

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CIS 13-03 Digital Learning
SPONSOR(S): Choice & Innovation Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Choice & Innovation Subcommittee	11 Y, 2 N	Ammel	Fudge

SUMMARY ANALYSIS

The bill includes several provisions that increase access to digital and blended learning options by:

- Creating a district innovation school pilot program that encourages schools to engage in a whole school transformation using blended learning models in exchange for flexibility and exemption from certain statutes; providing a definition of district innovation school; providing guiding principles; and outlining exemptions from statute.
- Allowing districts and providers to offer part-time virtual instruction for K-12 students in all courses, rather than only those courses that are measured through statewide assessments or end-of-course-exams.
- Providing an opportunity for providers without sufficient prior, successful experience in offering online courses to receive conditional approval from the Department of Education to offer only courses measured through statewide assessments or end-of-course exams. The conditional approval is for one school year only, and the achievement results from that year will be used to determine eligibility to offer a full virtual instructional program.
- Removing blended learning courses taught in a charter school, traditional public school, or district innovation school from the definition of core-curricula courses.
- Clarifying that district innovation schools are exempt from class size requirements.
- Allowing students enrolled in one school district to enroll in an online course offered by any other district in the state, without limitations.
- Prohibiting a school district from requiring a public school student to take a virtual course outside the school day or on the school grounds.
- Clarifying, for home school students, that eligibility be verified upon enrollment, for purposes of funding through the FEFP. Home education students must still meet applicable eligibility criteria for participation in virtual education courses.

The bill increases accountability for digital learning options in the following way:

- Requiring providers to maintain a minimum level of services to parents and students, instead of locating an administrative office in the state.
- Requiring the Department of Education to develop an online catalog of available digital learning courses provided pursuant to 1002.37, 1002.45, and 1003.498, F.S., that provides specific information for each course, including completion and passage rates and a method for student and teacher users to provide evaluative feedback.
- Requiring FLVS to provide information in their required report about operations occurring outside the state as Florida Virtual School Global, as well as operations within the state.
- Requires the Department of Education to provide identifiers for existing courses that are being used for blended learning to ensure efficient reporting of such courses.

The bill has no fiscal impact on state government.

This bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Florida Virtual School (FLVS) is established for the development and delivery of online and distance learning education.¹ The FLVS is a public online school that is fully accredited by the Southern Association of Colleges and Schools (SACS) and the Commission on International and Trans-Regional Accreditation (CITA).² The FLVS provides students full-time and part-time virtual education options; and offers more than 120 courses including core subjects, world languages, electives, honors, and 15 Advanced Placement courses.³

The FLVS offers individual course enrollments to all Florida students enrolled in grades 6 through 12, including public school, private school, and home school students.⁴ FLVS also offers middle school courses for advanced elementary students and is authorized to offer elementary courses for grades K-5 students. In addition, the FLVS has partnered with Connections Academy to provide a full-time virtual education program to students statewide enrolled in kindergarten through grade 12. The Florida Virtual School Full Time (FLVS FT) program is open to any public, private or home education student in kindergarten through grade 12. School districts and virtual charter schools may also contract with FLVS to offer the FLVS FT program for their students⁵ if the student meets certain eligibility criteria.⁶

The number of half-credit course completions at the FLVS has grown steadily from 77 during 1997-98 to 314,593 during 2011-12. The following table shows the number of course completions during the last five academic years.

Academic Year	Course Completions ⁷
2007-08	116,035
2008-09	154,125
2009-10	213,926
2010-11	259,928
2011-12	314,593

In 2012, the Legislature increased access to virtual education courses by allowing students in grades K-12 to receive part-time instruction through FLVS and district virtual instruction programs (VIP) under certain eligibility criteria. Previously, FLVS was limited to students in grades 4-12, and school districts were limited to students in grades 9-12.⁸ Virtual education options and eligibility requirements are still varied among FLVS, District VIP, and virtual charter schools as shown below:

¹ Section 1002.37(1)(a), F.S. FLVS began as two independent programs in Alachua and Orange Counties. The two counties partnered to establish the FLVS as a grant-based pilot project in the 1996-97 academic year. In 2000, the Legislature removed the program's pilot status and statutorily codified the school. Chapter 2000-224, L.O.F.; see also Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited Oct. 1, 2012).

² Florida Virtual School, *Accreditation*, <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx> (last visited Oct. 1, 2012); During 2008-09, AdvancED acquired The Commission on International and Trans-Regional Accreditation (CITA). AdvancED, *2008-09 Annual Report*, <http://www.advanc-ed.org/company-overview> (last visited Oct. 1, 2012).

³ Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited Oct. 1, 2012); see also Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited Sep. 10, 2012).

⁴ Florida Virtual School, *Courses - FAQs*, <http://www.flvs.net/areas/faqs/Pages/CourseFAQs.aspx> (last visited Oct. 1, 2012).

⁵ Section 1002.45, F.S.

⁶ Florida Virtual School, *Florida Virtual School Full Time*, <http://www.connectionsacademy.com/florida-virtual-school/home.aspx> (last visited Sep. 10, 2012); see also Florida Virtual School, *Florida Virtual School Full Time Frequently Asked Questions*, <http://www.connectionsacademy.com/florida-virtual-school/faq.aspx> (last visited Oct. 1, 2012).

⁷ Florida Virtual School, *FLVS Semester Completion History* (June 30, 2012), available at <http://www.flvs.net/areas/aboutus/Documents/FLVS%20Completions%20History%202011-2012.pdf>.

⁸ Sections 3&4, ch.2012-192, L.O.F.

K-12 Virtual Education Options

Delivery System	Student Grade Level													
	K	1	2	3	4	5	6	7	8	9	10	11	12	
Florida Virtual School (FLVS) ¹	Full													
	Part ²													
District Virtual Instruction Program (VIP) ³	Full													
	Part ⁴													
Virtual Charter School	Full only													

¹ FLVS is a public school that serves “any student in the state”, including public, home, and private school students (s. 1002.37(1)(b), F.S.)

² FLVS can offer any course, not just those measured by a standardized assessment.

³ School Districts must provide “all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs” (s. 1002.45(1)(b), F.S.)

⁴ Part-time courses limited to those courses measured by a standardized assessment. [1002.45\(1\)\(b\)2.](#)

Authority to Deliver:

Enrollment: **Full** = Full-time enrollment

Part = Part-time enrollment

Legend: = Authorized to deliver

= Student must meet eligibility requirements of s. [1002.455\(2\)](#)

Black Border = Limited to 1.0 FTE

A student is eligible to participate in virtual instruction if:

- The student spent the prior school year in attendance at a public school in the state and was enrolled and reported by the school district for funding during October and February for purposes of the Florida Education Finance Program surveys;
- The student is a dependent child of a member of the United States Armed Forces who was transferred within the last 12 months to this state from another state or from a foreign country pursuant to a permanent change of station order;
- The student was enrolled during the prior school year in a virtual instruction program under s. [1002.45](#), the K-8 Virtual School Program under s. [1002.415](#), or a full-time Florida Virtual School program under s. [1002.37](#)(8)(a);
- The student has a sibling who is currently enrolled in a virtual instruction program and the sibling was enrolled in that program at the end of the prior school year;
- The student is eligible to enter kindergarten or first grade; or
- The student is eligible to enter grades 2 through 5 and is enrolled full-time in a school district virtual instruction program, virtual charter school, or the Florida Virtual School.

Florida Virtual School Global

Florida Virtual School Global Services (FLVS Global) operates as a separate division within Florida Virtual School (FLVS) to serve students outside of Florida. As a not-for-profit, the revenues are reinvested in FLVS and earmarked for research and development to maintain the highest quality courses and products available to benefit students everywhere.

FLVS Global has provided courseware, training, and expertise to a variety of online programs at the school, district, and state level. They have assisted in the design and implementation of some of the most successful online programs today, including state programs in North Carolina, Alabama, Virginia, Mississippi, Kentucky,

New Hampshire, Wisconsin, New Jersey, South Carolina, and Michigan. Additionally, current FLVS Global students reside in all 50 states and in 57 other countries worldwide.⁹

Florida Virtual School Funding

Present Situation

In 2003, the Legislature transitioned FLVS funding from a specific legislative appropriation basis to the FEFP.¹⁰ Funding for the FLVS is based on successful course completion.. A student in grades 9 through 12 counts as a FTE student if the student successfully completes six full-credit courses that count toward the minimum number of credits required for high school graduation. Credit that a student completes in excess of the minimum required for that student to graduate from high school is not eligible for funding. For a student in kindergarten through grade 8, one FTE student equals one student who successfully completes six courses or the prescribed level of content that counts toward promotion to the next grade.¹¹

A student who completes less than six credits is a fraction of a FTE student. Half-credit completions must be included in determining a FTE student.¹²

