



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0560/1
FFK:ekg&wlj

2021 ASSEMBLY BILL 122

March 1, 2021 - Introduced by Representatives SORTWELL, THIESFELDT, ALLEN, BRANDTJEN, CABRAL-GUEVARA, EDMING, GUNDRUM, MAGNAFICI, MURPHY, RAMTHUN, ROZAR, TITTL, TUSLER and WICHERS, cosponsored by Senator NASS. Referred to Committee on Education.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 27.01 (7) (c) 10., 36.49 (4), 115.28 (7) (e) 1., 115.28 (54m), 115.30
2 (3), 115.385 (4), 115.45 (2) (a), 118.133 (1), 118.133 (2), 118.15 (1) (a), 118.153 (1)
3 (b), 118.53 (title), 118.53 (2m), (3) and (4), 118.60 (7) (b) 3., 119.23 (7) (b) 3. and
4 120.18 (1) (a) 2.; and **to create** 115.001 (3p), 118.15 (4c) and 118.162 (1) (km)
5 of the statutes; **relating to:** microschools.

Analysis by the Legislative Reference Bureau

Under current law, in general, a person having charge of a child who is 6 to 18 years old must ensure that the child attends school regularly. This requirement is known as compulsory school attendance, which is satisfied if a child attends a public, private, or tribal school or participates in a home-based private educational program, commonly known as homeschooling. This bill creates another educational option, microschools, that may be used to satisfy the compulsory school attendance requirement.

Under the bill, a “microschool” is an instruction program provided to a child by the child’s parent, or a person designated by the parent, that is provided to 1) two to five family units; 2) no more than 20 children; and 3) participating children at a physical location. Under current law, an instruction program provided to a child by the child’s parent, or a person designated by the child’s parent, that is provided to more than one family unit does not qualify as a home-based private educational program.

Under current law, for purposes of the compulsory school attendance requirement, a home-based private educational program must satisfy the same

ASSEMBLY BILL 122

criteria that an educational institution must satisfy in order to be a private school, including that the program must provide at least 875 hours of instruction each year; must provide a curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science, and health; and may not be operated for the purpose of avoiding the compulsory school attendance requirement. A microschool must also satisfy this criteria in order for instruction at the microschool to satisfy the compulsory school attendance requirement.

Finally, the bill treats microschools in the same manner that home-based private educational programs are treated under current law. For example, under current law, a school board must allow a resident pupil who is enrolled in a home-based private educational program to participate in interscholastic sports and extracurricular activities in the school district. The bill extends these provisions to resident pupils who are enrolled in a microschool.

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.** 27.01 (7) (c) 10. of the statutes is amended to read:
2 27.01 **(7)** (c) 10. Any motor vehicle operated for the purpose of transporting
3 pupils to or from curricular or extracurricular activities of a public or private school,
4 a tribal school as defined in s. 115.001 (15m), a microschool under s. 118.15 (4c), or
5 a home-based private educational program under s. 118.15 (4) or for the purpose of
6 transporting students to or from an outdoor academic class given by an accredited
7 college or university in this state. The operator of a motor vehicle transporting pupils
8 or students under this subdivision shall possess and exhibit for inspection a written
9 authorization from an administrator of the school, microschool, home-based private
10 educational program, or college or university indicating that admission to the vehicle
11 admission area is part of an official school, microschool, home-based private
12 educational program, or college or university function and indicating the date for
13 which the authorization is applicable. A separate authorization is required for each

ASSEMBLY BILL 122

1 date on which the motor vehicle is admitted to the vehicle admission area under this
2 subdivision.

3 **SECTION 2.** 36.49 (4) of the statutes is amended to read:

4 36.49 (4) Award the balance in annual scholarships called “Wisconsin Merit
5 scholarships,” which shall be based only on merit, to students who are enrolled in an
6 institution or college campus and who have either graduated from high school in this
7 state or been granted a high school diploma by the administrator of a microschool,
8 as defined in s. 115.001 (3p), or home-based private educational program, as defined
9 in s. 115.001 (3g), in this state. The board shall determine merit based on a
10 performance on standardized college entrance examinations and, if applicable,
11 cumulative high school grade point averages. An annual scholarship awarded to a
12 student under this subsection shall equal \$5,000. This subsection does not apply
13 beginning on April 1, 2023.

14 **SECTION 3.** 115.001 (3p) of the statutes is created to read:

15 115.001 (3p) **MICROSCHOOL.** “Microschool” means a program of educational
16 instruction provided to a child by the child’s parent or guardian or by a person
17 designated by the parent or guardian that is all of the following:

- 18 (a) Provided to more than one family unit.
19 (b) Provided to no more than 5 family units.
20 (c) Provided to no more than 20 children.
21 (d) Provided to participating children at a physical location.

22 **SECTION 4.** 115.28 (7) (e) 1. of the statutes is amended to read:

23 115.28 (7) (e) 1. In this paragraph, “alternative education program” means an
24 instructional program, approved by the school board, that utilizes successful
25 alternative or adaptive school structures and teaching techniques and that is

ASSEMBLY BILL 122**SECTION 4**

1 incorporated into existing, traditional classrooms or regularly scheduled curricular
2 programs or that is offered in place of regularly scheduled curricular programs.
3 “Alternative educational program” does not include a private school, a tribal school,
4 a microschool, or a home-based private educational program.

5 **SECTION 5.** 115.28 (54m) of the statutes is amended to read:

6 115.28 (54m) NOTICE OF EDUCATIONAL OPTIONS. Include on the home page of the
7 department’s Internet site a link to information about all of the educational options
8 available to children in the state who are at least 3 years old but not yet 18 years old,
9 including public schools, private schools participating in a parental choice program,
10 charter schools, virtual schools, full-time or part-time open enrollment in a
11 nonresident school district, the early college credit program, and options for pupils
12 enrolled in a microschool or home-based private educational program.

13 **SECTION 6.** 115.30 (3) of the statutes is amended to read:

14 115.30 (3) On or before each October 15, each administrator of a public or
15 private school system, a microschool, or a home-based private educational program
16 shall submit, on forms provided by the department, a statement of the enrollment
17 on the 3rd Friday of September in the elementary and high school grades under his
18 or her jurisdiction to the department which shall prepare such reports as will enable
19 the public and private schools, microschools, and home-based private educational
20 programs to make projections regarding school buildings, teacher supply and funds
21 required. The administrator of each private school system, microschool, and
22 home-based private educational program shall indicate in his or her report whether
23 the system, microschool, or program meets all of the criteria under s. 118.165 (1).

24 **SECTION 7.** 115.385 (4) of the statutes is amended to read:

ASSEMBLY BILL 122

1 115.385 (4) Annually, each public school, including a charter school, and each
2 private school participating in a parental choice program under s. 118.60 or 119.23
3 shall provide a copy of the school's accountability report to the parent or guardian of
4 each pupil enrolled in or attending the school. Each school shall simultaneously
5 provide to the parent or guardian of each pupil enrolled in the school a list of the
6 educational options available to children who reside in the pupil's resident school
7 district, including public schools, private schools participating in a parental choice
8 program, charter schools, virtual schools, full-time or part-time open enrollment in
9 a nonresident school district, the early college credit program, and options for pupils
10 enrolled in a microschool or home-based private educational program.

11 **SECTION 8.** 115.45 (2) (a) of the statutes is amended to read:

12 115.45 (2) (a) Annually, the department shall notify school boards, operators
13 of charter schools under s. 118.40 (2r) and (2x), governing bodies of private schools,
14 administrators of microschools, and administrators of home-based private
15 educational programs that applications for grants to participate in one or more
16 robotics competitions will be accepted from eligible teams through a date set forth
17 in the notice. As a condition of receiving a grant under this section, an applicant
18 eligible team shall demonstrate to the satisfaction of the department that the
19 applicant eligible team will provide matching funds in an amount equal to the
20 amount awarded under this section.

21 **SECTION 9.** 118.133 (1) of the statutes is amended to read:

22 118.133 (1) **INTERSCHOLASTIC ATHLETICS.** (a) A school board shall permit a pupil
23 who resides in the school district and is enrolled in a microschool or home-based
24 private educational program to participate in interscholastic athletics in the school

ASSEMBLY BILL 122**SECTION 9**

1 district on the same basis and to the same extent that it permits pupils enrolled in
2 the school district to participate.

3 (b) Upon request, the microschool or home-based educational program in
4 which the pupil is enrolled shall provide the school board with a written statement
5 that the pupil meets the school board's requirements for participation in
6 interscholastic athletics based on age and academic and disciplinary records. No
7 person may provide a false statement under this paragraph. The school board may
8 not question the accuracy or validity of the statement or request additional
9 information.

10 **SECTION 10.** 118.133 (2) of the statutes is amended to read:

11 118.133 (2) EXTRACURRICULAR ACTIVITIES. A school board shall permit a pupil
12 who resides in the school district and is enrolled in a microschool or home-based
13 private educational program to participate in extracurricular activities in the school
14 district on the same basis and to the same extent that it permits pupils enrolled in
15 the school district to participate.

16 **SECTION 11.** 118.15 (1) (a) of the statutes is amended to read:

17 118.15 (1) (a) Except as provided under pars. (b) to (d) and (g) and ~~sub.~~ subs.
18 (4) and (4c), unless the child is excused under sub. (3) or has graduated from high
19 school, any person having under control a child who is between the ages of 6 and 18
20 years shall cause the child to attend school regularly during the full period and
21 hours, religious holidays excepted, that the public, private, or tribal school in which
22 the child should be enrolled is in session until the end of the school term, quarter or
23 semester of the school year in which the child becomes 18 years of age.

24 **SECTION 12.** 118.15 (4c) of the statutes is created to read:

ASSEMBLY BILL 122

1 118.15 (4c) Instruction in a microschool that meets all of the criteria under s.
2 118.165 (1) may be substituted for attendance at a public or private school.

3 **SECTION 13.** 118.153 (1) (b) of the statutes is amended to read:

4 118.153 (1) (b) “Dropout” means a child who ceased to attend school, does not
5 attend a public, private, or tribal school, technical college, microschool, or
6 home-based private educational program on a full-time basis, has not graduated
7 from high school, and does not have an acceptable excuse under s. 118.15 (1) (b) to
8 (d) or (3).

9 **SECTION 14.** 118.162 (1) (km) of the statutes is created to read:

10 118.162 (1) (km) A parent of a pupil enrolled in a microschool, who resides in
11 a school district in the county, designated by the county board.

12 **SECTION 15.** 118.53 (title) of the statutes is amended to read:

13 **118.53** (title) **Attendance by pupils enrolled in a microschool or**
14 **home-based private educational program.**

15 **SECTION 16.** 118.53 (2m), (3) and (4) of the statutes are amended to read:

16 118.53 (2m) A school board shall allow a pupil enrolled in a microschool or
17 home-based private educational program who has not met the minimum standards
18 for admission into high school under s. 118.145 (1) to attend up to 2 courses at a public
19 school in the district during each school semester if the school board determines that
20 the pupil qualifies for admission to those courses and if there is sufficient space in
21 the classroom.

22 **(3)** A school board shall allow a pupil enrolled in a microschool or home-based
23 private educational program, who has met the standards for admission under sub.
24 (2), to attend up to 2 courses at a public school in the district during each school

ASSEMBLY BILL 122

1 semester if the school board determines that there is sufficient space in the
2 classroom.

3 (4) A pupil enrolled in a microschool or home-based private educational
4 program and attending a public school under this section may attend one course in
5 each of 2 school districts, but may not attend more than 2 courses in any semester.

6 **SECTION 17.** 118.60 (7) (b) 3. of the statutes is amended to read:

7 118.60 (7) (b) 3. Ensure that any teacher's aide employed by the private school
8 has graduated from high school, been granted a declaration of equivalency of high
9 school graduation, been granted a high school diploma by the administrator of a
10 microschool or home-based private educational program, or been issued a general
11 educational development certificate of high school equivalency, or has obtained a
12 degree or educational credential higher than a high school diploma, declaration of
13 equivalency of high school graduation, or general educational development
14 certificate of high school equivalency.

15 **SECTION 18.** 119.23 (7) (b) 3. of the statutes is amended to read:

16 119.23 (7) (b) 3. Ensure that any teacher's aide employed by the private school
17 has graduated from high school, been granted a declaration of equivalency of high
18 school graduation, been granted a high school diploma by the administrator of a
19 microschool or home-based private educational program, or been issued a general
20 educational development certificate of high school equivalency, or has obtained a
21 degree or educational credential higher than a high school diploma, declaration of
22 equivalency of high school graduation, or general educational development
23 certificate of high school equivalency.

24 **SECTION 19.** 120.18 (1) (a) 2. of the statutes is amended to read:

