

By Senator Aronberg

27-1855A-04

See HB

1 A bill to be entitled
2 An act relating to educational and financial
3 accountability for scholarship programs;
4 amending s. 220.187, F.S., relating to credits
5 for contributions to nonprofit
6 scholarship-funding organizations; correcting a
7 cross-reference; providing obligations of
8 nonprofit scholarship-funding organizations
9 relating to use of contributions, financial
10 records, and criminal background checks;
11 providing obligations of nonpublic schools
12 relating to financial accounts and records,
13 operating budgets, use of scholarship funds,
14 criminal background checks, administration and
15 reporting of assessment tests, school profiles,
16 and accreditation; amending ss. 1002.38 and
17 1002.39, F.S., relating to the Opportunity
18 Scholarship Program and the John M. McKay
19 Scholarships for Students with Disabilities
20 Program; providing requirements for private
21 school eligibility relating to use of
22 scholarship funds, financial accounts and
23 records, operating budgets, criminal background
24 checks, administration and reporting of
25 assessment tests, school profiles, and
26 accreditation; conforming provisions; providing
27 an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:
30
31

1 Section 1. Paragraph (c) of subsection (2) and
2 subsections (4) and (6) of section 220.187, Florida Statutes,
3 are amended to read:

4 220.187 Credits for contributions to nonprofit
5 scholarship-funding organizations.--

6 (2) DEFINITIONS.--As used in this section, the term:

7 (c) "Eligible nonpublic school" means a nonpublic
8 school located in Florida that offers an education to students
9 in any grades K-12 and that meets the requirements in
10 subsection (6)~~(5)~~.

11 (4) OBLIGATIONS OF ELIGIBLE NONPROFIT
12 SCHOLARSHIP-FUNDING ORGANIZATIONS.--

13 (a) An eligible nonprofit scholarship-funding
14 organization shall provide scholarships, from eligible
15 contributions, to qualified students for:

16 1. Tuition or textbook expenses for, or transportation
17 to, an eligible nonpublic school. At least 75 percent of the
18 scholarship funding must be used to pay tuition expenses; or

19 2. Transportation expenses to a Florida public school
20 that is located outside the district in which the student
21 resides.

22 (b) An eligible nonprofit scholarship-funding
23 organization shall give priority to qualified students who
24 received a scholarship from an eligible nonprofit
25 scholarship-funding organization during the previous school
26 year.

27 (c) The amount of a scholarship provided to any child
28 for any single school year by all eligible nonprofit
29 scholarship-funding organizations from eligible contributions
30 shall not exceed the following annual limits:

31

1 1. Three thousand five hundred dollars for a
2 scholarship awarded to a student enrolled in an eligible
3 nonpublic school.

4 2. Five hundred dollars for a scholarship awarded to a
5 student enrolled in a Florida public school that is located
6 outside the district in which the student resides.

7 (d) The amount of an eligible contribution which may
8 be accepted by an eligible nonprofit scholarship-funding
9 organization is limited to the amount needed to provide
10 scholarships for qualified students which the organization has
11 identified and for which vacancies in eligible nonpublic
12 schools have been identified.

13 (e) An eligible nonprofit scholarship-funding
14 organization that receives an eligible contribution must spend
15 100 percent of the eligible contribution to provide
16 scholarships in the same state fiscal year in which the
17 contribution was received. No portion of eligible
18 contributions may be used for administrative expenses or set
19 aside for profit. All interest accrued from contributions must
20 be used for scholarships.

21 (f)1. An eligible nonprofit scholarship-funding
22 organization that receives eligible contributions must provide
23 to the Auditor General an annual financial and compliance
24 audit of its accounts and records conducted by an independent
25 certified public accountant and in accordance with rules
26 adopted by the Auditor General.

27 2. Financial records of an eligible nonprofit
28 scholarship-funding organization relating to contributions
29 received and scholarships granted pursuant to this section
30 shall be available to the public in accordance with the
31 provisions of s. 119.07.

1 (g) Payment of the scholarship by the eligible
2 nonprofit scholarship-funding organization shall be by
3 individual warrant or check made payable to the student's
4 parent. If the parent chooses for his or her child to attend
5 an eligible nonpublic school, the warrant or check must be
6 mailed by the eligible nonprofit scholarship-funding
7 organization to the nonpublic school of the parent's choice,
8 and the parent shall restrictively endorse the warrant or
9 check to the nonpublic school. An eligible nonprofit
10 scholarship-funding organization shall ensure that, upon
11 receipt of a scholarship warrant or check, the parent to whom
12 the warrant or check is made restrictively endorses the
13 warrant or check to the nonpublic school of the parent's
14 choice for deposit into the account of the nonpublic school.