Beginning in the 2014-2015 school year, when all statewide end-of-course assessments will be administered online, the reported FTE students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment must be adjusted after the students complete the end-of-course assessment.¹³ Funding must not be adjusted for home education program students who choose to not take an end-of-course assessment.¹⁴

Public school students receiving full-time instruction in kindergarten through grade 12 by the FLVS must take all statewide assessments. Public school students receiving part-time instruction by the FLVS in courses requiring statewide end-of-course assessments must take all end-of-course statewide assessments. All statewide assessments must be taken at the school to which the student is assigned according to district school board attendance areas. A school district must provide the student access to the school's testing facilities.¹⁵

The combined total of all FTE reported by both the school district and the FLVS must not exceed 1.0 FTE for students receiving part-time instruction in kindergarten through grade 5 and students receiving full-time instruction in kindergarten through grade 12 from the FLVS.¹⁶

Historical funding amounts for the FLVS in the FEFP are below:

FY	Number of Unweighted FTE	Amount/FTE	Total Funds (includes Categorical Funds)
2003-04 ¹⁷	1,764.23	\$4,859.02	\$8,572,428

⁹ Florida Virtual School Global, <https://www.flvs.net/global/Pages/about.aspx>.

¹⁰ Section 19, ch. 03-391, L.O.F.

¹¹ Section 1002.37(3)(a)1. and 2., F.S.

¹² Section 1002.37(3)(a)1. and 2., F.S.

¹³ See Section 1011.61(1)(c)1.b.(V), F.S., but see Section 1011.61(1)(c)1.b.(VIII)(A), F.S., requiring adjustment to courses within end-of-course assessments in the fourth year of administration of the assessment.

¹⁴ Sections 1002.37(3)(a)3., 1008.22(3)(g), and 1011.61(1)(c)1.b.(V), F.S.

¹⁵ Section 1002.37(9), F.S.

¹⁶ Section 1002.37(8)(b), F.S.

¹⁷ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2003-04 Final Calculation* (Dec. 9, 2004), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-2660/05-14a.pdf>.

2004-05 ¹⁸	2,791.72	\$5,191.43	\$14,493,007
2005-06 ¹⁹	4,684.43	\$5,307.03	\$24,860,407
2006-07 ²⁰	6,865.90	\$6,300.27	\$43,257,056
2007-08 ²¹	9,686.52	\$6,467.92	\$62,651,654
2008-09 ²²	12,907.92	\$6,296.75	\$81,277,949
2009-10 ²³	18,551.07	\$5,627.13	\$104,389,203
2010-11 ⁵⁴	22,655.60	\$5,186.42	\$117,501,544
2011-12 ⁵⁵	27,983.01	\$4,818.80	\$134,844,645

The FLVS is authorized to generate supplemental revenue from a variety of sources, including alumni associations, foundations, parent-teacher associations, and booster associations.²⁴ In addition, FLVS may also receive funds from grants and donations.²⁵ The Florida Virtual School must submit to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education a complete and detailed report, which includes:

- The operations and accomplishments of the Florida Virtual School.
- The marketing and operational plan for the Florida Virtual School, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology.
- The assets and liabilities of the Florida Virtual School at the end of the fiscal year.
- A copy of an annual financial audit of the accounts and records of the Florida Virtual School, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.
- Recommendations regarding the unit cost of providing services to students. In order to most effectively develop public policy regarding any future funding of the Florida Virtual School, it is imperative that the cost of the program is accurately identified. The identified cost of the program must be based on reliable data.
- Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School.²⁶

Auditor General Report No. 2012-020, October 2011, identified a finding related to verification of Florida residency, citing that FLVS did not maintain verification of residency for a number of students at the time of course completion, presenting an increased risk that out-of-state students may be reported and funded through the FEFP. As a result, a total of 51,200 FTE were deducted from FLVS. The majority of those deductions (30,434) were attributed to home education students.²⁷

¹⁸ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2004-05 Final Calculation* (Dec. 8, 2005), available at <http://info.fldoe.org/docushare/dsweb/Get/Version-3597/200405FinalFEFPCalc.pdf>.

¹⁹ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2005-06 Final Calculation* (Nov. 7, 2006), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-4098/coefo07-10-1.pdf>.

²⁰ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2006-07 Final Calculation* (Nov. 9, 2007), available at <http://www.fldoe.org/fefp/pdf/0607finalcalcparta.pdf>.

²¹ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2007-08 Final Calculation* (Dec. 12, 2008), available at <http://www.fldoe.org/fefp/pdf/07-08FEFP-FinalCalc-1.pdf>.

²² Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2008-09 Final Calculation* (Dec. 4, 2009), available at <http://www.fldoe.org/fefp/pdf/0809finalcalc-1.pdf>.

²³ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2009-10 Final Calculation* (Nov. 19, 2010), available at <http://www.fldoe.org/fefp/pdf/09-10-final.pdf>.

²⁴ Florida Department of Education - Office of Funding and Financial Reporting, *Florida Education Finance Program 2010-2011 Final Calculation* (Oct. 28, 2011), available at <http://www.fldoe.org/fefp/pdf/10-11-final-part1.pdf>.

²⁵ Florida Department of Education - Office of Funding and Financial Reporting, *Florida education Finance Program 2011-2012 Fourth Quarter Calculation* (May 7, 2012) available at <http://www.fldoe.org/fefp/pdf/11-12-fourth-part1.pdf>.

²⁶ Section 1002.37(6), F.S.

²⁷ Florida Auditor General Report No. 2012-020, available at <http://www.myflorida.com/audgen/pages/list1112page.htm>.

FLVS indicated it did not consistently require annual re-verification of homeschool registration, upon course completion, as there is no mechanism to collect that information from a third-party. Home school students are only required to register with their home district at the beginning of their home education program and do not have to formally register each subsequent year.²⁸ FLVS does require the parent to verify, at every course enrollment for home education students, that the student is registered as a home education student in Florida.

Effect of Proposed Changes

The bill requires Florida Virtual School to include in the detailed report to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education, the same information for Florida Virtual School Global.

The bill clarifies that, for home education students to be eligible for funding upon course completion, the parent must verify, upon enrollment for each course, that the student is registered as a home education student with their district according to law.²⁹

District Virtual Instruction Programs

Present Situation

District virtual instruction programs were implemented by the 2008 Legislature to provide students with the opportunity to participate in virtual instruction programs.³⁰ School districts eligible for the sparsity supplement must provide all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs. Districts that do not qualify for the sparsity supplement must provide at least three options for part-time and full-time virtual instruction. A school district virtual instruction program shall consist of the following:

- Full-time virtual instruction for students enrolled in kindergarten through grade 12.
- Part-time virtual instruction for students enrolled in kindergarten through grade 12 courses that are measured pursuant to subparagraph (8)(a)2.
- Full-time or part-time virtual instruction for students enrolled in dropout prevention and academic intervention programs under s. 1003.53, Department of Juvenile Justice education programs under s. 1003.52, core-curricula courses to meet class size requirements under s. 1003.03, or Florida College Institutions under this section.³¹

In order to provide the virtual instruction program, districts may contract with the Florida Virtual School, establish a franchise of the Florida Virtual School; contract with an approved provider; enter into an agreement with other school districts to allow participation of its students in an approved virtual instruction program; establish its own part-time or full-time virtual instruction program; or enter into an agreement with a virtual charter school.³²

Approved providers include those approved by the Department of Education, the Florida Virtual School, a franchise of the Florida Virtual School, or a Florida College System institution.³³ In order to be approved, providers must, among other requirements, locate an administrative office in the state and require its administrative staff to be Florida residents, and possess prior, successful experience offering online courses to elementary, middle, or high school students as demonstrated by quantified student learning gains in each subject area and grade level provided for consideration as an instructional program option.³⁴

²⁸ Section 1002.41(1)(a), F.S.

²⁹ Section 1002.41(1)(a), F.S.

³⁰ Section 4, ch. 2008-147, L.O.F.

³¹ Section 1002.45(1)(b), F.S.

³² Section 1002.45(c), F.S.

³³ Section 1002.45(a)1., F.S., *For further qualifications see State Board of Education Rule 6A-6.0981, F.A.C. at <https://www.flrules.org/gateway/ruleNo.asp?id=6A-6.0981>.*

³⁴ Section 1002.45(2)(a)3. and 4., F.S.

School districts may also deliver courses in the traditional school setting by personnel certified pursuant to s. 1012.55 who provide instruction through virtual instruction or blended learning courses. Students must be full-time students of the school and receive the online instruction in the classroom setting at the school.³⁵

Effect of Proposed Changes

The bill allows school districts, through their virtual instruction programs, to offer part-time courses to students in kindergarten through grade 12 for all courses, not just courses that require statewide assessments.

