

AMENDED IN ASSEMBLY APRIL 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2290

Introduced by Assembly Member Benoit

February 21, 2008

~~An act to add Chapter 9 (commencing with Section 56900) to Part 30 of Division 4 of Title 2 of the Education Code, relating to pupil attendance. An act to add Section 41504 to the Education Code, relating to school finance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2290, as amended, Benoit. ~~Pupil attendance: special education: Opportunity Scholarship Program. School finance: categorical funding.~~

Existing law provides funding, separately and in block grants, to school districts pursuant to various categorical education programs.

This bill, notwithstanding any other provision of law, would authorize a school district, for purposes of providing home-to-school transportation, to use up to 20% of the total amount of categorical education funding, as defined, it receives each fiscal year.

~~(1) Existing law requires each person between 6 and 18 years of age not otherwise exempted to attend a public full-time day school or continuation school or classes in the school district in which his or her parent or guardian is a resident. Existing law authorizes the governing board of a school district to adopt a resolution to become a school district of choice, as defined, and accept interdistrict pupil transfers.~~

~~Existing law, in conformity with the federal Individuals with Disabilities Education Act, assures that each individual with exceptional needs, as defined, receives a free appropriate public education that~~

includes the appropriate special education instruction and services based on the needs of the individual.

~~This bill would establish the Opportunity Scholarship Program to provide individuals with exceptional needs the option to attend the public or nonsectarian private school of their choice. The State Department of Education would be required to administer the program. The bill would authorize the parent of an eligible pupil, as defined, to receive a scholarship from the state for the pupil to enroll in and attend a participating school, as defined, if the pupil has an IEP in effect, the pupil has been accepted for admission at a participating school, and the parent has requested a scholarship from the state before the deadline established by the department. Upon receipt of an eligible pupil's request for a scholarship, the department would be required to provide an opportunity scholarship for the pupil in the amount of \$10,000 or the per pupil amount the resident school district, as defined, has received in the past for the pupil's attendance, whichever amount is higher. The bill would require nonsectarian private schools to comply with prescribed requirements in order to participate in the program. The Legislative Analyst would be required to conduct a study of the program.~~

~~(2) By requiring school districts to enroll and provide services to nonresident pupils and to perform other additional duties, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~(3) The bill would become operative beginning with the 2009-10 school year.~~

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

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

- 1 SECTION 1. Section 41504 is added to the Education Code,
- 2 to read:
- 3 41504. (a) Notwithstanding any other provision of law, for
- 4 purposes of providing home-to-school transportation, a school

1 *district may use up to 20 percent of the total amount of categorical*
2 *education funding it receives each fiscal year.*

3 (b) *For purposes of this section, “categorical education*
4 *funding” means funding provided pursuant to one of the*
5 *categorical programs included in the block grants established by*
6 *this chapter, or pursuant to any other categorical program*
7 *established in this code, for purposes of providing direct services*
8 *to pupils, excluding funding for special education.*

9 SECTION 1. ~~Chapter 9 (commencing with Section 56900) is~~
10 ~~added to Part 30 of Division 4 of Title 2 of the Education Code,~~
11 ~~to read:~~

12

13 ~~CHAPTER 9. OPPORTUNITY SCHOLARSHIP PROGRAM~~

14

15 ~~56900. This chapter shall be known and may be cited as the~~
16 ~~“Opportunity Scholarship Act.”~~

17 ~~56901. It is the intent of the Legislature, in enacting this~~
18 ~~chapter, to provide individuals with exceptional needs the option~~
19 ~~to attend the public or nonsectarian private school of their choice.~~

20 ~~56902. For purposes of this chapter, the following definitions~~
21 ~~apply:~~

22 (a) ~~“Eligible pupil” means an elementary or secondary pupil~~
23 ~~whose school district has identified the child as an individual with~~
24 ~~exceptional needs, who has an IEP in effect for the child, and who~~
25 ~~was enrolled in public school in the previous school year or is~~
26 ~~eligible to enter public school in the school year in which a~~
27 ~~scholarship is first sought for the child.~~

