



ROB SUMMERFIELD

STATE REPRESENTATIVE • 67th ASSEMBLY DISTRICT

Assembly Bill 854

Relating to: the authority of school boards to approve or deny owner-initiated petitions to detach and attach small territories of school districts and modifying a waiting period that applies to filing multiple petitions

**Assembly Committee on Education
Tuesday, February 1, 2022**

Thank you Chairman Thiesfeldt for holding a public hearing on Assembly Bill 854 today and thank you to the members of the committee for taking my testimony.

For families across Wisconsin, open enrollment is a critical tool for getting their child the education that best suits their needs. However, when an open-enrolled child encounters learning difficulties and would benefit from further testing or additional services, parents are often left with a tough decision. They can either test their child and likely lose their open enrollment seat or forego testing and special services so a child can continue to attend the school they know alongside their siblings and friends.

In rare circumstances, homeowner-initiated annexation, or joining the student's residence to a neighboring district, is an option for getting these children access to the services they need. However, current statute governing owner-initiated detachment and attachment of small territories requires the approval of **both** the old and new school district. As a result, the old school district often blocks annexation petitions, leaving families stuck and unable to use this process as a means of providing their child with a better education.

Earlier this session, I had a family from my district reach out to me and explain that they were facing this exact same issue with one of their children. They learned that the open enrollment status of their child with special needs was in jeopardy because of these restrictions on open enrollment. They have tried to secure the child's open enrollment status several times; however, their attempts continue to fail because the old school district continues to block their annexation petitions.

AB 854 eliminates the requirement for the old school district to approve an annexation petition, so only the new school district's approval is needed for owner-initiated detachment and attachment of small territory. This change will provide Wisconsin families greater educational freedom and flexibility. This bill seeks to further educational choice and assist families in those rare circumstances where the annexation process would benefit their children over the open enrollment process.

Thank you again for the opportunity to present my testimony and for your consideration of Assembly Bill 854.



From: Senator Kathy Bernier
To: Assembly Committee on Education
Re: Testimony on Assembly Bill 854
Relating to: the authority of school boards to approve or deny owner-initiated petitions to detach and attach small territories of school districts and modifying a waiting period that applies to filing multiple petitions
Date: February 1, 2022

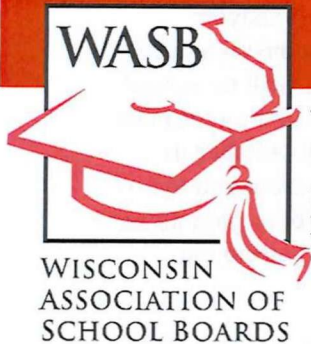
For families across Wisconsin, open enrollment is a critical tool for getting their child the education that best suits their needs. This year, more than 70,000 Wisconsin students are open enrolled in a school outside of their home district. However, when an open enrolled child encounters learning difficulties and would benefit from further testing or additional services, parents are often left with a tough decision. They can either test their child and likely lose their open enrollment seat or forego testing and special services so a child can continue to attend the school they know alongside their siblings and friends.

In rare circumstances, homeowner-initiated annexation, or joining the student's residence to a neighboring district is an option for getting these children access to the services they need. However, current statute governing owner-initiated detachment and attachment of small territories requires the approval of both the old and new school district. As a result, districts of detachment often block annexation petitions, leaving families stuck and unable to use this process as a means of providing their child with a better education.

AB 854 eliminates the requirement for the district of detachment to approve an annexation petition, so only the adjoining district's approval is needed for owner-initiated detachment and attachment of small territory. This change will provide Wisconsin families greater educational freedom and flexibility.

This proposed change only applies to small territory petitions, which are defined as areas that equate to less than seven percent of the equalized valuation of the district of detachment and less than seven percent of the enrollment of the district of detachment. Under the bill, adjoining districts still have to approve petitions for annexation, maintaining a district's ability to only approve annexations for students that they have the necessary resources to support.

