



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 1115

PRINTERS NO. 2474

PRIME SPONSOR: Browne

COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	\$307,000

SUMMARY: Senate Bill 1115 amends the Public School Code concerning special education funding and accountability, charter school operations, and a charter school funding advisory committee. Effective dates vary by provision.

ANALYSIS: Provisions concerning Special Education

This legislation establishes the Special Education Funding Commission to develop a new special education funding formula.

The General Assembly will, through the annual appropriations process, determine the level of State funding for the special education subsidy.

The Special Education Funding Commission is established and shall determine a proposed formula for distributing any increases in special education funding over the level of funding for the 2010-2011 school year. The bill includes certain elements that must be contained in any formula developed by the Commission.

In developing the formula, the Commission must consider nationally accepted accounting and budgeting standards and hold public hearings in different parts of the Commonwealth to receive input and testimony from interested parties.

The Commission may include factors that would create three cost categories of eligible students with disabilities so that those requiring the least intensive services would comprise category one, those requiring a middle range of services category two, and those requiring the most intensive services category three. A weighting factor could be used to differentiate costs for the categories.

The Commission may include a student count method as outlined in the bill that would limit the potential incentive for school districts to overidentify the number of special education students to be placed in these categories.

The formula developed by the Commission may also include adjustments for the market value/personal income aid ratio, equalized mills, and geographic price differences of school districts.

The Commission will include 12 members, consisting of the chairmen and minority chairmen of the House and Senate Education Committees, two legislators from each of the four legislative caucuses as determined by the leadership of each caucus, the Secretary of Education, the Secretary of the Budget, and the Deputy Secretary for Elementary and Secondary Education.

Once approved by an act of the General Assembly, the PA Department of Education (PDE) shall distribute the special education increase, if any, in the year for which funds are being appropriated by use of the formula developed by the Commission. The Commission will be reconstituted every five years to review the operation of the special education funding formula and provisions. It shall make a report to the General Assembly recommending changes to the formula. These changes would also need to be approved by an Act of the General Assembly.

A contingency fund consisting of a 1% set-aside of the special education subsidy and will be administered by PDE pursuant to Section 2509.8(e) of the Public School Code for extraordinary special education program expenses. School districts and charter schools will apply to receive a portion of this fund under procedures established by PDE. PDE must issue to the General Assembly an annual report documenting the use of the fund and provide public access to the report.

To the extent that funds are appropriated in any year, PDE shall establish a **competitive grant program** for school districts and charter and cyber charter schools meeting the following criteria:

- Provide instruction for at least 65% of eligible special education students in the regular classroom for at least 80% of the school day as averaged for the two most recent school years for which data is available or increase the number of eligible students educated in the regular classroom by at least 15% in the most recent school year for which data is available; and,
- Meet state standards in reading and math for adequate yearly progress (AYP) by special education students.
- Implement programs or services that serve as a model of excellence for inclusion and student achievement.

Beginning in the 2014-2015 school year, SB 1115 will require PDE to set aside at least 1% of the state special education appropriation above the level of funding for the 2010-2011 school year and distribute the funds on a pro rata basis based upon the number of students in each school district who had category 3 disabilities in the prior school year.

A new Section 2509.15, entitled Special Education Accountability, is included in an attempt to ensure the appropriate use of special education funding provided through the proposed formula. PDE is required to use staff and contract for the purpose of monitoring and reviewing special education plans and implementation. The accountability section also requires that PDE compile a list of PDE-approved, research-based programs or supports aimed at increasing achievement of eligible students. To discourage over-identification of students, PDE shall conduct an automatic review of districts' special education plans and may withhold up to 5% of all State special education funding pending review for any school district that increases the ratio of its special education average daily membership (SEADM) to its Average Daily Membership (ADM) by more than 10% in the most recent school year for which data is available over the previous year, or any school district which increases this ratio by an average of 5% annually in the most recent 5 year period. Any school district affected by this section shall receive a notice from PDE specifying PDE's decisions and rationale.

Provisions concerning charter schools

This legislation amends Article XXVII-A of the Public School Code in the following areas:

- Creates a statewide Charter School Funding Advisory Commission to explore charter school entity funding issues and make recommendations to the General Assembly and the Governor.
- The State Charter School Appeal Board remains in the Department of Education, but the composition of the board is changed to nine members.
- Retains local boards of school directors' ability to approve charter schools and regional charter schools. The Department shall be the sole approver of cyber charter schools.
- Standardizes and streamlines the charter school entity application and renewal process.
- Authorizes the creation of a performance matrix to be used by school boards and the Department to evaluate charter school entities.
- Streamlines process by which charter school entities are paid, by providing for direct payment from PDE (with allowance for charter entities to opt out).
- Standardizes reporting requirements and requires better disclosure of information from charter school entities and their non-profit charter school foundations.
- Requires annual independent audits of charter school entities and public disclosure.
- Specifies that the Ethics Act applies to all charter school and cyber charter school board trustees and employees; prohibits conflicts of interest; and requires annual ethics filings.
- Allows for the merger and creation of Multiple Charter School Organizations.
- Prohibits Boards of Trustees members from receiving compensation for their duties on the board.
- Allows for charter school entities to seek accreditation.
- Enables charter school entities to use sectarian facilities under certain circumstances.
- Establishes an Unassigned Fund Balance Limit on charter school entities to the same funding percentages as school districts.

Section 1706-A is a new section establishing the Charter School Entity Funding Advisory Committee. It directs the Governor to immediately convene a statewide advisory committee upon passage of the bill to examine the financing of charter school entities. The committee shall consist of seventeen members who shall have the ability to evaluate and make recommendations on funding formulas for charter school entities, student residency, transportation, special education, appropriate assessment fees, and consideration of charter schools as Local Education Agencies (LEAs). The committee shall issue its findings and recommendations in a report to the General Assembly and the Governor no later than April 30, 2013. Committee members shall receive no compensation for their services but shall be reimbursed for all necessary travel and other reasonable expenses incurred as committee members. Whenever possible, the committee shall utilize the services and expertise of existing personnel and staff of State Government. The PDE may utilize undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the PDE, not to exceed \$300,000, to carry out the section. This section would take effect immediately.

Section 1725-A, concerning funding for charter schools, is expanded by this legislation. Rather than channel state funding of a charter school or cyber charter school through the local school district, this section has been rewritten to allow for direct state funding of charter schools and cyber charter schools for both non-special education and special education students. Payments would be made directly to the charter school entity in twelve monthly payments within the operating school year.

The payments would be deducted from all state payments due to the school district. Should there be a dispute between a charter school entity and their local school district over inaccurate enrollment, miscalculation of expenditures, or other issues, this section provides for a hearing process, overseen by the Secretary of Education, for all parties to follow to resolve the issue. Charter school may elect to not use the direct pay mechanism and continue to receive payment from the local school district of residence.

FISCAL IMPACT: The Department of Education has indicated that the administrative provisions in Senate Bill 1115 related to special education plan review and monitoring will cost approximately \$300,000 annually. In addition, it estimates modifying existing data systems to collect the data elements required by the legislation will cost approximately \$7,000.

Funding distributed to school districts through the formula developed by the commission, the new competitive grant program and the one percent set aside for category 3 disabilities will be dependent upon appropriations made by the General Assembly.

The addition of Section 1706-A would have no additional impact on Commonwealth finances beyond what the General Assembly has already appropriated.

The changes to Section 1725-A could have a fiscal impact on the Department, primarily due to the hearing process for direct payment dispute resolution. However, this impact will depend upon the number of disputes that will need to be resolved, a number that cannot be known at this time.

PREPARED BY: Jeff Miller
House Appropriations Committee (R)

DATE: October 17, 2012

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.