



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-4998/1  
TKK:klm/wlj/ahe

## 2017 ASSEMBLY BILL 843

January 16, 2018 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Rules.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

1     **AN ACT** *to repeal* 115.33 (4), 118.035 (5), 118.38 (4), 118.51 (4) (a) 4., 118.51 (6),  
2           118.51 (7) (a) and 121.91 (5) (b); *to renumber* 118.51 (7) (b) and 121.91 (5) (a);  
3           and *to amend* 115.28 (43), 118.51 (3) (a) 4., 118.51 (9), 118.57 (2) and 119.04 (1)  
4           of the statutes; **relating to:** open enrollment and repealing outdated or expired  
5           reporting requirements and tuberculosis screening (suggested as remedial  
6           legislation by the Department of Public Instruction).

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### *Analysis by the Legislative Reference Bureau*

This bill eliminates an expired provision of the open enrollment program and a provision in the OEP that permits a school district to deny the transfer of a pupil into or out of the school district if the transfer would increase racial imbalance in the school district. In December 2007, the Wisconsin attorney general issued an opinion finding this provision to be unenforceable based upon a decision of the U.S. Supreme Court in *Parents Involved in Community Schools, et al. v. Seattle School District No. 1*, 551 U.S. 701 (2007).

In addition, this bill adds a missing cross-reference to make the changes to the tuberculosis screening requirements under 2017 Wisconsin Act 107 applicable to the Milwaukee Public Schools. Act 107 requires a school district to, with limited exceptions, condition employment in the school district on the completion of a physical examination that includes a screening questionnaire for tuberculosis. Prior to Act 107, the physical examination requirements, including tuberculosis screening

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requirements, applied to all school districts except MPS. Act 107 eliminated the language exempting MPS, but did not insert a cross-reference to the statutory provision that makes general school laws applicable to a first class city school district.

This bill also eliminates a number of expired or outdated reporting requirements imposed on the Department of Public Instruction. Eliminated in this bill are a requirement to submit a report to the legislature and to the governor, by January 1, 2001, and January 1, 2003, regarding DPI's progress in securing school safety funding; a requirement to submit to the standing committees of the legislature a report summarizing the physical condition and capacity of the state's public schools; and a requirement to submit, by July 1, 2005, a report to the standing committees of the legislature on the imposition of school uniforms by school boards.

Finally, the bill corrects an incorrect cross-reference in a provision requiring DPI to provide notice of educational options.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Public Instruction and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1           **SECTION 1.** 115.28 (43) of the statutes is amended to read:

2           115.28 **(43)** SCHOOL SAFETY FUNDING. With the department of justice, seek and  
3           apply for federal funds relating to school safety and reducing violence and disruption  
4           in schools, including funds for alternative schools or programs. ~~Each department~~  
5           ~~shall make a report by January 1, 2001, and January 1, 2003, of its progress in~~  
6           ~~applying for and obtaining funds under this subsection. The report shall be provided~~  
7           ~~to the legislature in the manner provided under s. 13.172 (2) to the cochairpersons~~  
8           ~~of the joint committee on finance and to the governor.~~

NOTE: This SECTION deletes a requirement to submit reports to the Legislature by January 1, 2001, and January 1, 2003, of progress in seeking federal school safety funds.

9           **SECTION 2.** 115.33 (4) of the statutes is repealed.

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NOTE: This SECTION deletes a requirement for the State Superintendent to conduct a study of the physical condition, capacity, and suitability of the public schools and submit a report to the appropriate legislative standing committees.

1           **SECTION 3.** 118.035 (5) of the statutes is repealed.

NOTE: This SECTION deletes a requirement for DPI to submit a report to the appropriate legislative standing committees by July 1, 2005, regarding school board imposition of school uniforms.

2           **SECTION 4.** 118.38 (4) of the statutes is repealed.

NOTE: This SECTION deletes a requirement for DPI to submit a report to the appropriate legislative standing committees and the Governor by July 1, 2000, regarding school board requests for waivers from statutory or administrative rule requirements.

3           **SECTION 5.** 118.51 (3) (a) 4. of the statutes is amended to read:

4           118.51 (3) (a) 4. On or before the 2nd Friday following the first Monday in June  
5 following receipt of a copy of the application, if a resident school board denies a pupil's  
6 enrollment in a nonresident school district ~~under sub. (6) or (7)~~, the resident school  
7 board shall notify the applicant and the nonresident school board, in writing, that  
8 the application has been denied and include in the notice the reason for the denial.

NOTE: SECTIONS 5, 6, and 10 remove cross-references to statutory subsections deleted in SECTIONS 7 and 8.

9           **SECTION 6.** 118.51 (4) (a) 4. of the statutes is repealed.

10          **SECTION 7.** 118.51 (6) of the statutes is repealed.

NOTE: This SECTION repeals an expired provision granting school boards authority to limit the number of students open enrolling into other districts during the school years from 1998-99 to 2005-06.

11          **SECTION 8.** 118.51 (7) (a) of the statutes is repealed.

NOTE: This SECTION repeals the authority for a school board eligible for special transfer aid under subch. VI of ch. 121, Stats., (commonly known as "Chapter 220 Aid") to reject an open enrollment application if the transfer into or out of the school district would increase racial imbalance in the district. The Wisconsin Attorney General opined in 2007 that this provision is unconstitutional under the U.S. Supreme Court's decision in *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701 (2007).

12          **SECTION 9.** 118.51 (7) (b) of the statutes is renumbered 118.51 (7).

13          **SECTION 10.** 118.51 (9) of the statutes, as affected by 2017 Wisconsin Act 59,  
14 is amended to read:

**ASSEMBLY BILL 843****SECTION 10**

1           118.51 (9) APPEAL OF REJECTION. If the nonresident school board rejects an  
2 application under sub. (3) (a) or (7), the resident school board prohibits a pupil from  
3 attending public school in a nonresident school district under sub. (3m) (d), ~~(6), or (7)~~,  
4 or the nonresident school board prohibits a pupil from attending public school in the  
5 nonresident school district under sub. (11), the pupil's parent may appeal the  
6 decision to the department within 30 days after the decision. If the nonresident  
7 school board provides notice that the special education or related service is not  
8 available under sub. (12) (b), the pupil's parent may appeal the required transfer to  
9 the department within 30 days after receipt of the notice. The department shall  
10 affirm the school board's decision unless the department finds that the decision was  
11 arbitrary or unreasonable.

12           **SECTION 11.** 118.57 (2) of the statutes is amended to read:

13           118.57 (2) The school board shall include in the notice under sub. (1) the most  
14 recent performance category assigned under s. 115.385 ~~(2)~~ (1) (b) to each school  
15 within the school district boundaries, including charter schools established under s.  
16 118.40 (2r) or (2x) and private schools participating in a parental choice program  
17 under s. 118.60 or 119.23. The notice published by the school board shall inform  
18 parents that the full school and school district accountability report is available on  
19 the school board's Internet site.

NOTE: This SECTION updates an incorrect cross-reference.

20           **SECTION 12.** 119.04 (1) of the statutes, as affected by 2017 Wisconsin Act 59,  
21 is amended to read:

22           119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
23 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,  
24 115.345, 115.363, 115.364, 115.365 (3), 115.367, 115.38 (2), 115.415, 115.445, 118.001

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1 to 118.04, 118.045, 118.06, 118.07, 118.075, 118.076, 118.10, 118.12, 118.125 to  
2 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18,  
3 118.19, 118.196, 118.20, 118.223, 118.225, 118.24 (1), (2) (c) to (f), (6), (8), and (10),  
4 118.245, 118.25, 118.255, 118.258, 118.291, 118.292, 118.293, 118.30 to 118.43,  
5 118.46, 118.50, 118.51, 118.52, 118.53, 118.55, 118.56, 120.12 (2m), (4m), (5), and (15)  
6 to (27), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37),  
7 (37m), (38), and (39), 120.137, 120.14, 120.20, 120.21 (3), and 120.25 are applicable  
8 to a 1st class city school district and board but not, unless explicitly provided in this  
9 chapter or in the terms of a contract, to the commissioner or to any school transferred  
10 to an opportunity schools and partnership program.

NOTE: This SECTION inserts a cross-reference to required health examinations for school employees into ch. 119, First Class City School System, the chapter governing the Milwaukee Public Schools (MPS). This gives effect to a change made by 2017 Wisconsin Act 107 to require all school districts to condition employment of school district employees on a physical exam, including a tuberculosis screening questionnaire, by eliminating an exception that previously existed for MPS.

11 **SECTION 13.** 121.91 (5) (a) of the statutes is renumbered 121.91 (5).

12 **SECTION 14.** 121.91 (5) (b) of the statutes is repealed.

NOTE: This SECTION deletes a requirement for the State Superintendent to submit a report to the Governor and the appropriate legislative standings committees regarding requests by school boards and requests granted by the State Superintendent for increases to a school district's revenue limit made under a previous statutory provision.

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(END)