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## DIGEST

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HB No. 642

**Abstract:** Establishes the Special Education Scholarship Program, to provide for regional special education schools, admission of students to such schools, and scholarships for students to attend such schools.

Proposed law establishes and provides for the Special Education Scholarship Program as follows:

- (1) States legislative findings and declarations that the state has the responsibility to provide quality and meaningful special education, that regional special education schools will enhance the availability and quality of special education and related services and be more cost effective, that is in the public interest to allow parents and guardians to choose special education and related services for their children with disabilities in regional special education schools with the assistance of partial scholarships, and that it is the intent of the legislature to develop and maintain a comprehensive and coordinated special education program in eight educational regions of the state.
- (2) Provides definitions, including:
  - (a) "Department" means the state Department of Education.
  - (b) "Board" means the State Board of Elementary and Secondary Education (BESE).
  - (c) "Special education " means educational services specially designed to meet the unique needs of each child with a learning disability.
  - (d) "Student with disabilities" or "disabled student" means an elementary or secondary student who meets all of the following criteria:
    - (i) A resident of the state and was eligible to attend a public school in the state during the preceding semester or is starting or starts school for the first time.
    - (ii) Has an Individualized Education Plan as defined in BESE rules.
    - (iii) Has autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, mental disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, or visual impairment, as defined by BESE rules.
    - (iv) The student is not less than age three and not more than age 21.
  - (e) "Nondisabled student" means a student who has not been assessed and evaluated as having a learning disability but is beneficially enrolled in a regional special education school and thereby qualifies for a scholarship.
  - (f) "Regional special education school" means a school that emphasizes special education and related services designed to meet the unique needs of students with

- disabilities, prepares them for further education, employment, and independent living, and has been designated by BESE as a regional special education school.
- (g) "Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a learning disability to benefit from special education, and includes speech-language pathology and audiology services; interpreting services; psychological services; adaptive physical education; assistive technology services; physical and occupational therapy, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services; school health services; social work services in schools; and parent counseling and training, as defined in BESE rules.
  - (h) "Scholarship" means the money awarded by the department to a parent or legal guardian on behalf of a student with disabilities to attend a regional special education school.
- (3) Provides for designation of regional special education schools. Requires BESE to implement a program under which one or more regional special education schools shall be designated in each of the eight educational regions of the state. Requires that the process include an open invitation to interested parties in each educational region to submit proposals for designation. Requires public notice of the invitation to be advertised once a month for two consecutive months in the state official journal and in a newspaper of general circulation in the educational region.

Requires an entity submitting a proposal to have all of the following attributes:

- (a) A nonprofit corporation under applicable state and federal laws that has received a letter from the Internal Revenue Service attesting to its federal tax exemption status.
- (b) Final approval by BESE as a nonpublic school.
- (c) Role, scope, and mission consistent with a school that emphasizes special education and related services.
- (d) Policy that prohibits discrimination against students because of race, religion, gender, ethnicity, or national origin.
- (e) An acceptable finance and accounting plan.
- (f) An acceptable organizational, governance, and operational structure.
- (g) School administrators and members of its governing board with adequate qualifications.
- (h) An established program that includes special education services and related services provided by personnel holding appropriate certification in special education and other appropriate education or training.
- (i) A sustained curriculum of regular education and special education under which students have the opportunity to earn a state diploma, a school diploma, or a certificate of attendance.
- (j) Responsibility for the planning, construction, and maintenance of the school facilities.

Requires BESE to award the designation to the school whose proposal evidences the best qualified applicant for designation. If BESE finds no applicant sufficiently qualified, it may decline to designate a regional special education school at that time.

Provides that the designation of a regional special education school remains valid until the governing body of the designated school votes to recede from the designation.

Permits BESE to terminate the designation upon a finding that the school has violated a material provision of state law or regulation or that the school's academic standards have fallen below the standards established by proposed law.

