



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-0541/P3  
FFK:wlj:jm

DOA:.....Stritchko, BB0184 - Allow whole grade sharing

**FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT** ...; **relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

This bill authorizes the school boards of two or more school districts to enter into a whole grade sharing agreement that provides for all or a substantial portion of the pupils in one or more grades in any of the school districts to attend school in one or more of the other school districts for all or a substantial portion of a school day. A whole grade sharing agreement must specify all of the following:

1. The term of the agreement.
2. The grade levels affected by the agreement.
3. The per pupil amount that a resident school district pays for a pupil attending a nonresident school district under the agreement.
4. Which pupils each school board is responsible to transport. A responsible school board is eligible for state transportation aid for the pupils it transports under the agreement.
5. Which school board will award graduation diplomas.
6. Which school board is required to maintain pupils records.

A whole grade sharing agreement must be signed by the participating school boards no later than February 1 in order to be effective for the ensuing school year. At least 90 days before entering into a whole grade sharing agreement, an interested school board must adopt a resolution stating its intent. If a petition signed by at least

20 percent of the electors residing in the school district is submitted, the school board must contract with an organization approved by DPI for a feasibility study. If a study is required, the school board may not enter into an agreement until it receives the results of the study. At least 30 days before entering into a whole grade sharing agreement, an interested school district must hold a public hearing at which the proposed agreement is described and school district electors may offer comments.

For each of the first five school years after a whole grade sharing agreement takes effect, DPI must provide additional aid to each participating school district to ensure that the school district does not receive less state aid than it did before entering into the agreement. DPI also provides additional aid in the sixth and seventh years after the agreement takes effect but to a lesser extent.

In general, the bill provides that pupils attending a public school in a nonresident school district under a whole grade sharing agreement have all the rights and privileges of resident pupils and are subject to the same rules that govern resident pupils. The bill also provides that the school district of attendance is the local educational agency for purposes of providing special education and related services to children with a disability who are attending a nonresident school district under a whole grade sharing agreement.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

**SECTION 1.** 67.03 (7) of the statutes is renumbered 67.03 (7) (a).

**SECTION 2.** 67.03 (7) (b) of the statutes is created to read:

67.03 (7) (b) For the purposes of indebtedness, a school district that does not operate one or more grades as a result of entering into a whole grade sharing agreement under s. 118.50 is considered to be operating those grades.

**SECTION 3.** 115.28 (61) of the statutes is created to read:

115.28 (61) WHOLE GRADE SHARING FEASIBILITY STUDIES. Approve organizations to conduct feasibility studies under s. 118.50 (2) (c).

**SECTION 4.** 115.77 (1) of the statutes is amended to read:

115.77 (1) In sub. (1m) (a) to (d), except as provided in s. 118.51 (12) (a) and (b) 2., if a child with a disability is attending a public school in a nonresident school

district under s. 118.50, 118.51, or 121.84 (1) (a) or (4), “local educational agency” means the school district that the child is attending.

**SECTION 5.** 115.777 (1) of the statutes is amended to read:

115.777 (1) (a) A physician, nurse, psychologist, social worker or administrator of a social agency who reasonably believes that a child brought to him or her for services has a disability shall refer the child to the local educational agency. If the local educational agency to whom the referral is made is the school district in which the child resides but the child is attending a public school in a nonresident school district under s. 118.50, 118.51, or 121.84 (1) (a) or (4), the school board of the school district in which the child resides shall provide the name of the child and related information to the school board of the school district that the child is attending.

(b) A person who is required to be licensed under s. 115.28 (7), who is employed by a local educational agency and who reasonably believes a child has a disability, shall refer the child to the local educational agency. If the local educational agency to whom the referral is made is the school district that the child is attending but the child is a nonresident attending a public school in that school district under s. 118.50, 118.51, or 121.84 (1) (a) or (4), the school board of the school district that the child is attending shall provide the name of the child and related information to the school board of the child’s school district of residence.

(c) Any person other than those specified under par. (a) or (b) who reasonably believes that a child is a child with a disability may refer the child to a local educational agency. If the local educational agency to whom the referral is made is the school district in which the child resides but the child is attending a public school in a nonresident school district under s. 118.50, 118.51, or 121.84 (1) (a) or (4), the school board of the school district in which the child resides shall provide the name

of the child and related information to the school board of the school district that the child is attending.

**SECTION 6.** 115.78 (1) of the statutes is amended to read:

115.78 (1) DEFINITION. In this section, for a child who is attending a public school in a nonresident school district under s. 118.50, 118.51, or 121.84 (1) (a) or (4), “local educational agency” means the school board of the school district that the child is attending.

