LEGISLATIVE SERVICES AGENCY

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FISCAL IMPACT STATEMENT

LS 6956
BILL NUMBER: HB 1380

NOTE PREPARED: Jan 7, 2024
BILL AMENDED:

SUBJECT: Various Education Matters.

FIRST AUTHOR: Rep. Behning
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **X GENERAL**
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: *Commissions:* This bill requires the Secretary of Education to prepare and submit to the General Assembly the following:
(1) A plan to establish an Indiana School Facilities Commission.
(2) A plan to establish the Indiana School Transportation Commission.

Innovation Network Provisions: This bill makes various changes to innovation network school and participating innovation network charter school provisions regarding the following:
(1) The terms that must be included in an agreement entered into between:
(A) an innovation network team and the governing body of a school corporation; and
(B) an organizer and the governing body of a school corporation.
(2) Restrictions on altering an agreement.
(3) Restrictions on a school corporation charging an innovation network school or participating innovation network charter school for goods and services.
(4) Required distribution of state tuition support.
(5) Restrictions regarding altering the use of a facility occupied by an innovation network school or participating innovation network charter school.
(6) Administrative fees.

Charter School Corporation: The bill includes charter school corporations in certain provisions concerning the distribution of state tuition support to an organizer.

COVID-19 Relief Programs: This bill makes changes to the Student Learning Recovery Grant Program concerning the following:

(1) The purpose for which the program was established with regard to disruption in education caused by the coronavirus disease pandemic and insufficient alternatives.
(2) The limitation of the program to only certain state fiscal years.
(3) Allowing the Department of Education (DOE) to require matching grant amounts.

It also repeals the following provisions regarding the Student Learning Recovery Grant Program:
(1) The appropriation in the 2021 fiscal year.
(2) The expiration of the program.

The bill provides that a student's Indiana Enrichment Scholarship Account terminates under conditions established by DOE (instead of October 1, 2024). It removes a provision that requires use of certain federal funds under the Indiana Student Enrichment Grant Program. It repeals a provision regarding the expiration of the Indiana Student Enrichment Grant Program.

Operating Referendum Tax Levies: This bill provides that a governing body of a school corporation may not seek to extend an operating referendum tax levy or consecutive operating referendum tax levies. The bill repeals a provision regarding extending an operating referendum tax levy. It provides that school corporations that meet certain requirements regarding sharing operating referendum tax levy revenue are not subject to the provisions regarding the transfer of vacant school buildings.

Due Process: The bill provides that when a parent agrees to participate in a:
(1) Mediation or
(2) Facilitated individualized education program (IEP) meeting through DOE;
and subsequently initiates a due process hearing, a public agency shall have the burden of proof at the subsequent due process hearing. It provides that a public agency shall have the burden of proof, including the burden of persuasion and production, for all expedited due process hearings, regardless of whether a mediation or facilitated IEP meeting was initiated before filing for the expedited due process hearing. It also provides that a public agency shall not require, as part of a resolution of a due process hearing or a dispute relating to the provision of special education services to a particular student, that a parent of a student or an emancipated student enter into a nondisclosure, nondisparagement, or confidentiality agreement or clause.

Scholarship Programs: This bill amends the date by which a student has to be a certain age to be eligible to participate in a School Scholarship Program and the Indiana Education Scholarship Account Program.

Transfer Students: The bill removes a condition with regard to requiring certain school corporations to accept transferring students who do not have legal settlement in the school corporation. It removes a provision regarding a school corporation charging a requesting parent or student transfer tuition.

Effective Date: Upon passage; July 1, 2024.

Explanation of State Expenditures: *Due Process*: Changes made to certain due process hearings will increase the workload for DOE, case conference committees, and impacted public agencies. These changes are also expected to increase the number of due process hearings which would increase the workload for administrative law judges assigned to these hearings.

COVID-19 Relief Programs: Under the bill the 1008 Grant Program and Indiana Learns, two programs aimed at reducing COVID-19 related learning loss, will no longer expire in FY 2026. This represents a workload increase for the Department of Education (DOE) who will be required to continue administering the programs, including preparing an annual report for the 1008 Grant Program. These provisions are not expected to increase total expenditures unless more funds are appropriated into the programs.

Commissions: The bill requires the Secretary of Education to prepare reports by November 1, 2024,on plans to establish two commissions. This is a minor workload increase that will be completed with existing staff and resources. Dependent on legislative and administrative actions, future expenditure increases could occur if the commissions are established.

State Educational Institutions (SEIs): SEIs that received 1008 Grants to provide educational services will have additional time to expend funds that have already been obligated. Other provisions in the bill may also increase the number of buildings available to be leased or purchased by SEIs for $1, which could decrease future expenditures of an SEI if a school building was purchased or leased for academic purposes. [SEIs receive state funding through General Fund appropriations.]

Educational Scholarship Account (ESA): Beginning in FY 2025, the bill moves the date by which a student must be at least five years old in order to be eligible for an ESA from August 1 to October 1. Moving the date will have a minimal increase on enrollments. The impact on state expenditures from the increased enrollment in the program is dependent upon where those students would have attended school without the eligibility changes provided by the bill. Students who would have attended a public school who switch to the program would decrease state expenditures while students who would have been homeschooled, attended a nonpublic school without a Choice Scholarship, or not enrolled in a school at all, would increase state expenditures.

Transfer Students - Some school corporations that currently receive transfer students from other school corporations and charge those students transfer tuition may choose to not accept transfer students if they can no longer collect transfer tuition. Those students would likely find another public school to attend or may choose to attend a nonpublic school. Impacted students who transfer to a nonpublic school would decrease state expenditures. This may be offset by other provisions in the bill that would allow certain nonpublic school students transfer to a public school. The impact to state expenditures is indeterminable, and dependent on the movement of impacted students.

<u>*Additional information*</u> - *Due Process*: Provisions in the bill specify that public agencies, including public schools, the Department of Health, the Department of Correction, the Indiana School for the Deaf, and the Indiana School for the Blind and Visually Impaired, will bear the burden of persuasion and production for certain special education related due process hearings. [Under current law, whoever brings the case bears the burden of persuasion and production.] The bill also prohibits public agencies from requiring parents or emancipated students to enter into certain agreements as a condition of resolving a due process hearing or dispute. This information must be posted onto DOE's website and case conference committees must annually share the information with relevant parties.

<u>**Explanation of State Revenues:**</u> *SEIs*: If additional funds are appropriated to the 1008 Grant Program, SEIs may have additional funding opportunities to receive grants from the program.

<u>**Explanation of Local Expenditures:**</u> *Charter Schools*: Certain charter schools could experience a workload and/or expenditure decrease under the bill.

Due Process: Public agencies, which include public schools, are expected to experience a workload increase that is expected to be within a school's routine administrative functions. [See *Explanation of State Expenditures.*]

COVID-19 Relief Programs: Public schools who receive 1008 Grants to provide educational services will have additional time to expend funds that have already been obligated. Public schools are also no longer required to provide matching federal funds as a requirement to receive 1008 Grants, which may decrease public school expenditures in the future.

<u>*Additional Information*</u> *- Charter Schools*: A charter school corporation is defined under this bill as a collection of charter schools operated by the same organizer under a single charter. Beginning in FY 2025, the bill provides that charter school corporations would no longer be required to maintain separate accountings of all funds received and disbursed by each charter school it holds. Provisions in the bill may also increase the number of buildings available to be leased or purchased by charter schools by $1, which could decrease the future expenditures of a charter school to purchase or lease a school building.

<u>Explanation of Local Revenues:</u> <u>*Summary*</u> - The bill's impact on public schools is indeterminable and impacts on a given public school will vary dependent upon the following:

1. Whether a school is prevented from seeking an operating referendum;
2. Whether a school corporation is required to sell or lease a building for $1;
3. Whether a school is an approved learning partner with the Indiana Learns program;
4. The amount, if any, appropriated to certain COVID-19 Relief Programs;
5. Whether a school is, or has an agreement with, an innovation network school or innovation network charter school;
6. How much, if any, transfer tuition revenue the school corporation would receive under current law that it would not be able to receive under the bill;
7. Whether schools adopt a policy to deny enrolling certain transfer students, and if so, where students transferring out of a public school choose to enroll instead;
8. The number of students gained from the bill's provision regarding students who previously attended an accredited nonpublic school; and
9. The number of students lost, if any, due to the bill's ESA provision.

<u>*Additional Information*</u> *- Operating Referendum Tax Levies:* The bill eliminates school corporations' ability to extend an existing operating referendum tax levy or to have consecutive operating referendum tax levies. These provisions could decrease revenue to school corporations that would have otherwise extended an existing referendum or would have started receiving revenue from a new operating referendum levy after an existing referendum ended. Charter schools that would have received a pro rata share of the revenue from the referendum would also be impacted. The bill does not specify a length of time between operating referendum tax levies, so school corporations could choose to wait one year between the end of one levy and the beginning of another. School corporations may also choose to increase referendum tax rates to make up for the revenue that is foregone in the year between referendums. [There are expected to be 66 school corporations with an operating referendum in 2024. Of those, 32 school corporations had a referendum that started directly after a previous referendum ended as either a continuation of the previous referendum or a replacement of that referendum].

Sale or Lease of Buildings for $1: If provisions in this bill require a school corporation to sell or lease a building for $1, the school may experience a revenue decrease dependent upon how much the school would have otherwise received if it had sold or leased the building at a market rate.

COVID-19 Relief Programs: Indiana Learns is a statewide grant program that awards $1,000 to qualifying families to provide approved high-dosage tutoring to certain elementary students. Under the bill, the program will no longer expire in FY 2026. To the extent this allows more students to participate in a tutoring program through an approved public school, school revenue may increase. Public schools may also have additional funding opportunities if additional funds are appropriated to the 1008 Grant Program or Indiana Learns.

Innovation Network Provisions: The following provisions may impact how money is distributed within school corporations that have innovation network schools or innovation network charter schools, but the total revenue received by the school corporation as a whole would not be impacted:

1) Beginning in FY 2025, innovation network schools and innovation network charter schools are required to receive 100% of the state tuition support dollars their schools generate;
2) School corporations may no longer charge innovation network schools or innovation network charter schools an administrative fee; and
3) School corporations may no longer charge innovation network schools or innovation network charter schools for goods or services unless the school is receiving a pro rata share of funds from any operating fund property tax levy paid to the school corporation.

Transfer Students: Schools may receive additional state tuition support revenue if provisions in the bill allow additional nonpublic school students to transfer to a school corporation. However statewide school corporation revenue is also estimated to decrease by $4.5 M due to provisions in the bill prohibiting school corporations from charging transfer tuition to students. If school corporations choose to no longer accept transferring students, public school revenue may further be reduced if impacted students transfer to a nonpublic school instead. [See *Explanation of State Expenditures*.]

ESA Enrollment Increase: If more students transfer from public schools to the ESA program, public school revenue from state tuition support will decrease. [See *Explanation of State Expenditures.*]

State Agencies Affected: Department of Education; state educational institutions; Department of Health, Department of Correction, Indiana School for the Deaf, Indiana School for the Blind and Visually Impaired, Office of Administrative Law Judges.

Local Agencies Affected: Public schools.

Information Sources: Department of Education, 2023 Student Learning Recovery Grant Report. https://s3.us-east-2.amazonaws.com/iga-publications/agency_report/2023-11-02T15-39-58.912Z-2023%20-%20Student%20Learning%20Recovery%20Grant%20Report.pdf;

Indiana Learns, https://www.indianalearns.org/;

https://www.in.gov/doe/students/special-education/special-education-due-process-hearing-511-iac-7-45-3-through-7-45-7/

LSA Education Database.

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