

Council Substitute for Council Substitute for
Council Substitute for House Bill No. 653

An act relating to the Corporate Income Tax Credit Scholarship Program; amending s. 220.187, F.S.; providing legislative findings; revising program purposes; providing that specified students who are currently or have been in foster care are eligible for participation in the program; providing that siblings of certain students are eligible for participation in the program; providing income criteria for continuation of scholarships for students in foster care; revising provisions authorizing the total amount of tax credits that may be granted and deleting the reservation of a portion thereof; revising authorized uses of scholarship funds; revising provisions relating to expenditure of contributions received by a scholarship-funding organization during a state fiscal year; authorizing expenditure of contributions for specified administrative expenses by certain scholarship-funding organizations; providing for the annual return of specified eligible contributions to the State Treasury; correcting a cross-reference; revising scholarship amounts; revising requirements relating to verification of student attendance for purposes of scholarship payment; providing for preservation of credits under certain circumstances; requiring the Office of Program Policy Analysis and Government Accountability to submit a report on funding for the scholarship program to the Governor and the Legislature; specifying report requirements; authorizing the Office of Program Policy Analysis and Government Accountability to request the Revenue Estimating Conference and the Education Estimating Conference to evaluate its findings and recommendations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (3), paragraph (b) of subsection (5), paragraphs (d) and (i) of subsection (6), paragraph (c) of subsection (8), and subsection (11) of section 220.187, Florida Statutes, are amended, and subsection (14) is added to that section, to read:

220.187 Credits for contributions to nonprofit scholarship-funding organizations.—

(1) FINDINGS AND PURPOSE.—

(a) The Legislature finds that:

1. It has the inherent power to determine subjects of taxation for general or particular public purposes.

2. Expanding educational opportunities and improving the quality of educational services within the state are valid public purposes that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

3. Ensuring that all parents, regardless of means, may exercise and enjoy their basic right to educate their children as they see fit is a valid public purpose that the Legislature may promote using its sovereign power to determine subjects of taxation and exemptions from taxation.

4. Expanding educational opportunities and the healthy competition they promote are critical to improving the quality of education in the state and to ensuring that all children receive the high-quality education to which they are entitled.

(b) The purpose of this section is to:

1.(a) Enable taxpayers to make ~~Encourage~~ private, voluntary contributions to nonprofit scholarship-funding organizations in order to promote the general welfare.

2. Provide taxpayers who wish to help parents with limited resources exercise their basic right to educate their children as they see fit with a means to do so.

3.(b) Promote the general welfare by expanding ~~Expand~~ educational opportunities for children of families that have limited financial resources.

4.(e) Enable children in this state to achieve a greater level of excellence in their education.

5. Improve the quality of education in this state, both by expanding educational opportunities for children and by creating incentives for schools to achieve excellence.

(3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—The Corporate Income Tax Credit Scholarship Program is established. A student is eligible for a corporate income tax credit scholarship if the student qualifies for free or reduced-price school lunches under the National School Lunch Act and:

(a) Was counted as a full-time equivalent student during the previous state fiscal year for purposes of state per-student funding;

(b) Received a scholarship from an eligible nonprofit scholarship-funding organization or from the State of Florida during the previous school year;
or

(c) Is eligible to enter kindergarten or first grade; or

(d) Is currently placed, or during the previous state fiscal year was placed, in foster care as defined in s. 39.01.

Contingent upon available funds, a student may continue in the scholarship program as long as the student's household family income level does not exceed 200 percent of the federal poverty level. A sibling of a student who is continuing in the program and resides in the same household as the student shall also be eligible as a first-time corporate income tax credit scholarship recipient as long as the student's and sibling's household income

level does not exceed 200 percent of the federal poverty level. Household income for purposes of a student who is currently in foster care as defined in s. 39.01 shall consist only of the income that may be considered in determining whether he or she qualifies for free or reduced-price school lunches under the National School Lunch Act.

(5) AUTHORIZATION TO GRANT SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.—

(b) The total amount of tax credits and carryforward of tax credits which may be granted each state fiscal year under this section is:

1. Through June 30, 2008, \$88 million.

2. Beginning July 1, 2008, and thereafter, \$118 million. At least 1 percent of the total statewide amount authorized for the tax credit shall be reserved for taxpayers who meet the definition of a small business provided in s. 288.703(1) at the time of application.

(6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS.—An eligible nonprofit scholarship-funding organization:

(d) Must provide scholarships, from eligible contributions, to eligible students for the cost of:

1. ~~Tuition and fees or textbook expenses for, or transportation to, an eligible private school. At least 75 percent of the scholarship funding must be used to pay tuition expenses; or~~

2. ~~Transportation expenses to a Florida public school that is located outside the district in which the student resides or to a lab school as defined in s. 1002.32.~~

(i)1. May use up to 3 percent of eligible contributions received during the state fiscal year in which such contributions are collected for administrative expenses if the organization has operated under this section for at least 3 state fiscal years and did not have any negative financial findings in its most recent audit under paragraph (1). Such administrative expenses must be reasonable and necessary for the organization's management and distribution of eligible contributions under this section. No more than one-third of the funds authorized for administrative expenses under this subparagraph may be used for expenses related to the recruitment of contributions from corporate taxpayers.