**SECTION 7.** 115.78 (1m) (h) of the statutes is amended to read:

115.78 (1m) (h) If the child is attending a public school in a nonresident school district under s. 118.50, 118.51, or 121.84 (1) (a) or (4), at least one person designated by the school board of the child’s school district of residence who has knowledge or special expertise about the child.

**SECTION 8.** 115.79 (1) (b) of the statutes is amended to read:

115.79 (1) (b) An educational placement is provided to implement a child’s individualized education program. Except as provided in s. 118.51 (12) (a) and (b) 2., if a child with a disability is attending a public school in a nonresident school district under s. 118.50, 118.51, or 121.84 (1) (a) or (4), the school board of the school district that the child is attending shall provide an educational placement for the child and shall pay tuition charges instead of the school district in which the child resides if required by the placement.

**SECTION 9.** 115.792 (1) (b) of the statutes is amended to read:

115.792 (1) (b) The local educational agency shall establish and maintain procedures to ensure that a child’s parents are provided prior written notice whenever the local educational agency proposes to initiate or change, or refuses to initiate or change, the identification, evaluation or educational placement of the

child, or the provision of a free appropriate public education to the child. In this paragraph, “local educational agency” includes the nonresident school district that a child is attending under s. 118.50, 118.51, or 121.84 (1) (a) or (4).

**SECTION 10.** 115.792 (3) (a) of the statutes is amended to read:

115.792 (3) (a) In this subsection, “local educational agency” includes the nonresident school district that a child is attending under s. 118.50, 118.51, or 121.84 (1) (a) or (4).

**SECTION 11.** 115.80 (8) of the statutes is amended to read:

115.80 (8) Except as provided in [20 USC 1415](#) (k), during the pendency of any proceedings under this section, the local educational agency may not change the educational placement of a child unless the child’s parents agree to the change. If the child is applying for initial admission to a public school, the child shall, with the consent of the child’s parents, be placed in the public school program until all proceedings under this section have been completed. In this subsection, “local educational agency” includes the nonresident school district that a child is attending under s. 118.50, 118.51, or 121.84 (1) (a) or (4).

**SECTION 12.** 115.82 (2) (c) of the statutes is created to read:

115.82 (2) (c) If the child is attending a public school in a nonresident school district under s. 118.50, the school district specified to do so in the whole grade sharing agreement shall provide transportation.

**SECTION 13.** 115.88 (8) of the statutes is amended to read:

115.88 (8) ENROLLMENT OUT OF STATE. If a child with a disability is enrolled in a public special education program located in another state and the state superintendent is satisfied that the program in which the child is enrolled complies with this subchapter, the state superintendent shall certify to the department of

administration in favor of the school district in which the child resides or the school district attended by the child under s. 118.50, 118.51, or 121.84 (1) (a) or (4) a sum equal to the amount expended by the school district during the preceding year for the additional costs associated with the child's special education program as costs eligible for reimbursement from the appropriation under s. 20.255 (2) (b).

**SECTION 14.** 117.05 (5) (a) of the statutes is amended to read:

117.05 (5) (a) *Territory in district.* All territory within this state shall be included in a school district operating elementary school grades and a school district operating high school grades or in a school district operating both elementary and high school grades, except for territory located in a school district that is not operating certain grades as a result of entering into a whole grade sharing agreement under s. 118.50. No territory may be detached from a school district unless by the same order it is attached to another school district or included in a new school district created by the order. No territory may be detached from a school district that operates high school grades unless by the same order it is attached to or included in another school district that operates high school grades.

**SECTION 15.** 117.30 (1) (a) of the statutes is amended to read:

117.30 (1) (a) Except as provided under pars. (b) and ~~(c)~~ (d), if a school district for 2 or more successive years has failed to operate sufficient classes at each grade level to provide all pupils who reside in the school district an opportunity to attend class at the appropriate grade level, the board shall attach the territory of the school district to one or more school districts that do so. Within 60 days of the date on which a school district becomes subject to this section, the state superintendent shall so notify the school district clerk and the clerk of each municipality in which part of the school district lies. Prior to August 30 of the year in which the school district becomes

subject to this section, the board shall issue an order of school district reorganization attaching the school district to one or more operating school districts. Orders issued under this section take effect upon being filed as provided in s. 117.17 (2). The school board of each district to which any territory is attached under this section shall levy and collect a special tax against the property in the territory so attached for such amount as is payable for tuition and transportation, at the time of the attachment, by the school district in which the attached territory was located prior thereto, in the proportion that the equalized valuation of the attached territory bears to the total equalized valuation of the school district in which such territory was located prior to such attachment.

