WEST virginia Legislature

2021 regular session

Introduced

House Bill 2079

By Delegates Rowan and Toney

[Introduced February 10, 2021; Referred to the Committee on Education then Finance]

A BILL to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating to more equitable disbursement of funds to county boards to lessen budgetary impact of serving high cost/high acuity special needs students; eliminating requirement to annual review of rules, policies and standards and federal law and report to Legislative Oversight Commission; defining high cost/high acuity special needs; and providing for method of fund disbursement.

Be it enacted by the Legislature of West Virginia:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

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

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

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

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, formulas for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the State Board of Education: *Provided,* That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

(B) ~~An appropriation shall be made to the~~ The Department of Education ~~to be distributed~~ shall disburse to county boards ~~to support children~~ appropriations made to assist them with serving exceptional children with high cost/high acuity special needs. ~~that exceed the capacity of county to provide with funds available~~ An “exceptional child with high cost/high acuity special needs” is a student with a disability for whom the costs to the county exceed three times the average per pupil expenditure.

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

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

(iii) The disbursement method shall further provide that, whenever the separate appropriation under this paragraph, when combined with federal funds available for this purpose, is insufficient to reimburse all eligible county boards fully for their costs of serving the exceptional children with high cost/high acuity special needs enrolled in their counties, the county boards shall receive disbursements that equalize, as near as reasonably possible, the budget percentage for each county board that is consumed by eligible, but not reimbursed, expenditures for serving exceptional children with high cost/high acuity special needs so that no county board’s budget is affected disproportionately.

(iv) Each county board shall apply to the State Superintendent ~~for receipt of~~ to receive this funding in a manner set forth by the State Superintendent. ~~that assesses and takes into account varying acuity levels of the exceptional students~~ Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be ~~distributed~~ disbursed to county boards for this purpose before any of the state appropriation is ~~distributed.~~ disbursed. ~~The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions of this subdivision relating to distributing the funds to the county boards. The rule at least shall include a definition for “children with high acuity needs”~~

(4) Receiving from county boards of education their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing ~~such~~ the claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private schools, and correctional facilities as provided in §18-2-13f of this code receive an education in accordance with state and federal laws: *Provided,* That the State Superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

~~(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the State Board of Education, to the Legislative Oversight Commission on Education Accountability no later than December 1, 1995~~

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

NOTE: The purpose of this bill is to provide a more equitable disbursement of funds to county boards of education to lessen budgetary impact of serving high cost/high acuity special needs students. It also eliminates the requirements for an annual review of rules, policies and standards and federal law and a report to the Legislative Oversight Commission on Educational Accountability.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.