15 (h) Each individual who administers an eligible
16 nonprofit scholarship-funding organization shall file with the
17 Department of Law Enforcement a complete set of fingerprints
18 for state processing and criminal background checking.

19 (6) ELIGIBLE NONPUBLIC SCHOOL OBLIGATIONS.--An
20 eligible nonpublic school must:

21 (a) Demonstrate fiscal soundness by being in operation
22 for one school year or provide the Department of Education
23 with a statement by a certified public accountant confirming
24 that the nonpublic school desiring to participate is insured
25 and the owner or owners have sufficient capital or credit to
26 operate the school for the upcoming year serving the number of
27 students anticipated with expected revenues from tuition and
28 other sources that may be reasonably expected. In lieu of such
29 a statement, a surety bond or letter of credit for the amount
30 equal to the scholarship funds for any quarter may be filed
31 with the department.

1 (b) Comply with the antidiscrimination provisions of
2 42 U.S.C. s. 2000d.

3 (c) Meet state and local health and safety laws and
4 codes.

5 (d) Comply with all state laws relating to general
6 regulation of nonpublic schools.

7 (e)1. Provide to the Auditor General an annual
8 financial and compliance audit of its accounts and records
9 conducted by an independent certified public accountant and in
10 accordance with rules adopted by the Auditor General.

11 2. Make available to the public in accordance with the
12 provisions of s. 119.07 the financial records of the school
13 relating to scholarships granted pursuant to this section.

14 (f) Use scholarship funds received pursuant to this
15 section for the purposes set forth in subparagraph (4)(a)1. No
16 portion of such scholarship funds may be used for
17 administrative expenses or set aside for profit.

18 (g) File with the Department of Law Enforcement a
19 complete set of fingerprints of each of its administrators and
20 teachers for state processing and criminal background
21 checking.

22 (h)1. Administer the Florida Comprehensive Assessment
23 Test (FCAT), or a nationally normed student achievement test
24 identified by the Department of Education, to students
25 receiving a scholarship pursuant to this section and provide
26 to the parents of each student tested the individual student
27 test scores.

28 2. Release to the public FCAT summary scores for the
29 school according to rules adopted by the State Board of
30 Education pursuant to ss. 120.536(1) and 120.54.

31

1 (i) Provide parents of students who are potential
2 recipients of a scholarship pursuant to this section with the
3 results of student achievement tests administered by the
4 school, including the FCAT and other standardized tests.

5 (j) Make available to the public a school profile that
6 includes the percentage of teachers who are certified.

7 (k) Be accredited by the Southern Association of
8 Colleges and Schools or an equivalent established, reputable
9 national or regional accreditation organization.

10 Section 2. Subsections (3), (4), and (5) of section
11 1002.38, Florida Statutes, are amended to read:

12 1002.38 Opportunity Scholarship Program.--

13 (3) SCHOOL DISTRICT OBLIGATIONS.--

14 (a) A school district shall, for each student enrolled
15 in or assigned to a school that has been designated as
16 performance grade category "F" for 2 school years in a 4-year
17 period:

18 1. Timely notify the parent of the student as soon as
19 such designation is made of all options available pursuant to
20 this section.

21 2. Offer that student's parent an opportunity to
22 enroll the student in the public school within the district
23 that has been designated by the state pursuant to s. 1008.34
24 as a school performing higher than that in which the student
25 is currently enrolled or to which the student has been
26 assigned, but not less than performance grade category "C."
27 The parent is not required to accept this offer in lieu of
28 requesting a state opportunity scholarship to a private
29 school. The opportunity to continue attending the higher
30 performing public school shall remain in force until the
31 student graduates from high school.

1 (b) The parent of a student enrolled in or assigned to
2 a school that has been designated performance grade category
3 "F" for 2 school years in a 4-year period may choose as an
4 alternative to enroll the student in and transport the student
5 to a higher-performing public school that has available space
6 in an adjacent school district, and that school district shall
7 accept the student and report the student for purposes of the
8 district's funding pursuant to the Florida Education Finance
9 Program.

