

SENATE BILL 311

F1
SB 706/22 – B&T

3lr1089
CF HB 448

By: **Senators Zucker, Elfreth, Guzzone, King, ~~and Salling~~ Salling, Benson, Hettleman, Jackson, Jennings, and Rosapepe**

Introduced and read first time: January 27, 2023

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 23, 2023

CHAPTER _____

1 AN ACT concerning

2 **Nonpublic Education – ~~Special Education~~ Placements – ~~Renaming and of~~**
3 **Children With Disabilities – Teacher Salaries**
4 **(Teacher Pay Parity Act)**

5 FOR the purpose of ~~renaming the nonpublic educational program to be the special~~
6 ~~education placement program~~, requiring the State and certain counties to pay for
7 costs of salaries ~~and bonuses~~ for teachers at ~~special education placements~~ certain
8 nonpublic schools in a certain amount and proportion; and generally relating to
9 ~~special education~~ nonpublic school placements for children with disabilities and
10 salaries for teachers at ~~special education placements~~ nonpublic schools.

11 ~~BY repealing and reenacting, with amendments,~~
12 ~~Article – Education~~
13 ~~Section 8–406, 8–410(d) and (e), and 8–415(d)~~
14 ~~Annotated Code of Maryland~~
15 ~~(2022 Replacement Volume)~~

16 BY repealing and reenacting, without amendments,
17 Article – Education
18 Section 8–406(b)(1) and 8–415(d)
19 Annotated Code of Maryland
20 (2022 Replacement Volume)

21 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Education
 2 Section 8–406(g) and 8–415(e) and (f)
 3 Annotated Code of Maryland
 4 (2022 Replacement Volume)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 6 That the Laws of Maryland read as follows:

7 **Article – Education**

8 8–406.

9 ~~(a) In this section, “wraparound services”:~~

10 ~~(1) Means individualized services, excluding regular school programs or~~
 11 ~~services, that are provided to a child with a disability and the child’s family; and~~

12 ~~(2) Includes the following services:~~

13 ~~(i) Behavioral aide in home;~~

14 ~~(ii) Education tutoring;~~

15 ~~(iii) Family therapy;~~

16 ~~(iv) Medication management;~~

17 ~~(v) Respite care;~~

18 ~~(vi) Vocational mentoring; and~~

19 ~~(vii) Environmental accessibility adaptations.~~

20 (b) (1) A child with a disability who needs special education and related
 21 services that cannot be provided in a public county, regional, or State program shall be
 22 placed in an appropriate [nonpublic educational] ~~SPECIAL EDUCATION PLACEMENT~~
 23 program that offers these services.

24 ~~(2) A child with a disability who needs special education and related~~
 25 ~~services is eligible for an appropriate [nonpublic educational] SPECIAL EDUCATION~~
 26 ~~placement under this section if a State or local agency provides documentation that the~~
 27 ~~child cannot attend a public school in the local school system:~~

28 ~~(i) Because of the child’s home circumstances; or~~

29 ~~(ii) Subject to subsection (d)(1) and (2) of this section, because of~~
 30 ~~medical necessity.~~

1 (e) (1) ~~The cost of the [nonpublic educational program] SPECIAL EDUCATION~~
2 ~~PLACEMENT shall be paid by the State and the county in which the child is domiciled in~~
3 ~~accordance with § 8-415(d) of this subtitle, as appropriate.~~

4 (2) ~~Subject to availability of funding in the State budget, for a child who~~
5 ~~qualifies for a [nonpublic educational program] SPECIAL EDUCATION PLACEMENT under~~
6 ~~subsection (b)(2) of this section and who requires wraparound services in order to receive~~
7 ~~special education and related services in the least restrictive environment, the cost of~~
8 ~~providing the services shall be paid by the State and the county in which the child is~~
9 ~~domiciled in accordance with § 8-415(d) of this subtitle, if a State or local agency documents~~
10 ~~that the child's parent or legal guardian is unable to provide the wraparound services.~~

11 (3) ~~NOTWITHSTANDING THE USE OF THE TERMS "NONPUBLIC~~
12 ~~EDUCATIONAL PROGRAM" AND "NONPUBLIC PLACEMENT" IN THIS ARTICLE, THE~~
13 ~~STATE BOARD AND EACH COUNTY BOARD SHALL USE THE TERM "SPECIAL~~
14 ~~EDUCATION PLACEMENT" IN ALL COMMUNICATIONS.~~

15 (4) ~~"NONPUBLIC EDUCATIONAL PROGRAM" AND "NONPUBLIC~~
16 ~~PLACEMENT" SHALL BE CONSTRUED AS CONSISTENT WITH THE FEDERAL~~
17 ~~REQUIREMENTS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA),~~
18 ~~20 U.S.C. SECTION 1400 ET SEQ., AND FEDERAL LAWS AND REGULATIONS.~~

