



Choice & Innovation Subcommittee

Tuesday, January 12, 2016

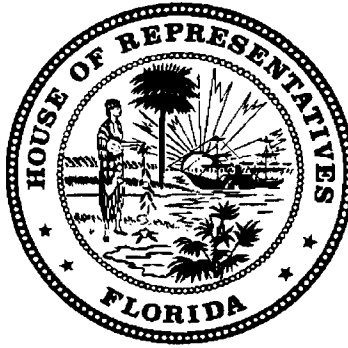
1:30 PM – 2:30 PM

306 HOB

Meeting Packet

**Steve Crisafulli
Speaker**

**Manny Diaz
Chair**



AGENDA

Choice & Innovation Subcommittee
Tuesday, January 12, 2016
1:30 PM – 2:30 PM
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- I. Call to Order/Roll Call
- II. Welcome/Opening Remarks
- III. Consideration of the Following bill(s):
 - HB 837 by Bileca
- IV. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 837 John M. McKay Scholarships for Students with Disabilities Program
SPONSOR(S): Bileca
TIED BILLS: IDEN./SIM. BILLS: SB 1088

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee		Dehmer	Healy
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The John M. McKay Scholarship for Students with Disabilities Program (McKay Scholarship Program) provides scholarships for eligible students with disabilities to attend an eligible public or private school of their choice. Currently, a McKay Scholarship student must have direct contact with his or her private school teacher at the school's physical location in order to maintain eligibility. The bill authorizes 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.

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

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 fiscal impact to the state will be \$226,511, because each student's scholarship will no longer be prorated. *See Fiscal Comments.*

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

John M. McKay Scholarship Eligibility

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

¹ Section 1002.39(1), F.S.

² A student’s 504 plan must be at least 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).

A student is not eligible for a McKay Scholarship:

- 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;⁷ 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.

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 Proposed Changes

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.
- 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 Office of Independent Education and Parental Choice 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.
- 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.

⁷ Section 1002.39(3), F.S.

⁸ Section 1011.61(4)(a), F.S.

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.

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.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.39, F.S., relating to the John M. McKay Scholarships for Students with Disabilities.

Section 2. Amends s. 1011.61, F.S., relating to Definitions.

Section 3. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Not applicable. This bill does not appear to affect county or municipal governments.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable

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27 and a new subsection (10) is added to that section, to read:

28 1002.39 The John M. McKay Scholarships for Students with
29 Disabilities Program.—There is established a program that is
30 separate and distinct from the Opportunity Scholarship Program
31 and is named the John M. McKay Scholarships for Students with
32 Disabilities Program.

33 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a
34 student with a disability may request and receive from the state
35 a John M. McKay Scholarship for the child to enroll in and
36 attend a private school in accordance with this section if:

37 (a) The student has:

38 1. Received specialized instructional services under the
39 Voluntary Prekindergarten Education Program pursuant to s.
40 1002.66 during the previous school year and the student has a
41 current individual educational plan developed by the local
42 school board in accordance with rules of the State Board of
43 Education for the John M. McKay Scholarships for Students with
44 Disabilities Program or a 504 accommodation plan has been issued
45 under s. 504 of the Rehabilitation Act of 1973; or

46 2. Spent the prior school year in attendance at a Florida
47 public school or the Florida School for the Deaf and the Blind.
48 For purposes of this subparagraph, prior school year in
49 attendance means that the student was enrolled and reported by:

50 a. A school district for funding during the preceding
51 October and February Florida Education Finance Program surveys
52 in kindergarten through grade 12, which includes time spent in a

53 Department of Juvenile Justice commitment program if funded
 54 under the Florida Education Finance Program;

55 b. The Florida School for the Deaf and the Blind during
 56 the preceding October and February student membership surveys in
 57 kindergarten through grade 12; or

58 c. A school district for funding during the preceding
 59 October and February Florida Education Finance Program surveys,
 60 was at least 4 years of age when so enrolled and reported, and
 61 was eligible for services under s. 1003.21(1)(e).

62
 63 However, a foster child or a dependent child of a member of the
 64 United States Armed Forces who transfers to a school in this
 65 state from out of state or from a foreign country due to a
 66 parent's permanent change of station orders is exempt from this
 67 paragraph but must meet all other eligibility requirements to
 68 participate in the program.

69 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
 70 not eligible for a John M. McKay Scholarship:

71 (h) While he or she is not having regular and direct
 72 contact with his or her private school teachers at the school's
 73 physical location unless he or she is enrolled in the private
 74 school's transition-to-work program pursuant to subsection (10);
 75 or

76 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
 77 eligible to participate in the John M. McKay Scholarships for
 78 Students with Disabilities Program, a private school may be

79 | sectarian or nonsectarian and must:

80 | (b) Provide to the department all documentation required
 81 | for a student's participation, including the private school's
 82 | and student's fee schedules, at least 30 days before any
 83 | quarterly scholarship payment is made for the student pursuant
 84 | to paragraph (11)(e) ~~(10)(e)~~. A student is not eligible to
 85 | receive a quarterly scholarship payment if the private school
 86 | fails to meet this deadline.

87 |

88 | The inability of a private school to meet the requirements of
 89 | this subsection shall constitute a basis for the ineligibility
 90 | of the private school to participate in the scholarship program
 91 | as determined by the department.

92 | (10) TRANSITION-TO-WORK PROGRAM.—A student participating
 93 | in the John M. McKay Scholarships for Students with Disabilities
 94 | Program who is at least 17 years, but not older than 22 years,
 95 | of age and who has not received a high school diploma or
 96 | certificate of completion is eligible for enrollment in his or
 97 | her private school's transition-to-work program. A transition-
 98 | to-work program shall consist of academic instruction, work
 99 | skills training, and a volunteer or paid work experience.

100 | (a) To offer a transition-to-work program, a participating
 101 | private school must:

102 | 1. Develop a transition-to-work program plan, which must
 103 | include a written description of the academic instruction and
 104 | work skills training students will receive and the goals for

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105 students in the program.

106 2. Submit the transition-to-work program plan to the
107 Office of Independent Education and Parental Choice.

108 3. Develop a personalized transition-to-work program plan
109 for each student enrolled in the program. The student's parent,
110 the student, and the school principal must sign the personalized
111 plan. The personalized plan must be submitted to the Office of
112 Independent Education and Parental Choice upon request by the
113 office.

114 4. Provide a release of liability form that must be signed
115 by the student's parent, the student, and a representative of
116 the business offering the volunteer or paid work experience.

117 5. Assign a case manager or job coach to visit the
118 student's job site on a weekly basis to observe the student and,
119 if necessary, provide support and guidance to the student.

120 6. Provide to the parent and student a quarterly report
121 that documents and explains the student's progress and
122 performance in the program.

123 7. Maintain accurate attendance and performance records
124 for the student.

125 (b) A student enrolled in a transition-to-work program
126 must, at a minimum:

127 1. Receive 15 instructional hours at the private school's
128 physical facility, which must include academic instruction and
129 work skills training.

130 2. Participate in 10 hours of work at the student's

131 | volunteer or paid work experience.

132 | (c) To participate in a transition-to-work program, a
 133 | business must:

134 | 1. Maintain an accurate record of the student's
 135 | performance and hours worked and provide the information to the
 136 | private school.

137 | 2. Comply with all state and federal child labor laws.

138 | ~~(11)~~~~(10)~~ JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

139 | (a)1. The maximum scholarship granted for an eligible
 140 | student with disabilities shall be equivalent to the base
 141 | student allocation in the Florida Education Finance Program
 142 | multiplied by the appropriate cost factor for the educational
 143 | program that would have been provided for the student in the
 144 | district school to which he or she was assigned, multiplied by
 145 | the district cost differential.

146 | 2. In addition, a share of the guaranteed allocation for
 147 | exceptional students shall be determined and added to the amount
 148 | in subparagraph 1. The calculation shall be based on the
 149 | methodology and the data used to calculate the guaranteed
 150 | allocation for exceptional students for each district in chapter
 151 | 2000-166, Laws of Florida. Except as provided in subparagraphs
 152 | 3. and 4., the calculation shall be based on the student's
 153 | grade, matrix level of services, and the difference between the
 154 | 2000-2001 basic program and the appropriate level of services
 155 | cost factor, multiplied by the 2000-2001 base student allocation
 156 | and the 2000-2001 district cost differential for the sending

157 district. The calculated amount shall include the per-student
 158 share of supplemental academic instruction funds, instructional
 159 materials funds, technology funds, and other categorical funds
 160 as provided in the General Appropriations Act.

161 3. The scholarship amount for a student who is eligible
 162 under sub-subparagraph (2)(a)2.b. shall be calculated as
 163 provided in subparagraphs 1. and 2. However, the calculation
 164 shall be based on the school district in which the parent
 165 resides at the time of the scholarship request.

166 4. Until the school district completes the matrix required
 167 by paragraph (5)(b), the calculation shall be based on the
 168 matrix that assigns the student to support Level I of service as
 169 it existed prior to the 2000-2001 school year. When the school
 170 district completes the matrix, the amount of the payment shall
 171 be adjusted as needed.

172 5. The scholarship amount for a student eligible under s.
 173 504 of the Rehabilitation Act of 1973 shall be based on the
 174 program cost factor the student currently generates through the
 175 Florida Education Finance Program.

176 6. The scholarship amount granted for an eligible student
 177 with disabilities is not subject to the maximum value for
 178 funding a student under s. 1011.61(4).

179 Section 2. Subsection (4) of section 1011.61, Florida
 180 Statutes, is amended to read:

181 1011.61 Definitions.—Notwithstanding the provisions of s.
 182 1000.21, the following terms are defined as follows for the

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183 | purposes of the Florida Education Finance Program:

184 | (4) The maximum value for funding a student in
 185 | kindergarten through grade 12 or in a prekindergarten program
 186 | for exceptional children as provided in s. 1003.21(1)(e) shall
 187 | be the sum of the calculations in paragraphs (a), (b), and (c)
 188 | as calculated by the department.

189 | (a) The sum of the student's full-time equivalent student
 190 | membership value for the school year or the equivalent derived
 191 | from paragraphs (1)(a) and (b), subparagraph (1)(c)1., sub-
 192 | subparagraphs (1)(c)2.b. and c., subparagraph (1)(c)3., and
 193 | subsection (2). If the sum is greater than 1.0, the full-time
 194 | equivalent student membership value for each program or course
 195 | shall be reduced by an equal proportion so that the student's
 196 | total full-time equivalent student membership value is equal to
 197 | 1.0.

198 | (b) If the result in paragraph (a) is less than 1.0 full-
 199 | time equivalent student and the student has full-time equivalent
 200 | student enrollment pursuant to sub-sub-subparagraph
 201 | (1)(c)1.b.(VIII), calculate an amount that is the lesser of the
 202 | value in sub-sub-subparagraph (1)(c)1.b.(VIII) or the value of
 203 | 1.0 less the value in paragraph (a).

204 | (c) The full-time equivalent student enrollment value in
 205 | sub-subparagraph (1)(c)2.a.

206 |
 207 | A scholarship award provided to a student enrolled in the John
 208 | M. McKay Scholarships for Students with Disabilities Program

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209 | pursuant to s. 1002.39 is not subject to the maximum value for
210 | funding a student under this subsection.

211 | Section 3. This act shall take effect July 1, 2016.