

CHAPTER 2023-9

Senate Bill No. 34

An act relating to the Florida Statutes; repealing ss. 215.5601, 259.105(3)(m), 381.00652, 381.988(11), 400.962(6), 408.036(3)(n), 409.996(27), 1002.39, 1003.52(23), and 1006.33(5), F.S., and amending s. 341.052, F.S., to delete provisions which have become inoperative by noncurrent repeal or expiration and, pursuant to s. 11.242(5)(b) and (i), F.S., may be omitted from the 2023 Florida Statutes only through a reviser's bill duly enacted by the Legislature; and amending ss. 381.0065, 1002.31, 1002.394, and 1002.421, F.S., to conform to the changes made by this act; providing an effective date.

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

Section 1. Section 215.5601, Florida Statutes, is repealed.

Reviser's note.—The cited section, which creates the Lawton Chiles Endowment Fund, was repealed by s. 5, ch. 2021-43, Laws of Florida, effective July 1, 2022. Since the section was not repealed by a “current session” of the Legislature, it may be omitted from the 2023 Florida Statutes only through a reviser's bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 2. Paragraph (m) of subsection (3) of section 259.105, Florida Statutes, is repealed.

Reviser's note.—The cited paragraph, which authorizes \$1,998,100 to the Department of Environmental Protection for grants pursuant to s. 375.075 for the 2021-2022 fiscal year only, expired pursuant to its own terms, effective July 1, 2022.

Section 3. Paragraphs (a) and (b) of subsection (3) of section 341.052, Florida Statutes, are amended to read:

341.052 Public transit block grant program; administration; eligible projects; limitation.—

(3) The following limitations shall apply to the use of public transit block grant program funds:

(a)~~1~~. State participation in eligible capital projects shall be limited to 50 percent of the nonfederal share of such project costs.

~~2. For the 2021-2022 fiscal year only, local participation in eligible capital projects may be less than 50 percent of the nonfederal share of such project costs. This subparagraph expires July 1, 2022.~~

(b)1. State participation in eligible public transit operating costs may not exceed 50 percent of such costs or an amount equal to the total revenue, excluding farebox, charter, and advertising revenue and federal funds, received by the provider for operating costs, whichever amount is less.

~~2.— For the 2021–2022 fiscal year only, local participation in eligible public transit operating costs may be less than 50 percent of such operating costs. This subparagraph expires July 1, 2022.~~

Reviser’s note.—Amended to conform to the repeal of subparagraphs (3)(a)2. and (b)2. pursuant to their own terms, effective July 1, 2022.

Section 4. Section 381.00652, Florida Statutes, is repealed.

Reviser’s note.—The cited section, which creates the onsite sewage treatment and disposal systems technical advisory committee, expired pursuant to its own terms, effective August 15, 2022.

Section 5. Subsection (11) of section 381.988, Florida Statutes, is repealed.

Reviser’s note.—The cited subsection, which relates to rules adopted under subsection (9) before July 1, 2022, not being subject to ss. 120.54(3)(b) and 120.541, expired pursuant to its own terms, effective July 1, 2022.

Section 6. Subsection (6) of section 400.962, Florida Statutes, is repealed.

Reviser’s note.—The cited subsection, which relates to demonstration and maintenance of criteria for certificate-of-need-exemption under s. 408.306(3)(n) for intermediate care facilities for developmentally disabled persons, was repealed by s. 2, ch. 2020-60, Laws of Florida, and s. 7, ch. 2020-71, Laws of Florida, codified as s. 408.036(3)(o)3. in 2020 and since redesignated as s. 408.036(3)(n)3., effective July 1, 2022. Since the subsection was not repealed by a “current session” of the Legislature, it may be omitted from the 2023 Florida Statutes only through a reviser’s bill duly enacted by the Legislature. See s. 11.242(5)(b) and (i).

Section 7. Paragraph (n) of subsection (3) of section 408.036, Florida Statutes, is repealed.

Reviser’s note.—The cited paragraph, which provides for an exemption from certificate-of-need requirements for specified new intermediate care facilities for developmentally disabled persons, was repealed pursuant to its own terms, effective July 1, 2022.

Section 8. Subsection (27) of section 409.996, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which requires implementation of a pilot project in the Sixth and Thirteenth Judicial Circuits, for the 2020-2021 and 2021-2022 fiscal years, aimed at improving child welfare outcomes, expired pursuant to its own terms, effective July 1, 2022.

Section 9. Section 1002.39, Florida Statutes, is repealed.

Reviser's note.—The cited section, which establishes the John M. McKay Scholarships for Students with Disabilities Program, was repealed pursuant to its own terms, effective July 1, 2022.

