



# CODY HORLACHER

STATE REPRESENTATIVE • 33<sup>RD</sup> ASSEMBLY DISTRICT

(608) 266-5715  
Toll-Free: (888) 529-0033  
Rep.Horlacher@legis.wi.gov

P.O. Box 8952  
Madison, WI 53708-8952

**January 25<sup>th</sup>, 2018**

**To:** Assembly Committee on Education

**From:** Representative Cody Horlacher

**Re:** Public Hearing on Assembly Bill 810

---

Chairman Thiesfeldt and Assembly Education Committee Members,

This legislation will explicitly allow school boards to engage in for-profit ventures to generate general purpose revenue. For example, if a school district wanted to offer a STEM after-school program to students, the school board could authorize the course, provide the course, and any profits generated from the course would be returned to the program. The expenditures of the profits generated would be excluded from the district's shared costs.

Under current law there is no statute that specifically authorizes a school board to engage in these types of ventures and because there is no case law specifically addressing the issue, whether or not the school board has the authority to do so is a matter of interpretation. Various school boards across the state have interpreted this issue in a number of ways and it would be beneficial to clearly state that all boards are able to engage in this type of programming.

Our students have a desire to engage in a variety of programs that our school districts and school boards want to provide to families. We need to give those school boards the explicit authority to engage in these types of programs in order to ensure that a wide variety of options can be offered to our students and families. This legislation will provide school districts the opportunity to reach out and provide programs that are directly responsive to the needs and desires of their communities.

Thank you for taking the time to hear my testimony today and I am available for any questions you may have.

Assembly Committee on Education  
January 25, 2018

**Wisconsin Department of Public Instruction  
Statement for Information – Assembly Bill 810**

Assembly Bill 810 (AB 810) authorizes school boards to offer courses that include activities or course work that generate a profit for the school district (profit-generating courses). Under the bill, if a school board offers a profit-generating course, the school must spend any profits generated by the course for the purposes of offering profit-generating courses. Finally, this bill excludes expenditures of profits generated by a profit-generating course from a school district's shared costs. Shared costs is one of the factors used to calculate general school aids.

**Policy Analysis**

Under AB 810, school boards are permitted to offer courses that include activities or course work that generate a profit for the school district ("profit-generating courses"). Current law does not specifically authorize a school board to engage in for-profit ventures, and because there is no case law, guidance, or precedent addressing the issue, a school board's authority to engage in for-profit ventures is a matter of interpretation.

The Department of Public Instruction (the department) interpreted the term "profit" to mean revenues generated by activities or course work as a result of a course offered by a school district, such as a "shop" or other technical course that engages students in producing a tangible product. However, the term "profit" is not defined in the bill, or elsewhere in statute, as school districts have status as non-profit (for state and federal tax purposes). Defining the term "profit" would eliminate the likely scenario where one school district's interpretation of profit may vary from another school district's interpretation and may include other means for generating revenue, such as student fees or returns on investments.

The language in the bill does not identify specific parameters for profit-generating courses; thus it appears that the provisions of the bill could apply to any course offered by the school district, including credit-bearing courses for students (courses that count towards graduation), or courses offered under a school district's community programs and services function (Fund 80). It appears that the bill would allow for excess revenue to be generated by existing school district courses that are already supported with the district's general operating fund (Fund 10). While the bill could be interpreted to authorize completely self-sustaining courses (i.e., courses funded through means completely outside of a school district's general operating fund), the law already provides for a school district to provide community programming and services from a designated fund (Fund 80) which may be comprised of property tax levy and user fees.

Under the bill, if a school board offers a profit-generating course, the school must spend any profits generated by the course for the purposes of offering profit-generating courses (as opposed to the specific course from which the profit was generated). The bill does not identify the specific types of

costs for which the profits may be used; in the absence of specific purposes, it appears that the profits could be expended on materials or equipment for the profit-generating course, or possibly for personnel costs associated with profit generating courses.

Without a definition of the term "profit" or explicit parameters around profit-generating courses or the specific purposes for which the profits could be expended, the scope of the legislation may be larger than the author intended and it is possible that a school board would be left to defend its interpretation of the bill were it challenged on its actions. Providing additional language through an amendment to define profit and provide parameters of what courses would be permitted under this statute would provide more clarity and promote uniformity around the use of this policy.

Finally, this bill excludes expenditures of profits generated by a profit-generating course from a school district's shared costs. Shared costs is one of the factors used to calculate general school aids and refers to school district expenditures that are aidable through the equalization formula. Shared cost is determined by subtracting certain deductible receipts from the gross cost of a school district's general fund for operating costs and its debt service fund for expenditures for long-term debt retirement. The primary deductions are state categorical aid, federal aid, and local non-property tax revenue such as ticket sales, student fees, and interest earnings. While the bill does exclude "expenditures from profits" from the shared cost formula, all revenue generated from a profit-generating course would be considered a deductible receipt in the shared cost formula. Therefore, if this bill were to become law as written, a school district's shared costs would exclude both the expenditures from profits the revenue raised from a profit-generating course, effectively reducing shared costs twice for each profit-funded expenditure. A significant reduction in a school district's shared costs could have the effect of redistributing state aid in the general/equalization aid formula.