- (4) Requires BESE to:
  - (a) Remit scholarship payments to the regional schools on behalf of the scholarship recipients.
  - (b) Annually confirm the eligibility status of scholarship recipients and notify the board and the parents or legal guardians by a date determined by the department that allows an ineligible student to apply to other schools before August 1 each year.
- (5) Allows BESE, after notice to a regional school and opportunity to be heard, to place a school that fails to materially comply with proposed law on probation for one school year during which no additional scholarship students may be enrolled. Provides that if the school is not in full compliance by the end of the probationary period, BESE may terminate the school's designation as a regional special education school. Specifies that the school may reapply for the designation only after BESE has determined that the school is again in full compliance with proposed law.
- (6) Provides that BESE shall require that each local school district, in administering the child find mandate pursuant to BESE rules, provide to the parents or legal guardians of the child the names and addresses of the local school districts in the given educational regions and the name and address of the regional special education school within the same educational region.
- (7) Requires BESE to establish a policy that regional special education schools will provide special education and related services to as wide a spectrum of student disabilities as is consistent and feasible with their respective financial and academic resources.
- (8) Provides for admission of students at regional special education schools:

Requires each regional special education school, within ten days following the opening date of the school year, to report to the department the number of students with disabilities and the number of students without disabilities that the school has enrolled, their names and the names and addresses of their parents or legal guardians.

Requires a regional school, prior to enrollment, to provide the parent or other legal guardian of a student seeking enrollment, and inform the parent or legal guardian about

all of the following:

- (a) School rules, policies, and procedures applicable to students and their parents or guardians.
- (b) A description of the educational services offered subject to the school's current academic ability and school financial resources.
- (c) A description of the related services offered subject to available school or third party funding specifically for that purpose.

Requires that all applicants shall be considered for enrollment without regard to race, religion, gender, ethnicity or national origin.

Specifies that a regional school is required to offer only those educational and related services that it regularly offers. Permits a school to respond to requests for service beyond that level in their own discretion.

Requires each regional school to enroll students on a first application first enrollment basis. However, requires the schools to make a good faith effort to maintain the composition of their respective student populations at 70% with disability and 30% without disability. Permits a seat to be filled by any student if this composition is not evident at the end of the fifth day after annual school opening.

Requires the department to promptly notify parents or legal guardians whether their children have been awarded scholarships.

- (9) Provides relative to scholarships and funding:

Provides that funds for scholarships for students enrolled in regional special education schools shall not be derived from or paid through the Minimum Foundation Program (MFP) or from any funds received by or obligated to any local public school district. Requires that funds for the Special Education Scholarship Program be appropriated by line item designation. Requires that, from appropriations for the program, BESE shall allocate an amount on a per pupil basis for payment to each regional special education school on behalf of the school's scholarship students.

Provides that the value of the scholarships shall be the amount equal to 200% of the state portion of the average MFP allocation per child among the local school districts in the same educational region in which the regional special education school is situated.

Provides that, considering the higher per child costs of educating students with disabilities, the unfavorable economy of scale in regional special education schools, and the absence of taxing authority, regional special education schools may charge tuition. Also allows the schools to assess incidental and supplemental fees for meals, meals, field trips, before or after school care, required personal materials, testing materials, textbooks not provided by the state, and similar items.

Prohibits a student who receives a scholarship pursuant to the Special Education Scholarship Program from receiving a scholarship pursuant to the School Choice Program for Certain Students with Exceptionalities, the Student Scholarships Educational Excellence Program, or the rebate program in present law (R. S. 47:6301).

Requires the department to make scholarship payments to each regional special education school on behalf of the parent or legal guardian of a scholarship recipient. Provides for such payments on dates determined by the department. Provides that no refund shall be due to the department or to the parent or legal guardian if the scholarship recipient withdraws from the program or is otherwise not enrolled prior to the next payment date.

(10) Provides for related services:

Provides that the regional special education schools shall arrange for the delivery of the limited related services available under the Individuals with Disabilities Education Act (IDEA) by the local school districts to the schools' eligible students. Provides that the department will supplement locally provided related services from funds appropriated for this purpose through contracts, administered by the department or the regional special education school, with qualified faculty personnel of institutions of higher learning or qualified personnel in the private market.

