

2013 DRAFTING REQUEST

Bill

Received: 3/19/2013 Received By: pgrant
Wanted: As time permits Same as LRB:
For: Robert Cowles (608) 266-0484 By/Representing: Ryan Smith
May Contact: Drafter: pgrant
Subject: Education - school boards Addl. Drafters:
Education - school finance
Education - state superintendent Extra Copies: TKK
FFK

Submit via email: YES
Requester's email: Sen.Cowles@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Cost of community programs and services; revenue limit reduction

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>
/?	pgrant 3/19/2013	csicilia 4/2/2013	phenry 4/2/2013	_____	_____		
/1				_____	srose 4/2/2013	mbarman 11/21/2013	State S&L

FE Sent For:

At
Intro.

<END>

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1?	pgrant	1 cjs 4/2 13	4/2 ph	4/2 ph	ph / jm		

FE Sent For:

<END>

Grant, Peter

From: Smith, Ryan
Sent: Monday, March 18, 2013 4:14 PM
To: Knepp, Fern; Grant, Peter; Kuczenski, Tracy
Subject: Email from LRB Website

Hello all,

I have a drafting request regarding a program in DPI. School districts are allowed to create Community Service Programs (commonly called Fund 80) under 120.13(19). DPI has guidelines constituting what would be considered eligible costs under the program. Costs associated with these programs aren't included under a district's shared costs. Sen. Cowles is looking to draft a bill requiring districts with a Fund 80 program to submit an annual report to DOR detailing their Fund 80 expenditures. If DOR finds any of the costs claimed for Fund 80 are ineligible (based on DPI's guidelines), the district would be penalized the following year by losing spending authority under their revenue limit corresponding to the amount of ineligible costs (as determined by DOR).

Feel free to call if you have any questions.

Thanks,

Ryan Smith
Chief of Staff
Office of Sen. Robert Cowles
800-334-1465



SIR

3/19/13

TC w/ Ryan:

- have DPI promulgate rules

- do not have DPI enforce.

wants DOR to determine if sch-dist. violating DPI rules.



Community Service Fund Information

This information and the information on our website is designed to provide school districts with general guidance regarding community service fund activities. It is based on the DPI Finance Teams interpretation of the statutes. We advise districts to seek legal counsel should they question either the information or the interpretation.

Description: This fund is used to account for activities such as adult education, community recreation programs such as evening swimming pool operation and softball leagues, elderly food service programs, non-special education preschool, day care services, and other programs which are not elementary and secondary educational programs but have the primary function of serving the community. Expenditures for these activities, including cost allocations for salaries, benefits, travel, purchased services, etc. are to be included in this Fund to the extent feasible. The district may adopt a separate tax levy for this Fund. Building use fees charged for utilities and other operational costs must be recorded in the General Fund if no cost allocation was made for these to the Community Service Fund.

Statutory Authority: 120.13(19) Community Programs and Services - "A school board may establish and maintain community education, training, recreational, cultural or athletic programs and services, outside the regular curricular and extracurricular programs for pupils, under such terms and conditions as the school board prescribes. The school board may establish and collect fees to cover all or part of the costs of such programs and services. Costs associated with such programs and services shall not be included in the school district's shared cost under 121.07(6)."

Establishment of a Community Service Fund: The School Board must establish a Community Service Fund pursuant to s. 120.13(19). A budget for the Community Service Fund must be adopted as required by s. 65.90. Any tax necessary to operate the Community Service Fund is considered an "operation" levy subject to s. 120.10(8) and s. 120.12(3).

General Outline of Community Service Activities: Access to Community Service Fund activities cannot be limited to pupils enrolled in the district's K-12 educational programs. Other funds, such as the General Fund and Special Projects Fund, carry out the day to day K-12 educational operations of the district. All activities associated with a well-rounded curriculum (curricular and extra-curricular activities) are to be accounted for in these funds and the Pupil Activity Fund (Fund 60).

Excluded from a Community Service Fund are any academic subjects and extra-curricular activities available only to pupils enrolled in the district. Student activities such as inter-scholastic athletics and other extra-curricular activities, pupil clubs, dances, field trips, student seminars and symposiums also may not be funded through Community Service.

A school board may under s. 120.13 (17) grant the temporary use of school grounds, buildings, facilities or equipment, under conditions, including fees as determined by the school board. A Community Service Fund should not be established for providing access to district property for organizations such as youth, theater, and other groups not under the control of the school board unless the district is incurring additional direct cost that will not be recovered through fees and therefore requires a tax levy subsidy.

Community Service Activity Characteristics: Community service programs can only be activities and services provided outside the district's regular and extracurricular programs for pupils. The following are characteristics of community service activities.

