



## 2009 ASSEMBLY BILL 622

December 17, 2009 – Introduced by Representatives SMITH, POPE-ROBERTS, STASKUNAS, KRUSICK and MOLEPSKE JR., cosponsored by Senators KREITLOW, LEHMAN, TAYLOR and DARLING. Referred to Committee on Education.

1     **AN ACT** *to amend* 118.51 (9); and *to create* 118.51 (1) (am), 118.51 (5) (a) 3. and  
2           118.51 (11) of the statutes; **relating to:** pupils attending a school district under  
3           the Open Enrollment Program who are habitually truant.

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### ***Analysis by the Legislative Reference Bureau***

Under the current full-time Open Enrollment Program (OEP), a pupil may apply to attend a public school in a school district other than the pupil's resident school district if certain conditions are met. Current law establishes criteria that the nonresident school district may use to determine whether to accept or reject a nonresident pupil. A school board may consider the availability of space in the school or program to which the nonresident pupil has applied, whether the pupil has been expelled from school during the current or two preceding school years for certain specified reasons, whether a disciplinary proceeding involving the pupil is pending, and whether the pupil's individualized education program needs have been evaluated by the resident school district or can be fulfilled in the nonresident school district.

This bill provides that if the nonresident school board determines that a pupil attending the school district under the OEP is habitually truant (absent from school without an acceptable excuse for part or all of five or more school days during any semester) during either semester in the current school year, the school board may prohibit the pupil from attending the school district under the OEP in the succeeding semester or school year.

The bill also allows a school board to include in its criteria for accepting or rejecting an application from a nonresident pupil to attend the school district under

**ASSEMBLY BILL 622**

the OEP whether the school board determined that the pupil was habitually truant from the school district during any semester of attendance at the school district in the current or previous school year.

Current law allows the parent of a pupil whose application to attend a nonresident school district was rejected to appeal the decision to the Department of Public Instruction. Similarly, this bill allows an appeal from a decision to reject an application, and from a decision to prohibit a pupil from attending the nonresident school district in the succeeding semester or school year, based upon the pupil's habitual truancy.

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

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

2           118.51 (1) (am) "Habitual truant" has the meaning given in s. 118.16 (1) (a).

3           **SECTION 2.** 118.51 (5) (a) 3. of the statutes is created to read:

4           118.51 (5) (a) 3. Whether the nonresident school board determined that the  
5 pupil was habitually truant from the nonresident school district during any semester  
6 of attendance at the nonresident school district in the current or previous school year.

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

8           118.51 (9) APPEAL OF REJECTION. If the nonresident school board rejects an  
9 application under sub. (3) (a) or (7) ~~or~~, the resident school board prohibits a pupil from  
10 attending public school in a nonresident school district under sub. (6), (7) or (12) (b)  
11 1., or the nonresident school board prohibits a pupil from attending public school in  
12 the nonresident school district under sub. (11). the pupil's parent may appeal the  
13 decision to the department within 30 days after the decision. If the nonresident  
14 school board provides notice that the special education or related service is not  
15 available under sub. (12) (a), the pupil's parent may appeal the required transfer to  
16 the department within 30 days after receipt of the notice. If the resident school board  
17 provides notice of transfer under sub. (12) (b) 2., the pupil's parent may appeal the

**ASSEMBLY BILL 622**

1 required transfer to the department within 30 days after receipt of the notice. The  
2 department shall affirm the school board's decision unless the department finds that  
3 the decision was arbitrary or unreasonable.

4 **SECTION 4.** 118.51 (11) of the statutes is created to read:

5 118.51 **(11)** HABITUAL TRUANCY. Notwithstanding subs. (3) (c) and (13), if a  
6 nonresident school board determines that a pupil attending the nonresident school  
7 district under this section is habitually truant from the nonresident school district  
8 during either semester in the current school year, the nonresident school board may  
9 prohibit the pupil from attending the nonresident school district under this section  
10 in the succeeding semester or school year.

11 **SECTION 5. Initial applicability.**

12 (1) This act first applies to applications to attend and pupils attending a  
13 nonresident school district under the open enrollment program in the 2010–11 school  
14 year.

15 (END)