



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4142/2
FFK:kjf

2015 SENATE BILL 640

January 25, 2016 – Introduced by Senator OLSEN, cosponsored by Representative KITCHENS. Referred to Committee on Education.

1 **AN ACT** *to repeal* 115.385 (1g) (a), 115.385 (1g) (b), 118.60 (11) (bm) and 119.23
2 (11) (bm); *to renumber and amend* 118.33 (1m) (a) 2., 118.60 (7) (an) and
3 119.23 (7) (an); *to amend* 115.385 (1g) (c) 3. c., 118.60 (7) (am) 1m. and 119.23
4 (7) (am) 1m.; and *to create* 115.787 (2) (em), 118.33 (1m) (a) 2. b., 118.60 (7) (am)
5 3., 118.60 (7) (an) 1., 119.23 (7) (am) 3. and 119.23 (7) (an) 1. of the statutes;
6 **relating to:** independent financial audits of private schools participating in a
7 parental choice program, a civics exam as a condition for obtaining a high school
8 diploma, and factors for determining school and school district performance on
9 the school and school district accountability report.

Analysis by the Legislative Reference Bureau

This bill makes various changes to provisions related to primary and secondary education created in 2015 Wisconsin Act 55, the biennial budget act.

Civics exam as a condition for obtaining a high school diploma.

Current law requires that, beginning in the 2016–17 school year, before a school board, independent charter school, or private school participating in a parental choice program awards a high school diploma to a pupil, the pupil must receive a passing score on a civics exam that is identical to the civics exam required to be taken

SENATE BILL 640

by persons seeking U.S. citizenship (mandatory civics exam). Current law provides an exception to this requirement for a pupil who has an IEP in effect. A pupil who has an IEP in effect must take the mandatory civics exam but is not required to receive a passing score as a condition of graduation. This bill expands this exception to apply to a parentally placed private school pupil with a disability.

This bill also requires an IEP team to include in a pupil's IEP a statement about whether it is appropriate to administer the mandatory civics exam to the pupil. If a pupil's IEP or services plan includes a statement that it is not appropriate to administer the mandatory civics exam to the pupil, completion of the mandatory civics exam may not be required as a condition of graduation for that pupil.

Financial information about private schools participating in a parental choice program.

This bill changes requirements created in 2015 Wisconsin Act 55 relating to independent financial audits of private schools participating in the Milwaukee Parental Choice Program, the Racine Parental Choice Program, or the statewide parental choice program (a parental choice program).

Under current law, each private school participating in a parental choice program must submit an annual independent financial audit to the department. This bill clarifies that, for purposes of the annual independent financial audit, in order for a cost to be an eligible education expense an independent auditor must test the cost and confirm that the cost is reasonable for the private school to achieve its educational purposes, as determined by the private school in a written policy. The bill also replaces the audit certification process created in 2015 Wisconsin Act 55 with a process and deadline for notifying a participating private school of whether or not it has satisfied the audit requirements.

Under the bill, a private school participating in a parental choice program must maintain a cash and investment balance that is at least equal to the private school's reserve balance. In the event a private school ceases to participate in any parental choice program or is barred from participating in the parental choice programs, the private school must refund its reserve balance to the department.

School and school district accountability report.

This bill changes requirements created in 2015 Wisconsin Act 55 relating to how the department determines school and school district performance for purposes of the school and school district accountability report.

Current law requires the department to weight pupil test scores to account for the length of time pupils are enrolled in a school or school district before taking a test used for purposes of the accountability report and to exclude information about certain pupils who change schools for the ninth grade. This bill eliminates these requirements.

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

SENATE BILL 640

1 **SECTION 1.** 115.385 (1g) (a) of the statutes, as created by 2015 Wisconsin Act
2 55, is repealed.

3 **SECTION 2.** 115.385 (1g) (b) of the statutes, as created by 2015 Wisconsin Act
4 55, is repealed.

5 **SECTION 3.** 115.385 (1g) (c) 3. c. of the statutes, as created by 2015 Wisconsin
6 Act 55, is amended to read:

7 115.385 (**1g**) (c) 3. c. Add ~~3.35~~ 3.33 to the result under subd. 3. b.

8 **SECTION 4.** 115.787 (2) (em) of the statutes is created to read:

9 115.787 (**2**) (em) A statement of whether it is appropriate to administer the
10 civics test under s. 118.33 (1m) (a) to the child and, if it is appropriate, any
11 accommodations that are necessary to measure the child's knowledge of the
12 information required to be tested on the civics test required under s. 118.33 (1m) (a).

