

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 902

INTRODUCER: Appropriations Committee; Education Committee; and Senator Simmons

SUBJECT: Gardiner Scholarship Program

DATE: May 2, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____
4.	_____	_____	_____	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 902 modifies the Gardiner Scholarship Program (GSP) to:

- Expand the definition of disability for purposes of the GSP.
- Revise student eligibility criteria for participation in the GSP.
- Authorize the procurement of additional services using GSP funds.
- Provide that a private school with material exceptions to its agreed-upon procedures reports in consecutive years or that is unable to comply with GSP requirements may be deemed ineligible for GSP participation by the Commissioner of Education.
- Specify circumstances that require a student's scholarship account to be closed and conditions under which a student is deemed ineligible for the scholarship.

SB 2500, the Senate General Appropriations Act, appropriates \$107,416,063 for the GSP. The expansion of qualifying disabilities is estimated to cost approximately \$14 million. Student eligibility for the GSP is on a first-come, first served basis, based on funds provided. If the number of eligible students exceeds the available funding, eligible students who do not receive funding will be placed on the wait list.

The bill takes effect July 1, 2017.

## II. Present Situation:

The Gardiner Scholarship Program (GSP) provides parents of eligible students with disabilities more flexibility to customize their child's education.<sup>1</sup> Funds are distributed to qualified<sup>2</sup> Scholarship Funding Organizations (SFOs) to establish accounts for eligible students.<sup>3</sup> Parents can use funds from the student's account to choose from a variety of approved items or services for their students including, but not limited to: specialized services, curriculum, instructional materials, tuition, and contracted services.<sup>4</sup>

### Eligibility

The parent of a student, who is a Florida resident, may request and receive an account if the student:<sup>5</sup>

- Is 3 or 4 years old or eligible to enroll in kindergarten through grade 12 in a Florida public school;
- Has one of the following disabilities:
  - Autism spectrum disorder,
  - Cerebral palsy,
  - Down syndrome,
  - An intellectual disability,
  - Phelan-McDermid syndrome,
  - Prader-Willi syndrome,
  - Spina bifida,
  - Muscular dystrophy,
  - Is identified as a high-risk child, or
  - Williams syndrome; and
- Has an Individualized Education Plan (IEP) written in accordance with the State Board of Education or has received a diagnosis of one of the above disabilities from a licensed physician or a licensed psychologist.

A student is not eligible for the GSP:<sup>6</sup>

- While enrolled in a public school;
- While enrolled in a Department of Juvenile Justice schools commitment program;
- While receiving a scholarship from the Florida Tax Credit Scholarship Program or the McKay Scholarship for Students with Disabilities Program; or
- While receiving any other educational scholarship under ch. 1002, F.S.

The parent of a student with a disability who does not have an IEP or who seeks a reevaluation of an existing IEP may request an IEP meeting and evaluation from the school district in order to obtain or revise a matrix of services.<sup>7</sup>

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<sup>1</sup> Section 1002.385(1), F.S.

<sup>2</sup> *Id.* at (2)(e).

<sup>3</sup> Section 1002.385, F.S.

<sup>4</sup> Section 1002.385(5), F.S.

<sup>5</sup> Section 1002.385(3), F.S.

<sup>6</sup> *Id.* at (4).

<sup>7</sup> Section 1002.385(7)(a)1., F.S.

Parents must apply to an eligible SFO to participate in the program by February 1 before the school year in which the student wishes to participate, or an alternative date set by the SFO.<sup>8</sup> Scholarship awards are provided on a first-come, first-served basis.<sup>9</sup>

### **Award Amount**

An individual student scholarship is calculated, in part, using the appropriate cost for the educational program which would have been provided for the student in the school district.<sup>10</sup> Unless a parent requests and receives an IEP and matrix of services from a district, each student's scholarship amount is based on support Level III of services.<sup>11</sup>

### **Allowable Expenditures**

GSP funds must be used to meet the individual education needs of the student.<sup>12</sup> Program funds may be spent for the following authorized purposes:<sup>13</sup>

- Instructional materials and curriculum.
- Specialized services by approved providers, including but not limited to, applied behavior analysis, speech language pathologist, occupational therapy, physical therapy, and services provided by spoken and listening language specialists.
- Enrollment in, or tuition and fees for enrollment in, a home education program, an eligible private school or postsecondary institution or a program offered by the institution, a private tutoring program, or virtual education programs or courses.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contributions to the Stanley G. Tate Florida Prepaid College Program or the Florida College Savings Program.
- Contracted services provided by a public school or school district, including classes.
- Tuition and fees for part-time tutoring services provided by an individual who has a valid Florida educator's certificate, an adjunct teaching certificate, or has demonstrated mastery of subject area knowledge.
- Fees for specialized summer or after-school education programs.
- Fees for transition services provided by job coaches.
- Fees for an annual evaluation used by home education students.
- Tuition and fees associated with programs offered by VPK education and school readiness providers.

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<sup>8</sup> Section 1002.385(3)(b), F.S.

<sup>9</sup> *Id.* at 12(b).

<sup>10</sup> Section 1002.385(13)(a)1., F.S.

<sup>11</sup> *Id.* at (13)(a)3.

<sup>12</sup> *Id.* at (11).

<sup>13</sup> *Id.* at (5).

