



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0728

Introduced 2/1/2005, by Rep. Jerry L. Mitchell

SYNOPSIS AS INTRODUCED:

105 ILCS 5/14-7.02

from Ch. 122, par. 14-7.02

Amends the Children with Disabilities Article of the School Code. Provides that the reimbursement of a school district for the amount of paid tuition of a child attending a non-public school or special education facility, public out-of-State school, or county special education facility is not authorized unless the State Superintendent of Education finds that the school district is in substantial compliance with a Section of the Code concerning special educational facilities for children with disabilities (now, the school district must also certify to the State Superintendent of Education that the special education program of the district is unable to meet the needs of a child because of the child's disability in order for reimbursement to be authorized). Effective immediately.

LRB094 08337 RAS 38530 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 facility owned and operated by a county government unit that
18 provides special educational services required by the child and
19 is in compliance with the appropriate rules and regulations of
20 the State Superintendent of Education, the school district in
21 which the child is a resident shall pay the actual cost of
22 tuition for special education and related services provided
23 during the regular school term and during the summer school
24 term if the child's educational needs so require, excluding
25 room, board and transportation costs charged the child by that
26 non-public school or special education facility, public
27 out-of-state school or county special education facility, or
28 \$4,500 per year, whichever is less, and shall provide him any
29 necessary transportation. "Nonpublic special education
30 facility" shall include a residential facility, within or
31 without the State of Illinois, which provides special education
32 and related services to meet the needs of the child by

1 utilizing private schools or public schools, whether located on
2 the site or off the site of the residential facility.

3 The State Board of Education shall promulgate rules and
4 regulations for determining when placement in a private special
5 education facility is appropriate. Such rules and regulations
6 shall take into account the various types of services needed by
7 a child and the availability of such services to the particular
8 child in the public school. In developing these rules and
9 regulations the State Board of Education shall consult with the
10 Advisory Council on Education of Children with Disabilities and
11 hold public hearings to secure recommendations from parents,
12 school personnel, and others concerned about this matter.

13 The State Board of Education shall also promulgate rules
14 and regulations for transportation to and from a residential
15 school. Transportation to and from home to a residential school
16 more than once each school term shall be subject to prior
17 approval by the State Superintendent in accordance with the
18 rules and regulations of the State Board.

19 A school district making tuition payments pursuant to this
20 Section is eligible for reimbursement from the State for the
21 amount of such payments actually made in excess of the district
22 per capita tuition charge for students not receiving special
23 education services. Such reimbursement shall be approved in
24 accordance with Section 14-12.01 and each district shall file
25 its claims, computed in accordance with rules prescribed by the
26 State Board of Education, on forms prescribed by the State
27 Superintendent of Education. Data used as a basis of
28 reimbursement claims shall be for the preceding regular school
29 term and summer school term. Each school district shall
30 transmit its claims to the State Board of Education on or
31 before August 15. The State Board of Education, before
32 approving any such claims, shall determine their accuracy and
33 whether they are based upon services and facilities provided
34 under approved programs. Upon approval the State Board shall
35 cause vouchers to be prepared showing the amount due for
36 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 establish
19 rules and regulations for its determination of allowable costs
20 and payments made by local school districts for special
21 education, room and board, and other related services provided
22 by non-public schools or special education facilities and shall
23 establish uniform standards and criteria which it shall follow.

24 The Review Board shall establish uniform definitions and
25 criteria for accounting separately by special education, room
26 and board and other related services costs. The Board shall
27 also establish guidelines for the coordination of services and
28 financial assistance provided by all State agencies to assure
29 that no otherwise qualified disabled child receiving services
30 under Article 14 shall be excluded from participation in, be
31 denied the benefits of or be subjected to discrimination under
32 any program or activity provided by any State agency.

33 The Review Board shall review the costs for special
34 education and related services provided by non-public schools
35 or special education facilities and shall approve or disapprove
36 such facilities in accordance with the rules and regulations

1 established by it with respect to allowable costs.

2 The State Board of Education shall provide administrative
3 and staff support for the Review Board as deemed reasonable by
4 the State Superintendent of Education. This support shall not
5 include travel expenses or other compensation for any Review
6 Board member other than the State Superintendent of Education.

7 The Review Board shall seek the advice of the Advisory
8 Council on Education of Children with Disabilities on the rules
9 and regulations to be promulgated by it relative to providing
10 special education services.

