

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 465 Corporate Income Tax Credit Scholarship Program
SPONSOR(S): Schools & Learning Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Education Innovation & Career Preparation	_____	White	White
2) Schools & Learning Council	_____	White	Cobb
3) Policy & Budget Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Currently, a student is eligible for a Corporate Income Tax Credit scholarship to attend a private school or a public school of choice if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act, and he or she:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;
- Received a scholarship from an eligible scholarship funding organization or the State of Florida during the previous school year; or
- Is eligible to enter kindergarten or first grade.

The Proposed Council Substitute for House Bill 465 (bill) expands eligibility for scholarships to students who:

- Were counted as full-time students in Department of Juvenile Justice (DJJ) education programs at any time during the previous state fiscal year; or
- Are currently placed, or during the previous state fiscal year had been placed, in foster care.

Like students who are eligible for scholarships under current law, the bill requires DJJ and foster care scholarship recipients to qualify for free or reduced-price school lunches. For students who are not in foster care, family income is considered in determining whether he or she qualifies for free or reduced-price school lunches. For a student in foster care, however, only his or her personal income is considered.

The bill does not appear to have a fiscal impact on state or local government. Please see the FISCAL ANALYSIS section of this analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families – The bill enhances school choice options by expanding eligibility for Corporate Income Tax Credit Scholarships to foster care and former DJJ students.

Safeguard individual liberty – The bill enhances school choice options by expanding eligibility for Corporate Income Tax Credit Scholarships to foster care and former DJJ students.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Corporate Income Tax Credit Scholarship Program: In 2001, the Legislature passed the Corporate Income Tax Credit Scholarship Program¹ (CITC program) with an implementation date of January 1, 2002. The program's purpose is to expand educational opportunities for families that have limited financial resources and enable Florida's children to achieve a greater level of excellence in their education. The CITC program provides an income tax credit for corporations that make eligible contributions to nonprofit scholarship-funding organizations (SFOs). The annual aggregate tax credit limit statewide is \$88 million.² For tax year 2006-2007, the Department of Revenue has approved \$87,120,000 in such tax credits. SFOs award scholarships to eligible students.

A student is eligible for a scholarship if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act,³ and:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;
- Received a scholarship from an eligible SFO or the State of Florida during the previous school year; or
- Is eligible to enter kindergarten or first grade.

Contingent upon available funds, a scholarship student will not lose his or her scholarship due to a change in the economic status of the student's parents unless the parents' economic status exceeds 200% of the Federal poverty guidelines.

The amount of the scholarship provided to any student for any single school year by all eligible SFOs shall not exceed the following limits:

- \$3,750 for a scholarship awarded to a student for enrollment in an eligible private school.
- \$500 for a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides.

According to the February 2007 quarterly report by the Florida Department of Education (DOE), there are 926 participating schools and 16,629 scholarship recipients.⁴

¹ Section 220.187, F.S.

² Section 220.187(5), F.S.

³ Eligibility for free or reduced-price school lunches under the National School Lunch Act is dependent upon the household size and income of a student's family. If the family's income is: (a) equal to or less than 130% of the federal poverty guidelines for the relevant household size, the student is entitled to free lunches; or (b) more than 130%, but equal to or less than 185%, of the federal poverty guidelines for the relevant household size, the student is entitled to reduced-price lunches. *See* Federal Register, Wednesday, March 15, 2006, Child Nutrition Programs—Income Eligibility Guidelines, U.S. Department of Agriculture, 42 USC 1758(b)(1).

⁴ http://www.floridaschoolchoice.org/Information/CTC/quarterly_reports.asp

Department of Juvenile Justice Education Programs: The DOE serves as the lead agency for juvenile justice education programs, curriculum, support services, and resources. The district school board of the county in which a residential or nonresidential care facility or juvenile assessment facility is located must provide educational assessments, instruction, and special education services.⁵

School programming in juvenile justice detention, commitment, and rehabilitation programs must be made available by the local school district during the juvenile justice school year. This school year consists of 250 days of instruction distributed over 12 months.⁶ Students participating in DJJ programs pursuant to chapter 985, F.S., which are sponsored by a community-based agency or are operated or contracted for by the DJJ, must receive educational programs according to rules of the State Board of Education. During the 2004-2005 school year, school districts provided educational services to a total of 44,998 students in juvenile justice facilities.⁷

Children in Foster Care: Chapter 39, F.S., governs the state's child welfare program that offers services to care for and protect abused, neglected, and abandoned children. The program is administered by the Department of Children and Families (DCF) and it serves children and families in their homes and children who have been removed from their families and placed in foster care. Under s. 39.01(30), F.S., "foster care" is defined as the care provided to a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof. The following sets forth the number of children in Florida who were placed in foster care during the past two fiscal years:

- 21,150 children in Fiscal Year 2004 through 2005.
- 21,291 children in Fiscal Year 2005 through 2006.

