



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4196/1  
FFK:amn

## 2023 SENATE BILL 605

October 30, 2023 - Introduced by Senator KNODL, cosponsored by Representatives PENTERMAN, MELOTIK, BRANDTJEN, DITTRICH, DONOVAN, S. JOHNSON, KITCHENS, MICHALSKI, MURPHY, O'CONNOR, RETTINGER, ROZAR and GOEBEN. Referred to Committee on Education.

1     **AN ACT to amend** 118.51 (3) (intro.), 118.51 (3) (a) 1d., 118.51 (3m) (a), 118.51 (8),  
2             118.51 (9), 118.51 (15) (a) and 118.51 (15) (c) 2. and 4.; and **to create** 118.51 (3p)  
3             and 118.51 (5) (a) 7. of the statutes; **relating to:** applications for full-time open  
4             enrollment.

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### *Analysis by the Legislative Reference Bureau*

Under the full-time open enrollment program (OEP), a pupil may attend a public school in a school district other than the pupil's resident school district (nonresident school district). Under current law, the standard OEP application procedure requires a pupil's parent to apply to a nonresident school district during the spring semester immediately preceding the school year in which the pupil wishes to attend the nonresident school district. Current law also provides an alternative application procedure that allows a pupil's parent to apply to a nonresident school district at any time during the school year, if certain circumstances apply, such as the pupil moved into this state, the pupil has been the victim of repeated bullying or harassment, or the pupil's parent, the resident school board, and the nonresident school board agree that attending school in the nonresident school district is in the best interests of the pupil.

This bill creates an alternative OEP application procedure for pupils who have a parent who is employed as a teacher in the nonresident school district to which the application is made. The application procedure created in the bill is available at any time during the school year and, if a pupil is accepted under the procedure, the pupil may immediately begin attending public school in the nonresident school district.

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However, under the bill, if the pupil's parent is no longer employed by the nonresident school board as a teacher or an administrator, the nonresident school board may require the pupil to reapply using the standard or existing alternative OEP application procedure.

Current law limits the criteria that a nonresident school district may use to accept or reject applications under the OEP. One of the criteria that a nonresident school district may use is the availability of space in the schools, programs, classes, or grades in the nonresident school district. Current law requires each school board to determine the availability of regular and special education spaces it has for nonresident pupils to attend school under the OEP at the school board's regular January meeting in the preceding school year. Under the application procedure created in the bill, a nonresident school board may accept a pupil's application even if the result is that the nonresident school board exceeds the number of spaces it determined were available for nonresident pupils in a school, program, class, or grade in the nonresident school district. In other words, the space limitations determined by the nonresident school board do not apply to these applications. The bill also adds whether a pupil's parent is employed as a teacher by the nonresident school district to the criteria that a nonresident school district may use to accept or reject OEP applications.

Finally, current law limits the number of nonresident school boards to which a pupil may apply to attend a public school in a nonresident school district under the OEP. Specifically, under current law, OEP applications for a pupil may be submitted to no more than three nonresident school boards in any school year. However, applications submitted to a nonresident school board for a pupil to attend a virtual charter school under the OEP does not count towards this limitation. Under the bill, applications submitted under the new application procedure also do not count towards this limitation and may be submitted even if applications for the pupil have already been submitted to nonresident school boards in that school year.

For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 118.51 (3) (intro.) of the statutes is amended to read:

2           118.51 (3) APPLICATION PROCEDURES. (intro.) Except as provided under sub-  
3 subs. (3m) and (3p), the following procedures govern pupil applications to attend a  
4 public school in a nonresident school district under this section:

5           **SECTION 2.** 118.51 (3) (a) 1d. of the statutes is amended to read:

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1           118.51 (3) (a) 1d. For purposes of determining whether applications have been  
2 submitted to more than 3 nonresident school boards, the department may not count  
3 an application submitted to a nonresident school board for a pupil to attend a virtual  
4 charter school or an application under sub. (3p).

5           **SECTION 3.** 118.51 (3m) (a) of the statutes is amended to read:

6           118.51 (3m) (a) Notwithstanding sub. (3), the parent of a pupil who wishes to  
7 attend a public school in a nonresident school district under this section may, in lieu  
8 of applying under sub. (3), submit an application under this subsection, on a form  
9 provided by the department under sub. (15) (a), to the school board of the nonresident  
10 school district that the pupil wants to attend if the pupil satisfies at least one of the  
11 criteria under par. (b). Applications may be submitted to no more than 3 nonresident  
12 school boards in any school year. For purposes of determining whether applications  
13 have been submitted to more than 3 nonresident school boards, the department may  
14 not count an application submitted to a nonresident school board for a pupil to attend  
15 a virtual charter school or an application under sub. (3p).

16           **SECTION 4.** 118.51 (3p) of the statutes is created to read:

17           118.51 (3p) ALTERNATIVE APPLICATION; PARENT'S EMPLOYMENT STATUS. (a) If a  
18 pupil's parent is employed as a teacher in a nonresident school district and the pupil  
19 wishes to attend a public school in the nonresident school district under this section,  
20 the pupil's parent may, in lieu of applying under sub. (3), submit an application under  
21 this subsection, on a form provided by the department under sub. (15) (a), to the  
22 school board of the nonresident school district. Notwithstanding subs. (3) (a) 1. and  
23 (3m) (a), an application may be submitted under this subsection regardless of the  
24 number of applications that have been submitted to nonresident school boards in a  
25 school year.

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1 (b) If a nonresident school board receives an application under par. (a), the  
2 nonresident school board shall immediately forward a copy of the application to the  
3 resident school board, and shall notify the applicant, in writing, whether it has  
4 accepted the application no later than 20 days after receiving the application. If the  
5 nonresident school board has accepted the application, the nonresident school board  
6 shall identify the specific school or program that the pupil may attend. A nonresident  
7 school board may accept an application under par. (a) even if in doing so the  
8 nonresident school district exceeds the space available in the school, program, class,  
9 or grade within the nonresident school district, as determined under sub. (5) (a) 1.

10 (c) If an application is accepted by the nonresident school board under par. (b),  
11 the pupil may immediately begin attending the school or program in the nonresident  
12 school district and shall begin attending the school or program no later than the 15th  
13 day following receipt by the parent of the pupil of the notice of acceptance under par.

14 (b). If the pupil has not enrolled in or attended school in the nonresident school  
15 district by the day specified in this paragraph, the nonresident school district may  
16 notify the pupil's parent, in writing, that the pupil is no longer authorized to attend  
17 the school or program in the nonresident school district.

18 (d) If an application is accepted by the nonresident school board under par. (b)  
19 and the pupil begins attending a public school in the nonresident school district, the  
20 pupil may continue to attend a public school in the nonresident school district in the  
21 following school year and may continue to attend a public school in the nonresident  
22 school district in succeeding school years without reapplying, except that the  
23 nonresident school board may require the pupil to reapply under sub. (3) or (3m) if  
24 the pupil's parent is no longer employed as a teacher or an administrator in the  
25 nonresident school district.

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1           **SECTION 5.** 118.51 (5) (a) 7. of the statutes is created to read:

2           118.51 (5) (a) 7. Whether the pupil's parent is employed as a teacher by the  
3 nonresident school board.

4           **SECTION 6.** 118.51 (8) of the statutes is amended to read:

5           118.51 (8) DISCIPLINARY RECORDS. Notwithstanding s. 118.125, for an  
6 application submitted under sub. (3) (a), by the first Friday following the first  
7 Monday in May, and within 10 days of receiving a copy of an application under sub.  
8 (3m) (c) or (3p) (b), the resident school board shall provide to the nonresident school  
9 board to which a pupil has applied under this section a copy of any expulsion findings  
10 and orders pertaining to the pupil, a copy of records of any pending disciplinary  
11 proceeding involving the pupil, a written explanation of the reasons for the expulsion  
12 or pending disciplinary proceeding and the length of the term of the expulsion or the  
13 possible outcomes of the pending disciplinary proceeding.

14           **SECTION 7.** 118.51 (9) of the statutes is amended to read:

15           118.51 (9) APPEAL OF REJECTION. If the nonresident school board rejects an  
16 application under sub. (3) (a), (3p) (a), or (7), the resident school board prohibits a  
17 pupil from attending public school in a nonresident school district under sub. (3m)  
18 (d) or the nonresident school board prohibits a pupil from attending public school in  
19 the nonresident school district under sub. (11), the pupil's parent may appeal the  
20 decision to the department within 30 days after the decision. If the nonresident  
21 school board provides notice that the special education or related service is not  
22 available under sub. (12) (b), the pupil's parent may appeal the required transfer to  
23 the department within 30 days after receipt of the notice. The department shall  
24 affirm the school board's decision unless the department finds that the decision was  
25 arbitrary or unreasonable.