11 If a child has been placed in a program in which the actual
12 per pupil costs of tuition for special education and related
13 services based on program enrollment, excluding room, board and
14 transportation costs, exceed \$4,500 and such costs have been
15 approved by the Review Board, the district shall pay such total
16 costs which exceed \$4,500. A district making such tuition
17 payments in excess of \$4,500 pursuant to this Section shall be
18 responsible for an amount in excess of \$4,500 equal to the
19 district per capita tuition charge and shall be eligible for
20 reimbursement from the State for the amount of such payments
21 actually made in excess of the districts per capita tuition
22 charge for students not receiving special education services.

23 If a child has been placed in an approved individual
24 program and the tuition costs including room and board costs
25 have been approved by the Review Board, then such room and
26 board costs shall be paid by the appropriate State agency
27 subject to the provisions of Section 14-8.01 of this Act. Room
28 and board costs not provided by a State agency other than the
29 State Board of Education shall be provided by the State Board
30 of Education on a current basis. In no event, however, shall
31 the State's liability for funding of these tuition costs begin
32 until after the legal obligations of third party payors have
33 been subtracted from such costs. If the money appropriated by
34 the General Assembly for such purpose for any year is
35 insufficient, it shall be apportioned on the basis of the
36 claims approved. Each district shall submit estimated claims to

1 the State Superintendent of Education. Upon approval of such
2 claims, the State Superintendent of Education shall direct the
3 State Comptroller to make payments on a monthly basis. The
4 frequency for submitting estimated claims and the method of
5 determining payment shall be prescribed in rules and
6 regulations adopted by the State Board of Education. Such
7 current state reimbursement shall be reduced by an amount equal
8 to the proceeds which the child or child's parents are eligible
9 to receive under any public or private insurance or assistance
10 program. Nothing in this Section shall be construed as
11 relieving an insurer or similar third party from an otherwise
12 valid obligation to provide or to pay for services provided to
13 a disabled child.

14 If it otherwise qualifies, a school district is eligible
15 for the transportation reimbursement under Section 14-13.01
16 and for the reimbursement of tuition payments under this
17 Section whether the non-public school or special education
18 facility, public out-of-state school or county special
19 education facility, attended by a child who resides in that
20 district and requires special educational services, is within
21 or outside of the State of Illinois. However, a district is not
22 eligible to claim transportation reimbursement under this
23 Section unless the district certifies to the State
24 Superintendent of Education that the district is unable to
25 provide special educational services required by the child for
26 the current school year.

27 Nothing in this Section authorizes the reimbursement of a
28 school district for the amount paid for tuition of a child
29 attending a non-public school or special education facility,
30 public out-of-state school or county special education
31 facility unless ~~the school district certifies to the State~~
32 ~~Superintendent of Education that the special education program~~
33 ~~of that district is unable to meet the needs of that child~~
34 ~~because of his disability and~~ the State Superintendent of
35 Education finds that the school district is in substantial
36 compliance with Section 14-4.01.

1 Any educational or related services provided, pursuant to
2 this Section in a non-public school or special education
3 facility or a special education facility owned and operated by
4 a county government unit shall be at no cost to the parent or
5 guardian of the child. However, current law and practices
6 relative to contributions by parents or guardians for costs
7 other than educational or related services are not affected by
8 this amendatory Act of 1978.

9 Reimbursement for children attending public school
10 residential facilities shall be made in accordance with the
11 provisions of this Section.

12 Notwithstanding any other provision of law, any school
13 district receiving a payment under this Section or under
14 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify
15 all or a portion of the funds that it receives in a particular
16 fiscal year or from general State aid pursuant to Section
17 18-8.05 of this Code as funds received in connection with any
18 funding program for which it is entitled to receive funds from
19 the State in that fiscal year (including, without limitation,
20 any funding program referenced in this Section), regardless of
21 the source or timing of the receipt. The district may not
22 classify more funds as funds received in connection with the
23 funding program than the district is entitled to receive in
24 that fiscal year for that program. Any classification by a
25 district must be made by a resolution of its board of
26 education. The resolution must identify the amount of any
27 payments or general State aid to be classified under this
28 paragraph and must specify the funding program to which the
29 funds are to be treated as received in connection therewith.
30 This resolution is controlling as to the classification of
31 funds referenced therein. A certified copy of the resolution
32 must be sent to the State Superintendent of Education. The
33 resolution shall still take effect even though a copy of the
34 resolution has not been sent to the State Superintendent of
35 Education in a timely manner. No classification under this
36 paragraph by a district shall affect the total amount or timing

1 of money the district is entitled to receive under this Code.
2 No classification under this paragraph by a district shall in
3 any way relieve the district from or affect any requirements
4 that otherwise would apply with respect to that funding
5 program, including any accounting of funds by source, reporting
6 expenditures by original source and purpose, reporting
7 requirements, or requirements of providing services.

8 (Source: P.A. 92-568, eff. 6-26-02; 93-1022, eff. 8-24-04.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.