

SENATE BILL 1090

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2lr3436
CF HB 1450

By: **Senator Pugh**

Introduced and read first time: March 5, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Public Schools – Provision of Supplemental Educational Services**

3 FOR the purpose of requiring the State Department of Education to supervise the
4 provision of supplemental educational services in the State; requiring the
5 Department to assist county boards of education in developing certain funding
6 applications in a certain manner, develop a certain process for the approval of
7 supplemental educational services providers, provide a certain notice to
8 potential providers, and maintain a list of State–approved providers; requiring
9 the Department to ensure that certain county boards administer supplemental
10 educational services in a certain manner, develop a certain application form,
11 conduct monitoring to ensure compliance, develop and implement a certain
12 evaluation system, establish a process for accepting and resolving complaints,
13 and repeal the approval of a certain provider; requiring each county board to
14 create a certain supplemental educational services enrollment and provider
15 selection process, and provide a certain notice, certain contact information, a
16 certain enrollment form, and a certain timeline to a parent or guardian of each
17 eligible student before and after the start of each school year; requiring each
18 county board to make enrollment forms available to providers, hold open
19 student enrollment until a certain time, allow providers to use public school
20 facilities in a certain manner, and, unless the State Board of Education grants a
21 certain waiver, obtain documentation of the reception or rejection of services by
22 a parent or guardian of a certain number of eligible students; prohibiting a
23 certain provider from providing a certain incentive; authorizing a provider to
24 award a certain incentive after a certain event; requiring a provider to deliver
25 supplemental educational services in a certain manner; requiring a county
26 board to report to the Department if a certain provider withdraws from offering
27 services under certain conditions; requiring the Department to remove a certain
28 provider from a certain list; requiring each county board to reserve a certain
29 percentage of certain funds to provide supplemental educational services in a
30 certain manner; authorizing each county board to use not more than a certain
31 percentage of the reserved funds for administration, evaluation, and technical

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 assistance; authorizing a county board, after a certain date, to apply in a certain
2 manner to the Department for authorization to reallocate certain funds;
3 providing for an appeal of the Department's decision to the State Board;
4 requiring the State Board to issue a final decision within a certain number of
5 days of receiving a certain appeal; authorizing the Department to adopt
6 regulations to implement the provisions of this Act; defining certain terms;
7 stating the intent of the General Assembly; and generally relating to
8 supplemental educational services for low-income students in low-performing
9 schools.

10 BY adding to

11 Article – Education

12 Section 8–801 through 8–809 to be under the new subtitle “Subtitle 8.
13 Supplemental Educational Services”

14 Annotated Code of Maryland

15 (2008 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Education**

19 **SUBTITLE 8. SUPPLEMENTAL EDUCATIONAL SERVICES.**

20 **8–801.**

21 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
22 **INDICATED.**

23 **(B) “ELIGIBLE STUDENT” MEANS A STUDENT WHO IS:**

24 **(1) CURRENTLY ENROLLED IN A PUBLIC SCHOOL THAT IS**
25 **RECEIVING FUNDS UNDER TITLE 1, PART A OF THE FEDERAL ELEMENTARY**
26 **AND SECONDARY EDUCATION ACT;**

27 **(2) RECEIVING FREE OR REDUCED-PRICE LUNCH; AND**

28 **(3) FOUND TO BE UNDERPERFORMING, BASED PRIMARILY ON**
29 **PERFORMANCE ON THE STATE ASSESSMENTS REQUIRED UNDER TITLE 7 OF**
30 **THIS ARTICLE.**

31 **(C) (1) “SUPPLEMENTAL EDUCATIONAL SERVICES” MEANS**
32 **ACADEMIC SERVICES THAT ARE PROVIDED TO ELIGIBLE STUDENTS OUTSIDE OF**
33 **THE REGULAR SCHOOL DAY.**

1 **(2) “SUPPLEMENTAL EDUCATIONAL SERVICES” MAY INCLUDE**
2 **TUTORING, REMEDIATION, OR OTHER ACADEMIC INSTRUCTION OR SUPPORT.**

3 **(D) “SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER” MAY**
4 **INCLUDE A NONPROFIT ENTITY, A FOR–PROFIT ENTITY, OR A COUNTY BOARD.**

5 **8–802.**

6 **THE DEPARTMENT SHALL SUPERVISE THE PROVISION OF SUPPLEMENTAL**
7 **EDUCATIONAL SERVICES IN THE STATE IN ACCORDANCE WITH THE PROVISIONS**
8 **OF THIS SUBTITLE.**

