



**SENATE SUBSTITUTE AMENDMENT 2,
TO 2009 SENATE BILL 437**

April 15, 2010 – Offered by Senator GROTHMAN.

1 **AN ACT** *to amend* 118.22 (1) (a) and (b), 118.22 (2), 118.22 (3), 118.22 (4) and
2 119.04 (1); and *to create* 111.70 (4) (m) 5., 118.22 (1m), 118.24 (10), 118.42,
3 119.16 (3m), (9), and (11) to (14), 119.315, 121.006 (1) (c) and 121.006 (2) (d) of
4 the statutes; **relating to:** low-performing schools and school districts,
5 prohibiting tenure for principals and assistant principals, authorizing the state
6 superintendent of public instruction to intervene in a school district under
7 certain conditions, making personnel changes, and requiring the exercise of
8 rule-making authority.

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

9 **SECTION 1.** 111.70 (4) (m) 5. of the statutes is created to read:
10 111.70 (4) (m) 5. Any reason for renewal or nonrenewal of a contract under s.
11 118.22.

1 **SECTION 2.** 118.22 (1) (a) and (b) of the statutes are amended to read:

2 118.22 **(1)** (a) “Board” means a school board, technical college district board,
3 board of control of a cooperative educational service agency or county children with
4 disabilities education board, ~~but does not include any board of school directors in a~~
5 ~~city of the 1st class.~~

6 (b) “Teacher” means any person who holds a teacher’s certificate or license
7 issued by the state superintendent or a classification status under the technical
8 college system board and whose legal employment requires such certificate, license
9 or classification status, but does not include part-time teachers ~~or teachers~~
10 ~~employed by any board of school directors in a city of the 1st class.~~

11 **SECTION 3.** 118.22 (1m) of the statutes is created to read:

12 118.22 **(1m)** (a) Except as provided under par. (b), the term of each teacher’s
13 contract entered into by a board shall be one year.

14 (b) After a teacher’s continuous employment by a board for 5 years, the term
15 of the teacher’s contract shall be 2 years. The term of a contract of a teacher who has
16 been continuously employed by a board for 5 or more years as of the effective date
17 of this paragraph [LRB inserts date], shall be 2 years.

18 **SECTION 4.** 118.22 (2) of the statutes is amended to read:

19 118.22 **(2)** On or before March 15 of the school last year ~~during which of~~ a
20 ~~teacher holds a~~ teacher’s contract, the board by which the teacher is employed or an
21 employee at the direction of the board shall give the teacher written notice of renewal
22 or refusal to renew the teacher’s contract ~~for the ensuing school year.~~ If no such
23 notice is given on or before March 15, the contract then in force shall continue for the
24 ensuing school year, or for the ensuing 2 school years if the teacher has been
25 employed continuously by the board for 5 or more years. A teacher who receives a

1 notice of renewal of contract ~~for the ensuing school year~~, or a teacher who does not
2 receive a notice of renewal or refusal to renew the teacher's contract ~~for the ensuing~~
3 ~~school year~~ on or before March 15 of the last year of the contract, shall accept or reject
4 in writing such contract not later than the following April 15. No teacher may be
5 employed or dismissed except by a majority vote of the full membership of the board.
6 A refusal to renew a teacher's contract may not be for arbitrary or capricious reasons.
7 Nothing in this section prevents the modification or termination of a contract by
8 mutual agreement of the teacher and the board. No such board may enter into a
9 contract of employment with a teacher for any period of time as to which the teacher
10 is then under a contract of employment with another board.

11 **SECTION 5.** 118.22 (3) of the statutes is amended to read:

12 118.22 (3) At least 15 days prior to giving written notice of refusal to renew a
13 teacher's contract ~~for the ensuing school year~~, the employing board shall inform the
14 teacher by preliminary notice in writing that the board is considering nonrenewal
15 of the teacher's contract and that, if the teacher files a request therefor with the
16 board within 5 days after receiving the preliminary notice, the teacher has the right
17 to a private conference with the board ~~prior to~~ before being given written notice of
18 refusal to renew the teacher's contract.

