

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. House Bill 2

PRINTER'S NO. 537

AMOUNT

\$307,000

FUND

General Fund

DATE INTRODUCED

February 5, 2013

PRIME SPONSOR

Representative O'Neill

HISTORY OF BILL

Referred to EDUCATION, Feb. 5, 2013
Reported as committed, Feb. 11, 2013
First consideration, Feb. 11, 2013
Laid on the table, Feb. 11, 2013
Removed from table, Feb. 12, 2013
Second consideration, Feb. 13, 2013
Re-committed to APPROPRIATIONS, Feb. 13, 2013
Re-reported as committed, March 11, 2013
Third consideration and final passage, March 11, 2013 (193-0)
In the Senate
Referred to EDUCATION, March 14, 2013
Reported as committed, March 19, 2013
First consideration, March 19, 2013
Second consideration, March 20, 2013
Re-referred to APPROPRIATIONS, March 20, 2013
Re-reported as committed, April 8, 2013

DESCRIPTION AND PURPOSE OF BILL

House Bill 2 amends the Public School Code to establish a Special Education Funding Commission to review and make recommendations regarding special education funding, which includes the development of a formula to distribute future funding increases. It provides for the special education contingency fund, a competitive grant program for schools providing high quality special education services, a fund to support students requiring the most intensive range of services and accountability measures.

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Funding Commission

The bill establishes the Special Education Funding Commission to be comprised of the chair and minority chairman of the Education Committee in the Senate and the chair and minority chairman of the Education Committee in the House of Representatives, or their designees; two members from each of the four legislative caucuses, to be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, in consultation with the Majority and Minority Leaders; the Secretary of Education, or a designee; the Secretary of Budget, or a designee; and, the Deputy Secretary of Elementary and Secondary Education, or a designee.

Requires the General Assembly to provide administrative support, meeting space and any other assistance required by the commission and the Department of Education provide data, research and other information upon request. Provides commission members may not receive compensation for their services but shall be reimbursed for necessary travel and other reasonable expenses. Requires the commission to hold its first meeting within 30 days of the effective date of the legislation and hold public hearings in different regions, and make a report on its funding no later than September 30, 2013.

Funding Formula Factors

Provides for the commission to develop a special education formula and identify factors that may be used to determine the distribution of the increase in special education funding from year-to-year. The bill specifies the following factors may be included: (1) three cost categories for students receiving special education services based the intensity of services; (2) a student count for each school district averaged for the three most recent years for each cost category; (3) a weighting factor that differs for each cost category; (4) 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; (5) a proportional system for distributing the change in special education funding using the factors above; and, (6) other factors related to the accurate distribution of funding.

Charter School and Cyber Charter School Special Education Funding

Requires the commission to receive input and gather information on the identification of children as special education students by charter schools 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. Requires the department to issue an annual report to the General Assembly documenting the use of the fund and provide public access to the report.

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Competitive Grant Program

To the extent funds are appropriated, the bill 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 for the administration of the grant program, to issue an annual report to the General Assembly documenting the use of grants and provide public access to 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 requiring the most intensive range of services (category 3).

Accountability Measures

Requires the department to develop the form and manner in which school districts would submit special education plans, revisions and amendments. Requires the department to review 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 programs and strategies most likely to improve student outcomes, and describe policies to ensure a student identified as having a disability is no longer identified as such if the student no longer qualifies. Provides the department may withhold the portion of the annual state increase in special education funding which exceeds the index to a school district upon disapproval of a plan or update, until a revision is approved.

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 the 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 the implementation of special education plans, provide support, intervention and technical assistance to schools failing to meet student needs based on performance indicators, report on its website each school district's progress meeting needs based 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 that 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 being developed by the commission.

The legislation will take effect immediately.

FISCAL IMPACT

It is estimated that the administrative provisions in House Bill 2 related to special education plan review, monitoring, data collection and analysis will cost approximately \$300,000 annually. In addition, it is estimated that 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.