19 (d) (1) ~~Payment or reimbursement for a [nonpublic program] SPECIAL~~
20 ~~EDUCATION PLACEMENT may not be provided if the payment or reimbursement would~~
21 ~~require an additional contribution from the State under § 8-415(d)(2) of this subtitle unless~~
22 ~~the Department approves:~~

23 (i) ~~The [nonpublic program] SPECIAL EDUCATION PLACEMENT;~~

24 (ii) ~~The placement of the child in the [program] SPECIAL~~
25 ~~EDUCATION PLACEMENT;~~

26 (iii) ~~The cost of the [program] SPECIAL EDUCATION PLACEMENT;~~
27 ~~and~~

28 (iv) ~~The amount of payment or reimbursement.~~

29 (2) ~~For wraparound services, payment or reimbursement may not be~~
30 ~~provided in accordance with § 8-415(d) of this subtitle if:~~

31 (i) ~~The child is eligible for funding for out-of-state placement of~~
32 ~~children under departmental regulations; or~~

33 (ii) ~~Alternative federal, State, or local funding is available.~~

~~(3) Department approval is not required for a [nonpublic program] SPECIAL EDUCATION PLACEMENT if:~~

~~(i) The local school system approves the placement of the child [in the program]; and~~

~~(ii) The local school system makes the payment or reimbursement from local funds.~~

~~(4) The State Board shall adopt regulations that establish standards and guidelines for approvals required by paragraph (3) of this subsection.~~

~~(e) A [nonpublic] SPECIAL EDUCATION placement recommended by a local school system for approval under subsection (d)(1) of this section shall be approved or disapproved pursuant to the regulations of the State Board. However, the Department may not disapprove a [nonpublic] SPECIAL EDUCATION placement recommended by a local school system for a child unless the Department provides an appropriate alternative placement in conformity with the regulations of the State Board and applicable federal laws and regulations. The Department may not terminate funding for the last approved [nonpublic] SPECIAL EDUCATION placement of a child during the pendency of an administrative or judicial review of a recommended placement change.~~

~~(f) In addition to meeting the requirements of this subtitle, a local school system seeking nonpublic tuition payment shall obtain funding approval from the local coordinating council and the State Coordinating Council in accordance with departmental regulations.~~

(G) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

~~§ 410.~~

~~(d) (1) By July 1 of each year any local school system that has 25 or more children with disabilities [attending nonpublic education facilities] IN SPECIAL EDUCATION PLACEMENTS shall submit to the State Department a detailed report, including any rules and regulations it has adopted since the submission of its last report, which outline the local school system's compliance with the State Department adopted guidelines for the transportation of a child with a disability to [nonpublic special education facilities] SPECIAL EDUCATION PLACEMENTS.~~

~~(2) The State Department shall annually:~~

~~(i) Review each applicable local school system's plan or procedures for transporting children with disabilities to [nonpublic special education facilities] SPECIAL EDUCATION PLACEMENTS for compliance with the State Department's guidelines; and~~

1 (ii) ~~Advise a local school system as to whether its plan or procedures~~
2 ~~are in compliance.~~

3 (c) ~~In both the adoption of guidelines under subsection (c)(2) of this section and~~
4 ~~the annual review under subsection (d) of this section of each applicable county's plan or~~
5 ~~procedures for transporting children with disabilities to [nonpublic special education~~
6 ~~facilities] SPECIAL EDUCATION PLACEMENTS, the State Department shall:~~

7 (1) ~~Take into consideration the particular circumstances and needs of each~~
8 ~~applicable local school system, including the differences among urban and rural school~~
9 ~~systems; and~~

10 (2) ~~Recognize the need for flexibility on an individual child basis.~~

11 8-415.

12 (d) (1) In this subsection, "basic cost" as to each county, means the average
13 amount spent by the county from county, State, and federal sources for the public education
14 of a nonhandicapped child. "Basic cost" does not include amounts specifically allocated and
15 spent for identifiable compensatory programs for disadvantaged children.

16 (2) As provided in paragraphs (3) and (4) of this subsection, the State and
17 the counties shall share collectively in the cost of educating children with disabilities in
18 ~~[nonpublic programs] SPECIAL EDUCATION PLACEMENTS~~ under § 8-406 of this subtitle.