This bill seeks to further educational choice and assist families in those rare circumstances where the annexation process would benefit their children over the open enrollment process.



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Assembly Committee on Education
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: February 1, 2022
RE: OPPOSITION to ASSEMBLY BILL 854

The Wisconsin Association of School Boards (WASB) is a voluntary membership association representing all 421 of Wisconsin's locally elected public school boards.

While the WASB believes the authors of Assembly Bill 854 are sincere in their desire to assist constituents/parents who may be frustrated in trying to find open enrollment options for their children, we are extremely concerned about the serious unintended consequences and negative impact this bill could have on school districts. This is of even greater concern when we consider the prospect of multiple small territory detachments involving different tracts of land occurring at the same time or within a short period of time.

The co-signer memo for the bill seems to suggest the authors may be attempting to address an individual circumstance involving denial of open enrollment to a child, perhaps a child with potential special needs, while characterizing detachment as a type of school choice, which it ought not be in our view.

Here are just some of the concerns we have with this bill:

- 1) Parents unhappy with a school decision may use bill's provisions this as an alternative to open enrollment. It is concerning that nothing in the bill would preclude parents from using the bill's provisions as a starting point (their first option) rather than a last resort after open enrollment attempts have been unsuccessful.

Both regular and alternative open enrollment exist as options—with relatively little authority of the *resident* district to deny the application.

Under this bill, what may have short-term consequences to a particular family seeking an alternative to its resident district will have long-term consequences to that school district (and others) and the students who remain. Open enrollment is relatively short-term (lasting for the duration of a child's schooling); detachment is permanent. This bill could solve a perceived problem for a family but create a very real problem for districts.

We would argue that the overall stability of the entire system of public education in the state is more important than appeasing individual property owners who, in nearly all cases, knew or should have known, which school district their property is located in when they purchased it.

Open enrollment is a tool that is already available to parents whose concerns deal with the school that their children will attend (versus tax rates or some other consideration). And while open enrollment can be damaging to a declining enrollment district, the effects are less permanent than property detachment.

- 2) The detachment procedure under the bill is not limited to parents of school age children. Taxpayers perceiving lower tax rates may be available in adjoining districts may use the bill's provisions to reduce their property taxes. This may have serious unintended consequences. If property owners with no school age children (e.g., the homeowners who comprise roughly three of every four households in the state) use the provisions of this bill in significant numbers to move their property from one district to another in search of lower millage rates, it could have huge impacts on both the districts they detach from and the districts to which they reattach. One consequence could be that the per pupil property tax base goes up in the adjoining district which presumably means a reduction in state school aid for districts getting aid under the equalization formula.

That analysis doesn't even begin to factor in the impact of this bill if business owners or farmers or other large property owners begin to utilize the bill to try to reduce their property tax bills. (Again, we note that the bill does not limit access to detachment only to families of school-age children.)

While the board of appeal (i.e., the school district boundary appeal board) might be expected to be more sympathetic to school-age parents who bring detachment petitions than to business owners or households without children, there is no guarantee this will be the case.

