

By Senator Wise

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1 A bill to be entitled
2 An act relating to a school choice pilot project;
3 creating s. 1003.64, F.S.; establishing the Education
4 Empowerment Zone Pilot Project in Orange County;
5 providing student eligibility requirements for school
6 choice options, including public school, charter
7 school, private school, and virtual school choice;
8 providing eligibility requirements for receipt of an
9 education empowerment zone grant to attend a private
10 school or a virtual school; specifying conditions that
11 prohibit receipt of a grant; providing term of a
12 grant; providing obligations of school districts, the
13 Department of Education, and the Commissioner of
14 Education; providing private school and virtual school
15 eligibility requirements and obligations; specifying
16 parent and student responsibilities for participation;
17 providing funding for grants and payment procedures;
18 waiving liability of the state; restricting the
19 expansion of regulatory authority over private schools
20 and virtual schools; requiring the State Board of
21 Education to adopt rules; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 1003.64, Florida Statutes, is created to
26 read:

27 1003.64 Education Empowerment Zone Pilot Project.—There is
28 established the Education Empowerment Zone Pilot Project in
29 Orange County beginning in the 2009-2010 school year to be in

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30 effect for a period of 5 school years.

31 (1) PURPOSE.—The pilot project is established to provide
32 comprehensive research to aid in policy development on the
33 academic impact of full school choice provided to parents of
34 students in a geographic area.

35 (2) CHOICE OPTIONS.—Parents of eligible students in the
36 designated pilot project county shall be eligible for school
37 choice options provided in this section, including public school
38 choice, charter school choice, private school choice, and
39 virtual school choice.

40 (3) STUDENT ELIGIBILITY FOR PUBLIC SCHOOL CHOICE.—

41 (a) The parent of a student residing in the pilot project
42 county may choose to enroll his or her child in any public
43 school within the county.

44 (b) The pilot project county shall provide transportation
45 for the student to the public school of choice and shall not
46 limit the choice because of school or class size issues.

47 (4) STUDENT ELIGIBILITY FOR CHARTER SCHOOL CHOICE.—

48 (a) The parent of a student residing in the pilot project
49 county may choose to enroll his or her child in any charter
50 school within the county.

51 (b) Any charter school receiving more applications than
52 spaces authorized in its charter contract may exceed the number
53 of students authorized in the charter contract during the term
54 of this pilot project.

55 (5) STUDENT ELIGIBILITY FOR PRIVATE SCHOOL AND VIRTUAL
56 SCHOOL CHOICE.—

57 (a) The parent of an eligible student residing in the pilot
58 project county may request and receive from the state an

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59 education empowerment zone grant. The grant may be used for the
60 child to enroll in and attend a private school or virtual school
61 in accordance with this section.

62 (b) A student is eligible for an education empowerment zone
63 grant if the student:

64 1. Spent the prior school year in attendance at a Florida
65 public school. Prior school year in attendance means that the
66 student was enrolled in, and reported by, a school district for
67 funding during the preceding October and February Florida
68 Education Finance Program surveys in kindergarten through grade
69 12;

70 2. Is entering kindergarten, grade 1, grade 6, or grade 9;
71 or

72 3. Participated in the Corporate Income Tax Credit
73 Scholarship Program under s. 220.187 in the prior school year.

74 (6) EDUCATION EMPOWERMENT ZONE GRANT PROHIBITIONS.—A
75 student is not eligible for an education empowerment zone grant
76 while he or she is:

77 (a) Enrolled in a school operating for the purpose of
78 providing educational services to youth in Department of
79 Juvenile Justice commitment programs;

80 (b) Receiving a corporate income tax credit scholarship
81 under s. 220.187;

82 (c) Receiving an educational scholarship pursuant to
83 chapter 1002;

84 (d) Participating in a home education program as defined in
85 s. 1002.01(1); or

86 (e) Participating in a private tutoring program pursuant to
87 s. 1002.43.

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88
89 Nothing in this section prohibits a student from participating
90 in the Florida Virtual School established under s. 1002.37.

91 (7) TERM OF EDUCATION EMPOWERMENT ZONE GRANT.—

92 (a) An education empowerment zone grant shall remain in
93 force through the final year of the pilot project or until the
94 student returns to a public school or graduates from high
95 school, whichever occurs first.

