

2009 DRAFTING REQUEST

Bill

Received: **01/06/2010**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Frederick Kessler (608) 266-5813**

By/Representing: **Andy Hinkel**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Education - MPS**

Extra Copies: **pg**

Submit via email: **YES**

Requester's email: **Rep.Kessler@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Creating a City of Milwaukee Department of School Inspection

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>
/?				_____			S&L
/P1	tkuczens 01/12/2010	jdyer 01/13/2010	jfrantze 01/13/2010	_____	cduerst 01/13/2010		S&L
	tkuczens 01/19/2010	jdyer 01/20/2010		_____			
/P2	pgrant 02/01/2010	jdyer 02/01/2010	jfrantze 01/20/2010	_____	lparisi 01/20/2010		S&L

<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			jfrantze _____ 02/01/2010 _____		lparisi _____ 02/01/2010 _____	sbasford 02/09/2010	

FE Sent For: "1" @ intro. 2/24/10

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/06/2010**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Frederick Kessler (608) 266-5813**

By/Representing: **Andy Hinkel**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Education - MPS**

Extra Copies: **pg**

Submit via email: **YES**

Requester's email: **Rep.Kessler@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Creating a City of Milwaukee Department of School Inspection

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>
/?				_____			S&L
/P1	tkuczens 01/12/2010	jdyer 01/13/2010	jfrantze 01/13/2010	_____	cduerst 01/13/2010		S&L
	tkuczens 01/19/2010	jdyer 01/20/2010		_____			
/P2	pgrant 02/01/2010	jdyer 02/01/2010	jfrantze 01/20/2010	_____	lparisi 01/20/2010		S&L

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/1
jfrantze _____ lparisi
02/01/2010 _____ 02/01/2010

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/06/2010**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Frederick Kessler (608) 266-5813**

By/Representing: **Andy Hinkel**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Education - MPS**

Extra Copies: **pg**

Submit via email: **YES**

Requester's email: **Rep.Kessler@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

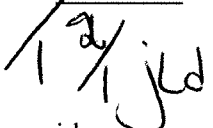
Topic:

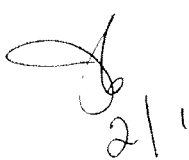
Creating a City of Milwaukee Department of School Inspection

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>
/?				_____			S&L
/P1	tkuczens 01/12/2010 tkuczens 01/19/2010	jdyer 01/13/2010 jdyer 01/20/2010	jfrantze 01/13/2010	_____	cduerst 01/13/2010		S&L
/P2			jfrantze 01/20/2010	_____	lparisi 01/20/2010		



FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **01/06/2010**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Frederick Kessler (608) 266-5813**

By/Representing: **Andy Hinkel**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Education - MPS**

Extra Copies: **pg**

Submit via email: **YES**

Requester's email: **Rep.Kessler@legis.wisconsin.gov**

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Creating a City of Milwaukee Department of School Inspection

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>
/?		<i>P2/20 jld</i>	<i>[Signature]</i>	<i>[Signature]</i>			S&L
/P1	tkuczens 01/12/2010	jdyer 01/13/2010	jfrantze 01/13/2010	<i>[Signature]</i>	cduerst 01/13/2010		

FE Sent For:

JF
1/13/20
<END>

2009 DRAFTING REQUEST

Bill

Received: 01/06/2010

Received By: tkuczens

Wanted: As time permits

Identical to LRB:

For: Frederick Kessler (608) 266-5813

By/Representing: Andy Hinkel

This file may be shown to any legislator: NO

Drafter: tkuczens

May Contact:

Addl. Drafters:

Subject: Education - MPS

Extra Copies: pg

Submit via email: YES

Requester's email: Rep.Kessler@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Creating a City of Milwaukee Department of School Inspection

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>
/?	tkuczens	A 1/13 jld	J 1/13	Ref J 1/13			

FE Sent For:

<END>

Kuczenski, Tracy

From: Hinkel, Andy
Sent: Wednesday, January 06, 2010 10:24 AM
To: Kuczenski, Tracy
Subject: RE: New school plan

Attachments: Proposal1.doc



Proposal1.doc (76 KB)

Hi Tracy -

1/12/09 T. conf. w/Andy: for now hold off on requiring state & federal \$' to "follow the child with a disability." JK

I'm glad you wrote, I was just about to call Peter. I am attaching a document that gives a more detailed description of what Rep. Kessler would like. It addresses many of your questions - for example, I was imprecise before in saying that the official would "close" choice schools - rather, any school that failed to meet the standards would be denied the opportunity to receive public (including choice) dollars. I have interspersed a few more answers to your questions below, and I think that the document answers the others.

I realize it's a very substantial draft that we're requesting, but I'm hearing rumors that there may be significant movement in the next day or so, and Fred very much wants to be ready with this ASAP. I'd appreciate it if you could let me know an imprecise ETA. Also, please don't hesitate to call the office with further questions - 266-5813 - ask for me.

Thanks!