- 3) Both sides of the detachment/reattachment equation deserve consideration. The financial incentives to accept certain requests for attachment (and, perhaps, to reject others—i.e., “cherry pick”) are not aligned with consideration of the impacts on the district that is losing the property and on the remaining residents/students in that district. The current statute recognizes this by giving both the resident district from which detachment is sought and the district to which an attachment is contemplated an opportunity to weigh in. This bill could inadvertently create an incentive for a nonresident district to discriminate against certain detachment/reattachment requests based on the educational costs associated with the family making the request.
- 4) Such detachments, if sufficient in number, could ultimately create districts that are unable to sustain themselves in terms of offering an adequate educational program, and such decisions should not be up to a small group of property owners at the expense of the remaining territory and remaining residents of the district. Small, rural districts may be particularly vulnerable under such a procedure. And to the extent that demographic changes in the state have created detrimental enrollment declines and funding challenges for many school districts, this proposal would likely amplify and worsen the problems such districts already face under the current state school funding formula. And there could be a significant “snowball effect” once additional detachments under this bill start to occur.
- 5) The bill does not specifically provide for either: a) notification of the resident district (the district from which detachment is sought) or b) an opportunity to be heard on the matter before the district board to which attachment is proposed. Under the bill, the resident school district has no say in the decision and doesn't have any authority to participate in the discussion until the appeal stage.
- 6) What state statutes consider to be a “small” detachment is not necessarily small (in the sense of being minor or inconsequential). Under s. [117.12\(1\)\(a\)](#), Wis. Statutes, a detachment and reattachment is considered to be “small” so long as: the assessed value of the territory proposed to be detached from one school district and attached to an adjoining school district, divided by the assessment ratio of the taxation district, is less than 7 percent of the equalized valuation of the school district from which it is proposed to be detached; or less than 7 percent of the enrollment of the school district from which the territory is proposed to be detached resides in the territory proposed to be detached from that school district.

Thus, this bill would potentially allow a significant amount of property tax base to exit a school district and the affected school board would have no say in the matter.

These are some of the immediate, foreseeable concerns we have identified. The legislature should be concerned that any realignment of school district boundaries will shift state aid distribution from district to district. This redistribution of state aid will create winners and losers as it impacts educational opportunities for students while also having implications upon property taxpayers. For the above reasons, the WASB opposes Assembly Bill 854.

Property Information, Property Annexation History, and Why a Change is Needed

Property Information

- Home district is Eau Claire Area School District, Open Enrolled district is Elk Mound School District
- Before the School District Consolidation Law - 1959, our property was in Wheaton School District – Elk Mound Area #2.
- We are the first residents of the property, prior to 2004, the land our house sits on was part of a 480 acre farm that was sold for development.
- Eau Claire Area School District/Elk Mound School District line is 1,677 feet from our driveway (.32 miles)

Property Annexation History

- Annexation #1 – filed 2017, total of six properties
 - Detaching district: denied for criteria 4, revenue loss to detaching district
 - Attaching district: approved on merits of entire reorganization and educational welfare of property residents
 - Appealed to DPI School District Boundary Appeal Board, denied for criteria 4, revenue loss to detaching district
 - Appealed to Circuit Court per state statute, denied for lack of jurisdiction
- Property Swap – February 2019 to April 2019
 - Family in the Elk Mound School District wanted to be in the Eau Claire Area School District, we are in the Eau Claire Area School District and want to be in the Elk Mound School District
 - Property values were similar
 - Eau Claire Area School District Administration refused to take our collective request to the Eau Claire School Board for review. Denied with no explanation, reason, or additional information provided to either property owner.
- Annexation #2 – filed 2020, only our property
 - Detaching district: denied for criteria 4, revenue loss to detaching district
 - Attaching district: approved on merits of entire reorganization and educational welfare of property residents
 - Appealed to DPI School District Boundary Appeal Board, denied for criteria 4, revenue loss to detaching district
- Annexation #3 – filed 2022, only our property, outcome pending

Why a Change is Needed

- Although current statute allows property owners to file annexation for any reason, or no reason at all, provided the proposed reorganization shows, by examination of the eight required criteria, to be beneficial, in our experience the detaching district, which will almost certainly lose revenue, often times fails to analyze the reorganization from the three statute required angles. Those of the detaching district, attaching district, and residents of the proposed property.
- State statute provides a concrete framework to ensure a complete assessment of all the criteria; however, interpretation by school boards is inconsistent or focuses on just one or two criteria that affect the detaching districts. Thus they deny petitions based only on their estimated fiscal loss.
- Detaching districts force property owners to take their petitions to the Department of Public Instruction School District Boundary Appeal Board for resolution.
 - Over the last 5 years, 19 owner initiated small parcel property annexations were approved statewide. The number of total petitions filed is unknown.
 - 4 were determined by property owners appealing to Department of Public Instruction
 - 6 were agreed property swaps between both school districts
 - 3 were resolving clerical errors
 - 5 were approved locally by both school districts for various land location reasons
 - 1 is unknown, no accessible online documentation
- Open enrollment limitations/restrictions can sometimes only be addressed by residency through annexation. The current process and interpretation by detaching districts is not always what is in the best interest of the educational welfare of the open enrolled students in question and the reorganization is not looked at as a whole.