19 **SECTION 6.** 118.22 (4) of the statutes is amended to read:

20 118.22 (4) ~~A~~ Except as provided in s. 111.70 (4) (m) 5., a collective bargaining
21 agreement may modify, waive or replace any of the provisions of this section as they
22 apply to teachers in the collective bargaining unit, but neither the employer nor the
23 bargaining agent for the employees is required to bargain such modification, waiver
24 or replacement.

25 **SECTION 7.** 118.24 (10) of the statutes is created to read:

1 118.24 **(10)** No principal or assistant principal may be granted tenure or
2 permanent employment.

3 **SECTION 8.** 118.42 of the statutes is created to read:

4 **118.42 Low-performing school districts and schools; state**
5 **superintendent interventions. (1)** If the state superintendent determines that
6 a school district has been in need of improvement for 4 consecutive school years, the
7 school board shall do all of the following:

8 (a) Employ a standard, consistent, research-based curriculum that is aligned
9 with the state's model academic standards, as determined by the state
10 superintendent, and across grades in all schools.

11 (b) Use pupil academic performance data, including data indicating
12 improvement in pupil academic achievement and English language acquisition, to
13 differentiate instruction to meet individual pupil needs. To the extent practicable,
14 the school board shall assess pupils in the language and form most likely to yield
15 accurate data.

16 (c) Implement for all pupils a system of academic and behavioral supports and
17 early interventions, including diagnostic assessments, instruction in core academic
18 subjects, different instructional strategies for different pupils, and strategies to
19 improve reading and mathematics instruction and promote positive behavior.

20 (d) Provide additional learning time to address the academic needs of pupils
21 who are struggling academically, including pupils whose proficiency in English is
22 limited. The additional learning time may include an extended school day, an
23 extended school year, summer school, or intersession courses.

24 **(2)** If the state superintendent determines that a public school was in the
25 lowest performing 5 percent of all public schools in the state in the previous school

1 year and is located in a school district that has been in need of improvement for 4
2 consecutive school years, the school board shall do all of the following in the school:

3 (a) Use rigorous and equitable performance evaluation systems for teachers
4 and principals that include all of the following:

5 1. Annual performance evaluations; multiple rating categories; multiple rating
6 criteria, including improvement in pupil academic achievement as a significant
7 factor; observation-based performance assessments; and an up-to-date collection of
8 professional practice materials. The school board shall ensure that improvement in
9 pupil academic achievement is based on at least 2 measures.

10 2. A method of identifying mitigating factors, such as a high rate of pupil
11 mobility, large class size, insufficient preparation time, insufficient paraprofessional
12 support, insufficient professional development, and insufficient resources or
13 support, that could affect a teacher's or principal's performance.

14 (b) Adopt a policy establishing criteria for evaluating whether the distribution
15 of teachers and principals within the affected schools relative to the distribution of
16 teachers and principals throughout the school district, based upon their
17 qualifications and effectiveness, is equitable. Using the criteria, the school board
18 shall determine whether the distribution of principals and teachers is equitable. If
19 the school board determines that the distribution is inequitable, the school board
20 shall do all of the following:

21 1. Perform a comprehensive review of current policies and constraints that
22 prevent low-performing schools from recruiting, placing, and retaining effective
23 teachers and principals, and implement strategies to eliminate those policies and
24 constraints.

1 2. Provide additional support to teachers and principals, which may include
2 professional development that is incorporated into their work and tuition
3 reimbursement for courses related to their professional duties.

4 (c) Establish teacher and principal improvement programs that include all of
5 the following:

6 1. Supplemental mentoring for those with emergency licenses or permits.

7 2. Opportunities to pursue other professional certifications, including
8 certification by the National Board for Professional Teaching Standards.

9 3. Annually, at least 60 hours of professional development that is incorporated
10 into their work. The school board shall consult with teachers and principals on the
11 content of the professional development.

12 4. A joint labor–management program designed to objectively identify teachers
13 and principals who demonstrate serious performance deficiencies and provide them
14 with opportunities for improvement, including weekly observation, mentoring,
15 ongoing conferences, modeling, and professional development. The school board
16 shall offer career counseling and other career transition benefits to those teachers
17 and principals who continue to demonstrate performance deficiencies.

18 (d) Adopt placement criteria for principals that include performance
19 evaluations and measures of pupil academic achievement.

20 **(3)** (a) If the state superintendent determines that a school district has been
21 in need of improvement for 4 consecutive school years, the state superintendent may,
22 after consulting with the school board, the school district superintendent, and
23 representatives of each labor organization representing school district employees,
24 direct the school board to do one or more of the following in the school district:

25 1. Implement or modify activities described in sub. (1) (a) to (d).

1 2. Implement a new or modified instructional design, which may include
2 expanded school hours or additional pupil supports and services.

3 3. Implement professional development programs that focus on improving
4 pupil academic achievement.

5 4. Implement changes in administrative and personnel structures that are
6 consistent with applicable collective bargaining agreements.

7 5. Adopt accountability measures to monitor the school district's finances or to
8 monitor other interventions directed by the state superintendent under subds. 1. to
9 4.

10 (b) If the state superintendent determines that a public school is located in a
11 school district that has been in need of improvement for 4 consecutive school years,
12 and that the school has been in need of improvement for 5 consecutive school years
13 or was among the lowest performing 5 percent of all public schools in the state in the
14 previous school year, the state superintendent may, after consulting with the school
15 board, the school district superintendent, and representatives of each labor
16 organization representing school district employees, direct the school board to do one
17 or more of the following in the school:

18 1. Implement a new or modified instructional design, which may include
19 expanded school hours or additional pupil supports and services.

20 2. Create a school improvement council consisting of the state superintendent
21 or his or her designee, the school district or school board president or his or her
22 designee, the school district administrator or his or her designee, the school principal
23 or his or her designee, and representatives of each labor organization representing
24 school district employees, to make recommendations to the state superintendent
25 regarding improving the school.

1 (c) 1. If the state superintendent issues a directive under par. (a) or (b), he or
2 she shall do all of the following:

3 a. Notify the legislature's education committees under s. 13.172 (3) and each
4 legislator whose legislative district includes any portion of the school district.

5 b. Provide a system of support and improvement, including technical
6 assistance, to the school board.

7 2. If a school board receives a directive from the state superintendent under
8 par. (a) or (b), the school board shall seek input from school district staff, parents, and
9 community leaders on implementing the directive.

10 (4) The state superintendent shall promulgate rules establishing criteria and
11 procedures for determining whether a school or school district is in need of
12 improvement and whether a school is among the lowest performing 5 percent of all
13 public schools in the state, for the purposes of this section.

14 (5) Nothing in this section alters or otherwise affects the rights or remedies
15 afforded school districts and school district employees under federal or state law or
16 under the terms of any applicable collective bargaining agreement.

17 **SECTION 9.** 119.04 (1) of the statutes, as affected by 2009 Wisconsin Acts 60 and
18 96, is amended to read:

19 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
20 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
21 115.345, 115.361, 115.365 (3), 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045,
22 118.06, 118.07, 118.075, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15,
23 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.22, 118.225,
24 118.24 (1), (2) (c) to (f), (6) ~~and~~, (8), and (10), 118.255, 118.258, 118.291, 118.30 to
25 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (25), 120.125, 120.13 (1), (2) (b)

1 to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3),
2 and 120.25 are applicable to a 1st class city school district and board.

3 **SECTION 10.** 119.16 (3m), (9), and (11) to (14) of the statutes are created to read:

4 119.16 **(3m)** MASTER FACILITIES PLAN. (a) By July 1, 2011, the board shall
5 evaluate all school buildings in the school district operating under this chapter
6 according to the criteria established under par. (b), and shall develop a master plan
7 governing the use, repair, renovation, and demolition of buildings in the school
8 district.

9 (b) The board shall establish criteria to evaluate the safety, structural integrity,
10 utility, and costs of maintenance and repair of school buildings in the school district.
11 Subject to the requirements under sub. (10), the criteria shall include consideration
12 of the advantages and disadvantages of repairing versus demolishing older buildings
13 having high maintenance or operating costs.

14 **(9)** SCHOOL BUDGET. Annually, the board shall prepare a budget for each school
15 in the school district operating under this chapter.

16 **(11)** COMPREHENSIVE PROGRAMS. The board shall collaborate with nonprofit
17 organizations and government agencies to provide pupils with comprehensive social
18 services and educational support, which may include a program that offers
19 comprehensive services that address the needs of children and youth from before the
20 time they are born through postsecondary education.

21 **(12)** ALTERNATIVE ROUTES TO GRADUATION. The board shall provide alternative
22 methods of attaining a high school diploma for those pupils who are unlikely to
23 graduate in the traditional manner, including a program allowing a pupil or former
24 pupil to retake a course in which he or she was not initially successful.

1 **(13) RESEARCH CONSORTIUM.** If the board determines that sufficient state or
2 federal aid or private funding is available for this purpose, the board shall participate
3 in an educational research consortium, similar to the Consortium on Chicago School
4 Research and the Boston Plan for Excellence, to provide research and policy
5 recommendations, including recommendations addressing pupil literacy and
6 academic achievement, to the department, the board, and the legislature. In
7 addition, the research consortium shall make its recommendations publicly
8 available.

9 **(14) PARENT SURVEY.** Annually, the board shall conduct a survey of parents of
10 pupils enrolled in the school district operating under this chapter and use the results
11 of the survey to develop or modify parent involvement and school improvement
12 plans, which may include school-based community resource centers, regularly
13 scheduled public meetings, or parent education classes.

14 **SECTION 11.** 119.315 of the statutes is created to read:

15 **119.315 Science, technology, engineering, and mathematics pilot**
16 **programs for pupils in grades kindergarten to 5.** If the board determines that
17 state or federal aid is available, any school in the city that enrolls pupils in grades
18 kindergarten to 5 is eligible to apply to the board for funding to participate in a pilot
19 program designed to develop innovative instructional programs in science,
20 technology, engineering, and mathematics; support pupils who are typically
21 under-represented in these subjects; and increase the academic achievement of
22 pupils in those subjects.

23 **SECTION 12.** 121.006 (1) (c) of the statutes is created to read:

1 121.006 (1) (c) If the state superintendent withholds state aid from a school
2 district under this subsection, the school board may request a hearing under s.
3 227.42.

4 **SECTION 13.** 121.006 (2) (d) of the statutes is created to read:

5 121.006 (2) (d) Comply with a directive issued by the state superintendent
6 under s. 118.42 (3) (a) or (b).

7 **SECTION 14. Nonstatutory provisions.**

8 (1) RULES. In promulgating the rules required under section 118.42 (4) of the
9 statutes, as created by this act, the state superintendent of public instruction shall
10 consult with the school district or school board president, the school district
11 administrator, and labor organizations representing employees, of each school
12 district that the state superintendent determines is immediately affected by section
13 118.42 of the statutes, as created by this act, and legislators whose legislative
14 districts include any portion of each such school district.

15 **SECTION 15. Initial applicability.**

16 (1) The treatment of section 118.24 (10) of the statutes first applies to contracts
17 entered into, modified, or renewed on the effective date of this subsection.

18 (2) The treatment of sections 111.70 (4) (m) 5. and 118.22 (4) of the statutes first
19 applies to a collective bargaining agreement that is entered into, modified, or
20 renewed on the effective date of this subsection.

21 (3) The treatment of section 118.22 (1m), (2), and (3) of the statutes first applies
22 to teachers who hold a license to teach on the effective date of this subsection.

23

(END)