House Engrossed Senate Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 93

SENATE BILL 1018

AN ACT

AMENDING SECTIONS 15-816.01, 15-824 AND 15-825, ARIZONA REVISED STATUTES; RELATING TO SCHOOL DISTRICT TUITION AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 15-816.01, Arizona Revised Statutes, is amended to read:

15-816.01. Enrollment policies

A. School district governing boards shall establish policies and shall implement an open enrollment policy without charging tuition. Tuition may be charged to nonresident pupils only ~~when~~ IF the tuition is authorized under section 15-764, subsection C, section 15-797, subsection C, section 15-823, subsection A, section 15-824, subsection A or section 15-825 OR IF TWO SCHOOL DISTRICTS HAVE ENTERED INTO A VOLUNTARY AGREEMENT FOR THE PAYMENT OF TUITION FOR CERTAIN PUPILS. These policies shall include admission criteria, application procedures and transportation provisions. A copy of the district policies for open enrollment shall be filed with the department of education.

B. The governing board of the district educating the pupil may provide transportation limited to no more than twenty miles each way to and from the school of attendance or to and from a pickup point on a regular transportation route or for the total miles traveled each day to an adjacent district for eligible nonresident pupils who meet the economic eligibility requirements established under the national school lunch and child nutrition acts (42 United States Code sections 1751 through 1785) for free or reduced price lunches.

C. The governing board of the district educating the pupil shall provide transportation limited to no more than twenty miles each way to and from the school of attendance or to and from a pickup point on a regular transportation route or for the total miles traveled each day to an adjacent district for nonresident pupils with disabilities whose individualized education program specifies that transportation is necessary for fulfillment of the program.

Sec. 2. Section 15-824, Arizona Revised Statutes, is amended to read:

15-824. Admission of pupils of other school districts; homeless children; tuition charges; definitions

A. The governing board of a school district shall admit pupils from another school district or area as follows:

1. Upon the presentation of a certificate of educational convenience issued by the county school superintendent pursuant to section 15-825.

2. For three hundred fifty or fewer pupils, to a high school without the presentation of such certificate, if the pupil is a resident of a common school district within this state ~~which~~ THAT is not within a high school district and ~~which~~ THAT does not offer instruction in the pupil's grade. The three hundred fifty or fewer pupil limitation prescribed in this paragraph does not apply to a small isolated school district as defined in section 15-901. Tuition shall be charged as prescribed in subsection E of this section for each pupil admitted pursuant to this paragraph, each pupil from a school district that provides only financing for pupils who are instructed by another school district and each pupil from a unified district that does

not offer instruction in the pupil's grade. The school membership of such pupils is deemed, for the purpose of determining student count and for apportionment of state aid, to be enrollment in the school district of the pupil's residence.

B. The residence of the person having legal custody of the pupil is considered the residence of the pupil, except as provided in subsection C of this section and in section 15-825, subsection B.

C. The current residence of a homeless pupil who does not reside with the person having legal custody of the pupil is considered to be the residence of the homeless pupil if the person having legal custody of the pupil is a resident of the United States. For the purposes of this subsection, "homeless pupil" means a pupil who has a primary residence that is:

1. A supervised publicly or privately operated shelter designed to provide temporary living accommodations.

2. An institution that provides a temporary residence for individuals intended to be institutionalized.

3. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

D. The school enrollment of a pupil who is a resident of this state or who is admitted to a school district under section 15-823, subsection B, C or E is deemed, for the purpose of determining student count and for apportionment of state aid, to be enrollment in the school district of actual attendance, except as provided in section 15-825, subsection A, paragraph 1 and subsection A, paragraph 2 of this section and except for pupils for whom the superintendent of public instruction is charged tuition pursuant to section 15-825, subsections B and D and section 15-976 or for whom another school district is charged tuition as provided in subsections E and G of this section.

E. If tuition is required to be charged for pupils attending school in a school district other than that of their residence, the tuition shall be determined and paid in the following manner:

1. The number of high school pupils for which tuition may be charged to a common school district ~~which~~ THAT is not within a high school district is equal to the average daily membership in the district of attendance from the common school district for the prior fiscal year, except that for the first year in which a common school district not within a high school district stops teaching high school subjects, the district of attendance may charge tuition for the number of pupils which is equal to the average daily membership for high school pupils in the common school district for the prior fiscal year. This number may be adjusted if the common school district increases its revenue control limit and district support level or recomputes its revenue control limit as provided in section 15-948.

2. The tuition for pupils attending school in a school district other than that of their residence, except pupils provided for by section 15-825, subsections B and D and any pupils included in the definition of child with a disability in section 15-761, shall not exceed the cost per student count of the school district attended, as determined for the current school year. Tuition for pupils included in the definition of child with a disability in section 15-761 shall not exceed the actual cost of the school attended for each pupil as determined for the current year. The school district of attendance shall not include in the cost per student count a charge for transportation if no transportation is provided, and the charge for transportation shall not exceed the actual costs of providing transportation for the pupils served, as prescribed in the uniform system of financial records. The school district of attendance shall provide the school district of residence with the final tuition charge for the current year and with an estimate of the budget year's tuition charge by May 1 of the current year. The school district of residence shall pay at least one-fourth of the total amount of the estimated tuition by September 30, December 31 and March 31, and it shall pay the remaining amount it owes after adjustments are made by June 30.

3. NOTWITHSTANDING PARAGRAPH 2 OF THIS SUBSECTION AND SUBSECTION G OF THIS SECTION, IF TWO SCHOOL DISTRICTS ENTER INTO A VOLUNTARY AGREEMENT FOR THE PAYMENT OF TUITION, THE AGREEMENT SHALL SPECIFY THE METHOD FOR COMPUTING THE TUITION AMOUNT AND THE TIMING OF THE PAYMENTS. THE AGREEMENT SHALL NOT BE LONGER THAN FIVE CONSECUTIVE YEARS. IF TWO SCHOOL DISTRICTS ENTER INTO AN AGREEMENT AND CHOOSE TO RENEW THE AGREEMENT, EACH RENEWAL SHALL NOT BE LONGER THAN FIVE CONSECUTIVE YEARS. THE AGREEMENT SHALL SPECIFY THAT A PARENT OR LEGAL GUARDIAN OF A PUPIL AFFECTED BY A TUITION AGREEMENT ENTERED PURSUANT TO THIS SECTION OR SECTION 15-816.01 MAY CHOOSE NOT TO SEND THEIR PUPIL OR PUPILS TO A SCHOOL DISTRICT OR SCHOOL THAT IS A PARTY TO THE AGREEMENT.

~~3.~~ 4. Tuition of pupils as provided in section 15-825, subsection D shall not exceed the excess costs for group B children with disabilities in the cost study prescribed in section 15-236 minus the amount generated by the equalization base as determined in section 15-971, subsection A for these pupils. A school district may submit to the superintendent of public instruction a record of actual excess costs to educate a group B child with a disability if the costs are higher than the calculated excess costs or if a pupil has been placed in a private school for special education services. The superintendent shall determine if the additional costs will be paid, and if the costs are paid, whether the additional costs will be paid by the state or the resident district.

~~4.~~ 5. The amount received representing contributions to capital outlay as provided in subsection G, paragraph 1, subdivision (b) of this section shall be applied to the capital outlay fund or the debt service fund of the school district.

~~5.~~ 6. The amount received representing contributions to debt service as provided in subsection G, paragraph 1, subdivisions (c) and (d) of this section shall be applied to the debt service fund of the school district if there is one. Otherwise such amount shall be credited to the capital outlay fund of the school district.

F. A school district may submit to the superintendent of public instruction a record of actual costs paid by the school district to educate a pupil who qualifies for a certificate of educational convenience under section 15-825, subsection B. If the actual costs for that pupil exceed the costs per student count computed pursuant to subsection G of this section, the superintendent of public instruction shall reimburse the school district for these additional costs subject to legislative appropriation.

G. For the purposes of this section:

1. "Costs per student count" means the sum of the following for the common or high school portion of the school district attended, whichever is applicable to the pupil involved, as prescribed in the uniform system of financial records:

(a) The actual school district expenditures for the regular education program subsection of the maintenance and operation section of the budget divided by the school district's student count for the common or high school portion of the school district, whichever is applicable.

(b) The actual school district expenditures for the capital outlay section of the budget as provided in sections 15-903 and 15-905 excluding expenditures for transportation equipment and buildings if no transportation is provided and expenditures for the acquisition of building sites, divided by the school district's student count for the common or high school portion of the school district, whichever is applicable.

(c) The actual school district expenditures for debt service divided by the school district's student count for the common or high school portion of the school district, whichever is applicable.

(d) The result obtained in subdivision (c) of this paragraph shall not exceed:

(i) Seven hundred fifty dollars if the pupil's school district of residence pays tuition for seven hundred fifty or fewer pupils to other school districts or one hundred fifty dollars if the state pays tuition for seven hundred fifty or fewer pupils to a school district pursuant to section 15-825, subsection D or section 15-976.

(ii) Eight hundred dollars if the pupil's school district of residence pays tuition for one thousand or fewer, but more than seven hundred fifty, pupils to other school districts or two hundred dollars if the state pays tuition for one thousand or fewer, but more than seven hundred fifty, pupils to a school district pursuant to section 15-825, subsection D or section 15-976.

(iii) The actual cost per student count if either the pupil's school district of residence or the state pays tuition for more than one thousand pupils to other school districts.

2. "Legal custody" means:

(a) Custody exercised by the natural or adoptive parents with whom a pupil resides.

(b) Custody granted by order of a court of competent jurisdiction to a person or persons with whom a pupil resides unless the primary purpose for which custody was requested was to circumvent the payment of tuition as provided in this section.