13 **SECTION 5.** 118.33 (1m) (a) 2. of the statutes, as created by 2015 Wisconsin Act
14 55, is renumbered 118.33 (1m) (a) 2. a. and amended to read:

15 118.33 (**1m**) (a) 2. a. ~~A- Except as provided in subd. 2. b.,~~ a school board,
16 operator of a charter school under s. 118.40 (2r) or (2x), and governing body of a
17 private school participating in a program under s. 118.60 or 119.23 shall require a
18 pupil for whom an individualized education program under s. 115.787 is in effect and
19 a parentally placed child with a disability, as defined in 34 CFR 300.130, to complete
20 the civics test described under subd. 1. but ~~shall~~ may not condition graduation on the
21 successful completion of the test.

22 **SECTION 6.** 118.33 (1m) (a) 2. b. of the statutes is created to read:

23 118.33 (**1m**) (a) 2. b. If a pupil's individualized education program under s.
24 115.787 or a services plan, as defined in 34 CFR 300.37, includes a statement that
25 it is not appropriate to administer the civics test under subd. 1. to the pupil, a school

SENATE BILL 640**SECTION 6**

1 board, operator of a charter school under s. 118.40 (2r) or (2x), and governing body
2 of a private school participating in a program under s. 118.60 or 119.23 may not make
3 completion of the civics test described under subd. 1. a condition of graduation for
4 that pupil.

5 **SECTION 7.** 118.60 (7) (am) 1m. of the statutes, as created by 2015 Wisconsin
6 Act 55, is amended to read:

7 118.60 (7) (am) 1m. In this paragraph, “eligible education expenses” means all
8 direct and indirect costs associated with a private school’s educational programming
9 for pupils enrolled in grades kindergarten to 12 that are reasonable for the private
10 school to achieve its educational purposes, as determined by the governing body of
11 the private school in a written policy and reviewed tested by an independent auditor.
12 “Eligible education expenses” include expenses related to management, insurance,
13 transportation, extracurricular programming and activities, facility and equipment
14 costs, development expenses, and programming that provides child care services
15 before school, after school, or both before and after school. A cost is not an “eligible
16 education expense” if an independent auditor determines, after testing, that the cost
17 is not a cost associated with the private school’s educational programming for pupils
18 enrolled in grades kindergarten to 12 that is reasonable for the private school to
19 achieve its educational purposes, as determined by the governing body of the private
20 school in a written policy.

21 **SECTION 8.** 118.60 (7) (am) 3. of the statutes is created to read:

22 118.60 (7) (am) 3. a. By no later than February 15 or 120 days after the date
23 on which the audit under subd. 2m. a. is received by the department, whichever is
24 later, the department shall notify a private school participating in the program under
25 this section whether or not additional information is required for the department to

SENATE BILL 640

1 complete its review of the audit. Subject to subd. 3. b., the department may request
2 that an auditor provide additional information if the request is related to the
3 department reviewing the audit. The department shall determine whether a private
4 school participating in the program under this section has provided the information
5 and met the requirements required under subd. 2m. a. by April 1.

6 b. Before April 1, the department may contact the auditor who prepared the
7 audit under subd. 2m. a. only regarding matters that may impact the private school's
8 financial statement by an amount that is greater than 1 percent of the total amount
9 the private school received under this section for the previous school year and any
10 items or information the department determines are missing from the audit.

11 c. Notwithstanding subd. 3. a. and b., the department may communicate with
12 an auditor as necessary for the purpose of assessing the financial viability of a
13 private school participating in the program under this section.

14 d. An auditor who receives a written communication under this subdivision
15 shall respond to the department within 10 school days of receiving the written
16 communication.

17 **SECTION 9.** 118.60 (7) (an) of the statutes, as created by 2015 Wisconsin Act 55,
18 is renumbered 118.60 (7) (an) 2. and amended to read:

19 118.60 (7) (an) 2. If a private school participating in the program under this
20 section has a ~~cash or investment~~ reserve balance that is greater than 50 percent of
21 the total amount the private school received under this section in the previous school
22 year, the governing body of the private school shall approve a plan for how it will use
23 the amount of the ~~cash or investment~~ reserve balance that exceeds 50 percent of the
24 total amount the private school received under this section in the previous school
25 year.

