



Rep. Natalie A. Manley

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LRB102 10466 CMG 23356 a

1 AMENDMENT TO HOUSE BILL 3706

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3706 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing  
5 Sections 14-1.08 and 14-7.02 and by adding Section 14-1.08a as  
6 follows:

7 (105 ILCS 5/14-1.08) (from Ch. 122, par. 14-1.08)

8 Sec. 14-1.08. Special educational facilities and services.

9 "Special educational facilities and services" includes special  
10 schools, special classes, special housing, including  
11 residential facilities, separate public special education day  
12 schools, special instruction, special reader service,  
13 brailleists and typists for children with visual disabilities,  
14 sign language interpreters, transportation, maintenance,  
15 instructional material, therapy, professional consultant  
16 services, medical services only for diagnostic and evaluation

1 purposes provided by a physician licensed to practice medicine  
2 in all its branches to determine a child's need for special  
3 education and related services, psychological services, school  
4 social worker services, special administrative services,  
5 salaries of all required special personnel, and other special  
6 educational services, including special equipment for use in  
7 the classroom, required by the child because of his disability  
8 if such services or special equipment are approved by the  
9 State Superintendent of Education and the child is eligible  
10 therefor under this Article and the regulations of the State  
11 Board of Education.

12 (Source: P.A. 89-397, eff. 8-20-95.)

13 (105 ILCS 5/14-1.08a new)

14 Sec. 14-1.08a. Separate public special education day  
15 school. "Separate public special education day school" means a  
16 separate special education program or facility that is  
17 established exclusively to meet the needs of special education  
18 students who cannot be educated in the general school  
19 environment and that provides services comparable to a private  
20 special education school. A separate public special education  
21 day school may be established by a public school district or by  
22 a special education cooperative.

23 (105 ILCS 5/14-7.02) (from Ch. 122, par. 14-7.02)

24 Sec. 14-7.02. Children attending private schools, public

1 out-of-state schools, public school residential facilities or  
2 private special education facilities. The General Assembly  
3 recognizes that non-public schools or special education  
4 facilities provide an important service in the educational  
5 system in Illinois.

6 If because of his or her disability the special education  
7 program of a district is unable to meet the needs of a child  
8 and the child attends a non-public school or special education  
9 facility, a public out-of-state school or a special education  
10 facility owned and operated by a county government unit that  
11 provides special educational services required by the child  
12 and is in compliance with the appropriate rules and  
13 regulations of the State Superintendent of Education, the  
14 school district in which the child is a resident shall pay the  
15 actual cost of tuition for special education and related  
16 services, including special education and related services  
17 provided by a separate public special education day school,  
18 provided during the regular school term and during the summer  
19 school term if the child's educational needs so require,  
20 excluding room, board and transportation costs charged the  
21 child by that non-public school or special education facility,  
22 public out-of-state school or county special education  
23 facility, or \$4,500 per year, whichever is less, and shall  
24 provide him any necessary transportation. "Nonpublic special  
25 education facility" shall include a residential facility,  
26 within or without the State of Illinois, which provides

1 special education and related services to meet the needs of  
2 the child by utilizing private schools or public schools,  
3 whether located on the site or off the site of the residential  
4 facility.

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

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

22 A school district making tuition payments pursuant to this  
23 Section is eligible for reimbursement from the State for the  
24 amount of such payments actually made in excess of the  
25 district per capita tuition charge for students not receiving  
26 special education services. Such reimbursement shall be

1 approved in accordance with Section 14-12.01 and each district  
2 shall file its claims, computed in accordance with rules  
3 prescribed by the State Board of Education, on forms  
4 prescribed by the State Superintendent of Education. Data used  
5 as a basis of reimbursement claims shall be for the preceding  
6 regular school term and summer school term. Each school  
7 district shall transmit its claims to the State Board of  
8 Education on or before August 15. The State Board of  
9 Education, before approving any such claims, shall determine  
10 their accuracy and whether they are based upon services and  
11 facilities provided under approved programs. Upon approval the  
12 State Board shall cause vouchers to be prepared showing the  
13 amount due for payment of reimbursement claims to school  
14 districts, for transmittal to the State Comptroller on the  
15 30th day of September, December, and March, respectively, and  
16 the final voucher, no later than June 20. If the money  
17 appropriated by the General Assembly for such purpose for any  
18 year is insufficient, it shall be apportioned on the basis of  
19 the claims approved.

