

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 75
SPONSOR(S): Bilirakis
TIED BILLS:

John M. McKay Scholarships for Students with Disabilities Program

IDEN./SIM. BILLS: SB 1152

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee	7 Y, 0 N	Hunker	Kooi
2) Education Appropriations Committee	20 Y, 0 N	Eggers	Hamon
3) Education Council	9 Y, 0 N	Hunker	Kooi
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 75 redefines the term "students with disabilities" using modern terminology and eliminating hospitalized and homebound as a freestanding category of students with disabilities.

The bill revises eligibility for John M. McKay scholarships by allowing students who spent the prior year in the Florida School for the Deaf and the Blind or a Department of Juvenile Justice commitment program to apply for and receive McKay scholarships. The bill also removes the requirement that students have spent the prior school year in an *assigned* Florida public school. With the changes, prior year attendance at any Florida public school will qualify.

The bill eliminates Department of Education (DOE) funding of pre-paid private school tuition for McKay Scholarship recipients.

The bill requires school districts to report to DOE all students who attended the Florida School for the Deaf and the Blind for the prior year, and are now attending a private school under the John M. McKay Scholarship Program.

The bill has an indeterminate fiscal impact. See the FISCAL ANALYSIS section for more information.

The act shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the entitlement to John M. McKay Scholarships by including students, as defined by Federal law, in the categories of students who are eligible to receive the scholarship.

Empower families – This bill increases public and private school choice for eligible disabled children who spent the prior year in the Florida School for the Deaf and the Blind or a Department of Juvenile Justice commitment program.

Safeguard individual liberty – Students with disabilities leaving the Florida School for the Deaf and the Blind and Department of Juvenile Justice commitment programs will have access to public and private school choice options more quickly.

B. EFFECT OF PROPOSED CHANGES:

In 2002, the Florida Legislature authorized by law the statewide implementation of the John M. McKay Scholarships for Students with Disabilities Program. The program currently provides scholarships to attend either a qualifying private school or another public school to students with disabilities whose parents believe that their child's needs are not being met at their assigned public schools.

Students With Disabilities

Currently, the definition of "students with disabilities" found in s. 1002.39(1), F.S., includes K-12 students who are: (1) mentally handicapped; (2) speech and language impaired; (3) deaf or hard of hearing; (4) visually impaired; (5) dual sensory impaired; (6) physically impaired; (7) emotionally handicapped; (8) specific learning disabled; (9) hospitalized or homebound; or (10) autistic.

The bill changes the definition of "students with disabilities" to include K-12 students with the following disabilities: (1) documented mental retardation; (2) speech or language impairment; (3) hearing impairment, including deafness; (4) visual impairment, including blindness; (5) dual sensory impairment; (6) physical impairment; (7) serious emotional disturbance, including emotional handicap; or (9) specific learning disability, including, but not limited to: dyslexia; dyscalculia; developmental aphasia; traumatic brain injury; or autism.

This bill changes the definition of "students with disabilities" to the modern terminology for disabilities used in the federal regulations (See 34 C.F.R. § 300.7(c)). The bill eliminates "hospitalized and homebound" as a free-standing category of students with disabilities, but these students may qualify for the McKay Scholarships under any of the other enumerated categories. It is important to note, that a disability in and of itself does not guarantee the right to a McKay scholarship. The disability must be recognized under State Board rules¹ and the student must have a current individual education plan.²

Scholarship Eligibility

Currently, a parent of a public school student with a disability who is dissatisfied with the student's progress may request and receive a McKay Scholarship for the child to enroll in and attend a private school if the child attended an assigned Florida public school for the prior year.

¹ Rules 6A-6.03011 – 6A-60.03031, F.A.C.

² s. 1003.01(3)(a), providing that "exceptional student" means any student who has been determined eligible for a special program in accordance with the rules of the State Board of Education.

Section 1002.39(2)(a) currently defines “prior school year in attendance” to mean that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program surveys in kindergarten through grade 12.

This bill clarifies current law which provides that students enrolled in Department of Juvenile Justice (DJJ) commitment programs are ineligible to receive a McKay scholarship during the period of enrollment in the commitment program. However, current law is unclear as to whether a student that has met the McKay scholarship eligibility requirements is eligible to participate in the program immediately upon dismissal from a DJJ commitment program. According to the Department of Education (DOE), implementation of current law has been that “the time in which a student was enrolled in a DJJ commitment program would not ‘count’ as the required prior year of enrollment in public schools; therefore, students dismissed from a DJJ commitment program are only eligible for a McKay scholarship after being in attendance and reported for funding in a regular public school for both the October and February surveys.”³

Under this bill, “prior school year attendance” at any Florida public school will qualify; assignment is not a requirement. Also, this bill clarifies that “prior school year in attendance” includes time spent in a Department of Juvenile Justice (DJJ) commitment program if funded under the Florida Education Finance Program (FEFP). Prior school year attendance at the Florida School for the Deaf and Blind will also qualify.

Scholarship Funding and Payment

The bill clarifies that students enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs “shall not receive a John M. McKay Scholarship during the period of time that he or she is enrolled in such school.”

This bill further provides that the scholarship amount for a student who has spent the prior year in attendance at the Florida School for the Deaf and the Blind will be calculated in the same manner as any other McKay Scholarship, except that the calculation is based on the school district in which the parent resides at the time of the scholarship request.

Some private schools require pre-paid amounts of tuition to reserve seats in the class. This bill eliminates DOE funding of pre-paid tuition for McKay Scholarship recipients prior to the start of the academic year. The scholarship recipients will still receive the full tuition payments, but only during the academic year in which the scholarship is in force.

The bill provides that the funds used to provide scholarships to newly eligible students from the FSDB will come from the school districts where the parent resides at the time of the scholarship request. The bill prohibits the transfer of funds from the FSDB for students to participate in the program.

The bill provides that the funds used to provide scholarships to newly eligible students from a DJJ commitment program will come from the school district in which the student last attended a public school prior to commitment.

Reporting Requirements

The bill requires the school districts to report to DOE the number of former FSDB students attending private schools under this program, and holds the school district harmless for such students from the weighted enrollment ceiling for group 2 programs during the first school year in which the student is reported. Group 2 includes students in exceptional student education programs, English for Speakers of Other Languages programs, and all career education programs in grades 9-12.

³ Florida Department of Education, Governmental Relations Office, 2004 Legislative Bill Analysis on HB 1579: John M. McKay Scholarships for Students with Disabilities Program.

C. SECTION DIRECTORY:

Section 1. Amends Fla. Stat. § 1002.39; revising the definition of the term students with disabilities, clarifying and revising the student eligibility requirements; revising the provisions relating to scholarship funding and payment, and provides funding and payment mechanisms.

Section 2. Provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

School districts are held harmless under the Florida Education Finance Program's group 2 capping policy for students with McKay scholarships who attended the Florida School for the Dead and Blind during the prior year. Although the fiscal impact is indeterminate, it is expected to be very small.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision (Article VII, section 18):

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 75 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES