

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 837 John M. McKay Scholarships for Students with Disabilities Program

SPONSOR(S): Education Committee, Bileca

TIED BILLS: **IDEN./SIM. BILLS:** SB 1088

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	11 Y, 0 N	Dehmer	Healy
2) Education Appropriations Subcommittee	13 Y, 0 N	Seifert	Heflin
3) Education Committee	17 Y, 0 N, As CS	Dehmer	Mizereck

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.

Recipients of the McKay Scholarship are reported for funding in the Florida Education Finance Program (FEFP). Funds are then transferred to a private school for payment of the student's scholarship.

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

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;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.

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.

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. 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:

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

On February 4, 2016, the Education Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarifies that the prior school year attendance exemption applies to all foster children.

The bill analysis is drafted to the amendment as passed by the Education Committee.