Andy

-----Original Message-----

From: Kuczenski, Tracy
Sent: Tue 1/5/2010 4:21 PM
To: Hinkel, Andy
Subject: FW: New school plan

Hi Andy -

I will be working on this draft for Rep. Kessler. I do have a couple of observations and questions at the outset, and I have inserted these observations and questions within the text of your drafting instructions, below. And I'm sorry to note that, when I inserted my questions and comments in the message, I messed up the automatic numbering of the original drafting outline.

Thanks, Andy.

Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov <mailto:TTaTracy.Kuczenski@legis.wisconsin.gov>

From: Hinkel, Andy
Sent: Wednesday, December 30, 2009 10:26 AM
To: Grant, Peter

Subject: New school plan

Hi Peter,

Representative Kessler would like another draft related to the control of the Milwaukee Public Schools, the outlines of which are:

- ✓ 1. A role for the City in ensuring educational quality
- ✓ a. An official, chosen by the mayor and confirmed by the Council, who would have the responsibility and authority to make certain that individual schools are meeting certain benchmarks. This official would have the power to close a school that failed to meet these criteria, whether the school was a traditional MPS school, a charter school operating within the city (regardless of chartering authority), or a school enrolling MPCP pupils.

NOTE: Who or what entity establishes the benchmarks? DPI? Or the appointed official?

<!-- OK - As the attached document states, the official (or city department headed by the official - would create the standards. Certainly they would be free to consult with DPI in doing so. -->

Will the appointed official have staff? Will the MPS school board have the right to appeal the closure of the school? If so, to whom?

<!-- As for staff, I imagine so, but I don't have a clear picture of how many or who. Some of the areas of the officials' responsibility would seem ripe for farming out to other city departments, e.g. the Comptroller, building inspector, etc. Can we just leave it open for now? I'm sure there will be some give-and-take to be done before the bill would be enacted. -->

NOTE: There could be a First Amendment problem with permitting the state (via an official chosen by the mayor) to shut down a private school enrolling MPCP students; many of the private schools participating in the MPCP are sectarian. Furthermore, many of the students enrolled in private schools participating in the MPCP are not attending the school under the MPCP. Perhaps a better approach would be to require a non-performing MPCP school to be withdrawn from the MPCP program, either immediately or in the next school year?

Let me know how you'd like to proceed.

NOTE: There could be a constitutional problem with granting a city official power to close a charter school; charter schools operate under a contract. For some charter schools established under s. 118.40 (2r), the city may not even be a party to the contract. The constitution prohibits the impairment of contracts (The legislature may not pass a law "impairing the obligation of contracts" (article I, section 10, of the U.S. Constitution and article I, section 12, of the Wisconsin Constitution). Note that, under current law s. 118.40 (5), a charter *may* (but not must) be revoked by the school board or, in the case of an independent charter school, the entity that sponsored the charter school, if certain conditions are met (including that the pupils enrolled in the charter school fail to make sufficient progress toward attaining educational goals under s. 118.01.).

Let me know how you'd like to proceed.

<!-- Do you know how long charter schools' contracts generally run? If they're not too long perhaps we could just make it so the law goes into effect for the next contract. Otherwise, this may be a punt as well, we can work out the approach to the constitutional problem as we proceed. -->

- ✓ b. The criteria would be in four areas:
 - i. Financial/budgetary - the school must subject its budget to review to ensure transparency and efficiency

To what entity will an individual school submit its budget for review? At what point in the budget cycle would the review take place? Any time? And what criteria will the entity reviewing the budget use to determine whether the budget is "efficient"?

<!-- The attached document describes a process and timeline for the reviews, both for existing and future schools -->

✓ ii. Physical plant safety

Do you have specific physical plant safety criteria in mind?

<!-- See attached document -->

✓ i. Employee qualifications - all teachers and administrators must have a bachelor's degree

What do you mean by "administrator"? School district administrator as defined in s. 115.001 (8)? Or something broader? Note that administrator is defined under the MPCP at s. 119.23 (1) (ae).

Section 118.91 (3) (a) requires that a teaching license may only be granted to a person who possesses a BA.

<!-- the administrator definitions in the statute are fine - obviously depending upon context, we could just refer to both. I know that the choice provisions enacted in the budget created a rule requiring all teachers to have a BA or in some cases to get one soon - if the requirement is redundant, that's OK, it would still be the City Department's responsibility to certify that the requirements are met -->

✓ i. Academic achievement. Here we are looking for objective measures of students being at appropriate grade level or, if below grade level, making progress toward catching up. I am looking into what sort of measures might be available as well as what level of progress among what percentage of students would be reasonable to expect. I would greatly appreciate any thoughts you might have on this subject. Are there workable standards as part of, or derived from, no child left behind, or from the state's rules for charter schools, or somewhere else?

I'm not sure what kids of standards you are looking for. Section 118.30 imposes assessment requirements upon schools and pupils in certain grades, and the NCLB also imposes standards and requires testing in certain grades. Do you want to require testing at every grade level?

<!-- See document. Do the testing rules apply to choice schools? Would it be possible to use them to determine whether a pupil has progressed a particular number of grade levels? If so, then perhaps we can specify that the relevant assessments are the ones required under federal and state law, at whichever grades they are given -->

✓ a. Currently-existing schools would need to be examined and certified within three years of the effective date of the law; with recertifications every three years.