9 **8–803.**

10 **THE DEPARTMENT SHALL:**

11 **(1) ASSIST A COUNTY BOARD IN DEVELOPING AN APPLICATION**
12 **FOR A SUBGRANT OF FEDERAL FUNDING FOR SUPPLEMENTAL EDUCATIONAL**
13 **SERVICES FOR LOW–INCOME STUDENTS IN A MANNER THAT ENSURES**
14 **PARTICIPATION BY ELIGIBLE STUDENTS;**

15 **(2) DEVELOP A PROCESS FOR THE APPROVAL OF SUPPLEMENTAL**
16 **EDUCATIONAL SERVICES PROVIDERS THAT:**

17 **(I) INCLUDES INPUT FROM COUNTY BOARDS, PARENTS,**
18 **GUARDIANS, TEACHERS, AND OTHER INTERESTED MEMBERS OF THE PUBLIC;**

19 **(II) PROMOTES PARTICIPATION BY THE HIGHEST QUALITY**
20 **PROVIDERS;**

21 **(III) IS BASED ON A DEMONSTRATED RECORD OF**
22 **EFFECTIVENESS IN INCREASING THE ACADEMIC PROFICIENCY OF STUDENTS IN**
23 **SUBJECTS RELEVANT TO THE STATE’S ACADEMIC PERFORMANCE STANDARDS;**

24 **(IV) INCLUDES IN–PERSON PRESENTATIONS; AND**

25 **(V) REQUIRES A SUPPLEMENTAL EDUCATIONAL SERVICES**
26 **PROVIDER TO DEMONSTRATE THAT:**

27 **1. THE CURRICULA USED BY THE PROVIDER ARE**
28 **ALIGNED TO THE STATE’S ACADEMIC PERFORMANCE STANDARDS;**

1 **2. THE PROVIDER HAS AT LEAST 5 YEARS OF**
2 **CONTINUOUS OPERATING EXPERIENCE PROVIDING EDUCATIONAL INSTRUCTION**
3 **TO YOUTH;**

4 **3. THE PROVIDER USES INSTRUCTIONAL METHODS**
5 **AND MATERIALS THAT ARE RESEARCH-BASED;**

6 **4. THE PROVIDER IS FINANCIALLY STABLE, AS**
7 **DEMONSTRATED BY A FINANCIAL AUDIT, EVIDENCE OF SUFFICIENT WORKING**
8 **CAPITAL, OR OTHER MEANS;**

9 **5. THE PROVIDER EMPLOYS TUTORS THAT MEET**
10 **STATE REQUIREMENTS; AND**

11 **6. THE PROVIDER IS ABLE TO DELIVER**
12 **SUPPLEMENTAL EDUCATIONAL SERVICES TO ELIGIBLE STUDENTS IN A COUNTY**
13 **IN WHICH THE PROVIDER IS APPROVED:**

14 **A. IF A LOCAL BOARD PROVIDES AN APPROVED**
15 **STUDENT ENROLLMENT LIST TO THE PROVIDER AT LEAST 20 DAYS BEFORE THE**
16 **START DATE OF SERVICES, NO LATER THAN DECEMBER 15 OF EACH SCHOOL**
17 **YEAR; OR**

18 **B. IF A CONTRACT WITH A PROVIDER IS EXECUTED**
19 **LESS THAN 20 DAYS BEFORE DECEMBER 15, AT LEAST 20 DAYS FROM THE DATE**
20 **THE CONTRACT IS EXECUTED;**

21 **(3) APPROVE FOR A 5-YEAR PERIOD A SUPPLEMENTAL**
22 **EDUCATIONAL SERVICES PROVIDER THAT MEETS THE REQUIREMENTS**
23 **DEVELOPED UNDER ITEM (2) OF THIS SECTION;**

24 **(4) PROVIDE ANNUAL NOTICE TO POTENTIAL PROVIDERS OF THE**
25 **OPPORTUNITY TO PROVIDE SERVICES AND THE PROCESS FOR BECOMING A**
26 **STATE-APPROVED SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER;**

27 **(5) MAINTAIN AN UPDATED LIST OF STATE-APPROVED**
28 **SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDERS, SORTED BY COUNTY;**

29 **(6) ENSURE THAT A COUNTY BOARD THAT IS A STATE-APPROVED**
30 **SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER MAINTAINS A FAIR AND**
31 **TRANSPARENT PROCESS IN ADMINISTERING SERVICES UNDER THIS SUBTITLE;**

1 **(7) DEVELOP A STATEWIDE STUDENT APPLICATION FORM TO BE**
2 **DISTRIBUTED BY COUNTY BOARDS TO PARENTS AND GUARDIANS OF ELIGIBLE**
3 **STUDENTS SEEKING SUPPLEMENTAL EDUCATIONAL SERVICES;**

