

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Education Pre-K - 12

BILL: SB 1088

INTRODUCER: Senator Stargel

SUBJECT: John M. McKay Scholarships for Students with Disabilities Program

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Pre-meeting
2.			AED	
3.			AP	

I. Summary:

SB 1088 amends the John M. McKay Scholarship for Students with Disabilities Program (McKay) to expand student eligibility, authorize transition-to-work programs, and limit reduction in scholarship value. Specifically, the bill:

- Exempts foster children from the prior school year attendance requirement for determining student eligibility.
- Authorizes a private school to establish a transition-to-work program for McKay students.
- Enables McKay students to take virtual courses without reducing the scholarship amount.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

McKay Scholarship For Students With Disabilities Program

The John M. McKay Scholarship Program For Students With Disabilities Program (McKay) provides the option to attend an eligible public or private school for students with disabilities that have an individual education plan (IEP) or an accommodation plan that has been issued under s. 504 of the Rehabilitation Act of 1973 (504 accommodation plan).¹

Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; and other health impairments; an emotional or behavioral disability; a specific

¹ Section 1002.39(1), F.S.

learning disability, including but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder.²

Eligibility Requirements

The parent of a student with a disability may request and receive a McKay scholarship for the child to enroll in and attend a private school if:³

- The student has:
 - Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind; or
 - Received specialized instructional services under the Voluntary Prekindergarten Education Program⁴ during the previous school year and has a current IEP or 504 accommodation plan.
- The parent has obtained acceptance for admission of the student to a private school that is eligible for the program, and has requested a McKay scholarship from the Department of Education (DOE) at least 60 days before the date of the first scholarship payment.

Prior School Year Attendance

For purposes of scholarship eligibility, the term “prior school year in attendance” means the student was enrolled and reported by:⁵

- A school district for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the FEFP;
- The Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or
- A school district for funding during the preceding October and February FEFP surveys and the student was at least 4 years old when enrolled and reported and eligible for services under the school attendance requirements for prekindergarten aged children with disabilities.

The legislature has authorized one exception to the prior school year attendance requirement. A dependent child of a member of the United States Armed Forces who transfers to a Florida school from out of state or from a foreign country due to a parent’s permanent change of station orders is exempt from the prior school year attendance requirements, but must meet all other eligibility requirements to participate in the McKay Scholarship Program.⁶

² Section 1002.39(1), F.S.

³ Section 1002.39(2), F.S. The public school option is discussed in the McKay Public School Option portion of this analysis.

⁴ In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the Voluntary Prekindergarten Education (VPK) Program. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK Program and has a current IEP developed by the district school board. Section 1002.66, F.S.; see also s. 1002.53, F.S.

⁵ Section 1002.39(2)(a)2., F.S. Although not required to attend a public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs and related services. Section 1003.21(1)(e), F.S.

⁶ Section 1002.39(2)(a), F.S. (flush left provision at the end of the paragraph).

Scholarship Funding and Payments

The amount of a McKay scholarship is a statutorily calculated amount or the amount of the private school's tuition and fees, whichever is less.⁷ Until a school district completes a matrix of services, the calculation must be based on the matrix that assigns the student to support Level I of services.⁸ When the school district completes the matrix, the amount of the payment is adjusted as needed.⁹

State funding per student may not exceed 1.0 FTE, including traditional and virtual courses.¹⁰ If a student's course load exceeds 1.0 FTE, the funding for each course is reduced proportionately to equal 1.0 FTE.¹¹ For example, although McKay students are authorized to take up to two virtual courses,¹² the scholarship amount is reduced in order to comply with the 1.0 FTE requirement.

Public School Transition to Postsecondary Education and Career Opportunities

To ensure quality planning for a successful transition of a student with a disability to postsecondary education and career opportunities, an individual education plan (IEP) team must develop an IEP for identifying the need for transition services.¹³

The plan must:¹⁴

- Be developed by the time the student is 14, in order for the student's postsecondary goals and career goals to be identified and in place when the student turns 16 years old.¹⁵
- Consider the student's need for instruction in the area of self-determination and self-advocacy to assist the student's active and effective participation in an IEP meeting.
- Prepare the student to graduate from high school with a standard high school diploma with a Scholar designation, unless the parent chooses a Merit designation.
- Include a statement of appropriate measurable long-term postsecondary education and career goals based upon age-appropriate transition assessments related to training, education, employment, and if appropriate, independent living skills and the transition services, including courses of study needed to assist the student in reaching those goals.
- Include a statement, when the student turns 16,¹⁶:

⁷ Section 1002.39(10)(b), F.S. The McKay scholarship has a maximum cap, which is equivalent to the base student allocation in the Florida Education Finance Program (FEFP) multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which the student was assigned, multiplied by the district cost differential. Section 1002.39(10)(a), F.S.

