

SENATE, No. 2206

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

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

As introduced.



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.

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

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

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

$$EA = ((ADC - \$40,000) \times .90) + (((AIC - \$40,000) + (ASC - \$55,000)) \times .75)$$

where

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

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

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

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

(2) In those instances in which the cost of providing direct instructional and support services for an individual classified pupil exceeds \$55,000, a school district shall receive 100% of the amount of the excess through extraordinary special education aid paid directly to the school district by the county in which the school district is located. Upon certification by the department pursuant to subsection c. of this section of the amount of extraordinary special education aid to be paid by the county to school districts pursuant to this paragraph, the board of chosen freeholders shall appropriate, in the same manner as other appropriations are made by it, the amount so certified, and the amount shall be assessed, levied, and collected in the same manner as moneys appropriated for other purposes in 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 tabulation
18 showing the distribution of the amount raised by taxation in the
19 taxing district, in such form as to disclose the rate per \$100.00 of
20 assessed valuation or the number of cents in each dollar paid by the
21 taxpayer which is to be used for the payment of State school taxes,
22 other State taxes, county taxes, local school expenditures,
23 extraordinary special education aid, free public library taxes, and
24 other local expenditures. The last named item may be further
25 subdivided so as to show the amount for each of the several
26 departments of the municipal government. In lieu of printing such
27 information on the tax bill, any municipality may furnish the
28 tabulation required hereunder and any other pertinent information in
29 a statement accompanying the mailing or delivery of the tax bill.

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

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

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

1 the Department of the Treasury, of a listing of, and eligibility
2 requirements for, the various State property tax relief programs.
3 The tax bill shall also include the links to the Internet websites of
4 the Department of Community Affairs and the Division of Taxation
5 containing this information. The director shall cause the amounts
6 of said State aid and assistance that shall serve as the basis for the
7 calculation for each parcel to be displayed on the Internet website
8 of the Department of Community Affairs. The director shall set
9 standards for the display of the statement on the tax bill.

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

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

17 f. (1) At the sole discretion of the municipality, the tax bill
18 may also include a statement listing the number and type of shared
19 services entered into by the municipality, the dollar value of the
20 savings to the municipality from each of those shared services, and
21 a total amount of municipal savings resulting from those shared
22 services. The statement shall be in a format promulgated by the
23 Director of the Division of Local Government Services in the
24 Department of Community Affairs pursuant to paragraph (2) of this
25 subsection.

26 (2) On or before the first day of the third month next following
27 the enactment of P.L.2019, c.393, the Director of the Division of
28 Local Government Services in the Department of Community
29 Affairs shall promulgate the format for the shared services
30 statement permitted to be placed on the tax bill by a municipality
31 pursuant to paragraph (1) of this subsection.

32 (cf: P.L.2019, c.393)

33
34 4. This act shall take effect immediately and shall first apply to
35 the first full school year following the date of enactment.
36
37

38 STATEMENT

39
40 Under current law, a school district is eligible to receive
41 extraordinary special education State aid when the cost of providing
42 direct instructional and support services for an individual classified
43 pupil exceeds \$40,000 or \$55,000 depending on the pupil's
44 placement. A school district submits an application to the
45 Department of Education detailing those costs and, upon approval
46 of its application, is reimbursed for either 90% or 75% of the
47 amount that exceeds those thresholds, again depending on the
48 nature of the placement.

1 This bill provides that in those instances in which the cost of
2 providing direct instructional and support services to an individual
3 classified pupil exceeds \$40,000, but is no more than \$55,000, a
4 school district will receive 100% of the amount of the excess paid
5 to it directly by the State. In those instances in which the cost of
6 providing direct instructional and support services for an individual
7 classified pupil exceeds \$55,000, a school district will receive
8 100% of the amount of the excess paid to it directly by the county
9 in which the school district is located. The bill provides that the
10 State will reimburse the county for the amount of extraordinary
11 special education aid paid by the county to school districts.

12 The bill establishes a county tax levy cap exclusion in order to
13 accommodate the payment by the county of extraordinary special
14 education aid to school districts. The bill also requires that all
15 property tax bills include a separate line that indicates the amount
16 of tax levy being raised to support extraordinary special education
17 aid.