4 **(8) CONDUCT MONITORING TO ENSURE THAT A**
5 **STATE-APPROVED SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER**
6 **COMPLIES WITH THE REQUIREMENTS OF THIS SUBTITLE AND ANY**
7 **REGULATIONS ADOPTED BY THE DEPARTMENT UNDER THIS SUBTITLE;**

8 **(9) ESTABLISH A PROCESS FOR ACCEPTING AND RESOLVING**
9 **WITHIN 45 DAYS A COMPLAINT ABOUT AN ACTIVITY GOVERNED BY THIS**
10 **SUBTITLE;**

11 **(10) DEVELOP AND IMPLEMENT A SYSTEM TO EVALUATE**
12 **STATE-APPROVED SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDERS THAT:**

13 **(i) IS BASED PRIMARILY ON THE EXTENT TO WHICH A**
14 **PROVIDER IMPROVES STUDENT ACADEMIC ACHIEVEMENT, AS MEASURED BY**
15 **THE PROGRESS TOWARD MEETING STATE ACADEMIC PERFORMANCE**
16 **STANDARDS OF ALL STUDENTS ENROLLED IN A PROVIDER'S SUPPLEMENTAL**
17 **EDUCATIONAL SERVICES PROGRAM UNDER THIS SUBTITLE:**

18 **1. IN EACH SUBJECT FOR WHICH THE PROVIDER**
19 **PROVIDES SUPPLEMENTAL EDUCATIONAL SERVICES;**

20 **2. WHETHER OR NOT A STUDENT'S GRADE LEVEL IS**
21 **SUBJECT TO A STATE ASSESSMENT;**

22 **3. ACCOUNTING FOR THE LENGTH OF EACH COURSE**
23 **OFFERED BY THE PROVIDER; AND**

24 **4. INCLUDING ACADEMIC DATA FOR ALL STUDENTS**
25 **WHO HAVE COMPLETED A PROVIDER'S PROGRAM;**

26 **(ii) IS SUPPLEMENTED BY ADDITIONAL CRITERIA THAT MAY**
27 **INCLUDE:**

28 **1. COUNTY BOARD EVALUATIONS;**

29 **2. STUDENT, PARENT, GUARDIAN, PRINCIPAL, OR**
30 **TEACHER SATISFACTION WITH THE PROVIDER, AS MEASURED BY A SURVEY**
31 **EVALUATING ALL APPROVED PROVIDERS IN THE STATE;**

1 **3. STUDENT ATTENDANCE RATES; AND**

2 **4. ANY ADDITIONAL RELEVANT CRITERIA AS**
3 **DETERMINED BY THE DEPARTMENT;**

4 **(III) DETERMINES THE VALUE ADDED BY EACH PROVIDER IN**
5 **IMPROVING THE ACADEMIC ACHIEVEMENT OF PARTICIPATING STUDENTS; AND**

6 **(IV) IS OPERATIONAL ON OR BEFORE THE LAST DAY OF THE**
7 **2012–2013 SCHOOL YEAR; AND**

8 **(11) REPEAL THE APPROVAL OF A SUPPLEMENTAL EDUCATIONAL**
9 **SERVICES PROVIDER THAT:**

10 **(I) FAILS, FOR 2 CONSECUTIVE YEARS, TO CONTRIBUTE TO**
11 **INCREASING THE ACADEMIC PROFICIENCY OF STUDENTS BASED ON THE**
12 **EVALUATIONS REQUIRED UNDER ITEM (10) OF THIS SECTION;**

13 **(II) VIOLATES ANY REQUIREMENT OF THIS SUBTITLE OR**
14 **ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR**

15 **(III) DOES NOT SERVE STUDENTS IN THE STATE FOR ANY**
16 **CONTINUOUS 2–YEAR INTERVAL.**

17 **8–804.**

18 **EACH COUNTY BOARD SHALL:**

19 **(1) CREATE A STREAMLINED SUPPLEMENTAL EDUCATIONAL**
20 **SERVICES ENROLLMENT AND PROVIDER SELECTION PROCESS THAT ENABLES**
21 **ELIGIBLE STUDENTS TO BEGIN RECEIVING SUPPLEMENTAL EDUCATIONAL**
22 **SERVICES NO LATER THAN DECEMBER 15 OF EACH SCHOOL YEAR;**

23 **(2) BEFORE AND AFTER THE START OF EACH SCHOOL YEAR,**
24 **PROVIDE TO A PARENT OR GUARDIAN OF EACH ELIGIBLE STUDENT:**

25 **(I) NOTICE THAT THE STUDENT IS ELIGIBLE TO RECEIVE**
26 **SUPPLEMENTAL EDUCATIONAL SERVICES;**

27 **(II) CONTACT INFORMATION FOR STATE–APPROVED**
28 **PROVIDERS;**

1 (III) AN ENROLLMENT FORM WITH CLEAR INSTRUCTIONS;
2 AND

3 (IV) A TIMELINE FOR THE SELECTION OF PROVIDERS AND
4 COMMENCEMENT OF SERVICES;

5 (3) BEFORE AND AFTER THE START OF EACH SCHOOL YEAR,
6 MAKE ENROLLMENT FORMS AVAILABLE TO SUPPLEMENTAL EDUCATIONAL
7 SERVICES PROVIDERS;

8 (4) HOLD OPEN ENROLLMENT FOR SUPPLEMENTAL
9 EDUCATIONAL SERVICES UNTIL:

10 (I) THE COUNTY BOARD OBTAINS A WRITTEN ELECTION TO
11 RECEIVE OR REJECT SERVICES FROM A PARENT OR GUARDIAN OF AT LEAST THE
12 MAJORITY OF ELIGIBLE STUDENTS IN THE COUNTY; OR

13 (II) THE STATE BOARD GRANTS A WAIVER OF THE WRITTEN
14 ELECTION REQUIRED UNDER ITEM (I) OF THIS ITEM BASED ON CLEAR AND
15 CONVINCING EVIDENCE OF THE COUNTY BOARD'S EFFORTS TO SECURE
16 DOCUMENTATION OF THE DECISIONS OF THE PARENTS AND GUARDIANS OF
17 ELIGIBLE STUDENTS; AND

18 (5) ALLOW STATE-APPROVED SUPPLEMENTAL EDUCATIONAL
19 SERVICES PROVIDERS TO USE PUBLIC SCHOOL FACILITIES:

20 (I) SUBJECT TO ITEM (II) OF THIS ITEM, ON THE SAME
21 BASIS AS OTHER PERSONS ARE ALLOWED TO USE THE FACILITIES IN
22 ACCORDANCE WITH THE PROVISIONS OF TITLE 7, SUBTITLE 1 OF THIS ARTICLE;
23 AND

24 (II) UNLESS THE COUNTY HAS A PUBLIC SCHOOL STUDENT
25 POPULATION GREATER THAN 300,000, IN WHICH CASE THE COUNTY BOARD MAY
26 CHARGE A PROVIDER A RENTAL FEE ONLY FOR THE ACTUAL HOURS THAT THE
27 PROVIDER USES A PUBLIC SCHOOL FACILITY.

28 **8-805.**

29 (A) A STATE-APPROVED SUPPLEMENTAL EDUCATIONAL SERVICES
30 PROVIDER MAY NOT PROVIDE AN INCENTIVE TO ENTICE AN ELIGIBLE STUDENT
31 OR A PARENT OR GUARDIAN OF AN ELIGIBLE STUDENT TO CHOOSE A
32 PARTICULAR PROVIDER.

1 **(B) A STATE-APPROVED SUPPLEMENTAL EDUCATIONAL SERVICES**
2 **PROVIDER MAY AWARD INCENTIVES FOR PERFORMANCE OR ATTENDANCE:**

3 **(1) TO A STUDENT WHO IS PARTICIPATING IN THE PROVIDER'S**
4 **PROGRAM; AND**

5 **(2) IF THE TOTAL VALUE OF THE INCENTIVES DOES NOT EXCEED**
6 **\$50 PER STUDENT PER YEAR.**

7 **8-806.**

8 **(A) TO BECOME AND REMAIN A STATE-APPROVED SUPPLEMENTAL**
9 **EDUCATIONAL SERVICES PROVIDER, A PERSON MUST BE ABLE TO DELIVER**
10 **SUPPLEMENTAL EDUCATIONAL SERVICES TO ELIGIBLE STUDENTS IN A COUNTY**
11 **IN WHICH THE PROVIDER IS APPROVED IN ACCORDANCE WITH THE**
12 **REQUIREMENTS DEVELOPED UNDER § 8-803(2) OF THIS SUBTITLE.**

13 **(B) IF ANY MINIMUM ENROLLMENT REQUIREMENT SET BY A**
14 **STATE-APPROVED SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER IS MET,**
15 **THE PROVIDER MAY NOT WITHDRAW FROM OFFERING SERVICES IN ANY COUNTY**
16 **DURING A SCHOOL YEAR OR OTHER CONTRACT PERIOD AFTER SIGNING A**
17 **CONTRACT OR A LETTER OF INTENT TO PROVIDE SERVICES TO STUDENTS.**

