

2007 SENATE BILL 396

January 17, 2008 – Introduced by Senators LEHMAN, KREITLOW and TAYLOR, cosponsored by Representatives POPE-ROBERTS, SINICKI and TURNER. Referred to Committee on Education.

1 **AN ACT** *to renumber and amend* 118.40 (3) (c); *to amend* 118.19 (1), 118.40 (2r)
2 (bm), 118.51 (2), 118.51 (3) (a) 2., 118.51 (5) (a) 1., 119.04 (1) and 121.02 (1) (a)
3 2.; and *to create* 115.001 (16), 118.19 (13), 118.40 (2r) (g), 118.40 (4) (d), 118.40
4 (8), 118.51 (16) (b) 3., 118.51 (18) and 118.57 of the statutes; **relating to:** online
5 courses for elementary and secondary school pupils and granting rule-making
6 authority.

Analysis by the Legislative Reference Bureau

Under current law, any person who teaches in a public school, including a charter school, must hold a teaching license or permit issued by the Department of Public Instruction (DPI). Until July 1, 2009, this bill exempts from this requirement any person who teaches in a virtual charter school. The bill defines a virtual charter school as a charter school that provides an online learning program.

Current law provides that a charter school established by a school board must be located in the school district. This bill provides that this restriction does not apply to virtual charter schools.

Beginning in the 2009–10 school year, the bill provides that if a school board establishes or contracts for the establishment of a virtual charter school, the school board must ensure that no more than 85 percent of the pupils attending the virtual charter school do so through the Open Enrollment Program. The bill prohibits a school board that establishes or contracts for the establishment of a virtual charter

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school for the attendance of pupils during the 2008–09 school year from allowing more pupils to attend the school through the Open Enrollment Program during the 2008–09 school year than the number that attended the school through that program in the 2007–08 school year. Beginning in the 2009–10 school year, the bill provides that the amount of the state aid adjustment for a pupil attending a virtual charter school through the Open Enrollment Program is 50 percent of the amount determined for other pupils. The bill prohibits a school board or any other entity authorized to establish a charter school from establishing or contracting for the establishment of a new virtual charter school that opens for the attendance of pupils before the 2009–10 school year.

The bill directs DPI to make online courses available for a reasonable fee, through a statewide web academy, to school districts, cooperative educational service agencies, charter schools, and private schools. DPI must also establish instructional standards for online courses taken by pupils enrolled in public and charter schools.

The bill directs each school board (or chartering entity, if other than a school board) to do all of the following:

1. Determine which pupils may enroll in an online course, which online courses are available, and the number of online courses a pupil may take.
2. Provide a safe and secure online environment, ensure the confidentiality of pupil coursework and records, and verify the authenticity of pupil coursework.
3. Except for teachers in virtual charter schools in existence on the bill's effective date, assign an appropriately licensed teacher for each online course.
4. Ensure that pupils enrolled part-time in online courses have direct contact with a teacher, each week school is scheduled, for at least 20 minutes for each online course; ensure that elementary school pupils who are enrolled full-time in online courses have direct contact with a teacher for at least two hours each day that school is scheduled; and ensure that high school pupils enrolled full-time in online courses have direct contact with a teacher for at least 30 minutes each day that school is scheduled.
5. Determine the average equivalency hours for online courses.
6. Ensure that only pupils who reside in this state enroll in online courses.

The bill provides that beginning July 1, 2013, no person may teach an online course in a public or charter school unless he or she has completed a professional development program, approved by DPI, that is designed to prepare a teacher for online teaching.

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:

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1 115.001 **(16)** VIRTUAL CHARTER SCHOOL. “Virtual charter school” means a charter
2 school that provides an online learning program.

3 **SECTION 2.** 118.19 (1) of the statutes is amended to read:

4 118.19 **(1)** Any person seeking to teach in a public school, including a charter
5 school, or in a school or institution operated by a county or the state shall first procure
6 a license or permit from the department. This subsection does not apply to a virtual
7 charter school until July 1, 2009.

8 **SECTION 3.** 118.19 (13) of the statutes is created to read:

9 118.19 **(13)** Beginning July 1, 2013, no person may teach an online course in
10 a public school, including a charter school, unless he or she has completed a
11 professional development program, approved by the department, that is designed to
12 prepare a teacher for online teaching.

13 **SECTION 4.** 118.40 (2r) (bm) of the statutes is amended to read:

14 118.40 **(2r)** (bm) The common council of the city of Milwaukee, the chancellor
15 of the University of Wisconsin–Milwaukee, and the Milwaukee area technical college
16 district board may only establish or enter into a contract for the establishment of a
17 charter school located in the school district operating under ch. 119. The chancellor
18 of the University of Wisconsin–Parkside may only establish or enter into a contract
19 for the establishment of a charter school located in a unified school district that is
20 located in the county in which the University of Wisconsin–Parkside is situated or
21 in an adjacent county. This paragraph does not apply to the establishment of a
22 virtual charter school.

23 **SECTION 5.** 118.40 (2r) (g) of the statutes is created to read:

24 118.40 **(2r)** (g) If a charter school is established under this subsection, the
25 chartering or contracting entity under par. (b) 1. is responsible for discharging the

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1 duties under s. 118.57 (2) and s. 118.57 (3) applies to any contract entered into by the
2 chartering or contracting entity that relates to providing online courses.

3 **SECTION 6.** 118.40 (3) (c) of the statutes is renumbered 118.40 (3) (c) 1. and
4 amended to read:

5 118.40 (3) (c) 1. A school board may not enter into a contract for the
6 establishment of a charter school located outside the school district, except that if 2
7 or more school boards enter into an agreement under s. 66.0301 to establish a charter
8 school, the charter school shall be located within one of the school districts, and if one
9 or more school boards enter into an agreement with the board of control of a
10 cooperative educational service agency to establish a charter school, the charter
11 school shall be located within the boundaries of the cooperative educational service
12 agency. This subdivision does not apply to the establishment of a virtual charter
13 school.

14 2. A school board may not enter into a contract that would result in the
15 conversion of a private, sectarian school to a charter school.

16 **SECTION 7.** 118.40 (4) (d) of the statutes is created to read:

17 118.40 (4) (d) *Virtual charter schools.* Beginning in the 2009–10 school year,
18 if a school board establishes or contracts for the establishment of a virtual charter
19 school, the school board shall ensure that no more than 85 percent of the pupils
20 attending the virtual charter school do so through open enrollment under s. 118.51.

21 **SECTION 8.** 118.40 (8) of the statutes is created to read:

22 118.40 (8) LOCATION OF VIRTUAL CHARTER SCHOOLS. For the purposes of sub. (7)
23 (a), (am) 1., and (ar), a virtual charter school is considered to be located in the
24 following school district:

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1 (a) If a school board establishes or contracts with a person to establish the
2 virtual charter school, in the school district governed by that school board.

3 (b) If the common council of the city of Milwaukee, the chancellor of the
4 University of Wisconsin–Milwaukee, or Milwaukee Area Technical College
5 establishes or contracts with a person to establish the virtual charter school, in the
6 school district operating under ch. 119.

7 **SECTION 9.** 118.51 (2) of the statutes is amended to read:

8 118.51 (2) APPLICABILITY. A pupil may attend a public school, including a
9 charter school, a prekindergarten, 4-year-old kindergarten, or early childhood or
10 school-operated day care program, in a nonresident school district under this
11 section, except that a pupil may attend a prekindergarten, 4-year-old kindergarten,
12 or early childhood or school-operated day care program in a nonresident school
13 district only if the pupil's resident school district offers the same type of program that
14 the pupil wishes to attend and the pupil is eligible to attend that program in his or
15 her resident school district.

16 **SECTION 10.** 118.51 (3) (a) 2. of the statutes is amended to read:

17 118.51 (3) (a) 2. A nonresident school board may not act on any application
18 received under subd. 1. until after the 3rd Friday following the first Monday in
19 February. If Except as provided in s. 118.40 (4) (d), if a nonresident school board
20 receives more applications for a particular grade or program than there are spaces
21 available in the grade or program, the nonresident school board shall determine
22 which pupils to accept, including pupils accepted from a waiting list under sub. (5)
23 (d), on a random basis, after giving preference to pupils and to siblings of pupils who
24 are already attending public school in the nonresident school district. If a
25 nonresident school board determines that space is not otherwise available for open

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1 enrollment pupils in the grade or program to which an individual has applied, the
2 school board may nevertheless accept an applicant who is already attending school
3 in the nonresident school district or a sibling of the applicant.

4 **SECTION 11.** 118.51 (5) (a) 1. of the statutes is amended to read:

5 118.51 (5) (a) 1. The availability of space in the schools, programs, classes, or
6 grades within the nonresident school district. In determining the availability of
7 space, the nonresident school board shall comply with the limit under s. 118.40 (4)
8 (d) and may consider criteria such as class size limits, pupil-teacher ratios, or
9 enrollment projections established by the nonresident school board and. The
10 nonresident school board may include in its count of occupied spaces pupils attending
11 the school district for whom tuition is paid under s. 121.78 (1) (a) and pupils and
12 siblings of pupils who have applied under sub. (3) (a) and are already attending
13 public school in the nonresident school district.

14 **SECTION 12.** 118.51 (16) (b) 3. of the statutes is created to read:

15 118.51 (16) (b) 3. Notwithstanding subds. 1. and 2., if nonresident pupils attend
16 a virtual charter school under this section, the multiplier under subds. 1. and 2. is
17 an amount equal to 50 percent of the amount determined under par. (a) 3.

