperative educational service
4 agency. ~~This subdivision~~

5 **1m.** Subdivision 1. does not apply to the establishment of a virtual charter
6 school.

7 **SECTION 12.** 118.40 (3) (c) 1. c. of the statutes is created to read:

8 118.40 (3) (c) 1. c. If a school board enters into an agreement with a federally
9 recognized American Indian tribe or band in this state to establish a charter school,
10 the charter school shall be located within the school district or within the boundaries
11 of the tribe's or band's reservation.

12 **SECTION 13.** 118.40 (7) (am) 4. of the statutes is created to read:

13 118.40 (7) (am) 4. If a school board enters into an agreement with a federally
14 recognized American Indian tribe or band in this state to establish a charter school
15 under sub. (3) (c) 1. c., that school board shall determine whether the charter school
16 is an instrumentality of the school district regardless of the location of the charter
17 school.

18 **SECTION 14.** 118.40 (7) (ar) of the statutes is amended to read:

19 118.40 (7) (ar) Nothing in this subsection affects the rights of personnel of a
20 charter school that is an instrumentality of the a school district ~~in which it is located~~
21 to engage in collective bargaining pursuant to subch. IV of ch. 111.

22 **SECTION 15.** 121.02 (1) (a) 2. of the statutes is amended to read:

23 121.02 (1) (a) 2. Subject to s. 118.40 (8) (b) 2., ensure that all instructional staff
24 of charter schools located in the school district hold a license or permit to teach issued
25 by the department. For purposes of this subdivision, a virtual charter school is

ASSEMBLY BILL 204**SECTION 15**

1 located in the school district specified in s. 118.40 (8) (a) and a charter school
2 established under s. 118.40 (3) (c) 1. c. is located in the school district specified in s.
3 118.40 (3) (c) 1. c. The state superintendent shall promulgate rules defining
4 “instructional staff” for purposes of this subdivision.

5 **SECTION 16.** 121.02 (1) (r) of the statutes is amended to read:

6 121.02 (1) (r) Except as provided in s. 118.40 (2r) (d) 2., annually administer
7 a standardized reading test developed by the department to all pupils enrolled in the
8 school district in grade 3, including pupils enrolled in charter schools located in the
9 school district, except that if a charter school is established under s. 118.40 (3) (c) 1.
10 c., the school board specified in s. 118.40 (3) (c) 1. c. shall administer the test to pupils
11 enrolled in the charter school regardless of the location of the charter school.

12

(END)