- The activity takes place outside of the usual K-12 instructional and extracurricular time periods.
- >
- The activity is open to everyone (age appropriate) in the community.
- Additional direct cost is incurred in operating the program.
- The cost of the activity is recovered through user fees unless the school board makes a policy decision that program operations should be subsidized by a separate community service tax levy.

Not Community Service Activities: It is the department's interpretation that the following are not community service activities:

- Activities which limit access to only pupils enrolled in the school district.
- Costs for district-wide instructional program administration and support services.
- Expenditures for the welfare of and safety of pupils and staff involved with K-12 instructional programs.
- Facilities, sites and improvements unless specifically for community service activities. Any facilities funded with general obligation debt, including state trust fund loans, will require a debt service tax levy accounted for in the district's Debt Service Fund. Any such debt service levy is subject to revenue limitations if the related debt was not approved by referendum.
- The following are examples of items that are not community service unless an additional cost can be directly associated with a specifically provided community service activity:
 - Custodian, and other building and site maintenance costs.
 - Security services.

- Utility costs.

For questions about this information, contact dpifin@dpi.wi.gov (<http://sfs.dpi.wi.gov/user/641/contact>) (608) 267-9114

Metatag Publisher: School Financial Services



<http://wisconsin.gov> State Superintendent of Public Instruction Tony Evers, Department of Public Instruction
125 S. Webster Street • P.O. Box 7841, Madison, WI 53707-7841 (800) 441-4563

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BILL

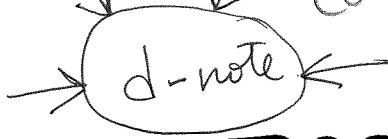
Date (time) needed

~~Wed (cont)~~

LRB - 1940 / 1 (

PLS : cjs : _____

SAV



Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; **relating to:** *schod district expenditures for . . . community programs and services and requiring . . . the exercise of rule-making authority . . .*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: **create** → **anal:** → **title:** → **head**

For the subheading, execute: **create** → **anal:** → **title:** → **sub**

For the sub-subheading, execute: **create** → **anal:** → **title:** → **sub-sub**

For the analysis text, in the component bar:

For the text paragraph, execute: **create** → **anal:** → **text**

(attached)

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

SECTION #.

X

Section #. 120.13 (19) of the statutes is amended to read:

120.13 (19) COMMUNITY PROGRAMS AND SERVICES. Establish and maintain community education, training, recreational, cultural or athletic programs and services, outside the regular curricular and extracurricular programs for pupils, under such terms and conditions as the school board prescribes. The school board may establish and collect fees to cover all or part of the costs of such programs and services. ~~Costs~~ ^{Eligible costs} associated with such programs and services shall not be included in the school district's shared cost under s. 121.07 (6).

History: 1973 c. 94, 290; 1975 c. 115, 321; 1977 c. 206, 211, 418, 429; 1979 c. 20, 202, 221, 301, 355; 1981 c. 96, 314, 335; 1983 a. 27, 193, 207, 339, 370, 518, 538; 1985 a. 29 ss. 1725e to 1726m, 1731; 1985 a. 101, 135, 211; 1985 a. 218 ss. 12, 13, 22; 1985 a. 332; 1987 a. 88, 187; 1989 a. 31, 201, 336, 359; 1991 a. 39, 226, 269; 1993 a. 16, 27, 284, 334, 399, 450, 481, 491; 1995 a. 27 ss. 4024, 9126 (19), 9145 (1); 1995 a. 29, 32, 33, 65, 75, 225, 235, 289, 439; 1997 a. 27, 155, 164, 191, 237, 335; 1999 a. 9, 19, 73, 83, 115, 128; 1999 a. 150 s. 672; 1999 a. 186; 2001 a. 38, 98, 103, 105; 2003 a. 254; 2005 a. 22, 194, 290, 346; 2005 a. 443 s. 265; 2007 a. 20 ss. 2738, 9121 (6) (a); 2007 a. 36, 70, 97; 2009 a. 14, 28, 76, 146, 185, 208, 218; 2011 a. 105, 162, 168, 258, 260.

The department shall promulgate rules defining "Eligible costs" for the purposes of this subsection.

⑨

121.907

✓ A

SEC. # CR. 121.907

⑨

121.907 Community programs and

services (1) Each school board shall annually

submit a report to the department of

revenue detailing the school board's expenditures

in the previous school year for community programs

and services under s. 120.13 (19).

⑨

③

(2) The department of revenue

shall determine for each school district

whether any such expenditures ~~violate the~~are not eligible costs, as defined by ~~the~~~~interpreted~~ by the department ofpublic instruction by rule under s. 120.13 (19) ↑and certify for each school district the total amount of suchexpenditures that are not eligible costs to the department of

public instruction.

(A)

SEC.

CR.

