

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 3759

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 5, 2019

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3759, with committee amendments.

This bill would establish a unit within the Office of Administrative Law (OAL) dedicated to special education cases. The special education unit would consist of administrative law judges having expertise in special education law. The number of administrative law judges in the unit would be proportional to the number and complexity of special education cases referred to the OAL.

Under the bill, all contested cases concerning special education law referred to the OAL would be assigned to and adjudicated by the administrative law judges in the special education unit.

The bill directs the Director and Chief Administrative Law Judge of the OAL to prepare an annual report to the Governor and to the Legislature regarding: the number of special education cases referred to the special education unit during the reporting period; the number of special education cases resolved by the special education unit during the reporting period; the average number of cases pending before the special education unit during the reporting period; the average time to resolution of the special education cases; a brief description of the outcome of the resolved cases; and other relevant information and recommendations at the discretion of the Director and Chief Administrative Law Judge.

The bill has a delayed effective date in order to allow the OAL to develop a timeline for training judges and assigning judges to the new unit. The bill would take effect on the first day of the ninth month next following enactment except the Director and Chief Administrative Law Judge may take any anticipatory administrative action in advance as necessary for the implementation of the bill.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- 1) Ensure that the administrative law judges in the special education unit include individuals with a wide range of special education law expertise, including expertise as school board attorneys and as parent and student advocates;

2) Require that the number of administrative law judges in the special education unit must be sufficient to render decisions within the federal and State mandated time period for special education decisions;

3) Require more specificity in the information provided in the annual report by the Director and Chief Administrative Law Judge to the Governor and the Legislature;

4) Require the Director and Chief Administrative Law Judge, in consultation with the Department of Education, to develop a system to track a due process petition once it is assigned to an ALJ and to allow petitioners to track the status of their petition.

FISCAL IMPACT:

The Office of Legislative Services (OLS) lacks the informational basis to determine the direction and magnitude of the impact the bill may have on annual State expenditures. The proposed changes regarding the adjudication by the Office of Administrative Law (OAL) of contested special education law cases would not alter the office's special education caseload relative to the current law baseline. Any change in annual OAL expenditures would result from reorganizing the office in accordance with the legislation. Absent information from the OAL on the manner in which it would implement the bill, the OLS cannot assess the extent to which the bill may produce annual OAL position and expenditure outcomes that may differ from the current law baseline.