
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No:	AB 3136	Hearing Date:	June 20, 2018
Author:	O'Donnell, et al.		
Version:	April 23, 2018		
Urgency:	No	Fiscal:	Yes
Consultant:	Ian Johnson		

Subject: Special education funding.

SUMMARY

This bill requires that special education funding rates to be equalized to the 95th percentile after the Local Control Funding Formula (LCFF) is fully funded and makes other various special education funding changes.

BACKGROUND

Existing law:

- 1) Establishes, commencing with the 1998-99 fiscal year, a “census based” funding system for the allocation of state special education funds, providing most funding appropriated for support of special education programs on the basis of the average daily attendance (ADA) of special education students enrolled in the prior year, multiplied by a funding rate unique to each Special Education Local Plan Areas (SELPA).
- 2) Establishes a calculation for determining a statewide target rate of funding used for the purpose of calculating the funding rate of ADA growth in each SELPA.
- 3) Requires, in specified fiscal years, equalization adjustments to be made to increase the funding rates of SELPAs with rates below the 90th percentile.
- 4) Establishes an extraordinary cost pool for the extraordinary costs associated with single placements in nonpublic, nonsectarian schools.
- 5) Establishes a low incidence disability fund for costs associated with the education of students who are visually impaired, hearing impaired, and severely orthopedically impaired, and any combination thereof.
- 6) Requires, through state and federal law, that children with exceptional needs between the ages of three and five be provided with a free and appropriate education.

ANALYSIS

This bill requires that special education funding rates to be equalized to the 95th percentile after the LCFF is fully funded and makes other various special education funding changes. Specifically, this bill:

- 1) States the intent of the Legislature that the requirements of the act be implemented over the course of five years.
- 2) Requires that, in the first fiscal year following the full funding of the Local Control Funding Formula (LCFF), the Superintendent of Public Instruction (SPI) compute an equalization adjustment for each Special Education Local Plan Areas (SELPA), and sets the target equalization rate at 95th percentile of statewide funding rates.
- 3) Specifies the method for calculating this equalization adjustment as follows:
 - a) Multiply the amount computed for each SELPA by the average daily attendance (ADA) used to calculate its funding for the year in which an appropriation is made for equalization.
 - b) Divide the amount appropriated for purposes an equalization adjustment by the statewide sum of the amount computed above.
 - c) Multiply the amount computed for the SELPA by the amount computed above.
- 4) Requires the SPI, in each year following an equalization adjustment, to perform the following computations to determine the statewide target amount per unit of ADA in order to determine the inflation adjustment and growth adjustment:
 - a) Total the amount of funding computed for each SELPA.
 - b) Total the number of units of ADA reported for each SELPA for the fiscal year preceding the equalization appropriation.
 - c) Divide the total funding by the total ADA.
- 5) Requires that, for the purpose of providing funding for preschool-aged children with special needs, commencing with the first fiscal year after the full funding of LCFF, a SELPA that reports serving children three or four years of age who meet the definition in Section 56026, except for a special education local plan area that, as of December 1, 2017, reported exclusively serving children three or four years of age in transitional kindergarten or kindergarten, for purposes of calculating units of average daily attendance, count three times all units of ADA generated by children enrolled in kindergarten, less those children eligible for transitional kindergarten.
- 6) Requires that any growth in average daily attendance generated by the preschool adjustment be funded at the prevailing statewide target rate.
- 7) Establishes a high cost service allowance for the purpose of providing supplemental funding to a SELPA on the basis of the number of pupils with severe disabilities, defined as autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe intellectual disability, both deafness and blindness, traumatic brain injury, and multiple disabilities.

- 8) For the 2018–19 fiscal year, requires the Superintendent of Public Instruction (SPI) to make the following computations to determine the high-cost service allowance for each Special Education Local Plan Areas (SELPA):
 - a) From the December 2017 pupil count, the number of pupils who have a severe disability, as defined.
 - b) Multiply this amount by the statewide target amount per unit of average daily attendance for the 2018–19 fiscal year.
- 9) Requires the SPI, for the 2019–20 fiscal year and each fiscal year thereafter, to make the same adjustment as required for the 2018-19 fiscal year, using a pupil count from December of the prior year.
- 10) Changes the definition of average daily attendance for the purpose of calculating growth funding, to mean the total number of units of average daily attendance (ADA) of the districts or county offices which make up the SELPA, for the current or prior school year, whichever is greater, thereby allowing declining enrollment adjustments to be made on the basis of changes in district, rather than SELPA enrollment.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “All of California’s students deserve an education worthy of their potential. This is no less true for our students with disabilities as it is for any others.