**SECTION 16.** 117.30 (1) (d) of the statutes is created to read:

117.30 (1) (d) Paragraph (a) does not apply if the school district fails to operate one or more grades but provides for their operation by another school district pursuant to a whole grade sharing agreement under s. 118.50.

**SECTION 17.** 118.134 (3m) of the statutes is amended to read:

118.134 (3m) A pupil attending a public school in a nonresident school district under s. 118.50 or 118.51 may not file a complaint under sub. (1) in which the pupil objects to the use of a race-based nickname, logo, mascot, or team name by the school board of the nonresident school district.

**SECTION 18.** 118.50 of the statutes is created to read:

**118.50 Whole grade sharing. (1) AGREEMENT.** The school boards of 2 or more school districts may enter into a whole grade sharing agreement that provides for all or a substantial portion of the pupils enrolled in one or more grades in any of the school districts to attend school in one or more of the other school districts for all or

a substantial portion of a school day. School boards shall include in a whole grade sharing agreement all of the following:

(a) The term of the agreement and the date by which each school board must notify the other participating school boards of its intent to renew the agreement.

(b) The grade levels in each school district that are subject to the agreement.

(c) The annual amount that the school board of a pupil's resident school district pays to the school board of the school district that the pupil attends under the agreement.

(d) Which school board grants diplomas to pupils who, under the agreement, graduate from high school in a school district other than the pupil's resident school district.

(e) Which school board is responsible for pupil records, as defined in s. 118.125 (1) (d), for pupils, who under the agreement, attend school in a school district other than the pupil's resident school district.

**(2) PROCEDURE.** (a) A school board may not enter into, extend, or renew a whole grade sharing agreement after February 1 of the school year preceding the school year in which the agreement, extension, or renewal takes effect.

(b) At least 90 days before entering into, extending, or renewing a whole grade sharing agreement, the school board shall adopt a resolution stating its intention to do so. Within 10 days after adoption of the resolution, the school district clerk shall publish notice of the adoption of the resolution as a class 1 notice under ch. 985 in a newspaper published in the school district or post a notice of the adoption of the resolution as provided in s. 10.05.

(c) Within 30 days after publication or posting, a petition signed by at least 20 percent of the electors residing in the school district may be filed with the school



board requesting a feasibility study of the agreement. Upon receiving the petition, the school board shall contract with an organization approved by the department to conduct the feasibility study. If a feasibility study is required under this paragraph, the school board may not enter into, extend, or renew a whole grade sharing agreement until it receives the results of the study. The school board shall post the results of the feasibility study on the school district's Internet site.

(d) At least 30 days before entering into, extending, or renewing a whole grade sharing agreement, the school board shall hold a public hearing in the school district at which the proposed agreement is described and at which any school district elector may comment on the proposed agreement. Two or more school boards that will be parties to the agreement may hold a joint public hearing in one of the school districts.

**(3) TRANSPORTATION.** (a) In addition to the requirements under sub. (1), a whole grade sharing agreement shall specify which school board is responsible for transporting pupils to and from the school they are attending under the agreement.

(b) A whole grade sharing agreement may also specify which school board may provide transportation for pupils attending summer classes under the agreement.

(c) If, under a whole grade sharing agreement, a school board provides transportation for fewer than all pupils, there shall be reasonable uniformity in the minimum and maximum distances pupils are transported.

**(4) ATTENDANCE AREAS.** If a school board enters into a whole grade sharing agreement that designates more than one school district for the attendance of its pupils, the school board shall establish attendance areas within the school district for determining the school districts of attendance of the pupils.

**(5) RIGHTS AND PRIVILEGES OF NONRESIDENT PUPILS; PARTICIPATION IN PROGRAMS.**

(a) Except as provided in s. 118.134 (3m), a pupil attending a public school in a

nonresident school district under this section has all of the rights and privileges of pupils residing in that school district and is subject to the same rules and regulations as pupils residing in that school district.

(b) A pupil attending a public school in a nonresident school district under this section is considered a resident of the nonresident school district for the purposes of participating in programs of a cooperative educational service agency or a county children with disabilities education board.

**(6) FULL-TIME ENROLLMENT IN NONRESIDENT DISTRICT.** If a whole grade sharing agreement provides for a pupil to attend a grade in a nonresident school district, the pupil may not attend that grade in the nonresident school district under s. 118.51.

