



State of Wisconsin
2011 – 2012 LEGISLATURE



LRBs0133/en
SRM:wlj:...

**SENATE SUBSTITUTE AMENDMENT 1,
TO 2011 SENATE BILL 95**

1 **AN ACT** *to repeal* 119.18 (6) (a); *to renumber* 120.13 (1) (f), 120.13 (1) (h) 1. a.
2 and 121.58 (6); *to consolidate, renumber and amend* 119.18 (6) (intro.) and
3 (b); *to amend* 43.70 (3), 115.88 (1), 115.88 (1m) (a), 118.125 (5) (b), 118.225
4 (intro.), 118.30 (2) (c), 118.33 (1) (a) (intro.), 118.43 (3) (intro.), 118.43 (6) (b) 10.,
5 120.12 (3) (a), (b) and (c), 120.13 (1) (h) 4., 120.17 (8) (a) and 121.58 (6) (title);
6 and *to create* 118.33 (1) (e), 118.40 (2r) (b) 2m., 118.43 (3r), 120.13 (1) (f) 2. and
7 3., 120.13 (1) (h) 1. ag., 120.13 (1) (h) 1. c., 120.13 (1) (h) 2m., 120.13 (1) (h) 3m.,
8 120.13 (1) (h) 4m., 120.13 (1) (h) 5m., 120.13 (1) (h) 6m. and 121.58 (6) (b) of the
9 statutes; **relating to:** high school credit for physical education; services
10 provided by a special education program; transportation aid paid to school
11 districts; the use of moneys received by a school district from the common school
12 fund; using analyses of scores on standardized examinations to evaluate,
13 discharge, suspend, or discipline a teacher or for the nonrenewal of a teacher's

1 contract; the number of teaching days scheduled in the Milwaukee Public
2 Schools; permitting a school district to limit the grades in which to reduce class
3 size under the Student Achievement Guarantee in Education Program;
4 permitting a school board to deny enrollment to a pupil who has been expelled
5 from an out-of-state school or from an independent charter school in this state
6 and permitting an independent charter school to expel a pupil; use of law
7 enforcement records to take disciplinary action against a pupil under a school
8 district's athletic code; and changing the date by which a school district must
9 certify the amount of its property tax levy.

Analysis by the Legislative Reference Bureau

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

10 **SECTION 1.** 43.70 (3) of the statutes is amended to read:

11 43.70 (3) Immediately upon making such apportionment, the state
12 superintendent shall certify to the department of administration the estimated
13 amount that each school district is entitled to receive under this section and shall
14 notify each school district administrator of the estimated amount so certified for his
15 or her school district. The department of administration shall distribute each school
16 district's aid entitlement in one payment on or before May 1. The amount paid to each
17 school district shall be based upon the amount in the appropriation account under
18 s. 20.255 (2) (s) on April 15. Moneys distributed under this section may be expended
19 only for the purchase of instructional materials from the state historical society for
20 use in teaching Wisconsin history and for the purchase of library books and other
21 instructional materials for school libraries, but not for public library facilities

1 operated by school districts under s. 43.52, in accordance with rules promulgated by
2 the state superintendent. In addition, a school district may use up to 25 percent of
3 the moneys received in a fiscal year under this section to purchase school library
4 computers and related software if the school board consults with the person who
5 supervises the school district's libraries and the computers and software are housed
6 in the school library. Appropriate records of all purchases under this section shall
7 be kept and necessary reports thereon shall be made to the state superintendent.

8 **SECTION 2.** 115.88 (1) of the statutes is amended to read:

9 115.88 (1) PERSONNEL. A school board, board of control of a cooperative
10 educational service agency or, upon authorization of the county board, a county
11 children with disabilities education board may employ, for a special education
12 program, either ~~full-~~ full-time or part-time licensed teachers, licensed coordinators
13 of special education, school nurses, licensed school social workers, licensed school
14 psychologists, licensed school counselors, paraprofessionals, licensed consulting
15 teachers to work with any teacher of regular education programs who has a child
16 with a disability in a class and any other personnel approved by the department. The
17 board may contract with private or public agencies for physical or occupational
18 therapy services, orientation and mobility training services, educational interpreter
19 services, educational audiology, speech and language therapy, pupil transition
20 services for eligible pupils who are 18 to 21 years old, or any service approved by the
21 state superintendent, on the basis of demonstrated need. A school board may
22 contract with a charter school to provide special education services to pupils
23 attending the charter school if the charter school is under contract with the school
24 board under s. 118.40 (2m) and the charter school is not an instrumentality of the
25 school district.