Section 10. Subsection (23) of section 1003.52, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which authorizes the Department of Juvenile Justice, in consultation with the Department of Education and for the 2021-2022 fiscal year, to evaluate the viability of an alternative model for providing and funding educational services for youth in detention and residential facilities, expired pursuant to its own terms, effective June 1, 2022.

Section 11. Subsection (5) of section 1006.33, Florida Statutes, is repealed.

Reviser's note.—The cited subsection, which authorizes the Department of Education to establish timeframes for the advertisement and submission of bids for instructional materials for the 2020 adoption cycle, expired pursuant to its own terms, effective July 1, 2022.

Section 12. Paragraph (e) of subsection (4) of section 381.0065, Florida Statutes, is amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the department. A construction permit is valid for 18 months after the date of issuance and may be extended by the department for one 90-day period under rules adopted by the department. A repair permit is valid for 90 days after the date of issuance. An operating permit must be obtained before the use of any aerobic treatment unit or if the establishment generates commercial waste. Buildings or establishments that use an aerobic treatment unit or generate commercial waste shall be inspected by the department at least annually to assure compliance with the terms of the operating permit. The operating permit for a commercial wastewater system

is valid for 1 year after the date of issuance and must be renewed annually. The operating permit for an aerobic treatment unit is valid for 2 years after the date of issuance and must be renewed every 2 years. If all information pertaining to the siting, location, and installation conditions or repair of an onsite sewage treatment and disposal system remains the same, a construction or repair permit for the onsite sewage treatment and disposal system may be transferred to another person, if the transferee files, within 60 days after the transfer of ownership, an amended application providing all corrected information and proof of ownership of the property. A fee is not associated with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(e) The department shall adopt rules relating to the location of onsite sewage treatment and disposal systems, including establishing setback distances, to prevent groundwater contamination and surface water contamination and to preserve the public health. The rulemaking process for such rules must be completed by July 1, 2022, and the department shall notify the Division of Law Revision of the date such rules take effect. The rules must consider conventional and enhanced nutrient-reducing onsite sewage treatment and disposal system designs, impaired or degraded water bodies, domestic wastewater and drinking water infrastructure, potable water sources, nonpotable wells, stormwater infrastructure, the onsite sewage treatment and disposal system remediation plans developed pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the recommendations of the onsite sewage treatment and disposal systems technical advisory committee established pursuant to former s. 381.00652. The rules must also allow a person to apply for and receive a variance from a rule requirement upon demonstration that the requirement would cause an undue hardship and granting the variance would not cause or contribute to the exceedance of a total maximum daily load.

Reviser’s note.—Amended to conform to the repeal of s. 381.00652 by this act.

Section 13. Paragraph (f) of subsection (3) of section 1002.31, Florida Statutes, is amended to read:

1002.31 Controlled open enrollment; public school parental choice.—

(3) Each district school board shall adopt by rule and post on its website the process required to participate in controlled open enrollment. The process must:

(f) Require school districts to provide information on transportation options, such as:

- 1. The responsibility of school districts to provide transportation to another public school pursuant to ss. 1002.38,~~1002.39~~, and 1002.394.
- 2. The availability of funds for transportation under ss. 1002.394, 1002.395, and 1011.68.
- 3. Any other transportation the school district may provide.
- 4. Any transportation options available in the community.

Reviser’s note.—Amended to conform to the repeal of s. 1002.39 by this act.

Section 14. Paragraph (b) of subsection (12) of section 1002.394, Florida Statutes, is amended to read:

1002.394 The Family Empowerment Scholarship Program.—

(12) SCHOLARSHIP FUNDING AND PAYMENT.—

(b)1. Scholarships for students determined eligible pursuant to paragraph (3)(b) are established for up to 26,500 students annually beginning in the 2022-2023 school year. Beginning in the 2023-2024 school year, the maximum number of students participating in the scholarship program under this section shall annually increase by 1.0 percent of the state’s total exceptional student education full-time equivalent student membership, not including gifted students. An eligible student who meets any of the following requirements shall be excluded from the maximum number of students if the student:

- a. Received specialized instructional services under the Voluntary Prekindergarten Education Program pursuant to s. 1002.66 during the previous school year and the student has a current IEP developed by the district school board in accordance with rules of the State Board of Education;

b. Is a dependent child of a law enforcement officer or a member of the United States Armed Forces, a foster child, or an adopted child;

c. Spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind. For purposes of this subparagraph, the term “prior school year in attendance” means that the student was enrolled and reported by:

(I) A school district for funding during either the preceding October or February full-time equivalent student membership surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the Florida Education Finance Program;

(II) The Florida School for the Deaf and the Blind during the preceding October or February full-time equivalent student membership surveys in kindergarten through grade 12;

(III) A school district for funding during the preceding October or February full-time equivalent student membership surveys, was at least 4 years of age when enrolled and reported, and was eligible for services under s. 1003.21(1)(e); or

(IV) Received a John M. McKay Scholarship for Students with Disabilities in the 2021-2022 school year.

