



House of Representatives

General Assembly

File No. 256

February Session, 2018

Substitute House Bill No. 5447

House of Representatives, April 5, 2018

The Committee on Education reported through REP. FLEISCHMANN of the 18th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS CONCERNING PRIVATE PROVIDERS OF SPECIAL EDUCATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10-91j of the 2018 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2018*):

4 (a) Any agreement entered into or amended on or after July 1, [2017]
5 2018, but prior to June 30, 2019, or any contract entered into or
6 amended on or after July 1, 2019, pursuant to section 10-76d, between a
7 local or regional board of education and a private provider of special
8 education services, as defined in section 10-91g, as amended by this
9 act, may include the following provisions: (1) A requirement that such
10 private provider of special education services submit monthly or
11 quarterly reports to such board regarding the specific services and
12 frequency of such services being provided by such private provider of

13 special education services to students under the agreement or contract,
14 and (2) authorization for such board to (A) review and reconcile such
15 reports to the contracted services described in the agreement or
16 contract, or (B) conduct periodic site visits at the location where such
17 private provider of special education services provides services.

18 (b) On and after July 1, 2019, a local or regional board of education
19 shall not be eligible for reimbursement pursuant to section 10-76g for
20 any costs of special education paid by such board of education to a
21 private provider of special education services unless such board of
22 education has entered into a written contract with such private
23 provider of special education services for the provision of such special
24 education services. The individualized education program of a child
25 shall not be considered a contract between a local or regional board of
26 education and a private provider of special education services for
27 purposes of this section. Nothing in this subsection shall be construed
28 to limit or interrupt the provision of special education and related
29 services to a child by a local or regional board of education or private
30 provider of special education services.

31 Sec. 2. Subsection (b) of section 10-91h of the 2018 supplement to the
32 general statutes is repealed and the following is substituted in lieu
33 thereof (*Effective July 1, 2018*):

34 (b) Each local and regional board of education that has entered into
35 an agreement or contract pursuant to section 10-76d or 10-91j, as
36 amended by this act, with a private provider of special education
37 services, shall submit to an audit conducted by the Auditors of Public
38 Accounts for the purposes of examining such board's monitoring of
39 student attendance at such private provider of special education
40 services to ensure that proper services are being provided and costs
41 are being controlled. Such board shall provide access to all records and
42 accounts necessary to said auditors for purposes of conducting such
43 audit.

44 Sec. 3. Section 10-91g of the 2018 supplement to the general statutes
45 is repealed and the following is substituted in lieu thereof (*Effective July*

46 1, 2018):

47 (a) As used in this section and sections 10-91h and 10-91i, as
48 amended by this act, "private provider of special education services"
49 means any private school or private agency or institution, including a
50 group home, that receives any state or local funds as a result of
51 providing special education services to any student with an
52 individualized education program or for whom an individual services
53 plan has been written by the local or regional board of education
54 responsible for educating such student.

55 (b) In accomplishing their duties as set forth in section 7-396a and in
56 accordance with the authority granted under chapter 111, the Auditors
57 of Public Accounts shall act as an agent of a local or regional board of
58 education for the purposes of conducting an audit to examine the
59 records and accounts of any private provider of special education
60 services that (1) has entered into an agreement or contract with a local
61 or regional board of education, pursuant to section 10-76d or 10-91j, as
62 amended by this act, or (2) receives any state or local funds to provide
63 special education and related services, in connection with any grant
64 made by any state agency pursuant to any section of the general
65 statutes or any public or special act. Such examination shall include a
66 compliance audit of whether such state or local funds to provide
67 special education and related services have been expended for
68 allowable costs, in accordance with state and federal law and the
69 individualized education program or individual services plan for each
70 child receiving special education and related services from such
71 private provider of special education services.

