

SENATE BILL 2741

By Kelsey

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 6, to enact the Parental Choice Scholarship Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, is amended by adding Sections 2 through 9 of this act as a new, appropriately designated part.

SECTION 2. This part shall be known and may be cited as the "Parental Choice Scholarship Act."

SECTION 3. As used in this part, unless the context otherwise requires:

(1) "Department" means the department of education;

(2) "Eligible student" means a student who:

(A) Is a member of a household whose total annual income does not exceed an amount equal to two and one half (2½) times the income standard used to qualify for reduced price lunch pursuant to 42 U.S.C. §§ 1751-1769i;

(B) Was eligible to attend a public school in the preceding semester or is starting school in Tennessee for the first time; and

(C) Resides in Tennessee while receiving a scholarship under this part;

(3) "Parent" includes a guardian, custodian or other person with the authority to act on behalf of the child;

(4) "Participating school" means either a public school in the resident school district other than the school the eligible student is attending, a public charter school or any nonpublic school that provides education to elementary or secondary students, or both, and has notified the department of its intention to enroll parental choice scholarship

students and comply with all requirements regarding the award and use of parental choice scholarships; and

(5) "Resident school district" means the public school district in which the student resides.

SECTION 4.

(a) Any eligible student shall qualify for an annual scholarship to attend a participating school.

(b) Eligible students may attend a participating school until graduation from high school or reaching twenty-one (21) years of age, whichever occurs first.

(c) Scholarship amounts shall be calculated according to the following schedule:

(1) For students from households qualifying for the federal free or reduced-price lunch program, the scholarship amount shall be equal to the lesser of:

(A) The participating school's annual cost per pupil, including both operational and capital facility costs; or

(B) The dollar amount the resident school district would have allocated per pupil from state and local sources to serve and educate the eligible student had the student enrolled in the resident school district;

(2) For students from households with an annual income greater than the amount required to qualify for the free or reduced lunch program but less than one and one half (1½) times that amount, the scholarship amount shall be equal to the lesser of:

(A) Seventy-five percent (75%) of the dollar amount the resident school district would have allocated per pupil from state and local sources

to serve and educate the eligible student had the student enrolled in the resident school district; or

(B) The participating school's annual cost per pupil, including both operational and capital facility costs;

(3) For students from households with an annual income of greater than one and one half ($1\frac{1}{2}$) times the amount required to qualify for the free or reduced lunch program, but less than two (2) times that amount, the scholarship amount shall be equal to the lesser of:

(A) Fifty percent (50%) of the dollar amount the resident school district would have allocated per pupil from state and local sources to serve and educate the eligible student had the student enrolled in the resident school district; or

(B) The participating school's annual cost per pupil, including both operational and capital facility costs; and

(4) For students from households with an annual income of greater than two (2) times the amount required to qualify for the free or reduced lunch program, but less than two and one half ($2\frac{1}{2}$) times that amount, the scholarship amount shall be equal to the lesser of:

(A) Twenty-five percent (25%) of the dollar amount the resident school district would have allocated per pupil from state and local sources to serve and educate the eligible student had the student enrolled in the resident school district; or

(B) The participating school's annual cost per pupil, including both operational and capital facility costs.

(d) The scholarship is the entitlement of the eligible student under the supervision of the student's parent and not that of any school.

(e) A participating school may not refund, rebate or share a student's scholarship with a parent or the student in any manner. A student's scholarship may only be used for educational purposes.

(f) A participating public school or public charter school shall not require eligible students from households with incomes that exceed the annual income required to qualify for free or reduced price lunch to pay any amount above that provided by the scholarship to attend the school. A participating public school or public charter school may charge, but is not required to charge, parents of eligible students from households with incomes that exceed the annual income required to qualify for free or reduced price lunch tuition and fees to attend the school. If a participating public school or public charter school does charge such student tuition and fees, then such charge shall not exceed the difference between the participating school's annual cost per pupil, including both operation and capital facility costs, and the scholarship amount. A nonpublic participating school may charge, but is not required to charge, parents of eligible students tuition and fees to attend the school. Except as permitted by section 7(b), no financial aid shall be provided from state or local funds above the scholarship amount for which the eligible student qualifies.

(g) Participating schools that have more eligible students applying than spaces available shall fill the available spaces by a random selection process, except that participating schools may give preference to siblings of enrolled students and previously enrolled scholarship students under this part.

(h) If a student is denied admission to a participating school because it has too few available spaces, the eligible student may transfer the student's scholarship to a participating school that has spaces available.

(i) Eligible students shall be counted in the enrollment figures for their resident school district for the purposes of calculating state funding to the resident school district. The state funds needed for a scholarship shall be subtracted from the state school funds payable to the student's resident school district. Any state funding the school district would have received for the student in excess of the funds needed for a scholarship shall be kept by the state.