20 No child shall be placed in a special education program  
21 pursuant to this Section if the tuition cost for special  
22 education and related services increases more than 10 percent  
23 over the tuition cost for the previous school year or exceeds  
24 \$4,500 per year unless such costs have been approved by the  
25 Illinois Purchased Care Review Board. The Illinois Purchased  
26 Care Review Board shall consist of the following persons, or

1 their designees: the Directors of Children and Family  
2 Services, Public Health, Public Aid, and the Governor's Office  
3 of Management and Budget; the Secretary of Human Services; the  
4 State Superintendent of Education; and such other persons as  
5 the Governor may designate. The Review Board shall also  
6 consist of one non-voting member who is an administrator of a  
7 private, nonpublic, special education school. The Review Board  
8 shall establish rules and regulations for its determination of  
9 allowable costs and payments made by local school districts  
10 for special education, room and board, and other related  
11 services provided by non-public schools or special education  
12 facilities and shall establish uniform standards and criteria  
13 which it shall follow. The Review Board shall approve the  
14 usual and customary rate or rates of a special education  
15 program that (i) is offered by an out-of-state, non-public  
16 provider of integrated autism specific educational and autism  
17 specific residential services, (ii) offers 2 or more levels of  
18 residential care, including at least one locked facility, and  
19 (iii) serves 12 or fewer Illinois students.

20 In determining rates based on allowable costs, the Review  
21 Board shall consider any wage increases awarded by the General  
22 Assembly to front line personnel defined as direct support  
23 persons, aides, front-line supervisors, qualified intellectual  
24 disabilities professionals, nurses, and non-administrative  
25 support staff working in service settings in community-based  
26 settings within the State and adjust customary rates or rates

1 of a special education program to be equitable to the wage  
2 increase awarded to similar staff positions in a community  
3 residential setting. Any wage increase awarded by the General  
4 Assembly to front line personnel defined as direct support  
5 persons, aides, front-line supervisors, qualified intellectual  
6 disabilities professionals, nurses, and non-administrative  
7 support staff working in community-based settings within the  
8 State, including the \$0.75 per hour increase contained in  
9 Public Act 100-23 and the \$0.50 per hour increase included in  
10 Public Act 100-23, shall also be a basis for any facility  
11 covered by this Section to appeal its rate before the Review  
12 Board under the process defined in Title 89, Part 900, Section  
13 340 of the Illinois Administrative Code. Illinois  
14 Administrative Code Title 89, Part 900, Section 342 shall be  
15 updated to recognize wage increases awarded to community-based  
16 settings to be a basis for appeal. However, any wage increase  
17 that is captured upon appeal from a previous year shall not be  
18 counted by the Review Board as revenue for the purpose of  
19 calculating a facility's future rate.

20 Any definition used by the Review Board in administrative  
21 rule or policy to define "related organizations" shall include  
22 any and all exceptions contained in federal law or regulation  
23 as it pertains to the federal definition of "related  
24 organizations".

25 The Review Board shall establish uniform definitions and  
26 criteria for accounting separately by special education, room

1 and board and other related services costs. The Board shall  
2 also establish guidelines for the coordination of services and  
3 financial assistance provided by all State agencies to assure  
4 that no otherwise qualified child with a disability receiving  
5 services under Article 14 shall be excluded from participation  
6 in, be denied the benefits of or be subjected to  
7 discrimination under any program or activity provided by any  
8 State agency.

9 The Review Board shall review the costs for special  
10 education and related services provided by non-public schools  
11 or special education facilities and shall approve or  
12 disapprove such facilities in accordance with the rules and  
13 regulations established by it with respect to allowable costs.

14 The State Board of Education shall provide administrative  
15 and staff support for the Review Board as deemed reasonable by  
16 the State Superintendent of Education. This support shall not  
17 include travel expenses or other compensation for any Review  
18 Board member other than the State Superintendent of Education.

19 The Review Board shall seek the advice of the Advisory  
20 Council on Education of Children with Disabilities on the  
21 rules and regulations to be promulgated by it relative to  
22 providing special education services.

