



PreK-12 Policy Committee

Wednesday, March 25, 2009

1:00 p.m.

404 HOB

Meeting Packet

**Larry Cretul
Speaker**

**John Legg
Chair**



The Florida House of Representatives

Education Policy Council
PreK-12 Policy Committee

Larry Cretul
Speaker

John Legg
Chair

Meeting Agenda
Wednesday, March 25, 2009
1:00 p.m.
404 House Office Building

I. Call to Order/Roll Call

II. Consideration of the following bills:

- **CS/HB 783 Education for Children in Shelter Care or Foster Care by Kelly**
- **HB 813 Instructional Materials for K-12 Public Education by Hays**
- **HB 997 Student Discipline and School Safety by Carroll**
- **HB 1539 Certification of Public School Athletic Coaches by Fresen**
- **PCS for HB 13 Middle School Civics Education Assessment by McBurney**
- **PCS for HB 895 Pub. Rec./Education Testing/ Investigation by DOE by Roberson**
- **PCS for HB 991 School Improvement and Education Accountability by Grady**
- **PCB PT 09-01 Student Achievement**
- **PCB PT 09-02 Exceptional Students**

III. Closing Comments/Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 783
SPONSOR(S): Kelly and others
TIED BILLS:

Education for Children in Shelter Care or Foster Care

IDEN./SIM. BILLS: SB 1128

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Services Policy Committee	7 Y, 0 N, As CS	Preston	Schoolfield
2) PreK-12 Policy Committee		Duncan <i>pdd</i>	Ahearn <i>JA</i>
3) Health & Family Services Policy Council			
4) Full Appropriations Council on General Government & Health Care			
5)			

SUMMARY ANALYSIS

The Committee Substitute (CS) for HB 783 provides authority for the district school board or dependency court to appoint a surrogate parent for a child known to the Department of Children and Family Services (DCF) who has or is suspected of having a disability for purposes of educational decisionmaking. Before appointing a surrogate, it must be determined that no parent can be located and no person holds the right to make educational decisions for the child. Qualifications of a surrogate parent are specified, including who may, and may not, serve as a surrogate parent. In addition, the CS:

- Adds a designated liaison between a local school district and the DCF or the court to the list of entities that may be granted access to records in child abuse and neglect cases.
- Requires the court to request parental consent to provide access to a child's medical records and educational records to the court, the DCF or its contract agencies and any guardian ad litem or attorney for the child if the child is placed in shelter following a shelter hearing. The court may order the release of those records if the parents are unavailable or unwilling to consent or withhold consent.
- Provides that judicial and citizen panel reviews of dependency cases must include consideration of testimony from a surrogate parent. In reviewing a case, the court or the panel must determine who holds the rights to make educational decisions for the child and, if necessary, may appoint a surrogate parent for the child or refer the child to a district school board for the appointment. If a guardian ad litem (GAL) has been appointed for a child, the district school superintendent must first consider the GAL when appointing a surrogate parent.
- Clarifies that a surrogate parents appointed by either the court or district school superintendent must possess certain specified qualifications; provides for the continuity of an appointed surrogate parent if and when the child moves among and between public and private agencies; specifies circumstances which would eliminate the need for a surrogate parent; and provides the duties and responsibilities of the surrogate parent.
- Adds children who are in shelter or foster care to those children who must have access to free public education and must be admitted to school in the school district in which they or their families live.
- Adds children who are in shelter or foster care to those children who can be granted a 30-day exemption to providing records for purposes of school enrollment and obtaining health records and immunizations.

The bill is anticipated to have an indeterminate fiscal impact on the judiciary but no fiscal impact on local governments.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Federal Law – Individuals with Disabilities Education Act (IDEA)

In 1975, Congress enacted the Education for All Handicapped Children Act (EAHCA). The goal of this federal legislation was to ensure access to a free, appropriate public education for each child with a disability in every state and locality across the country. The law provided a framework to improve access to education for children with disabilities. Changes implicit in the law included efforts to: 1) improve how children with disabilities were identified and educated, 2) evaluate the success of these efforts, and 3) provide due process protections for children and families.¹

The EAHCA was a Congressional response to concern for two groups of children: the more than 1 million children with disabilities who were excluded entirely from the education system and the children with disabilities who had only limited access to the education system and were therefore denied an appropriate education. This latter group encompassed more than half of all children with disabilities who were living in the United States at that time.²

In 1990, the EAHCA was amended and renamed the Individuals with Disabilities Education Act (IDEA). The purpose of IDEA, as amended in 2004, is to ensure that all children with disabilities receive a free and appropriate education, including special education and related services, to prepare them for further education, employment, and independent living.³

Special education is defined as specially designed instruction, provided at no cost to the parents, to meet the unique needs of a child with a disability. Related services are support services necessary to allow a child to benefit from a special education program.⁴

¹ United States Department of Education, Office of Special Education and Rehabilitative Services. History: Twenty-Five Years of Progress in Educating Children With Disabilities Through IDEA. Date of Publication Unknown. Available at <http://www.ed.gov/policy/speced/leg/idea/history.pdf>.

² Back to School on Civil Rights: Advancing the Federal Commitment to Leave No Child Behind," a report published by The National Council on Disability on January 25, 2000.

³ National Center for Homeless Education, Individuals with Disabilities Education Improvement Act (IDEA) of 2004: Provisions for Homeless Children and Youth with Disabilities (Winter 2007), available at <http://srvlive.serve.org/nche/downloads/briefs/idea.pdf>.

⁴ *Id.*

To be eligible under IDEA, a child must have a disability and require specialized instruction to benefit from school. Eligibility and services are determined through evaluation and the development of an Individual Education Plan. Students who have not graduated from high school are eligible through age 21. Services are also available to individuals with disabilities beginning at birth; children under three are served under an Individualized Family Services Plan.⁵

Parental Consent for Evaluation under IDEA

Pursuant to IDEA, parental consent is required before an initial evaluation to determine if a child qualifies as a child with a disability, before the initial provision of special education and related services to a child, and before reevaluation (unless the agency makes a reasonable attempt to obtain consent for reevaluation and the parent fails to respond).⁶

If the child is a ward of the state and is not residing with his or her parent, the public agency is not required to obtain informed consent from the parent for an initial evaluation to determine whether the child has a disability if:

- Despite reasonable efforts to do so, the public agency cannot discover the whereabouts of the parent of the child.
- The rights of the parents of the child have been terminated in accordance with state law.
- The rights of the parent to make educational decisions have been subrogated by a judge in accordance with state law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.⁷

Surrogate Parents under IDEA

Under the IDEA, each public agency must ensure that the rights of a child are protected by determining the need for, and assigning, a surrogate parent whenever:

- No parent can be identified.
- The public agency, after reasonable efforts, cannot locate a parent.
- The child is a ward of the state under the laws of that state.
- The child is an unaccompanied homeless youth as defined by the McKinney-Vento Homeless Assistance Act.⁸

A surrogate parent cannot be an employee of the state education agency, the local educational agency, or any other agency that is involved in the education or care of the child. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents, even if they are employed by an agency that is involved in the education or care of the child, until an alternate surrogate parent is appointed.⁹

Consistent with IDEA, state law requires local school districts to appoint a surrogate parent for any child who has or is suspected of having a disability as soon as the child is determined to be dependent and to be without a parent to act on his or her behalf.¹⁰

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ 42 U.S.C. 11434a(6).

⁹ U.S. Department of Education, Office of Special Education Programs, Procedural Safeguards: Surrogates, Notice and Parental Consent (October 4, 2006).

¹⁰ Section 39.0016(4)(c), F.S.

Education of Abused, Neglected or Abandoned Children

The DCF is required to cooperate with the Department of Education (DOE) and local school districts to access services and supports for children who are dependent or sheltered. The DCF, DOE, and the Agency for Workforce Innovation (AWI) executed an interagency agreement on July 11, 2005.¹¹ A section of the agreement provides:

The Parties agree to each promote the appointment of a Liaison by each district school board, by each DCF district/region or community-based care provider and for each Regional Workforce Board Liaison, with the intent that such Liaisons shall be responsible for implementation of the requirements in this Agreement. The Liaisons shall work to achieve appropriate educational, job training, and employment services for children known to the department.¹²