1 **SECTION 3.** 115.88 (1m) (a) of the statutes is amended to read:

2 **115.88 (1m)** (a) Subject to par. (b), upon receipt of the plan under s. 115.77 (4),
3 if the state superintendent is satisfied that the special education program has been
4 maintained during the preceding school year in accordance with law, the state
5 superintendent shall certify to the department of administration in favor of each
6 county, cooperative educational service agency, and school district maintaining such
7 special education program a sum equal to the amount expended by the county,
8 agency, and school district during the preceding year for salaries of personnel
9 enumerated in sub. (1); ~~the salary portion of any authorized contract for physical or~~
10 ~~occupational therapy services~~ under sub. (1); the salary portion of any contract to
11 provide special education services to pupils attending a charter school, as authorized
12 under sub. (1); and other expenses approved by the state superintendent, as costs
13 eligible for reimbursement from the appropriation under s. 20.255 (2) (b).

14 **SECTION 4.** 118.125 (5) (b) of the statutes is amended to read:

15 **118.125 (5)** (b) Law enforcement officers' records obtained under s. 48.396 (1)
16 or 938.396 (1) (b) 2. or (c) 3. and records of the court assigned to exercise jurisdiction
17 under chs. 48 and 938 or of a municipal court obtained under s. 938.396 (2g) (m) may
18 not be used by a school district as the sole basis for expelling or suspending a pupil
19 or as the sole basis for taking any other disciplinary action, ~~including against a pupil,~~
20 but may be used as the sole basis for taking action against a pupil under the school
21 district's athletic code, ~~against a pupil.~~

22 **SECTION 5.** 118.225 (intro.) of the statutes is amended to read:

23 **118.225 Teacher evaluations.** (intro.) A school board may use value-added
24 analyses of scores on the results of examinations administered to pupils under s.

1 118.30 and 20 USC 6311 (b) (3) to evaluate teachers if the school board has developed
2 a teacher evaluation plan that includes all of the following:

3 **SECTION 6.** 118.30 (2) (c) of the statutes is amended to read:

4 118.30 **(2)** (c) The results of examinations administered under this section or
5 under 20 USC 6311 (b) (3) to pupils enrolled in public schools, including charter
6 schools, may not be used as the sole reason to discharge, suspend, or formally
7 discipline a teacher or as the sole reason for the nonrenewal of a teacher's contract.

8 **SECTION 7.** 118.33 (1) (a) (intro.) of the statutes is amended to read:

9 118.33 **(1)** (a) (intro.) Except as provided in ~~par.~~ pars. (d) and (e), a school board
10 may not grant a high school diploma to any pupil unless the pupil has earned:

11 **SECTION 8.** 118.33 (1) (e) of the statutes is created to read:

12 118.33 **(1)** (e) A school board may allow a pupil who participates in sports or
13 in another organized physical activity, as determined by the school board, to
14 complete an additional 0.5 credit in English, social studies, mathematics, science, or
15 health education in lieu of 0.5 credit in physical education.

16 **SECTION 9.** 118.40 (2r) (b) 2m. of the statutes is created to read:

17 118.40 **(2r)** (b) 2m. a. A charter or contract may include grounds for expelling
18 a pupil from the charter school.

19 b. If the charter or contract includes grounds for expelling a pupil from the
20 charter school as permitted under subd. 2m. a., the charter or contract shall include
21 the procedures to be followed by the charter school prior to expelling a pupil.

22 **SECTION 10.** 118.43 (3) (intro.) of the statutes is amended to read:

23 118.43 **(3)** CONTRACT REQUIREMENTS. (intro.) Except as provided in pars. (am),
24 (ar), and (at) and sub. (3r), an achievement guarantee contract shall require the
25 school board to do all of the following in each participating school:

1 **SECTION 11.** 118.43 (3r) of the statutes is created to read:

2 **118.43 (3r)** ADJUSTMENT TO PARTICIPATING GRADES. A school district that has
3 entered into or renewed an achievement guarantee contract under this section may,
4 in one or more years covered by the contract, choose not to comply with the
5 requirement to reduce class size in grades 2 or 3, or both, in one or more schools in
6 the district.