Complete Criteria Analysis and Results

- Impact on the educational welfare of students in the Eau Claire school district:
 - Seven of the required factors (1, 2, 2m, 3, 5, 6, 7) clearly show this reorganization has no impact.
 - One of the required factors (4) shows a .0068% decrease in revenue funds that equates to \$.97 per student spending, it also demonstrates savings to taxpayers in the state of Wisconsin, which would include residents of Eau Claire. (2019-2020 revenue amounts)

- Impact on the educational welfare of other students in the Elk Mound school district:
 - Seven of the required factors (1, 2, 2m, 3, 5, 6, 7) clearly show this reorganization has no impact.
 - One of the required factors (4) shows a .062% increase in revenue funds that equates to \$8.27 per student spending, it also demonstrates savings to taxpayers in the state of Wisconsin, which would include residents of Elk Mound. (2019-2020 revenue amounts)

- Impact on the educational welfare of the students residing on the proposed property:
 - Three of the required factors (2m, 6, 7) clearly show this reorganization has no impact
 - Five of the required factors (1,2,3,4,5) show savings in mileage and time, access to otherwise limited/capped programs/services, guaranteed enrollment, increased resources available to their school, tax savings, rights to representation, and residency.

Criteria	Impact on the Educational Welfare of Students in the Eau Claire District	Impact on the Educational Welfare of Students in the Elk Mound District	Impact on the Educational Welfare of the Students Residing on the Proposed Property
(1)The geographical and topographical characteristics of the affected school districts, including the estimated travel time to and from school for pupils in the school districts	NONE - does not affect the educational welfare of any Eau Claire students	NONE – does not affect the educational welfare of other students attending Elk Mound schools	YES – · Geographically closer to schools in the Elk Mound district, 2.3 miles total between school buildings · 2,952 miles of travel saved over years enrolled, per student · 17 to 18.5 24-hour periods saved over years enrolled, per student (by car) · 42 hours a year saved, or 12.25 24-hour periods over years enrolled in middle/high, per student (by bus)
(2)The educational needs of all of the children residing in the affected school districts, the educational programs currently offered by each affected school district and the ability and commitment of each school district to meet those needs and continue to offer those educational programs	NONE – does not affect the educational welfare of any Eau Claire students	NONE – does not affect the educational welfare of other students attending Elk Mound schools	YES – · allows access to programs/services that may be needed now and/or in the future
(2m)If territory is proposed to be detached from one school district and attached to an adjoining school district, whether the proposed detachment will have any adverse effect on the program currently offered by the school district from which the territory is proposed to be detached, including both curricular and extracurricular aspects of that program	NONE – does not affect the educational welfare of any Eau Claire students	NOT APPLICABLE, (2m) only addresses detaching district	NOT APPLICABLE, (2m) only addresses detaching district
(3)The testimony of and written statements filed by the residents of the affected school districts	To be given during appeal hearing	To be given during appeal hearing	YES – · guarantees enrollment status · provides educational stability · grants access to ALL programs regardless of caps · keeps students together in the same district · allows family to vote for their school board representatives/referendums that directly impact the students residing on the proposed property
(4)The estimated fiscal effect of the proposed reorganization on the affected school districts, including the effect of the apportionment of assets and liabilities *revenue amounts from 2019-2020 school year	YES – · .0013% decrease in tax revenue · .0068% overall decrease in revenue · Loss of \$.20 in tax revenue spending or \$.97 per student total spending	YES – · .014% increase in tax revenue · .062% overall increase in revenue · Gain of \$1.87 in tax revenue spending (9x greater benefit to Elk Mound over loss to Eau Claire) or \$8.27 per student total spending	YES – · School district they currently attend, Elk Mound, has increased funds in tax revenue and receives the full amount of per student aid to further provide/enhance their educational welfare