The Family Educational Rights and Privacy Act (FERPA) and IDEA strictly limit the authority of schools to release student records to third parties. School records may be released to a parent, defined by FERPA to include a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.¹³ This definition may be interpreted to include foster parents or child welfare agencies with legal custody of a child.¹⁴ Otherwise, information from a student's education record can only be released with a parent's consent or pursuant to court order. The FERPA does allow schools to disclose records, without consent, to the following:¹⁵

- School officials with a legitimate educational interest.
- Other schools to which a student is transferring.
- Specified officials for audit or evaluation purposes.
- Appropriate parties in connection with financial aid to a student.
- Organizations conducting certain studies for or on behalf of the school.
- Accrediting organizations.
- To comply with a judicial order or lawfully issued subpoena.
- Appropriate officials in cases of health and safety emergencies.
- State and local authorities, within a juvenile justice system, pursuant to specific state law.

The DCF and community-based care providers are among the entities that may have access to a child's education records without the consent of the child or the child's parent. The access is limited to the extent it is consistent with FERPA.¹⁶ Current law allows the release of confidential information contained in child abuse records to the principal of the child's school, who is authorized to further release the information as necessary to provide the child with education services.¹⁷

Education of Foster Children

Foster children perform significantly worse in school than children in the general population. The educational deficits of foster children are reflected in higher rates of grade retention, lower scores on

¹¹ Section 39.0016, F.S.

¹² See Interagency Agreement, Article 2, Section 2.04 (July 11, 2005).

¹³ 34 C.F.R. s. 99.3.

¹⁴ Steve Christian, National Conference of State Legislatures, Children's Policy Initiative, Educating Children in Foster Care (December 2003).

¹⁵ See U.S. Department of Education, Family Education and Privacy Rights Act (FERPA), available at <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

¹⁶ Section 1002.22(3)(d), F.S.

¹⁷ Section 39.202(2)(p), F.S.

standardized tests and higher absenteeism, tardiness, truancy and dropout rates. The poor academic performance of these children affects their lives after foster care and contributes to higher than average rates of homelessness, criminality, drug abuse, and unemployment among foster care "graduates."¹⁸

Poor educational outcomes among children in foster care can be attributed in part to the fact that most children in foster care bear the scars of physical and emotional trauma due to prenatal exposure to alcohol and drugs, parental abuse and neglect, exposure to violence, separation from birth families, or frequent changes in foster placement. These experiences place children at great risk of developing physical, emotional and behavioral disorders that interfere with learning. In addition, the system that is supposed to ensure the well-being of children in care is often a major obstacle to their educational success. For example:

- School disruptions often result in lost credits, delayed academic progress, repetition of grades, and delays in enrollment and transfer of student records.
- Many people may be involved in a foster child's education (caseworkers, foster parents, birth parents, teachers, counselors and other service providers), but sometimes no single person or agency is held accountable for results.
- Schools, child welfare agencies and other service providers typically do not coordinate their efforts or share information about the children in their systems.
- Children in foster care often lack a consistent and knowledgeable adult who can advocate on their behalf for special education and supplemental services. Foster parents typically are the most familiar with the needs of children in their care, but they often are unprepared to negotiate the complexities of the special education system. In addition, frequent placement changes disrupt the authority of foster parents to represent children's educational interests.¹⁹

Foster children are more likely than other children to require special education and related services, and the lack of an adult advocate is especially detrimental to these children.

EFFECT OF THE PROPOSED CHANGES

The CS:

- Provides authority for the district school board or dependency court to appoint a surrogate parent for a child known to the Department of Children and Family Services (DCF) who has or is suspected of having a disability for purposes of educational decisionmaking. Before appointing a surrogate, it must be determined that no parent can be located and no person holds the right to make educational decisions for the child. Qualifications of a surrogate parent are specified, including who may, and may not, serve as a surrogate parent.
- Adds a designated liaison between a local school district and the DCF or the court to the list of entities that may be granted access to records in child abuse and neglect cases.
- Requires the court to request parental consent to provide access to a child's medical records and educational records to the court, the DCF or its contract agencies and any guardian ad litem or attorney for the child if the child is placed in shelter following a shelter hearing. The court may order the release of those records if the parents are unavailable or unwilling to consent or withhold consent. If a guardian ad litem (GAL) has been appointed for a child, the district school superintendent must first consider the GAL when appointing a surrogate parent.
- Clarifies that a surrogate parents appointed by either the court or district school superintendent must possess certain specified qualifications; provides for the continuity of an appointed surrogate parent if and when the child moves among and between public and private agencies;

¹⁸ Steve Christian, National Conference of State Legislatures, Children's Policy Initiative, Educating Children in Foster Care (December 2003).

