

No. 1979-11

AN ACT

HB 417

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for exceptional children and reimbursements for certain special education services.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1376, act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," amended December 15, 1975 (P.L.484, No.144), is amended to read:

Section 1376. Cost of Tuition and Maintenance of Certain Exceptional Children in Approved Institutions.—(a) When any child between the ages of six (6) and twenty-one (21) years of age resident in this Commonwealth, who is blind or deaf, or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy and/or mentally retarded and/or socially and emotionally disturbed, is enrolled, with the approval of the Department of Education, as a pupil in any of the schools or institutions for the blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied and/or mentally retarded, and/or socially and emotionally disturbed, under the supervision of, subject to the review of or approved by the Department of Education, in accordance with standards and regulations promulgated by the Council of Basic Education, the school district in which such child is resident shall pay **[twenty-five per centum (25%)]** *twenty per centum (20%)* of the cost of tuition and maintenance of such child in such school or institution, as determined by the Department of Education; and the Commonwealth shall pay, out of funds appropriated to the department for special education, **[seventy-five per centum (75%)]** *eighty per centum (80%)* of the cost of their tuition and maintenance, as determined by the Department. If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. In no event shall the total cost of tuition and maintenance for blind, deaf, cerebral palsied and/or brain damaged and/or muscular dystrophied and/or socially and emotionally disturbed and/or mentally retarded residential students exceed **[eight thousand five hundred dollars (\$8,500)]** *nine thousand five hundred dollars (\$9,500)* for the school year 1979-1980 and **[ten thousand five hundred dollars (\$10,500)]** *per year,* for the school year 1980-1981 and each year thereafter for tuition of blind, deaf, cerebral palsied and/or muscular dystrophied day students exceed **[five thousand one hundred dollars (\$5,100)]** *five thousand six hundred dollars (\$5,600)*

for the school year 1979-1980 and six thousand one hundred dollars (\$6,100) [per year,] for the school year 1980-1981 and each year thereafter and for tuition of brain damaged and/or socially and emotionally disturbed and/or mentally retarded day students exceed **[four thousand one hundred dollars (\$4,100)]** *four thousand six hundred dollars (\$4,600) for the school year 1979-1980 and five thousand one hundred dollars (\$5,100) [per year] for the school year 1980-1981 and each year thereafter.* The Department of Education shall be provided with such financial data from private schools as may be necessary to determine the reasonableness of charges for tuition and room and board of the institution made on Pennsylvania resident approved reimbursed students. The Department of Education shall evaluate such data and shall disallow any charge deemed unreasonable. Any charges deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of **[the act of June 4, 1945 (P.L.1388, No.442), known as the "Administrative Agency Law,"] Title 2 of the Pa.C.S. (relating to administrative law and procedure)** and regulations promulgated thereunder.

(b) When any person less than six (6) or more than twenty-one (21) years of age resident in this Commonwealth, who is blind or deaf, or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy, is enrolled, with the approval of the Department of Education, as a pupil in any of the schools or institutions for the blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied, under the supervision of or approved by the Department of Education, the Commonwealth shall pay to such school or institution, out of moneys appropriated to the department for special education, the cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the Council of Basic Education, and in addition, in the case of any child less than six (6) years of age, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child. In no event shall the total cost of tuition and maintenance for residential students exceed **[eight thousand five hundred dollars (\$8,500)]** *nine thousand five hundred dollars (\$9,500) for the school year 1979-1980 and ten thousand five hundred dollars (\$10,500) [per year] for the school year 1980-1981 and each year thereafter* for tuition of deaf or blind and/or cerebral palsied and/or muscular dystrophied day students, exceed **[five thousand one hundred dollars (\$5,100)]** *five thousand six hundred dollars (\$5,600) for the school year 1979-1980 and six thousand one hundred dollars (\$6,100) [per year] for the school year 1980-1981 and each year thereafter* and for tuition of brain damaged day students **[four thousand one hundred dollars (\$4,100)]** *four thousand six hundred dollars (\$4,600) for the school year 1979-1980 and five thousand one hundred dollars (\$5,100) [per year] for the school year 1980-1981 and each year thereafter.*

(c) When any child between the ages of six (6) and twenty-one (21) years of age, resident in this Commonwealth, who is socially and emotionally disturbed, is enrolled with the approval of the Department of Education as a pupil in any approved day school under supervision of or approved by the Department of Education, the school district in which such child is resident shall pay **[twenty-five percent (25%)]** *twenty percent (20%)* of the cost of tuition of such child in such school as determined by the Department of Education, and the Commonwealth shall pay out of funds appropriated to the Department for Special Education **[seventy-five percent (75%)]** *eighty percent (80%)* of the cost of tuition of such child as determined by the department: Provided, however, That in no event shall the cost of tuition of such child exceed **[four thousand one hundred dollars (\$4,100)]** *four thousand six hundred dollars (\$4,600) for the school year 1979-1980 and five thousand one hundred dollars (\$5,100) [per school year] for the school year 1980-1981 and each year thereafter.*

(d) No private institution receiving payment in accordance with this section shall impose any charge on the student and/or parents who are Pennsylvania approved reimbursable residents for a program of instruction and maintenance appropriate to the child's needs; except that charges for programs not part of the normal school year may be made.

(e) Where the private institution provides a vocational education program to the students enrolled therein as an established and integral part of its on-going approved program and where the department deems such program to be necessary because of the unavailability of an appropriate program for such students, the maximum rate payable shall be increased by the audited cost of the program per approved Pennsylvania resident enrolled in the program.