But for decades the state has underinvested in our special education system, allowing unequal rates to disadvantage students in some regions for no reason, providing disincentives to invest early in the education of our students - when the return is greatest, and failing to provide additional resources to support students who require a higher level of service to succeed.

Multiple reports over the years have argued for targeted investments to fix our special education finance system and better support our special education students. One such report, the 2015 report of the California Special Education Task Force (convened by the State Board of Education, the Superintendent of Public Instruction, and the Commission on Teacher Credentialing) set out a goal of one coherent system that serves all students, with a vision that special education students would be viewed as general education students first.”

“AB 3136 would remedy several long standing deficiencies in our special education finance system, providing resources to help our students with disabilities reach their full potential.”

- 2) ***Special education funding history.*** In 1975, California developed its Master Plan for Special Education, which expanded the types of services schools were required to provide students with disabilities. In that same year, Congress passed the Individuals with Disabilities Education Act. The Master Plan also required all districts to join Special Education Local Plan Areas responsible for

coordinating special education among its member districts. Lastly, the Master Plan introduced a simplified funding system (J-50 system) based on the following three types of special education services: (1) special day classes attended only by students with disabilities, (2) resource specialists providing pull-out instructional support, and (3) designated instruction and services supplementing general instruction.

Under the J-50 funding system, schools received one rate for each special day class they operated, another rate for each resource specialist, and another for each employee providing designated instruction and services. Each Special Education Local Plan Areas (SELPA's) rates were set based on a statewide survey of special education costs in 1979-80, which no longer reflected the full range of services offered by the mid-1990s. In response, the state adopted a new special education system based on overall attendance (AB 602 system) which is still used today.

- 3) **Current special education funding system.** Since 1998, the state has funded SELPAs based on their overall student attendance, regardless of how many students they serve in special education, the specific disabilities of those students, or what types of services those students receive. This census-based approach was intended to eliminate the complexity and perverse incentives of the former J-50 system.

When the AB 602 system was first introduced, the state set each SELPA's per-student funding rate equal to its total funding in the last year under the J-50 system divided by its total student population in that year. Because funding rates varied notably under the J-50 system, the new rates established under AB 602 also varied notably. The state established a statewide target rate equal to the average special education per-student funding rate and allocated funding in the late 1990s and early 2000s to bring SELPAs below the statewide target rate up to the target. However, the state has provided no additional funding to equalize per-student rates since 2000-01.

Although funding rates remain unequal, AB 602 has largely realized the state's original goals of simplifying funding and encouraging instructional innovation. Regarding simplicity, schools no longer complete complicated paperwork based on intricate formulas before they receive state funding. Regarding innovation, the proportion of students with severe disabilities being served in mainstream settings has doubled since the late 1990's (from 15 to 30 percent).

- 4) **Low incidence disabilities.** State law defines students who are deaf, hard of hearing, visually impaired, or orthopedically impaired as having "low-incidence" disabilities. Students with these disabilities typically account for roughly 0.5 percent of all K-12 students. Students with low-incidence disabilities often require relatively expensive support. To help SELPAs cover the higher costs of serving these students, the state has allocated some funding based on the number of students with low-incidence disabilities since 1985-86. These funds can be spent on either materials or services for these students.

This bill proposes a new high cost service allowance for the purpose of providing supplemental funding to Special Education Local Plan Areas (SELPA) based on the number of pupils with severe disabilities, defined as autism, blindness, deafness, severe orthopedic impairments, serious emotional disturbances, severe intellectual disability, both deafness and blindness, traumatic brain injury, and multiple disabilities. The allowance would be equal to the average base rate, which is about \$533.

- 5) ***Special education preschool funding.*** State and federal law require local educational agencies to provide services for preschool-age students with exceptional needs. Dedicated support for costs of providing special education services for preschool age students comes from federal and local funds, but funding is not specifically provided for these students through AB 602. According to the author, LEAs spent approximately \$500 million in 2014-15 for special education preschool services.
- 6) ***Declining enrollment adjustment.*** Under current law, special education funding is based on the greater of current or prior year average daily attendance (ADA) at the SELPA-level. To calculate ADA at the SELPA level, ADA from all districts within a SELPA is combined. Critics of this approach argue that combining the ADA of each district within a SELPA, then applying the greater of current or prior year, masks the declining enrollment of certain districts within a SELPA if other districts within the SELPA are growing.

This bill specifies that each district shall first take the greater of current or prior year ADA, then combine the ADA of each district within a SELPA. The effect of this provision could be that when students transfer districts within the same SELPA, the SELPA would be double-funded for the transferring students even though the SELPA would not be serving any more students.

