

2007 Senate Bill 396

Date of enactment: **April 7, 2008**
Date of publication*: **April 21, 2008**

2007 WISCONSIN ACT 222

AN ACT *to renumber* 120.21 (1); *to renumber and amend* 118.40 (3) (c) and 120.21 (2); *to amend* 118.15 (1) (a), 118.19 (1), 118.40 (4) (b) 1., 118.51 (2), 118.51 (3) (a) 6., 118.51 (3) (b), 118.51 (15) (a), 119.04 (1) and 121.02 (1) (a) 2.; and *to create* 115.001 (16), 115.28 (53), 118.15 (1) (g), 118.19 (13), 118.40 (2r) (b) 4., 118.40 (8), 118.51 (3) (a) 7., 118.51 (18), 120.21 (3) and 121.83 (4) of the statutes; **relating to:** virtual charter schools.

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

SECTION 1. 115.001 (16) of the statutes is created to read:

115.001 (16) VIRTUAL CHARTER SCHOOL. “Virtual charter school” means a charter school under contract with a school board under s. 118.40 in which all or a portion of the instruction is provided through means of the Internet, and the pupils enrolled in and instructional staff employed by the school are geographically remote from each other.

SECTION 2. 115.28 (53) of the statutes is created to read:

115.28 (53) ONLINE COURSES. Make online courses available for a reasonable fee, through a statewide web academy, to school districts, cooperative educational service agencies, and charter schools and private schools located in this state.

SECTION 3. 118.15 (1) (a) of the statutes is amended to read:

118.15 (1) (a) Except as provided under pars. (b) to (d) and (g) and sub. (4), unless the child is excused under sub. (3) or has graduated from high school, any person having under control a child who is between the ages of 6 and 18 years shall cause the child to attend school regu-

larly during the full period and hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age.

SECTION 4. 118.15 (1) (g) of the statutes is created to read:

118.15 (1) (g) Paragraph (a) does not apply to a person having under control a child who is enrolled in a virtual charter school.

SECTION 5. 118.19 (1) of the statutes is amended to read:

118.19 (1) ~~Any~~ Except as provided in s. 118.40 (8) (b) 2., any person seeking to teach in a public school, including a charter school, or in a school or institution operated by a county or the state shall first procure a license or permit from the department.

SECTION 6. 118.19 (13) of the statutes is created to read:

118.19 (13) Beginning July 1, 2010, no person may teach an online course in a public school, including a charter school, unless he or she has completed at least 30 hours of professional development designed to prepare a teacher for online teaching.

SECTION 7. 118.40 (2r) (b) 4. of the statutes is created to read:

* Section 991.11, WISCONSIN STATUTES 2005–06 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

118.40 (2r) (b) 4. No chartering or contracting entity under subd. 1. may establish or enter into a contract for the establishment of a virtual charter school.

SECTION 8. 118.40 (3) (c) of the statutes is renumbered 118.40 (3) (c) 1. and amended to read:

118.40 (3) (c) 1. A school board may not enter into a contract for the establishment of a charter school located outside the school district, except that if 2 or more school boards enter into an agreement under s. 66.0301 to establish a charter school, the charter school shall be located within one of the school districts, and if one or more school boards enter into an agreement with the board of control of a cooperative educational service agency to establish a charter school, the charter school shall be located within the boundaries of the cooperative educational service agency. This subdivision does not apply to the establishment of a virtual charter school.

2. A school board may not enter into a contract that would result in the conversion of a private, sectarian school to a charter school.

SECTION 9. 118.40 (4) (b) 1. of the statutes is amended to read:

118.40 (4) (b) 1. Charge tuition, except as otherwise provided in s. 121.83 (4).

SECTION 10. 118.40 (8) of the statutes is created to read:

118.40 (8) VIRTUAL CHARTER SCHOOLS. (a) *Location.* For the purposes of sub. (7) (a), (am), and (ar), a virtual charter school is considered to be located in the following school district:

1. If a school board contracts with a person to establish the virtual charter school, in the school district governed by that school board.

2. If 2 or more school boards enter into an agreement under s. 66.0301 to establish the virtual charter school, or if one or more school boards enter into an agreement with the board of control of a cooperative educational service agency to establish the virtual charter school, in the school district specified in the agreement.

(b) *Licensure.* 1. The governing body of a virtual charter school shall assign an appropriately licensed teacher for each online course offered by the virtual charter school. No person holding only a permit to teach exclusively in a charter school may teach in a virtual charter school, and no person holding both a license to teach exclusively in a charter school and a license to teach in other public schools may teach, in a virtual charter school, a subject or at a level that is not authorized by the latter license.

2. If a pupil attends a virtual charter school, any person providing educational services to the pupil in the pupil's home, other than instructional staff of the virtual charter school, is not required to hold a license or permit to teach issued by the department.

(c) *Staff duties.* In a virtual charter school, an instructional staff member is responsible for all of the following for each pupil the instructional staff member teaches:

1. Improving learning by planned instruction.
2. Diagnosing learning needs.
3. Prescribing content delivery through class activities.
4. Assessing learning.
5. Reporting outcomes to administrators and parents and guardians.
6. Evaluating the effects of instruction.

(d) *Required days and hours.* A virtual charter school shall do all of the following:

1. Provide educational services to its pupils for at least 150 days each school year.
2. Ensure that its teachers are available to provide direct pupil instruction for at least the applicable number of hours specified in s. 121.02 (1) (f) 2. each school year. No more than 10 hours in any 24-hour period may count toward the requirement under this subdivision.

3. Ensure that its teachers respond to inquiries from pupils and from parents or guardians of pupils by the end of the first school day following the day on which the inquiry is received.

(e) *Parent advisory council.* The governing body of a virtual charter school shall ensure that a parent advisory council is established for the school and that it meets on a regular basis. The governing body shall determine the selection process for members of the parent advisory council.

(f) *Required notices.* At the beginning of each school term, the governing body of a virtual charter school shall inform the parent or guardian of each pupil attending the virtual charter school, in writing, the name of, and how to contact, each of the following persons:

1. The members of the school board that contracted for the establishment of the virtual charter school and the administrators of that school district.
2. The members of the virtual charter school's governing body, if different than the persons under subd. 1.
3. The members of the virtual charter school's parent advisory council established under par. (e).
4. The staff of the virtual charter school.

(g) *Pupil's failure to participate.* 1. Whenever a pupil attending a virtual charter school fails to respond appropriately to a school assignment or directive from instructional staff within 5 school days, the governing body of the virtual charter school shall notify the pupil's parent or guardian.

2. Subject to subd. 2m., the third time in the same semester that a pupil attending a virtual charter school fails to respond appropriately to a school assignment or directive from instructional staff within 5 school days, the governing body of the virtual charter school shall also

notify the school board that contracted for the establishment of the virtual charter school, the school board of the pupil's resident school district, and the department. The school board that contracted for the establishment of the virtual charter school may transfer the pupil to his or her resident school district. If the pupil is a resident of the school district that contracted for the establishment of the virtual charter school, the school board may assign the pupil to another school or program within that school district. If the school board transfers or assigns a pupil, it shall notify the pupil's parent or guardian and the department.

2m. If the parent or guardian of a pupil attending a virtual charter school notifies the virtual charter school in writing before a school assignment or directive is given that the pupil will not be available to respond to the assignment or directive during a specified period, the school days during that period do not count for purposes of subd. 2. The virtual charter school shall require the pupil to complete any assignment missed during the period. This subdivision applies to no more than 10 school days in a school year.

3. The parent or guardian of a pupil transferred to the pupil's resident school district under subd. 2. may appeal the transfer to the department within 30 days after receipt of the notice of transfer. The department shall affirm the school board's decision unless the department finds that the decision was arbitrary or unreasonable.

(h) *Enrollment limit.* 1. Subject to subs. 3. and 4., beginning in the 2009–10 school year, the total number of pupils attending virtual charter schools through the open enrollment program under s. 118.51 in any school year may not exceed 5,250.

2. By the first Friday following the first Monday in April, the governing body of each virtual charter school shall report to the department all of the following:

a. The number of pupils who have initially applied and been accepted to attend the virtual charter school through the open enrollment program under s. 118.51.

b. The number of pupils attending the virtual charter school through the open enrollment program under s. 118.51 in the current school year who are expected to continue attending a virtual charter school through the open enrollment program under s. 118.51 in the succeeding school year.

c. Of the applicants reported under subd. 2. a., those who are siblings of pupils reported under subd. 2. b.

2m. If the department determines that the sum of the pupils reported under subd. 2. a. and b. by all virtual charter schools is no more than the limit under subd. 1., the department shall notify the virtual charter schools that all pupils reported under subd. 2. a. and b. may attend virtual charter schools in the succeeding school year. If the department determines that the sum of the pupils reported under subd. 2. a. and b. by all virtual charter schools is more than the limit under subd. 1., the department shall

calculate the sum of pupils reported under subd. 2. b. by all virtual charter schools.

3. If the department determines under subd. 2m. that the sum of the pupils reported under subd. 2. b. by all virtual charter schools is equal to or greater than the limit allowed under subd. 1., the department shall notify the virtual charter schools that all pupils reported under subd. 2. b. and c. may attend virtual charter schools in the succeeding school year notwithstanding the limit under subd. 1., but that no other pupils reported under subd. 2. a. may do so.

4. If the department determines under subd. 2m. that the sum of the pupils reported under subd. 2. b. by all virtual charter schools is less than the limit allowed under subd. 1., the department shall add to the sum the number of pupils reported under subd. 2. c. for all virtual charter schools. If the new sum is equal to or greater than the limit allowed under subd. 1., the department shall notify the virtual charter schools that all pupils reported under subd. 2. b. and c. may attend virtual charter schools in the succeeding school year notwithstanding the limit under subd. 1., but that no other pupils reported under subd. 2. a. may do so, except as provided in subd. 5. If the new sum is less than the limit allowed under subd. 1., the department shall notify the virtual charter schools that all pupils reported by the virtual charter schools under subd. 2. b. and c. may attend virtual charter schools in the succeeding school year. The department shall select pupils for the remaining available spaces on a random basis from the pupils reported by the virtual charter schools under subd. 2. a. and shall notify the virtual charter schools of the selections.

4m. In performing the calculations under subs. 2m. to 4., the department shall count a pupil who has applied to more than one virtual charter school only once.

5. The department shall maintain a waiting list for those pupils not selected at random under subd. 4. Each virtual charter school shall notify the department whenever it determines that a pupil determined to be eligible to attend the virtual charter school under subd. 4. will not be attending the virtual charter school. The department shall select pupils on a random basis from the waiting list to fill the newly available spaces.

SECTION 11. 118.51 (2) of the statutes is amended to read:

118.51 (2) **APPLICABILITY.** A pupil may attend a public school, including a charter school, prekindergarten, 4–year–old kindergarten, or early childhood or school–operated day care program, in a nonresident school district under this section, except that a pupil may attend a prekindergarten, 4–year–old kindergarten, or early childhood or school–operated day care program in a nonresident school district only if the pupil's resident school district offers the same type of program that the pupil wishes to attend and the pupil is eligible to attend that program in his or her resident school district.

SECTION 12. 118.51 (3) (a) 6. of the statutes is amended to read:

118.51 (3) (a) 6. If an application is accepted, on or before the first Friday following the first Monday in June following receipt of a notice of acceptance, or within 10 days of receiving a notice of acceptance if a pupil is selected from a waiting list under s. 118.40 (8) (h) 5., the pupil's parent shall notify the nonresident school board of the pupil's intent to attend school in that school district in the following school year.

SECTION 13. 118.51 (3) (a) 7. of the statutes is created to read:

118.51 (3) (a) 7. If the department has not notified a virtual charter school of the pupils who may attend the school under s. 118.40 (8) (h) by the deadline for informing applicants under subd. 3. or 5., the nonresident school district shall specify in its notices under subd. 3. or 5. that the school district's acceptance is conditional.

SECTION 14. 118.51 (3) (b) of the statutes is amended to read:

118.51 (3) (b) *Notice to resident school district.* Annually by June 30, each nonresident school board that has accepted a pupil under this section for attendance in the following school year shall report the name of the pupil to the pupil's resident school board. If a pupil is selected from a waiting list under s. 118.40 (8) (h) 5., the nonresident school board shall report the name of the pupil to the pupil's resident school board within 10 days of receiving notice of the pupil's selection from the department.

SECTION 15. 118.51 (15) (a) of the statutes is amended to read:

118.51 (15) (a) *Application form.* Prepare, distribute to school districts and make available to parents an application form to be used by parents under sub. (3) (a). The form shall include provisions that permit a parent to apply for transportation reimbursement under sub. (14) (b). The form shall require an applicant who is applying to attend a virtual charter school to indicate that he or she is applying to attend a virtual charter school, the number of virtual charter schools to which he or she is applying, and whether he or she is a sibling of a pupil currently enrolled in a virtual charter school through the open enrollment program.

SECTION 16. 118.51 (18) of the statutes is created to read:

118.51 (18) **LOCATION OF VIRTUAL CHARTER SCHOOLS.** For purposes of this section, a virtual charter school is located in the school district specified in s. 118.40 (8) (a).

SECTION 17. 119.04 (1) of the statutes, as affected by 2007 Wisconsin Act 20, is amended to read:

119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c), 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343, 115.345, 115.361, 115.38 (2), 115.445, 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07, 118.10, 118.12,

118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245, 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and (15) to (26), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38), 120.14, 120.21 (3), and 120.25 are applicable to a 1st class city school district and board.

SECTION 18. 120.21 (1) of the statutes is renumbered 120.21 (1) (a).

SECTION 19. 120.21 (2) of the statutes is renumbered 120.21 (1) (b) and amended to read:

120.21 (1) (b) The cost of such contracts under this subsection shall be paid out of the school district general fund.

SECTION 20. 120.21 (3) of the statutes is created to read:

120.21 (3) Any contract entered into by a school board that relates to providing online courses is open to public inspection and copying.

SECTION 21. 121.02 (1) (a) 2. of the statutes is amended to read:

121.02 (1) (a) 2. ~~Ensure~~ Subject to s. 118.40 (8) (b) 2., ensure that all instructional staff of charter schools located in the school district hold a license or permit to teach issued by the department. For purposes of this subdivision, a virtual charter school is located in the school district specified in s. 118.40 (8) (a). The state superintendent shall promulgate rules defining "instructional staff" for purposes of this subdivision.

SECTION 22. 121.83 (4) of the statutes is created to read:

121.83 (4) Notwithstanding subs. (1) and (2), if a pupil who is not a resident of this state attends a virtual charter school in this state, the school board that contracted for the establishment of the virtual charter school shall charge tuition for the pupil in an amount equal to at least the amount determined under s. 118.51 (16) (a) 3.

SECTION 23. Nonstatutory provisions.

(1) **AUDIT.**

(a) The legislative audit bureau shall perform a financial and performance evaluation audit of virtual charter schools. The audit shall do all of the following:

1. Compare the amount paid by the state for pupils attending a virtual charter school through the Open Enrollment Program to the actual educational costs of pupils attending virtual charter schools.

2. Compare the cost of educating pupils in virtual charter schools to the cost of educating pupils in other public schools.

3. Determine the actual and potential effects of state payments for pupils attending virtual charter schools through the Open Enrollment Program on the budgets of the school districts in which the pupils reside and on other school districts.

4. Compare the academic achievement of pupils who attend virtual charter schools to the academic achievement of pupils of similar socioeconomic backgrounds who attend other public schools.

5. Determine the amount of pupil–teacher contact and one–on–one pupil–teacher interaction, categorized by grade level, occurring in virtual charter schools, as compared to other public schools.

6. Determine the percentage of pupils attending virtual charter schools to which each of the following applied in the previous school year:

- a. The pupils did not attend school.
- b. The pupils attended a public school other than a virtual charter school.
- c. The pupils attended a private school.
- d. The pupils attended a home–based private educational program.

7. Determine the level of satisfaction that pupils attending virtual charter schools and their parents or guardians enjoy with their schools.

8. Determine the extent to which virtual charter schools have created innovative educational programs.

9. Determine the extent to which special education and related services are provided to children with disabilities who attend virtual charter schools.

10. Determine the effect of the enrollment limit under section 118.40 (8) (h) of the statutes, as created by this act, on the ability of pupils to attend virtual charter schools.

(b) The bureau shall submit copies of the audit report to the chief clerk of each house of the legislature for distribution to the appropriate standing committees in the manner provided in section s. 13.172 (3) of the statutes by December 30, 2009.

SECTION 24. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 118.40 (4) (b) 1. and (8) (d) and 121.83 (4) of the statutes takes effect on July 1, 2008.

(2) The treatment of section 118.40 (8) (b) 1. of the statutes takes effect on July 1, 2009.