What do you mean by "examined and certified"? What type of examination do you envision? Or do you mean inspected (the records and physical plant of the school are inspected to ensure that they meet the criteria)? And by certified, do you mean certified that the school meets the criteria in your paragraph 1. b., above?

<!-- Yes to the last question - for the rest, it's set out in more detail in the attached document -->

Who will conduct the examination and issue the certificate? DPI? Or the appointed official?

What about schools that don't exist at the time of enactment of the bill; will they be required to be "examined and certified" at any point in time?

<!-- See document -->

1. A requirement that all schools accept and provide services for special-needs students.

By "special needs student" do you mean a child with a disability, as

defined in s. 115.76 (5)?

<!-- Yes. -->

- ✓ a. Forbid any school (MPS, choice or charter) from refusing to accept a pupil on the basis of special education needs.
- b. In order to avoid the possibility that schools will seek to dissuade special-needs students from enrolling, without formally barring them, require that each school enroll special-education pupils at a rate not less than 50% of the district-wide proportion of special-education students.

What does a MPCP school or a charter school do if it doesn't get enough applicants from children with disabilities to meet the required percentage?

What would be the consequence to the school of not meeting the required percentage?

✓ <!-- Failure to attain certification --> *what consequence of not attaining certification?*

- a. Provide that the federal and state aids available for special education follow the child - that is, the per-student share goes to the school educating the pupil.

- ✓ 1. A cap on open enrollment departures from the city at the current (2009-10) school year

What cap did you want to impose? Is the cap just for the 2009-2010 school year?

<!-- A permanent cap at the level of departures existing in the 2009-10 school year -->

- 1. The commissioning of a study by the Legislative Council on the racial, ethnic and socioeconomic character of open enrollment students leaving the Milwaukee schools, as well as on their academic outcomes.

I can't imagine that there won't be some questions, so feel free to send them my way.

Thanks,

Andy

Jan. 15 T. conf w/ Andy:
nonresident

require/schools participating in open enrollment program to accept pupils notwithstanding disability (i.e., eliminate consideration of whether an applicant has a disability)

→ This applies only to schools accepting pupils from MPS (not state-wide)

City of Milwaukee Department of School Inspection

1. Enact a new Wisconsin law that:

✓ A. Creates, in cities of the first class (Milwaukee), a Department of School Inspection (Department), which would be headed by a Director of School Inspection (Director) who is nominated by the Mayor of the City and confirmed by the Common Council of the City.

✓ B. Requires that all schools located in the City of Milwaukee that receive state (GPR) or property tax funding--i.e., all MPS schools of all types, including at-risk schools, instrumentality charter schools, and non-instrumentality charter schools; all "2r" charter schools authorized by the City of Milwaukee, the University of Wisconsin-Milwaukee, and the Milwaukee Area Technical College; and all "choice" schools authorized under the Milwaukee Parental Choice Program (Milwaukee tax-supported schools) must, as a condition of receiving such funding, obtain from the Department and maintain in effect the applicable operating licenses described in this law;

C. Requires all existing or proposed Milwaukee tax-supported schools to apply for the operating licenses described in this law as specified in Section 2.

D. Requires the Department to receive and review applications from existing or proposed Milwaukee tax-supported schools for the operating licenses described in this law as specified in Section 3.

D. Requires the Department to grant to existing or proposed Milwaukee tax-supported schools either a provisional license, a permanent license, or a renewal license if the schools meet the standards such operating licenses specified in Section 4.

E. Requires the Department to conduct both periodic unscheduled inspections and periodic scheduled inspections of all Milwaukee tax-supported schools to which the Department has granted an operating license of any type.

F. Requires the Department, on the basis of credible evidence gathered during such an inspection of a violation, as defined by the Department, of the standards upon which the school's operating license was granted, as defined by the Department, to:

(1) Revoke immediately the operating license of the school if the Department finds that there is clear and convincing evidence, as defined by the Department by rule, of a severe violation, as defined by the Department, of the standards upon which the license was granted; or

(2) Revoke after 60 days, as defined by the Department, the operating license of the school if the Department finds that there is a preponderance of evidence, as defined by the Department, of a substantial violation, as defined by the Department, of the standards upon which the license was granted, unless within the 60 day period the school corrects the violation, as determined by the Department.

✓ G. Authorizes the Department to charge a per-pupil fee, as defined by the Department but not to exceed \$__ per pupil per semester, to each Milwaukee tax-supported school to which it has granted an operating license, for the sole purpose

s. 62.51(1)(a)

operating license

see
s. 62.09(2)

of implementing the program of inspection, operating license application review, and operating license issuance described in this law; and

✓ H. Requires the Department to submit an annual written report to the Governor of Wisconsin, the standing committees of the Wisconsin Legislature with jurisdiction for K12 education, the Superintendent of Public Instruction, the Common Council of the City of Milwaukee, and the Mayor of the City of Milwaukee, a comprehensive report on its program, policies, operations, inspections, licensing decisions, revenues, and expenses.