28 (b) ~~“IEP” means an individualized education program prepared~~
29 ~~in accordance with Article 3 (commencing with Section 56340)~~
30 ~~of Chapter 4 and its implementing regulations.~~

31 (c) ~~“Parent” means a parent, guardian, custodian, or other person~~
32 ~~with authority to act on behalf of an eligible pupil.~~

33 (d) ~~“Participating school” means a public school outside of the~~
34 ~~resident school district or a nonsectarian private school that~~
35 ~~provides education to elementary or secondary pupils, or both, that~~
36 ~~has notified the department of its intention to participate in the~~
37 ~~program and comply with all program requirements.~~

38 (e) ~~“Program” means the Opportunity Scholarship Program.~~

39 (f) ~~“Resident school district” means the school district in which~~
40 ~~an eligible pupil resides.~~

- 1 ~~56903. (a) The Opportunity Scholarship Program is hereby~~
2 ~~established and shall be administered by the department.~~
- 3 ~~(b) The department shall adopt rules and regulations regarding~~
4 ~~all of the following:~~
- 5 ~~(1) Eligibility and participation of nonsectarian private schools,~~
6 ~~including timelines that will maximize participation by pupils~~
7 ~~public schools, and nonsectarian private schools.~~
- 8 ~~(2) Calculation and distribution of scholarships to eligible pupils~~
9 ~~and participating schools.~~
- 10 ~~(3) Application and approval procedures for eligible pupils and~~
11 ~~participating schools.~~
- 12 ~~(c) No liability shall arise on the part of the department or the~~
13 ~~state regarding the award or use of an opportunity scholarship.~~
- 14 ~~(d) The department may bar a school from participation in the~~
15 ~~program if the department establishes that the participating school~~
16 ~~has done either of the following:~~
- 17 ~~(1) Intentionally and substantially misrepresented information~~
18 ~~required under Section 56906.~~
- 19 ~~(2) Failed to refund scholarship overpayments to the state in a~~
20 ~~timely manner.~~
- 21 ~~(e) The department shall notify eligible pupils and their parents~~
22 ~~regarding a decision to bar a participating school from the program~~
23 ~~as quickly as possible.~~
- 24 ~~(f) The department annually shall decrease a school district's~~
25 ~~state apportionment payment by an amount equal to the aggregate~~
26 ~~amount of scholarships awarded pursuant to Section 56904 to~~
27 ~~pupils who reside in the district and otherwise would be enrolled~~
28 ~~in schools within the district. If the state apportionment payment~~
29 ~~is insufficient to cover the reduction, the department shall decrease~~
30 ~~other state aid payments made by the department to the school~~
31 ~~district by the remaining amount.~~
- 32 ~~56904. (a) A parent of an eligible pupil may receive a~~
33 ~~scholarship from the state for the pupil to enroll in and attend a~~
34 ~~participating school if all of the following apply:~~
- 35 ~~(1) The pupil has an IEP in effect.~~
- 36 ~~(2) The pupil has been accepted for admission at a participating~~
37 ~~school.~~
- 38 ~~(3) The parent of the pupil has requested a scholarship from the~~
39 ~~state before the deadline established by the department.~~

1 ~~(b) The department shall inform the resident school district that~~
2 ~~an eligible pupil has requested an opportunity scholarship. The~~
3 ~~resident school district, within five business days, shall provide~~
4 ~~the department with a copy of the pupil's current IEP.~~

5 ~~(c) Upon receipt of an eligible pupil's request for a scholarship,~~
6 ~~the department shall provide an opportunity scholarship for the~~
7 ~~pupil in the amount of ten thousand dollars (\$10,000) or the per~~
8 ~~pupil amount the resident school district has received in the past~~
9 ~~for the pupil's attendance, whichever amount is higher.~~

10 ~~(d) Eligible pupils participating in the program shall be counted~~
11 ~~in the enrollment of the resident school district for state~~
12 ~~apportionment purposes. The funds needed to provide a scholarship~~
13 ~~shall be subtracted from the state apportionment payable to the~~
14 ~~pupil's resident school district.~~