SENATE BILL 640**SECTION 10**

1 **SECTION 10.** 118.60 (7) (an) 1. of the statutes is created to read:

2 118.60 (7) (an) 1. A private school participating in the program under this
3 section shall maintain a cash and investment balance that is at least equal to its
4 reserve balance. If a private school ceases to participate in or is barred from the
5 program under this section and s. 119.23 and the private school's reserve balance is
6 positive, the private school shall refund the reserve balance to the department.

7 **SECTION 11.** 118.60 (11) (bm) of the statutes, as created by 2015 Wisconsin Act
8 55, is repealed.

9 **SECTION 12.** 119.23 (7) (am) 1m. of the statutes, as created by 2015 Wisconsin
10 Act 55, is amended to read:

11 119.23 (7) (am) 1m. In this paragraph, "eligible education expenses" means all
12 direct and indirect costs associated with a private school's educational programming
13 for pupils enrolled in grades kindergarten to 12 that are reasonable for the private
14 school to achieve its educational purposes, as determined by the governing body of
15 the private school in a written policy and reviewed tested by an independent auditor.
16 "Eligible education expenses" include expenses related to management, insurance,
17 transportation, extracurricular programming and activities, facility and equipment
18 costs, development expenses, and programming that provides child care services
19 before school, after school, or both before and after school. A cost is not an "eligible
20 education expense" if an independent auditor determines, after testing, that the cost
21 is not a cost associated with the private school's educational programming for pupils
22 enrolled in grades kindergarten to 12 that is reasonable for the private school to
23 achieve its educational purposes, as determined by the governing body of the private
24 school in a written policy.

25 **SECTION 13.** 119.23 (7) (am) 3. of the statutes is created to read:

SENATE BILL 640

1 119.23 (7) (am) 3. a. By no later than February 15 or 120 days after the date
2 on which the audit under subd. 2m. a. is received by the department, whichever is
3 later, the department shall notify a private school participating in the program under
4 this section whether or not additional information is required for the department to
5 complete its review of the audit. Subject to subd. 3. b., the department may request
6 that an auditor provide additional information if the request is related to the
7 department reviewing the audit. The department shall determine whether a private
8 school participating in the program under this section has provided the information
9 and met the requirements required under subd. 2m. a. by April 1.

10 b. Before April 1, the department may contact the auditor who prepared the
11 audit under subd. 2m. a. only regarding matters that may impact the private school's
12 financial statement by an amount that is greater than 1 percent of the total amount
13 the private school received under this section for the previous school year and any
14 items or information the department determines are missing from the audit.

15 c. Notwithstanding subd. 3. a. and b., the department may communicate with
16 an auditor as necessary for the purpose of assessing the financial viability of a
17 private school participating in the program under this section.

18 d. An auditor who receives a written communication under this subdivision
19 shall respond to the department within 10 school days of receiving the written
20 communication.

21 **SECTION 14.** 119.23 (7) (an) of the statutes, as created by 2015 Wisconsin Act
22 55, is renumbered 119.23 (7) (an) 2. and amended to read:

23 119.23 (7) (an) 2. If a private school participating in the program under this
24 section has a ~~cash or investment~~ reserve balance that is greater than 50 percent of
25 the total amount the private school received under this section in the previous school

SENATE BILL 640**SECTION 14**

1 year, the governing body of the private school shall approve a plan for how it will use
2 the amount of the ~~cash or investment~~ reserve balance that exceeds 50 percent of the
3 total amount the private school received under this section in the previous school
4 year.

5 **SECTION 15.** 119.23 (7) (an) 1. of the statutes is created to read:

6 119.23 (7) (an) 1. A private school participating in the program under this
7 section shall maintain a cash and investment balance that is at least equal to its
8 reserve balance. If a private school ceases to participate in or is barred from the
9 program under this section and s. 118.60 and the private school's reserve balance is
10 positive, the private school shall refund the reserve balance to the department.

11 **SECTION 16.** 119.23 (11) (bm) of the statutes, as created by 2015 Wisconsin Act
12 55, is repealed.

13 **SECTION 17. Initial applicability.**

14 (1) INDEPENDENT FINANCIAL AUDITS OF PRIVATE SCHOOLS PARTICIPATING IN A
15 PARENTAL CHOICE PROGRAM. The treatment of sections 118.60 (7) (am) 1m. and 3. and
16 (11) (bm) and 119.23 (7) (am) 1m. and 3. and (11) (bm) of the statutes first applies to
17 a financial audit of the 2015-16 school year.

18 (END)