✓ 2. An existing or proposed Milwaukee tax-supported school shall:

A. Apply for a provisional operating license, reflecting its compliance with the Financial Standards and Program Standards specified in Section 4, as follows:

(1) If the school was in operation prior to the enactment of this law, within one year of the enactment of this law, consistent with a schedule specified by the Department; or

(2) If the school plans to begin operation after the enactment of this law, at least six months prior to its the planned first day of operation.

B. Apply for a permanent operating license, reflecting its compliance with the Student Achievement Standards specified in Section 4, as follows:

(1) If the school was in operation prior to the enactment of this law and has been granted a provisional operating license, no sooner than one year but no later than three years after the enactment of this law, consistent with a schedule specified by the Department; or

(2) If the school has begun to operate after the enactment of this law and has been granted a provisional operating license, no sooner than one year but no later than two years after it begins to operate, consistent with a schedule specified by the Department.

C. In the case of a school to which both a provisional and a permanent operating license have been granted, apply for a renewal license, reflecting its compliance with the Financial Standards, Program Standards, and Student Achievement Standards specified in Section 4, no sooner than two years but no later than three years after it has been granted either a permanent operating license or a prior renewal license, consistent with a schedule specified by the Department.

3. The Department shall receive and review license applications from existing or proposed Milwaukee-tax supported schools as follows:

A. The Department shall notify the general public, the parents of the students attending the school (if any), the Superintendent of Public Instruction, the Common Council of the City of Milwaukee, and the Mayor of the City of Milwaukee that the school has applied for a license;

B. Require the school to submit in writing to the Department, in such a format as the Department determines is most appropriate, the information the Department determines it will need to fully and fairly assess whether the school meets the Financial Standards, Program Standards, and Student Achievement Standards specified in Section 4;

C. Provide access to the general public, the parents of the students attending the school (if any), the Superintendent of Public Instruction, the Common Council of the City of

Milwaukee, and the Mayor of the City of Milwaukee, in both written and electronic form (via the Department's website), a copy of the information that the school has submitted in writing;

D. Request the Comptroller of the City of Milwaukee to advise the Department with respect to the school's compliance or likelihood of complying with the Financial Standards specified in Section 4.

E. Hold a public hearing on the school's application for the license at which any member of the public, including any parent, teacher, or administrator of the school, may present additional information to the Department;

F. Set forth in writing the Department's decision to grant or deny the license sought, and communicate the Department's decision to the general public, the parents of the students attending the school (if any), the Superintendent of Public Instruction, the Common Council of the City of Milwaukee, and the Mayor of the City of Milwaukee.

4. The Department shall grant to an existing or proposed Milwaukee tax-supported school:

✓ A. A provisional operating license if the school demonstrates by clear and convincing evidence to the satisfaction of the Department the school will have in place:

✓ (1) A budget development and approval process, expenditures, a system of fiscal management, an organization structure, a management system, and processes for receiving, depositing, investing, managing, spending, accounting for, and auditing resources that meet the highest standards of integrity, consistency, transparency, and effectiveness, as determined by the Department based upon the advice of the Comptroller of the City of Milwaukee; and

✓ (2) Buildings and other equipment (including vehicles) that meet the highest standards of safety, a curriculum for which there is strong evidence of educational success, and a staff (including both teachers and non-instructional staff) that meets high standards of excellence, as determined by the Department based upon the advice of the Deans of Education of the University of Wisconsin-Milwaukee, Marquette University, Alverno College, and other educational experts.

✓ B. A permanent operating license if the school demonstrates by clear and convincing evidence to the satisfaction of the Department that, based on a careful review of the educational performance on both "local measures" and standardized tests of the children who have attended the school on a continuous basis, as determined by the Department, at least 90% of the children who have attended the school for more than one year have advanced at least one grade level for each year such children have attended the school, as determined by the Department.

✓ C. A renewal license if the school demonstrates by clear and convincing evidenced to the satisfaction of the Department that the Financial Standards, Program Standards, and Student Achievement Standards specified in subsections A and B of this section continue to be satisfied, as determined by the Department.



State of Wisconsin
2009 - 2010 LEGISLATURE

PI
LRB-40782
TKK:..... jld
RMRun
d-note

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1/12/10
Wanted 1/13/10 P.M. or 1/14/10 A.M.

✓
①
②

Gen an
AN ACT ... relating to: creating a City of Milwaukee Office of School Inspection
and Licensure. ~~is the ...~~

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
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. 20.255 (1) (jd) of the statutes is created to read:
4 20.255 (1) (jd) Milwaukee office of school inspection and licensure;
5 administrative fees. All moneys received under s. 119.03 (4) from administrative fees
6 related to the issuance of operating licenses to public schools operating under ch. 119,
7 charter schools, as defined in s. 115.001 (1), operating in a 1st class city, and private
8 schools participating in the program under s. 119.23, to be used for the review of
9 applications for operating licenses, the inspection of schools for which an application

1 has been submitted or an operating license issued, and the administration of the
2 inspection and licensure program under s. 119.03. ✓

3 SECTION 2. 62.51 (1) (a) ✓ of the statutes is amended to read:

4 62.51 (1) (a) "Public office" means the following positions or their equivalent:
5 city engineer; city purchasing agent; commissioner of building inspection, of city
6 development, of health or of public works; director of administration, of budget and
7 management, of community development agency, of employee relations, of office of
8 school inspection and licensure, ✓ of telecommunications, or of safety; emergency
9 management coordinator; employee benefits administrator; executive director of the
10 commission on community relations; municipal port director; commissioner of
11 assessments; director of liaison; city personnel director; executive director of the
12 retirement board; executive director of the city board of election commissioners; city
13 librarian; city labor negotiator; executive secretary of the board of fire and police
14 commissioners; and supervisor of the central electronics board.

