



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2009 SENATE BILL 125**

March 23, 2009 – Offered by Senator JAUCH.

1     **AN ACT** *to renumber and amend* 115.38 (2) and 118.40 (3) (c) 1.; *to amend*  
2           118.30 (1m) (a), 118.30 (1m) (am), 118.30 (1m) (b), 118.33 (1) (f) 1., 118.33 (6) (a),  
3           118.40 (7) (ar), 121.02 (1) (a) 2. and 121.02 (1) (r); and *to create* 115.38 (2) (b),  
4           118.30 (7), 118.33 (1) (f) 4., 118.33 (6) (b) 3., 118.40 (3) (c) 1. c. and 118.40 (7) (am)  
5           4. of the statutes; **relating to:** establishing a charter school in conjunction with  
6           an American Indian tribe.

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***Analysis by the Legislative Reference Bureau***

Under current law, with two exceptions, a school board may not enter into a contract for the establishment of a charter school located outside the school district. If two or more school districts jointly establish a charter school, the school must be located within one of the school districts. If one or more school districts enter into an agreement with a cooperative educational service agency (CESA) to establish a charter school, the school must be located within the boundaries of the CESA.

This substitute amendment provides that if a school board enters into an agreement with a federally recognized American Indian tribe or band to establish a charter school, the school must be located within the school district or within the boundaries of the tribe's or band's reservation.

The school board that establishes the charter school is responsible for determining whether the charter school is an instrumentality of the school district, for administering the statewide pupil assessments to pupils enrolled in the charter school, for specifying criteria for grade promotion and high school graduation for pupils enrolled in the charter school, and for ensuring that all instructional staff of the charter school hold a license or permit to teach issued by the Department of Public Instruction.

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

1           **SECTION 1.** 115.38 (2) of the statutes is renumbered 115.38 (2) (a) and amended  
2 to read:

3           115.38 (2) (a) Annually by January 1, each school board shall notify the parent  
4 or guardian of each pupil enrolled in the school district of the right to request a school  
5 and school district performance report under this subsection. Annually Except as  
6 provided in par. (b), annually by May 1, each school board shall, upon request,  
7 distribute to the parent or guardian of each pupil enrolled in the school district,  
8 including pupils enrolled in charter schools located in the school district, or give to  
9 each pupil to bring home to his or her parent or guardian, a school and school district  
10 performance report that includes the information specified by the state  
11 superintendent under sub. (1). The report shall also include a comparison of the  
12 school district's performance under sub. (1) (a) and (b) with the performance of other  
13 school districts in the same athletic conference under sub. (1) (a) and (b). If the school  
14 district maintains an Internet site, the report shall be made available to the public  
15 at that site.

16           **SECTION 2.** 115.38 (2) (b) of the statutes is created to read:

17           115.38 (2) (b) If a school board enters into an agreement with a federally  
18 recognized American Indian tribe or band in this state to establish a charter school,

1 that school board shall, upon request, distribute to the parent or guardian of each  
2 pupil enrolled in the charter school a school and school district performance report  
3 that includes the information specified by the state superintendent under sub. (1),  
4 regardless of the location of the charter school.

5 **SECTION 3.** 118.30 (1m) (a) of the statutes is amended to read:

6 118.30 **(1m)** (a) 1. Except as provided in ~~sub.~~ subs. (6) and (7), administer the  
7 4th grade examination adopted or approved by the state superintendent under sub.  
8 (1) to all pupils enrolled in the school district, including pupils enrolled in charter  
9 schools located in the school district, in the 4th grade.

10 2. ~~Beginning on July 1, 2002, if~~ Except as provided in sub. (7), if the school  
11 board has developed or adopted its own 4th grade examination, administer that  
12 examination to all pupils enrolled in the school district, including pupils enrolled in  
13 charter schools located in the school district, in the 4th grade.

14 **SECTION 4.** 118.30 (1m) (am) of the statutes is amended to read:

15 118.30 **(1m)** (am) 1. Except as provided in ~~sub.~~ subs. (6) and (7), administer the  
16 8th grade examination adopted or approved by the state superintendent under sub.  
17 (1) to all pupils enrolled in the school district, including pupils enrolled in charter  
18 schools located in the school district, in the 8th grade.

19 2. ~~Beginning on July 1, 2002, if~~ Except as provided in sub. (7), if the school  
20 board has developed or adopted its own 8th grade examination, administer that  
21 examination to all pupils enrolled in the school district, including pupils enrolled in  
22 charter schools located in the school district, in the 8th grade.

23 **SECTION 5.** 118.30 (1m) (b) of the statutes is amended to read:

1           118.30 (1m) (b) ~~Administer~~ Except as provided in sub. (7), administer the 10th  
2 grade examination to all pupils enrolled in the school district, including pupils  
3 enrolled in charter schools located in the school district, in the 10th grade.

4           **SECTION 6.** 118.30 (7) of the statutes is created to read:

5           118.30 (7) If a school board enters into an agreement with a federally recognized  
6 American Indian tribe or band in this state to establish a charter school, that school  
7 board shall administer the examinations under sub. (1m) regardless of the location  
8 of the charter school.

9           **SECTION 7.** 118.33 (1) (f) 1. of the statutes is amended to read:

10           118.33 (1) (f) 1. By September 1, 2004, each school board operating high school  
11 grades shall develop a written policy specifying criteria for granting a high school  
12 diploma that are in addition to the requirements under par. (a). The criteria shall  
13 include the pupil's academic performance, and the recommendations of teachers.  
14 Except as provided in ~~subd.~~ subds. 2. and 4., the criteria apply to pupils enrolled in  
15 charter schools located in the school district.

16           **SECTION 8.** 118.33 (1) (f) 4. of the statutes is created to read:

17           118.33 (1) (f) 4. If a school board enters into an agreement with a federally  
18 recognized American Indian tribe or band in this state to establish a charter school,  
19 the criteria specified in the policy developed by that school board under subd. 1. apply  
20 to pupils enrolled in the charter school, regardless of the location of the charter  
21 school.

22           **SECTION 9.** 118.33 (6) (a) of the statutes is amended to read:

23           118.33 (6) (a) 1. Each school board shall adopt a written policy specifying the  
24 criteria for promoting a pupil from the 4th grade to the 5th grade and from the 8th  
25 grade to the 9th grade. The criteria shall include the pupil's score on the examination

1 administered under s. 118.30 (1m) (a) or (am), unless the pupil has been excused from  
2 taking the examination under s. 118.30 (2) (b); the pupil's academic performance; the  
3 recommendations of teachers, which shall be based solely on the pupil's academic  
4 performance; and any other academic criteria specified by the school board. Except  
5 as provided in par. (b) 1. and 3., the criteria apply to pupils enrolled in charter schools  
6 located in the school district.

7 2. Except as provided in par. (b) 2., ~~beginning on September 1, 2002~~ and 3., a  
8 school board may not promote a 4th grade pupil enrolled in the school district,  
9 including a pupil enrolled in a charter school located in the school district, to the 5th  
10 grade, and may not promote an 8th grade pupil enrolled in the school district,  
11 including a pupil enrolled in a charter school located in the school district, to the 9th  
12 grade, unless the pupil satisfies the criteria for promotion specified in the school  
13 board's policy adopted under subd. 1.

14 **SECTION 10.** 118.33 (6) (b) 3. of the statutes is created to read:

15 118.33 **(6)** (b) 3. If a school board enters into an agreement with a federally  
16 recognized American Indian tribe or band in this state to establish a charter school,  
17 the criteria specified in the policy adopted by that school board under par. (a) 1. apply  
18 to pupils enrolled in the charter school and that school board is subject to the  
19 prohibitions in par. (a) 2. with respect to pupils enrolled in the charter school,  
20 regardless of the location of the charter school.

21 **SECTION 11.** 118.40 (3) (c) 1. of the statutes is renumbered 118.40 (3) (c) 1.  
22 (intro.) and amended to read:

23 118.40 **(3)** (c) 1. (intro.) A school board may not enter into a contract for the  
24 establishment of a charter school located outside the school district, except ~~that if~~ as  
25 follows:

1           a. If 2 or more school boards enter into an agreement under s. 66.0301 to  
2 establish a charter school, the charter school shall be located within one of the school  
3 districts, ~~and if,~~

4           b. If one or more school boards enter into an agreement with the board of control  
5 of a cooperative educational service agency to establish a charter school, the charter  
6 school shall be located within the boundaries of the cooperative educational service  
7 agency. ~~This subdivision~~

8           1m. Subdivision 1. does not apply to the establishment of a virtual charter  
9 school.

10           **SECTION 12.** 118.40 (3) (c) 1. c. of the statutes is created to read:

11           118.40 (3) (c) 1. c. If a school board enters into an agreement with a federally  
12 recognized American Indian tribe or band in this state to establish a charter school,  
13 the charter school shall be located within the school district or within the boundaries  
14 of the tribe's or band's reservation.

15           **SECTION 13.** 118.40 (7) (am) 4. of the statutes is created to read:

16           118.40 (7) (am) 4. If a school board enters into an agreement with a federally  
17 recognized American Indian tribe or band in this state to establish a charter school  
18 under sub. (3) (c) 1. c., that school board shall determine whether the charter school  
19 is an instrumentality of the school district regardless of the location of the charter  
20 school.

21           **SECTION 14.** 118.40 (7) (ar) of the statutes is amended to read:

22           118.40 (7) (ar) Nothing in this subsection affects the rights of personnel of a  
23 charter school that is an instrumentality of the a school district ~~in which it is located~~  
24 to engage in collective bargaining pursuant to subch. IV of ch. 111.

25           **SECTION 15.** 121.02 (1) (a) 2. of the statutes is amended to read:

