

ASSEMBLY, No. 2073

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman CLINTON CALABRESE

District 36 (Bergen and Passaic)

Assemblyman HERB CONAWAY, JR.

District 7 (Burlington)

SYNOPSIS

Requires county to provide extraordinary special education aid to school districts located in county for students with costs over \$55,000 and State to reimburse county.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning extraordinary special education costs and
2 amending P.L.2007, c.260, P.L.2007, c.62, and R.S.54:4-65.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 13 of P.L.2007, c.260 (C.18A:7F-55) is amended to
8 read as follows:

9 13. a. Special education categorical aid for each school district
10 and county vocational school district shall be calculated as follows:

11 $SE = (RE \times SEACR \times AEC \times 1/3) \times GCA$

12 where

13 RE is the resident enrollment of the school district or county
14 vocational school district;

15 SEACR is the State average classification rate for general special
16 education services pupils;

17 AEC is the excess cost for general special education services
18 pupils; and

19 GCA is the geographic cost adjustment as developed by the
20 commissioner.

21 For the 2008-2009 school year the excess cost shall be \$10,898 for
22 general special education services pupils. The excess cost amount
23 shall be adjusted by the CPI in the 2009-2010 and 2010-2011
24 school years as required pursuant to subsection b. of section 4 of
25 this act. For subsequent school years, the excess cost amount shall
26 be established in the Educational Adequacy Report, with the
27 amount adjusted by the CPI for each of the two school years
28 following the first school year to which the report is applicable.

29 b. Extraordinary special education aid for an individual
30 classified pupil shall be available when the student is educated in a
31 general education classroom, special education program, including
32 but not limited to a resource program or special class program, or
33 any combination of general education and special education
34 programs and services, subject to the requirements **and thresholds**
35 set forth in this section.

36 **[(1)]** In those instances in which a pupil is educated in an in-
37 district public school program with non-disabled peers, whether run
38 by a public school or by a private school for the disabled, and the
39 cost of providing direct instructional and support services for an
40 individual classified pupil exceeds \$40,000, for those direct
41 instructional and support services costs in excess of \$40,000 a
42 district shall receive extraordinary special education State aid equal
43 to 90% of the amount of that excess in accordance with the
44 provisions of paragraph (4) of this subsection.

EXPLANATION – Matter enclosed in bold-faced brackets **thus in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 (2) In those instances in which a pupil is educated in a separate
2 public school program for students with disabilities and the cost of
3 providing direct instructional and support services for an individual
4 classified pupil exceeds \$40,000, for those direct instructional and
5 support services costs in excess of \$40,000 a district shall receive
6 extraordinary special education State aid equal to 75% of the
7 amount of that excess in accordance with the provisions of
8 paragraph (4) of this subsection.

9 (3) In those instances in which a pupil is educated in a separate
10 private school for students with disabilities and the tuition for an
11 individual classified pupil exceeds \$55,000, for tuition costs in
12 excess of \$55,000 a district shall receive extraordinary special
13 education State aid equal to 75% of the amount of that excess in
14 accordance with the provisions of paragraph (4) of this subsection.

15 (4) Extraordinary special education State aid for an individual
16 classified pupil shall be calculated as follows:

17
$$EA = ((ADC - \$40,000) \times .90) + (((AIC - \$40,000) + (ASC -$$

18
$$\$55,000)) \times .75)$$

19 where

20 ADC equals the district's actual cost for the direct instructional
21 and support services in an in-district public school program as set
22 forth in paragraph (1) of this subsection;

23 AIC equals the district's actual cost for direct instructional and
24 support services in a separate public school program as set forth in
25 paragraph (2) of this subsection; and

26 ASC equals the district's actual cost for tuition paid to a separate
27 private school as set forth in paragraph (3) of this subsection.

28 (5) (1) In those instances in which the cost of providing direct
29 instructional and support services for an individual classified pupil
30 exceeds \$40,000 but is no more than \$55,000, a school district shall
31 receive 100% of the amount of the excess through extraordinary
32 special education State aid paid directly by the department to the
33 school district.

34 (2) In those instances in which the cost of providing direct
35 instructional and support services for an individual classified pupil
36 exceeds \$55,000, a school district shall receive 100% of the amount
37 of the excess through extraordinary special education aid paid
38 directly to the school district by the county in which the school
39 district is located. Upon certification by the department pursuant to
40 subsection c. of this section of the amount of extraordinary special
41 education aid to be paid by the county to school districts pursuant to
42 this paragraph, the board of chosen freeholders shall appropriate, in
43 the same manner as other appropriations are made by it, the amount
44 so certified, and the amount shall be assessed, levied, and collected
45 in the same manner as moneys appropriated for other purposes in
46 the county are assessed, levied, and collected.

1 The State shall annually reimburse the county for the amount of
2 the extraordinary special education aid paid by the county pursuant
3 to this paragraph.