96 (b) Upon reasonable notice to the department and the school
97 district, the student's parent may remove the student from the
98 private school or virtual school and enroll the student in a
99 public school in accordance with this section.

100 (c) Upon reasonable notice to the department, the student's
101 parent may remove the student from one participating private
102 school or virtual school and enroll the student in another
103 participating private school or virtual school.

104 (8) SCHOOL DISTRICT OBLIGATIONS.—

105 (a) At the beginning of the school year, the school
106 district within the pilot project county shall notify the
107 parents of students in the district school system of all options
108 available under this section, inform the parents of the
109 availability of the department's toll-free hotline and Internet
110 website for additional information on education empowerment zone
111 grants, and offer parents an opportunity to enroll their
112 children in another public school within the school district.

113 (b) For a student who participates in the pilot project
114 whose parent chooses to enroll him or her in a private school or
115 virtual school, the school district shall provide to such parent
116 locations and times for the student to take all statewide

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117 assessments under s. 1008.22.

118 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
119 shall:

120 (a) Establish a toll-free hotline that provides parents,
121 private schools, and virtual schools with information on
122 participation in the pilot project.

123 (b) Annually verify the eligibility of private schools and
124 virtual schools that meet the requirements of subsections (11)
125 and (12), respectively. On or before March 1, 2010, and annually
126 thereafter, the department shall publish a list of providers
127 approved to offer virtual school instruction.

128 (c) Establish a process by which individuals may notify the
129 department of any violation of this section or of any rule
130 adopted by the State Board of Education by a parent, private
131 school, virtual school, charter school, or school district. The
132 department shall conduct an inquiry of any written complaint of
133 a violation, or make a referral to the appropriate agency for an
134 investigation, if the complaint is signed by the complainant and
135 is legally sufficient. A complaint is legally sufficient if it
136 contains ultimate facts that show that a violation of this
137 section or of any rule adopted by the State Board of Education
138 has occurred. In order to determine legal sufficiency, the
139 department may require supporting information or documentation
140 from the complainant. A department inquiry is not subject to the
141 requirements of chapter 120.

142 (d) Require an annual, notarized, sworn compliance
143 statement by participating private schools and virtual schools
144 certifying compliance with state laws and shall retain such
145 records.

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146 (e) Cross-check the list of students participating in the
147 pilot project with the school district's public school
148 enrollment lists prior to each grant payment to avoid
149 duplication.

150 (f) Prior to December 31 in the final school year of the
151 pilot project, report to the President of the Senate and the
152 Speaker of the House of Representatives on the academic impact
153 of the pilot project. The report should include data on the
154 year-to-year academic improvement of students whose parents do
155 not exercise school choice and of those students participating
156 in public school choice, charter school choice, private school
157 choice, or virtual school choice under this section. The
158 department must not disaggregate data to a level that will
159 disclose the academic level of individual students or of
160 individual schools. To the extent possible, the department must
161 accumulate historical performance data on students to describe
162 baseline performance and to conduct longitudinal studies. To the
163 extent possible, the department shall compare the overall
164 performance of students participating in the pilot project to
165 student performance in Florida school districts that are similar
166 in size and demographics and did not participate in the pilot
167 project. To minimize costs, the department may contract with a
168 third-party evaluator. The sharing of student data must be in
169 accordance with requirements of the Family Educational Rights
170 and Privacy Act, 20 U.S.C. s. 1232g, and shall be for the sole
171 purpose of conducting the evaluation. All parties must preserve
172 the confidentiality of such information as required by law.

173 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-

174 (a) The Commissioner of Education shall deny, suspend, or

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175 revoke a private school's or virtual school's participation in
176 the pilot project if it is determined that the school has failed
177 to comply with the provisions of this section. However, in
178 instances in which the noncompliance is correctable within a
179 reasonable amount of time and in which the health, safety, or
180 welfare of the students is not threatened, the commissioner may
181 issue a notice of noncompliance, which shall provide the private
182 school or virtual school with a timeframe within which to
183 provide evidence of compliance prior to taking action to suspend
184 or revoke the school's participation in the pilot project.

