2019 ASSEMBLY BILL 730

1 AN ACT *to renumber and amend* 118.60 (3) (ar) 3. and 118.60 (3) (ar) 4.; *to*

2 *amend* 115.7915 (2) (intro.), 118.60 (2) (a) (intro.), 118.60 (2) (a) 2. g., 118.60 (2)

3 (be) 3., 118.60 (3) (a) (intro.), 118.60 (3) (ar) (intro.), 118.60 (3) (ar) 5., 118.60 (3)

4 (b), 118.60 (3) (c), 118.60 (4v) (b), 119.23 (2) (a) (intro.), 119.23 (3) (a) (intro.),

5 119.23 (3) (b) and 119.23 (4v) (b); and *to create* 115.7915 (11), 118.60 (2) (bh),

6 118.60 (3) (am), 118.60 (3) (ar) 3. a. and b., 118.60 (3) (ar) 4. a. and b., 118.60 (4v)

7 (c) and (d), 119.23 (2) (b), 119.23 (3) (ar) and 119.23 (4v) (c), (d) and (e) of the

8 statutes; **relating to:** phasing out the Special Needs Scholarship Program and

9 limiting enrollment in parental choice programs.

Analysis by the Legislative Reference Bureau

This bill phases out the Special Needs Scholarship Program and caps the total number of pupils who may participate in a parental choice program.

Under current law, a child with a disability who meets certain eligibility criteria may receive a scholarship to attend a private school participating in the SNSP. The bill provides that, beginning in the 2020-21 school year, the Department of Public Instruction may not provide an SNSP scholarship to a child to attend a private school unless the child was attending a private school under the SNSP in the 2019-20

school year. In addition, if the child does not attend a private school under an SNSP scholarship in any school year after the 2019–20 school year, DPI may not provide an SNSP scholarship to the child for any subsequent school year.

The bill caps the total number of pupils who may participate in a parental choice program — the Milwaukee Parental Choice Program, the Racine Parental Choice Program, or the statewide parental choice program — at the number of pupils who attended a private school under that parental choice program in the 2019–20 school year. Under the bill, beginning in the 2020–21 school year, if the number of applications to participate in a parental choice program exceeds the program cap, DPI must determine which applications to accept on a random basis, subject to certain admission preferences that exist under current law.

Under current law, pupils may submit applications to attend a private school under the statewide parental choice program for the following school year from February 1 to April 20, and a private school that receives applications must, no later than the May 1 immediately following the application period, report the number of applicants to DPI so that DPI may determine whether a pupil participation limitation has been exceeded. The bill provides that, beginning with applications for the 2020–21 school year, DPI must establish one or more application periods during which pupils may submit applications to attend a private school under the MPCP or RPCP. The bill provides that a private school that receives applications during an application period must, no later than 10 days after the application period ends, report the number of applicants to DPI so that DPI may determine whether a program cap has been exceeded. The bill does not change the application period for the statewide parental choice program and requires DPI to use the information required to be reported under current law to determine whether the program cap for the statewide parental choice program has been exceeded.

The bill also requires DPI to establish a waiting list for a parental choice program if the program cap for the parental choice program has been exceeded.

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

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

1   SECTION 1. 115.7915 (2) (intro.) of the statutes is amended to read:

2   115.7915 **(2)** SCHOLARSHIP REQUIREMENTS. (intro.) Beginning in the 2016–17

3   school year, the department shall, subject to sub. (11), provide to a child with a

4   disability a scholarship under sub. (4m) (a) to attend an eligible school if all of the

5   following apply:

6   SECTION 2. 115.7915 (11) of the statutes is created to read:

1   115.7915 **(11)** SUNSET. Beginning in the 2020-21 school year, the department

2   may not provide a scholarship under this section to a child with a disability to attend

3   a private school unless the child attended a private school under a scholarship under

4   this section in the 2019-20 school year. If the child does not attend a private school

5   under a scholarship under this section in any school year after the 2019-20 school

6   year, the department may not provide a scholarship under this section to the child

7   for any school year after that school year.

