

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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**BILL:** CS/CS/SB 1314

**INTRODUCER:** Appropriations Committee; Education Committee; and Senators Grimsley and Mayfield

**SUBJECT:** Educational Options

**DATE:** May 2, 2017

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1314 revises the Florida Tax Credit (FTC) Scholarship Program to:

- Require the Florida Department of Revenue to provide Scholarship-Funding Organizations (SFOs) a copy of its letter denying or approving certain transactions.
- Allow a dependent child of a parent or guardian who is a member of the U.S. Armed Forces to apply for the FTC at any time.
- Specify that a parent must approve any payment made by funds transfer.
- Provide that the Commissioner of the Florida Department of Education (DOE) may determine that a private school is ineligible to participate in the FTC program if the school has consecutive years of material exceptions listed in its agreed-upon procedures report.
- Authorize the Learning System Institute at the Florida State University to be compensated for additional research through the project grant award issued by the DOE.
- Increase the FTC scholarship award amount to a percentage of the unweighted FTE funding amount for that state fiscal year and thereafter as follows:
  - 88 percent for a student in kindergarten through grade 5.
  - 92 percent for a student enrolled in grades 7-8.
  - 96 percent for a student enrolled in grades 9-12.
- Raise the transportation scholarship award for a student who chooses a public school outside of his or her district from \$500 to \$750.
- Provide that an SFO can make payments by fund transfer, subject to parent approval, and specifies that a student's scholarship award may not be reduced for debit card or electronic payment fees.

The bill also limits the documentation a school district can require from a home education student and prohibits a school district from requiring evidence of a child's age if the child meets regular attendance requirements by attending certain educational institutions or programs.

The bill has no impact on state revenues or expenditures.

The bill takes effect July 1, 2017.

## II. Present Situation:

The Florida Tax Credit (FTC) Scholarship program was established to provide an income tax credit for corporations that contribute money to non-profit Scholarship-Funding Organizations (SFOs) that award scholarships to students from families with limited resources.<sup>1</sup> The purpose of the FTC is to enable taxpayers to make private, voluntary contributions to SFOs for children of families that have limited financial resources to expand educational opportunities for these children to achieve a greater level of educational excellence and improve the quality of education in Florida.<sup>2</sup>

### Eligibility

The law provides eligibility requirements for students and parents, SFOs, and private institutions.

#### *Student Eligibility*

Generally, the FTC program provides scholarship awards to children from low-income families. Prior to 2014, in order to qualify for the program based on family income a student must have attended a public school in the previous school year and have a family income at or below 185 percent of the federal poverty level.<sup>3</sup> Legislation enacted in 2014 removed the prior public school attendance requirement and, beginning in the 2016-2017 school year, created eligibility for students with higher family incomes.<sup>4</sup>

For the 2016-2017 school year and thereafter, contingent upon available funds, a student is eligible for the FTC Program if he or she meets one of the following criteria:<sup>5</sup>

- The student is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level.
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care.
- The student's household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.

Priority is granted to students who received a scholarship in the previous year. Beginning in the 2016-17 school year, a SFO must also give priority to new applicants whose household income

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<sup>1</sup> See s. 1002.395, F.S.

<sup>2</sup> *Id.* at (1)(b).

<sup>3</sup> Section 1002.395(3)(b)1.a., F.S.

<sup>4</sup> *Id.* at (3)(b)-(c), F.S.; s. 17, ch. 2014-184, L.O.F.

