

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2853**

BY DELEGATES ROWAN, AMBLER, COOPER AND ESPINOSA

[Introduced March 8, 2017; Referred  
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating  
2 to more equitable disbursement of funds to county boards to lessen budgetary impact of  
3 serving high cost/high acuity special needs students; eliminating requirement to annual  
4 review of rules, policies and standards and federal law and report to Legislative Oversight  
5 Commission; defining high cost/high acuity special needs; and providing for method of  
6 fund disbursement.

*Be it enacted by the Legislature of West Virginia:*

1 That §18-20-5 of the Code of West Virginia, 1931, as amended, be amended and  
2 reenacted to read as follows:

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

### **§18-20-5. Powers and duties of state superintendent.**

1 (a) The State Superintendent of Schools shall organize, promote, administer and be  
2 responsible for:

3 (1) Stimulating and assisting county boards of education in establishing, organizing and  
4 maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher  
5 services for exceptional children.

6 (2) Cooperating with all other public and private agencies engaged in relieving, caring for,  
7 curing, educating and rehabilitating exceptional children, and in helping coordinate the services  
8 of such agencies.

9 (3) (A) Preparing the necessary rules, policies, formulas for distribution of available  
10 appropriated funds, reporting forms and procedures necessary to define minimum standards in  
11 providing suitable facilities for education of exceptional children and ensuring the employment,  
12 certification and approval of qualified teachers and therapists subject to approval by the State  
13 Board of Education: *Provided*, That no state rule, policy or standard under this article or any  
14 county board rule, policy or standard governing special education may exceed the requirements  
15 of federal law or regulation.

16           (B) ~~An appropriation shall be made to the~~ The Department of Education to be distributed  
17 shall disburse to county boards to support children appropriations made to assist them with  
18 servng exceptional children with high cost/high acuity special needs. that exceed the capacity of  
19 county to provide with funds available An “exceptional child with high cost/high acuity special  
20 needs” is a student with a disability for whom the costs to the county exceed three times the  
21 average per pupil expenditure.

22           (i) The state superintendent shall establish, in consultation and coordination with  
23 representatives of the affected county boards, a method for disbursing the separate appropriation  
24 for exceptional children with high cost/high acuity special needs.

25           (ii) The disbursement method shall reasonably account for and endeavor to equitably  
26 mitigate the differing budgetary impacts that enrolled exceptional children with high cost/high  
27 acuity special needs have on individual county boards’ abilities to serve all of their enrolled  
28 students.

29           (iii) The disbursement method shall further provide that, whenever the separate  
30 appropriation under this paragraph, when combined with federal funds available for this purpose,  
31 is insufficient to reimburse all eligible county boards fully for their costs of serving the exceptional  
32 children with high cost/high acuity special needs enrolled in their counties, the county boards shall  
33 receive disbursements that equalize, as near as reasonably possible, the budget percentage for  
34 each county board that is consumed by eligible, but not reimbursed, expenditures for serving  
35 exceptional children with high cost/high acuity special needs so that no county board's budget is  
36 affected disproportionately.

37           (iv) Each county board shall apply to the state superintendent for receipt of to receive this  
38 funding in a manner set forth by the state superintendent. that assesses and takes into account  
39 varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year  
40 from the appropriation shall be carried over to the next fiscal year. When possible, federal funds  
41 shall be ~~distributed~~ disbursed to county boards for this purpose before any of the state

42 appropriation is ~~distributed~~ disbursed. ~~The state board shall promulgate a rule in accordance with~~  
43 ~~the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions~~  
44 ~~of this subdivision relating to distributing the funds to the county boards. The rule at least shall~~  
45 ~~include a definition for “children with high acuity needs”.~~

46 (4) Receiving from county boards of education their applications, annual reports and  
47 claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such  
48 claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.

49 (5) Assuring that all exceptional children in the state, including children in mental health  
50 facilities, residential institutions, private schools and correctional facilities as provided in section  
51 thirteen-f, article two of this chapter receive an education in accordance with state and federal  
52 laws: *Provided*, That the state superintendent shall also assure that adults in correctional facilities  
53 and regional jails receive an education to the extent funds are provided therefor.

54 (6) Performing other duties and assuming other responsibilities in connection with this  
55 program as needed.

56 ~~(7) Receive the county plan for integrated classroom submitted by the county boards of~~  
57 ~~education and submit a state plan, approved by the State Board of Education, to the Legislative~~  
58 ~~Oversight Commission on Education Accountability no later than December 1, 1995.~~

59 (b) Nothing contained in this section shall be construed to prevent any county board of  
60 education from establishing and maintaining special schools, classes, regular class programs,  
61 home-teaching or visiting-teacher services for exceptional children out of funds available from  
62 local revenue.

NOTE: The purpose of this bill is to provide a more equitable disbursement of funds to county boards of education to lessen budgetary impact of serving high cost/high acuity special needs students. It also eliminates the requirements for an annual review of rules, policies and standards and federal law and a report to the Legislative Oversight Commission on Educational Accountability.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.