

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 1403 High School Athletics

**SPONSOR(S):** K-20 Competitiveness Subcommittee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Competitiveness Subcommittee		Fudge	Ahearn

### SUMMARY ANALYSIS

The bill increases the ability of private school students to participate in interscholastic and intrascholastic sports at public schools. Currently, participation is limited to students enrolled in private schools with 125 or fewer students and do not offer a sports program. The bill increases the allowable size of the private school to 250 or fewer students and allows students from such schools to participate provided the private school does not offer the specific sport offered at the public school.

The bill allows, but does not require, charter schools, virtual schools, and home education cooperatives to become members of the Florida High School Athletic Association (FHSAA).

The bill allows a student who has transferred pursuant to district school board approval to remain eligible for athletic competition at FHSAA member schools, and allows a public school student who transfers to a private school to participate in any sport offered by the private school. However, if a private school has recruited a student, the FHSAA may require the private school to participate in a higher competitive division for the sport in which the recruited student competes and pay a fine.

The bill requires FHSAA to adopt bylaws that:

- Regulate the conduct of investigators and establish guidelines investigators must follow when conducting investigations;
- Establish sanctions for coaches who have committed major violations such as allowing an ineligible student to participate in a contest representing a member school or violating the FHSAA's recruiting or sportsmanship policies;
- Require coaches to reimburse a member school assessed a financial penalty due to the coach's violation of FHSAA policies;
- Establish a due process procedure for the sanctioning of coaches consistent with FHSAA's appeal procedures.

See FISCAL COMMENTS.

The bill is effective July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Florida High School Athletic Association (FHSAA)**

The FHSAA is a non-profit organization that governs interscholastic athletic programs in Florida's schools from grades 6 through 12. The organizational structure and governing authority for the FHSAA were established in law in 1997.

#### **Interscholastic Athletics**

##### Present Situation

Eligible home school and charter school students may participate in interscholastic extracurricular activities at assigned public schools or public schools to which students could attend pursuant to district controlled open-enrollment policies.<sup>1</sup> A student from a charter school may be eligible to participate in activities at the public school if such activity is not offered by that charter school.<sup>2</sup> Both home school and charter school students must register with the public school their intent to participate in interscholastic extracurricular activities, and are subject to the same eligibility requirements as other public school students.<sup>3</sup>

To be eligible to participate in interscholastic extracurricular activities, a student must maintain a 2.0 grade point average (GPA) in the semester prior to participation, or a 2.0 cumulative GPA in specified high school courses. If a student's cumulative GPA falls below 2.0 in the specified courses, the student must execute an academic performance contract with the district school board, the FHSAA, and the student's parents. At a minimum, the contract must require the student to attend summer school to improve his or her GPA.<sup>4</sup> A student must also maintain good conduct to remain eligible to participate in interscholastic extracurricular activities. The district school board policy governs the eligibility of a student to participate in these activities if he or she is found to be involved in a felony or delinquent act.<sup>5</sup>

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school where the student is enrolled is not a member of the FHSAA, and does not offer an interscholastic or intrascholastic athletic program. Only students attending a non-FHSAA member private school with enrollment of 125 or fewer students may participate in a public school athletic program.<sup>6</sup>

##### Effect of Proposed Changes

Currently, participation in interscholastic or intrascholastic sports by private school students is limited to students from non-FHSAA member private schools that have 125 or fewer students in any given year and who do not offer an interscholastic or intrascholastic program. The bill increases the number of

---

<sup>1</sup> Sections 1002.41(4) and 1006.15(3)(c) and (d), F.S. "Interscholastic activities" are limited to high school athletic competitions. Section 1006.20(1), F.S. The Florida High School Athletic Association defines interscholastic contest as "any competition between organized teams of different schools in a sport recognized or sanctioned" by the FHSAA. Florida High School Athletic Association, *Interscholastic Contests*, available at <http://www.fhsaa.org/about> (last visited March 17, 2011). "Extracurricular" activities include any school-authorized or education-related activity occurring during or outside the regular instructional school day. Section 1006.15(2), F.S.

<sup>2</sup> Section 1006.15(3)(d), F.S.

<sup>3</sup> Section 1006.15(3), F.S.

<sup>4</sup> Sections 1006.15(3)(a)1. and 2. and 1003.43(1), F.S.

<sup>5</sup> Section 1006.15(3)(a)4., F.S.