8   SECTION 3. 118.60 (2) (a) (intro.) of the statutes is amended to read:

9   118.60 **(2)** (a) (intro.) Subject to pars. (ag) ~~and,~~ (ar), <u>and (bh),</u> any pupil in grades

10   kindergarten to 12 who resides ~~within~~ <u>in</u> an eligible school district may attend any

11   private school under this section and, subject to pars. (ag), (ar), (be), <u>(bh),</u> (bm), and

12   (bs), any pupil in grades kindergarten to 12 who resides in a school district, other

13   than an eligible school district or a 1st class city school district, may attend any

14   private school under this section if all of the following apply:

15   SECTION 4. 118.60 (2) (a) 2. g. of the statutes is amended to read:

16   118.60 **(2)** (a) 2. g. If the pupil resides in a school district, other than ~~an eligible~~

17   ~~school district or~~ a 1st class city school district, the pupil was on a waiting list under

18   sub. (3) <u>(am) 4. or</u> (ar) 4. in any previous school year.

19   SECTION 5. 118.60 (2) (be) 3. of the statutes is amended to read:

20   118.60 **(2)** (be) 3. Beginning with the 2026-27 school year, ~~there is no limit on~~

21   ~~the number of pupils who may attend private schools~~ <u>the limits</u> under this ~~section~~

22   <u>paragraph do not apply</u>.

23   SECTION 6. 118.60 (2) (bh) of the statutes is created to read:

24   118.60 **(2)** (bh) 1. In this paragraph, "program cap" means any of the following:

1　　　a. For an eligible school district, the total number of pupils residing in the

2　eligible school district who attended a private school under this section in the

3　2019–20 school year.

4　　　b. For all school districts, other than an eligible school district or a 1st class city

5　school district, the total number of pupils residing in those school districts who

6　attended a private school under this section in the 2019–20 school year.

7　　　2. a. Beginning with the 2020–21 school year, the total number of pupils

8　residing in an eligible school district who may attend a private school under this

9　section during a school year may not exceed the program cap under subd. 1. a.

10　　　b. Beginning with the 2020–21 school year, the total number of pupils residing

11　in school districts, other than an eligible school district or a 1st class city school

12　district, who may attend a private school under this section during a school year may

13　not exceed the program cap under subd. 1. b.

14　　　SECTION 7. 118.60 (3) (a) (intro.) of the statutes is amended to read:

15　　　118.60 **(3)** (a) (intro.) The pupil or the pupil's parent or guardian shall submit

16　an application, on a form provided by the state superintendent, to the participating

17　private school that the pupil wishes to attend. If more than one pupil from the same

18　family applies to attend the same private school, the pupils may use a single

19　application. No later than 60 days after the end of the application period during

20　which an application is received and subject to ~~par.~~ pars. (am) and (ar), the private

21　school shall notify each applicant, in writing, whether his or her application has been

22　accepted. If the private school rejects an application, the notice shall include the

23　reason. Subject to ~~par.~~ pars. (am) and (ar), a private school may reject an applicant

24　only if ~~it~~ the private school has reached its maximum general capacity or seating

25　capacity. Except as provided in ~~par.~~ pars. (am) and (ar), the state superintendent

1   shall ensure that the private school determines which pupils to accept on a random

2   basis, except that the private school may give preference to the following in accepting

3   applications, in the order of preference listed:

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

5   118.60 **(3)** (am) All of the following apply to applications to attend a private

6   school under this section submitted by pupils who reside in an eligible school district:

7   1. A private school that has submitted a notice of intent to participate under

8   sub. (2) (a) 3. a. may accept applications for a school year during application periods

9   determined by the department from pupils who reside in an eligible school district.

10   For each school year, the department shall establish one or more application periods

11   under this subdivision, the first of which begins no earlier than February 1 of the

12   school year before the applicable school year, and the last of which ends no later than

13   September 14 of the applicable school year.

14   2. Each private school that received applications under subd. 1. shall report to

15   the department the number of pupils who applied under subd. 1. to attend the private

16   school under this section and the names of those applicants who have siblings who

17   also applied under subd. 1. to attend the private school under this section. The

18   private school shall submit the report no later than 10 days after each application

19   period described under subd. 1. during which the private school received

20   applications.