72 (c) The Auditors of Public Accounts shall conduct the audit
73 described in subsection (b) of this section as follows: (1) The Auditors
74 of Public Accounts, using a risk-based approach, shall audit private
75 providers of special education services at a frequency that they deem
76 necessary, except that no private provider of special education services
77 shall have its records and accounts so examined more than once
78 during such five-year period, unless the auditors have found a

79 problem with the records and accounts of such private provider of
 80 special education services during such five-year period; (2) audits shall
 81 be of private providers of special education services approved by the
 82 Department of Education and of private providers of special education
 83 services not approved by the Department of Education; and (3) priority
 84 of conducting such audits, as practical, shall be given to those private
 85 providers of special education services (A) that receive the greatest
 86 total amount of state or local funds for the provision of special
 87 education services to students, (B) that provide special education
 88 services to the highest number of students for whom an individual
 89 services plan has been written by a local or regional board of
 90 education, and (C) that have a highest proportion of state and local
 91 funds for the provision of special education services in relation to their
 92 total operational expenses.

93 (d) The Auditors of Public Accounts may (1) consult the Department
 94 of Education during the course of an audit described in subsection (b)
 95 of this section for the purposes of conducting such audit, and (2) share
 96 any preliminary audit findings with the department.

97 (e) The Auditors of Public Accounts shall report their findings to (1)
 98 the local or regional board of education that has entered into an
 99 agreement or contract with the private provider of special education
 100 services, pursuant to section 10-76d or 10-91j, as amended by this act,
 101 or that has completed an individualized education program or
 102 individual services plan for a student receiving special education and
 103 related services from a private provider of special education services,
 104 (2) the Commissioner of Education, and (3) the joint standing
 105 committee of the General Assembly having cognizance of matters
 106 relating to education, in accordance with the provisions of section 11-
 107 4a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2018	10-91j
Sec. 2	July 1, 2018	10-91h(b)

Sec. 3	July 1, 2018	10-91g
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ED *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 19 \$	FY 20 \$
Various Local and Regional School Districts	Revenue Loss	None	Potential
Various Local and Regional School Districts	Redistribution of Excess Cost	None	Potential

Explanation

The bill could result in a potential revenue loss, beginning in FY 20, to various local and regional boards of education, and a redistribution of excess cost funds between various local and regional boards of education, as it requires them to have a written contract, rather than an agreement, with a private special education provider. The amount of the revenue loss would be dependent on the cost of the special education services paid to a private provider of special education under agreements (not contracts), and the portion that is eligible for excess cost reimbursement.

Currently, any special education expenses that exceed four and a half times the average per pupil educational cost of the school district, is eligible for excess cost reimbursement from the State Department of Education (SDE). However, the excess cost grant is currently capped (statutorily), so districts, on average, receive approximately \$.72 of every eligible \$1. Since the excess cost grant is currently capped there would be no savings to the state. An excess cost revenue loss incurred by a local or regional board of education for lack of a private provider contract could result in a redistribution of funds between districts. The

scope of the redistribution would be dependent upon the size of the revenue loss and prorating the unspent funds among the other eligible districts.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation in special education service agreements, revenue losses to various local and regional boards of education and a corresponding redistribution of excess cost funds.

OLR Bill Analysis**sHB 5447*****AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE AUDITORS OF PUBLIC ACCOUNTS CONCERNING PRIVATE PROVIDERS OF SPECIAL EDUCATION.*****SUMMARY**

This bill requires, starting July 1, 2019, a local or regional board of education to have a written contract, instead of an agreement as under current law, with a private special education provider in order to receive a state reimbursement grant for special education costs ("excess cost grant"). Under the excess cost grant program, the state reimburses a board when the cost of a student's special education services exceed four and a half times the average per pupil educational cost of that school district.

The bill prohibits a student's individualized education program from being considered a contract between a board of education and a special education services private provider for purposes of the excess cost grant.

The bill specifies that the requirement to have a contract must not be construed to limit or interrupt special education and related services provided by a board or private provider to a student.

Under current law, the Auditors of Public Accounts have authority to audit and report on agreements between boards and private special education providers. The bill extends this authority to include the contracts it requires in order to be eligible for the state reimbursement grant. Specifically, it:

1. requires boards that enter into these contracts to submit to an auditors' examination of their monitoring of student attendance at the provider's program to ensure that proper services are

being provided and costs are being controlled;

2. authorizes the auditors to act as the board's agent in order to conduct an audit of the private providers' records and accounts; and
3. requires the auditors to report their findings to the board of education that entered into the contract, the education commissioner, and the Education Committee.

EFFECTIVE DATE: July 1, 2018

COMMITTEE ACTION

Education Committee

Joint Favorable Substitute

Yea 35 Nay 0 (03/23/2018)