15 History: 1987 a. 289, 382; 1989 a. 31; 1991 a. 156; 1995 a. 247; 1999 a. 150 s. 302; Stats. 1999 s. 62.51.

16 SECTION 3. 118.51 (6) ✓ of the statutes is renumbered 118.51 (6) (a) and amended
17 to read:

17 118.51 (6) (a) ~~A school board may~~ Beginning in the 2010-11 ✓ school year, the
18 school district operating under ch. 119 shall ✓ plain limit the number of its resident pupils
19 attending public school in other school districts under this section ~~in the 1998-99~~
20 ~~school year to 3% of its membership. In each of the 7 succeeding school years, a school~~
21 ~~board may limit~~ ✓ to the number of its resident pupils attending public school in other
22 school districts ~~to an additional 1% of its membership~~ under this section ✓ ~~in the~~
23 2009-10 ✓ school year.

1 (b) If more than the maximum allowable number of resident pupils apply to
 2 attend public school in other school districts in any school year under this section,
 3 the school board of school directors shall determine which pupils will be allowed to
 4 attend public school in other school districts on a random basis, except that the school
 5 board of school directors shall give preference to pupils who are already attending
 6 public school in the school district to which they are applying under this section and
 7 to siblings of such pupils.

History: 1997 a. 27, 41, 164; 1999 a. 118; 2001 a. 16, 104; 2003 a. 55; 2005 a. 258; 2007 a. 222.

8 SECTION 4. 119.03 of the statutes is created to read:

9 **119.03 Office of school inspection and licensure.** (1) DEFINITIONS. In this
 10 section:

11 (a) "Administrator" means all of the following:

12 1. The superintendent, supervising principal, executive director, or other
 13 person who acts as the administrative head of the school district operating under this
 14 chapter.

15 2. The superintendent, supervising principal, executive director, or other
 16 person who acts as the administrative head of any school required to be licensed
 17 under this section.

18 (b) "Applicant" means any of the following:

19 1. The board.

20 2. The operator of a charter school operating in a city of the 1st class.

21 3. The governing body of a private school participating in the program under
 22 s. 119.23.

23 (c) "Child with a disability" has the meaning given in s. 115.76(5).

24 (d) "Director" means the director of the office of school inspection and licensure.

1 (e) "Office" means the office of school inspection and licensure.

2 (f) "School" means a public school operated by the board, a charter school
3 operating in a city of the 1st class, and a private school participating in the program
4 under s. 119.23.

5 (2) OPERATING LICENSE REQUIRED; CLASSES, EXPIRATION, AND RENEWAL OF OPERATING
6 LICENSES. (a) No person may operate a school without a valid operating license issued
7 by the office for that school.

8 (b) The office may issue the following licenses:

9 1. A provisional operating license. A provisional operating license issued under
10 this section shall expire on the ^{3rd} ~~third~~ July 1 following the date on which the license
11 was issued or on the date ^{on which} a permanent license is issued for the school under sub. (4),
12 whichever comes first. A provisional ^{operating} license may not be renewed.

****NOTE: What happens if the office denies an applicant's application for a permanent operating license; may the applicant continue to operate under an unexpired provisional operating license?

****NOTE: What happens if the provisional operating license expires at the time the office denies the permanent operating license; may the applicant re-apply for a permanent operating license? Or must the school be closed? If so, may the applicant with a closed school work to bring the school into compliance? In either case, should there be a limit on the period of time by which the applicant must demonstrate compliance with the provisions in the bill? *

Or is the closure permanent?

13 2. A permanent operating license. A permanent operating license issued under
14 this section shall expire on the ^{3rd} ~~third~~ July 1 following the date on which the license
15 was issued or on the date ^{on which} a renewal of that license is issued under sub. (5), whichever
16 comes first. A permanent operating license may be renewed as provided under sub.
17 (5).

18 (3) PROVINCIAL OPERATING LICENSES. (a) The office shall issue a provincial
19 operating license to operate a school if all of the following apply:

1 1. The applicant operated a school on the effective date of this subdivision....
2 [LRB inserts date].

3 2. The applicant submits an application for a provisional operating license for
4 the school to the office, together with the information required under par. (c) and any
5 supporting documentation required by the office and the administrative fee required
6 under sub. (6). An application under this subdivision shall be received by the office
7 no later than the first day of the 13th month beginning after the effective date of this
8 subdivision.... [LRB inserts date].

9 3. The applicant satisfies the requirements under par. (c).