23 If a child has been placed in a program in which the actual  
24 per pupil costs of tuition for special education and related  
25 services based on program enrollment, excluding room, board  
26 and transportation costs, exceed \$4,500 and such costs have



1 been approved by the Review Board, the district shall pay such  
2 total costs which exceed \$4,500. A district making such  
3 tuition payments in excess of \$4,500 pursuant to this Section  
4 shall be responsible for an amount in excess of \$4,500 equal to  
5 the district per capita tuition charge and shall be eligible  
6 for reimbursement from the State for the amount of such  
7 payments actually made in excess of the districts per capita  
8 tuition charge for students not receiving special education  
9 services.

10 If a child has been placed in an approved individual  
11 program and the tuition costs including room and board costs  
12 have been approved by the Review Board, then such room and  
13 board costs shall be paid by the appropriate State agency  
14 subject to the provisions of Section 14-8.01 of this Act. Room  
15 and board costs not provided by a State agency other than the  
16 State Board of Education shall be provided by the State Board  
17 of Education on a current basis. In no event, however, shall  
18 the State's liability for funding of these tuition costs begin  
19 until after the legal obligations of third party payors have  
20 been subtracted from such costs. If the money appropriated by  
21 the General Assembly for such purpose for any year is  
22 insufficient, it shall be apportioned on the basis of the  
23 claims approved. Each district shall submit estimated claims  
24 to the State Superintendent of Education. Upon approval of  
25 such claims, the State Superintendent of Education shall  
26 direct the State Comptroller to make payments on a monthly

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

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

24 Nothing in this Section authorizes the reimbursement of a  
25 school district for the amount paid for tuition of a child  
26 attending a non-public school or special education facility,

1 public out-of-state school or county special education  
2 facility unless the school district certifies to the State  
3 Superintendent of Education that the special education program  
4 of that district is unable to meet the needs of that child  
5 because of his disability and the State Superintendent of  
6 Education finds that the school district is in substantial  
7 compliance with Section 14-4.01. However, if a child is  
8 unilaterally placed by a State agency or any court in a  
9 non-public school or special education facility, public  
10 out-of-state school, or county special education facility, a  
11 school district shall not be required to certify to the State  
12 Superintendent of Education, for the purpose of tuition  
13 reimbursement, that the special education program of that  
14 district is unable to meet the needs of a child because of his  
15 or her disability.

16 Any educational or related services provided, pursuant to  
17 this Section in a non-public school or special education  
18 facility or a special education facility owned and operated by  
19 a county government unit shall be at no cost to the parent or  
20 guardian of the child. However, current law and practices  
21 relative to contributions by parents or guardians for costs  
22 other than educational or related services are not affected by  
23 this amendatory Act of 1978.

24 Reimbursement for children attending public school  
25 residential facilities shall be made in accordance with the  
26 provisions of this Section.

1           Notwithstanding any other provision of law, any school  
2 district receiving a payment under this Section or under  
3 Section 14-7.02b, 14-13.01, or 29-5 of this Code may classify  
4 all or a portion of the funds that it receives in a particular  
5 fiscal year or from general State aid pursuant to Section  
6 18-8.05 of this Code as funds received in connection with any  
7 funding program for which it is entitled to receive funds from  
8 the State in that fiscal year (including, without limitation,  
9 any funding program referenced in this Section), regardless of  
10 the source or timing of the receipt. The district may not  
11 classify more funds as funds received in connection with the  
12 funding program than the district is entitled to receive in  
13 that fiscal year for that program. Any classification by a  
14 district must be made by a resolution of its board of  
15 education. The resolution must identify the amount of any  
16 payments or general State aid to be classified under this  
17 paragraph and must specify the funding program to which the  
18 funds are to be treated as received in connection therewith.  
19 This resolution is controlling as to the classification of  
20 funds referenced therein. A certified copy of the resolution  
21 must be sent to the State Superintendent of Education. The  
22 resolution shall still take effect even though a copy of the  
23 resolution has not been sent to the State Superintendent of  
24 Education in a timely manner. No classification under this  
25 paragraph by a district shall affect the total amount or  
26 timing of money the district is entitled to receive under this

1 Code. No classification under this paragraph by a district  
2 shall in any way relieve the district from or affect any  
3 requirements that otherwise would apply with respect to that  
4 funding program, including any accounting of funds by source,  
5 reporting expenditures by original source and purpose,  
6 reporting requirements, or requirements of providing services.  
7 (Source: P.A. 100-587, eff. 6-4-18; 101-10, eff. 6-5-19.)".