

**DPI Position on 2011 Senate Bill 22 and Assembly Bill 51  
as Amended by the Joint Committee on Finance**

The Department of Public Instruction (DPI) opposes 2011 Senate Bill 22 (SB 22) and its companion, Assembly Bill 51 (AB 51) as we believe these bills are not needed for us to provide more educational options for children, violate the state constitution, and will have a harmful impact on local school districts and the public school system.

*There is no problem to solve when it comes to creating charter schools.* Wisconsin ranks seventh in the country when it comes to the number of charter schools authorized. In 2011-12 ten percent, or 235, of the state's 2,243 schools are charter schools. School boards approve 98 percent of the charter proposals brought to them. The strength of our system, and the reason Wisconsin has avoided many of the charter school scandals plaguing other states, has been local control through school board approval of charter schools. In fact, the federal government awarded Wisconsin an \$86 million five-year competitive grant in 2009 -to encourage the creation of additional charter schools utilizing our current system.

*SB 22 and AB 51 will strip away authority from local taxpayers and school boards and give it to an unelected state Charter School Authorizing Board (CSAB).* These bills run counter to our state's strong tradition of local control. The CSAB board can authorize a charter school or schools over the objections of a local school board and its residents. It is not required to take into consideration the reasons why a charter may have been denied. Regardless of the performance of a CSAB authorized charter school, its impact on local property taxes, or its impact on school finances, residents and school boards have no recourse or voice after a school is authorized by the CSAB. A locally-elected school board is not given any authority when contracts come up for renewal or modification with the state board.

Additionally, these bills were amended in the Joint Committee on Finance<sup>1</sup> to clarify that charter schools already authorized by school boards or other independent authorizers in certain school districts can go straight to the CSAB if they want to establish another school in the district, bypassing all requirements to approach the local school board first and, provided certain conditions are met, the CSAB is required to give them a contract.

*The impact on a school district's aid, and thus educational opportunities for students, could be substantial.* SB 22 and AB 51 are not funded with new money, but rather transfer money from school districts to individual charter schools. While resident school districts will still be able to count students enrolled in charter schools authorized by the CSAB for revenue limit and equalization aid purposes, funding for these students will come first from the resident district's general equalization aid. If there is not enough equalization aid left after paying for open enrollment and these new charter students the department is required to take any allocated categorical aid<sup>2</sup>. After that, the Legislative Fiscal Bureau has indicated the state's general fund will be obligated to pay any remaining balance as this will be a sum sufficient program that will pay out whatever is necessary for CSAB authorized charter schools. Funding for traditional public schools will remain a sum certain appropriation.

---

<sup>1</sup> Senate Amendment 8 to Senate Substitute Amendment 1.

<sup>2</sup> DPI already takes all the equalization aid and much of the categorical aid from a small number of districts to pay for transfers under the open enrollment program.

***School boards will be at a competitive disadvantage as charter school authorizers.*** School boards are not given an opportunity to meet the last best offer made by the state board. As previously mentioned, certain school board authorized charter schools are given a route for automatic approval via the CSAB. School boards, unlike corporations, are operating under revenue limits and may be constrained in their ability to start new schools.

Additionally, for charter schools looking to draw students from outside the borders of the school district within which they are located there may be an economic incentive to be authorized by the state board or CESA as the per pupil revenues would be different. Students coming in to school board authorized charter schools would do so under open enrollment. That per pupil amount is estimated to be \$6,948 in 2011-12. The per pupil amount for students in CESA or CSAB authorized schools, for which the borders of the state are the borders of the school, the amount is \$7,775.

***These bills create additional bureaucracy and take money out of the classroom.*** If the governing board of a charter school is under contract with the CSAB, they are to annually pay to the CSAB a fee equivalent to two percent of its operating costs. There is no limit to total amount of fees that can be collected.

***An unlimited number of charter schools can be authorized by the CSAB under each contract.*** This raises significant questions about replication and oversight over each school. It also renders the limit on the number of contracts virtually meaningless.

***CESAs would be able to establish charter schools anywhere in the state.*** The bill would allow CESAs, who were created to be regional entities, to establish charter schools outside their regional boundaries. School districts outside the CESA could be hugely impacted by a decision in which they again have no voice.

***The DPI believes the bills violate both Article X, Section 1 and Article X, Section 3 of the Wisconsin constitution.*** Under Article X, Section 1 of the Wisconsin Constitution “The supervision of public instruction shall be vested in a state superintendent and such other officers as the legislature shall direct.” The Wisconsin Supreme Court issued a decision in 1996 clarifying that the legislature may not give any other officer authority equal or superior to that of the state superintendent.<sup>3</sup> AB 51 and SB 22 as amended appear to do just that in both the membership of the board and the powers given to the board and executive director.

Article X, Section 3 of the Wisconsin constitution states that the legislature shall provide by law for the establishment of district schools which shall be as nearly uniform as practicable. Not only do AB 51 and SB 22 provide for something other than district schools, but they allow a school district to convert all its schools to charter schools and eliminate the requirement that the board then provide alternate arrangements for students not wanting to attend a charter school. Given that charter schools do not have to comply with all the laws governing traditional public schools, the department is not sure how the 20 standards and other statutory requirements would be applied to a district in these instances. The resulting systems will lead to an inability of the state to have a system of district schools that is as uniform as practicable.

---

<sup>3</sup> *Thompson v. Craney*, 199 Wis. 2d 674, 546 N.W.2d 123 (1996), [95-2168](#).