18 **SECTION 13.** 118.51 (18) of the statutes is created to read:

19 118.51 (18) LOCATION OF VIRTUAL CHARTER SCHOOLS. For the purposes of this
20 section, a virtual charter school is located in the school district specified in s. 118.40
21 (8) (a).

22 **SECTION 14.** 118.57 of the statutes is created to read:

23 **118.57 Online courses. (1) DEPARTMENT DUTIES.** The department shall do all
24 of the following:

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1 (a) Make online courses available for a reasonable fee, through a statewide web
2 academy, to school districts, cooperative educational service agencies, and charter
3 schools and private schools located in this state.

4 (b) Establish instructional standards for all online courses taken by pupils
5 enrolled in public schools, including charter schools, including standards addressing
6 all of the following:

- 7 1. The frequency, length, and type of pupil–teacher contact.
- 8 2. The assessment of pupil progress.
- 9 3. Methods to measure pupil participation.

10 (c) Make available to school boards an online survey designed to assess a pupil's
11 readiness for online learning and instructional materials designed to improve a
12 pupil's chance of success in online courses.

13 (d) Promulgate rules to implement and administer this section.

14 **(2) SCHOOL BOARD DUTIES.** Each school board shall do all of the following:

15 (a) Determine which pupils may enroll in an online course, which online
16 courses are available for enrollment, and the number of online courses a pupil may
17 enroll in. The school board may not exclude a pupil from an online course solely
18 because the pupil's parent or guardian will not participate in the online course.

19 (b) Provide a safe and secure online environment and ensure that coursework
20 and records of pupils enrolled in online courses remain confidential.

21 (c) Except as provided under ss. 118.19 (1) and 121.02 (1) (a) 2., assign an
22 appropriately licensed teacher for each online course.

23 (d) Verify the authenticity of pupil coursework in online courses.

24 (e) Determine the average equivalency hours for online courses.

25 (f) Ensure that all pupils enrolled in online courses reside in this state.

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1 (g) 1. Ensure that a pupil in the elementary grades who is enrolled full-time
2 in online courses has direct contact with a teacher for at least 2 hours each day that
3 school is scheduled.

4 2. Ensure that a pupil in the high school grades who is enrolled full-time in
5 online courses has direct contact with a teacher for at least 30 minutes each day that
6 school is scheduled.

7 3. Ensure that a pupil who is enrolled part-time in one or more online courses
8 has direct contact with a teacher, each week that school is scheduled, for at least 20
9 minutes for each online course in which the pupil is enrolled.

10 (h) Adopt a policy on acceptable use of the Internet and communicate it to
11 pupils, parents, and teachers.

12 **(3) CONTRACTS FOR ONLINE COURSES.** Any contract entered into by a school board
13 that relates to providing online courses is open to public inspection and copying
14 under s. 19.35.

15 **SECTION 15.** 119.04 (1) of the statutes, as affected by 2007 Wisconsin Act 20,
16 is amended to read:

17 119.04 **(1)** Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
18 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
19 115.345, 115.361, 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045, 118.06,
20 118.07, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16,
21 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8),
22 118.245, 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 118.57,
23 120.12 (5) and (15) to (26), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26),
24 (34), (35), (37), (37m), and (38), 120.14, and 120.25 are applicable to a 1st class city
25 school district and board.

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1 **SECTION 16.** 121.02 (1) (a) 2. of the statutes is amended to read:

2 121.02 (1) (a) 2. Ensure that all instructional staff of charter schools located
3 in the school district, other than virtual charter schools, hold a license or permit to
4 teach issued by the department; and beginning on July 1, 2009, ensure that all
5 instructional staff of virtual charter schools located in the school district, as specified
6 in s. 118.40 (8), hold a license or permit to teach issued by the department. The state
7 superintendent shall promulgate rules defining “instructional staff” for purposes of
8 this subdivision.

9 **SECTION 17. Nonstatutory provisions; virtual charter schools.**

10 (1) (a) In this subsection, “virtual charter school” has the meaning given in
11 section 115.001 (16) of the statutes, as created by this act.

12 (b) A school board or entity specified in section 118.40 (2r) (b) 1. of the statutes
13 may not establish or contract for the establishment of a new virtual charter school
14 that opens for the attendance of pupils before the 2009–10 school year.

15 (c) Notwithstanding section 118.51 (3) (a) 2. and (5) (a) 1. of the statutes, a
16 school board that establishes or contracts for the establishment of a virtual charter
17 school for the attendance of pupils during the 2008–09 school year may not allow
18 more pupils to attend the school through the Open Enrollment Program under
19 section 118.51 of the statutes during the 2008–09 school year than the number of
20 such pupils who attended the school through that program during the 2007–08
21 school year.

22 **SECTION 18. Initial applicability.**

