

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/CS/SB 1180

SPONSOR: Appropriations Subcommittee on Education, Education Committee and Senator Pruitt

SUBJECT: Scholarships/Students/Disabilities

DATE: March 21, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable/CS</u>
2.	<u>McKee</u>	<u>Hickam</u>	<u>AED</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill amends s. 229.05371, F.S., to revise and clarify requirements for the Scholarship Program for Students with Disabilities. The bill provides a definition for students with disabilities, establishes criteria for program participants and for private schools, establishes school district responsibilities, and requires administrative actions by the Department of Education (DOE).

The bill takes effect upon becoming a law.

This bill substantially amends s. 229.05371, Florida Statutes.

## II. Present Situation:

The Scholarship Program for Students with Disabilities was created in 1999, in section 229.05371, F.S., as a pilot program in Sarasota County. The program permits a student with a disability whose academic progress in at least two areas had not met expected levels for the previous year to attend another public school or to receive a scholarship for a private school. In the first year of implementation, two students participated at one private school. The 2000 Legislature authorized statewide implementation of the program. In the 2000-2001 school year, 982 students receive scholarships in 38 school districts. One hundred twenty-seven private schools have registered to participate in the program; at present 119 are serving students in the scholarship program for students with disabilities. The average scholarship amount is \$6,860.

The law limits participation to 5 percent of students with disabilities in a school district during the first year, 10 percent in the second year, and 20 percent in the third year, with no caps in subsequent years. As the program was implemented it became clear that the available space in

private schools would limit the program far more than the imposed caps. In 2000-2001, Florida's public schools serve 340,000 students with disabilities; five percent of that amount would be 17,000 students. Fewer than 1,000 students receive scholarships for students with disabilities in 2000-2001.

The Department of Education implemented the program as a parental placement under the Individuals with Disabilities Education Act (IDEA) (34 C.F.R. § 300.450-300.462). Parents notify the school district that they will request a scholarship, select a private school, receive acceptance for admission for their child, and endorse the scholarship warrants to the private school in payment for their child's tuition and fees.

Section 229.05371, F.S., states that the Scholarship Program for Students with Disabilities is separate and distinct from the Opportunity Scholarship Program, but for implementation procedures the statute contained cross-references to s. 229.0537, F.S., which governs the Opportunity Scholarship Program. As the Scholarship Program for Students with Disabilities was implemented, it became clear that the program is unique and the procedures to be followed by participants, private schools, school districts and the DOE should be contained in s. 229.05371.

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

This bill amends s. 229.05371, F.S., to establish the procedures and criteria for participation in the Scholarship Program for Students with Disabilities. The bill defines students with disabilities as those for whom an individual education plan (IEP) has been written in accordance with rules of the Commissioner or the State Board of Education. Students with disabilities includes students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospitalized or homebound, or autistic. Annually, prior to May 1, the Department of Education must notify the parent of every public school student with a disability that his or her child may be eligible for a scholarship.

The parent of a public school student with a disability may request and receive a scholarship for the student to attend a private school, provided the student spent the prior year in attendance at a public school in the state and the student has been accepted for admission at a private school that is eligible to participate in the program. Prior year in attendance means the student was reported by a school district as a student with a disability for the preceding October or February Florida Education Finance Program surveys in kindergarten through grade 12. The student's parent must notify the school district in writing of the request for a scholarship at least 60 days prior to the date of the first scholarship payment.

A school district must notify the parents of eligible students of all the options available under this program. A parent has the option of enrolling the student in another public school within the district, consistent with the school board's choice plan, as well as applying for a scholarship to a private school. If a student applying for a scholarship does not have a matrix of services under s. 236.025, F.S., the school district must complete a matrix that assigns the student to one of the levels of service as they existed prior to the 2000-2001 school year. Within 30 days of receipt of a parent's notification of intent to participate in the scholarship program, the school district must

complete the matrix of services and notify the DOE of the student's matrix level. Within 10 days of receipt of the school district's notification, the DOE must notify the private school of the amount of the scholarship.

The parent may choose to enroll the student in an adjacent school district and that district must accept the student and report the student for purposes of the Florida Education Finance Program (FEFP). The parent must provide transportation to the adjacent school district.

If the parent of a student who participates in the scholarship program for students with disabilities requests that the student take the statewide assessments under s. 229.57, F.S., the district must provide times and locations for the assessments.

A Florida private school, which may be either sectarian or nonsectarian, will be eligible to participate in the scholarship program for students with disabilities if it:

- Demonstrates fiscal soundness by:
  - Being in operation for one full year,
  - Providing the Department of Education (DOE) with a statement by a certified public accountant confirming that the school is insured and the owner has sufficient capital or credit to operate the school for the coming year, or
  - Filing with the DOE a surety bond or letter of credit equal to the scholarship funds for any quarter
- Notifies the DOE of its intent to participate in the program by May 1 of the year in which it intends to participate, specifying the grade levels and services to be provided
- Complies with the anti-discrimination provisions of 42 U.S.C. s. 2000d.
- Meets state and local health and safety laws and codes
- Is academically accountable to the parent for meeting the educational needs of the student
- Employs or contracts with teachers who hold baccalaureate or higher degrees, who have at least three years of teaching experience in public or private schools, or who have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught
- Complies with all state laws relating to general regulation of private schools, and
- Adheres to the tenets of its published disciplinary procedures before expelling a scholarship student.

A parent who applies for a scholarship is exercising his or her parental option to place his or her child in a private school. The parent must select the private school and apply for admission and must request the scholarship at least 60 days prior to the date of the first scholarship payment. Scholarship program participants must remain in attendance throughout the school year, unless excused for good cause, and must comply with the school's code of conduct.

The parents of a student receiving a scholarship must comply fully with the school's parental involvement requirements, unless excused for good cause. If the parent requests that the student take the statewide assessments under s. 229.57, F.S., the parent must transport the student to the assessment site provided by the school district. Upon receipt of a scholarship warrant, the parent must restrictively endorse the warrant to the private school for payment into the account of the

private school. A parent who fails to comply with the requirements of the bill forfeits the scholarship.

The bill provides a method for calculating the maximum amount of a scholarship based upon the student's matrix of services. The calculated amount will include the per-student share of all formula components and major categorical program allocations that are included in the calculation of the state share of school districts' total potential funding entitlements. If a private school has an assessment fee, that fee may be paid from the scholarship. If a private school requires a partial payment of tuition before the start of the academic year, the DOE may pay that amount, up to \$1,000, prior to the first quarterly payment of the year in which the scholarship is awarded. There is a limit of one reservation payment per student per year. The amount of the scholarship for students with disabilities will be the calculated amount or the private school's tuition and fees whichever is less.

The Comptroller will issue scholarship warrants to parents four times per year--on September 1, November 1, February 1, and April 1. A parent must give a school district notice of intent to participate in the scholarship program 60 days before the first scholarship payment is made. There are no retroactive payments. The scholarship warrant must be made payable to the student's parent, and the parent must restrictively endorse the warrant to the private school for deposit into the school's account.

No liability will arise on the part of the state based on any grant or use of a scholarship for students with disabilities. The State Board of Education may adopt rules to administer the program.

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

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

None.

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

None.

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

None.

##### **D. Other Constitutional Issues:**

Scholarships that permit public school students to attend private schools have been challenged with mixed results.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Some private school enrollments will increase as a result of this program. The DOE projects that the total amount expended on scholarships for students with disabilities in 2000-2001 will be \$6 million.

**C. Government Sector Impact:**

The maximum amount of the scholarship is determined by the services the student was receiving in public school. There will be no significant increase or decrease in the Florida Education Finance Program (FEFP).

Implementation of this bill will not affect the workload of the Department of Education.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

In October, 2000, a letter was sent to the United States Department of Education (USDOE) on behalf of 17 school board attorneys, the Florida School Boards Association, the Association for Retarded Citizens, Inc., and the Florida PTA indicating their concern that Florida may not be insuring the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act with respect to the implementation of the Scholarship Program for Students with Disabilities. Specifically, these parties were inquiring whether this scholarship program was a "parental placement" under IDEA.

Staff from the USDOE conducted a conference call with Florida Department of Education personnel on December 14th. During the call, Florida DOE reiterated its position that this program was a parental placement under the IDEA.

In December 2000, the DOE was notified of a complaint filed by a parent of a student with disabilities with the USDOE Office for Civil Rights (OCR) against Hillsborough County Schools and the Florida DOE. The parent alleged that the DOE failed to ensure that the school district fulfilled its obligations under this program. Subsequently, the DOE provided the requested information to the OCR.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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