

COMMITTEE SUBSTITUTE

for

H. B. 2202

(BY DELEGATE(S) ROWAN, ROMINE,
PASDON, DUKE, PERRY, MOYE, AMBLER, BUTLER,
PETHTEL, COOPER AND D. EVANS)

(Originating in the House Committee on Finance)
[February 23, 2015]

A BILL to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating to the disbursement of funds to reimburse county boards for costs associated with educating high cost/high acuity special needs students; requiring the state superintendent to develop a new formula for the disbursement of the funds; removing the requirement for the superintendent to review policies and report annually to the legislature.

Be it enacted by the Legislature of West Virginia:

That §18-20-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-5. Powers and duties of state superintendent.

1 (a) The State Superintendent of Schools shall organize,
2 promote, administer and be responsible for:

3 (1) Stimulating and assisting county boards of education in
4 establishing, organizing and maintaining special schools, classes,
5 regular class programs, home-teaching and visiting-teacher
6 services for exceptional children.

7 (2) Cooperating with all other public and private agencies
8 engaged in relieving, caring for, curing, educating and rehabili-
9 tating exceptional children, and in helping coordinate the
10 services of such agencies.

11 (3) (A) Preparing the necessary rules, policies, ~~formula~~
12 formulas for distribution of available appropriated funds,
13 reporting forms and procedures necessary to define minimum
14 standards in providing suitable facilities for education of
15 exceptional children and ensuring the employment, certification

16 and approval of qualified teachers and therapists subject to
17 approval by the State Board of Education: *Provided*, That no
18 state rule, policy or standard under this article or any county
19 board rule, policy or standard governing special education may
20 exceed the requirements of federal law or regulation.

21 (B) ~~The state superintendent shall annually review the rules,~~
22 ~~policies and standards of the state and federal law for serving the~~
23 ~~needs of exceptional children enrolled in the public schools and~~
24 ~~shall report to the Legislative Oversight commission on Educa-~~
25 ~~tion Accountability by December 1, or as soon thereafter as~~
26 ~~requested by the commission, 2008, and in each year thereafter,~~
27 ~~the findings of the review along with an accounting of the~~
28 ~~services provided and the costs thereof for exceptional children~~
29 ~~enrolled in the public schools of this state during the latest~~
30 ~~available school year. An A separate appropriation shall be made~~
31 ~~to the Department of Education to be ~~distributed~~ disbursed to~~
32 ~~county boards to ~~support children~~ assist them with serving~~
33 ~~exceptional children with high cost/high acuity special needs.~~
34 ~~that exceed the capacity of county to provide with funds avail-~~
35 ~~able~~ An "exceptional child with high cost/high acuity special

36 needs” is a student with a disability for whom the costs to the
37 county exceed three times the average per pupil expenditure.

38 (i) The state superintendent shall establish, in consultation
39 and coordination with representatives of the affected county
40 boards, a method for disbursing the separate appropriation for
41 exceptional children with high cost/high acuity special needs.

42 (ii) The disbursement method shall reasonably account for
43 and endeavor to equitably mitigate the differing budgetary
44 impacts that enrolled exceptional children with high cost/high
45 acuity special needs have on individual county boards’ abilities
46 to serve all of their enrolled students.

47 (iii) The disbursement method shall further provide that,
48 whenever the separate appropriation under this paragraph, when
49 combined with federal funds available for this purpose, is
50 insufficient to reimburse all eligible county boards fully for their
51 costs of serving the exceptional children with high cost/high
52 acuity special needs enrolled in their counties, the county boards
53 shall receive disbursements that equalize, as near as reasonably
54 possible, the budget percentage for each county board that is
55 consumed by eligible, but not reimbursed, expenditures for

56 servicing exceptional children with high cost/high acuity special
57 needs so that no county board's budget is affected disproportion-
58 ately.

59 (iv) Each county board shall apply to the state superintendent
60 ~~for receipt of~~ to receive this funding in a manner set forth by the
61 state superintendent. ~~that assesses and takes into account varying~~
62 ~~acuity levels of the exceptional students~~ Any remaining funds at
63 the end of a fiscal year from the appropriation shall be carried
64 over to the next fiscal year. When possible, federal funds shall
65 be ~~distributed~~ disbursed to county boards for this purpose before
66 any of the state appropriation is ~~distributed~~ disbursed. The state
67 board shall promulgate a rule in accordance with ~~the provisions~~
68 ~~of~~ article three-b, chapter twenty-nine-a of this code that
69 implements the provisions of this ~~subdivision paragraph~~ relating
70 ~~to distributing the funds to the county boards~~ The rule at least
71 shall include a definition for ~~"children with high acuity needs"~~
72 "exceptional child with high cost/high acuity special needs"
73 consistent with this paragraph.

74 (4) Receiving from county boards of education their
75 applications, annual reports and claims for reimbursement from

76 such moneys as are appropriated by the Legislature, auditing
77 such claims and preparing vouchers to reimburse said counties
78 the amounts reimbursable to them.

79 (5) Assuring that all exceptional children in the state,
80 including children in mental health facilities, residential institu-
81 tions, private schools and correctional facilities as provided in
82 section thirteen-f, article two of this chapter receive an education
83 in accordance with state and federal laws: *Provided*, That the
84 state superintendent shall also assure that adults in correctional
85 facilities and regional jails receive an education to the extent
86 funds are provided therefor.

87 (6) Performing other duties and assuming other responsibili-
88 ties in connection with this program as needed.

89 (7) ~~Receive~~ Receiving the county ~~plan~~ plans for integrated
90 ~~classroom~~ class rooms submitted by the county boards of
91 education and ~~submit~~ submitting a state plan, approved by the
92 State Board of Education, to the Legislative Oversight Commis-
93 sion on Education Accountability no later than December 1,
94 1995.

95 (b) Nothing contained in this section shall be construed to
96 prevent any county board of education from establishing and
97 maintaining special schools, classes, regular class programs,
98 home-teaching or visiting-teacher services for exceptional
99 children out of funds available from local revenue.