Requires the department to provide each regional special education school an allotment for regular education textbooks and special education textbooks, teaching materials, and test materials consistent with allotments to the local school districts.

Provides that the department require that local school districts' transportation resources be made available to the scholarship recipients to the same extent made available to children enrolled in the local school districts. Authorizes local school districts in each educational region to pool their transportation resources to more adequately and efficiently provide transportation from a student's home to school.

(11) Permits a regional special education school to accept donations, bequests, grants, and other forms of financial assistance from any public or private person, foundation, or governmental agency and comply with requirements attendant to such financial assistance that are not in contravention of the constitution and the laws of the state.

(12) Provides that a scholarship recipient shall remain eligible to receive a scholarship in each succeeding year that the recipient remains enrolled in a regional special education school. However, provides that a scholarship student may be dismissed pursuant to the school's disciplinary policy or dismissed by the principal for other good cause shown.

(13) Provides relative to providing special education in the least restrictive environment:

Requires a regional special education school to take all reasonable and feasible steps to provide a special education in a least restrictive environment, and requires the school to

make a bona fide effort to enroll nondisabled students that represent 30% of the students in the school. Requires a regional school to assure that disabled students actively participate with nondisabled peers in traditional classroom education, physical education, recreation, lunch-room dining, extracurricular clubs, sports activities, field trips, and community outings.

- (14) Requires regional special education schools to comply with the requirements of applicable state law and regulations for nonpublic schools. Allows the schools to employ basic concepts and theories embodied in the federal Individuals with Disabilities Education Act, but provides that IDEA shall not be construed as being applicable to regional special education schools. Provides that the schools have the obligation to advance the student's education to the highest level consistent with each school's financial and academic resources.
- (15) Provides for school audits. Requires each regional special education school annually to submit to the department an independent financial audit conducted by a certified public accountant approved by the legislative auditor, accompanied by the auditor's statement that the report is free of material misstatements and fairly presents the total scholarship, tuition, fees, and other revenues and expenditures made to advance the education of the students. Provides that the audit's scope shall extend to those records necessary for the department to verify that the scholarship payments and related services payments were expended for educational purposes. Provides that the cost of the audit shall be paid by the department from funds appropriated by the legislature.
- (16) Includes other provisions relative to regional special education schools:

Requires each school to adopt a conflicts of interest policy to protect the financial integrity of the school and the state when the school contemplates entering into a transaction or arrangement that may benefit the private interest of a school officer or director or may result in a possible excess benefit transaction. Specifies that such policy supplements but does not replace any applicable state or federal laws governing conflict of interest applicable to a nonprofit, tax-exempt entity.

Specifies that a regional school shall not be construed as established by or as being a governmental entity or agency or subdivision of the state or parish governmental body.

Provides that no member of the governing board of a regional school shall be an elected or appointed public official nor have been such during the year immediately prior to appointment or election to the board. Also prohibits a school from employing a member of its governing board. Permits a governing board member to be reimbursed for actual expenses incurred while fulfilling duties of that office. Also permits compensating a board member pursuant to a special services contract of limited duration with the school if the contract has been approved by the school governing board in compliance with its conflict of interest policy.

Authorizes postsecondary education institutions and regional special education schools to enter into cooperative agreements, memoranda of understanding, or lease of land to advance their respective interests in special education.

Specifies that special education services and related services provided by regional special education schools shall not be construed as being part of the Free and Appropriate Public Education program mandated in the federal Individuals with Disabilities Education Act or its equivalent.

- (17) Requires BESE to adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act to implement proposed law.
- (18) Provides that the legislature shall make separate appropriations for the Special Education Scholarship Program and the related services program established by proposed law beginning with the fiscal year 2014 - 2015 and for each fiscal year thereafter.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 17:4051-4066)