



Sen. Wm. Sam McCann

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LRB100 19637 AXK 38896 a

1 AMENDMENT TO SENATE BILL 3076

2 AMENDMENT NO. _____. Amend Senate Bill 3076 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing Section
5 14-7.02 as follows:

6 (105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

7 Sec. 14-7.02. Children attending private schools, public
8 out-of-state schools, public school residential facilities or
9 private special education facilities. The General Assembly
10 recognizes that non-public schools or special education
11 facilities provide an important service in the educational
12 system in Illinois.

13 If because of his or her disability the special education
14 program of a district is unable to meet the needs of a child
15 and the child attends a non-public school or special education
16 facility, a public out-of-state school or a special education

1 facility owned and operated by a county government unit that
2 provides special educational services required by the child and
3 is in compliance with the appropriate rules and regulations of
4 the State Superintendent of Education, the school district in
5 which the child is a resident shall pay the actual cost of
6 tuition for special education and related services provided
7 during the regular school term and during the summer school
8 term if the child's educational needs so require, excluding
9 room, board and transportation costs charged the child by that
10 non-public school or special education facility, public
11 out-of-state school or county special education facility, or
12 \$4,500 per year, whichever is less, and shall provide him any
13 necessary transportation. "Nonpublic special education
14 facility" shall include a residential facility, within or
15 without the State of Illinois, which provides special education
16 and related services to meet the needs of the child by
17 utilizing private schools or public schools, whether located on
18 the site or off the site of the residential facility.

19 The State Board of Education shall promulgate rules and
20 regulations for determining when placement in a private special
21 education facility is appropriate. Such rules and regulations
22 shall take into account the various types of services needed by
23 a child and the availability of such services to the particular
24 child in the public school. In developing these rules and
25 regulations the State Board of Education shall consult with the
26 Advisory Council on Education of Children with Disabilities and

1 hold public hearings to secure recommendations from parents,
2 school personnel, and others concerned about this matter.

3 The State Board of Education shall also promulgate rules
4 and regulations for transportation to and from a residential
5 school. Transportation to and from home to a residential school
6 more than once each school term shall be subject to prior
7 approval by the State Superintendent in accordance with the
8 rules and regulations of the State Board.

9 A school district making tuition payments pursuant to this
10 Section is eligible for reimbursement from the State for the
11 amount of such payments actually made in excess of the district
12 per capita tuition charge for students not receiving special
13 education services. Such reimbursement shall be approved in
14 accordance with Section 14-12.01 and each district shall file
15 its claims, computed in accordance with rules prescribed by the
16 State Board of Education, on forms prescribed by the State
17 Superintendent of Education. Data used as a basis of
18 reimbursement claims shall be for the preceding regular school
19 term and summer school term. Each school district shall
20 transmit its claims to the State Board of Education on or
21 before August 15. The State Board of Education, before
22 approving any such claims, shall determine their accuracy and
23 whether they are based upon services and facilities provided
24 under approved programs. Upon approval the State Board shall
25 cause vouchers to be prepared showing the amount due for
26 payment of reimbursement claims to school districts, for

1 transmittal to the State Comptroller on the 30th day of
2 September, December, and March, respectively, and the final
3 voucher, no later than June 20. If the money appropriated by
4 the General Assembly for such purpose for any year is
5 insufficient, it shall be apportioned on the basis of the
6 claims approved.