18 **(C) IF A STATE-APPROVED SUPPLEMENTAL EDUCATIONAL SERVICES**
19 **PROVIDER WITHDRAWS IN VIOLATION OF SUBSECTION (B) OF THIS SECTION:**

20 **(1) THE COUNTY BOARD SHALL REPORT THE PROVIDER TO THE**
21 **DEPARTMENT; AND**

22 **(2) THE DEPARTMENT SHALL IMMEDIATELY REMOVE THE**
23 **PROVIDER FROM THE STATE-APPROVED LIST FOR THE COUNTY FOR THE**
24 **CURRENT SCHOOL YEAR.**

25 **(D) IF A STATE-APPROVED SUPPLEMENTAL EDUCATIONAL SERVICES**
26 **PROVIDER WITHDRAWS FROM OFFERING SERVICES A SECOND TIME IN ANY**
27 **COUNTY, THE PROVIDER SHALL BE INELIGIBLE TO PROVIDE SERVICES IN THE**
28 **STATE THE FOLLOWING YEAR.**

29 **8-807.**

30 **(A) (1) IN EACH FISCAL YEAR, EACH COUNTY BOARD SHALL RESERVE**
31 **15% OF THE FUNDS THE BOARD RECEIVES UNDER TITLE 1, PART A OF THE**
32 **FEDERAL ELEMENTARY AND SECONDARY EDUCATION ACT TO PROVIDE**

1 SUPPLEMENTAL EDUCATIONAL SERVICES IN COMPLIANCE WITH THE
2 PROVISIONS OF THIS SUBTITLE.

3 (2) COMPLIANCE WITH THIS SUBTITLE IS MET WHEN THE COUNTY
4 BOARD HAS OBTAINED EVIDENCE OF RECEPTION OR REJECTION OF SERVICES
5 FROM A PARENT OR GUARDIAN OF AT LEAST THE MAJORITY OF ELIGIBLE
6 STUDENTS IN THE COUNTY.

7 (B) EACH COUNTY BOARD MAY USE NO MORE THAN 1% OF THE FUNDS
8 RESERVED UNDER SUBSECTION (A) OF THIS SECTION FOR ADMINISTRATION
9 AND EVALUATION OF, AND TECHNICAL ASSISTANCE FOR, SUPPLEMENTAL
10 EDUCATION SERVICES.

11 8-808.

12 (A) AFTER MARCH 1 OF ANY YEAR, A COUNTY BOARD MAY APPLY TO
13 THE DEPARTMENT FOR AUTHORIZATION TO REALLOCATE UNSPENT FUNDS
14 THAT WERE SET ASIDE FOR SUPPLEMENTAL EDUCATIONAL SERVICES UNDER
15 TITLE 1, PART A OF THE FEDERAL ELEMENTARY AND SECONDARY EDUCATION
16 ACT.

17 (B) ANY APPLICATION UNDER SUBSECTION (A) OF THIS SECTION SHALL
18 INCLUDE DOCUMENTATION SHOWING THAT THE COUNTY BOARD HAS:

19 (1) FULLY MET THE DEMAND FOR SUPPLEMENTAL EDUCATIONAL
20 SERVICES; AND

21 (2) SPENT LESS THAN THE COUNTY BOARD'S ENTIRE PORTION OF
22 THE FUNDING REQUIRED TO BE SET ASIDE FOR SUPPLEMENTAL EDUCATIONAL
23 SERVICES UNDER TITLE 1, PART A OF THE FEDERAL ELEMENTARY AND
24 SECONDARY EDUCATION ACT.

25 (C) IF THE DEPARTMENT DOES NOT APPROVE A REQUESTED
26 REALLOCATION OF FUNDS, THE COUNTY BOARD MAY APPEAL THE
27 DEPARTMENT'S DECISION TO THE STATE BOARD.

28 (D) THE STATE BOARD SHALL ISSUE A FINAL DECISION WITHIN 60 DAYS
29 AFTER RECEIPT OF AN APPEAL.

30 8-809.

31 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THE
32 PROVISIONS OF THIS SUBTITLE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
2 General Assembly that the State Department of Education shall arrange for the
3 provision of supplemental educational services in accordance with the provisions of
4 Title 8, Subtitle 8 of the Education Article, as enacted by Section 1 of this Act, and in a
5 manner that in no way interferes with, contradicts, or counters the rights of eligible
6 students to receive supplemental educational services.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 June 1, 2012.