The bill removes the requirements that approved providers have an administrative office in the state and that their administrative staff be state residents, but requires providers to provide a minimum level of services to parents and students. It requires specific information to be posted and accessible online, including, but not limited to: contact information for course instructors, technical support, and administrative services. It requires such individuals to be accessible via a variety of methods, such as phone, email, and/or other online messaging tools. It also requires a minimum of one phone contact per month between the instructor and parent and the instructor and student.

The bill also provides an opportunity for providers without sufficient prior, successful experience in offering online courses to receive conditional approval from the Department of Education to offer only courses measured through statewide assessments or end-of-course exams. The conditional approval is for one school year only, and the achievement results from that year will be used to determine eligibility to become an approved provider.

In order to facilitate the delivery and coding of blended learning courses, the bill requires the Department of Education to provide identifiers for existing courses to designate their use for blended learning courses. This will ensure efficient and accurate reporting of blended learning courses.

District Innovation School Pilot Program

The bill creates a district innovation school pilot program to encourage schools to engage in a whole school transformation using blended learning models in exchange for flexibility and exemption from certain statutes. Schools will operate within existing resources under a performance contract with their district for a period of 5 years after which, they will be evaluated for purposes of renewal. The bill defines a district innovation school as a school that has adopted and implemented, on a school-wide basis, a blended learning program. The school must use one of the following blended learning models: flipped classroom, flex, or rotation. To enable the whole school transformation, district innovation schools are provided statutory exemptions similar to charter schools. After an initial three year period, if a district innovation school receives a school grade of F for two consecutive years the district school board must terminate the contract with the school and the school is no longer eligible for the statutory flexibilities. Courses offered by district innovation schools are exempt from class size requirements.

Accountability and Accessibility

The bill provides additional accountability and accessibility by:

- requiring the Department of Education to develop an online catalog of available digital learning courses provided pursuant to 1002.37, 1002.45, and 1003.498, F.S., that provides for each course, access to the course description, completion and passage rates and a method for student and teacher users to provide evaluative feedback.³⁶
- removing blended learning courses taught in a charter school, traditional public school, or district innovation schools from the definition of core-curricula courses.

³⁵ Section 1003.498(1), F.S.

³⁶ See e.g., Washington Digital Learning Department Catalog at:

http://digitalllearning.k12.wa.us/online_courses/courseDetails.php?courseID=1116&selections%5bgradeID%5d=5

- allowing students enrolled in one school district to enroll in an online course offered by any other district in the state, without exceptions.
- prohibiting a school district from requiring a public school student to take a virtual course outside the school day or on the school grounds.

B. SECTION DIRECTORY:

Section 1: Amending 1002.321, F.S.; requiring the Department of Education to develop an online catalog of available digital learning courses from the Florida Virtual School, school district virtual instruction programs and school district virtual instruction courses that provides specific information for each course and a method for teachers and students to submit evaluative feedback.

Section 2: Amending 1002.37, F.S.; clarifying, for home education students, the eligibility verification process for purposes of funding through the FEFP; requiring FLVS to provide information in their required report about operations occurring outside the state as Florida Virtual School Global.

Section 3: Amending 1002.45, F.S.; allowing districts to offer part-time virtual instruction for K-12 students for all courses, not just courses measured by an assessment; removing the requirement that a provider locate an administrative office in the state; and requiring such providers to maintain a minimum level of services available to parents and students; establishing provisions by which the Department of Education may conditionally approve providers without prior successful experience in providing online courses.

Section 4: Creating 1002.451, F.S.; establishing a district innovation school pilot program that encourages schools to engage in a whole school transformation using blended learning models in exchange for flexibility and exemption from certain statutes; providing a definition of district innovation school; providing guiding principles; outlining exemptions from statute.

Section 5: Amending 1003.01, F.S.; removing blended learning courses offered in charter schools, traditional public schools, or district innovation schools, from the definition of core-curricular courses for purposes of class size.

Section 6: Amending 1003.498, F.S.; requiring the Department of Education to provide identifiers for existing courses to designate their use for blended learning courses; removing restrictions on students for taking online courses across district lines; prohibiting school districts from requiring a public school student to take an online course outside the school day, in addition to the student's courses for a given term, or on school grounds.

Section 7: Providing an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to 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

On February 20, 2013, the Choice & Innovation Subcommittee reported proposed committee bill 13-03 favorably with three amendments. The first two amendments provided clarification for blending learning courses and district innovation schools regarding class size calculations by removing blended learning courses from the definition of core-curricular courses, and clarifying that district innovation schools are exempt from class size requirements. The third amendment removed the section of the bill that clarified reporting of FTE for courses that require end-of-course assessments.