121.91 (4)(r)

121.91 (4)(r)

✓

(B)

(A)

121.91 (4)(r)

The limit otherwise applicable

sub. (2m)

to a school district under sub. (2m) in

any school year

is decreased by an amount equal to the

sum of the school district's ineligible

for community programs and services

expenditures in the previous school year for

~~community programs and services~~ as certified

to the department by the department of

s. 121.907 (2)

revenue under s. 121.907(2).

~~(End)~~



Nonstat File Sequence: **E E E**

LRB _____ / _____

_____ : _____ : _____

INITIAL APPLICABILITY

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the budget action phrase, execute: create → action: → *NS: → 93XX
 For the text, execute: create → text: → *NS: → inappl
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9300 department code.

SECTION # **[93** **]**. **Initial applicability;**

(#1) ()

The treatment of sections ..

of the statutes

first applies to

- In the component bar:
 For the action phrase, execute: create → action: → *NS: → inappl
 For the text, execute: create → text: → *NS: → inapplA
- Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # . **Initial applicability;**

(#1) () This act first

applies to ... *state aid distributed in, and the calculation of*
a school district's revenue limit for the ²⁰¹⁴⁻¹⁵ ₂₀₁₄₋₁₅ *school year.* ⊙

END

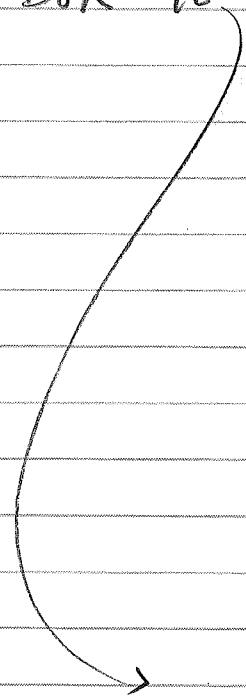
d-note

DN

Ryan:

④ You may wish to have Russ Kava or
 Dave Loppnow in the Fiscal Bureau
 review this draft to ensure that it
 achieves your intent.

④ Note that because the bill directs ^{DOR} ~~DOR~~ to





determine whether a school district has
 violated an administrative rule promulgated by
 may be
 DPL, if ~~is~~ subject to a constitutional challenge. ¹

~~It quotes~~ Article X, section 1, of
 the Wisconsin Constitution vests the supervision of
 public instruction in the state superintendent.
 Under Thompson v. Craney, 199 Wis. 2d 674 (1996),
 giving any other officer authority over public
 instruction is unconstitutional.

④ If you have questions or need more information,
 please let me know.

PG

Analysis

(9) Under current law, a school district may establish community education, training, recreational, ^{cultural} cultural, or athletic programs and services. ^{board} The school board may collect fees to cover all or part of the costs of such community programs and services. ^{cost and} Current law excludes such costs from the school district's shared cost and increases the school district's revenue limit by the amount of ^{property} property taxes levied for the purpose of such community programs and services. The Department of Public Instruction (DPI) publishes guidelines regarding community service activities, see http://sfs.dpi.wi.gov/sfs_comm_serv_fund_info http://sfs.dpi.wi.gov/sfs_comm_serv_fund_info

① This bill directs DPI to promulgate rules defining eligible costs for community programs and services.

additionally, ^{the bill} requires each school board to submit an annual report to the

Department of Revenue (DOR) detailing the school board's expenditures in the previous

school year for community programs and services. DOR must determine for each

school district whether any such expenditures were ineligible under ~~Wisconsin~~ DPI's rules and certify ^{to DPI} the total amount ^{of ineligible expenditures} for each school district.

The bill decreases a school district's revenue limit by the amount of its ineligible expenditures.

Insert
A

1975

(nwA)

provides that only
and those expenditures that are
eligible costs under the rules are
excluded from a school district's
excluded from a school district's
shared cost.

A =

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1940/1dn
PG:cjs:ph

April 2, 2013

Ryan:

You may wish to have Russ Kava or Dave Loppnow in the Fiscal Bureau review this draft to ensure that it achieves your intent.

Note that because the bill directs DOR to determine whether a school district has violated an administrative rule promulgated by DPI, it may be subject to a constitutional challenge. Article X, section 1 of the Wisconsin Constitution vest the supervision of public instruction in the state superintendent. Under *Thompson v. Craney*, 199 Wis. 2d 674 (1996), giving any other officer authority over public instruction is unconstitutional.

If you have questions or need more information, please let me know.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.wisconsin.gov

Barman, Mike

From: Smith, Ryan
Sent: Thursday, November 21, 2013 10:16 AM
To: LRB.Legal
Subject: Draft Review: LRB -1940/1 Topic: Cost of community programs and services; revenue limit reduction

Please Jacket LRB -1940/1 for the SENATE.