<sup>6</sup> Section 1006.20(8), F.S.

private schools from which students may participate by increasing the allowable size of the private school from 125 to 250 students and allowing students from such schools to participate so long as the school does not offer the specific sport that is offered at the public school. However, schools with more than 125 students typically become members of the FHSAA.<sup>7</sup>

## FHSAA Bylaws

### Present Situation

Unless specifically provided for in law, the FHSAA may adopt bylaws governing athletic participation of member schools and individual student athletes.<sup>8</sup> FHSAA must adopt bylaws that address student eligibility, residence, transfer, and recruitment.<sup>9</sup> Private schools that wish to engage in high school athletic competition are authorized to become FHSAA member schools. The FHSAA bylaws “are to be the rules by which high school athletic programs, and the students who participate in them, are governed.”<sup>10</sup>

FHSAA’s membership bylaws require member schools to comply with all bylaws, policies, and procedures.<sup>11</sup> Each member school must, as a condition of membership in FHSAA, annually adopt the bylaws as the rules governing its interscholastic athletic programs.<sup>12</sup> The adoption of the bylaws acts as a contract between FHSAA and the member school.<sup>13</sup> Member schools that violate the bylaws are subject to any disciplinary action determined to be appropriate by FHSAA.<sup>14</sup> In this context, FHSAA bylaws define a member school to include not just the institution, but also “its administration, faculty, athletic staff, student athletes, student body, and any other individual or group engaged in activities representing, supporting or promoting the athletic interests of the school.”<sup>15</sup>

FHSAA must also adopt bylaws prohibiting the recruitment of student athletes and establishing penalties and an appeals process for recruiting violations. The law does not prescribe the types of penalties or persons who must be penalized for such violations.<sup>16</sup>

FHSAA’s bylaws prohibit recruitment of student athletes. The details of FHSAA’s recruiting policy are set forth in an administrative policy adopted by its board of directors.<sup>17</sup> The recruiting policy defines recruiting<sup>18</sup> and the individuals, including coaches, who may not engage in recruiting behavior;<sup>19</sup> prohibits student athlete receipt of impermissible benefits;<sup>20</sup> and establishes penalties for member schools and student athletes involved in recruiting.<sup>21</sup> “Athletic recruiting is any effort by a school employee, athletic department staff member, or representative of a school’s athletic interests to

---

<sup>7</sup> Telephone interview with staff, Florida High School Athletic Association (March 18, 2011).

<sup>8</sup> Section 1006.20(1), F.S.; *see also* Florida High School Athletic Association, *About the FHSAA*, available at <http://www.fhsaa.org/about> (last visited Jan. 27, 2012).

<sup>9</sup> Section 1006.20(2), F.S.

<sup>10</sup> Section 1006.20(1), F.S. Senior high schools, middle/junior high schools, combination schools, or home education cooperatives may be members of FHSAA. Section 3.1.1 of Bylaw 3.1, *FHSAA Handbook*, available at [http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete\\_handbook\\_276pgs.pdf](http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf). Member senior high schools, middle/junior high schools, and combination schools may include traditional public schools, charter schools, private schools, and university lab schools. Section 3.2.2 of Bylaw 3.2, *FHSAA Handbook*.

<sup>11</sup> Bylaw 2.6, (compliance with rules) and s. 3.3.1(d) of Bylaw 3.3, *FHSAA Handbook* (conditions of membership), and ss. 3.51 and 3.52 of Bylaw 3.5 (obligations of membership).

<sup>12</sup> Section 3.3.1(d) of Bylaw 3.3, *FHSAA Handbook*.

<sup>13</sup> *Sult v. Gilbert*, 148 Fla. 31, 35 (1941).

<sup>14</sup> *Sult*, 148 Fla. at 35; Bylaw 2.6, *FHSAA Handbook*.

<sup>15</sup> Section 3.2.1 of Bylaw 3.2, *FHSAA Handbook*.

<sup>16</sup> Section 1006.20(2)(b), F.S.

<sup>17</sup> Bylaw 6.3, *FHSAA Handbook*; Policy 36, *FHSAA Handbook*. The law authorizes the FHSAA board of directors to adopt administrative policies, as authorized by the bylaws. Section 1006.20(4)(e)2., F.S. The administrative policy on recruiting is incorporated by reference by the bylaw. Bylaw 6.3, *FHSAA Handbook*.

<sup>18</sup> Section 36.3.2 of Policy 36, *FHSAA Handbook*.

<sup>19</sup> Sections 36.1.2. and 36.2.1.1 of Policy 36, *FHSAA Handbook*.

<sup>20</sup> Section 36.4 of Policy 36, *FHSAA Handbook*.

<sup>21</sup> Section 36.8 of Policy 36, *FHSAA Handbook*.

pressure, urge or entice a student to attend that school for athletic reasons.”<sup>22</sup> Recruiting is further defined as an “act of unsportsmanlike conduct.”<sup>23</sup>

A member school may be penalized for recruiting actions taken by its employees, boosters, or other individuals closely associated with the school. Member schools are subject to the following penalties:

- Mandatory forfeiture of games or championships won in which the recruited athlete participated;
- Public reprimand;
- A minimum fine of \$2,500;
- Probation;
- Disqualification from participation in the sport in which the violation occurred; or
- Expulsion or restricted membership in FHSAA for a period of one or more years.<sup>24</sup>

Student athletes who are recruited or found to have accepted impermissible benefits are declared ineligible for athletic competition for a period of one or more years.<sup>25</sup>

The head coach of each varsity sport offered by a member school must certify that he or she has reviewed FHSAA’s recruiting policy, agree to comply with the policy, and agree to review the policy with the coaching staff and players.<sup>26</sup> Although the recruiting policy prohibits coaches from engaging in recruiting, the policy does not subject coaches found guilty of recruiting to suspension or other penalty.<sup>27</sup>

### Effect of Proposed Changes

The bill authorizes any high school<sup>28</sup> in the state, including charter schools and virtual schools, or home education cooperatives to become a member of FHSAA and participate in the activities of FHSAA.