21   3. After the end of each application period described under subd. 1., upon

22   receipt of the information under subd. 2., the department shall determine the sum

23   of all applicants for pupils residing in an eligible school district. In determining the

24   sum, the department shall count a pupil who has applied to attend more than one

25   private school under the program only once. If, after the end of an application period

1   described under subd. 1., the sum of all applicants for pupils residing in an eligible

2   school district exceeds the program cap under sub. (2) (bh) 2. a., the department shall

3   determine which applications submitted during the application period to accept on

4   a random basis, except that the department shall give preference to the applications

5   of pupils described in par. (a) 1m. to 5., in the order of preference listed in that

6   paragraph.

7   4. If the sum under subd. 3. exceeds the program cap under sub. (2) (bh) 2. a.,

8   the department shall establish a waiting list in accordance with the preferences

9   required under subd. 3.

10   5. A private school that has accepted a pupil who resides in an eligible school

11   district under this paragraph shall notify the department whenever the private

12   school determines that a pupil will not attend the private school under this

13   paragraph.   If, upon receiving notice under this subdivision, the department

14   determines that the number of pupils attending private schools under this section

15   falls below the program cap under sub. (2) (bh) 2. a., the department shall fill any

16   available slot with a pupil selected from the waiting list established under subd. 4.,

17   if such a waiting list exists.

18   SECTION 9. 118.60 (3) (ar) (intro.) of the statutes is amended to read:

19   118.60 **(3)** (ar) (intro.) All of the following apply to applications to attend a

20   private school under this section ~~only if the limitation under sub. (2) (be) applies to~~

21   ~~the school year for which the application is made~~ submitted by pupils who reside in

22   a school district, other than an eligible school district or a 1st class city school district:

23   SECTION 10. 118.60 (3) (ar) 3. of the statutes is renumbered 118.60 (3) (ar) 3.

24   (intro.) and amended to read:

1   118.60 **(3)** (ar) 3. (intro.) ~~Annually~~ After the end of the application period

2   described under subd. 1., upon receipt of the information under subd. 2., the

3   department shall, for each school district, determine the sum of all applicants for

4   pupils residing in that school district ~~under this paragraph~~ and the sum of all

5   applicants for pupils residing in all school districts, other than an eligible school

6   district or a 1st class city school district. In determining ~~the sum~~ those sums, the

7   department shall count a pupil who has applied to attend more than one private

8   school under the program only once. After determining ~~the sum of all applicants for~~

9   ~~pupils residing in a school district,~~ those sums, if any of the following applies, the

10   department shall determine which applications to accept on a random basis, except

11   that the department shall give preference to the applications of pupils described in

12   par. (a) 1m. to 5., in the order of preference listed in that paragraph~~.~~:

13   **SECTION 11.** 118.60 (3) (ar) 3. a. and b. of the statutes are created to read:

14   118.60 **(3)** (ar) 3. a. The sum of all applicants for pupils residing in a school

15   district, other than an eligible school district or a 1st class city school district, exceeds

16   the school district's pupil participation limit under sub. (2) (be).

17   b. The sum of all applicants for pupils residing in all school districts, other than

18   an eligible school district or a 1st class city school district, exceeds the program cap

19   under sub. (2) (bh) 2. b.

20   **SECTION 12.** 118.60 (3) (ar) 4. of the statutes is renumbered 118.60 (3) (ar) 4.

21   (intro.) and amended to read:

22   118.60 **(3)** (ar) 4. (intro.) ~~For each school district in which private schools~~

23   ~~received applications under subd. 1. that exceeded the school district's pupil~~

24   ~~participation limit under sub. (2) (be), the~~ The department shall establish a waiting

1   list in accordance with the preferences required under subd. 3. for each of the

2   following:

3   **SECTION 13.** 118.60 (3) (ar) 4. a. and b. of the statutes are created to read:

4   118.60 **(3)** (ar) 4. a. A school district, other than an eligible school district or a

5   1st class city school district, for which the sum described under subd. 3. a. exceeds

6   the school district's pupil participation limit under sub. (2) (be).