4 (3) The receipt of extraordinary special education State aid and
5 the receipt of extraordinary special education aid paid by the county
6 for an individual classified pupil shall be conditioned upon a
7 demonstration by the district that the pupil's Individualized
8 Education Plan requires the provision of intensive services,
9 pursuant to factors determined by the commissioner.

10 c. In order to receive funding pursuant to this section, a district
11 shall file an application with the department that details the
12 expenses incurred on behalf of the particular classified pupil for
13 which the district is seeking reimbursement. Upon review and
14 approval of the applications, the department shall certify to each
15 county the amount of extraordinary special education aid to be paid
16 by the county to school districts located in the county pursuant to
17 paragraph (2) of subsection b. of this section.

18 Additional **【State】** aid awarded by the department or the county
19 for extraordinary special education costs shall be recorded by the
20 district as revenue in the current school year and paid to the district
21 in the subsequent school year.

22 d. A school district may apply to the commissioner to receive
23 emergency special education aid for any classified pupil who
24 enrolls in the district prior to March of the budget year and who is
25 in a placement with a cost in excess of \$40,000 or \$55,000, as
26 applicable. The commissioner may debit from the student's former
27 district of residence any special education aid which was paid to
28 that district on behalf of the student.

29 e. The department shall review expenditures of federal and
30 State special education aid by a district in every instance in which
31 special education monitoring identifies a failure on the part of the
32 district to provide services consistent with a pupil's Individualized
33 Education Plan.

34 f. The commissioner shall commission an independent study of
35 the special education census funding methodology to determine if
36 adjustments in the special education funding formulas are needed in
37 future years to address the variations in incidence of students with
38 severe disabilities requiring high cost programs and to make
39 recommendations for any such adjustments. The study and
40 recommendations shall be completed by June 30, 2010.

41 g. A school district may apply to the commissioner to receive
42 additional special education categorical aid if the district has an
43 unusually high rate of low-incidence disabilities, such as autism,
44 deaf/blindness, severe cognitive impairment, and medically fragile.
45 In applying for the aid the district shall: demonstrate the impact of
46 the unusually high rate of low-incidence disabilities on the school
47 district budget and the extent to which the costs to the district are
48 not sufficiently addressed through special education aid and

1 extraordinary special education aid; and provide details of all
2 special education expenditures, including details on the use of
3 federal funds to support those expenditures.

4 (cf: P.L.2007, c.260, s.13)

5
6 2. Section 10 of P.L.2007, c.62 (C.40A:4-45.45) is amended to
7 read as follows:

8 10. a. (1) In the preparation of its budget the amount to be
9 raised by taxation by a local unit shall not exceed, except as
10 provided in paragraph (2) of this subsection, the sum of new
11 ratables, the adjusted tax levy, and the total of waivers approved
12 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46); provided,
13 however, that in the case of a county, the amount to be raised by
14 taxation shall not exceed the amount permitted by section 4 of
15 P.L.1976, c.68 (C.40A:4-45.4).

16 (2) A local unit that has not been granted approval for a waiver
17 pursuant to section 11 of P.L.2007, c.62 (C.40A:4-45.46), may add
18 to its adjusted tax levy in any one of the next three succeeding
19 years, the amount of the difference between the maximum
20 allowable amount to be raised by taxation or county purposes tax,
21 as applicable, for the current local budget year pursuant to
22 paragraph (1) of this subsection and the actual amount to be raised
23 by taxation or county purposes tax, as applicable, for the current
24 local budget year.

25 b. The following exclusions shall be added to the calculation of
26 the adjusted tax levy:

27 increases in amounts required to be raised by taxation for capital
28 expenditures, including debt service as defined by law; increases in
29 pension contributions and accrued liability for pension
30 contributions in excess of 2.0%; increases in health care costs equal
31 to that portion of the actual increase in total health care costs for the
32 budget year that is in excess of 2.0% of the total health care costs in
33 the prior year, but is not in excess of the product of the total health
34 care costs in the prior year and the average percentage increase of
35 the State Health Benefits Program, P.L.1961, c.49 (C.52:14-
36 17.25 et seq.), as annually determined by the Division of Pensions
37 and Benefits in the Department of the Treasury; **[and]**
38 extraordinary costs incurred by a local unit directly related to a
39 declared emergency, as defined by regulation promulgated by the
40 Commissioner of the Department of Community Affairs, in
41 consultation with the Commissioner of Education, as appropriate;
42 and increases in costs incurred by a county for the payment of
43 extraordinary special education aid pursuant to the provisions of
44 paragraph (2) of subsection b. of section 13 of P.L.2007, c.260
45 (C.18A:7F-55). In the first budget year that the county assumes the
46 payment of extraordinary special education aid, the amount of the
47 exclusion shall equal the total amount of the budget year payment.
48 In each subsequent budget year, the exclusion shall equal that

1 portion of the actual increase in extraordinary special education aid
2 payments for the budget year that is in excess of 2.0% of the total
3 extraordinary special education aid payments in the prior year.

