

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	CS/HB 837	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Education Committee; Bileca and Cortes, B. and others	114 Y's	0 N's
COMPANION BILLS:	CS/SB 1088	GOVERNOR'S ACTION:	Pending

SUMMARY ANALYSIS

CS/HB 837 passed the House on February 18, 2016. The bill was amended by the Senate on March 8, 2016, and subsequently passed the House on March 9, 2016.

The bill revises the John M. McKay Scholarship for Students with Disabilities Program (McKay Scholarship Program) by:

- authorizing a private school to establish a transition-to-work program for students participating in the McKay Scholarship Program which will allow students to earn credits while working off-site;
- exempting foster children from the prior school year attendance requirement for determining eligibility; and
- clarifying that McKay Scholarship payments are not subject to the 1.0 FTE cap so that scholarship payments are not reduced when McKay recipients take virtual courses.

The bill revises provisions related to the dual enrollment program by:

- establishing parameters for dual enrollment agreements between postsecondary institutions and private schools;
- requiring articulation agreements for private school students and home education students be submitted to the Department of Education (DOE) by August 1 of each year; and
- requiring postsecondary institutions to include specific information regarding students with disabilities in the articulation agreement and provide the information to the Florida Center for Students with Unique Abilities.

The bill allows districts to provide exceptional student education-related services to eligible home education students with a disability.

The bill also removes the expiration date and thus makes permanent the Adults with Disabilities Workforce Education Program previously created in ch. 2012-134, L.O.F. for students in Hardee, DeSoto, Manatee and Sarasota Counties.

The fiscal impact of the bill is \$226,511 to remove the proration to each student's McKay scholarship. This impact will result in a redistribution of the Florida Education Finance Program (FEFP) funds when the students receiving McKay scholarships are reporting for funding.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2016.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

John M. McKay Scholarship Program

Present Situation

The McKay Scholarship Program provides scholarships for eligible students with disabilities to attend an eligible public or private school of their choice. Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; and other health impairments; an emotional or behavioral disability; a specific learning disability, including but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.¹

A student with a disability may receive a McKay Scholarship to attend a public or private school if he or she has an Individual Education Plan (IEP) or a 504 plan² and:

- Received specialized instructional services under the Voluntary Prekindergarten Education Program³ during the previous school year; or
- Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind.⁴

For purposes of scholarship eligibility, the term “prior school year in attendance” means the student was enrolled and reported by:

- A school district for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the FEFP;
- The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or
- A school district for funding during the preceding October and February FEFP surveys and the student was at least 4 years old when enrolled and reported and eligible for services under the school attendance requirements for prekindergarten aged children with disabilities.⁵

A dependent child of a member of the United States Armed Forces who transfers to a Florida school from out of state or from a foreign country due to a parent’s permanent change of station orders is exempt from the prior school year attendance requirements, but must meet all other eligibility requirements to participate in the McKay Scholarship Program, i.e., be diagnosed with an eligible disability and have an IEP or 504 plan.⁶

A student is not eligible for a McKay Scholarship:

¹ Section 1002.39(1), F.S.

² A student’s 504 plan must be more than 6 months in duration in order for the student to be eligible for a scholarship. Rule 6A-6.0970(1)(b)3., F.S.

³ In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the Voluntary Prekindergarten Education (VPK) Program. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK Program and has a current IEP developed by the district school board. Section 1002.66, F.S.; see also s. 1002.53, F.S.

⁴ Section 1002.39(2)(a), F.S.

⁵ Section 1002.39(2)(a)2., F.S. Although not required to attend a public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs and related services. Section 1003.21(1)(e), F.S.

⁶ Section 1002.39(2)(a), F.S. (flush left provision at the end of the paragraph).

- While he or she is enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;
- While he or she is receiving a Florida tax credit scholarship under s. 1002.395;
- While he or she is receiving an educational scholarship pursuant to this chapter;
- While he or she is participating in a home education program as defined in s. 1002.01(1);
- While he or she is participating in a private tutoring program pursuant to s. 1002.43;
- While he or she is participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year;
- While he or she is enrolled in the Florida School for the Deaf and the Blind;
- If he or she has been issued a temporary 504 accommodation plan under s. 504 of the Rehabilitation Act of 1973 which is valid for 6 months or less; or
- While he or she is not having regular and direct contact with his or her private school teachers at the school's physical location.⁷

Currently, state funding per student may not exceed 1.0 FTE, including traditional and virtual courses. If a student's course load exceeds 1.0 FTE, the funding for each course shall be reduced proportionately to equal 1.0 FTE.⁸ Consequently, although McKay students are authorized to take up to two virtual courses, the scholarship amount is being reduced in order to comply with the 1.0 FTE requirement.

Effect of the Bill

The bill authorizes a private school to establish a transition-to-work program for private school students participating in the McKay Scholarship Program which will allow students to earn credits while working off-site. The transition-to-work program consists of academic instruction, work skills training and a volunteer or paid work experience. Students participating in the transition-to-work program must be between 17 and 22 years of age and cannot have a high school diploma or equivalent certificate.

To offer a transition-to-work program, a private school must:

- develop a transition-to-work program plan that includes a description of the academic instruction and work skills training the students will receive;
- submit a transition-to-work program plan to the Office of Independent Education and Parental Choice (IEPC) at DOE;
- develop a personalized transition-to-work program plan for each student in the program, which must be signed by the student, the student's parent, and the school principal, and must be submitted to the IEPC upon request;
- provide a liability release form signed by the student, the student's parent, and the business offering the work experience;
- assign a case manager to visit the student's job site on a weekly basis, observe the student, and, provide support;
- provide to the student and parent a quarterly report documenting the student's progress and performance; and
- maintain accurate attendance and performance records for the student.

A student enrolled in a transition-to-work program must receive 15 hours of academic instruction and work skills training at a private school. The student must also participate in 10 hours of work at the student's work experience program. Consequently, the student does not need to have regular and direct contact with the teacher at the private school's physical location.

To participate in a transition-to-work program, a business must maintain and provide accurate records of the student's performance and hours worked and comply with all state and federal child labor laws.

⁷ Section 1002.39(3), F.S.

⁸ Section 1011.61(4)(a), F.S.

The bill clarifies that McKay Scholarship payments are not subject to the 1.0 FTE cap so that scholarship payments are not reduced when McKay recipients take virtual courses.

The bill exempts foster children from the prior school year attendance requirement for determining eligibility.

Dual Enrollment

Present Situation

Dual enrollment articulation agreements are locally-developed agreements between a school district, a home education parent, or a private school and an eligible postsecondary institution regarding participation in dual enrollment courses. The articulation agreement between each school district and public postsecondary institution are mandatory and must be submitted to the Florida Department of Education (DOE) annually by August 1st. Postsecondary institutions are required to develop an articulation agreement with each home education student seeking enrollment in a dual enrollment course, but are not required to submit agreements to DOE. Articulation agreements between postsecondary institutions and private secondary schools are optional and not required to be submitted to the department. DOE does not collect information on articulation agreements for private school or home education program students.⁹

Effect of the Bill

The bill requires postsecondary institutions to enter into an articulation agreement with each eligible private school in its geographic service area seeking to offer dual enrollment courses to its students, including, but not limited to, students with disabilities.

The bill establishes provisions that must be included in the articulation agreements with private schools. Specifically, the agreement must include, at a minimum:

- a delineation of courses and programs available to the student;
- the initial and continued eligibility requirements for participation, which may not exceed those required for other dual enrolled students;
- the student's responsibilities for providing instructional materials and transportation;
- clarification that the private school will award appropriate credit toward high school completion for postsecondary courses taken through dual enrollment;
- a provision expressing that costs associated with tuition and fees, including registration and laboratory fees, will not be passed on to the student; and
- clarification as to whether the private school will compensate the postsecondary institution for the standard tuition rate per credit hour for each dual enrollment course taken by its students.

The bill requires that postsecondary institutions include in the agreement, services and resources available to students with disabilities and provide such information to the Florida Center for Students with Unique Abilities for dissemination by the center. Additionally, DOE must provide to the center a website link to dual enrollment articulation agreements specific to students with disabilities.

The bill requires that dual enrollment articulation agreements between a postsecondary institution and a home education program student or private school student be submitted to DOE by August 1 of each year. The bill also requires the submission of agreements between district school boards or Florida College System (FCS) institutions and state or private universities by August 1 of each year. This requirement is consistent with that already required for agreements between postsecondary institutions and school districts.

⁹ Section 1007.271, F.S.

Home Education Programs

Present Situation

Home education is defined as the sequentially progressive instruction of a student directed by his or her parent or guardian, in order to satisfy the requirement for compulsory education.¹⁰ More than 84,000 students in approximately 58,000 families are in Home Education Programs throughout Florida.¹¹ A parent choosing to enroll their child in a home education program must notify the district school superintendent in their county of residence of the intent to establish and maintain a home education program. The parent must also maintain a portfolio of records and materials and provide for an annual educational evaluation documenting the student's demonstration of education progress at a level commensurate with the student's ability. Home education students may participate in interscholarastic extracurricular student activities, the Bright Futures Scholarship Program and dual enrollment programs and are eligible for admission to state colleges and universities. Additionally, students may receive testing and evaluation services at diagnostic and resource centers, however, current law does not address the receipt of services for eligible students.¹²

Effect of the Bill

The bill authorizes, but does not require, a school district to provide exceptional student education (ESE) services to a home education program student with a disability who is eligible for the services. The home education student shall enroll in the public school solely for the purpose of receiving those related services. The district shall report the student as a full-time equivalent (FTE) student in the class for funding in the Florida Education Finance Program (FEFP), as prescribed by DOE.

Adult with Disabilities Workforce Education Pilot Program

Present Situation

The Adults with Disabilities Workforce Education Pilot Program, created in 2012, is a transition to work pilot program for adults with disabilities who are at least 22 years of age and still working toward high school graduation. Students work with an eligible employer while continuing coursework at a private school and remain eligible to participate until age 40. The program provides scholarships for the instruction at private schools for up to 30 students in Hardee, DeSoto, Manatee and Sarasota Counties.¹³

Effect of the Bill

The bill removes the expiration date and thus makes permanent the Adults with Disabilities Workforce Education Program for eligible students in Hardee, DeSoto, Manatee and Sarasota Counties.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

¹⁰ Section 1002.01, F.S.

¹¹ Department of Education at: <http://www.fldoe.org/schools/school-choice/other-school-choice-options/home-edu/> (last visited Jan 23, 2016).

¹² Section 1002.41, F.S.

¹³ Chapter 2012-134, L.O.F. and s. 1004.935, F.S.

None.

2. Expenditures:

At the time of this analysis, approximately 43 McKay Scholarship FTE completed a course through the Florida Virtual School, at a cost of \$5,230 per FTE. This resulted in a reduction of \$226,511 in McKay Scholarships. Removing the requirement for the proration of McKay Scholarship FTE will result in \$226,511 in McKay Scholarship payments for students completing Florida Virtual School courses being paid out of the Florida Education Finance Program (FEFP).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill allows, but does not require, school districts to serve non-public school ESE students and report them for FTE funding. It is unknown how many home education program students are eligible or may use these services. The cost is indeterminate.