7 No child shall be placed in a special education program
8 pursuant to this Section if the tuition cost for special
9 education and related services increases more than 10 percent
10 over the tuition cost for the previous school year or exceeds
11 \$4,500 per year unless such costs have been approved by the
12 Illinois Purchased Care Review Board. The Illinois Purchased
13 Care Review Board shall consist of the following persons, or
14 their designees: the Directors of Children and Family Services,
15 Public Health, Public Aid, and the Governor's Office of
16 Management and Budget; the Secretary of Human Services; the
17 State Superintendent of Education; and such other persons as
18 the Governor may designate. The Review Board shall also consist
19 of one non-voting member who is an administrator of a private,
20 nonpublic, special education school. The Review Board shall
21 establish rules and regulations for its determination of
22 allowable costs and payments made by local school districts for
23 special education, room and board, and other related services
24 provided by non-public schools or special education facilities
25 and shall establish uniform standards and criteria which it
26 shall follow. The Review Board shall approve the usual and

1 customary rate or rates of a special education program that (i)
2 is offered by an out-of-state, non-public provider of
3 integrated autism specific educational and autism specific
4 residential services, (ii) offers 2 or more levels of
5 residential care, including at least one locked facility, and
6 (iii) serves 12 or fewer Illinois students. In determining
7 rates based on allowable costs, the Review Board shall consider
8 any wage increases awarded by the General Assembly to
9 front-line personnel that include direct support persons,
10 aides, front-line supervisors, qualified intellectual
11 disabilities professionals, nurses, and non-administrative
12 support staff working in service settings in community-based
13 settings within this State, and shall adjust customary rates or
14 rates of a special education program to be equitable to the
15 wage increase awarded to similar staff positions in a community
16 residential setting. Any wage increase awarded by the General
17 Assembly to front-line personnel shall also be a basis for any
18 facility covered by this Section to appeal its rate before the
19 Review Board under the process in Section 900.340 of Title 89
20 of the Illinois Administrative Code.

21 The Review Board shall establish uniform definitions and
22 criteria for accounting separately by special education, room
23 and board and other related services costs. The Board shall
24 also establish guidelines for the coordination of services and
25 financial assistance provided by all State agencies to assure
26 that no otherwise qualified child with a disability receiving

1 services under Article 14 shall be excluded from participation
2 in, be denied the benefits of or be subjected to discrimination
3 under any program or activity provided by any State agency.

4 The Review Board shall review the costs for special
5 education and related services provided by non-public schools
6 or special education facilities and shall approve or disapprove
7 such facilities in accordance with the rules and regulations
8 established by it with respect to allowable costs.

9 The State Board of Education shall provide administrative
10 and staff support for the Review Board as deemed reasonable by
11 the State Superintendent of Education. This support shall not
12 include travel expenses or other compensation for any Review
13 Board member other than the State Superintendent of Education.

14 The Review Board shall seek the advice of the Advisory
15 Council on Education of Children with Disabilities on the rules
16 and regulations to be promulgated by it relative to providing
17 special education services.

18 If a child has been placed in a program in which the actual
19 per pupil costs of tuition for special education and related
20 services based on program enrollment, excluding room, board and
21 transportation costs, exceed \$4,500 and such costs have been
22 approved by the Review Board, the district shall pay such total
23 costs which exceed \$4,500. A district making such tuition
24 payments in excess of \$4,500 pursuant to this Section shall be
25 responsible for an amount in excess of \$4,500 equal to the
26 district per capita tuition charge and shall be eligible for

1 reimbursement from the State for the amount of such payments
2 actually made in excess of the districts per capita tuition
3 charge for students not receiving special education services.

4 If a child has been placed in an approved individual
5 program and the tuition costs including room and board costs
6 have been approved by the Review Board, then such room and
7 board costs shall be paid by the appropriate State agency
8 subject to the provisions of Section 14-8.01 of this Act. Room
9 and board costs not provided by a State agency other than the
10 State Board of Education shall be provided by the State Board
11 of Education on a current basis. In no event, however, shall
12 the State's liability for funding of these tuition costs begin
13 until after the legal obligations of third party payors have
14 been subtracted from such costs. If the money appropriated by
15 the General Assembly for such purpose for any year is
16 insufficient, it shall be apportioned on the basis of the
17 claims approved. Each district shall submit estimated claims to
18 the State Superintendent of Education. Upon approval of such
19 claims, the State Superintendent of Education shall direct the
20 State Comptroller to make payments on a monthly basis. The
21 frequency for submitting estimated claims and the method of
22 determining payment shall be prescribed in rules and
23 regulations adopted by the State Board of Education. Such
24 current state reimbursement shall be reduced by an amount equal
25 to the proceeds which the child or child's parents are eligible
26 to receive under any public or private insurance or assistance

1 program. Nothing in this Section shall be construed as
2 relieving an insurer or similar third party from an otherwise
3 valid obligation to provide or to pay for services provided to
4 a child with a disability.

