

State of Wisconsin



2011 Senate Bill 95

Date of enactment: **December 7, 2011**
Date of publication*: **December 20, 2011**

2011 WISCONSIN ACT 105

AN ACT *to repeal* 119.18 (6) (a); *to renumber* 120.13 (1) (f), 120.13 (1) (h) 1. a. and 121.58 (6); *to consolidate, renumber and amend* 119.18 (6) (intro.) and (b); *to amend* 43.70 (3), 115.88 (1), 115.88 (1m) (a), 118.125 (5) (b), 118.225 (intro.), 118.30 (2) (c), 118.33 (1) (a) (intro.), 118.43 (3) (intro.), 118.43 (6) (b) 10., 120.12 (3) (a), (b) and (c), 120.13 (1) (h) 4., 120.17 (8) (a) and 121.58 (6) (title); and *to create* 118.33 (1) (e), 118.40 (2r) (b) 2m., 118.43 (3r), 120.13 (1) (f) 2. and 3., 120.13 (1) (h) 1. ag., 120.13 (1) (h) 1. c., 120.13 (1) (h) 2m., 120.13 (1) (h) 3m., 120.13 (1) (h) 4m., 120.13 (1) (h) 5m., 120.13 (1) (h) 6m. and 121.58 (6) (b) of the statutes; **relating to:** high school credit for physical education; services provided by a special education program; transportation aid paid to school districts; the use of moneys received by a school district from the common school fund; using analyses of scores on standardized examinations to evaluate, discharge, suspend, or discipline a teacher or for the nonrenewal of a teacher's contract; the number of teaching days scheduled in the Milwaukee Public Schools; permitting a school district to limit the grades in which to reduce class size under the Student Achievement Guarantee in Education Program; permitting a school board to deny enrollment to a pupil who has been expelled from an out-of-state school or from an independent charter school in this state and permitting an independent charter school to expel a pupil; use of law enforcement records to take disciplinary action against a pupil under a school district's athletic code; and changing the date by which a school district must certify the amount of its property tax levy.

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

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

43.70 (3) Immediately upon making such apportionment, the state superintendent shall certify to the department of administration the estimated amount that each school district is entitled to receive under this section and shall notify each school district administrator of the estimated amount so certified for his or her school district. The department of administration shall distribute each school district's aid entitlement in one payment on or before May 1. The amount paid to each school district shall be based upon the amount in the appropriation

account under s. 20.255 (2) (s) on April 15. Moneys distributed under this section may be expended only for the purchase of instructional materials from the state historical society for use in teaching Wisconsin history and for the purchase of library books and other instructional materials for school libraries, but not for public library facilities operated by school districts under s. 43.52, in accordance with rules promulgated by the state superintendent. In addition, a school district may use ~~up to 25 percent of the moneys received in a fiscal year~~ under this section to purchase school library computers and related software if the school board consults with the person who supervises the school district's libraries and the computers and software are housed in the school library. Appropriate records of all purchases under this section shall be

* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

kept and necessary reports thereon shall be made to the state superintendent.

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

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

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

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

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

118.125 (5) (b) Law enforcement officers' records obtained under s. 48.396 (1) or 938.396 (1) (b) 2. or (c) 3. and records of the court assigned to exercise jurisdiction under chs. 48 and 938 or of a municipal court obtained under s. 938.396 (2g) (m) may not be used by a school district as the sole basis for expelling or suspend-

ing a pupil or as the sole basis for taking any other disciplinary action, including against a pupil, but may be used as the sole basis for taking action against a pupil under the school district's athletic code, ~~against a pupil.~~

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

118.225 Teacher evaluations. (intro.) A school board may use value-added analyses of scores on the results of examinations administered to pupils under s. 118.30 and 20 USC 6311 (b) (3) to evaluate teachers if the school board has developed a teacher evaluation plan that includes all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

118.43 (3r) ADJUSTMENT TO PARTICIPATING GRADES. A school district that has entered into or renewed an achievement guarantee contract under this section may, in one or more years covered by the contract, choose not

to comply with the requirement to reduce class size in grades 2 or 3, or both, in one or more schools in the district.