Sec. 3. Section 15-825, Arizona Revised Statutes, is amended to read:

15-825. Certificate of educational convenience; issuance; effect on enrollment records

A. A pupil who is precluded by distance or lack of adequate transportation facilities from attending a school in the school district or county of the pupil's residence or who resides in unorganized territory may apply to the county school superintendent for a certificate of educational convenience. If it appears to the county school superintendent that it is not feasible for the pupil to attend a school in the school district or county of residence, the county school superintendent shall issue a certificate authorizing the pupil to attend a school in an adjoining school district or county, whether within or without this state. If a certificate of educational convenience is issued as provided in this subsection, the school enrollment of a pupil is as follows:

1. The school enrollment of a pupil who is precluded from attending a school in this state and who must attend school in another state, when certified to the county school superintendent by the official in charge of the school attended, is deemed for the purpose of determining student count to be enrollment in the school of the county or school district of the student's residence.

2. The school enrollment of a pupil from unorganized territory or from another school district is deemed for the purpose of determining student count to be enrollment in the school district of actual attendance.

B. The county school superintendent of any county in which a pupil is placed as described in this subsection shall issue a certificate of educational convenience for the pupil to attend school in the school district or adjoining school district to that in which the pupil is placed by an agency of this state or a state or federal court of competent jurisdiction in one of the following:

1. A state rehabilitation or corrective institution.

2. A foster home or child care agency or institution which is licensed and supervised by the department of economic security or the department of health services.

3. A residential facility operated or supported by the department of economic security or the department of health services.

4. Under the supervision of the department of juvenile corrections in a residence pursuant to the interstate compact on juveniles. Notwithstanding section 41-1959, the placing agency, department or institution shall provide the school district of attendance with the necessary information to enable the district to obtain a certificate of educational convenience pursuant to this subsection.

C. A pupil attending school under a certificate of educational convenience issued pursuant to subsection B of this section is deemed for the purpose of determining student count to be enrolled in the school district of attendance. The county school superintendent of any county shall not issue a certificate of educational convenience as provided in subsection B of this section if the pupil is placed in the same district of ~~his~~ THE PUPIL'S parents' or legal guardians' residence or if the pupil is placed without a court order and ~~his~~ THE PUPIL'S parents or legal guardians are not residents of this state.

D. If a certificate of educational convenience is issued as provided in subsection B of this section, or for a pupil whose parent or guardian is employed and domiciled by a state institution as prescribed by section 15-976, tuition may be charged as follows:

1. For group B children with disabilities:

(a) Who are from unorganized territory, whose parent or guardian is employed by a state institution as prescribed by section 15-976 or who have been issued a certificate of educational convenience pursuant to subsection B of this section, the superintendent of public instruction shall reimburse the district of attendance for the excess costs as provided in section 15-824, subsection E, paragraph ~~3.~~ 4.

(b) Who are from another school district, the school district of residence shall reimburse the district of attendance for the excess costs as provided in section 15-824, subsection E, paragraph ~~3.~~ 4.

2. For pupils who are precluded from attending a school in this state and who must attend a school in another state:

(a) If the pupil resides in a school district in this state, the district of residence shall pay the amount charged by the district of attendance.

(b) If the pupil resides in unorganized territory, the superintendent of public instruction shall pay the amount charged by the district of attendance.

E. The county school superintendent who issues a certificate of educational convenience shall notify the superintendent of public instruction of the issuance of the certificate. The superintendent of public instruction shall draw a warrant in favor of the school district of actual attendance for the amount charged, whether for common or high school attendance, as provided in section 15-824.

F. The total amount of state monies that may be spent in any fiscal year by the superintendent of public instruction for certificates of educational convenience shall not exceed the amount appropriated or authorized by section 35-173 for that purpose. This section shall not be construed to impose a duty on an officer, agent or employee of this state to discharge a responsibility or to create any right in a person or group if the discharge or right would require an expenditure of state monies in excess of the expenditure authorized by legislative appropriation for that specific purpose.

APPROVED BY THE GOVERNOR APRIL 18, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2007.

Passed the House April 2, 20 07,

by the following vote: 52 Ayes,

0 Nays, 8 Not Voting

Speaker of the House

Thomas L. Moore
Chief Clerk of the House

Passed the Senate February 5, 20 07,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Timothy S. Bee
President of the Senate

Chapman Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary of State

S.B. 1018

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 12, 20 07

by the following vote: 19 Ayes,

8 Nays, 3 Not Voting

Timothy S. Bee
President of the Senate

Thomas Betlach
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

12th day of April, 2007

at 11:41 o'clock A. M.

Jennifer Pearce
Secretary to the Governor

Approved this 18 day of

April

at 2:15 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 18 day of April, 20 07

S.B. 1018

at 3:33 o'clock P. M.

Janice K. Brewer
Secretary of State