185 (b) The commissioner's determination is subject to the
186 following:

187 1. If the commissioner intends to deny, suspend, or revoke
188 a private school's or virtual school's participation in the
189 pilot project, the department shall notify the school of such
190 proposed action in writing by certified mail and regular mail to
191 the school's address of record with the department. The
192 notification shall include the reasons for the proposed action
193 and notice of the timelines and procedures set forth in this
194 paragraph.

195 2. The private school or virtual school that is adversely
196 affected by the proposed action shall have 15 days from receipt
197 of the notice of proposed action to file with the department's
198 agency clerk a request for a proceeding pursuant to ss. 120.569
199 and 120.57. If the private school or virtual school is entitled
200 to a hearing under s. 120.57(1), the department shall forward
201 the request to the Division of Administrative Hearings.

202 3. Upon receipt of a request referred pursuant to this
203 paragraph, the director of the Division of Administrative

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204 Hearings shall expedite the hearing and assign an administrative
205 law judge who shall commence a hearing within 30 days after the
206 receipt of the formal written request by the division and enter
207 a recommended order within 30 days after the hearing or within
208 30 days after receipt of the hearing transcript, whichever is
209 later. Each party shall be allowed 10 days in which to submit
210 written exceptions to the recommended order. A final order shall
211 be entered by the agency within 30 days after the entry of a
212 recommended order. The provisions of this subparagraph may be
213 waived upon stipulation by all parties.

214 (c) The commissioner may immediately suspend payment of
215 grant funds if it is determined that there is probable cause to
216 believe that there is:

217 1. An imminent threat to the health, safety, or welfare of
218 the students; or

219 2. Fraudulent activity on the part of the private school or
220 virtual school. Notwithstanding s. 1002.22(3), in incidents of
221 alleged fraudulent activity pursuant to this section, the
222 department's Office of Inspector General is authorized to
223 release personally identifiable records or reports of students
224 to the following persons or organizations:

225 a. A court of competent jurisdiction in compliance with an
226 order of that court or the attorney of record in accordance with
227 a lawfully issued subpoena, consistent with the Family
228 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

229 b. A person or entity authorized by a court of competent
230 jurisdiction in compliance with an order of that court or the
231 attorney of record pursuant to a lawfully issued subpoena,
232 consistent with the Family Educational Rights and Privacy Act,

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233 20 U.S.C. s. 1232g.

234 c. Any person, entity, or authority issuing a subpoena for
235 law enforcement purposes when the court or other issuing agency
236 has ordered that the existence or the contents of the subpoena
237 or the information furnished in response to the subpoena not be
238 disclosed, consistent with the Family Educational Rights and
239 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

240
241 The commissioner's order suspending payment pursuant to this
242 paragraph may be appealed pursuant to the same procedures and
243 timelines as the notice of proposed action set forth in
244 paragraph (b).

245 (11) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
246 eligible to participate in the pilot project, a private school
247 may be sectarian or nonsectarian and must:

248 (a) Comply with all requirements for private schools
249 participating in state school choice scholarship programs
250 pursuant to s. 1002.421.

251 (b) Provide to the department all documentation required
252 for a student's participation, including the private school's
253 and student's fee schedules, at least 30 days before the first
254 quarterly grant payment is made for the student.

255 (c) Be academically accountable to the parent for meeting
256 the educational needs of the student by:

257 1. At a minimum, annually providing to the parent a written
258 explanation of the student's progress.

259 2. Cooperating with the student when the student
260 participates in the statewide assessments pursuant to s.
261 1008.22.

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262 (12) VIRTUAL SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
 263 eligible to participate in the pilot project, a virtual school
 264 must:

265 (a) Comply with the eligibility requirements for K-8
 266 virtual schools provided in s. 1002.415; or

267 (b) Be approved by the department and annually document to
 268 the department that the virtual school:

269 1. Is nonsectarian in its programs, admission policies,
 270 employment practices, and operations.

271 2. Complies with the antidiscrimination provisions of s.
 272 1000.05.

273 3. Has at least 3 years of prior, successful experience
 274 offering online courses to elementary, middle, or high school
 275 students.

276 4. Utilizes an instructional model that relies on certified
 277 teachers, not parents, to provide at least 85 percent of the
 278 instruction to the student.