2. For a student who has a Level I to Level III matrix of services or a diagnosis by a physician or psychologist, the calculated scholarship amount for a student participating in the program must be based upon the grade level and school district in which the student would have been enrolled as the total funds per unweighted full-time equivalent in the Florida Education Finance Program for a student in the basic exceptional student education program pursuant to s. 1011.62(1)(c)1. and (e)1.c., plus a per full-time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act, except that for the exceptional student education guaranteed allocation, as provided in s. 1011.62(1)(e)1.c. and 2., the funds must be allocated based on the school district’s average exceptional student education guaranteed allocation funds per exceptional student education full-time equivalent student.

3. For a student with a Level IV or Level V matrix of services, the calculated scholarship amount must be based upon the school district to which the student would have been assigned as the total funds per full-time equivalent for the Level IV or Level V exceptional student education program pursuant to s. 1011.62(1)(c)2.a. or b., plus a per-full time equivalent share of funds for all categorical programs, as funded in the General Appropriations Act.

4. For a student who received a Gardiner Scholarship pursuant to former s. 1002.385 in the 2020-2021 school year, the amount shall be the greater of

the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

5. For a student who received a John M. McKay Scholarship pursuant to ~~former~~ s. 1002.39 in the 2020-2021 school year, the amount shall be the greater of the amount calculated pursuant to subparagraph 2. or the amount the student received for the 2020-2021 school year.

6. The organization must provide the department with the documentation necessary to verify the student's participation.

7. Upon receiving the documentation, the department shall release, from state funds only, the student's scholarship funds to the organization, to be deposited into the student's account in four equal amounts no later than September 1, November 1, February 1, and April 1 of each school year in which the scholarship is in force.

8. Accrued interest in the student's account is in addition to, and not part of, the awarded funds. Program funds include both the awarded funds and accrued interest.

9. The organization may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment which the department deems to be commercially viable or cost-effective. A student's scholarship award may not be reduced for debit card or electronic payment fees. Commodities or services related to the development of such a system must be procured by competitive solicitation unless they are purchased from a state term contract pursuant to s. 287.056.

10. Moneys received pursuant to this section do not constitute taxable income to the qualified student or the parent of the qualified student.

Reviser's note.—Amended to conform to the repeal of s. 1002.385 by s. 2, ch. 2021-27, Laws of Florida, and the repeal of s. 1002.39 by this act.

Section 15. Paragraph (q) of subsection (1) of section 1002.421, Florida Statutes, is amended to read:

1002.421 State school choice scholarship program accountability and oversight.—

(1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private school participating in an educational scholarship program established pursuant to this chapter must be a private school as defined in s. 1002.01(2) in this state, be registered, and be in compliance with all requirements of this section in addition to private school requirements outlined in s. 1002.42, specific requirements identified within respective scholarship program laws, and other provisions of Florida law that apply to private schools, and must:

(q) Provide a report from an independent certified public accountant who performs the agreed-upon procedures developed pursuant to s. 1002.395(6)(o) if the private school receives more than \$250,000 in funds from scholarships awarded under this chapter in a state fiscal year. A private school subject to this subsection must annually submit the report by September 15 to the scholarship-funding organization that awarded the majority of the school's scholarship funds. ~~However, a school that receives more than \$250,000 in scholarship funds only through the John M. McKay Scholarship for Students with Disabilities Program pursuant to s. 1002.39 must submit the annual report by September 15 to the department.~~ The agreed-upon procedures must be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants.

The department shall suspend the payment of funds to a private school that knowingly fails to comply with this subsection, and shall prohibit the school from enrolling new scholarship students, for 1 fiscal year and until the school complies. If a private school fails to meet the requirements of this subsection or has consecutive years of material exceptions listed in the report required under paragraph (q), the commissioner may determine that the private school is ineligible to participate in a scholarship program.

Reviser's note.—Amended to conform to the repeal of s. 1002.39 by this act.

Section 16. This act shall take effect on the 60th day after adjournment sine die of the session of the Legislature in which enacted.

Approved by the Governor March 24, 2023.

Filed in Office Secretary of State March 24, 2023.