15 ~~(e) A scholarship awarded pursuant to this chapter shall remain~~
16 ~~in force until the eligible pupil returns to a public school within~~
17 ~~his or her resident school district, graduates from high school, or~~
18 ~~reaches age 21, whichever event occurs first.~~

19 ~~(f) At any time, an eligible pupil's parent may remove the pupil~~
20 ~~from the participating school and place the pupil in another~~
21 ~~participating school or in a public school within the pupil's resident~~
22 ~~school district.~~

23 ~~56905. (a) A resident school district annually shall notify the~~
24 ~~parent of an eligible pupil about the program and offer the parent~~
25 ~~an opportunity to enroll the pupil in another public school within~~
26 ~~the resident district or to apply for a scholarship to enroll the pupil~~
27 ~~in a participating school of their choice.~~

28 ~~(b) The resident school district shall provide a participating~~
29 ~~school that has admitted an eligible pupil with a complete copy of~~
30 ~~the pupil's school records, in accordance with the federal Family~~
31 ~~Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec.~~
32 ~~1232g).~~

33 ~~(c) The resident school district shall provide transportation for~~
34 ~~an eligible pupil to and from the participating school under the~~
35 ~~same conditions as the resident school district is required to provide~~
36 ~~transportation for other resident pupils if the school is located~~
37 ~~within the resident district's boundaries. The resident school district~~
38 ~~is eligible for state transportation aid for each pupil who receives~~
39 ~~transportation pursuant to this subdivision. If the participating~~
40 ~~school is located outside of the resident district's boundaries, the~~

1 ~~parents of the pupil shall be responsible for the pupil's~~
2 ~~transportation and are not eligible for transportation reimbursement.~~

3 ~~(d) If the parent of an eligible pupil participating in this program~~
4 ~~requests that the pupil take statewide assessments, the resident~~
5 ~~school district shall provide locations and times for the pupil to~~
6 ~~take all of the applicable statewide assessments if the assessments~~
7 ~~are not offered at the participating school in which the pupil is~~
8 ~~enrolled.~~

9 ~~56906. (a) To be eligible to participate in the program, a~~
10 ~~nonsectarian private school shall operate in this state and~~
11 ~~demonstrate all of the following:~~

12 ~~(1) That the school does all of the following to ensure that pupils~~
13 ~~are treated fairly and kept safe:~~

14 ~~(A) Complies with all state laws regarding health and safety~~
15 ~~that apply to nonsectarian private schools.~~

16 ~~(B) Maintains a valid occupancy permit if required by the~~
17 ~~municipality in which the school is located.~~

18 ~~(C) Certifies that the school will not discriminate in admissions~~
19 ~~on the basis of race, color, national origin, or religion.~~

20 ~~(D) Complies with all state laws that apply to private schools~~
21 ~~regarding criminal background checks for employees and excludes~~
22 ~~from employment any person who is not permitted by state law to~~
23 ~~work in a private school.~~

24 ~~(2) That the school does both of the following to ensure that~~
25 ~~public funds are spent appropriately:~~

26 ~~(A) Demonstrates its financial accountability by submitting a~~
27 ~~financial information report for the school that complies with~~
28 ~~uniform financial accounting standards established by the~~
29 ~~department and is conducted by a certified public accountant. The~~
30 ~~accountant shall certify that the report is free of material~~
31 ~~misstatements. The report shall be limited in scope to those records~~
32 ~~that are necessary for the department to make scholarship payments~~
33 ~~to participating schools.~~

34 ~~(B) Demonstrates its financial viability by showing that it can~~
35 ~~pay funds owed to the state, if the school receives fifty thousand~~
36 ~~dollars (\$50,000) or more during a school year, by doing both of~~
37 ~~the following:~~

38 ~~(i) Filing with the department prior to the start of the school~~
39 ~~year a surety bond payable to the state in an amount equal to the~~

1 aggregate amount of the scholarships expected to be paid during
2 the school year to pupils admitted to the school.