10 (b) The office shall issue a provincial operating license to operate a school if all
11 of the following apply:

12 1. The applicant did not operate a school during the school year in effect on the
13 effective date of this subdivision... [LRB inserts date].

14 2. The applicant submits an application for an operating license for the school
15 to the office, together with the information required under par. (c) and any
16 supporting documentation required by the office and the administrative fee required
17 under sub. (6). An application under this subdivision shall be received by the office
18 at least 180 days before the applicant intends to operate the school.

19 3. The applicant satisfies the requirements under par. (c).

20 (c) An applicant under this subsection shall submit clear and convincing
21 evidence to the office that all of the following are satisfied:

22 1. The applicant has established a budget development and approval process,
23 a system of fiscal management, an organizational structure, a management system,
24 and a process for receiving, depositing, investing, managing, spending, accounting

1 for, and auditing resources[✓] for the school that meets the standards established by the
2 office by rule.

****NOTE: Under current law, private schools participating in the[✓] Milwaukee Parental Choice Program must annually submit financial audits and evidence of sound financial practices to DPI (see s. 119.23 (7) (am)). To the extent that the requirements under this bill and current law are duplicative, did you want to modify or eliminate the requirement under current law?

3 2. The applicant will operate the school[✓] in a building that meets the safety
4 standards established by the office by[✓] rule and will utilize facilities and equipment,
5 including vehicles, that meet the safety standards established by the office by rule.[✓]

6 3. The applicant has developed a curriculum that meets the standards of
7 educational success established by the office by rule.[✓]

8 4. a. For an applicant under par. (a)[✓] and an applicant under par. (b)[✓] that has
9 applied for a permanent operating license under sub. (4)[✓] or for the renewal of a
10 permanent operating license under sub. (5)[✓], the applicant has selected and employs
11 administrators,[✓] teachers, and staff for the school that meet the standards of
12 excellence established by the office by rule.[✓]

13 b. For an initial applicant under par. (b)[✓], the applicant has selected and will
14 employ administrators, teachers, and staff for the school that meet the standards of
15 excellence established by the office by rule.[✓]

16 (4) PERMANENT OPERATING LICENSE.[✓] The office shall issue a permanent operating
17 license to operate a school if[✓] all of the following apply:

18 (a) The applicant holds a[✓] valid provisional operating license for the school and
19 [✓]one of the following ^{apply} ^{e applies} apply:

20 1. For a provisional operating license issued under sub. (3) (a)[✓], the applicant
21 has been operating the school under the license for at least 12[✓] months but not more
22 than 36[✓] months.

1 2. For a provisional operating license issued under sub. (3) (b), the applicant
2 has been operating the school under the license for at least 12 months but not more
3 than 24 months.

****NOTE: Why must schools that obtained a provisional license under sub. (3) (b)
(i.e., schools that were not operating before the enactment of the bill) apply for a
permanent license before more established schools?

4 (b) The applicant submits an application for a permanent operating license for
5 the school to the office, together with the information required under par. (c) and any
6 supporting documentation required by the office and the administrative fee required
7 under sub. (6).

8 (c) The applicant submits clear and convincing evidence to the office that all
9 of the following are satisfied:

10 1. The applicant continues to satisfy the requirements under sub. (3) (c).

11 2. At least 90 percent of the pupils who have attended the school for more than
12 one school year have advanced at least one grade level for every year of the pupil's
13 enrollment in the school. To determine whether the requirement of this subdivision
14 has been satisfied, the office shall review the educational performance of the pupils
15 on the examinations administered as required under s. 118.30 and on other
16 measures established by the office by rule.

****NOTE: If the school has only been operating for only one year, the school will not
be able to satisfy the requirement of this subdivision. Is that your intent? Do you want
to impose a different requirement on these schools, or change the requirement?

17 3. The applicant has implemented a policy governing the admission to the
18 school of children with disabilities that satisfies the standards established by the
19 office by rule.

20 4. The applicant enrolls the number of children with disabilities required under
21 sub. (7) (c).

1 (5) RENEWAL; NOTICE. (a) The office shall renew a permanent operating license
2 issued under sub. (4) if all of the following apply:

3 1. The applicant submits an application for a renewal of the permanent
4 operating license, together with any supporting documentation required by the office
5 and the administrative fee required under sub. (6).

****NOTE: The drafting instructions direct me to require a school to renew an operating license "no sooner than two years but no later than three years after it has been granted either a permanent or a renewal license." Are there specific circumstances under which a school could have an extra year before it needs to renew its permanent operating license? For now, as drafted, each school that holds a permanent operating license or the renewal of a permanent operating license must renew the license before the end of the third school year.

6 2. The applicant continues to satisfy the requirements under sub. (4) (c).

7 (b) A renewal of a permanent operating license shall expire on the third July
8 following the date of issuance. *e 3rd*

9 (c) The office shall give a notice of renewal to each holder of a permanent
10 operating license or a renewal of a permanent operating license issued under this
11 subsection at least 30 days prior to the renewal date of the operating license. Notice
12 may be mailed to the last address provided to the office by the holder of the operating
13 license or may be given by electronic transmission. Failure to receive a notice of
14 renewal is not a defense in any proceeding against the holder for operating a school
15 without an operating license.