¹⁹ *Id.*

specifies circumstances which would eliminate the need for a surrogate parent; and provides the duties and responsibilities of the surrogate parent.

- Provides that judicial and citizen panel reviews of dependency cases must include consideration of testimony from a surrogate parent. In reviewing a case, the court or the panel must determine who holds the rights to make educational decisions for the child and, if necessary, may appoint a surrogate parent for the child or refer the child to a district school board for the appointment. Certain determinations must also be made regarding the child's placement relative to his or her school.
- Adds children who are in shelter or foster care to those children who must have access to free public education and must be admitted to school in the school district in which they or their families live.
- Adds children who are in shelter or foster care to those children who can be granted a 30-day exemption to providing records for purposes of school enrollment and obtaining health records and immunizations.

B. SECTION DIRECTORY:

Section 1. Amends s. 39.0016, Florida Statutes, relating to education of abused, neglected and abandoned children; agency agreements; and children having or suspected of having a disability.

Section 2. Amends s. 39.202, Florida Statutes, relating to confidentiality of reports and records in cases of child abuse or neglect.

Section 3. Amends s. 39.402, Florida Statutes, relating to placement in a shelter.

Section 4. Amends s. 39.701, Florida Statutes, relating to judicial review.

Section 5. Amends s. 1003.21, Florida Statutes, relating to school attendance.

Section 6. Amends s. 1003.22, Florida Statutes, relating to school entry health examinations, immunizations; exemptions; and duties of the Department of Health.

Section 7. Provides for an effective date of July 1, 2009.

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 government revenues.

2. Expenditures:

The Office of the State Courts Administrator (OSCA) estimates that the requirements to appoint educational surrogate parents and review the assurances amended into s. 39.701, F.S., will result in an increase in judicial workload although the amount of that increase is unknown.²⁰

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.

²⁰ Office of the State Courts Administrator, Judicial Impact Statement, HB 783, March 3, 2009.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The OSCA has stated that the bill will impact Juvenile Rule 8.305²¹ and there is a possibility of the enactment of a new rule as well.²²

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 18th, 2009, the Health Care Services Policy Committee adopted an amendment to HB 783 and passed the bill favorably as a Committee Substitute (CS) that does the following:

- Removes the circumstance of a child living in a licensed group care or a therapeutic setting as an instance when a surrogate parent must be appointed.
- Clarifies that a surrogate parents appointed by either the court or district school superintendent must possess certain specified qualifications.
- Provides that if a guardian ad litem (GAL) has been appointed for a child, the district school superintendent must first consider the GAL when appointing a surrogate parent.
- Provides for the continuity of an appointed surrogate parent if and when the child moves among and between public and private agencies.
- Specifies circumstances which would eliminate the need for a surrogate parent;
- Provides the duties and responsibilities of the surrogate parent.
- Provides immunity to a surrogate parent against liability for actions taken in good faith on behalf of a child.

²¹ Florida Rules of Juvenile Procedure, 2009 Edition, Rule 8.305, Shelter Petition, Hearing, and Order. Available at <http://www.floridabar.org/tfb/TFBLegalRes.nsf/basic+view/E1A89A0DC5248D1785256B2F006CCCEE?OpenDocument>.

²² Office of the State Courts Administrator, Judicial Impact Statement, HB 783, March 3, 2009.

1 A bill to be entitled
 2 An act relating to education for children in shelter care
 3 or foster care; amending s. 39.0016, F.S.; defining the
 4 term "surrogate parent"; providing legislative intent;
 5 providing conditions and requirements for district school
 6 superintendent or court appointment of a surrogate parent
 7 for educational decisionmaking for a child who has or is
 8 suspected of having a disability; providing requirements
 9 for educational placement; providing requirements relating
 10 to qualifications and responsibilities of surrogate
 11 parents; limiting liability; amending s. 39.202, F.S.;
 12 providing for access to certain records to liaisons
 13 between school districts and the Department of Children
 14 and Family Services; amending s. 39.402, F.S.; requiring
 15 access to a child's medical records and educational
 16 records if a child is placed in a shelter; authorizing
 17 appointment of a surrogate parent; amending s. 39.701,
 18 F.S.; requiring the court and citizen review panel in
 19 judicial reviews to consider testimony by a surrogate
 20 parent for educational decisionmaking; providing for
 21 additional deliberations relating to appointment of an
 22 educational decisionmaker; requiring certain documentation
 23 relating to the educational setting; amending s. 1003.21,
 24 F.S.; providing access to free public education for
 25 children known to the department; authorizing a temporary
 26 exemption relating to school attendance; amending s.
 27 1003.22, F.S.; authorizing a temporary exemption from

28 school-entry health examinations for children known to the
 29 department; providing an effective date.

30

31 Be It Enacted by the Legislature of the State of Florida:

32

33 Section 1. Section 39.0016, Florida Statutes, is amended
 34 to read:

35 39.0016 Education of abused, neglected, and abandoned
 36 children; agency agreements; children having or suspected of
 37 having a disability.--

38 (1) DEFINITIONS.--As used in this section, the term:

39 (a) "Children known to the department" means children who
 40 are found to be dependent or children in shelter care.

41 (b) "Department" means the Department of Children and
 42 Family Services or a community-based care lead agency acting on
 43 behalf of the Department of Children and Family Services, as
 44 appropriate.

45 (c) "Surrogate parent" means an individual appointed to
 46 act in the place of a parent in educational decisionmaking and
 47 in safeguarding a child's rights under the Individuals with
 48 Disabilities Education Act and this section.

49 (2) AGENCY AGREEMENTS.--

50 (a) ~~(3)~~ The department shall enter into an agreement with
 51 the Department of Education regarding the education and related
 52 care of children known to the department. Such agreement shall
 53 be designed to provide educational access to children known to
 54 the department for the purpose of facilitating the delivery of
 55 services or programs to children known to the department. The

56 agreement shall avoid duplication of services or programs and
 57 shall provide for combining resources to maximize the
 58 availability or delivery of services or programs.

59 (b)~~(4)~~ The department shall enter into agreements with
 60 district school boards or other local educational entities
 61 regarding education and related services for children known to
 62 the department who are of school age and children known to the
 63 department who are younger than school age but who would
 64 otherwise qualify for services from the district school board.
 65 Such agreements shall include, but are not limited to:

66 1.~~(a)~~ A requirement that the department shall:

67 a.1.~~1.~~ Enroll children known to the department in school.

68 The agreement shall provide for continuing the enrollment of a
 69 child known to the department at the same school, if possible,
 70 with the goal of avoiding disruption of education.

71 b.2.~~2.~~ Notify the school and school district in which a
 72 child known to the department is enrolled of the name and phone
 73 number of the child known to the department caregiver and
 74 caseworker for child safety purposes.

75 c.3.~~3.~~ Establish a protocol for the department to share
 76 information about a child known to the department with the
 77 school district, consistent with the Family Educational Rights
 78 and Privacy Act, since the sharing of information will assist
 79 each agency in obtaining education and related services for the
 80 benefit of the child.

81 d.4.~~4.~~ Notify the school district of the department's case
 82 planning for a child known to the department, both at the time
 83 of plan development and plan review. Within the plan development

84 or review process, the school district may provide information
 85 regarding the child known to the department if the school
 86 district deems it desirable and appropriate.

87 2.~~(b)~~ A requirement that the district school board shall:

88 a.1. Provide the department with a general listing of the
 89 services and information available from the district school
 90 board, ~~including, but not limited to, the current Sunshine State~~
 91 ~~Standards, the Surrogate Parent Training Manual, and other~~
 92 ~~resources accessible through the Department of Education or~~
 93 ~~local school districts~~ to facilitate educational access for a
 94 child known to the department.