3 (ii) Filing with the department prior to the start the school year
4 financial information that demonstrates that the school has the
5 ability to pay an aggregate amount equal to the amount of the
6 scholarships expected to be paid during the school year to pupils
7 admitted to the school.

8 (3) That the school does both of the following to ensure that it
9 provides academic accountability to parents of pupils participating
10 in the program:

11 (A) Regularly reports the progress of pupils to parents.

12 (B) Requires employees providing special education or related
13 services to hold the appropriate credential, license, or certificate
14 issued by the state.

15 (4) That the school is autonomous and not an agent of the state
16 or federal government.

17 (b) Participation by a nonsectarian private school in the program
18 shall not result in either of the following:

19 (1) Authority of the department or another state agency to
20 regulate the educational program of the school.

21 (2) Expanded regulatory authority of the state, its officers, or a
22 school district to impose additional regulation of the school beyond
23 measures that are reasonably necessary to enforce the requirements
24 of the program.

25 (c) A nonsectarian private school that participates in the program
26 shall be given the maximum freedom to provide for the educational
27 needs of its pupils without governmental control.

28 56907. (a) The parent of an eligible pupil is responsible for
29 selecting the school for enrollment, applying for admission to that
30 school, and applying for a scholarship to attend that school pursuant
31 to this chapter.

32 (b) A pupil participating in the program shall comply with a
33 participating school's written code of conduct and shall remain in
34 attendance throughout the school year, unless excused by the school
35 for illness or other good cause. A parent may transfer a pupil
36 participating in the program to another school, regardless of its
37 participation in the program, at any time. In the event of a transfer
38 from one participating school to another, the scholarship amount
39 shall be prorated between the schools according to the period of
40 attendance at each school.

1 ~~(e) The decision of a parent for his or her pupil to participate in~~
2 ~~the program constitutes a private placement for purposes of the~~
3 ~~federal Individuals with Disabilities Education Act.~~

4 ~~56908. (a) The Legislative Analyst shall conduct a study of~~
5 ~~the program that includes an assessment of all of the following:~~

6 ~~(1) The level of participating pupils' satisfaction with the~~
7 ~~program.~~

8 ~~(2) The level of parental satisfaction with the program.~~

9 ~~(3) The percentage of participating pupils who receive~~
10 ~~inadequate services or ill treatment due to their special needs status~~
11 ~~at their resident school districts compared to the percentage who~~
12 ~~receive inadequate services or ill treatment due to their special~~
13 ~~needs status at participating schools.~~

14 ~~(4) The percentage of participating pupils who exhibit behavioral~~
15 ~~problems at their resident school districts compared to the~~
16 ~~percentage who exhibit behavioral problems at participating~~
17 ~~schools.~~

18 ~~(5) The class size experienced by participating pupils at their~~
19 ~~resident school districts and at participating schools.~~

20 ~~(6) The fiscal impact of the program on the state and resident~~
21 ~~school districts.~~

22 ~~(b) The results of the study shall be provided to the Governor~~
23 ~~and the members of the Legislature.~~

24 ~~(c) The schools from which pupils transfer to participate in the~~
25 ~~program shall cooperate with the research effort described in this~~
26 ~~section by providing pupil assessment scores and any other data~~
27 ~~necessary to complete the study.~~

28 ~~(d) The Legislative Analyst shall make the data and the~~
29 ~~methodology it employs to complete the study described in this~~
30 ~~section available for public review while complying with the~~
31 ~~requirements of the federal Family Educational Rights and Privacy~~
32 ~~Act of 1974 (20 U.S.C. Sec. 1232g).~~

33 ~~SEC. 2. If the Commission on State Mandates determines that~~
34 ~~this act contains costs mandated by the state, reimbursement to~~
35 ~~local agencies and school districts for those costs shall be made~~
36 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
37 ~~4 of Title 2 of the Government Code.~~

1 ~~SEC. 3. This act shall become operative beginning with the~~
2 ~~2009-10 school year.~~

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