

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty – Students with disabilities leaving the Florida School for the Deaf and the Blind and Department of Juvenile Justice commitment programs will have access to public and private school choice options more quickly.

B. EFFECT OF PROPOSED CHANGES:

The John M. McKay Scholarships for Students with Disabilities Program (McKay Program) was originally created by the 1999 Legislature as a pilot program for Sarasota County in the A+ Education Plan. The program has since been expanded to cover the entire state.

Hospitalized and Homebound

Currently, the McKay Program provides an option for students with disabilities, for whom an individual education plan has been written, to either attend a public school other than the one to which assigned, or to receive a scholarship to attend a private school of choice. Students with disabilities include K-12 students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospitalized or homebound, or autistic.

The bill changes the definition of students with disabilities to reflect more modern terminology, and it removes hospitalized and homebound students from the definition. This bill makes ineligible those students whose only qualifying disability was that they were hospitalized or homebound; it does not affect the eligibility of students who have an additional disability and are otherwise hospitalized or homebound. It is worth noting that there may be some students that meet the definition of students with disabilities but are not eligible for a McKay scholarship because the student does not meet the requirements for an individual education plan.

Scholarship Eligibility

Current law provides that a public school student with disabilities is eligible to receive a McKay scholarship if the student's parent is dissatisfied with the student's progress, the student has spent the prior school year in attendance at a Florida public school, and the parent has obtained acceptance for the student at an eligible private school.

This bill clarifies current law which provides that students enrolled in Department of Juvenile Justice (DJJ) commitment programs are ineligible to receive a McKay scholarship during the period of enrollment in the commitment program; however, current law is unclear as to whether a student that has met the McKay scholarship eligibility requirements is eligible to participate in the program immediately upon dismissal from a DJJ commitment program. According to the Department of Education (DOE), implementation of current law has been that "the time in which a student was enrolled in a DJJ commitment program would not 'count' as the required prior year of enrollment in public schools; therefore, students dismissed from a DJJ commitment program are only eligible for a McKay scholarship after being in attendance and reported for funding in a regular public school for both the October and February surveys."¹ Therefore, under current practice, the DOE does not consider a school in a DJJ commitment program to be a Florida public school for purposes of eligibility for the McKay Scholarship.

¹ Florida Department of Education, Governmental Relations Office, 2004 Legislative Bill Analysis on HB 1579: John M. McKay Scholarships for Students with Disabilities Program

The bill clarifies current law by providing that students enrolled in a DJJ commitment program if funded under the Florida Education Finance Program (FEFP) are considered to have been in attendance at a Florida public school for purposes of meeting the prior school year in attendance at a Florida public school requirement. Thus, a student dismissed from a DJJ commitment program funded under the FEFP would be eligible for a McKay scholarship if the student meets all other eligibility requirements.

The bill also provides that students who were enrolled and reported by the Florida School for the Deaf and the Blind (FSDB) during the preceding year's October and February student membership surveys are considered to have been in attendance at a Florida public school for purposes of meeting the prior school year in attendance at a Florida public school requirement.

Scholarship Funding and Payment

The amount of the scholarship is unchanged in this bill and is equal to the amount the student would have received under the FEFP in the public school to which the student is assigned or the amount of the private school's tuition and fees, whichever is less.

Currently, there are no provisions for the calculation of payment for former students of the FSDB. The bill provides that the calculated scholarship amount is based on the school district in which the parent resides at the time of the scholarship request and that such school districts report to the DOE all former students of the FSDB who are attending a private school under the McKay Program. Further, such school districts are held harmless for former students of the FSDB from the weighted enrollment ceiling for group 2 programs during the first school year in which the students are reported.² Further, the bill prohibits the transfer of funds from any funding provided to the FSDB for eligible McKay Program participants.

The bill also provides funding requirements for students exiting a DJJ commitment program. The bill provides that the calculated scholarship amount for a student exiting a DJJ commitment program who chooses to participate in the McKay Program be transferred from the school district in which the student last attended a public school prior to commitment. Thus, counties where DJJ commitment programs are located would not be charged for a McKay scholarship student who attended a DJJ commitment program in that district and upon dismissal from the program returned to another district and used a McKay scholarship.

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.39, F.S.; revising the definition of students with disabilities, clarifying and revising the prior school year in attendance requirements, and providing mechanisms for funding and payment.

Section 2. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

² S. 1011.62(1)(d)3.a., F.S., provides for the annual allocation calculation for the computation of the basic amount to be included for each district for operation.

School districts reporting transfer students from the FSDB are held harmless from the weighted enrollment ceiling pursuant to s. 1011.62(1)(d)3.a., F.S. Therefore, state expenditures to a district could exceed the established ceiling. The amount is indeterminate but presumed small because of the relatively small number of students involved.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not create any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2005, the Committee on Choice and Innovation adopted a strike-all amendment and reported the bill favorably with a committee substitute. The primary differences between the bill as filed and the committee substitute are as follows:

- Modifying the definition of students with disabilities.
- Providing that students attending the Florida School for the Deaf and the Blind (FSDB) and Department of Juvenile Justice (DJJ) commitment programs may count that attendance time

toward meeting the scholarship eligibility requirements of having spent the prior school year in attendance at a public school.

- Establishing payment procedures for students who use a McKay Scholarship upon leaving the FSDB or a DJJ commitment program.