

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 3, 2017

TO: Honorable Larry Taylor, Chair, Senate Committee on Education

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: SB927 by Rodríguez (Relating to a special education recovery program operated by the Texas Education Agency.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB927, As Introduced: an impact of \$0 through the biennium ending August 31, 2019.

The bill would require the Texas Education Agency to operate the program using federal funds available to the agency for statewide special education activities. Assuming federal Individuals with Disabilities Education Act (IDEA), Part B funds, set-aside and reserved for statewide services could be used for this purpose, program costs would be borne by existing federal funds resulting in a reduction of funding for existing discretionary services supported by federal IDEA funds. It is unknown whether the federal government would authorize the use of IDEA funds for the purpose of implementing the bill.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2018	\$0
2019	\$0
2020	\$0
2021	\$0
2022	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>Federal Education Fund</i> 148	Change in Number of State Employees from FY 2017
2018	(\$54,939,280)	10.0
2019	(\$19,021,500)	10.0
2020	(\$1,102,610)	10.0
2021	(\$1,102,610)	10.0
2022	(\$1,102,610)	10.0

Fiscal Analysis

The bill would amend the Education Code to require the Texas Education Agency (TEA) to develop and operate a special education recovery program for the benefit of students, under the age of 21, who may have been negatively affected by the agency's use of a certain performance indicator related to special education under the performance-based monitoring analysis system. As part of the program, the bill would require TEA to identify each student who was denied special education services for certain districts from school year 2004-05 to 2016-17; provide notice to the parent of each identified student regarding reevaluation of eligibility for special education services; make arrangements for the reevaluation of eligible students upon parental request; and make arrangements for the provision of special education services for qualifying students. The bill would require the TEA to operate the program using federal funds available to the agency for statewide special education activities.

The bill would take effect immediately if passed with necessary voting margins, or September 1, 2017.

Methodology

The bill would require the TEA to operate the special education recovery program using federal funds available to the agency for statewide special education activities. This analysis assumes the agency would use federal Individuals with Disabilities Education Act (IDEA), Part B funds, which are set-aside and reserved for statewide services for this purpose, resulting in a temporary reduction of existing services supported by federal IDEA funds including statewide autism support and the statewide Positive Behavioral Interventions and Supports (PBIS) network. However, it is unknown whether IDEA, Part B fund are allowable for the activities required by the bill. Prior to using federal funds for this purpose, the TEA would be required to seek guidance from the federal government. If federal funds were not allowable, then the special education recovery program would not be operated given that the bill restricts funding of the program to federal funds.

Developing and operating a special education recovery program for certain students would cost approximately \$54.9 million in fiscal year 2018 and \$19 million associated with initial identification and reevaluation efforts in fiscal year 2019, and \$1.1 million in subsequent years.

TEA estimates it would need 10 full-time equivalent (FTE) positions to operate the program. According to TEA, staff would be assigned to regional areas of the state and would be responsible for identifying and locating each eligible student, notifying each student's parent of possible services, tracking parents' responses, coordinating with the impacted school districts or charter schools to arrange evaluations and Individualized Education Program (IEP) team meetings, and following up to ensure that each student's IEP team makes an eligibility determination. The

estimated cost of the 10 FTEs, including salary, benefits, and other operating expenses, would be \$1.2 million in fiscal year 2018 and \$1.1 million in subsequent years.

In addition, TEA estimates, as part of the special education recovery program, the agency would be required to provide districts with additional funding to support the reevaluation of eligible students from school year 2004-04 to 2016-17. Based on information provided by TEA, reevaluating eligible students to determine whether those students qualify for special education services would cost \$54.0 million in fiscal year 2018 and \$17.9 million in fiscal year 2019.

To determine the cost associated with the required identification and reevaluation, TEA reviewed the data collected for the identified special education indicator for the 80 school districts and charter schools that would be subject to the program under the provisions of the bill for three school years (school years 2012-13 to 2014-15). Based on a review of the data, TEA determined a three-year total of 13,805 students who would have the opportunity for a reevaluation under the bill. To determine the number of students eligible for a reevaluation for entire 12 year period required by the bill, TEA multiplied by three-year average by 4 for a total eligible student population of 55,220 students (13,805 students x 4).

The agency assumed a cost of \$1,298 per student for reevaluation testing materials based on information provided by the Education Service Centers (ESCs), resulting in a total cost of \$71.7 million (55,220 students x \$1,298). Due to the number of reevaluations, TEA assumed 75 percent of potentially eligible students would be reevaluated in fiscal year 2018 with costs totaling \$54 million (\$71.7 million x 0.75). The remaining students would be identified and evaluated in fiscal year 2019 with costs totaling \$17.9 million (\$71.7 X 0.25) in fiscal year 2019.

Local Government Impact

School districts and charter schools would incur costs related to convening IEP team meetings for every student who is evaluated as a result of the bill. While this analysis assumes districts and charters would receive funds for each student found eligible for special education services to assist with the materials needed to conduct the reevaluations, it is likely that districts and charter schools would also need to expend funds beyond what they receive in order to meet the program's requirements.

TEA estimates districts and charter schools would need to hire additional evaluation staff to ensure that they meet the state's timelines for conducting full individual and initial evaluations. The annual salary range for diagnosticians is \$52,472 to \$88,800. Local costs may also include the cost for substitute teachers to cover classes while a student's educators participate in the IEP team meeting and the cost of the evaluation staff to participate in the meeting.

TEA estimates costs would vary by district. However, based on the number of students who would be evaluated as a result of the bill, the total amount statewide could exceed \$1 million associated with the additional staff needed for evaluation purposes.

Source Agencies: 701 Texas Education Agency

LBB Staff: UP, THo, AM, AW, THh