



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 410 and 411 (as introduced 5-4-21)
Sponsor: Senator Lana Theis (S.B. 410)
Senator Kimberly LaSata (S.B. 411)
Committee: Education and Career Readiness

Date Completed: 6-8-21

CONTENT

Senate Bill 410 would amend the State School Aid Act to require a resident intermediate school district (ISD) or school district to transfer its special education millage support per pupil, in addition to other State and Federal funding, to an enrolling district or ISD if the resident and enrolling districts or ISDs did not reach an agreement on the responsibility for the payment of the added costs of special education programs and services for a nonresident pupil who was eligible for those services.

Senate Bill 411 would amend the Revised School Code to specify that payments described under Senate Bill 410 between a resident ISD or district and an enrolling ISD or district would be considered special education operating purposes.

The bills are tie-barred.

Senate Bill 410

The Act generally provides a process by which a district may count a nonresident pupil residing in that district located in a contiguous ISD in membership without the approval of that pupil's resident district. Currently, in order for a district or ISD to enroll a nonresident pupil who resides in a district located in a contiguous ISD and who is eligible for special education programs and services, or who is a child with disabilities, as defined under the Individuals with Disabilities Education Act, the enrolling district must have a written agreement with the pupil's resident district for the purpose of providing the pupil with a free appropriate public education.

The written agreement must include an agreement on the responsibility for the payment of the added costs of special education programs and services for that pupil. The agreement also must address how the agreement must be amended in the event of significant changes in the costs or level of special education programs or services required by the pupil.

Under the bill, beginning on its effective date, if an agreement were not reached, a district or ISD could enroll a nonresident pupil who resided in a district located in a contiguous ISD and who was eligible for special education programs and services. After the pupil's enrollment, the resident ISD would have to transfer its special education millage support per pupil, in addition to all other State and Federal funding that otherwise would be provided to the enrolling district or ISD for that pupil, to the enrolling district or ISD. If an agreement were not reached, as provided in the bill, the enrolling district or ISD would be responsible,

consistent with State and Federal law, for providing the enrolling pupil with a free appropriate public education.

"Special education millage support per pupil" would mean the total of the proceeds from millage authorized or renewed after the bill's effective date by the resident ISD of the pupil under Section 1724a of the Code, divided by the sum of the number of special education pupils who are counted in membership by the resident ISD of the pupil and the number of pupil who are counted in membership in constituent districts of the resident ISD of the pupil. "Constituent district" would mean a district or PSA that is located within the geographic boundaries of the ISD.

Senate Bill 411

Under the Code, an ISD that levies a tax for special education operating purposes may not use proceeds from the tax for any purpose other than special education operating purposes and must submit to the Department of Treasury a copy of the audit report from the audit of the ISD. If the Department determines from the report that the proceeds were used for a purpose other than special education operating purposes, the Code prescribes procedures by which the ISD can appeal that determination. If the Department finds that the initial determination was correct, and that the situation has not been corrected, then the Department must file a copy of the report with the Attorney General. The Attorney General must commence or direct the prosecuting attorney for the county in which the violations occurred to commence appropriate proceedings against the intermediate school board or the official or employee.

If the Attorney General determines from a report filed by the Department that an ISD has misspent tax proceeds and notifies the ISD of this determination, the ISD must repay to its special education operating fund an amount equal to the amount the Department determined had been used for purposes other than special education operating purposes. The ISD must make this repayment from funds of the ISD that lawfully may be used for making such repayments.

The MDE, the Department of Treasury, in consultation with the ISD, must develop and make available to ISDs a definition of special education operating purposes. Beginning on the bill's effective date, special education operating purposes would include payment by an ISD of portions of the proceeds from a millage that was authorized or renewed by the ISD after the bill's effective date to an enrolling ISD or district in providing that enrolling ISD or district with its special education millage support per pupil as specified under Section 105c(19) of the State School Aid Act (which Senate Bill 410 would amend), because an agreement was not been reached between the resident ISD and the enrolling ISD.

The bill also would incorporate the definition of "special education millage support per pupil" described under Senate Bill 410.

MCL 388.1705c (S.B. 410)
380.1724a (S.B. 411)

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bills would have no fiscal impact on the State. The bills would have a fiscal impact on resident districts and ISDs that, when a pupil who is eligible for special education programs and services wants to participate in schools of choice, fail to come to an agreement on cost-sharing for special education services. In those instances, under current law, if an agreement on cost-sharing is not reached, the pupil must remain at his or her resident district. Under

the bills, the pupil could enroll in the schools of choice district and the resident ISD would have to transfer to the enrolling district the per-pupil equivalent of special education millage revenue raised by the resident ISD, along with all other State and Federal funds that otherwise would be in support of that student. The enrolling district, then, would be able to count the pupil, receive foundation allowance and other State funding, applicable Federal funding, and a per-pupil share of local special education millage revenue raised by the resident ISD. An enrolling district would be responsible for providing the enrolling pupil with a free and appropriate public education.

Fiscal Analyst: Kathryn Summers

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.