⁸ Section 1002.39(10)(a)4., F.S.

⁹ *Id.*

¹⁰ Section 1011.61(4)(a), F.S.

¹¹ *Id.*

¹² Section 1002.39(3)(f), F.S., states that a student is not eligible for McKay while participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation, unless the participation is limited to no more than two courses per school year.

¹³ Section 1003.5716(1), F.S. Any change in the IEP goals must be approved by the parent is is subject to verification for appropriateness by an independent reviewer selected by the parent. Section 1003.5716(3), F.S.

¹⁴ Section 1003.5716, F.S.

¹⁵ *Id.*

¹⁶ Sixteen or younger if determined appropriate by the parent and the IEP team. *Id.* The statement must be updated annually. *Id.*

- Of intent to pursue a standard high school diploma and Scholar or Merit designation, as determined by the parent.
- Of intent of receive a standard high school diploma before the student turns 22. The statement must include a description of how the student will fully meet the requirement for receiving a standard high school diploma, including a portfolio.
- Of outcomes and additional benefits expected by the parent and the IEP team at the time of the student's graduation.

If a participating agency responsible for transition services fails to provide the transition services described in the IEP, the school district must reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student that are specified in the IEP.¹⁷ The participating agency is not relieved of the responsibility to provide for or pay for any transition services that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.¹⁸

III. Effect of Proposed Changes:

SB 1088 amends the John M. McKay Scholarship for Students with Disabilities Program (McKay) by expanding student eligibility, authorizing transition-to-work programs, and limiting reduction in scholarship value. More specifically, the bill:

- Exempts foster children from the prior school year attendance requirement for determining student eligibility.
- Authorizes a private school to establish a transition-to-work program for McKay students.
- Enables McKay students to take virtual courses without reducing the scholarship amount.

Foster Children

The bill adds foster children to the existing exemption from the prior school year attendance requirement for determining McKay eligibility.

Transition-To-Work Program

The bill authorizes a private school to establish a transition-to-work program for private school McKay students. The transition-to-work program consists of academic instruction, work skills training, and a volunteer or paid work experience.

To participate in the transition-to-work program, McKay students:

- Must be between 17 and 22 years of age, and have not yet received a high school diploma or certificate of completion.
- Must receive 15 hours of academic instruction and work skills training at a private school.
- Must participate in 10 hours of work at the student's work experience program.
- Is exempted from having regular and direct contact with the teacher at the private school's physical location.

¹⁷ Section 1003.5716(4), F.S.

¹⁸ *Id.*

To offer a transition-to-work program, a private school in the McKay Scholarship Program must:

- Develop and submit to DOE a transition-to-work program plan that includes a description of the academic instruction and work skills training the students will receive.
- Develop a personalized transition-to-work program plan for each student in the program, which must be signed by the student, the student's parent, and the school principal. A personalized plan must be submitted to DOE upon request.
- Provide a liability release form signed by the student, the student's parent, and the business offering the work experience.
- Assign a case manager to visit the student's job site on a weekly basis, observe the student, and, provide support.
- Provide to the student and parent a quarterly report documenting the student's progress and performance.
- Maintain accurate attendance and performance records for the student.

To participate in a transition-to work-program, a business must:

- Maintain and provide accurate records of the student's performance and hours worked.
- Comply with all state and federal child labor laws.

As compared to the public school transition to postsecondary education and career opportunities statutory requirements, the McKay transition to work program primarily differs in that it:

- Is agreed to in a signed plan between the parent, student and principal, rather than being included in the student's IEP.
- Contains specific accountability requirements of requiring weekly visits by an assigned case manager or job coach, and requiring quarterly progress reports to be provided to the parent and student.
- Identifies specific instructional and work hour requirements.
- Requires a release of liability that the parent, student, and business must sign.

Scholarship Proportional Reduction for Virtual Courses

The bill provides that the McKay scholarship amount is not subject to the maximum value for funding a student under the FEFP.¹⁹ In effect, McKay students taking two virtual courses will not have the scholarship amount is reduced in order to comply with the 1.0 FTE requirement.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁹ Sections 1011.62; 1011.61(4), F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Not determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.39, 1011.61.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.