7 **SECTION 12.** 118.43 (6) (b) 10. of the statutes is amended to read:

8 **118.43 (6) (b) 10.** In the 2010–11 school year and any subsequent school year,
9 \$2,250 multiplied by the number of low–income pupils enrolled in grades a grade
10 eligible for funding, and in a class in which the class size has been reduced in the
11 manner required under sub. (3) (a), (am), (ar), or (at) or permitted under sub. (3m),
12 in each school in the school district covered by contracts under sub. (3) (at) and by
13 renewals of contracts under sub. (2) (g).

14 **SECTION 13.** 119.18 (6) (intro.) and (b) of the statutes are consolidated,
15 renumbered 119.18 (6) and amended to read:

16 **119.18 (6) SCHOOL CALENDAR.** The board may determine the school calendar and
17 vacation periods for each school year for the regular day schools, summer schools,
18 social centers, and playgrounds, ~~except that: (b).~~ The board may close any school or
19 dismiss any class in the event of an emergency, fire or other casualty, quarantine, or
20 epidemic.

21 **SECTION 14.** 119.18 (6) (a) of the statutes is repealed.

22 **SECTION 15.** 120.12 (3) (a), (b) and (c) of the statutes are amended to read:

23 **120.12 (3) (a)** ~~On~~ Annually on or before November 1, determine the amount
24 necessary to be raised to operate and maintain the schools of the school district and
25 public library facilities operated by the school district under s. 43.52, if the annual

1 meeting has not voted a tax sufficient for such purposes for the school year. On
2 Annually on or before November 6 10, the school district clerk shall certify the
3 appropriate amount so determined to each appropriate municipal clerk who shall
4 assess the amount certified and enter it on the tax rolls as other school district taxes
5 are assessed and entered.

6 (b) If a tax sufficient to operate and maintain the schools of a school district for
7 the ensuing school year has not been determined, certified and levied prior to the
8 effective date of school district reorganization under ch. 117 affecting any territory
9 of the school district, the school board of the affected school district shall determine,
10 on or before the November 1 following the effective date of the reorganization, the
11 amount of deficiency in operation and maintenance funds on the effective date of the
12 reorganization which should have been paid by the property in the affected school
13 district if the tax had been determined, certified and assessed prior to the effective
14 date of the reorganization. On or before November 6 10, the school district clerk shall
15 certify the appropriate amount to each appropriate municipal clerk who shall assess,
16 enter and collect the amount as a special tax on the property. This paragraph does
17 not affect the apportionment of assets and liabilities under s. 66.0235.

18 (c) If on or before November 1 the school board determines that the annual
19 meeting has voted a tax greater than that needed to operate the schools of the school
20 district for the school year, the school board may lower the tax voted by the annual
21 meeting. On or before November 6 10, the school district clerk shall certify the
22 appropriate amount so determined to each appropriate municipal clerk who shall
23 assess the amount certified to him or her and enter it on the tax rolls in lieu of the
24 amount previously reported.

25 **SECTION 16.** 120.13 (1) (f) of the statutes is renumbered 120.13 (1) (f) 1.

1 **SECTION 17.** 120.13 (1) (f) 2. and 3. of the statutes are created to read:

2 120.13 (1) (f) 2. No school board is required to enroll a pupil during the term
3 of his or her expulsion from a public school in another state if the school board
4 determines the conduct giving rise to the pupil's expulsion would have been grounds
5 for expulsion under par. (c) 1., 2., or 2m.

6 3. No school board is required to enroll a pupil during the term of his or her
7 expulsion from a charter school established under s. 118.40 (2r) if the school board
8 determines the conduct giving rise to the pupil's expulsion would have been grounds
9 for expulsion under par. (c) 1., 2., or 2m. If a pupil who has been expelled from a
10 charter school established under s. 118.40 (2r) seeks to enroll in a school district
11 during the term of his or her expulsion, upon request of the pupil or, if the pupil is
12 a minor, the pupil's parent or guardian, the governing body of the charter school shall
13 provide the school board of the school district with a copy of the expulsion findings
14 and order, a written explanation of the reasons why the pupil was expelled, and the
15 term of the expulsion.

16 **SECTION 18.** 120.13 (1) (h) 1. a. of the statutes is renumbered 120.13 (1) (h) 1.
17 am.

18 **SECTION 19.** 120.13 (1) (h) 1. ag. of the statutes is created to read:

19 120.13 (1) (h) 1. ag. "Conditional enrollment" means enrollment of an expelled
20 pupil in a school district other than the school district or out-of-state public school
21 that expelled the pupil before the expiration of the term of expulsion specified in the
22 pupil's expulsion order issued under par. (c) 3. or (e) 3. or by the out-of-state public
23 school.