<sup>5</sup> Section 1002.395(3)(c)1-3., F.S.

levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care.<sup>6</sup>

### ***SFO Eligibility***

SFOs are charitable organizations located in Florida that are exempt from Federal income tax.<sup>7</sup> In order to participate in the FTC program, a charitable organization must submit an application for approval or renewal to the Office of Independent Education and Parental Choice within the DOE by September 1 of each year before the school year for which the SFO intends to offer scholarships.<sup>8</sup> Florida law specifies the application requirements.<sup>9</sup>

### **Department of Revenue Obligations**

A taxpayer may submit an application to the Department of Revenue (DOR) to obtain credits for specified taxes.<sup>10</sup> The application should include each tax and applicable year or state fiscal year for which a credit is requested.<sup>11</sup> Currently, within 10 days of approval of the application, the DOR is directed to provide a copy of a taxpayer's credit allocation approval letter to the eligible SFO chosen by the taxpayer.<sup>12</sup> Any amount of unused credit due to insufficient tax liability on the part of a participating taxpayer may be carried forward for a period of not to exceed 5 years.<sup>13</sup> The taxpayer must submit an application to the DOR for approval of the carryforward tax credit in the year that the taxpayer intends to use the carryforward.<sup>14</sup> A taxpayer can convey, transfer, or assign the tax credit to member or members of its affiliated group of corporations, so long as the credit will be for the same tax.<sup>15</sup> The DOR must approve the amount to be conveyed, transferred, or assigned.<sup>16</sup>

### **Scholarship Award**

Beginning in fiscal year 2016-2017, the amount of a scholarship awarded to a student enrolled in an eligible private school is equal to 82 percent of the unweighted FTE funding amount for that state fiscal year and thereafter.<sup>17</sup> The scholarship amount is adjusted based on family income, unless the student is receiving a scholarship based upon placement in foster care or out-of-home care.<sup>18</sup>

For a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides, the transportation award limit is \$500.<sup>19</sup>

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<sup>6</sup> Section 1002.395(6)(e), F.S.

<sup>7</sup> Section 1002.395(2)(f), F.S.; see 26 U.S.C. s. 501(c)(3) and chs. 607, 608, and 617, F.S.

<sup>8</sup> Section 1002.395(16), F.S.

<sup>9</sup> *Id.* at (16)(a).

<sup>10</sup> *Id.* at (5)(b).

<sup>11</sup> Florida Department of Revenue, *SB 1314 Bill Analysis* (2017), at 2.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 2-3.

<sup>17</sup> Section 1002.395(12)(a)1., F.S.

<sup>18</sup> *Id.* at (12)(a)3.

<sup>19</sup> Section 1002.395(12)(a)1.b., F.S.

## Home Education Programs

Home education is a parent-directed educational option that satisfies the requirement for regular school attendance. Florida laws protecting home education became effective in 1985. Parents have the freedom to determine their child's educational path and the plan for reaching their goals. Students have the opportunity to explore and learn at their own pace, in any location or at any time. Home education students are able to enter institutions of higher learning and are eligible to participate in the Florida Bright Futures Scholarship Program. More than 84,000 students in approximately 58,000 families are in Home Education Programs throughout Florida.<sup>20</sup>

Parents of home education students are required to provide a signed, written notice of intent that includes the names of the students who will be home schooled to the district school superintendent in the parent's county of residence.<sup>21</sup>

## School Attendance

With few exceptions, all children who will be six years of age on February 1, of each school year and are less than 16 years of age are required to attend school regularly. Children who will be five years of age by September 1, of each school year are eligible for public kindergarten.<sup>22</sup>

A principal may request evidence that a child has attained the appropriate age for kindergarten before admitting the student. The district superintendent may require evidence of the age of any child believed to be within the limits of compulsory attendance.<sup>23</sup>

### III. Effect of Proposed Changes:

#### Florida Tax Credit Scholarship (Section 1)

Section 1 amends s. 1002.395, F.S., to revise the Florida Tax Credit (FTC) Scholarship Program to:

- Require the Florida Department of Revenue (DOR) to provide a copy to the Scholarship-Funding Organization (SFO) of its letter denying an application for a tax credit and approving or denying any of the following transactions:
  - An application for a carryforward tax credit.
  - The conveyance, transfer, or assignment of a tax credit.
  - The rescindment of a tax credits.
  - Acknowledgement of tax credits.
- Allow a dependent child of a parent or guardian who is a member of the U.S. Armed Forces to apply for the FTC at any time.
- Specify that a parent must approve any payment made by funds transfer.