16 (6) ADMINISTRATIVE FEE. The office shall charge a fee, to be determined by the
17 office by rule, to each applicant for an operating license for a school or the renewal
18 of an operating license for a school. The fee shall be based upon the costs to provide
19 the review and conduct the inspections required under sub. (7) (a), conduct the
20 inspections required under sub. (7) (b) and (c), and administer the program under
21 this section, and upon the number of pupils enrolled in the school in the preceding

1 school year but shall not exceed \$___ [amount to be determined]. All fees shall be
2 credited to the appropriation account under s. 20.255 (1) (jd).

****NOTE: Is it possible for the fee to be based upon the number of pupils at the school and upon the costs to administer the program?

3 (7) DUTIES OF THE OFFICE. The office shall do all of the following:

4 (a) Upon receipt of an application under sub. (3) to (5):

5 1. Submit a written notice of the application to the state superintendent, the
6 common council, the mayor, and, if applicable, parents of pupils enrolled in the
7 school, and publish the written notice as a class 1 notice under ch. 985.

8 2. Provide access to information submitted by the applicant in connection with
9 the application for licensure to the parties identified under subd. 1. on the Internet
10 web site maintained by the office and, upon request of the party, in writing.

11 3. Request an evaluation by the city comptroller of the applicant's compliance
12 with or likelihood of compliance with the financial and budgetary standards
13 established by rule under par. 1.

****NOTE: Is it possible for the city comptroller to offer an opinion as to the applicant's likelihood of compliance with the financial and budgetary standards?

14 4. Undertake any inspections of the school premises and of records maintained
15 by the applicant for the school necessary to evaluate the application for licensure.

16 5. Hold a public hearing on the application for an operating license and provide
17 an opportunity for persons attending the hearing to present testimony on the
18 applicant, the school, and the application for licensure.

19 6. Submit to the applicant, in writing, the decision of the office to grant or deny
20 the operating license. The office shall provide a copy of the decision to the state
21 superintendent, the common council, and the mayor, and shall make the written

1 decision available on the Internet web site maintained by the office and, upon
2 request, in writing.

****NOTE: Will an applicant whose application for an operating license is denied have a right to appeal the determination? If so, to whom?

3 (b) Require each applicant that applies for and holds a permanent operating
4 license under sub. (4) or that applies for and holds a renewal of a permanent
5 operating license under sub. (5) to enroll in the school at least the number of children
6 with disabilities determined as follows:

7 a. Determine the number of pupils enrolled in the school in each grade in the
8 previous school year.

9 b. Determine the number of pupils enrolled in all schools licensed under this
10 section in each grade in the previous school year.

11 c. For each grade in all schools licensed under this section, determine the
12 number of pupils identified in subd. (5. b) that are children with disabilities.

13 d. For each grade operated by the school, multiply the number of pupils
14 identified in subd. (5. a) by the ratio of the number of pupils in that grade identified
15 under subd. (5. c) to the number of pupils in that grade identified under subd. (5. b).

16 e. Add the numbers of pupils determined under subd. (5. d) in each grade
17 operated by the school.

18 f. Multiply the sum determined under subd. (5. e) by 50 percent.

19 (c) Suspend, revoke, or deny an applicant's operating license for a school if the
20 office determines, based upon clear and convincing evidence, that the applicant has
21 committed a severe or substantial violation of the standards upon which an
22 operating license was issued.

****NOTE: May an applicant whose operating license is revoked or suspended appeal the revocation or suspension? If so, to whom?

1 (d) Promulgate rules for the administration of the inspection and licensure
2 program under this section, including all of the following:

3 1. Standards for a budget development and approval process, a system of fiscal
4 management, an organizational structure, a management system, and a process for
5 receiving, depositing, investing, managing, spending, accounting for, and auditing
6 resources to be implemented and maintained by an applicant seeking an operating
7 license under this section. The office shall collaborate with the city comptroller to
8 establish the standards required under this subdivision.

9 2. Standards of educational success to be incorporated into the curriculum of
10 an applicant's school.

11 3. Standards of excellence for teachers, administrators, and staff at the school.
12 The office shall collaborate with the deans and faculty of education at the University
13 of Wisconsin-Milwaukee, Marquette University, and Alverno College, and with
14 other educational experts to establish the standards required under this subdivision.
15 The standards under this subdivision shall require each administrator to hold, at
16 minimum, a bachelor's degree.

****NOTE: Who determines whether a person is an "educational expert"?

17 4. Educational performance measures applicable to whether a pupil has
18 advanced to the next grade level.

19 5. Standards governing the admission of children with disabilities to a school
20 licensed under this section. The standards shall prohibit an applicant from refusing
21 to enroll a child with a disability or to provide a free appropriate public education,
22 as defined in s. 115.76 (7), for the child with a disability.