4 If there are no exclusions, then the amount of the difference shall
5 reduce the adjusted tax levy by that amount. Any cancelled or
6 unexpended appropriation for any exclusion pursuant to this
7 subsection or waiver pursuant to section 11 of P.L.2007, c.62
8 (C.40A:4-45.46), also shall be deducted from the sum of the
9 exclusions listed in this subsection or directly reduce the adjusted
10 tax levy if there are no exclusions.

11 (cf: P.L.2010, c.44, s.9)

12
13 3. R.S.54:4-65 is amended to read as follows:

14 54:4-65. a. The Director of the Division of Local Government
15 Services in the Department of Community Affairs shall approve the
16 form and content of property tax bills.

17 b. (1) Each tax bill shall have printed thereon a brief
18 tabulation showing the distribution of the amount raised by taxation
19 in the taxing district, in such form as to disclose the rate per
20 \$100.00 of assessed valuation or the number of cents in each dollar
21 paid by the taxpayer which is to be used for the payment of State
22 school taxes, other State taxes, county taxes, local school
23 expenditures, extraordinary special education aid, free public
24 library taxes, and other local expenditures. The last named item
25 may be further subdivided so as to show the amount for each of the
26 several departments of the municipal government. In lieu of
27 printing such information on the tax bill, any municipality may
28 furnish the tabulation required hereunder and any other pertinent
29 information in a statement accompanying the mailing or delivery of
30 the tax bill.

31 (2) When a parcel receives a homestead property tax credit
32 pursuant to the provisions of P.L.2007, c.62 (C.18A:7F-37 et al.),
33 the amount of the credit shall be included with the tax calculation as
34 a reduction in the total tax calculation for the year. One-half of the
35 amount of the credit shall be deducted from taxes otherwise due for
36 the third installment and the remaining one-half shall be deducted
37 from taxes otherwise due for the fourth installment.

38 (3) There shall be included on or with the tax bill the delinquent
39 interest rate or rates to be charged and any end of year penalty that
40 is authorized and any other such information that the director may
41 require from time to time.

42 c. The tax bill shall also include a statement about the
43 availability of, on the Internet website of the Department of
44 Community Affairs, the amounts of State aid and assistance
45 received by the municipality, school districts, special districts, free
46 public libraries, and county governments, including for
47 extraordinary special education aid, that offset property taxes that
48 are otherwise due on each parcel. The tax bill shall also include the

1 link to the Internet website of the Department of Community
2 Affairs containing this information. The director shall cause the
3 amounts of said State aid and assistance that shall serve as the basis
4 for the calculation for each parcel to be displayed on the Internet
5 website of the Department of Community Affairs. The director
6 shall set standards for the display of the statement on the tax bill.

7 d. The tax bill or form mailed with the tax bill shall include
8 thereon the date upon which each installment is due.

9 e. If a property tax bill includes in its calculation a homestead
10 property tax credit, the bill shall, in addition to the calculation
11 showing taxes due, either display a notice concerning the credit on
12 the face of the property tax bill or with a separate notice, with the
13 content and wording as the director provides.

14 (cf: P.L.2015, c.95, s.31)

15
16 4. This act shall take effect immediately and shall first apply to
17 the first full school year following the date of enactment.

18 19 20 STATEMENT

21
22 Under current law, a school district is eligible to receive
23 extraordinary special education State aid when the cost of providing
24 direct instructional and support services for an individual classified
25 pupil exceeds \$40,000 or \$55,000 depending on the pupil's
26 placement. A school district submits an application to the
27 Department of Education detailing those costs and, upon approval
28 of its application, is reimbursed for either 90% or 75% of the
29 amount that exceeds those thresholds, again depending on the
30 nature of the placement.

31 This bill provides that in those instances in which the cost of
32 providing direct instructional and support services to an individual
33 classified pupil exceeds \$40,000, but is no more than \$55,000, a
34 school district will receive 100% of the amount of the excess paid
35 to it directly by the State. In those instances in which the cost of
36 providing direct instructional and support services for an individual
37 classified pupil exceeds \$55,000, a school district will receive
38 100% of the amount of the excess paid to it directly by the county
39 in which the school district is located. The bill provides that the
40 State will reimburse the county for the amount of extraordinary
41 special education aid paid by the county to school districts.

42 The bill establishes a county tax levy cap exclusion in order to
43 accommodate the payment by the county of extraordinary special
44 education aid to school districts. The bill also requires that all
45 property tax bills include a separate line that indicates the amount
46 of tax levy being raised to support extraordinary special education
47 aid.