24 **SECTION 20.** 120.13 (1) (h) 1. c. of the statutes is created to read:

1 120.13 (1) (h) 1. c. “Enrollment condition” means a condition that a pupil is
2 required to meet before he or she may be granted conditional enrollment or a
3 condition that a pupil is required to meet after his or her conditional enrollment but
4 before the expiration of the term of expulsion specified in the pupil’s expulsion order
5 issued under par. (c) 3. or (e) 3. or by the out-of-state public school.

6 **SECTION 21.** 120.13 (1) (h) 2m. of the statutes is created to read:

7 120.13 (1) (h) 2m. A school board other than the school board or out-of-state
8 public school that expelled a pupil may specify in a written order one or more
9 enrollment conditions instead of or in addition to the early reinstatement conditions,
10 if any, imposed under subd. 2. by the school board, or independent hearing panel or
11 independent hearing officer acting under par. (e), that expelled the pupil or instead
12 of or in addition to any conditions imposed, if any, by the out-of-state public school
13 that expelled the pupil. Any enrollment conditions established under this
14 subdivision shall relate to the reasons for the pupil’s expulsion and may not extend
15 the term of expulsion specified in the expulsion order issued under par. (c) 3. or (e)
16 3. or by the out-of-state public school. The school district clerk of the school district
17 other than the school district from which the pupil was expelled shall mail 2 copies
18 of the order to the pupil or, if the pupil is a minor, to the pupil’s parent or guardian.
19 The expelled pupil or, if the pupil is a minor, the pupil’s parent or guardian shall sign
20 and return one copy of the order to the school board other than the school board that
21 expelled the pupil. Within 15 days after the date on which the order under this
22 subdivision is issued, the expelled pupil or, if the pupil is a minor, the pupil’s parent
23 or guardian may appeal the determination regarding whether an enrollment
24 condition specified in the order is related to the reasons for the pupil’s expulsion to
25 the school board that specified the enrollment condition. The decision of the school

1 board under this subdivision regarding that determination is final and not subject
2 to appeal.

3 **SECTION 22.** 120.13 (1) (h) 3m. of the statutes is created to read:

4 120.13 (1) (h) 3m. If the school district administrator, or his or her designee,
5 of a school district other than the school district or out-of-state public school from
6 which a pupil was expelled determines that the pupil has met the enrollment
7 conditions established in a written order under subd. 2m., the school district
8 administrator or designee may grant the pupil conditional enrollment in a school in
9 the school district. The determination of the school district administrator or
10 designee under this subdivision is final.

11 **SECTION 23.** 120.13 (1) (h) 4. of the statutes is amended to read:

12 120.13 (1) (h) 4. If a pupil granted early reinstatement under subd. 3. violates
13 an early reinstatement condition that the pupil was required to meet after his or her
14 early reinstatement but before the expiration of the term of expulsion, the school
15 district administrator or a principal or teacher designated by the school district
16 administrator may revoke the pupil's early reinstatement. Before revoking the
17 pupil's early reinstatement, the school district administrator or his or her designee
18 shall advise the pupil of the reason for the proposed revocation, including the early
19 reinstatement condition alleged to have been violated, provide the pupil an
20 opportunity to present his or her explanation of the alleged violation, and make a
21 determination that the pupil violated the early reinstatement condition and that
22 revocation of the pupil's early reinstatement is appropriate. If the school district
23 administrator or designee revokes the pupil's early reinstatement, the school district
24 administrator or designee shall give prompt written notice of the revocation and the

1 reason for the revocation, including the early reinstatement condition violated, to the
2 pupil and, if the pupil is a minor, to the pupil's parent or guardian.

