

AMENDED IN SENATE SEPTEMBER 2, 2003

AMENDED IN SENATE JULY 17, 2003

AMENDED IN ASSEMBLY MAY 12, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1649

Introduced by Assembly Member Simitian

February 21, 2003

An act to amend Sections 56836.16 and 56836.17 of, and to add Sections ~~48207.5~~ and *Section* 56836.175 to, the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1649, as amended, Simitian. Special education: skilled nursing facilities.

~~(1) Existing law requires a pupil to attend the public full-time day school or continuation school or classes in the school district in which the residency of the pupil's parent or guardian is located. Existing law provides an exception to this requirement for a pupil with a temporary disability who is in a hospital or other residential health facility, excluding a state hospital, located outside of the school district in which the pupil's parent or guardian resides by deeming these pupils to have complied with the residency requirements of the school district in which the hospital is located.~~

~~This bill would, in contrast, provide that a pupil with a temporary disability who also requires special education instruction and who is in a skilled nursing facility located outside of the school district in which his or her parent or guardian resides has not met the residency~~

~~requirements for the school district in which the skilled nursing facility is located.~~

(2) Existing law requires the Superintendent of Public Instruction to apportion moneys to a school district and county superintendent to fund costs associated with placing a pupil in a nonpublic, nonsectarian school or agency for the purpose of providing special education instruction, designated instruction and services, or both. Existing law also authorizes the superintendent to reimburse a school district and county superintendent for costs associated with the assessment and identification of those pupils.

This bill would extend that requirement and authorization for the purpose of funding costs associated with providing services to a pupil in a skilled nursing facility, as defined, when the pupil is directly served by a school district with an average daily attendance less than 3,000.

This bill would make other technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1.—~~Section 48207.5 is added to the Education Code,~~
2 ~~to read:~~

3 ~~48207.5. Notwithstanding Section 48207, a pupil with a~~
4 ~~temporary disability who also requires special education~~
5 ~~instruction pursuant to Part 30 (commencing with Section 56000)~~
6 ~~and is in a skilled nursing facility, as defined in subdivision (c) of~~
7 ~~Section 1250 of the Health and Safety Code, that is located outside~~
8 ~~of the school district in which the pupil's parent or guardian resides~~
9 ~~may not be deemed to have complied with the residency~~
10 ~~requirements for school attendance in the school district in which~~
11 ~~the hospital is located.~~

12 SEC. 2.—

13 SECTION 1. Section 56836.16 of the Education Code is
14 amended to read:

15 56836.16. (a) For the 1998–99 fiscal year and each fiscal
16 year thereafter, the superintendent shall apportion to each school
17 district and county superintendent providing programs pursuant to
18 Article 5 (commencing with Section 56155) of Chapter 2 an
19 amount equal to the difference, if any, between (1) the costs of
20 master contracts with nonpublic, nonsectarian schools and



1 agencies to provide special education instruction, designated
2 instruction and services, or both, to pupils in licensed children's
3 institutions, foster family homes, residential medical facilities,
4 and other similar facilities funded under this chapter, plus the costs
5 of special education instruction, designated instruction and
6 services, or both, provided directly by a school district with less
7 than 3,000 average daily attendance, to pupils who reside in a
8 skilled nursing facility, and (2) the state income received by the
9 district or county superintendent for providing these programs.
10 The sum of the excess cost, plus any state or federal income for
11 these programs, may not exceed the cost of master contracts with
12 nonpublic, nonsectarian schools and agencies to provide special
13 education and designated instruction and services for these pupils,
14 nor may it exceed the cost of providing special education
15 instruction, designated instruction and services to pupils who
16 reside in a skilled nursing facility, as determined by the
17 superintendent.

18 (b) The cost of master contracts with nonpublic, nonsectarian
19 schools and agencies, or the cost of providing special education
20 instruction, designated instruction and services to pupils who
21 reside in a skilled nursing facility, that a school district or county
22 office of education reports under this section may not include any
23 of the following costs that a school district, county office of
24 education, or special education local plan area may incur:

25 (1) Administrative or indirect costs for the local educational
26 agency.

27 (2) Direct support costs for the local educational agency.

