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LEGISLATIVE ACTION

Senate

House

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Floor: 1/RE/3R

04/29/2010 05:17 PM

Senator Gardiner moved the following:

Senate Amendment (with title amendment)

Delete lines 25 - 277

and insert:

Section 1. Subsection (2), paragraph (a) of subsection (7), and paragraphs (a), (c), and (d) of subsection (10) of section 1002.39, Florida Statutes, are amended to read:

1002.39 The John M. McKay Scholarships for Students with Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

(2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a



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14 ~~public school~~ student with a disability ~~who is dissatisfied with~~
15 ~~the student's progress~~ may request and receive from the state a
16 John M. McKay Scholarship for the child to enroll in and attend
17 a private school in accordance with this section if:

18 (a) The student has:

19 1. Received specialized instructional services under the
20 Voluntary Prekindergarten Education Program pursuant to s.
21 1002.66 during the previous school year and the student has a
22 current individual educational plan developed by the local
23 school board in accordance with rules of the State Board of
24 Education for the John M. McKay Scholarships for Students with
25 Disabilities Program;

26 2. Spent the prior school year in attendance at a Florida
27 public school or the Florida School for the Deaf and the Blind.
28 For purposes of this subparagraph, prior school year in
29 attendance means that the student was+

30 1. enrolled and reported by:

31 a. A school district for funding during the preceding
32 October and February Florida Education Finance Program surveys
33 in kindergarten through grade 12, which includes ~~shall include~~
34 time spent in a Department of Juvenile Justice commitment
35 program if funded under the Florida Education Finance Program;

36 ~~b.2. Enrolled and reported by~~ The Florida School for the
37 Deaf and the Blind during the preceding October and February
38 student membership surveys in kindergarten through grade 12; or

39 ~~c.3. Enrolled and reported by~~ A school district for funding
40 during the preceding October and February Florida Education
41 Finance Program surveys, was at least 4 years of age ~~old~~ when so
42 enrolled and reported, and was eligible for services under s.



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43 1003.21(1)(e); ~~or-~~

44 3. Been enrolled and reported by a school district for
45 funding, during the October and February Florida Education
46 Finance Program surveys, in any of the 5 years prior to the
47 2010-2011 fiscal year; has a current individualized educational
48 plan developed by the district school board in accordance with
49 rules of the State Board of Education for the John M. McKay
50 Scholarship Program no later than June 30, 2011; and receives a
51 first-time John M. McKay scholarship for the 2011-2012 school
52 year.

53
54 However, a dependent child of a member of the United States
55 Armed Forces who transfers to a school in this state from out of
56 state or from a foreign country due to ~~pursuant to~~ a parent's
57 permanent change of station orders is exempt from this paragraph
58 but must meet all other eligibility requirements to participate
59 in the program.

60 (b) The parent has obtained acceptance for admission of the
61 student to a private school that is eligible for the program
62 under subsection (8) and has requested from the department a
63 scholarship at least 60 days before ~~prior to~~ the date of the
64 first scholarship payment. The request must be communicated
65 ~~through a communication~~ directly to the department in a manner
66 that creates a written or electronic record of the request and
67 the date of receipt of the request. The department ~~of Education~~
68 must notify the district of the parent's intent upon receipt of
69 the parent's request.

70 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

71 (a) The Commissioner of Education:



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72 1. Shall deny, suspend, or revoke a private school's
73 participation in the scholarship program if it is determined
74 that the private school has failed to comply with the provisions
75 of this section. However, ~~if in instances in which~~ the
76 noncompliance is correctable within a reasonable amount of time
77 and ~~if in which~~ the health, safety, or welfare of the students
78 is not threatened, the commissioner may issue a notice of
79 noncompliance which provides ~~shall provide~~ the private school
80 with a timeframe within which to provide evidence of compliance
81 before ~~prior to~~ taking action to suspend or revoke the private
82 school's participation in the scholarship program.

83 2. May deny, suspend, or revoke a private school's
84 participation in the scholarship program if the commissioner
85 determines that an owner or operator of the private school is
86 operating or has operated an educational institution in this
87 state or in another state or jurisdiction in a manner contrary
88 to the health, safety, or welfare of the public.

89 a. In making such a determination, the commissioner may
90 consider factors that include, but are not limited to, acts or
91 omissions by an owner or operator which led to a previous denial
92 or revocation of participation in an education scholarship
93 program; an owner's or operator's failure to reimburse the
94 Department of Education for scholarship funds improperly
95 received or retained by a school; imposition of a prior criminal
96 sanction related to an owner's or operator's management or
97 operation of an educational institution; imposition of a civil
98 fine or administrative fine, license revocation or suspension,
99 or program eligibility suspension, termination, or revocation
100 related to an owner's or operator's management or operation of



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101 an educational institution; or other types of criminal
102 proceedings in which an owner or operator was found guilty of,
103 regardless of adjudication, or entered a plea of nolo contendere
104 or guilty to, any offense involving fraud, deceit, dishonesty,
105 or moral turpitude.

106 b. For purposes of this subparagraph, the term "owner or
107 operator" includes an owner, operator, superintendent, or
108 principal of, or a person who has equivalent decisionmaking
109 authority over, a private school participating in the
110 scholarship program.

111 (10) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

112 (a)1. The maximum scholarship granted for an eligible
113 student with disabilities shall be ~~a calculated amount~~
114 equivalent to the base student allocation in the Florida
115 Education Finance Program multiplied by the appropriate cost
116 factor for the educational program that would have been provided
117 for the student in the district school to which he or she was
118 assigned, multiplied by the district cost differential.

119 2. In addition, a share of the guaranteed allocation for
120 exceptional students shall be determined and added to the
121 ~~calculated~~ amount in subparagraph 1. The calculation shall be
122 based on the methodology and the data used to calculate the
123 guaranteed allocation for exceptional students for each district
124 in chapter 2000-166, Laws of Florida. Except as provided in
125 subparagraphs 3. and 4., the calculation shall be based on the
126 student's grade, matrix level of services, and the difference
127 between the 2000-2001 basic program and the appropriate level of
128 services cost factor, multiplied by the 2000-2001 base student
129 allocation and the 2000-2001 district cost differential for the



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130 sending district. ~~Also,~~ The calculated amount shall include the
131 per-student share of supplemental academic instruction funds,
132 instructional materials funds, technology funds, and other
133 categorical funds as provided ~~for such purposes~~ in the General
134 Appropriations Act.

135 3. The ~~calculated~~ scholarship amount for a student who is
136 eligible under sub-subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~
137 shall be calculated as provided in subparagraphs 1. and 2.
138 However, the calculation shall be based on the school district
139 in which the parent resides at the time of the scholarship
140 request.

141 4. Until the school district completes the matrix required
142 by paragraph (5) (b), the calculation shall be based on the
143 matrix that assigns the student to support level I of service as
144 it existed prior to the 2000-2001 school year. When the school
145 district completes the matrix, the amount of the payment shall
146 be adjusted as needed.

147 (c)1. The school district shall report all students who are
148 attending a private school under this program. The students with
149 disabilities attending private schools on John M. McKay
150 Scholarships shall be reported separately from other students
151 reported for purposes of the Florida Education Finance Program.

152 2. For program participants who are eligible under sub-
153 subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~, the school
154 district that is used as the basis for the calculation of the
155 scholarship amount as provided in subparagraph (a) 3. shall:

156 a. Report to the department all such students who are
157 attending a private school under this program.

158 b. Be held harmless for such students from the weighted



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159 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.
160 during the first school year in which the students are reported.

161 (d) Following notification on July 1, September 1, December
162 1, or February 1 of the number of program participants, the
163 department shall transfer, from General Revenue funds only, the
164 amount calculated under paragraph (b) from the school district's
165 total funding entitlement under the Florida Education Finance
166 Program and from authorized categorical accounts to a separate
167 account for the scholarship program for quarterly disbursement
168 to the parents of participating students. Funds may not be
169 transferred from any funding provided to the Florida School for
170 the Deaf and the Blind for program participants who are eligible
171 under sub-subparagraph (2)(a)2.b. ~~subparagraph (2)(a)2.~~ For a
172 student exiting a Department of Juvenile Justice commitment
173 program who chooses to participate in the scholarship program,
174 the amount of the John M. McKay Scholarship calculated pursuant
175 to paragraph (b) shall be transferred from the school district
176 in which the student last attended a public school before ~~prior~~
177 ~~to~~ commitment to the Department of Juvenile Justice. When a
178 student enters the scholarship program, the department must
179 receive all documentation required for the student's
180 participation, including the private school's and the student's
181 fee schedules, at least 30 days before the first quarterly
182 scholarship payment is made for the student.

183 Section 2. Present subsections (2) through (5) of section
184 1002.51, Florida Statutes, are redesignated as subsections (4)
185 through (7), respectively, and new subsections (2) and (3) are
186 added to that section, to read:

187 1002.51 Definitions.—As used in this part, the term:



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188 (2) "Disability" means any disability listed in the
189 definition of exceptional student in s. 1003.01.

190 (3) "Specialized instructional services provider" means a
191 provider delivering specialized instructional services under s.
192 1002.66.

193 Section 3. Subsections (1) and (3) of section 1002.53,
194 Florida Statutes, are amended to read:

195 1002.53 Voluntary Prekindergarten Education Program;
196 eligibility and enrollment.—

197 (1) ~~There is created~~ The Voluntary Prekindergarten
198 Education Program is created and. ~~The program shall take effect~~
199 ~~in each county at the beginning of the 2005-2006 school year and~~
200 shall be organized, designed, and delivered in accordance with
201 s. 1(b) and (c), Art. IX of the State Constitution.

202 (3) The parent of each child eligible under subsection (2)
203 may enroll the child in one of the following programs:

204 (a) A school-year prekindergarten program delivered by a
205 private prekindergarten provider under s. 1002.55;

206 (b) A summer prekindergarten program delivered by a public
207 school or private prekindergarten provider under s. 1002.61; ~~or~~

208 (c) A school-year prekindergarten program delivered by a
209 public school; or

210 (d) A specialized instructional services program for
211 children who have disabilities, if the child has been evaluated
212 and determined as eligible, has a current individual educational
213 plan developed by the local school board, and is eligible for
214 the program under s. 1002.66.

215
216 Except as provided in s. 1002.71(4), a child may not enroll in



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217 more than one of these programs.

218 Section 4. Section 1002.66, Florida Statutes, is created to
219 read:

220 1002.66 Specialized instructional services for children
221 with disabilities.-

222 (1) Beginning with the 2012-2013 school year, a child who
223 has a disability and enrolls with the early learning coalition
224 under s. 1002.53(3)(d) is eligible for specialized instructional
225 services if:

226 (a) The child is eligible for the Voluntary Prekindergarten
227 Education Program under s. 1002.53; and

228 (b) A current individual educational plan has been
229 developed for the child by the local school board in accordance
230 with rules of the State Board of Education.

231 (2) The parent of a child who is eligible for the
232 prekindergarten program for children with disabilities may
233 select one or more specialized instructional services that are
234 consistent with the child's individual educational plan. These
235 specialized instructional services may include, but are not
236 limited to:

237 (a) Applied behavior analysis as defined in ss. 627.6686
238 and 641.31098.

239 (b) Speech-language pathology as defined in s. 468.1125.

240 (c) Occupational therapy as defined in s. 468.203.

241 (d) Physical therapy as defined in s. 486.021.

242 (3) The specialized instructional services provided for a
243 child under this section must be delivered according to
244 professionally accepted standards; must be in accordance with
245 the performance standards adopted by the department under s.



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246 1002.67; and must address the age-appropriate progress of the
247 child in the development of the capabilities, capacities, and
248 skills required under s. 1(b), Art. IX of the State
249 Constitution.

250 (4) The department shall approve specialized instructional
251 service providers whose services meet the standards in
252 subsection (3), maintain a list of approved providers, and
253 notify each school district and early learning coalition of the
254 approved provider list. Upon the request of a child's parent,
255 the department may approve a specialized instructional service
256 provider that is not on the approved list if the provider's
257 services meet the standards in subsection (3) and the service is
258 consistent with the child's individual educational plan.

259 (5) The coalition shall reimburse an approved specialized
260 instructional service provider for authorized services provided
261 to an eligible child; however, the cumulative total of services
262 reimbursed for a child may not exceed the amount of the base
263 student allocation provided in the Voluntary Prekindergarten
264 Education Program in the General Appropriations Act. Providers
265 shall be reimbursed from funds allocated to the early learning
266 coalition for the Voluntary Prekindergarten Education Program.

267 Section 5. Paragraph (a) of subsection (4) of section
268 1002.71, Florida Statutes, is amended to read:

269 1002.71 Funding; financial and attendance reporting.-

270 (4) Notwithstanding s. 1002.53(3) and subsection (2):

271 (a) A child who, for any of the prekindergarten programs
272 listed in s. 1002.53(3), has not completed more than 70 percent
273 of the hours authorized to be reported for funding under
274 subsection (2), or has not expended more than 70 percent of the



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275 funds authorized for the child under s. 1002.66, may withdraw
276 from the program for good cause and reenroll in one of the
277 programs. The total funding for a child who reenrolls in one of
278 the programs for good cause may not exceed one full-time
279 equivalent student. Funding for a child who withdraws and
280 reenrolls in one of the programs for good cause shall be issued
281 in accordance with the agency's uniform attendance policy
282 adopted pursuant to paragraph (6) (d).

