

HCS SS SCS SB 595 -- SPECIAL EDUCATION DUE PROCESS HEARINGS

SPONSOR: Kraus (Torpey)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Disability Services by a vote of 7 to 0.

This substitute transfers the administration of special education due process hearings from the State Board of Education within the Department of Elementary and Secondary Education to the Administrative Hearing Commission. A commissioner who conducts a due process hearing is prohibited from having previously been employed by a school district, an organization engaged in special education parent and student advocacy, the state board, or the department, either as an employee or as an independent contractor or consultant, within the last five years. A commissioner also cannot have performed work for a school district or for a parent or a student as a special education advocate within the last five years as an independent contractor or consultant or been a party to a special education proceeding as an attorney, parent or child. The commission must conform to all practices, procedures, filing deadlines, and response times to the requirements of the federal Individuals With Disabilities Education Act (IDEA) when conducting a due process hearing.

When a commissioner renders a final decision, it cannot be amended or modified.

At least three of the commissioners must receive at least 10 hours of initial training in special education law and must be the only commissioners assigned to special education due process hearings. The initial training must be selected by the commission in consultation with the department and the IDEA-funded parent training and information center as specified in the substitute. Each commissioner assigned to special education hearings must complete at least five additional hours of specified training each year. The training sessions must be recorded and posted on the commission's website as specified in the substitute.

The Administrative Hearing Commission Educational Due Process Hearing Fund is created consisting of appropriated moneys, gifts, contributions, grants, or bequests to be used solely for the payment of expenditures incurred by the commission and attributable to due process hearings and state and federal legislation and regulations.

The provisions of the substitute regarding the three commissioners that are to be assigned to special education due process hearings and the Administrative Hearing Commission

Educational Due Process Hearing Fund contain an emergency clause.

FISCAL NOTE: No impact on state funds in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that the bill removes the three-person panel currently used in due process hearings for special education matters and replaces the system with the administrative hearing commission process. The current process is troublesome, outdated, and does not serve the best interest of a child or parent. From the parent's perspective, the process is unjust and biased because the knowledge base required for the panel narrows the pool of candidates qualified and can create a conflict of interest. The current system stacks the deck against families of a disabled child. The due process system is too costly for most parents to defend themselves against a rich school district who has chosen to send the case into due process. Litigation expenses are at the expense of the parent. The value of a single-person panel will eliminate the potential of bias on the part of a panel member who may not be as knowledgeable as he or she is or should be. Missouri and Delaware are the only states that have a three-member panel system for due process hearings for special education matters. The proposed administrative hearing process will work better, is a good option, and is the chosen method by many other states. The current system is a scheduling nightmare. There is a huge potential for cost savings with the proposed system.

Testifying for the bill were Senator Kraus; Diane Golden, Missouri Council of Administration of Special Education; Marilyn McClure; Ann Combs; and Missouri Coalition of School Administrators.

OPPOSERS: There was no opposition voiced to the committee.