10 ~~(c) For students in the school district who are~~
11 ~~participating in the state Opportunity Scholarship Program,~~
12 ~~the school district shall provide locations and times to take~~
13 ~~all statewide assessments required pursuant to s. 1008.22.~~

14 (c)~~(d)~~ Students with disabilities who are eligible to
15 receive services from the school district under federal or
16 state law, and who participate in this program, remain
17 eligible to receive services from the school district as
18 provided by federal or state law.

19 (d)~~(e)~~ If for any reason a qualified private school is
20 not available for the student or if the parent chooses to
21 request that the student be enrolled in the higher performing
22 public school, rather than choosing to request the state
23 opportunity scholarship, transportation costs to the higher
24 performing public school shall be the responsibility of the
25 school district. The district may utilize state categorical
26 transportation funds or state-appropriated public school
27 choice incentive funds for this purpose.

28 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
29 participate in the Opportunity Scholarship Program, a private
30 school must be a Florida private school, may be sectarian or
31 nonsectarian, and must:

1 (a) Demonstrate fiscal soundness by being in operation
2 for 1 school year or provide the Department of Education with
3 a statement by a certified public accountant confirming that
4 the private school desiring to participate is insured and the
5 owner or owners have sufficient capital or credit to operate
6 the school for the upcoming year serving the number of
7 students anticipated with expected revenues from tuition and
8 other sources that may be reasonably expected. In lieu of such
9 a statement, a surety bond or letter of credit for the amount
10 equal to the opportunity scholarship funds for any quarter may
11 be filed with the department.

12 (b) Notify the Department of Education and the school
13 district in whose service area the school is located of its
14 intent to participate in the program under this section by May
15 1 of the school year preceding the school year in which it
16 intends to participate. The notice shall specify the grade
17 levels and services that the private school has available for
18 the Opportunity Scholarship Program.

19 (c) Comply with the antidiscrimination provisions of
20 42 U.S.C. s. 2000d.

21 (d) Meet state and local health and safety laws and
22 codes.

23 (e) Accept scholarship students on an entirely random
24 and religious-neutral basis without regard to the student's
25 past academic history; however, the private school may give
26 preference in accepting applications to siblings of students
27 who have already been accepted on a random and
28 religious-neutral basis.

29 (f) Be subject to the instruction, curriculum, and
30 attendance criteria adopted by an appropriate nonpublic school
31 accrediting body and be academically accountable to the parent

1 for meeting the educational needs of the student. The private
2 school must furnish a school profile which includes student
3 performance and the percentage of teachers who are certified.

4 (g) Employ or contract with teachers who hold a
5 baccalaureate or higher degree, or have at least 3 years of
6 teaching experience in public or private schools, or have
7 special skills, knowledge, or expertise that qualifies them to
8 provide instruction in subjects taught.

9 (h) Comply with all state statutes relating to private
10 schools.

11 (i) Accept as full tuition and fees the amount
12 provided by the state for each student. No portion of
13 opportunity scholarship funds received by the school may be
14 used for administrative expenses or set aside for profit.

15 (j) Agree not to compel any student attending the
16 private school on an opportunity scholarship to profess a
17 specific ideological belief, to pray, or to worship.

18 (k) Adhere to the tenets of its published disciplinary
19 procedures prior to the expulsion of any opportunity
20 scholarship student.

21 (l)1. Provide to the Auditor General an annual
22 financial and compliance audit of its accounts and records
23 conducted by an independent certified public accountant and in
24 accordance with rules adopted by the Auditor General.

25 2. Make available to the public in accordance with the
26 provisions of s. 119.07 the financial records of the school
27 relating to participation in the Opportunity Scholarship
28 Program.

29 (m) File with the Department of Law Enforcement a
30 complete set of fingerprints of each of its administrators and
31

1 teachers for state processing and criminal background
2 checking.

3 (n)1. Administer the Florida Comprehensive Assessment
4 Test (FCAT), or a nationally normed student achievement test
5 identified by the Department of Education, to students
6 receiving an opportunity scholarship and provide to the
7 parents of each student tested the individual student test
8 scores.

9 2. Release to the public FCAT summary scores for the
10 school according to rules adopted by the State Board of
11 Education.

12 (o) Provide parents of students who are potential
13 recipients of an opportunity scholarship with the results of
14 student achievement tests administered by the school,
15 including the FCAT and other standardized tests.