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<sup>20</sup> Department of Education at: <http://www.fldoe.org/schools/school-choice/other-school-choice-options/home-edu/> (last visited March 14, 2017).

<sup>21</sup> Section 1002.41(1)(a), F.S.

<sup>22</sup> Section 1003.21(1)(a), F.S.

<sup>23</sup> Section 1003.21(4), F.S.

- Provide that the Commissioner of the Florida Department of Education (DOE) has the discretion to determine that a private school that is unable to meet the program requirements or has consecutive years of material exceptions listed in its agreed-upon procedures report is ineligible to participate in the FTC program.
- Authorize the Learning System Institute at the Florida State University to be compensated for additional research through the project grant award issued by the DOE.
- Increase the FTC scholarship award amount to a percentage of the unweighted FTE funding amount for that state fiscal year and thereafter as follows:
  - 88 percent for a student in kindergarten through grade 5.
  - 92 percent for a student enrolled in grades 7-8.
  - 96 percent for a student enrolled in grades 9-12.
- Raise the transportation scholarship award for a student who chooses a public school outside of his or her district from \$500 to \$750.
- Provide that an SFO can make payments by fund transfer and specifies that a student's scholarship award may not be reduced for debit card or electronic payment fees.

Section 1 also increases the award amount provided by the FTC. This may result in higher payments to parents or guardians of qualifying students and higher payments to eligible private schools that participate in the program.

### **Home Education Programs (Section 2)**

Section 2 amends s. 1002.41, F.S., to require the notice of intent to include the student's full legal name. This section prohibits the school district from requesting additional information unless the student chooses to participate in a school district program or service.

Section 2 also prohibits a school district from further regulating, exercising control over or requiring documentation from parents of home education students beyond the requirements of law.

### **School Attendance (Section 3)**

Section 3 amends s. 1003.21, F.S., to prohibit a district school superintendent from requiring evidence of a child's age when the child meets regular attendance requirements by attending a:

- parochial, religious or denominational school;
- private school supported by tuition charges, endowments or gifts;
- home education program; or
- private tutoring program.

The bill takes effect July 1, 2017.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill increases the award amount under the Florida Tax Credit (FTC) Scholarship Program. This may result in higher payments to parents or guardians of qualifying students and higher payments to eligible private schools that participate in the program. Currently, the scholarship is 82 percent of the current fiscal year per full-time equivalent amount in the Florida Education Finance Program. The bill revises this percentage to 88 percent for a student in kindergarten through grade 5, 92 percent for a student in grades 6 through 8 and 96 percent for a student in grades 9 through 12. According to the February 2017 Quarterly Report, there are currently 98,457 students receiving a Florida Tax Credit Scholarship, for a total of \$403,008,374.<sup>24</sup> Under the bill, based on the 2016–2017 number of students receiving scholarships, the total base amount awarded will increase to \$521,650,800.<sup>25</sup> The tax credit cap for the current year is \$559,082,031. The tax credit cap amount will increase to \$698,852,539 for the 2017-2018 state fiscal year.<sup>26</sup>

**C. Government Sector Impact:**

The bill has no impact on state revenues or expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.395, 1002.41, and 1003.21.

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<sup>24</sup> Florida Department of Education, *HB 15 Analysis* (2017), at 9. The FTC provisions in HB 15 are substantively similar to SB 1314.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Appropriations on May 1, 2017:**

The committee substitute limits the documentation a school district can require from a home education student and prohibits a school district from requiring evidence of a child's age if the child meets regular attendance requirements by attending certain educational institutions or programs.

**CS by Education on April 3, 2017:**

The committee substitute clarifies that if a private school has consecutive years of material exceptions listed in its agreed-upon procedures report, the Commissioner of Education has the discretion to determine that the private school is ineligible to participate in the Florida Tax Credit Scholarship program.

**B. Amendments:**

None.