

Assembly Bill No. 605

CHAPTER 228

An act to add Section 56040.3 to the Education Code, relating to special education.

[Approved by Governor September 5, 2019. Filed with Secretary of State September 5, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 605, Maienschein. Special education: assistive technology devices.

(1) Existing law establishes a right of individuals with exceptional needs to receive free appropriate public education, and ensures the right to special instruction and related services needed to meet their unique needs, in conformity with federal law. Under existing law, a local educational agency, as defined, may be responsible for providing an assistive technology device, as defined, for the use of a pupil with exceptional needs when that device is needed to implement that pupil's individualized education program.

This bill would require a local educational agency, including a charter school, as defined, to provide, on a case-by-case basis pursuant to federal law, the use of school-purchased assistive technology devices in a child's home or in other settings if the child's individualized education program team determines that the child needs access to those devices in order to receive a free appropriate public education. The bill would also require a local educational agency to be responsible for providing an individual with exceptional needs who requires the use of an assistive technology device with continued access to that device, or to a comparable device when that individual, due to enrollment in another local educational agency, ceases to be enrolled in that local educational agency. The bill would specify that this responsibility would be in force until alternative arrangements for providing the individual with exceptional needs with continuous access to the assistive technology device, or to a comparable device, can be made or until 2 months have elapsed from the date that the individual ceased to be enrolled in that local educational agency, whichever occurs first.

Because this bill would impose new duties on local educational agencies, it would constitute a state-mandated local program.

(2) 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 the statutory provisions noted above.

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

SECTION 1. It is the intent of the Legislature to enact legislation that would provide individuals with exceptional needs who require an assistive technology device with continuous access to those devices at school, in their homes, or in the community.

SEC. 2. Section 56040.3 is added to the Education Code, to read:

56040.3. (a) Pursuant to Section 300.105 of Title 34 of the Code of Federal Regulations, a local educational agency shall provide, on a case-by-case basis, the use of school-purchased assistive technology devices in a child’s home or in other settings if the child’s individualized education program team determines that the child needs access to those devices in order to receive a free appropriate public education.

(b) (1) A local educational agency shall be responsible for providing an individual with exceptional needs who requires the use of an assistive technology device with continued access to that device, or to a comparable device when that individual, due to enrollment in another local educational agency, ceases to be enrolled in that local educational agency.

(2) The responsibility of the local educational agency under paragraph (1) shall be in force until alternative arrangements for providing the individual with exceptional needs with continuous access to the assistive technology device, or to a comparable device, can be made or until two months have elapsed from the date that the individual ceased to be enrolled in that local educational agency, whichever occurs first.

(c) For purposes of this section, in addition to the definition of “local educational agency,” in this article, “local educational agency” also includes a charter school as established pursuant to Chapter 2 (commencing with Section 47605) of Part 26.8.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.