### **Eligible Service Providers**

Currently, entities eligible to provide specialized services or educational programs include:<sup>14</sup>

- A provider approved by the Agency for Persons with Disabilities, a health care practitioner or a provider approved by the Florida Department of Education (DOE) to offer specialized instructional services for children with disabilities.
- A postsecondary educational institution including a Florida College System institution; a state university; a school district technical center; a school district adult general education center; an independent college or university eligible to participate in the William L. Boyd, IV Florida Resident Access Grant Program; or an accredited, independent postsecondary educational institution which is licensed to operate in this state.
- A private school that is located in this state, offers education to students in any grade from kindergarten to grade 12, meets all the requirements of a private school operating in Florida, and meets all the requirements of a private school participating in the John M. McKay Scholarship Program or the Florida Tax Credit Scholarship Program.

### **III. Effect of Proposed Changes:**

The bill modifies the Gardiner Scholarship Program (GSP) to:

- Expand the definition of disability, for purposes of the GSP, to include a child:
  - Diagnosed with a rare disease or condition, which affects patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders;
  - Diagnosed as Anaphylaxis; or
  - Identified as deaf, visually impaired, dual sensory impaired, traumatic brain injured, or hospital or homebound, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The bill describes hospital or homebound to mean a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the State Board in rule, and who is confined to the home or hospital for more than 6 months.
- Specify that a student's individual education plan (IEP) is not required to be reviewed or revised within the last 12 months in order for the student to be eligible for the GSP.
- Allow a student with an IEP from another state or physician licensed in another state to qualify for the GSP, if the student meets the other eligibility requirements.
- Authorize the use of GSP funds to procure services provided by a hospital in Florida which is selected by a parent, a certified music therapist, art therapist, or services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International.
- Specify that a parent, student, or provider of any services may not bill an insurance company, Medicaid, or any other agency for the same services paid through Gardiner Scholarship funds.
- Provide that if a private school is unable to meet the requirements in law or has consecutive years of material exceptions listed in its agreed-upon procedures reports, the Commissioner of the Department of Education (DOE) may determine that the school is ineligible to participate in the GSP.

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<sup>14</sup> Section 1002.285(2), F.S.

- Require a student's scholarship account to be closed and remaining funds reverted to the state if an account has been inactive for three consecutive fiscal years. The bill defines inactive to mean that eligible expenditures have not been made from a student's scholarship account.
- Specify that if a parent does not procure the necessary educational services for the student and the student's account has been inactive for 2 consecutive fiscal years, the student is ineligible for additional scholarship payments until the scholarship-funding organization verifies that expenditures have occurred from the account.

The bill may result in additional students qualifying for awards under the GSP and allow students and parents to procure additional services from a hospital in Florida which is selected by the student's parent, licensed music therapists, art therapists, or a center that is a member of the Professional Association of Therapeutic Horsemanship International.

The bill takes effect July 1, 2017.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The bill may result in additional students qualifying for an award through the Gardiner Scholarship Program (GSP). In the 2016-17 fiscal year, the average GSP award is approximately \$10,000.<sup>15</sup> The bill may also allow specified therapists and centers to receive funds from GSP program participants that choose to procure specialized services from such providers.

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<sup>15</sup> Florida Department of Education, *HB 15 Analysis* (2017), at 9. The GSP provisions in HB 15 are substantively similar to SB 1314.

**C. Government Sector Impact:**

SB 2500, the Senate General Appropriations Act, appropriates \$107,416,063 for the GSP. The expansion of qualifying disabilities is estimated to cost approximately \$14 million. Student eligibility for the GSP is on a first-come, first served basis, based on funds provided. If the number of eligible students exceeds the available funding, eligible students who do not receive funding will be placed on the wait list.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1002.385 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations on May 1, 2018:**

The committee substitute:

- Clarifies that a rare disease or condition is one that affects patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders.
- Clarifies that a student is ineligible for scholarship funding if the student's account has been inactive for 2 consecutive fiscal years and that the student may resume scholarship funding once a qualifying expenditure has been made.
- Reverts to current law the date by which a private school must submit a report on agreed-upon procedures to the scholarship-funding organization.

**CS by Education on April 17, 2017:**

The committee substitute:

- Modifies the definition of disability for purposes of the Gardiner Scholarship Program by deleting orthopedically impaired and other health impaired identification from the disability definition and revising the rare diseases definition.
- Restores current law regarding program eligibility criteria by deleting provisions in the bill that expanded eligibility to a student 5 years or older and who has been previously identified as high risk.
- Authorizes the use of program funds for specialized services provided by a hospital in Florida which is selected by a parent.

- Specifies that a parent, student, or provider of any services may not bill an insurance company, Medicaid, or any other agency for the same services paid through Gardiner Scholarship funds.
- Provides that a student's scholarship account must be closed and any remaining funds revert to the state if an account has been inactive for three consecutive fiscal years. The bill defines inactive to mean that eligible expenditures have not been made from a student's scholarship account.
- Specifies that if a parent does not procure the necessary educational services for the student and the student's account has been inactive for 2 consecutive financial years, the student is deemed ineligible for additional scholarship payments until the scholarship-funding organization verifies that expenditures have occurred from the student's scholarship account.
- Deletes from the bill the appropriation of \$200 million in recurring funds from the General Revenue fund for scholarship awards and \$6 million in recurring funds from the General Revenue fund for administrative expenses.

B. Amendments:

None.