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

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

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

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

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

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

120.12 (3) (a) ~~On~~ Annually on or before November 1, determine the amount necessary to be raised to operate and maintain the schools of the school district and public library facilities operated by the school district under s. 43.52, if the annual meeting has not voted a tax sufficient for such purposes for the school year. ~~On~~ Annually on or before November 6 10, the school district clerk shall certify the appropriate amount so determined to each appropriate municipal clerk who shall assess the amount certified and enter it on the tax rolls as other school district taxes are assessed and entered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120.13 (1) (h) 4. If a pupil granted early reinstatement under subd. 3. violates an early reinstatement condition that the pupil was required to meet after his or her early reinstatement but before the expiration of the term of expulsion, the school district administrator or a principal or teacher designated by the school district administrator may revoke the pupil's early reinstatement. Before revoking the pupil's early reinstatement, the school district administrator or his or her designee shall advise the pupil of the reason for the proposed revocation, including

the early reinstatement condition alleged to have been violated, provide the pupil an opportunity to present his or her explanation of the alleged violation, and make a determination that the pupil violated the early reinstatement condition and that revocation of the pupil's early reinstatement is appropriate. If the school district administrator or designee revokes the pupil's early reinstatement, the school district administrator or designee shall give prompt written notice of the revocation and the reason for the revocation, including the early reinstatement condition violated, to the pupil and, if the pupil is a minor, to the pupil's parent or guardian.

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

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

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

120.13 (1) (h) 5m. Except as provided in subd. 6m., if a pupil's conditional enrollment is revoked under subd. 4m., the pupil's expulsion shall continue to the expiration of the term of the expulsion specified in the expulsion order unless the pupil or, if the pupil is a minor, the pupil's parent or guardian and the school board that expelled the pupil, or the independent hearing panel or independent hearing officer, or the out-of-state public school, agree, in writing, to modify the expulsion order.

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

120.13 (1) (h) 6m. Within 5 school days after the revocation of a pupil's conditional enrollment under subd. 4m., the pupil or, if the pupil is a minor, the pupil's parent or guardian may request a conference with the administrator of the school district in which the pupil is enrolled, or his or her designee, who shall be someone

other than a principal, administrator, or teacher in the pupil's school. If a conference is requested, it shall be held within 5 school days following the request. If, after the conference, the school district administrator or his or her designee finds that the pupil did not violate an enrollment condition or that the revocation was inappropriate, the pupil shall be enrolled in school under the same enrollment conditions as in the order issued under subd. 2m. and the conditional enrollment revocation shall be expunged from the pupil's record. If the school district administrator or his or her designee finds that the pupil violated an enrollment condition and that the revocation was appropriate, he or she shall mail separate copies of the decision to the pupil and, if the pupil is a minor, to the pupil's parent or guardian. The decision of the school district administrator or his or her designee is final.

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

120.17 (8) (a) Annually on or before November 6 10, deliver to the clerk of each municipality having territory within the school district a certified statement showing that proportion of the amount of taxes voted and not before reported, and that proportion of the amount of tax to be collected in such year, if any, for the annual payment of any loan to be assessed on that part of the school district territory lying within the municipality. Such proportion shall be determined from the full values certified to the school district clerk under s. 121.06 (2).

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

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

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

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

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

SECTION 31. Initial applicability.

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

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

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

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

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

(6) The treatment of section 118.43 (3) (intro.), (3r), and (6) (b) 10. of the statutes first applies to state aid distributed under section 118.43 (6) (b) of the statutes in the 2011–12 school year.

(7) The renumbering of section 121.58 (6) of the statutes and the creation of section 121.58 (6) (b) of the statutes first apply to aid paid for transportation provided during the 2010–11 school year.