SUPPORT

Coalition for Adequate Funding for Special Education (co-sponsor)
 California Association of School Business Officials (co-sponsor)
 Acton-Agua Dulce Unified School District
 Albany Unified School District
 Antelope Valley SELPA
 Antelope Valley Union High School District
 Arcata School District Board of Trustees
 Association of California School Administrators
 Atascadero Unified School District
 Berkeley Unified School District
 Big Sur Unified School District
 Bonsall Unified School District
 Cabrillo Unified School District
 Cajon Valley Union School District
 Calaveras County Office of Education
 Calaveras County SELPA
 California Association of Private Special Education Schools & Agencies

California Association of Professors of Special Education/CEC Teacher Education Division

California Association of School Psychologists

California Council of Administrators of Special Education

California School Boards Association

California School Funding Coalition

California School Employees Association

California State PTA

California Teachers Association

Cardiff School District

Castaic Union School District

Cayucos Elementary School District

CCHAT Center

Center for Early Intervention on Deafness

Central School District

Chula Vista Elementary School District

Clovis Unified School District

Coalinga-Huron Unified School District

Contra Costa SELPA

Cupertino Union School District

Davis Joint Unified School District

Del Mar Union School District

Dixon Unified School District

East County SELPA

East San Gabriel Valley SELPA Superintendents' Council

Eastside Union School District

El Dorado Charter SELPA

El Dorado County SELPA

El Segundo Unified School District

Encinitas Union School District

Escondido Union High School District

Etiwanda School District

Eureka City Schools

Fairfield-Suisun Unified School District

Firebaugh-Las Deltas Unified School District

Fortuna Elementary School District

Fortuna Union High School District

Fresno County Charter SELPA

Fresno Unified School District

Gorman Joint School District

Greater Anaheim SELPA

Grossmont Union High School District

Happy Valley Union Elementary School District

Hawthorne School District

Hueneme Elementary School District

Hughes Elizabeth Lakes Union School District

Humboldt County Office of Education

Humboldt County SELPA

Humboldt-Del Norte SELPA director, Mindy Fattig

Jamul-Dulzura Union School District

John Tracy Clinic
Junction Elementary School District
Keppel Union School District
Kerman Unified School District
Kern County Superintendent of Schools
Kingsburg Joint Union High School District
Lakeside Union School District
Lancaster School District
Lawndale Elementary School District Superintendent, Betsy Hamilton
Lemon Grove School District
Los Angeles County Charter SELPA
Los Angeles County Office of Education
Los Gatos-Saratoga Joint Union High School District
Lucia Mar Unified School District
Mid-Alameda County SELPA
Milpitas Unified School District
Moreland School District
Morongo Unified School District
Mt. Diablo Unified School District
Mupu Elementary School District
Napa County SELPA
National School District
North Coast Consortium for Special Education
North Coastal Consortium for Special Education Advisory Committee
North Region SELPA
Oak Grove School District
Oakland Unified School District
Ocean View School District
Oceanside Unified School District
Orchard School District
Pacific Union School District
Palmdale School District
Paso Robles Joint Unified School District
Piedmont Unified School District
Poway Unified School District
Presence Learning
Puente Hills SELPA
Rancho Santa Fe School District
Redondo Beach Unified School District
Riverdale Joint Unified School District
Riverside County Superintendent of Schools
Sacramento City Unified School District
San Antonio Union School District
San Diego South County SELPA
San Dieguito Union High School District
San Joaquin County Office of Education
San Luis Obispo County Office of Education
San Luis Obispo SELPA
San Mateo County SELPA
San Ysidro School District

Santa Clara County Office of Education
Santa Clara SELPA Areas I-IV and VII
Santa Clara Unified School District, SELPA VII
Santa Clarita Valley SELPA
Santa Rita Union School District
SELPA Administrators Association of California
Shasta County SELPA
Solana Beach School District
Solano County SELPA
Sonora Union High School District
SOUL Charter School
South Bay Union School District
South Monterey County Joint Union High School District
South Orange County SELPA
Southern Humboldt Unified School District
Southwest SELPA
Spectrum Center
Statewide Special Education Task Force
Stockton Unified School District
Sweetwater Union High School District
Tehama County SELPA
Torrance Unified School District
Travis Unified School District
Tuolumne County SELPA
Twin Rivers Unified School District
Upland Unified School District
Vacaville Unified School District
Vallecitos School District
Ventura County Office of Education
Ventura County SELPA
Vista Unified School District
Weingarten Children's Center
West Contra Costa Unified School District
West End SELPA
Westside Union School District
Wilsona School District
Winters Joint Unified School District
Wiseburn Unified School District
Woodland Joint Unified School District
Yolo County Office of Education
Yolo County SELPA
Yuba County SELPA
Various individuals

OPPOSITION

Greater Ontario Democratic Club
Inland Empire Latino Coalition
The Special Education Advocate Leaders
Upland Unified School District Parents

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