5 If it otherwise qualifies, a school district is eligible
6 for the transportation reimbursement under Section 14-13.01
7 and for the reimbursement of tuition payments under this
8 Section whether the non-public school or special education
9 facility, public out-of-state school or county special
10 education facility, attended by a child who resides in that
11 district and requires special educational services, is within
12 or outside of the State of Illinois. However, a district is not
13 eligible to claim transportation reimbursement under this
14 Section unless the district certifies to the State
15 Superintendent of Education that the district is unable to
16 provide special educational services required by the child for
17 the current school year.

18 Nothing in this Section authorizes the reimbursement of a
19 school district for the amount paid for tuition of a child
20 attending a non-public school or special education facility,
21 public out-of-state school or county special education
22 facility unless the school district certifies to the State
23 Superintendent of Education that the special education program
24 of that district is unable to meet the needs of that child
25 because of his disability and the State Superintendent of
26 Education finds that the school district is in substantial

1 compliance with Section 14-4.01. However, if a child is
2 unilaterally placed by a State agency or any court in a
3 non-public school or special education facility, public
4 out-of-state school, or county special education facility, a
5 school district shall not be required to certify to the State
6 Superintendent of Education, for the purpose of tuition
7 reimbursement, that the special education program of that
8 district is unable to meet the needs of a child because of his
9 or her disability.

10 Any educational or related services provided, pursuant to
11 this Section in a non-public school or special education
12 facility or a special education facility owned and operated by
13 a county government unit shall be at no cost to the parent or
14 guardian of the child. However, current law and practices
15 relative to contributions by parents or guardians for costs
16 other than educational or related services are not affected by
17 this amendatory Act of 1978.

18 Reimbursement for children attending public school
19 residential facilities shall be made in accordance with the
20 provisions of this Section.

21 Notwithstanding any other provision of law, any school
22 district receiving a payment under this Section or under
23 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify
24 all or a portion of the funds that it receives in a particular
25 fiscal year or from general State aid pursuant to Section
26 18-8.05 of this Code as funds received in connection with any

1 funding program for which it is entitled to receive funds from
2 the State in that fiscal year (including, without limitation,
3 any funding program referenced in this Section), regardless of
4 the source or timing of the receipt. The district may not
5 classify more funds as funds received in connection with the
6 funding program than the district is entitled to receive in
7 that fiscal year for that program. Any classification by a
8 district must be made by a resolution of its board of
9 education. The resolution must identify the amount of any
10 payments or general State aid to be classified under this
11 paragraph and must specify the funding program to which the
12 funds are to be treated as received in connection therewith.
13 This resolution is controlling as to the classification of
14 funds referenced therein. A certified copy of the resolution
15 must be sent to the State Superintendent of Education. The
16 resolution shall still take effect even though a copy of the
17 resolution has not been sent to the State Superintendent of
18 Education in a timely manner. No classification under this
19 paragraph by a district shall affect the total amount or timing
20 of money the district is entitled to receive under this Code.
21 No classification under this paragraph by a district shall in
22 any way relieve the district from or affect any requirements
23 that otherwise would apply with respect to that funding
24 program, including any accounting of funds by source, reporting
25 expenditures by original source and purpose, reporting
26 requirements, or requirements of providing services.

1 (Source: P.A. 98-636, eff. 6-6-14; 98-1008, eff. 1-1-15; 99-78,
2 eff. 7-20-15; 99-143, eff. 7-27-15.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".