



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4912/P2
TKK:wlj

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 118.51 (4) (a) 4., 118.51 (6) and 118.51 (7) (a); **to renumber**
2 118.51 (7) (b); and **to amend** 118.51 (3) (a) 4. and 118.51 (9) of the statutes;
3 **relating to:** open enrollment (suggested as remedial legislation by the
4 Department of Public Instruction).

Analysis by the Legislative Reference Bureau

This bill eliminates an expired provision of the open enrollment program. The bill also eliminates a provision in the open enrollment program 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).

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

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

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

NOTE: Sections 1, 2, and 6 remove cross-references to statutory subsections deleted in Sections 3 and 4.

7 **SECTION 2.** 118.51 (4) (a) 4. of the statutes is repealed.

8 **SECTION 3.** 118.51 (6) of the statutes is repealed.

NOTE: Section 3 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.

9 **SECTION 4.** 118.51 (7) (a) of the statutes is repealed.

NOTE: Section 4 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).

10 **SECTION 5.** 118.51 (7) (b) of the statutes is renumbered 118.51 (7).

11 **SECTION 6.** 118.51 (9) of the statutes, as affected by 2017 Wisconsin Act 59, is
12 amended to read:

13 118.51 (9) APPEAL OF REJECTION. If the nonresident school board rejects an
14 application under sub. (3) (a) or (7), the resident school board prohibits a pupil from
15 attending public school in a nonresident school district under sub. (3m) (d), ~~(6), or (7)~~,
16 or the nonresident school board prohibits a pupil from attending public school in the
17 nonresident school district under sub. (11), the pupil's parent may appeal the

1 decision to the department within 30 days after the decision. If the nonresident
2 school board provides notice that the special education or related service is not
3 available under sub. (12) (b), the pupil's parent may appeal the required transfer to
4 the department within 30 days after receipt of the notice. The department shall
5 affirm the school board's decision unless the department finds that the decision was
6 arbitrary or unreasonable.

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(END)