28 (3) Transportation costs provided either directly, or through a
29 nonpublic, nonsectarian school or agency master contract or
30 individual services agreement for use of services or equipment
31 owned, leased, or contracted, by a school district, special
32 education local plan area, or county office of education for any
33 pupils enrolled in nonpublic, nonsectarian schools or agencies,
34 unless provided directly or subcontracted by that nonpublic,
35 nonsectarian school or agency pursuant to subdivisions (a) and (b)
36 of Section 56366.

37 (4) Costs for services routinely provided by the school district
38 or county office of education including all of the following, unless
39 the board grants a waiver under Section 56101:



1 (A) School psychologist services, other than those described in
2 Sections 56324 and 56363 and included in a master contract and
3 individual services agreement under subdivision (a) of Section
4 56366, and other than those provided directly by a school district
5 pursuant to the individualized education program of a pupil
6 residing in a skilled nursing facility.

7 (B) School nurse services, other than those described in
8 Sections 49423.5, 56324, and 56363 and included in a master
9 contract and individual services agreement under subdivision (a)
10 of Section 56366, and other than those provided directly by a
11 school district pursuant to the individualized education program of
12 a pupil residing in a skilled nursing facility.

13 (C) Language, speech, and hearing services, other than those
14 included in a master contract and individual services agreement
15 under subdivision (a) of Section 56366, and other than those
16 provided directly by a school district pursuant to the
17 individualized education program of a pupil residing in a skilled
18 nursing facility.

19 (D) Modified, specialized, or adapted physical education
20 services other than those included in a master contract and
21 individual services agreement under subdivision (a) of Section
22 56366, and other than those provided directly by a school district
23 pursuant to the individualized education program of a pupil
24 residing in a skilled nursing facility.

25 (E) Other services not specified by a pupil's individualized
26 education program or funded by the state on a caseload basis.

27 (5) Costs for nonspecial education programs or settings,
28 including those provided for individuals with exceptional needs
29 between the ages of birth and five years, inclusive, pursuant to
30 Sections 56431 and 56441.8.

31 (6) Costs for nonpublic, nonsectarian school or agency
32 placements outside of the state, unless placement of the pupil is
33 done pursuant to subdivisions (e) and (f) of Section 56365.

34 (7) Costs for related nonpublic, nonsectarian school pupil
35 assessments by a school psychologist or school nurse pursuant to
36 Sections 56320 and 56324.

37 (8) Costs for services that the nonpublic, nonsectarian school
38 or agency is not certified to provide.

39 (9) Costs for services provided by personnel who do not meet
40 the requirements specified in subdivision (k) of Section 56366.1.



1 (10) Costs for services provided by public school employees,
2 unless those services are provided pursuant to the individualized
3 education program of a pupil residing in a skilled nursing facility.

4 (c) A nonpublic, nonsectarian school or agency shall not claim
5 and is not entitled to receive reimbursement for attendance unless
6 the site where the pupil is receiving special education or designated
7 instruction and services is certified.

8 ~~SEC. 3.—~~

9 *SEC. 2.* Section 56836.17 of the Education Code is amended
10 to read:

11 56836.17. (a) The superintendent may reimburse each
12 school district and county office of education providing programs
13 pursuant to Article 5 (commencing with Section 56155) of
14 Chapter 2 for assessment and identification costs for pupils who
15 reside in licensed children’s institutions, foster family homes,
16 residential medical facilities, and other similar facilities who are
17 placed in state-certified nonpublic, nonsectarian schools. The
18 superintendent may also reimburse each school district and county
19 office of education for assessment and identification costs for
20 pupils who reside in a skilled nursing facility and are served
21 directly by a school district with less than 3,000 average daily
22 attendance.

23 (b) Actual costs under this section shall not include either
24 administrative or indirect costs, or any proration of support costs.

25 (c) The total amount reimbursed statewide under this section
26 shall not exceed the amount appropriated for these purposes in any
27 fiscal year. If the superintendent determines that this amount is
28 insufficient to reimburse all claims, the superintendent shall
29 prorate the deficiency among all school districts or county offices
30 of education submitting claims.

31 ~~SEC. 4.—Section 56836.17~~

32 *SEC. 3.* *Section 56836.175* is added to the Education Code, to
33 read:

34 56836.175. For purposes of this article, a “skilled nursing
35 facility” shall have the same meaning as specified in Section 1250
36 of the Health and Safety Code, and shall be under contract with the
37 State Department of Health Services to provide pediatric subacute
38 care.

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