

# HB 1049

by \*Dunn

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(SB 0999) by \*Gardenhire

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School Vouchers - As introduced, enacts the "Tennessee Choice & Opportunity Scholarship Act." - Amends TCA Title 49, Chapter 1.

## Summary

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### FISCAL SUMMARY

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Increase State Expenditures - \$185,000 Other Fiscal Impact - For local education agencies that have schools in the bottom five percent of achievement and are mandated to participate in the statewide scholarship program, the shift of state and required local BEP funding from these local education agencies to the non-public participating schools is estimated as follows: \$16,570,000 in FY15-16; \$25,473,800 in FY16-17; \$34,815,000 in FY17-18; and an amount exceeding \$69,630,000 in FY18-19 and subsequent years. LEAs with participating students will be relieved of the long-term educational cost burden of educating such students. Using the third year of the statewide program as the baseline, the cost burden relieved in FY17-18 is reasonably estimated to be \$24,275,000. This amount will increase in FY18-19 and each subsequent year. The long-term result of such cost burden relief could be a permissive decrease in local expenditures, a permissive reallocation of local funding, or a permissive cost avoidance of local expenditures. Cost burden relief may also result in a higher per pupil expenditure for students that remain within an LEA school. An LEAs capacity to make any such permissive choice depends on the number and dispersion of students that participate in the scholarship program. If the number of participating students is small and widely dispersed across grade levels it is less likely that any such permissive choice could be implemented, but more likely if the number is large and concentrated in just a few grades.

### BILL SUMMARY

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This bill establishes a scholarship program for eligible students to attend participating private K-12 schools. An "eligible student" is a student who:

(1) Resides in Tennessee and is zoned to attend or enrolled in a public school that, at the time of the

student's initial application for a scholarship, is identified as being in the bottom five percent of schools in overall achievement;

(2) Meets the minimum age requirements to attend kindergarten with eligibility extending until the student graduates from high school, except that the student must be less than 22 years of age by August 15 of each year;

(3) Is a member of a household whose annual income during the year prior to initial receipt of a scholarship met the requirements for free or reduced price lunch; and

(4) Was previously enrolled in a Tennessee public school during the two semesters immediately preceding the semester in which the student receives a scholarship under this bill; is enrolling in a Tennessee school for the first time; or received a scholarship pursuant to this bill in the previous school year.

In order to participate in the scholarship program, the private school must:

(1) Be identified as a category I, II, or III school and comply with all health and safety laws or codes that are applicable to such schools;

(2) Annually administer to scholarship students state assessments or nationally recognized tests approved by the state board of education that measure educational progress and provide the parents of scholarship students with the results of the assessments;

(3) Provide the department of education with graduation rates of scholarship students as well as other student information as required by the department;

(4) Comply with federal nondiscrimination policies and not discriminate against students with special education needs who meet the requirements for admission to the school. However, as a private school, the school is required to offer only those services it already provides to assist students with special needs. If a scholarship student would have been entitled to receive special education services in the public school the student would otherwise be attending, then the parent must acknowledge in writing, as part of the enrollment process, that the parent agrees to accept only services that have been identified as available to the student in the nonpublic school. A participating school may partner with an LEA to provide special education services;

(5) Accept the scholarship amount as payment in full for the cost of tuition and fees that would otherwise be charged by the school and allow scholarship students to remain enrolled in the school for the duration of the school year at no additional cost if the school withdraws from the program during the school year;

(6) Submit to the department a financial audit of the school conducted by a certified public accountant;

(7) Demonstrate financial viability to repay any funds that may be owed to the state by filing with the department financial information verifying the school has the ability to pay an amount equal to the amount of the scholarships expected to be paid during the school year. The school may comply with this requirement by filing a surety bond payable to the state;

(8) Require any person applying for a position as a teacher, or any other position requiring close proximity to children, to submit to a criminal background check;

(9) Provide lunch to scholarship students at no cost or at a reduced cost pursuant to the same income qualifications established under the National School Lunch Program; and

(10) Comply with rules prohibiting the employment of individuals who advocate to overthrow the American government or who are members of a political party subscribing to a political faith that advocates doing so.

After initial approval by the department as a participating school, a school may continue to participate in the program as long as the school demonstrates achievement growth for scholarship students at a minimum level of "at expectations." If a participating school demonstrates achievement growth for scholarship students at a level of "significantly below expectations" for two consecutive years or the department determines the school has failed to comply with this bill, then the commissioner of education may suspend or terminate a school's participation in the program. If a participating school is suspended or terminated from the program, or if the school otherwise withdraws from the program, scholarship students enrolled at the school may transfer to another participating school without loss of eligibility and such students would be given preference for enrollment.

An eligible student will be entitled to one scholarship per school year. If a student voluntarily leaves a participating school for reasons other than the suspension or termination of the school's participation in the program and enrolls in another participating school, neither the student nor the successor participating school will receive any funds under this bill for the remainder of the school year. If the student enrolls in the LEA in which the student resides and is zoned to attend, the LEA will receive the funds that otherwise would have been remitted to the participating school on behalf of the student.

Except as mentioned above regarding LEAs that adopt different guidelines, the annual amount of the scholarship will be the lesser of the following:

- (1) The cost of tuition and fees that would otherwise be charged by the school; or
- (2) The amount representing the per-pupil state and local funds generated and required through the BEP for the LEA in which the student resides and is zoned to attend.

The scholarship funds will be subtracted from the state funds otherwise payable to the LEA and will be paid directly to the participating school. If the participating school's cost of tuition and fees is less than the scholarship amount, the remaining funds will be retained by the department and the LEA in which the scholarship recipient resides.

The amount of scholarship awarded to a student will not be treated as income or assets for the purposes of any tax or qualification for any other federal or state grant program.

The total number of scholarships awarded statewide under this bill will be limited as follows:

- (1) For the 2015-2016 school year, the department may not award more than 5,000 scholarships;
  - (2) For the 2016-2017 school year, the department may not award more than 7,500 scholarships;
  - (3) For the 2017-2018 school year, the department may not award more than 10,000 scholarships;
- and
- (4) For the 2018-2019 school year and thereafter, the department may not award more than 20,000 scholarships.

This bill requires the department to develop procedures to allocate scholarships among participating schools if the number of available seats exceeds the above limitations. If the number of eligible students applying for scholarships at a particular school in a particular grade exceeds the number of scholarships awarded, the department must inform parents of eligible students of all available

scholarship options and provide an opportunity for parents to apply to other participating schools. If, after all possible matches of eligible students with participating schools have been made, there are scholarships still available, the remaining scholarships will be awarded to eligible students who reside in an LEA that contains at least one school in the bottom five percent of schools in overall achievement as determined by the performance standards and other criteria set by the state board.

This bill requires the department to develop procedures necessary for administering the program, and specifies in detail requirements for the department in administering the program.