279 5. Is accredited by the Commission on Colleges of the
 280 Southern Association of Colleges and Schools, the Middle States
 281 Association of Colleges and Schools, the North Central
 282 Association of Colleges and Schools, or the New England
 283 Association of Colleges and Schools.

284 6. Complies with all requirements under this section.

285 (13) PARENT AND STUDENT RESPONSIBILITIES FOR RECEIPT OF
 286 GRANT.—

287 (a) The parent must select a private school or virtual
 288 school and apply for the admission of his or her child.

289 (b) The parent must have requested an education empowerment
 290 zone grant at least 60 days prior to the date of the first grant

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291 payment.

292 (c) Any student participating in the pilot project must
293 remain in attendance throughout the school year unless excused
294 by the school for illness or other good cause.

295 (d) Each parent and each student has an obligation to the
296 private school or virtual school to comply with the school's
297 published policies.

298 (e) Each student must participate in all statewide
299 assessments required under s. 1008.22. The parent is responsible
300 for transporting the student to the assessment site designated
301 by the school district.

302 (f) Upon receipt of a grant warrant, the parent to whom the
303 warrant is made must restrictively endorse the warrant to the
304 private school or virtual school for deposit into the account of
305 the school. The parent may not designate any entity or
306 individual associated with the participating school as the
307 parent's attorney in fact to endorse a grant warrant. A
308 participant who fails to comply with this paragraph forfeits the
309 grant.

310 (14) EDUCATION EMPOWERMENT ZONE GRANT FUNDING AND PAYMENT.—

311 (a) The amount of a grant provided to any student for any
312 single school year may not exceed 75 percent of the annual
313 average statewide funding per student in the Florida Education
314 Finance Program.

315 (b)1. The school district shall report all students who are
316 attending a private school or virtual school under the pilot
317 project. Such students shall be reported separately from other
318 students reported for purposes of the Florida Education Finance
319 Program.

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320 2. School districts are eligible to receive the difference
321 between the education empowerment zone grant amount and the
322 annual average statewide funding per student in the Florida
323 Education Finance Program.

324 (c) Following notification on July 1, September 1, December
325 1, or February 1 of the number of students receiving a grant,
326 the department shall transfer, from general revenue funds only,
327 the amount calculated under paragraph (b) from the school
328 district's total funding entitlement under the Florida Education
329 Finance Program and from authorized categorical accounts to a
330 separate account for the pilot project for quarterly
331 disbursement to the parents of participating students. When a
332 student begins participation in the pilot project, the
333 department must receive all documentation required for the
334 student's participation, including the private school's and
335 student's fee schedules, at least 30 days before the first
336 quarterly grant payment is made for the student.

337 (d) Upon notification by the department that it has
338 received the documentation required under paragraph (c), the
339 Chief Financial Officer shall make grant payments in four equal
340 amounts no later than September 1, November 1, February 1, and
341 April 1 of each academic year in which the grant is in force.
342 The initial payment shall be made after department verification
343 of admission acceptance, and subsequent payments shall be made
344 upon verification of continued enrollment and attendance at the
345 private school or virtual school. Payment must be by individual
346 warrant made payable to the student's parent and mailed by the
347 department to the private school or virtual school of the
348 parent's choice, and the parent shall restrictively endorse the

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349 warrant to the private school or virtual school for deposit into
350 the account of the private school or virtual school.

351 (e) Subsequent to each grant payment, the department shall
352 request from the Department of Financial Services a sample of
353 endorsed warrants to review and confirm compliance with
354 endorsement requirements.

355 (15) LIABILITY.—No liability shall arise on the part of the
356 state based on the award or use of an education empowerment zone
357 grant.

358 (16) SCOPE OF AUTHORITY.—The inclusion of eligible private
359 schools or virtual schools within options available to Florida
360 public school students does not expand the regulatory authority
361 of the state, its officers, or any school district to impose any
362 additional regulation of private schools or virtual schools
363 beyond those reasonably necessary to enforce requirements
364 expressly set forth in this section.

365 (17) RULES.—The State Board of Education shall adopt rules
366 pursuant to ss. 120.536(1) and 120.54 to administer this
367 section.

368 Section 2. This act shall take effect July 1, 2009.