**(7) SCHOOL DISTRICT REORGANIZATION.** A whole grade sharing agreement entered into under this section is not an order of school district reorganization under ch. 117.

**SECTION 19.** 118.51 (2) of the statutes is amended to read:

118.51 (2) APPLICABILITY. ~~A~~ Except as provided in s. 118.50 (6), a pupil may attend a public school, including a charter school, prekindergarten, 4-year-old kindergarten, or early childhood or school-operated child care program, in a nonresident school district under this section, except that a pupil may attend a prekindergarten, 4-year-old kindergarten, or early childhood or school-operated child care program in a nonresident school district only if the pupil's resident school district offers the same type of program that the pupil wishes to attend and the pupil is eligible to attend that program in his or her resident school district.

**SECTION 20.** 119.04 (1) of the statutes is amended to read:

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c), 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.363, 115.365 (3), 115.38 (2), 115.415, 115.445, 118.001 to 118.04,

118.045, 118.06, 118.07, 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10), 118.245, 118.255, 118.258, 118.291, 118.292, 118.293, 118.30 to 118.43, 118.46, 118.50, 118.51, 118.52, 118.53, 118.55, 118.56, 120.12 (2m), (4m), (5), and (15) to (27), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.137, 120.14, 120.21 (3), and 120.25 are applicable to a 1st class city school district and board.

**SECTION 21.** 121.02 (1) (L) 3. of the statutes is amended to read:

121.02 (1) (L) 3. In grades 9 to 12, provide access to an educational program that enables pupils each year to study English, social studies, mathematics, science, vocational education, foreign language, physical education, art and music. In this subdivision, “access” means an opportunity to study through school district course offerings, independent study, cooperative educational service agencies, or cooperative arrangements between school boards or between school boards and postsecondary educational institutions.

**SECTION 22.** 121.05 (1) (a) 11. of the statutes is amended to read:

121.05 (1) (a) 11. Pupils residing in the school district but attending a public school in another school district under s. 118.50, 118.51, 121.84 (4), or 121.85 (3) (a).

**SECTION 23.** 121.105 (4) of the statutes is created to read:

121.105 (4) (a) In the school year in which a whole grade sharing agreement under s. 118.50 takes effect and in each of the subsequent 4 school years, the department shall pay additional aid to each school district that is participating in the agreement to ensure that the school district receives no less state aid than the amount of state aid to which the school district was eligible in the school year prior to the school year in which the whole grade sharing agreement took effect. In the 5th

school year following the school year in which a whole grade sharing agreement takes effect, the department shall pay additional aid to each school district that is participating in the whole grade sharing agreement in an amount that is equal to 66 percent of the payment that the school district received under this subsection in the prior school year. In the 6th school year following the school year in which the whole grade sharing agreement takes effect, the department shall pay to each school district that is participating in the whole grade sharing agreement an amount that is equal to 33 percent of the payment that the school district received in the 4th school year following the school year in which the whole grade sharing agreement took effect. The department shall pay additional aid under this paragraph from the appropriation under s. 20.255 (2) (ac).

**SECTION 24.** 121.58 (4) of the statutes is amended to read:

**121.58 (4) STATE AID FOR SUMMER CLASS TRANSPORTATION.** Annually on or before October 1 of the year in which transportation is provided under s. 118.50 (3) (b) or 121.54 (4), or under s. 121.54 (10) if the transportation is provided by the nonresident school district that a pupil attends under s. 118.51 or 121.84 (4), the school district clerk shall file with the department a report, containing such information as the department requires, on transportation provided by the school board to and from summer classes. Upon receipt of such report and if the summer classes meet the requirements of s. 121.14 (1) (a) 1. or 2., state aid shall be paid for such transportation. A school district which provides such transportation shall be paid state aid for such transportation at the rate of \$4 per pupil transported to and from public school whose residence is at least 2 miles and not more than 5 miles by the nearest traveled route from the public school attended, and \$6 per pupil transported to and from public school whose residence is more than 5 miles by the nearest

traveled route from the public school attended, if the pupil is transported 30 days or more. The state aid shall be reduced proportionately if the pupil is transported less than 30 days.

**SECTION 25.** 121.77 (3) of the statutes is amended to read:

121.77 (3) Subsections (1) (b) and (2) do not apply to a pupil attending a public school in a nonresident school district under s. 118.50, 118.51, or 121.84 (4).

**(END)**