2. Must expend for annual or partial-year scholarships an amount equal to or greater than 75 percent of the net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected. No more than 25 percent of such net eligible contributions may be carried forward to the following state fiscal year. Any amounts carried forward shall be expended for ~~Must obligate, in the same fiscal year in which the contribution was received, 100 percent of the eligible contribution to provide annual or partial-year scholarships; however, up to 25 percent of the total contribution may be carried forward for expenditure in the~~

following state fiscal year. Net eligible contributions remaining on June 30 of each year that are in excess of the 25 percent that may be carried forward shall be returned to the State Treasury for deposit in the General Revenue Fund.

~~3. A scholarship-funding organization~~ Must, before granting a scholarship for an academic year, document each scholarship student's eligibility for that academic year. A scholarship-funding organization may not grant multiyear scholarships in one approval process. ~~No portion of eligible contributions may be used for administrative expenses. All interest accrued from contributions must be used for scholarships.~~

Any and all information and documentation provided to the Department of Education and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution under this section shall remain confidential at all times in accordance with s. 213.053.

(8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible private school may be sectarian or nonsectarian and must:

(c) Be academically accountable to the parent for meeting the educational needs of the student by:

1. At a minimum, annually providing to the parent a written explanation of the student's progress.

2. Annually administering or making provision for students participating in the scholarship program to take one of the nationally norm-referenced tests identified by the Department of Education. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school must report a student's scores to the parent and to the independent research organization selected by the Department of Education as described in paragraph (9)(j).

3. Cooperating with the scholarship student whose parent chooses to have the student participate in the statewide assessments pursuant to s. 1008.22 ~~1008.32~~.

The inability of a private school to meet the requirements of this subsection shall constitute a basis for the ineligibility of the private school to participate in the scholarship program as determined by the Department of Education.

(11) SCHOLARSHIP AMOUNT AND PAYMENT.—

(a) The amount of a scholarship provided to any student for any single school year by an eligible nonprofit scholarship-funding organization from eligible contributions shall be for total costs authorized under paragraph (6)(d), not to exceed the following annual limits:

1. Three thousand nine hundred fifty dollars ~~Three thousand seven hundred fifty dollars~~ for a scholarship awarded to a student enrolled in an

eligible private school for the 2008-2009 state fiscal year and each fiscal year thereafter.

2. Five hundred dollars for a scholarship awarded to a student enrolled in a Florida public school that is located outside the district in which the student resides or in a lab school as defined in s. 1002.32.

(b) Payment of the scholarship by the eligible nonprofit scholarship-funding organization shall be by individual warrant made payable to the student's parent. If the parent chooses that his or her child attend an eligible private school, the warrant must be delivered by the eligible nonprofit scholarship-funding organization to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school. An eligible nonprofit scholarship-funding organization shall ensure that the parent to whom the warrant is made restrictively endorsed the warrant to the private school for deposit into the account of the private school.

(c) An eligible nonprofit scholarship-funding organization shall obtain verification from the private school of a student's continued attendance at the school ~~for prior to~~ each period covered by a scholarship payment.

(d) Payment of the scholarship shall be made by the eligible nonprofit scholarship-funding organization no less frequently than on a quarterly basis.

(14) PRESERVATION OF CREDIT.—If any provision or portion of subsection (5) or the application thereof to any person or circumstance is held unconstitutional by any court or is otherwise declared invalid, the unconstitutionality or invalidity shall not affect any credit earned under subsection (5) by any taxpayer with respect to any contribution paid to an eligible nonprofit scholarship-funding organization before the date of a determination of unconstitutionality or invalidity. Such credit shall be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that nothing in this subsection by itself or in combination with any other provision of law shall result in the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible nonprofit scholarship-funding organization.

Section 2. Corporate Income Tax Credit Scholarship Program funding.—

(1) By December 1, 2008, the Office of Program Policy Analysis and Government Accountability shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which:

(a) Reviews the advisability and net state fiscal impact of:

1. Increasing the maximum annual amount of credits for the corporate income tax permitted under s. 220.187, Florida Statutes, for the scholarship program.

2. Authorizing the use of credits for insurance premium taxes under chapter 624, Florida Statutes, as an additional source of funding for the scholarship program under s. 220.187, Florida Statutes.

(b) Provides recommendations, if warranted by the review under paragraph (a):

1. For methodologies to annually or otherwise increase the maximum annual amount of corporate income tax credits for scholarship funding.

2. To implement the use of insurance premium tax credits for scholarship funding.

(c) Identifies strategies to encourage private schools that accept scholarship students to participate in the statewide assessment program under s. 1008.22, Florida Statutes.

Such recommendations may only include options that will annually produce a neutral or positive net fiscal impact on state revenue and expenditures.

(2) The Office of Program Policy Analysis and Government Accountability may request that the Revenue Estimating Conference and the Education Estimating Conference established under s. 216.134, Florida Statutes, evaluate its findings and recommendations under this section.

Section 3. This act shall take effect June 30, 2008.

Approved by the Governor June 30, 2008.

Filed in Office Secretary of State June 30, 2008.