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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/20/2010	.	
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	.	
	.	

The Policy and Steering Committee on Ways and Means (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause 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.



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

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



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42 enrolled and reported, and was eligible for services under s.
43 1003.21(1)(e).

44
45 However, a dependent child of a member of the United States
46 Armed Forces who transfers to a school in this state from out of
47 state or from a foreign country due to ~~pursuant to~~ a parent's
48 permanent change of station orders is exempt from this paragraph
49 but must meet all other eligibility requirements to participate
50 in the program.

51 (b) The parent has obtained acceptance for admission of the
52 student to a private school that is eligible for the program
53 under subsection (8) and has requested from the department a
54 scholarship at least 60 days before ~~prior to~~ the date of the
55 first scholarship payment. The request must be communicated
56 ~~through a communication~~ directly to the department in a manner
57 that creates a written or electronic record of the request and
58 the date of receipt of the request. The department ~~of Education~~
59 must notify the district of the parent's intent upon receipt of
60 the parent's request.

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

62 (a) The Commissioner of Education:

63 1. Shall deny, suspend, or revoke a private school's
64 participation in the scholarship program if it is determined
65 that the private school has failed to comply with the provisions
66 of this section. However, if ~~in instances in which~~ the
67 noncompliance is correctable within a reasonable amount of time
68 and if ~~in which~~ the health, safety, or welfare of the students
69 is not threatened, the commissioner may issue a notice of
70 noncompliance which provides ~~shall provide~~ the private school



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71 with a timeframe within which to provide evidence of compliance
72 before ~~prior to~~ taking action to suspend or revoke the private
73 school's participation in the scholarship program.

74 2. May deny, suspend, or revoke a private school's
75 participation in the scholarship program if the commissioner
76 determines that an owner or operator of the private school is
77 operating or has operated an educational institution in this
78 state or in another state or jurisdiction in a manner contrary
79 to the health, safety, or welfare of the public.

80 a. In making such a determination, the commissioner may
81 consider factors that include, but are not limited to, acts or
82 omissions by an owner or operator which led to a previous denial
83 or revocation of participation in an education scholarship
84 program; an owner's or operator's failure to reimburse the
85 Department of Education for scholarship funds improperly
86 received or retained by a school; imposition of a prior criminal
87 sanction related to an owner's or operator's management or
88 operation of an educational institution; imposition of a civil
89 fine or administrative fine, license revocation or suspension,
90 or program eligibility suspension, termination, or revocation
91 related to an owner's or operator's management or operation of
92 an educational institution; or other types of criminal
93 proceedings in which an owner or operator was found guilty of,
94 regardless of adjudication, or entered a plea of nolo contendere
95 or guilty to, any offense involving fraud, deceit, dishonesty,
96 or moral turpitude.

97 b. For purposes of this subparagraph, the term "owner or
98 operator" includes an owner, operator, superintendent, or
99 principal of, or a person who has equivalent decisionmaking



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100 authority over, a private school participating in the
101 scholarship program.

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

103 (a)1. The maximum scholarship granted for an eligible
104 student with disabilities shall be ~~a calculated amount~~
105 equivalent to the base student allocation in the Florida
106 Education Finance Program multiplied by the appropriate cost
107 factor for the educational program that would have been provided
108 for the student in the district school to which he or she was
109 assigned, multiplied by the district cost differential.

110 2. In addition, a share of the guaranteed allocation for
111 exceptional students shall be determined and added to the
112 ~~calculated~~ amount in subparagraph 1. The calculation shall be
113 based on the methodology and the data used to calculate the
114 guaranteed allocation for exceptional students for each district
115 in chapter 2000-166, Laws of Florida. Except as provided in
116 subparagraphs 3. and 4., the calculation shall be based on the
117 student's grade, matrix level of services, and the difference
118 between the 2000-2001 basic program and the appropriate level of
119 services cost factor, multiplied by the 2000-2001 base student
120 allocation and the 2000-2001 district cost differential for the
121 sending district. ~~Also,~~ The calculated amount shall include the
122 per-student share of supplemental academic instruction funds,
123 instructional materials funds, technology funds, and other
124 categorical funds as provided ~~for such purposes~~ in the General
125 Appropriations Act.

126 3. The ~~calculated~~ scholarship amount for a student who is
127 eligible under sub-subparagraph (2) (a)2.b. ~~subparagraph (2) (a)2.~~
128 shall be calculated as provided in subparagraphs 1. and 2.



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129 However, the calculation shall be based on the school district
130 in which the parent resides at the time of the scholarship
131 request.

132 4. Until the school district completes the matrix required
133 by paragraph (5)(b), the calculation shall be based on the
134 matrix that assigns the student to support level I of service as
135 it existed prior to the 2000-2001 school year. When the school
136 district completes the matrix, the amount of the payment shall
137 be adjusted as needed.

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

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

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

149 b. Be held harmless for such students from the weighted
150 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.
151 during the first school year in which the students are reported.

152 (d) Following notification on July 1, September 1, December
153 1, or February 1 of the number of program participants, the
154 department shall transfer, from General Revenue funds only, the
155 amount calculated under paragraph (b) from the school district's
156 total funding entitlement under the Florida Education Finance
157 Program and from authorized categorical accounts to a separate



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158 account for the scholarship program for quarterly disbursement
159 to the parents of participating students. Funds may not be
160 transferred from any funding provided to the Florida School for
161 the Deaf and the Blind for program participants who are eligible
162 under sub-subparagraph (2) (a) 2.b. ~~subparagraph (2) (a) 2.~~ For a
163 student exiting a Department of Juvenile Justice commitment
164 program who chooses to participate in the scholarship program,
165 the amount of the John M. McKay Scholarship calculated pursuant
166 to paragraph (b) shall be transferred from the school district
167 in which the student last attended a public school before ~~prior~~
168 ~~to~~ commitment to the Department of Juvenile Justice. When a
169 student enters the scholarship program, the department must
170 receive all documentation required for the student's
171 participation, including the private school's and the student's
172 fee schedules, at least 30 days before the first quarterly
173 scholarship payment is made for the student.

174 Section 2. Present subsections (2) through (5) of section
175 1002.51, Florida Statutes, are redesignated as subsections (4)
176 through (7), respectively, and new subsections (2) and (3) are
177 added to that section, to read:

178 1002.51 Definitions.—As used in this part, the term:

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

181 (3) "Specialized instructional services provider" means a
182 provider delivering specialized instructional services under s.
183 1002.66.

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

186 1002.53 Voluntary Prekindergarten Education Program;



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187 eligibility and enrollment.-

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

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

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

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

199 (c) A school-year prekindergarten program delivered by a
200 public school; or

201 (d) A specialized instructional services program for
202 children who have disabilities, if the child has been evaluated
203 and determined as eligible, has an individual educational plan
204 developed by the local school board, and is eligible for the
205 program under s. 1002.66.

206
207 Except as provided in s. 1002.71(4), a child may not enroll in
208 more than one of these programs.

209 Section 4. Section 1002.66, Florida Statutes, is created to
210 read:

211 1002.66 Specialized instructional services for children
212 with disabilities.-

213 (1) Beginning with the 2012-2013 school year, a child who
214 has a disability and enrolls with the early learning coalition
215 under s. 1002.53(3)(d) is eligible for specialized instructional



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216 services if:

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

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

222 (2) The parent of a child who is eligible for the
223 prekindergarten program for children with disabilities may
224 select one or more specialized instructional services that are
225 consistent with the child's individual educational plan. These
226 specialized instructional services may include, but are not
227 limited to:

228 (a) Applied behavior analysis as defined in ss. 627.6686
229 and 641.31098.

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

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

232 (d) Physical therapy as defined is s. 486.021.

233 (3) The specialized instructional services provided for a
234 child under this section must be delivered according to
235 professionally accepted standards; must be in accordance with
236 the performance standards adopted by the department under s.
237 1002.67; and must address the age-appropriate progress of the
238 child in the development of the capabilities, capacities, and
239 skills required under s. 1(b), Art. IX of the State
240 Constitution.

241 (4) The department shall approve specialized instructional
242 service providers whose services meet the standards in
243 subsection (3), maintain a list of approved providers, and
244 notify each school district and early learning coalition of the



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245 approved provider list. Upon the request of a child's parent,
246 the department may approve a specialized instructional service
247 provider that is not on the approved list if the provider's
248 services meet the standards in subsection (3) and the service is
249 consistent with the child's individual educational plan.

250 (5) The coalition shall reimburse an approved specialized
251 instructional service provider for authorized services provided
252 to an eligible child; however, the cumulative total of services
253 reimbursed for a child may not exceed the amount of the base
254 student allocation provided in the Voluntary Prekindergarten
255 Education Program in the General Appropriations Act. Providers
256 shall be reimbursed from funds allocated to the early learning
257 coalition for the Voluntary Prekindergarten Education Program.

258 Section 5. Paragraph (a) of subsection (4) of section
259 1002.71, Florida Statutes, is amended to read:

260 1002.71 Funding; financial and attendance reporting.—

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

262 (a) A child who, for any of the prekindergarten programs
263 listed in s. 1002.53(3), has not completed more than 70 percent
264 of the hours authorized to be reported for funding under
265 subsection (2), or has not expended more than 70 percent of the
266 funds authorized for the child under s. 1002.66, may withdraw
267 from the program for good cause and reenroll in one of the
268 programs. The total funding for a child who reenrolls in one of
269 the programs for good cause may not exceed one full-time
270 equivalent student. Funding for a child who withdraws and
271 reenrolls in one of the programs for good cause shall be issued
272 in accordance with the agency's uniform attendance policy
273 adopted pursuant to paragraph (6) (d).



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274
275 A child may reenroll only once in a prekindergarten program
276 under this section. A child who reenrolls in a prekindergarten
277 program under this subsection may not subsequently withdraw from
278 the program and reenroll. The Agency for Workforce Innovation
279 shall establish criteria specifying whether a good cause exists
280 for a child to withdraw from a program under paragraph (a),
281 whether a child has substantially completed a program under
282 paragraph (b), and whether an extreme hardship exists which is
283 beyond the child's or parent's control under paragraph (b).

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

286 (2) The department shall adopt procedures for its ~~the~~
287 ~~department's~~:

288 (a) Approval of prekindergarten director credentials under
289 ss. 1002.55 and 1002.57.

290 (b) Approval of emergent literacy training courses under
291 ss. 1002.55 and 1002.59.

292 (c) Administration of the statewide kindergarten screening
293 and calculation of kindergarten readiness rates under s.
294 1002.69.

295 (d) Approval of specialized instructional services
296 providers under s. 1002.66.

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

299 1002.75 Agency for Workforce Innovation; powers and duties;
300 operational requirements.—

301 (3) The Agency for Workforce Innovation shall adopt, in
302 consultation with and subject to approval by the department,



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- 303 procedures governing the administration of the Voluntary
- 304 Prekindergarten Education Program by the early learning
- 305 coalitions and school districts for:
- 306 (a) Approving improvement plans of private prekindergarten
- 307 providers and public schools under s. 1002.67.
- 308 (b) Placing private prekindergarten providers and public
- 309 schools on probation and requiring corrective actions under s.
- 310 1002.67.
- 311 (c) Removing a private prekindergarten provider or public
- 312 school from eligibility to deliver the program due to the
- 313 provider's or school's remaining on probation beyond the time
- 314 permitted under s. 1002.67.
- 315 (d) Enrolling children in and determining the eligibility
- 316 of children for the Voluntary Prekindergarten Education Program
- 317 under s. 1002.66.
- 318 (e) Paying specialized instructional services providers
- 319 under s. 1002.66.

320 Section 8. This act shall take effect July 1, 2010.

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

323 And the title is amended as follows:

324 Delete everything before the enacting clause
325 and insert:

326 A bill to be entitled
327 An act relating to education programs for children
328 with disabilities; amending s. 1002.39, F.S.; revising
329 provisions relating to the John M. McKay Scholarships
330 for Students with Disabilities Program; authorizing
331 students who receive certain services under the



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332 Voluntary Prekindergarten Education Program to receive
333 a John M. McKay Scholarship; authorizing the
334 Commissioner of Education to deny, suspend, or revoke
335 a private school's participation in the scholarship
336 program if the owner or operator of such school has
337 operated an educational institution in this state or
338 another in a manner contrary to the health, safety, or
339 welfare of the public; providing factors for the
340 commissioner to consider in making a determination;
341 providing a definition for the term "owner or
342 operator"; conforming cross-references; amending s.
343 1002.51, F.S.; providing definitions for the terms
344 "disability" and "specialized instructional services
345 provider" for purposes of the Voluntary
346 Prekindergarten Education Program; amending s.
347 1002.53, F.S.; providing that a parent may enroll his
348 or her child in a specialized instructional services
349 program for children who have disabilities if the
350 child is eligible for the Voluntary Prekindergarten
351 Education Program; creating s. 1002.66, F.S. ;
352 establishing specialized instructional services for
353 children with disabilities; providing eligibility
354 criteria for such services; requiring that such
355 services be delivered in accordance with certain
356 standards; requiring that the Department of Education
357 approve specialized instructional service providers;
358 authorizing the expenditure of funds for specialized
359 instructional services; amending s. 1002.71, F.S. ;
360 revising provisions for the funding of a child



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361 receiving specialized instructional services to
362 conform to changes made by the act; amending s.
363 1002.73, F.S.; requiring that the Department of
364 Education adopt procedures for approving specialized
365 instructional services providers; amending s. 1002.75,
366 F.S.; requiring that the Agency for Workforce
367 Innovation adopt procedures for enrolling children in
368 and determining the eligibility of children for the
369 Voluntary Prekindergarten Education Program and paying
370 specialized instructional services providers;
371 providing an effective date.