3 **SECTION 24.** 120.13 (1) (h) 4m. of the statutes is created to read:

4 120.13 (1) (h) 4m. If a pupil granted conditional enrollment under subd. 3m.
5 violates an enrollment condition that the pupil was required to meet after his or her
6 conditional enrollment but before the expiration of the term of expulsion, the school
7 district administrator of the school district in which the pupil is enrolled, or a
8 principal or teacher designated by the school district administrator, may revoke the
9 pupil's conditional enrollment. Before revoking the pupil's conditional enrollment,
10 the school district administrator or his or her designee shall advise the pupil of the
11 reason for the proposed revocation, including the enrollment condition alleged to
12 have been violated, provide the pupil an opportunity to present his or her
13 explanation of the alleged violation, and make a determination that the pupil
14 violated the enrollment condition and that revocation of the pupil's conditional
15 enrollment is appropriate. If the school district administrator or designee revokes
16 the pupil's conditional enrollment, the school district administrator or designee shall
17 give prompt written notice of the revocation and the reason for the revocation,
18 including the enrollment condition violated, to the pupil and, if the pupil is a minor,
19 to the pupil's parent or guardian.

20 **SECTION 25.** 120.13 (1) (h) 5m. of the statutes is created to read:

21 120.13 (1) (h) 5m. Except as provided in subd. 6m., if a pupil's conditional
22 enrollment is revoked under subd. 4m., the pupil's expulsion shall continue to the
23 expiration of the term of the expulsion specified in the expulsion order unless the
24 pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board
25 that expelled the pupil, or the independent hearing panel or independent hearing

1 officer, or the out-of-state public school, agree, in writing, to modify the expulsion
2 order.

3 **SECTION 26.** 120.13 (1) (h) 6m. of the statutes is created to read:

4 120.13 (1) (h) 6m. Within 5 school days after the revocation of a pupil's
5 conditional enrollment under subd. 4m., the pupil or, if the pupil is a minor, the
6 pupil's parent or guardian may request a conference with the administrator of the
7 school district in which the pupil is enrolled, or his or her designee, who shall be
8 someone other than a principal, administrator, or teacher in the pupil's school. If a
9 conference is requested, it shall be held within 5 school days following the request.
10 If, after the conference, the school district administrator or his or her designee finds
11 that the pupil did not violate an enrollment condition or that the revocation was
12 inappropriate, the pupil shall be enrolled in school under the same enrollment
13 conditions as in the order issued under subd. 2m. and the conditional enrollment
14 revocation shall be expunged from the pupil's record. If the school district
15 administrator or his or her designee finds that the pupil violated an enrollment
16 condition and that the revocation was appropriate, he or she shall mail separate
17 copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or
18 guardian. The decision of the school district administrator or his or her designee is
19 final.

20 **SECTION 27.** 120.17 (8) (a) of the statutes is amended to read:

21 120.17 (8) (a) Annually on or before November ~~6~~ 10, deliver to the clerk of each
22 municipality having territory within the school district a certified statement
23 showing that proportion of the amount of taxes voted and not before reported, and
24 that proportion of the amount of tax to be collected in such year, if any, for the annual
25 payment of any loan to be assessed on that part of the school district territory lying

1 within the municipality. Such proportion shall be determined from the full values
2 certified to the school district clerk under s. 121.06 (2).

3 **SECTION 28.** 121.58 (6) (title) of the statutes is amended to read:

4 121.58 (6) (title) ~~APPROPRIATION PRORATED;~~ PRORATION, DISTRIBUTION OF BALANCE.

5 **SECTION 29.** 121.58 (6) of the statutes is renumbered 121.58 (6) (a).

6 **SECTION 30.** 121.58 (6) (b) of the statutes is created to read:

7 121.58 (6) (b) If the appropriation under s. 20.255 (2) (cr) in any fiscal year
8 exceeds the amount of approved claims paid in full under this section and s. 121.575,
9 the department shall distribute the balance to those school districts entitled to state
10 aid under this section, with each school district receiving a percentage of the balance
11 equal to its percentage of the total approved claims.

12 **SECTION 31. Initial applicability.**

13 (1) The treatment of section 118.40 (2r) (b) 2m. of the statutes first applies to
14 a charter or contract to establish and operate a charter school that is entered into,
15 modified, or renewed on the effective date of this subsection.

16 (2) The treatment of section 120.13 (1) (f) 2. of the statutes first applies to a
17 pupil expelled from a public school in another state on the effective date of this
18 subsection.

19 (3) The treatment of section 118.33 (1) (a) (intro.) and (e) of the statutes first
20 applies to high school diplomas granted on the effective date of this subsection.

21 (4) The treatment of section 115.88 (1) and (1m) (a) of the statutes first applies
22 to state aid paid in the 2012–13 fiscal year.

23 (5) The treatment of sections 118.225 (intro.) and 118.30 (2) (c) of the statutes
24 first applies to examinations administered during the 2012–2013 school year.

