

## Summary of Amendment 7153 to House Bill 704

**PURPOSE** – HB 704 addresses the current problems with the state systems for funding and accountability of special education for students with disabilities. The Commonwealth benefits when all students are educated and prepared for meaningful employment, higher education, and self-sufficiency. Reforms are required at this time because most school districts do not have the basic resources needed to provide a quality education with supports and services for children with disabilities. The state funding and accountability systems for special education are broken and need repair.

**HISTORY** – HB 704 has 66 bipartisan cosponsors. The Senate companion bill, SB 940, has 15 cosponsors. HB 704 was approved 22-3 by the House Education Committee on July 1, 2009. Amendment 7153 reflects the input of many legislators and the Pa. Department of Education.

**SUMMARY** – The updated provisions in Amendment 7153 make the following improvements:

- Increase the accuracy of the special education formula by using three weights;
- Establish an open oversight/regulatory process to set the final formula weights;
- Maintain spending at 2008-09 levels for 2010-11 if insufficient funds are appropriated;
- Streamline and strengthen school district accountability, applied when sufficient funds are appropriated in future years; and
- Strengthen the Contingency Fund and make it more accountable and transparent.

**DETAILS** –

(1) The **formula** for calculating and distributing state funding for special education will include:

- The formula remains an independent line item in the state budget, separate from basic education. The basic education reforms adopted in 2008 did not include special education.
- The formula uses a needs-based process that first calculates the funding target for each school district based on the essential needs of students and schools and then calculates the state share of meeting this target based on district wealth, tax effort, and local costs.
- Overall, the formula will provide school districts with special education funding above the “base cost” needed for all students to meet state academic standards. Students with disabilities have higher costs than other students just to provide the basic materials, personnel, services, equipment, technology, and time and effort required to learn.
- Districts are required to utilize new state funding for research-based programs and supports and other best practices that benefit students with disabilities, such as meeting state and federal performance indicators and providing curricula adaptation, co-teaching, assistive technology, school-wide positive behavior supports, supplementary aids and services, professional development, reading specialist services and supports, reducing caseloads for special education teachers and related services personnel, and/or placing eligible students in regular classrooms with supports in accordance with their IEP.
- New state resources under the formula will be phased in to reach funding targets for each school district, starting when sufficient funds are appropriated (possibly in 2011-12) and being completed by 2017-18. The original terms of the bill would phase in about \$36 million per year in additional state funding, with local districts also picking up their share.
- State funding will remain at 2008-09 levels for 2010-11 if insufficient funds are appropriated. Since 2003, the annual increase in state funding for special education has averaged only 1.7% per year. This has not kept pace with overall inflation (over 3% growth per year), with medical sector inflation (nearly 10% growth per year), or with increased numbers of Pennsylvania students with disabilities (2.6% growth per year).

- The formula will include a performance variable that pays districts additional funding for meeting both inclusion and achievement targets, to be determined through the regulatory process. About 110 districts would meet these targets in the first year that sufficient funds are appropriated and on average would each receive a total of about \$60,000 as an incentive to continue their improved performance. This modest factor in the formula does not change IDEA law or the authority of IEP teams for the placement of students.
- The final form of the variables in the formula will be determined through a super-regulatory process. PDE and the State Board of Education are required to use national accounting standards, share information, consult with advocacy groups, work with PDE's Task Force and the Advisory Panel, and hold at least three regional public hearings. Legislative committees may also hold hearings. The full standard regulatory process will take place after draft regulations have been vetted in this open, transparent manner.
- The formula will include three multipliers and weights to better match real student costs, rather than a single variable, a single student count, and a single weight (1.3). Using three "cost categories" will allow the formula to more accurately distribute resources and avoid over-identification. The final definitions for the categories and the weights will be determined through the regulatory process.
- An actual student count will be used in the highest cost category.
- An accurate data-based statewide percentage of eligible students will be used in the two lower cost categories to avoid over-identification, will be determined through the regulatory process, and will be applied to the actual total enrollment of all students in each district.

(2) The **Contingency Fund** for extraordinarily costly students is maintained, increased by 50%, and made more accountable with PDE reports to the General Assembly. The changes to the Fund take effect in 2011-12. The Fund is necessary because no formula can anticipate the extraordinary expenses needed for the most costly students with disabilities.

(3) The **accountability system** is streamlined and strengthened by incorporating the existing requirement for districts to implement three-year special education plans. Improved accountability is provided by requiring districts to include in their ongoing plans (for use of new funding) a budget, timeline, benchmarks for implementation, and provisions to address the academic and developmental challenges for eligible students (such as federal performance indicators, graduation rates, and IEP implementation). The plans will be written in a manner that is easier for parents to understand and shall be made available to the public. PDE will more closely review the plans, will provide technical assistance to improve the plans, and will reject plans that do not meet state and federal standards. PDE will monitor plan implementation to ensure progress pursuant to federal performance indicators and shall identify districts failing to adequately implement their plans. PDE must withhold partial funding when district plans are rejected or when districts are not implementing their plans. PSBA and PSEA reviewed and approved these provisions prior to the votes in the House Education Committee. To cut costs over time, school district plans must describe programs and strategies targeting K-3 early intervention and also policies to ensure that students who no longer qualify for special education services are transitioned out. This section takes effect when funding is appropriated.

(4) To further **prevent over-identification** – in addition using to the three-variable formula and the strengthened accountability system – PDE will directly monitor and report on identification rates in districts, conduct a thorough review of districts increasing the ratio of eligible students to all students more than 10% in one year or 5% per year over any five-year period, and shall withhold partial funding from districts with unjustified increases.

(5) PDE must **provide public notice** of the decisions and actions it takes pursuant to this law, as well as file an annual report with the General Assembly.