

**Senate Committee on Government Operations, Public Works, and Telecommunications
October 9, 2013**

**Department of Public Instruction
Testimony on 2013 Senate Bill 318**

On behalf of the State Superintendent, I want to thank Chairperson Farrow and members of the committee for the opportunity to provide background information and outline the department's concerns related to 2013 Senate Bill 318, which creates an alternative process for selling public school buildings in Milwaukee.

My name is Jeff Pertl, and among my many roles at the Department, I currently serve as the Federal Funds Trustee for the Milwaukee Public Schools (MPS). In that role, I am involved with federal corrective action requirements, financial monitoring, and issues around student choice (open enrollment, virtual schools, charter schools, and parental choice programs).

While the department has identified multiple questions and potential issues related to this bill, the underlining concern rests with how this bill impacts the authority of locally-elected school boards and municipalities to conduct "their local affairs and government." [Art. XI, s. 3(1), Wis. Const.]

The issues around access to public school buildings for charter and voucher school are not unique to Wisconsin. However, in the ever evolving portfolio of Milwaukee's educational landscape, resolving issues of equitable accountability, funding parity, asset allocation, and taxpayer fairness can be difficult. To that end, the State Superintendent continues to work with local leaders, district administration, and education advocates to provide the best opportunities for all our kids and protect the taxpayer's investment in public infrastructure.

Existing efforts under state law and federal corrective action

2009 Wisconsin Act 215 (Masters Facilities Plan): Required MPS to develop a "master facilities plan" governing the use, repair, renovation, and demolition of public school building. The facilities plan was completed on June 30, 2011 and identified a facilities portfolio of 220 buildings, with an average building age was 66 years and constructed around 1945 (41.3% of buildings were constructed prior to 1930 and 52.8% were built between 1930-1980).

2011 Wisconsin Act 17 (City Council Authority to Sell): Authorized that if the common council finds city-owned property used for school purposes has been unused or underutilized for at least 18 consecutive months, then the common council may sell or lease the property.

Progress to Date: Through his statutory and federal authority, State Superintendent Evers has worked closely with MPS Superintendent Thornton to increase enrollment and reduce excess capacity by improving educational opportunities and expanding district charter options (adding 15 charter schools since 2005). To that end, MPS has closed 23 buildings, selling four, leasing 11 to charter schools, and using eight to expand successful programs.

Potential issues and unintended consequences

Local control: This bill mandates certain, specific actions for both the Milwaukee Common Council and MPS school board, infringing on local control and eroding their constitutional “home rule” authority. There may be broader policy implications if the state legislature, which is overwhelmingly made up of officials elected outside the city of Milwaukee, establishes state statutory policies for the sale of public building that would usually be governed by local ordinance—especially if there is adverse impact on the sale price or local property taxpayer.

Market distortion: The bill initially restricts eligible purchasers to educational entities, which may have the effect of artificially driving down the sale price by reducing the number of eligible buyers. Additionally, this would restrict the City’s ability to consider private purchase offers that would covert the buildings into taxable property.

Limits district flexibility and innovation: This bill reduces MPS’ flexibility to grow successful traditional schools or attract successful charter schools by reducing one the district’s more important assets—buildings. Moreover, the bill also eliminates the City’s ability to repurpose buildings to meet community needs such as the proposal to use the former Dover Street School as teacher housing.

Undefined terms: The bill specifically states that operators of specific educational entities are eligible; however, the term “operator” is not defined. Additionally, while previous legislation has referred to “city-owned property,” the term “school building” is not defined in statute and may not adequately distinguish between administrative and educational buildings. In districts with older buildings, central administration is usually housed in a decommissioned/retro-fitted school rather than a separate administrative building.

Unintended consequences: The parameters and conditions outlined in the bill establish arbitrary occupancy thresholds, which could result in local buildings that are utilized to the best effect being sold out from underneath the district as a function of state statute. Moreover, the 40 percent threshold may require the district to rebalance enrollment in order to preserve essential infrastructure and access to neighborhood schools.

Possible increased transportation costs: One of the challenges around the increased educational options available to parents *within* the district is constraining transportation costs. Ensuring high quality school options exist in every neighborhood is an important strategy to increase quality, while managing cost. In order to avoid expensive construction projects, high performing but smaller neighborhood schools are sometimes located in existing buildings with a larger footprint. Converting that school to charter or choice school with no enrollment zone may reduce neighborhood school options and increase transportation costs.

The issues raised today are intended to help the legislature as you contemplate this complex set of issues. Thank you for the opportunity to testify on this bill today, and I am happy to answer question you might have.