7   b. All school districts, other than an eligible school district or a 1st class city

8   school district, if the sum described under subd. 3. b. exceeds the program cap under

9   sub. (2) (bh) 2. b.

10   **SECTION 14.** 118.60 (3) (ar) 5. of the statutes is amended to read:

11   118.60 **(3)** (ar) 5. A private school that has accepted a pupil who resides in a

12   school district, other than an eligible school district or a 1st class city school district,

13   under this paragraph shall notify the department whenever the private school

14   determines that a pupil will not attend the private school under this paragraph. If,

15   upon receiving notice under this subdivision, the department determines that the

16   number of pupils attending private schools under this section falls below a school

17   district's pupil participation limit under sub. (2) (be), or below the program cap under

18   sub. (2) (bh) 2. b., the department shall fill any available slot in that school district

19   or program with a pupil selected from the school district's applicable waiting list

20   established under subd. 4., if such a waiting list exists.

21   **SECTION 15.** 118.60 (3) (b) of the statutes is amended to read:

22   118.60 **(3)** (b) If a participating private school rejects an applicant who resides

23   within in an eligible school district because the private school has too few available

24   spaces, the applicant may transfer his or her application to a participating private

25   school that has space available. An applicant who is rejected under this paragraph

1   or an applicant who is on the waiting list under par. (am) 4. may, subject to sub. (2)

2   (bh) 2. a., be admitted to a private school participating in the program under this

3   section for the following school year, provided that the applicant continues to reside

4   ~~within~~ in an eligible school district. The department may not require, in that

5   following school year, the private school to submit financial information regarding

6   the applicant or to verify the eligibility of the applicant to participate in the program

7   under this section on the basis of family income.

8   **SECTION 16.** 118.60 (3) (c) of the statutes is amended to read:

9   118.60 **(3)** (c) If a participating private school rejects an applicant who resides

10   in a school district, other than an eligible school district or a 1st class city school

11   district, because the private school has too few available spaces, the applicant may

12   transfer his or her application to a participating private school that has space

13   available. An applicant who is rejected under this paragraph or an applicant who

14   is on ~~the~~ a waiting list under par. (ar) 4. a. or b. may, subject to sub. (2) (be) and (bh)

15   2. b., be admitted to a private school participating in the program under this section

16   for the following school year, provided that the applicant continues to reside in a

17   school district, other than an eligible school district or a 1st class city school district.

18   The department may not require, in that following school year, the private school to

19   submit financial information regarding the applicant or to verify the eligibility of the

20   applicant to participate in the program under this section on the basis of family

21   income.

22   **SECTION 17.** 118.60 (4v) (b) of the statutes is amended to read:

23   118.60 **(4v)** (b) If the department considers a pupil as a resident of an eligible

24   school district under par. (a) for a school year, the department shall ensure that the

25   pupil is not counted for that school year for purposes of determining whether a school

1　district has exceeded its pupil participation limit under sub. (2) (be) <u>and that the</u>

2　<u>pupil is not counted for that school year for purposes of determining whether a</u>

3　<u>program cap under sub. (2) (bh) 2. a. or b. has been exceeded</u>.

4　　　　**SECTION 18.** 118.60 (4v) (c) and (d) of the statutes are created to read:

5　　　　118.60 **(4v)** (c) The department may consider a pupil enrolled in a private

6　school participating in the program under this section who satisfies all of the

7　following as a resident of a school district, other than an eligible school district or a

8　1st class city school district, who is enrolled in the private school under this section:

9　　　　1. The pupil was a resident of an eligible school district when the pupil applied

10　to participate in the program under this section.

11　　　　2. The pupil accepted a space at a private school participating in the program

12　under this section as a resident of an eligible school district.

13　　　　3. The pupil resides in a school district, other than an eligible school district

14　or a 1st class city school district, on the 3rd Friday in September.

15　　　　4. The private school the pupil is attending under this section accepts

16　applications under this section from pupils who reside in school districts, other than

17　an eligible school district or a 1st class city school district.

18　　　　(d) If the department considers a pupil as a resident of a school district, other

19　than an eligible school district or a 1st class city school district, under par. (c) for a

20　school year, the department shall ensure that the pupil is not counted for that school

21　year for purposes of determining whether the school district has exceeded its pupil

22　participation limit under sub. (2) (be) and that the pupil is not counted for that school

23　year for purposes of determining whether a program cap under sub. (2) (bh) 2. a. or

24　b. has been exceeded.

25　　　　**SECTION 19.** 119.23 (2) (a) (intro.) of the statutes is amended to read:

1   119.23 **(2)** (a) (intro.) Subject to pars. (ag) ~~and,~~ (ar), and (b), any pupil in grades

2 kindergarten to 12 who resides within the city may attend any private school if all

3 of the following apply:

4   **SECTION 20.** 119.23 (2) (b) of the statutes is created to read:

5   119.23 **(2)** (b) 1. In this paragraph, "program cap" means the total number of

6 pupils residing in the city who attended a private school under this section in the

7 2019−20 school year.

8   2. Beginning with the 2020−21 school year, the total number of pupils residing

9 in the city who may attend a private school under this section during a school year

10 may not exceed the program cap.

11   **SECTION 21.** 119.23 (3) (a) (intro.) of the statutes is amended to read:

12   119.23 **(3)** (a) (intro.) The pupil or the pupil's parent or guardian shall submit

13 an application, on a form provided by the state superintendent, to the participating

14 private school that the pupil wishes to attend. If more than one pupil from the same

15 family applies to attend the same private school, the pupils may use a single

16 application. No later than 60 days after the end of the application period during

17 which an application is received and subject to par. (ar), the private school shall

18 notify each applicant, in writing, whether his or her application has been accepted.

19 If the private school rejects an application, the notice shall include the reason. ~~A~~

20 Subject to par. (ar), a private school may reject an applicant only if ~~it~~ the private

21 school has reached its maximum general capacity or seating capacity. ~~The~~ Except

22 as provided in par. (ar), the state superintendent shall ensure that the private school

23 determines which pupils to accept on a random basis, except that the private school

24 may give preference to the following in accepting applications, in order of preference

25 listed:

1   **SECTION 22.** 119.23 (3) (ar) of the statutes is created to read:

2   119.23 **(3)** (ar) All of the following apply to applications to attend a private

3   school under this section submitted by pupils who reside in the city:

4   1. A private school that has submitted a notice of intent to participate under

5   sub. (2) (a) 3. may accept applications for a school year during application periods

6   determined by the department from pupils who reside in the city. For each school

7   year, the department shall establish one or more application periods under this

8   subdivision, the first of which begins no later than February 1 of the school year

9   before the applicable school year, and the last of which ends no later than September

10   14 of the applicable school year.

11   2. Each private school that received applications under subd. 1. shall report to

12   the department the number of pupils who applied under subd. 1. to attend the private

13   school under this section and the names of those applicants who have siblings who

14   also applied under subd. 1. to attend the private school under this section. The

15   private school shall submit the report no later than 10 days after each application

16   period described under subd. 1. during which the private school received

17   applications.

18   3. After the end of each application period described under subd. 1, upon receipt

19   of the information under subd. 2., the department shall determine the sum of all

20   applicants for pupils residing in the city. In determining the sum, the department

21   shall count a pupil who has applied to attend more than one private school under the

22   program only once. If, after the end of an application period described under subd.

23   1., the sum of all applicants for pupils residing in the city exceeds the program cap

24   under sub. (2) (b), the department shall determine which applications submitted

25   during the application period to accept on a random basis, except that the

1   department shall give preference to the applications of pupils described in par. (a)

2   1. to 5., in the order of preference listed in that paragraph.

3   4. If the sum under subd. 3. exceeds the program cap under sub. (2) (b), the

4   department shall establish a waiting list in accordance with the preferences required

5   under subd. 3.

6   5. A private school that has accepted a pupil who resides in the city under this

7   paragraph shall notify the department whenever the private school determines that

8   a pupil will not attend the private school under this paragraph. If, upon receiving

9   notice under this subdivision, the department determines that the number of pupils

10   attending private schools under this section falls below the program cap under sub.

11   (2) (b), the department shall fill any available slot with a pupil selected from the

12   waiting list established under subd. 4., if such a waiting list exists.

13   SECTION 23. 119.23 (3) (b) of the statutes is amended to read:

14   119.23 **(3)** (b) If the private school rejects an applicant because ~~it~~ the private

15   school has too few available spaces, the applicant may transfer his or her application

16   to a participating private school that has space available. An applicant who is

17   rejected under this paragraph or an applicant who is on the waiting list under par.

18   (ar) 4. may, subject to sub. (2) (b), be admitted to a private school participating in the

19   program under this section for the following school year, provided that the applicant

20   continues to reside ~~within~~ in the city. The department may not require, in that

21   following school year, the private school to submit financial information regarding

22   the applicant or to verify the eligibility of the applicant to participate in the program

23   under this section on the basis of family income.

24   SECTION 24. 119.23 (4v) (b) of the statutes is amended to read:

1   119.23 **(4v)** (b) If the department considers a pupil as a resident of the city

2   under par. (a) <u>for a school year</u>, the department shall ensure that the pupil is not

3   counted <u>for that school year</u> for purposes of determining whether a school district has

4   exceeded its pupil participation limit under s. 118.60 (2) (be) <u>and that the pupil is not</u>

5   <u>counted for that school year for purposes of determining whether a program cap</u>

6   <u>under sub. (2) (b) or s. 118.60 (2) (bh) 2. a. or b. has been exceeded</u>.

7   SECTION 25. 119.23 (4v) (c), (d) and (e) of the statutes are created to read:

8   119.23 **(4v)** (c) The department may consider a pupil enrolled in a private

9   school participating in the program under this section who satisfies all of the

10   following as a resident of a school district, other than a 1st class city school district,

11   who is enrolled in the private school under this section:

12   1. The pupil was a resident of the city when the pupil applied to participate in

13   the program under this section.

14   2. The pupil accepted a space at a private school participating in the program

15   under this section as a resident of the city.

16   3. The pupil resides in a school district, other than a 1st class city school

17   district, on the 3rd Friday in September.

18   4. The private school at which the pupil accepted a space under this section is

19   participating in the program under s. 118.60.

20   (d) If the department considers a pupil as a resident of an eligible school

21   district, as defined in s. 118.60 (1) (am), under par. (c) for a school year, the

22   department shall ensure that the pupil is not counted for that school year for

23   purposes of determining whether a program cap under sub. (2) (b) or s. 118.60 (2) (bh)

24   2. a. has been exceeded.

1   (e) If the department considers a pupil as a resident of a school district, other

2   than an eligible school district, as defined in s. 118.60 (1) (am), or a 1st class city

3   school district, under par. (c) for a school year, the department shall ensure that the

4   pupil is not counted for that school year for purposes of determining whether the

5   school district has exceeded its pupil participation limit under s. 118.60 (2) (be) and

6   that the pupil is not counted for that school year for purposes of determining whether

7   a program cap under sub. (2) (b) or s. 118.60 (2) (bh) 2. b. has been exceeded.

8   **SECTION 26. Initial applicability.**

9   (1) PARENTAL CHOICE PROGRAMS; PROGRAM CAPS. The treatment of ss. 118.60 (3)

10   (am) and (ar) (intro.) and 5. and 119.23 (3) (ar), the renumbering and amendment of

11   s. 118.60 (3) (ar) 3. and 4., and the creation of s. 118.60 (3) (ar) 3. a. and b. and 4. a.

12   and b. first apply to an application to attend in a private school under s. 118.60 or

13   119.23 in the 2020–21 school year.

14   (2) PARENTAL CHOICE PROGRAMS; TRANSFERRING APPLICANTS BETWEEN PROGRAMS.

15   The treatment of ss. 118.60 (4v) (b), (c), and (d) and 119.23 (4v) (b), (c), (d), and (e) first

16   applies to counting pupils for the pupil participation limits under s. 118.60 (2) (be)

17   and the program caps under ss. 118.60 (2) (bh) 2. a. and b. and 119.23 (2) (b) for the

18   2020–21 school year.

19   **(END)**