283
284 A child may reenroll only once in a prekindergarten program
285 under this section. A child who reenrolls in a prekindergarten
286 program under this subsection may not subsequently withdraw from
287 the program and reenroll. The Agency for Workforce Innovation
288 shall establish criteria specifying whether a good cause exists
289 for a child to withdraw from a program under paragraph (a),
290 whether a child has substantially completed a program under
291 paragraph (b), and whether an extreme hardship exists which is
292 beyond the child's or parent's control under paragraph (b).

293 Section 6. Subsection (2) of section 1002.73, Florida
294 Statutes, is amended to read:

295 (2) The department shall adopt procedures for its ~~the~~
296 ~~department's~~:

297 (a) Approval of prekindergarten director credentials under
298 ss. 1002.55 and 1002.57.

299 (b) Approval of emergent literacy training courses under
300 ss. 1002.55 and 1002.59.

301 (c) Administration of the statewide kindergarten screening
302 and calculation of kindergarten readiness rates under s.
303 1002.69.



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304 (d) Approval of specialized instructional services
305 providers under s. 1002.66.

306 Section 7. Subsection (3) of section 1002.75, Florida
307 Statutes, is amended to read:

308 1002.75 Agency for Workforce Innovation; powers and duties;
309 operational requirements.—

310 (3) The Agency for Workforce Innovation shall adopt, in
311 consultation with and subject to approval by the department,
312 procedures governing the administration of the Voluntary
313 Prekindergarten Education Program by the early learning
314 coalitions and school districts for:

315 (a) Approving improvement plans of private prekindergarten
316 providers and public schools under s. 1002.67.

317 (b) Placing private prekindergarten providers and public
318 schools on probation and requiring corrective actions under s.
319 1002.67.

320 (c) Removing a private prekindergarten provider or public
321 school from eligibility to deliver the program due to the
322 provider's or school's remaining on probation beyond the time
323 permitted under s. 1002.67.

324 (d) Enrolling children in and determining the eligibility
325 of children for the Voluntary Prekindergarten Education Program
326 under s. 1002.66.

327 (e) Paying specialized instructional services providers
328 under s. 1002.66.

330 ===== T I T L E A M E N D M E N T =====

331 And the title is amended as follows:

332 Delete lines 2 - 21



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333 and insert:

334 An act relating to education programs for children
335 with disabilities; amending s. 1002.39, F.S.; revising
336 provisions relating to the John M. McKay Scholarships
337 for Students with Disabilities Program; authorizing
338 students who receive certain services under the
339 Voluntary Prekindergarten Education Program to receive
340 a John M. McKay Scholarship; authorizing the
341 Commissioner of Education to deny, suspend, or revoke
342 a private school's participation in the scholarship
343 program if the owner or operator of such school has
344 operated an educational institution in this state or
345 another in a manner contrary to the health, safety, or
346 welfare of the public; providing factors for the
347 commissioner to consider in making a determination;
348 providing a definition for the term "owner or
349 operator"; conforming cross-references; amending s.
350 1002.51, F.S.; providing definitions for the terms
351 "disability" and "specialized instructional services
352 provider" for purposes of the Voluntary
353 Prekindergarten Education Program; amending s.
354 1002.53, F.S.; providing that a parent may enroll his
355 or her child in a specialized instructional services
356 program for children who have disabilities if the
357 child is eligible for the Voluntary Prekindergarten
358 Education Program; creating s. 1002.66, F.S.;
359 establishing specialized instructional services for
360 children with disabilities; providing eligibility
361 criteria for such services; requiring that such



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362 services be delivered in accordance with certain
363 standards; requiring that the Department of Education
364 approve specialized instructional service providers;
365 authorizing the expenditure of funds for specialized
366 instructional services; amending s. 1002.71, F.S.;
367 revising provisions for the funding of a child
368 receiving specialized instructional services to
369 conform to changes made by the act; amending s.
370 1002.73, F.S.; requiring that the Department of
371 Education adopt procedures for approving specialized
372 instructional services providers; amending s. 1002.75,
373 F.S.; requiring that the Agency for Workforce
374 Innovation adopt procedures for enrolling children in
375 and determining the eligibility of children for the
376 Voluntary Prekindergarten Education Program and paying
377 specialized instructional services providers;
378 providing an effective date.