19 (3) (i) Subject to the limitation under subparagraph (ii) of this
20 paragraph, for each of these children domiciled in the county, the county shall contribute
21 for each placement the sum of:

22 1. The local share of the basic cost;

23 2. An additional amount equal to 200 percent of the basic
24 cost; and

25 3. A. For fiscal year 2009, an additional amount equal to
26 20 percent of the approved cost or reimbursement in excess of the sum of items 1 and 2 of
27 this subparagraph; ~~and~~

28 B. For ~~EACH OF~~ fiscal ~~[~~year 2010 and each subsequent fiscal
29 year thereafter~~]~~ ~~YEARS 2010 THROUGH 2023~~, an additional amount equal to 30 percent
30 of the approved cost or reimbursement in excess of the sum of items 1 and 2 of this
31 subparagraph; ~~AND~~

32 C. ~~FOR FISCAL YEAR 2024 AND EACH FISCAL YEAR~~
33 ~~THEREAFTER, AN ADDITIONAL AMOUNT EQUAL TO 20 PERCENT OF THE APPROVED~~

1 ~~COST OR REIMBURSEMENT IN EXCESS OF THE SUM OF ITEMS 1 AND 2 OF THIS~~
 2 ~~SUBPARAGRAPH.~~

3 (ii) The amount that a county is required to contribute under
 4 subparagraph (i) of this paragraph may not exceed the total cost or reimbursement amount
 5 approved by the Department.

6 (4) For each of these children, the State shall contribute an amount equal
 7 to the amount of the approved cost or reimbursement in excess of the amount the county is
 8 required to contribute under paragraph (3) of this subsection.

9 (E) (1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE
 10 MEANINGS INDICATED.

11 (II) ~~“LOCAL LOCAL SCHOOL SALARIES”~~ MEANS THE SALARIES
 12 ~~AND BONUSES RECEIVED BY PUBLIC SCHOOL TEACHERS OF SIMILAR TRAINING AND~~
 13 ~~EXPERIENCE TO TEACHERS AT A SPECIAL EDUCATION PLACEMENT~~ NONPUBLIC
 14 SCHOOL IN THE SAME COUNTY IN WHICH THE SCHOOL IS LOCATED.

15 (III) “NONPUBLIC SCHOOL” MEANS A NONPUBLIC SCHOOL IN
 16 WHICH A CHILD WITH A DISABILITY IS PLACED UNDER § 8-406 OF THIS SUBTITLE.

17 (2) A ~~SPECIAL EDUCATION PLACEMENT~~ NONPUBLIC SCHOOL SHALL
 18 PROVIDE ITS TEACHERS A SALARY THAT IS EQUIVALENT TO THE LOCAL SCHOOL
 19 SALARIES, PHASED IN OVER 3 YEARS BEGINNING IN FISCAL YEAR 2024 WITH PARITY
 20 ACHIEVED IN THE THIRD YEAR AND PARITY MAINTAINED THEREAFTER.

21 (3) IN ACCORDANCE WITH THE PHASE-IN AND CONTINUING EACH
 22 YEAR THEREAFTER UNDER PARAGRAPH (2) OF THIS SUBSECTION, IF THE AMOUNT
 23 OF FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS SECTION IS INSUFFICIENT
 24 TO PROVIDE LOCAL SCHOOL SALARIES TO TEACHERS AT ~~SPECIAL EDUCATION~~
 25 ~~PLACEMENT~~ NONPUBLIC SCHOOLS APPROVED UNDER COMAR 13A.09.10,
 26 ADDITIONAL FUNDING SHALL BE PROVIDED IN AN AMOUNT EQUAL TO THE
 27 DIFFERENCE BETWEEN THE AMOUNT OF FUNDING NEEDED TO PROVIDE LOCAL
 28 SCHOOL SALARIES TO TEACHERS AT A ~~SPECIAL EDUCATION PLACEMENT~~
 29 NONPUBLIC SCHOOL AND THE FUNDING PROVIDED UNDER SUBSECTION (D) OF THIS
 30 SECTION.

31 (4) (I) THE ADDITIONAL FUNDING UNDER PARAGRAPH (3) OF THIS
 32 SUBSECTION SHALL BE PAID FOR BY THE STATE AND THE COUNTY IN THE SAME
 33 PROPORTION AS THE COSTS PAID UNDER SUBSECTION (D) OF THIS SECTION.

1 **(II) 1. THE AMOUNT PROVIDED BY THE COUNTY UNDER**
2 **SUBPARAGRAPH (I) OF THIS PARAGRAPH IS IN ADDITION TO THE AMOUNT REQUIRED**
3 **UNDER § 5-235 OF THIS ARTICLE.**

4 **2. THE CALCULATIONS UNDER §§ 5-214, 5-235, AND**
5 **5-239 OF THIS ARTICLE SHALL BE MADE AS THOUGH THE COUNTY DID NOT PROVIDE**
6 **THE AMOUNT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

7 **(5) FUNDING FOR OTHER COMPONENTS OF THE SPECIAL EDUCATION**
8 **PLACEMENT MAY NOT BE REDUCED TO PROVIDE TEACHER SALARIES IN**
9 **ACCORDANCE WITH THIS SUBSECTION.**

10 **(F) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THE**
11 **PROVISIONS OF THIS SECTION.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
13 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.