(j)

(1) The department shall adopt rules and regulations consistent with this part regarding:

(A) The eligibility and participation of nonpublic schools, including timelines that will maximize student and public and nonpublic school participation;

(B) The calculation and distribution of scholarships to eligible students; and

(C) The application and approval procedures for scholarships for eligible students and participating schools.

(2) All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 5.

(a) To ensure that students are treated fairly and kept safe, a participating nonpublic school shall:

(1) Comply with all health and safety laws or codes that apply to nonpublic schools;

(2) Hold a valid occupancy permit, if required by its municipality;

(3) Certify that it will not discriminate in admissions on the basis of race, color, national origin, religion or disability; and

(4) Comply with all state laws that apply to nonpublic schools regarding criminal background checks for employees and exclude from employment any persons not permitted by state law to work in a nonpublic school.

(b) To ensure that public funds are spent appropriately, a participating nonpublic school shall:

(1) Demonstrate its financial accountability by:

(A) Submitting a financial information report for the school conducted by a certified public accountant that complies with uniform financial accounting standards established by the department; and

(B) Having the auditor certify that the report is free of material misstatements and fairly represents the costs per pupil under section 4(c). The auditor's report shall be limited in scope to those records that are necessary for the department to make payments to participating schools on behalf of parents for scholarships; and

(2) Demonstrate its financial viability by showing it can repay any funds that might be owed the state, if the school is to receive fifty thousand dollars (\$50,000) or more during the school year, by:

(A) Filing with the department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate

amount of the parental choice scholarships expected to be paid during the school year to students admitted at the participating school; or

(B) Filing with the department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the parental choice scholarships expected to be paid during the school year to students admitted at the participating school.

(c) To ensure that schools provide academic accountability to parents of scholarship students, a participating school shall regularly report to the parent on the student's progress.

(d) A participating school is autonomous and not an agent of the state or federal government and therefore:

(1) The department or any other state agency may not in any way regulate the educational program of a participating nonpublic school that accepts a parental choice scholarship;

(2) The creation of this scholarship does not expand the regulatory authority of the state, its officers or any school district to impose any additional regulation of nonpublic schools beyond those necessary to enforce the requirements of this part; and

(3) A participating school shall be given the maximum freedom to provide for the educational needs of its students without governmental control.

SECTION 6.

(a) The department shall ensure that eligible students and their parents are informed annually of which schools will be accepting parental choice scholarship

students. Special attention shall be paid to ensuring that lower income families are made aware of the scholarship and their options.

(b) The department shall create a standard application that students interested in the parental choice scholarship can use to submit to participating schools to establish eligibility and apply for admission. Participating schools may require supplemental information from applicants. The department shall ensure that the application is readily available to interested families through various sources, including the Internet.

(c) The department may bar a school from parental choice scholarship participation, if the department establishes that the participating school has:

(1) Intentionally and substantially misrepresented information required under Section 5;

(2) Routinely failed to comply with at least three (3) of the accountability standards established in Section 5;

(3) Failed to comply with section 4(e); or

(4) Failed to refund to the state any scholarship overpayments in a timely manner.

(d) If the department decides to bar a school from participating, it shall notify eligible students and their parents of this decision as quickly as possible.

(e) The department shall adopt rules and regulations as necessary for the administration of this part. All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in, title 4, chapter 5.

SECTION 7.

(a) The resident school district shall provide a participating school that has admitted an eligible student under this part with a complete copy of the student's school

records while complying with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g.

(b) The resident school district shall not be required to provide transportation for eligible students to and from participating schools, however, the resident school district is encouraged to work with parents of eligible students to create solutions for individual transportation problems. If the resident school does provide any transportation services, then the amount expended for transportation services shall not exceed the total of the funds remaining from the per pupil allotments for such students that were not expended for scholarship awards.

SECTION 8. Notwithstanding any provision of this part to the contrary, the Parental Choice Scholarship Act shall be implemented first as a pilot program in the school district with the greatest number of schools failing to make adequate yearly progress. One (1) elementary school, one (1) middle school and one (1) high school shall be chosen to participate in the pilot program. The school chosen in each of the three (3) categories shall be the school in that category that has failed to make adequate yearly progress for the greatest number of years. If more than one (1) such school exists in a category, then the choice of the participating school shall be made by the commissioner of education by drawing lots.

SECTION 9. If any provision of Chapter ____ of the Public Acts of 2010 (Ex. Sess.) (Senate Bill 5/House Bill 10), the Tennessee First to the Top Act of 2010, if such act becomes law, conflicts with this part, then this part shall prevail.

SECTION 10. This act shall take effect July 1, 2010, the public welfare requiring it.