16 (p) Be accredited by the Southern Association of
17 Colleges and Schools or an equivalent established, reputable
18 national or regional accreditation organization.

19 (5) OBLIGATION OF PROGRAM PARTICIPATION.--

20 (a) Any student participating in the Opportunity
21 Scholarship Program must remain in attendance throughout the
22 school year, unless excused by the school for illness or other
23 good cause, and must comply fully with the school's code of
24 conduct.

25 (b) The parent of each student participating in the
26 Opportunity Scholarship Program must comply fully with the
27 private school's parental involvement requirements, unless
28 excused by the school for illness or other good cause.

29 ~~(c) The parent shall ensure that the student~~
30 ~~participating in the Opportunity Scholarship Program takes all~~
31 ~~statewide assessments required pursuant to s. 1008.22.~~

1 (c)~~(d)~~ A participant who fails to comply with this
2 subsection shall forfeit the opportunity scholarship.

3 Section 3. Subsections (3), (4), and (5) of section
4 1002.39, Florida Statutes, are amended to read:

5 1002.39 The John M. McKay Scholarships for Students
6 with Disabilities Program.--There is established a program
7 that is separate and distinct from the Opportunity Scholarship
8 Program and is named the John M. McKay Scholarships for
9 Students with Disabilities Program, pursuant to this section.

10 (3) SCHOOL DISTRICT AND DEPARTMENT OF EDUCATION
11 OBLIGATIONS.--

12 (a) A school district shall timely notify the parent
13 of the student of all options available pursuant to this
14 section and offer that student's parent an opportunity to
15 enroll the student in another public school within the
16 district. The parent is not required to accept this offer in
17 lieu of requesting a John M. McKay Scholarship to a private
18 school. However, if the parent chooses the public school
19 option, the student may continue attending a public school
20 chosen by the parent until the student graduates from high
21 school. If the parent chooses a public school consistent with
22 the district school board's choice plan under s. 1002.31, the
23 school district shall provide transportation to the public
24 school selected by the parent. The parent is responsible to
25 provide transportation to a public school chosen that is not
26 consistent with the district school board's choice plan under
27 s. 1002.31.

28 (b) For a student with disabilities who does not have
29 a matrix of services under s. 1011.62(1)(e), the school
30 district must complete a matrix that assigns the student to
31 one of the levels of service as they existed prior to the

1 2000-2001 school year. The school district must complete the
2 matrix of services for any student who is participating in the
3 John M. McKay Scholarships for Students with Disabilities
4 Program and must notify the Department of Education of the
5 student's matrix level within 30 days after receiving
6 notification by the student's parent of intent to participate
7 in the scholarship program. The Department of Education shall
8 notify the private school of the amount of the scholarship
9 within 10 days after receiving the school district's
10 notification of the student's matrix level. Within 10 school
11 days after it receives notification of a parent's intent to
12 apply for a McKay Scholarship, a district school board must
13 notify the student's parent if the matrix has not been
14 completed and provide the parent with the date for completion
15 of the matrix required in this paragraph.

16 (c) If the parent chooses the private school option
17 and the student is accepted by the private school pending the
18 availability of a space for the student, the parent of the
19 student must notify the school district 60 days prior to the
20 first scholarship payment and before entering the private
21 school in order to be eligible for the scholarship when a
22 space becomes available for the student in the private school.

23 (d) The parent of a student may choose, as an
24 alternative, to enroll the student in and transport the
25 student to a public school in an adjacent school district
26 which has available space and has a program with the services
27 agreed to in the student's individual education plan already
28 in place, and that school district shall accept the student
29 and report the student for purposes of the district's funding
30 pursuant to the Florida Education Finance Program.

31

1 ~~(e) For a student in the district who participates in~~
2 ~~the John M. McKay Scholarships for Students with Disabilities~~
3 ~~Program whose parent requests that the student take the~~
4 ~~statewide assessments under s. 1008.22, the district shall~~
5 ~~provide locations and times to take all statewide assessments.~~

6 (e)~~(f)~~ A school district must notify the Department of
7 Education within 10 days after it receives notification of a
8 parent's intent to apply for a scholarship for a student with
9 a disability. A school district must provide the student's
10 parent with the student's matrix level within 10 school days
11 after its completion.

12 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
13 participate in the John M. McKay Scholarships for Students
14 with Disabilities Program, a private school must be a Florida
15 private school, may be sectarian or nonsectarian, and must:

16 (a) Demonstrate fiscal soundness by being in operation
17 for 1 school year or provide the Department of Education with
18 a statement by a certified public accountant confirming that
19 the private school desiring to participate is insured and the
20 owner or owners have sufficient capital or credit to operate
21 the school for the upcoming year serving the number of
22 students anticipated with expected revenues from tuition and
23 other sources that may be reasonably expected. In lieu of such
24 a statement, a surety bond or letter of credit for the amount
25 equal to the scholarship funds for any quarter may be filed
26 with the department.

27 (b) Notify the Department of Education of its intent
28 to participate in the program under this section. The notice
29 must specify the grade levels and services that the private
30 school has available for students with disabilities who are
31 participating in the scholarship program.

1 (c) Comply with the antidiscrimination provisions of
2 42 U.S.C. s. 2000d.

3 (d) Meet state and local health and safety laws and
4 codes.

5 (e) Be academically accountable to the parent for
6 meeting the educational needs of the student.

7 (f) Employ or contract with teachers who hold
8 baccalaureate or higher degrees, or have at least 3 years of
9 teaching experience in public or private schools, or have
10 special skills, knowledge, or expertise that qualifies them to
11 provide instruction in subjects taught.

12 (g) Comply with all state laws relating to general
13 regulation of private schools.

14 (h) Adhere to the tenets of its published disciplinary
15 procedures prior to the expulsion of a scholarship student.

16 (i)1. Provide to the Auditor General an annual
17 financial and compliance audit of its accounts and records
18 conducted by an independent certified public accountant and in
19 accordance with rules adopted by the Auditor General.

20 2. Make available to the public in accordance with the
21 provisions of s. 119.07 the financial records of the school
22 relating to participation in the John M. McKay Scholarships
23 for Students with Disabilities Program.

24 (j) Use John M. McKay Scholarship funds for tuition
25 and fees. No portion of such scholarship funds may be used for
26 administrative expenses or set aside for profit.

27 (k) File with the Department of Law Enforcement a
28 complete set of fingerprints of each of its administrators and
29 teachers for state processing and criminal background
30 checking.

31

1 (l)1. Administer the Florida Comprehensive Assessment
2 Test (FCAT), or a nationally normed student achievement test
3 identified by the Department of Education, to students
4 receiving a John M. McKay Scholarship whose parents request
5 that the student take the FCAT and provide to the parents of
6 each student tested the individual student test scores.

7 2. Release to the public FCAT summary scores for the
8 school according to rules adopted by the State Board of
9 Education.

10 (m) Provide parents of students who are potential
11 recipients of a John M. McKay Scholarship with the results of
12 student achievement tests administered by the school,
13 including the FCAT and other standardized tests.

14 (n) Make available to the public a school profile that
15 includes the percentage of teachers who are certified.

16 (o) Be accredited by the Southern Association of
17 Colleges and Schools or an equivalent established, reputable
18 national or regional accreditation organization.

19 (5) OBLIGATION OF PROGRAM PARTICIPANTS.--

20 (a) A parent who applies for a John M. McKay
21 Scholarship is exercising his or her parental option to place
22 his or her child in a private school. The parent must select
23 the private school and apply for the admission of his or her
24 child.

25 (b) The parent must have requested the scholarship at
26 least 60 days prior to the date of the first scholarship
27 payment.

28 (c) Any student participating in the scholarship
29 program must remain in attendance throughout the school year,
30 unless excused by the school for illness or other good cause,
31 and must comply fully with the school's code of conduct.

1 (d) The parent of each student participating in the
2 scholarship program must comply fully with the private
3 school's parental involvement requirements, unless excused by
4 the school for illness or other good cause.

5 ~~(e) If the parent requests that the student~~
6 ~~participating in the scholarship program take all statewide~~
7 ~~assessments required pursuant to s. 1008.22, the parent is~~
8 ~~responsible for transporting the student to the assessment~~
9 ~~site designated by the school district.~~

10 (e)(f) Upon receipt of a scholarship warrant, the
11 parent to whom the warrant is made must restrictively endorse
12 the warrant to the private school for deposit into the account
13 of the private school.

14 (f)(g) A participant who fails to comply with this
15 subsection forfeits the scholarship.

16 Section 4. This act shall take effect July 1, 2004.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31