The bill requires FHSAA to adopt bylaws that regulate persons who conduct investigations on behalf of the FHSAA. The bylaws must include provisions that require the investigator to under level 2 background screening pursuant to s. 435.04 unless the investigator provides proof of compliance with such requirement within the previous 5 years as part of other professional licensure requirements. The investigator may only conduct interviews on weekdays between the hours of 7 a.m. and 7 p.m. or at some other time previously agreed to by the interviewee, may only search residences or other private areas upon the written consent of the student’s parents, and must allow the parent of any student to be present during an interview.

FHSAA must also adopt bylaws that establish sanctions for coaches who have committed major violations of the FHSAA’s bylaws or policies. Major violations include, but are not limited to, allowing an ineligible student to participate in a contest representing a member school in an interscholastic contest or violations of the FHSAA’s recruiting or sportsmanship policies. The bill also prescribes sanctions that may be placed upon coaches and that such sanctions remain in full force and effect during the term of the sanction even if the coach transfers to another member school.

The coach must reimburse a member school assessed a financial penalty as a result of the coach’s major violation before the coach is allowed to coach, participate, or attend any athletic activity sponsored by, recognized, or sanctioned by the FHSAA or a member school. The FHSAA must establish a due process procedure for sanctioned coaches that is consistent with the FHSAA’s appeal procedure.

---

<sup>22</sup> Section 36.2.1 of Policy 36, *FHSAA Handbook*.

<sup>23</sup> Section 6.3.1 of Bylaw 6.3, *FHSAA Handbook*.

<sup>24</sup> Section 36.8 of Policy 36, *FHSAA Handbook*.

<sup>25</sup> *Id.*

<sup>26</sup> Section 36.7.1 of Policy 36.7, *FHSAA Handbook*.

<sup>27</sup> Sections 36.1.2. and 36.2.1.1 of Policy 36 and s. 36.8 of Policy 36, *FHSAA Handbook*.

<sup>28</sup> High school is defined as grades 6 through 12 for purposes of this section. Section 1006.20(1), F.S.

## Student Eligibility

### Present Situation

The FHSAA must adopt bylaws that establish eligibility requirements for all students who participate in high school athletics at member schools. The bylaws governing residence and transfer must allow the student to be eligible in the school in which he or she first enrolls each school year or makes himself or herself a candidate for an athletic team by engaging in practice prior to enrolling in the school.<sup>29</sup>

FHSAA bylaws governing student transfer generally allow a student to transfer to another school and remain eligible for athletics if the student moves to a new attendance area with a parent or guardian with whom the student has resided with for one full calendar year. Subject to certain exceptions, a student transfer that is not accompanied by a corresponding “full and complete move”<sup>30</sup> of the parent’s residence renders the student ineligible until the following school year.<sup>31</sup>

### Effect of Proposed Changes

The bill requires FHSAA residence and transfer bylaws to allow the student to be eligible in the school to which the student has transferred pursuant to district school board approval, thereby obviating the need for FHSAA to determine whether a “full and complete” move has occurred. The bylaws must also allow a public school student to transfer to a private school during the school year. However, if it is determined that a private school has recruited a student, the FHSAA may require the private school to participate in a higher competitive division for the sport in which the student competes and pay the appropriate fine.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 1006.15, relating to student standards for participating in interscholastic and intrascholastic extracurricular student activities; regulation; expanding certain private school student participation in certain public school sports programs.

**Section 2.** Amends s. 1006.20, relating to athletics in public K-12 schools; to requiring FHSAA to adopt specified bylaws such as regulation of investigators and sanction of coaches.

**Section 3.** Amends s. 1012.468, relating to exceptions to certain fingerprinting and criminal history checks; exempting investigators who meet the requirements of s. 1006.20, from certain background screening requirements.

**Section 4.** Providing an effective date of July 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

---

<sup>29</sup> Section 1006.20(2), F.S.

<sup>30</sup> A “full and complete move” occurs when the former residence is no longer occupied by the student, all personal belongings are moved from the former residence, mail is received at the new residence, all utilities are transferred to the new residence, and driver’s license, voter registration and other forms of legal identification are changed to the new residence. Section 9.3.2.1.1 of Bylaw 9.3, *FHSAA Handbook*.

<sup>31</sup> Article 9.3, *2011-12 FHSAA Handbook*.

2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.
2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Investigators who conduct investigations on behalf of FHSAA are not currently required to undergo background screenings. Unless the FHSAA chooses to pay for background screening FHSAA investigators will experience increased costs because the bill requires, without exception, all investigators to undergo background screening. The cost of a state and federal criminal history check is \$43.25.

**D. FISCAL COMMENTS:**

The administrative workload associated with the maintenance of student records for eligibility, compliance, and program participation is indeterminate; however, it is not expected to have a significant fiscal impact on the school districts or the FHSAA.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:  
Not applicable. This bill does not affect county or municipal governments.
2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.