



1997 Assembly Bill 631

Date of enactment: **June 3, 1998**  
Date of publication\*: **June 17, 1998**

# 1997 WISCONSIN ACT 238

AN ACT *to amend* 40.02 (55) (intro.), 40.02 (55) (a), 116.032 (1), 116.08 (4), 118.40 (2) (a), 118.40 (2m) (a), 118.40 (3) (c) and 118.40 (7) (a); and *to create* 118.40 (2m) (am) of the statutes; **relating to:** charter schools and the Wisconsin retirement system.

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

**SECTION 1.** 40.02 (55) (intro.) of the statutes is amended to read:

40.02 (55) (intro.) “Teacher” means any employe engaged in the exercise of any educational function for compensation in the public schools, including charter schools as defined in s. 115.001 (1) that are instrumentalities of a school district, or the university in instructing or controlling pupils or students, or in administering, directing, organizing or supervising any educational activity, but does not include any employe determined to be an auxiliary instructional employe under s. 115.29 (3). “Teacher” includes the following:

**SECTION 2.** 40.02 (55) (a) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

40.02 (55) (a) Any person employed as a librarian by any school board in a library in any school under its jurisdiction, including a charter school as defined in s. 115.001 (1) that is an instrumentality of a school district, whose qualifications as a librarian are at least equal to the minimum librarian qualifications prescribed by the state superintendent of public instruction.

**SECTION 3.** 116.032 (1) of the statutes is amended to read:

116.032 (1) Subject to subs. (2) to (5), for the purpose of providing services to pupils a board of control may contract with school districts, University of Wisconsin System institutions and centers, technical college district boards, private schools, and agencies or organizations that provide services to pupils. A board of control may also contract with one or more school boards to operate a charter school under s. 118.40 (3) (c).

**SECTION 4.** 116.08 (4) of the statutes is amended to read:

116.08 (4) ~~Whenever~~ Except for the operation of a charter school under s. 118.40 (3) (c), whenever an agency performs any service or function under chs. 115 to 121 by contract with a county board or any agency thereof, with a school board or with a county handicapped children’s education board, the contract may authorize the agency to make claim for and receive the state aid for performing the service or function. The agency shall transmit a certified copy of the contract containing the authority to collect state aid to the department. When an agency receives the state aid, it shall pay over or credit the amount of state aid received to the proper county or agency thereof, school district or county handicapped children’s education board for which the service or function was performed according to the contract therefor.

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\* Section 991.11, WISCONSIN STATUTES 1995–96: 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].

**SECTION 4m.** 118.40 (2) (a) of the statutes is amended to read:

118.40 (2) (a) Within 30 days after receiving a petition under sub. (1m) the school board shall hold a public hearing on the petition. At the hearing, the school board shall consider the level of employe and parental support for the establishment of the charter school described in the petition and the fiscal impact of the establishment of the charter school on the school district. After the hearing, the school board may grant the petition.

**SECTION 5.** 118.40 (2m) (a) of the statutes is amended to read:

118.40 (2m) (a) A school board may on its own initiative contract with ~~an individual or group~~ a person to operate a school as a charter school. The contract shall include all of the provisions specified under sub. (1m) (b) and may include other provisions agreed to by the parties.

**SECTION 5m.** 118.40 (2m) (am) of the statutes is created to read:

118.40 (2m) (am) At least 30 days before entering in a contract under this subsection that would convert a private school to a charter school or that would establish a charter school that is not an instrumentality of the school district, the school board shall hold a public hearing on the contract. At the hearing, the school board shall consider the level of employe and parental support for the establishment of the charter school and the fiscal impact of the establishment of the charter school on the school district.

**SECTION 6.** 118.40 (3) (c) of the statutes is amended to read:

118.40 (3) (c) A school board may not enter into a contract for the establishment of a charter school located

outside the school district, except that if 2 or more school boards enter into an agreement under s. 66.30 to establish a charter school, the charter school shall be located within one of the school districts, and if one or more school boards enter into an agreement with the board of control of a cooperative educational service agency to establish a charter school, the charter school shall be located within the boundaries of the cooperative educational service agency. A school board, ~~other than the school board of the school district operating under ch. 119,~~ may not enter into a contract that would result in the conversion of a private, sectarian school to a charter school.

**SECTION 8.** 118.40 (7) (a) of the statutes, as affected by 1997 Wisconsin Act 27, is amended to read:

118.40 (7) (a) Except as provided in par. (am), ~~a charter school is an instrumentality of the school district in which it is located and the school board of that~~ the school district shall employ all personnel for the in which a charter school is located shall determine whether or not the charter school is an instrumentality of the school district. If the school board determines that the charter school is an instrumentality of the school district, the school board shall employ all personnel for the charter school. If the school board determines that the charter school is not an instrumentality of the school district, the school board may not employ any personnel for the charter school.

**SECTION 9. Initial applicability.**

(1) The treatment of section 118.40 (7) (a) of the statutes first applies to the legal status of charter schools that are established on the effective date of this subsection.

(2) The treatment of section 118.40 (2) (a) of the statutes first applies to petitions received by the school board on the effective date of this subsection.