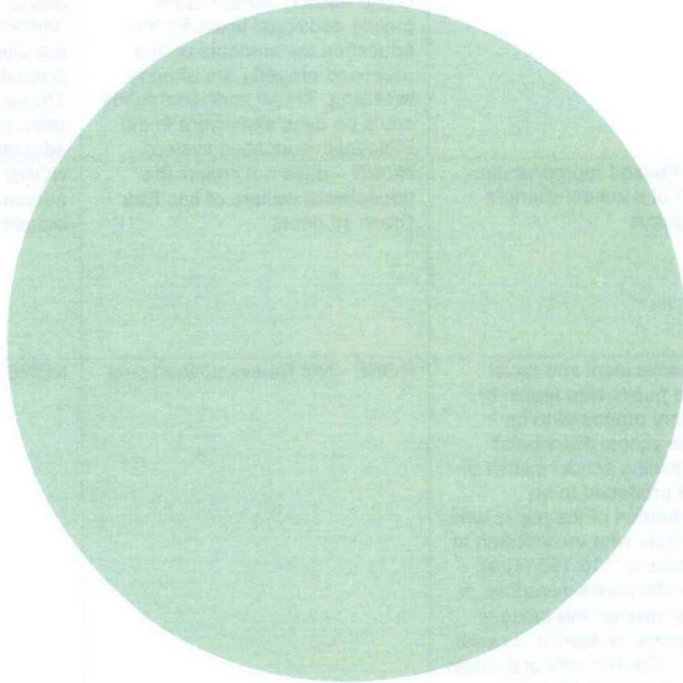
	<ul style="list-style-type: none"> ·Reported revenue surplus of \$127,108 in 2019 · The state of Wisconsin saves \$312 in student aid funding per student residing on the proposed property per year of enrollment which means Wisconsin taxpayers (including the parents of every other student in the Eau Claire district) would not be paying additional taxes for the education the students on the proposed property are already receiving. Those additional funds could be used elsewhere in the Wisconsin education system. 	<ul style="list-style-type: none"> (8.5x greater benefit to Elk Mound over loss to Eau Claire) ·The state of Wisconsin saves \$312 in student aid funding per student residing on the proposed property per year of enrollment which means Wisconsin taxpayers (including the parents of every other student in the Elk Mound district) would not be paying additional taxes for the education the students on the proposed property are already receiving. Those additional funds could be used elsewhere in the Wisconsin education system. 	<ul style="list-style-type: none"> ·The state of Wisconsin saves \$312 in student aid funding per student residing on the proposed property per year of enrollment which means Wisconsin taxpayers (including the parents of the students residing on the proposed property) would not be paying additional taxes for the education these students are already receiving. Those additional funds could be used elsewhere in the Wisconsin education system.
(5)Whether the proposed reorganization will make any part of a school district's territory noncontiguous	NONE – does not impact the educational welfare of any Eau Claire students	NONE – does not impact the educational welfare of other Elk Mound students	<p>YES –</p> <ul style="list-style-type: none"> · Allows residency · Saves travel time and distance · Grants access to all available programs in currently attending school district · Sends their full student funding to currently attending school district
(6)The socioeconomic level and racial composition of the pupils who reside or will reside in territory proposed to be detached from one school district and attached to an adjoining school district or in a school district proposed to be dissolved; the proportion of the pupils who reside in such territory who are children at risk, as defined under s. 118.153 (1)(a); and the effect that the pupils described in this paragraph will have on the present and future socioeconomic level and racial composition of the affected school districts and on the proportion of the affected school districts' enrollments that will be children at risk.	NONE - Not Relevant/No Impact	NONE - Not Relevant/No Impact	NONE - Not Relevant/No Impact
(7)The results of any referendum held under s.117.10 (*117.10 Dissolution of School District)	NONE - Not Relevant/No Impact	NONE - Not Relevant/No Impact	NONE - Not Relevant/No Impact
RESULTS	<p>Impact on the Educational Welfare of Eau Claire Students:</p> <p>Criteria 1: NONE Criteria 2: NONE Criteria 2m: NONE Criteria 3: NONE Criteria 4: YES .0068% total decrease in revenue, state of Wisconsin saves Criteria 5: NONE Criteria 6: NONE Criteria 7: NONE</p>	<p>Impact on the Educational Welfare of Elk Mound Students:</p> <p>Criteria 1: NONE Criteria 2: NONE Criteria 2m: NONE Criteria 3: NONE Criteria 4: YES .062% total increase in revenue, state of Wisconsin saves Criteria 5: NONE Criteria 6: NONE Criteria 7: NONE</p>	<p>Impact on the Educational Welfare of Students Residing on Proposed Property:</p> <p>Criteria 1: YES - Decrease in miles/minutes traveled Criteria 2: YES - Access to ALL programs/services for current or future educational needs Criteria 2m: NONE Criteria 3: YES - Open Enrollment program limitations prevent full access to specialized programs/services, creates unstable enrollment status, does not allow representation Criteria 4: YES - Full amount of revenue associated with the proposed property goes to the district the residents already attend, increasing the district's ability to provide for their needs, taxpayers are currently paying more for the education of these students Criteria 5: YES - creating an island parcel within the Eau Claire allows residency Criteria 6: NONE Criteria 7: NONE</p>