Statute currently states that it is a goal for foster care children to receive a free and appropriate education, to have minimal disruption of their education, and to be retained in their home school, if appropriate.⁸ The DCF, or a community-based care lead agency acting on its behalf, is required to enroll foster care and other dependent children in school.⁹ When enrolling such a child in school, the district school board is required to determine whether transportation is available for the child to avoid a change in school assignment due to a change in residential placement.¹⁰

Chapter 39, F.S., does not specify the types of schools in which a foster care or other dependent child may be placed; however, the Florida School Code provides that it is the right of a student's guardian or a person exercising supervisory authority over a student in place of a student's parent,¹¹ e.g., the DCF, a community-based care lead agency, or a foster care provider, to place a student in private tutoring, a public or private school, or home education program.¹² The DCF states in its bill analysis that, "There may be times when it is determined that placement in a private school is in the best interest of a child in foster care. This determination would be made at the multidisciplinary team staffing which would include a child's parents/guardian, case worker, foster parents, school personnel and other interested parties."¹³

Foster care children may be eligible to receive free or reduced-price school lunches under the National School Lunch Act depending upon their personal income. The income eligibility requirements provide

⁵ Section 1003.52, F.S.

⁶ Section 1003.01(11), F.S.

⁷ E-mail correspondence dated February 26, 2007.

⁸ Section 39.4085(17), F.S.

⁹ Section 39.0016, F.S.

¹⁰ Section 39.0016(4)(b)3., F.S.

¹¹ Section 1000.21(5), F.S., defines the term "parent" for purposes of the Florida K-20 Education Code as, ". . . either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent."

¹² Section 1002.20(6), F.S.

¹³ Florida Department of Children and Families Bill Analysis for House Bill HB 465.

that a foster child, who is living with a household but who remains the legal responsibility of the welfare agency or court, is considered a household of one. The foster child's personal income that must be considered consists of: (a) funds provided by the welfare agency for the personal use of the child, such as for clothing, school fees, and allowances; and (b) other funds received by the child, such as employment income and money provided by the child's family for personal use.¹⁴

Effect of Proposed Changes

The bill contains "whereas clauses" that state generally that the CITC program has: produced substantial cost savings to the state; relieved public school class size; and improved educational outcomes for participating students and public schools. Further, the bill adds legislative findings and revises the purpose of the CITC program. The findings provide that the Legislature has the inherent power to determine subjects of taxation for general or particular public purposes. Thus, it may promote the following valid public purposes: expanding educational opportunities; improving the quality of state educational services; and ensuring that parents may exercise their basic right to educate their children as they see fit. The findings also specify that per-student funding in Florida public schools has risen each year since the inception of programs that provide educational opportunities and that these opportunities are critical to improving Florida's quality of education.

The bill adds a definition of "parent" for purposes of a child's participation in the CITC program and states that the term has the same meaning as it does in s. 1000.21(5)F.S., of the Florida School Code; i.e., the term "parent" means ". . . either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent."

The bill expands eligibility for CITC scholarships to students who:

- Were counted as full-time students in Department of Juvenile Justice (DJJ) education programs at any time during the previous state fiscal year; or
- Are currently placed, or during the previous state fiscal year had been placed, in foster care.

Like students who are eligible for scholarships under current law, the bill requires DJJ and foster care scholarship recipients to qualify for free or reduced-price school lunches. For students who are not in foster care, family income is considered in determining whether he or she qualifies for free or reduced-price school lunches. For a student in foster care, however, only his or her personal income is considered.

The bill's creation of scholarship eligibility for students who have been in DJJ education programs may assist in minimizing school drop-out risks associated with these children. In some cases, due to their delinquent acts, these children have been expelled and cannot return to their home district public school. The scholarships afforded by the bill may provide them with the opportunity to continue their education in a private school near their home.

Further, the bill's creation of scholarship eligibility for students who are or who have been in foster care will provide these students with greater school choice options. Due to the fact that foster care students may live in multiple environments throughout a year,¹⁵ many cannot meet current law's requirement that they have been counted as a full-time student during the previous state fiscal year. Under the bill, foster care status will either: (a) allow the student to stay in his or her public school despite a residential change to a different school area through a \$500 transportation scholarship; or (b) provide the student with the opportunity to attend a private school.

C. SECTION DIRECTORY:

¹⁴ *Eligibility Guidance for School Meals Manual*, U.S. Department of Agriculture, August 2001, p. 29, available at: http://www.fns.usda.gov/cnd/Guidance/eligibility_guidance.pdf.

¹⁵ Florida Department of Education Bill Analysis for House Bill 465 at p. 1.

Section 1.: Amends s. 220.187(3), F.S.; provides legislative findings; defines the term “parent”; and expands the types of students eligible for a CITC scholarship.

Section 2.: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private schools that choose to participate in the CITC program may see an increase in enrollment due to the bill’s expansion of scholarship eligibility to DJJ and foster care children.

D. FISCAL COMMENTS:

Currently, the maximum amount of tax credits that may be awarded to taxpayers who make eligible contributions to the CITC Scholarship Program is \$88 million.¹⁶ According to the Department of Revenue, \$87,120,000 in such tax credits have been awarded for tax year 2006-2007. Accordingly, although the bill expands the types of students who are eligible for scholarships, the Revenue Estimating Conference has indicated that the bill will not impact state revenues or expenditures given that it has no effect on the overall total of tax credits permissible under the CITC program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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.

¹⁶ Section 220.187(5), F.S.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES