



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1427/P1
TKK:jld

DOA:.....Hynek, BB0261 - Special Ed Technical Corrections

FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

EDUCATION

PRIMARY AND SECONDARY EDUCATION

This bill explicitly authorizes DPI to request that DOA reimburse charter schools, including independent charter schools, charter schools under contract with the director of the Office of Educational Opportunity, and noninstrumentality charter schools, for certain costs incurred in connection with a special education program and the provision of special education and related services by the charter school, including transportation services and the hiring of special educational teachers, occupational therapists, and other paraprofessionals, if certain conditions are met. Current law allows DPI to reimburse school districts, cooperative educational service agencies (CESAs), and county children with disabilities education boards (CCDEBs) for the same services under the same conditions. The bill restructures those statutory provisions related to the reimbursement of special education costs incurred by school districts, CESAs, and CCDEBs to clarify those statutory provisions.

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

SECTION 1. 115.88 (1) of the statutes is renumbered 115.88 (1) (a) and amended to read:

115.88 (1) (a) A school board, board of control of a cooperative educational service agency, operator of a charter school established under s. 118.40 (2r) or (2x), operator of a school under a contract with a school board under s. 118.40 that is not an instrumentality of a school district, or, upon authorization of the county board, a county children with disabilities education board may employ, for a special education program, either 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

(b) A school board, board of control of a cooperative educational service agency, operator of a charter school established under s. 118.40 (2r) or (2x), operator of a school under a contract with a school board under s. 118.40 that is not an instrumentality of a school district, or, upon authorization of the county board, a county children with disabilities education board may contract with private or public agencies for substitute teaching and paraprofessional staffing services, 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 2. 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, charter school established under s. 118.40 (2r) or (2x), and school district maintaining such special education program a sum equal to the amount expended by the county, agency, charter school, and school district during the preceding year for salaries of personnel and services enumerated in sub. (1); ~~the salary portion of any authorized contract for 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); (a) and (b) and other~~ expenses approved by the state superintendent, as costs eligible for reimbursement from the appropriation under s. 20.255 (2) (b).

SECTION 3. 115.88 (1m) (ag) of the statutes is created to read:

115.88 **(1m)** (ag) Subject to par. (b), if the state superintendent is satisfied that the special education program of an operator of a school under a contract with a school board under s. 118.40 that is not an instrumentality of a school district has been maintained during the previous school year in accordance with law, the state superintendent shall certify to the department of administration in favor of the school board a sum equal to the amount expended by the operator during the previous school year for salaries of personnel and services enumerated in sub. (1) (a) and (b) and other expenses approved by the state superintendent as costs eligible for

reimbursement from the appropriation under s. 20.255 (2) (b). Within 30 days of its receipt, the school board shall pay to the operator of the school under a contract with the school board the aid received under this paragraph.

SECTION 4. 115.88 (1m) (am) of the statutes is repealed.

SECTION 5. 115.88 (1m) (b) of the statutes is amended to read:

115.88 **(1m)** (b) The department shall promulgate rules establishing the percentage of the salaries of school nurses, licensed school social workers, licensed school psychologists, and licensed school counselors that may be certified under ~~pars. par. (a) and (am)~~ as costs eligible for reimbursement. For each category of personnel, the department shall base the percentage on the average percentage of work time that the category spends providing services to children with disabilities, including conducting evaluations under s. 115.782.

SECTION 6. 115.88 (2) of the statutes is repealed.

SECTION 7. 115.88 (2m) (title) of the statutes is amended to read:

115.88 **(2m)** (title) ~~OTHER~~ SPECIAL OR ADDITIONAL TRANSPORTATION; AID.

SECTION 8. 115.88 (2m) of the statutes is renumbered 115.88 (2m) (b) and amended to read:

115.88 **(2m)** (b) If the state superintendent is satisfied that a school board, board of control, operator of a charter school established under s. 118.40 (2r) or (2x), or ~~established as a noninstrumentality charter school under s. 118.40 (2m)~~ transports children with disabilities and the state superintendent is satisfied that ~~the operator of the charter school is complying with 20 USC 1400 to 1491e~~ county children with disabilities education board has provided special or additional transportation during the previous school year as described under par. (a), the state superintendent shall certify to the department of administration in favor of the

~~school board, board of control, operator of the charter school, or county children with disabilities education board providing the transportation a sum equal to the amount that expended by the school board, board of control, operator of the charter school expended, or county children with disabilities education board during the previous school year for transportation under this subsection as costs eligible for reimbursement from the appropriations under s. 20.255 (2) (b). The state superintendent may audit costs under this subsection and adjust reimbursement to cover only actual, eligible costs.~~

SECTION 9. 115.88 (2m) (a) of the statutes is created to read:

115.88 **(2m)** (a) A school board, board of control of a cooperative educational service agency, operator of a charter school established under s. 118.40 (2r) or (2x), or, upon authorization of the county board, a county children with disabilities education board shall provide special or additional transportation as required in the individualized education program developed for the child with a disability under s. 115.787 (2) or as required under s. 121.54 (3). The operator of a school under a contract with a school board under s. 118.40 that is not an instrumentality of the school district shall provide special or additional transportation under this paragraph if the contract between the operator and the school board requires the operator to provide the special or additional transportation.

SECTION 10. 115.88 (2m) (c) of the statutes is created to read:

115.88 **(2m)** (c) If the state superintendent is satisfied that the operator of a school under a contract with a school board under s. 118.40 that is not an instrumentality of the school district has provided special or additional transportation during the previous school year as described under par. (a), the state superintendent shall certify to the department of administration in favor of the

school board a sum equal to the amount expended by the operator during the previous school year for providing the transportation as costs eligible for reimbursement from the appropriation under s. 20.255 (2) (b). Within 30 days of its receipt, the school board shall pay to the operator of the school under a contract with the school board the aid received under this paragraph.

SECTION 11. 115.88 (10) of the statutes is created to read:

115.88 **(10)** AUDIT OF ELIGIBLE COSTS. The state superintendent may audit costs under this section and adjust the amounts eligible for reimbursement to cover only actual, eligible costs.

(END)