Criteria 4: Fiscal Impact on Eau Claire School District – Second Petition

**All Sources of Revenue Shown in Fund 10
EC School District 2019-2020
Total: \$164,364,251.65**

- revenue dollars less all funds currently associated with proposed property (\$11,225.08) equals \$164,363,126.57
- all revenue associated with proposed property that would be lost to Eau Claire: \$11,225.08

The black line on this pie chart illustrates the fiscal impact our reorganization has on the Eau Claire Area School District. (Did you just ask, “what black line?”?)

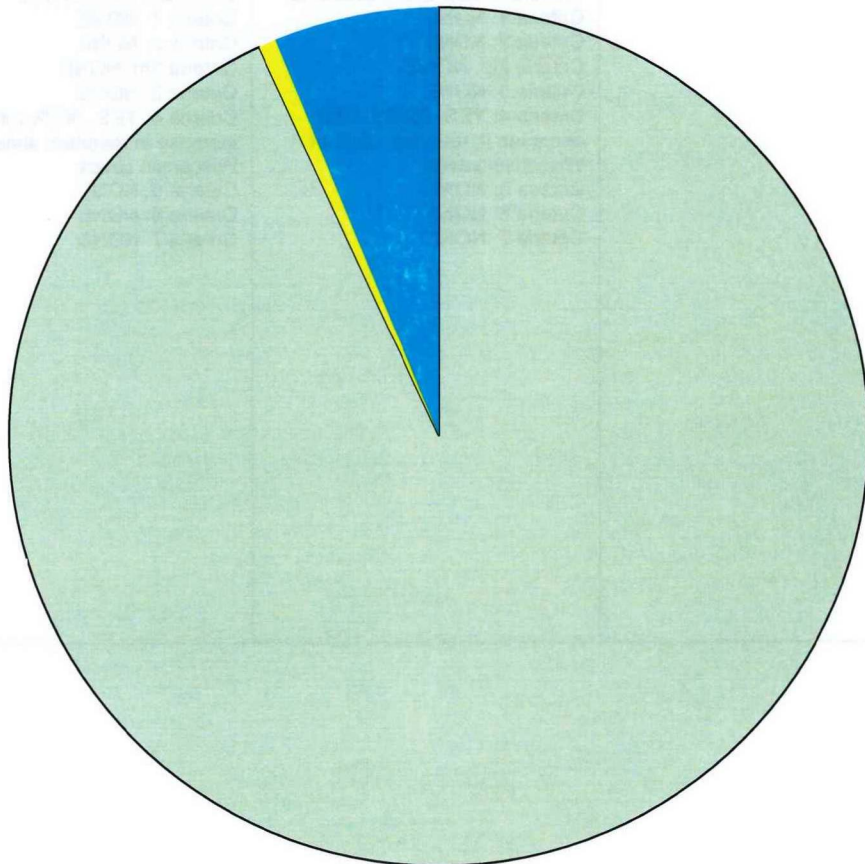


Criteria 4: Fiscal Impact Comparison Between Districts - Second Petition

What Fractions of a Percent Look Like for Each District 2019-2020

- Remainder of 1% = .931153
- Eau Claire Percentage .006847
- Elk Mound Percentage .062%

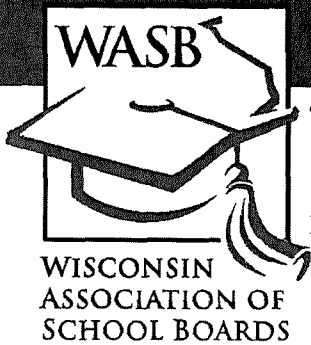
The benefits to the Elk Mound School District and the educational welfare of those students clearly out weighs the loss to the Eau Claire Area School District and any impact on the educational welfare of those students.



State Statute 117.15

117.15 Criteria for school district reorganizations. In making any decision under ss. 117.08 to 117.132, a school board, the board and an appeal panel shall consider the following factors as they affect the educational welfare of all of the children residing in all of the affected school districts, and may consider other appropriate factors:

- (1) The geographical and topographical characteristics of the affected school districts, including the estimated travel time to and from school for pupils in the school districts.
- (2) The educational needs of all of the children residing in the affected school districts, the educational programs currently offered by each affected school district and the ability and commitment of each school district to meet those needs and continue to offer those educational programs.
- (2m) If territory is proposed to be detached from one school district and attached to an adjoining school district or proposed to be included in a new school district under s. 117.105, whether the proposed detachment will have any adverse effect on the program currently offered by the school district from which the territory is proposed to be detached, including both curricular and extracurricular aspects of that program.
- (3) The testimony of and written statements filed by the residents of the affected school districts.
- (4) The estimated fiscal effect of the proposed reorganization on the affected school districts, including the effect of the apportionment of assets and liabilities.
- (5) Whether the proposed reorganization will make any part of a school district's territory noncontiguous.
- (6) The socioeconomic level and racial composition of the pupils who reside or will reside in territory proposed to be detached from one school district and attached to an adjoining school district, in territory proposed to be included in a new school district under s. 117.105 or in school districts proposed to be consolidated or in a school district proposed to be dissolved; the proportion of the pupils who reside in such territory who are children at risk, as defined under s. 118.153 (1) (a); and the effect that the pupils described in this paragraph will have on the present and future socioeconomic level and racial composition of the affected school districts and on the proportion of the affected school districts' enrollments that will be children at risk.
- (7) The results of any referendum held under s. 117.10



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PHONE: 608-257-2622 FAX: 608-257-8386

TO: Members, Assembly Committee on Education
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: February 1, 2022
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Both regular and alternative open enrollment exist as options—with relatively little authority of the *resident* district to deny the application.

Under this bill, what may have short-term consequences to a particular family seeking an alternative to its resident district will have long-term consequences to that school district (and others) and the students who remain. Open enrollment is relatively short-term (lasting for the duration of a child's schooling); detachment is permanent. This bill could solve a perceived problem for a family but create a very real problem for districts.

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