(f) Where the private institution provides special education programs for multihandicapped students which is adjudged necessary by the Department of Education, the maximum rate payable shall be increased by seventy-five percent (75%) for the second severe handicap, eighty-five percent (85%) for the third severe handicap and one hundred percent (100%) for more than three severe handicaps.

Section 2. The act is amended by adding a section to read:

Section 1376.1. Actual Cost of Tuition and Maintenance of Certain Exceptional Children in the Four Chartered Schools for Education of the Deaf and the Blind.—(a) The following term, whenever used or referred to in this section, shall have the following meaning. "Chartered school" shall mean any of the four (4) chartered schools for the education of the deaf or the blind: the Pennsylvania School for the Deaf; the Overbrook School for the Blind; the Western Pennsylvania School for Blind Children; and the Western Pennsylvania School for the Deaf.

(b) When any child of school age resident in this Commonwealth, who is blind or deaf, is enrolled with the approval of the Department of Education as a pupil in any of the four (4) chartered schools in accordance with standards and regulations promulgated by the Council of Basic

Education, the school district in which such child is resident shall pay twenty percent (20%) of the actual cost of tuition and maintenance of such child in such institution, as determined by the Department of Education; and the Commonwealth shall pay, out of funds appropriated to the department for special education, eighty percent (80%) of the actual cost of their tuition and maintenance, as determined by the department. If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. The Department of Education shall be provided with such financial data from each of the chartered schools as may be necessary to determine the reasonableness of charges for tuition and room and board of each of the chartered schools made on Pennsylvania resident approved students. The Department of Education shall evaluate such data and shall disallow any charges deemed unreasonable. Any charge deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.

(c) When any person less than school age resident in this Commonwealth who is blind or deaf is enrolled, with the approval of the Department of Education, as a residential pupil in any of the four (4) chartered schools, the Commonwealth shall pay to the school, out of moneys appropriated to the department for special education, the actual cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the Council of Basic Education, and in addition, in the case of any child less than school age, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child.

(d) None of the chartered schools receiving payment in accordance with this section shall impose any charge on the student and/or parents who are approved reimbursable residents for a program of instruction and maintenance appropriate to the child's needs; except that charges for programs not part of the normal school year may be made.

Section 3. Section 1377 of the act, amended December 15, 1975 (P.L.484, No.144), is amended to read:

Section 1377. Payment of Cost of Tuition and Maintenance of Certain Exceptional Children.—(a) To facilitate payments by the several school districts to the schools or institutions in which deaf or blind, or cerebral palsied and/or brain damaged and/or muscular dystrophied, or socially and emotionally disturbed or mentally retarded children are enrolled, of amounts due by such districts for their proportion of the cost of tuition and maintenance of such children, the Secretary of Education shall withhold from any moneys due to such districts out of any State appropriation for the assistance as reimbursement of school districts, the amounts due by

such districts to such schools or institutions for the blind or the deaf, or the cerebral palsied and/or brain damaged and/or muscular dystrophied or the socially and emotionally disturbed and/or mentally retarded. Amounts so withheld shall be paid to such schools or institutions by warrant of the Auditor General upon the State Treasurer, after requisition of the Secretary of Education, for which purpose all amounts so withheld are hereby specifically appropriated to the Department of Education.

(b) Payments of the Commonwealth's proportion of the cost of tuition and maintenance of blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied, or socially and emotionally disturbed and/or mentally retarded pupils enrolled in schools or institutions for the blind or for the deaf, or for the cerebral palsied and/or brain damaged and/or muscular dystrophied, or for the socially and emotionally disturbed and of the cost of instruction of parents of blind pupils less than six (6) years of age, as hereinbefore provided, shall be made quarterly, out of moneys appropriated to the Department of Education for special education, by warrant of the Auditor General upon the State Treasurer, after requisition by the Secretary of Education. **[In no event Except for the provisions of section 1376.1 providing for the actual cost of tuition and maintenance of certain exceptional children in the four chartered schools for education of the deaf and of the blind, in no event shall the total payment for the cost of tuition and maintenance of any such child exceed the rates per year allowed under section 1376. The maximum amount payable for the cost of tuition and maintenance of such children shall be subject to review at least once every two years for the purpose of recommending an adjustment thereof.**

(c) For the purpose of enabling the Department of Education to determine from time to time what amounts are due to schools for the blind or for the deaf or for the cerebral palsied and/or brain damaged and/or muscular dystrophied or for the socially and emotionally disturbed and/or mentally retarded hereunder, such schools shall forward to the department, at such times and in such form as the department shall prescribe, sworn statements setting forth the names, ages, and residences of all pupils enrolled hereunder, specifying the school districts liable for a part of the cost of tuition and maintenance of any such pupils, the per capita cost of and maintenance of pupils, and such other information as the department shall require.

For the purpose of providing adequate administration of the program and to carry out the preaudit functions authorized in section 1376(a), **[one-quarter of one percent (.25%)] one-half of one percent (.50%)** of the total appropriations for approved private schools from all funds shall be allocated to the Department of Education.

Section 4. Section 1 of this act shall take effect July 1, 1979 and shall apply to the school year 1979-1980 and each year thereafter. Sections 2 and

3 shall take effect immediately and shall be retroactive to July 1, 1978, to apply to the school year 1978-1979 and each year thereafter.

APPROVED—The 31st day of May, A. D. 1979.

DICK THORNBURGH