23 6. Conditions under which an operating license issued under this section may
24 be suspended or revoked, the duration of a suspension or revocation, and the

1 conditions that must be satisfied by an applicant for the reinstatement of the
2 operating license. ✓

3 7. A definition of a substantial violation of the standards upon which an
4 operating license was issued. ✓

5 8. A definition of a severe violation of the standards upon which an operating
6 license was issued. ✓

7 (e) Establish a schedule for periodic inspections of each school for which an
8 operating license has been issued under this section. ✓

9 (f) Periodically conduct unscheduled inspections of each school for which an
10 operating license has been issued under this section. ✓ The office may establish
11 criteria governing the rationale for conducting an unscheduled inspection.

12 (g) Annually submit a comprehensive written report detailing the policies,
13 operations, revenues, and expenses of the office ✓ and summarizing the decisions
14 regarding licensure of schools to all of the following:

- 15 1. The governor. ✓
- 16 2. The appropriate standing committees of the legislature. ✓
- 17 3. The state superintendent. ✓
- 18 4. The common council. ✓
- 19 5. The mayor. ✓

20 **SECTION 5. Nonstatutory provisions.**

21 (1) ~~NO~~
22 (a) ~~NO~~ In this ^{sub} section: ✓

23 1. "Nonresident school district" means a school district, other than the school
24 district operating under chapter 119 of the statutes, that a pupil is attending or has
25 applied to attend under section 118.51 of the statutes. ✓

1 2. "Resident pupil" means a pupil who resides in the school district operating
2 under chapter 119 of the statutes.

3 (b) The legislative council staff shall conduct a study of the racial, ethnic, and
4 socioeconomic characteristics of resident pupils who enroll in a nonresident school
5 district. The study shall include an analysis and discussion of the academic
6 outcomes of resident pupils who enroll in a nonresident school district.

****NOTE: Do you want the study to be completed at any particular time? Do you
want Legislative Council Staff to report on the results of the study to any particular
persons or entities? Do you want this to be an ongoing or longitudinal study? Or to be
limited to a particular school year or series of school years? How should Legislative
Council Staff report on the academic outcomes of the pupils who are subject to the study?

7

(END)

d-note



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

PI
LRB-4078/dn

TKK:.....

date

JLD

Representative Kessler:✓

This bill establishes an Office of School Inspection and Licensure in the city of Milwaukee. The bill prohibits any person from operating a school in the city of Milwaukee unless the person has obtained an operating license for that school. The bill defines school to mean a public school operated by the board of school directors of the city of Milwaukee, an independent charter school operating in Milwaukee, and a private school participating in the Milwaukee Parental Choice Program. Please review the draft carefully to ensure that it accomplishes your intent. I have embedded questions and comments in the notes in the text of the draft for your consideration. In addition, I have the following questions:

1. Delayed Effective Date. Do you want to establish a delayed effective date for the bill? If so, what would be the first school year in which Milwaukee Public Schools (MPS) or the operator of an independent charter or Milwaukee Parental Choice School (MPCP) would be required to have a provisional operating license in hand before operating a school?

2. Payment for education of children with disabilities enrolled in MPCP schools. There is currently no requirement under state law that private schools enroll children with disabilities. Further, there is currently no mechanism under state law to pay private schools for the education of children with disabilities.

This bill requires private schools participating in the MPCP to enroll children with disabilities according to the formula established in the bill. Did you intend that MPCP schools be paid state aid for the education of those pupils?

If so, what would be the source of that aid? That is, do you want to create a new appropriation to cover the costs incurred by MPCP schools for the education of children with disabilities or use an existing appropriation? Would the MPCP schools be reimbursed for their special education costs at the same rate as MPS schools? Would the state aid for MPCP special education costs be deducted from the amount appropriated to MPS by the state?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4078/P1dn
TKK:jld:jf

January 13, 2010

Representative Kessler:

This bill establishes an Office of School Inspection and Licensure in the city of Milwaukee. The bill prohibits any person from operating a school in the city of Milwaukee unless the person has obtained an operating license for that school. The bill defines school to mean a public school operated by the board of school directors of the city of Milwaukee, an independent charter school operating in Milwaukee, and a private school participating in the Milwaukee Parental Choice Program. Please review the draft carefully to ensure that it accomplishes your intent. I have embedded questions and comments in the notes in the text of the draft for your consideration. In addition, I have the following questions:

1. Delayed Effective Date. Do you want to establish a delayed effective date for the bill? If so, what would be the first school year in which Milwaukee Public Schools (MPS) or the operator of an independent charter or Milwaukee Parental Choice School (MPCP) would be required to have a provisional operating license in hand before operating a school?

2. Payment for education of children with disabilities enrolled in MPCP schools. There is currently no requirement under state law that private schools enroll children with disabilities. Further, there is currently no mechanism under state law to pay private schools for the education of children with disabilities.

This bill requires private schools participating in the MPCP to enroll children with disabilities according to the formula established in the bill. Did you intend that MPCP schools be paid state aid for the education of those pupils?

If so, what would be the source of that aid? That is, do you want to create a new appropriation to cover the costs incurred by MPCP schools for the education of children with disabilities or use an existing appropriation? Would the MPCP schools be reimbursed for their special education costs at the same rate as MPS schools? Would the state aid for MPCP special education costs be deducted from the amount appropriated to MPS by the state?

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov