

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 1115

PRINTER'S NO. 2203

AMOUNT

\$307,000

FUND

General Fund

DATE INTRODUCED

June 16, 2011

PRIME SPONSOR

Senator Browne

HISTORY OF BILL

Referred to EDUCATION, June 16, 2011

Reported as amended, March 6, 2012

First consideration, March 6, 2012

Re-referred to APPROPRIATIONS, March 14, 2012

Re-reported as amended, May 22, 2012

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1115 amends the School Code to establish the Legislative Commission on Special Education Funding to develop a new funding formula for the distribution of future increases in special education funding. Provides for the contingency fund for extraordinary special education program expenses, a competitive grant program for schools providing high quality special education services and a fund for students with category 3 disabilities. Provides for the commission to study charter and cyber charter special education identification and funding reimbursements. Provides for the commission to study the restructuring of the administration of special education services in public school entities. And, provides for special education accountability measures.

Funding Formula Elements — Requires the following elements be used when developing the funding formula:

- A hold harmless providing each school district an amount equal to the current year amount;
- Three cost categories for students receiving special education services based on the intensity of services;
- A student count for each school district averaged for the three most recent years for each cost category;
- A weighting factor that differs for each cost category;
- Adjustments for market value/personal income aid ratio averaged for the most recent three years, equalized millage rate averaged for the most recent three years and geographic price differences;
- A proportional system for distributing the change in special education funding using the factors above; and,
- Other factors related to accurate distribution of funding.

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Legislative Commission – Establishes a commission to develop the special education funding formula using elements specified above. Provides for the commission to include 12 members: the chairman and minority chairman of the Education Committee of the Senate; the chairman and minority chairman of the Education Committee of the House of Representatives and two legislators from each of the four legislative caucuses to be determined by the leadership. Provides for the commission to choose its chairperson and utilize legislative staff for assistance. Requires the Department of Education to provide the commission with data research and other relevant information upon request. Requires the commission to hold no fewer than three public hearings in different regions to hear from interested parties and make a report of its findings to the Governor and the General Assembly within 120 days of the effective date.

Requires the State Board of Education to draft proposed regulations implementing the funding formula upon completion of the report. Requires the State Board of Education to implement the funding formula through the regulatory review process, if the commission fails to issue a report on time, or the report does not include a formula with the specific elements as outlined in the bill.

Provides that in developing the formula and issuing the report the commission shall address the distribution of any change in special education funding among school districts but shall not recommend an annual level of funding.

Requires the commission to be reconstituted every five years and hold hearings to review the formula.

Provides that if the commission recommends changes, the State Board must promulgate regulations through the regulatory review process to implement the changes without alteration.

Charter and Cyber Charter School Identification – Requires the commission to receive input and gather information on the identification of children as special education students by charter and cyber charter schools, receive input and gather information on charter and cyber charter school funding reimbursements for special education students and to draft proposed regulations and proposed legislation based on its findings.

Contingency Fund — Requires the department to set aside one percent of the total special education appropriation for extraordinary special education expenses as in current law. Provides for school districts, charter and cyber charter schools to apply to the department for the funds. Requires the department to issue an annual report to the General Assembly documenting the use of the fund and give public notice about the report.

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Competitive Grant Program – To the extent funds are appropriated in fiscal year 2013-2014, establishes a competitive grant program for school districts and charter schools providing special education services that meet certain criteria related to providing instruction in the regular classroom, meeting standards and implementing model programs. Requires the department to develop guidelines and for the administration of the grant program, to issue an annual report to the General Assembly documenting the grants and give public notice about the report.

Category 3 Fund– Beginning in fiscal year 2014-2015, requires the department to set aside an amount equal to one percent of the appropriation above the current year amount to be distributed to school districts on a pro rata basis considering the number of students residing or enrolled and classified in category 3 during the immediately preceding school year.

Special Education Accountability – Requires the department to develop the form and manner school districts would submit special education plans, revisions and amendments. Requires the department to review the plans, make recommendations, provide technical assistance, approve or disapprove the plans within 90 days and provide a written explanation for disapproving a plan. Requires the department to approve plans, revisions and amendments which address academic and developmental challenges, describe strategies that are most likely to improve student outcomes, describe programs offered and strategies designed to reduce the need for special education services and describe policies to ensure that a student identified as having a disability is no longer identified as such if a student no longer qualifies. Upon disapproval of a plan and until a revision is approved, requires the department to withhold the portion of the annual state increase in special education funding which exceeds the index.

Requires a school district receiving an increase above the index to update its plan to detail how an increase in funds above the index will be used. Requires funds to be used to benefit eligible students in the least restrictive environment and contribute to achievement of performance indicators. Provides for the department to issue guidelines for programs and supports for eligible students. Requires the department to issue an annual report on special education plans, special education funding and special education accountability issues.

Requires the department to review and monitor implementation of special education plans, provide support, intervention and technical assistance to schools failing to meet student needs based on performance indicators and determine whether to withhold up to five percent of special education funding from school districts while identified problems remain unresolved. When a school district from which funds are withheld is found to be making progress, the department shall restore the funds and continue to monitor it for two years.

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Requires the department review the special education plans of school districts with a substantially higher ratio of special education students than the state average and with substantial increases from year to year or over five years to discourage inappropriate over identification. If the ratio or increase is unjustified the department may take remedial action, including withholding up to five percent of special education funding. Provides a procedure for the department to give school districts notice of its decisions and actions, including an appeal to the Secretary.

Requires the accountability provisions to be waived until such time that special education funding is increased above the current year amount.

Data Collection – Requires the department to collect the data necessary for the accurate functioning of the formula contained in the legislation.

Restructuring – Requires the commission to study whether the administration of special education services could be restructured to reduce costs and report its findings including recommended legislation and options to redirect cost savings to school districts through the formula.

The legislation will take effect immediately

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.