95 b.2. Identify all educational and other services provided
 96 by the school and school district which the school district
 97 believes are reasonably necessary to meet the educational needs
 98 of a child known to the department.

99 c.3. Determine whether transportation is available for a
 100 child known to the department when such transportation will
 101 avoid a change in school assignment due to a change in
 102 residential placement. Recognizing that continued enrollment in
 103 the same school throughout the time the child known to the
 104 department is in out-of-home care is preferable unless
 105 enrollment in the same school would be unsafe or otherwise
 106 impractical, the department, the district school board, and the
 107 Department of Education shall assess the availability of
 108 federal, charitable, or grant funding for such transportation.

109 d.4. Provide individualized student intervention or an
 110 individual educational plan when a determination has been made
 111 through legally appropriate criteria that intervention services

112 are required. The intervention or individual educational plan
 113 must include strategies to enable the child known to the
 114 department to maximize the attainment of educational goals.

115 ~~3.(e)~~ A requirement that the department and the district
 116 school board shall cooperate in accessing the services and
 117 supports needed for a child known to the department who has or
 118 is suspected of having a disability to receive an appropriate
 119 education consistent with the Individuals with Disabilities
 120 Education Act and state implementing laws, rules, and
 121 assurances. Coordination of services for a child known to the
 122 department who has or is suspected of having a disability may
 123 include:

124 ~~a.1.~~ Referral for screening.

125 ~~b.2.~~ Sharing of evaluations between the school district
 126 and the department where appropriate.

127 ~~c.3.~~ Provision of education and related services
 128 appropriate for the needs and abilities of the child known to
 129 the department.

130 ~~d.4.~~ Coordination of services and plans between the school
 131 and the residential setting to avoid duplication or conflicting
 132 service plans.

133 ~~e.5.~~ Appointment of a surrogate parent, consistent with
 134 the Individuals with Disabilities Education Act and pursuant to
 135 subsection (3), for educational purposes for a child known to
 136 the department who qualifies ~~as soon as the child is determined~~
 137 ~~to be dependent and without a parent to act for the child. The~~
 138 ~~surrogate parent shall be appointed by the school district~~
 139 ~~without regard to where the child known to the department is~~

140 ~~placed so that one surrogate parent can follow the education of~~
 141 ~~the child known to the department during his or her entire time~~
 142 ~~in state custody.~~

143 f.6. For each child known to the department 14 years of
 144 age and older, transition planning by the department and all
 145 providers, including the department's independent living program
 146 staff, to meet the requirements of the local school district for
 147 educational purposes.

148 ~~(c)(2)~~ The provisions of this subsection ~~section~~ establish
 149 standards ~~goals~~ and not rights. This subsection ~~section~~ does not
 150 require the delivery of any particular service or level of
 151 service in excess of existing appropriations. A person may not
 152 maintain a cause of action against the state or any of its
 153 subdivisions, agencies, contractors, subcontractors, or agents
 154 based upon this subsection ~~section~~ becoming law or failure by
 155 the Legislature to provide adequate funding for the achievement
 156 of these standards ~~goals~~. This subsection ~~section~~ does not
 157 require the expenditure of funds to meet the standards ~~goals~~
 158 established in this subsection ~~section~~ except funds specifically
 159 appropriated for such purpose.

160 (3) CHILDREN HAVING OR SUSPECTED OF HAVING A DISABILITY.--

161 (a)1. The Legislature finds that disability is a natural
 162 part of the human experience and in no way diminishes the right
 163 of individuals to participate in or contribute to society.
 164 Improving educational results for children with disabilities is
 165 an essential element of our public policy of ensuring equality
 166 of opportunity, full participation, independent living, and
 167 economic self-sufficiency for individuals with disabilities.

168 2. The Legislature also finds that research and experience
 169 have shown that the education of children with disabilities can
 170 be made more effective by:

171 a. Having high expectations for these children and
 172 ensuring their access to the general education curriculum in the
 173 regular classroom, to the maximum extent possible.

174 b. Providing appropriate exceptional student education,
 175 related services, and aids and supports in the least restrictive
 176 environment appropriate for these children.

177 c. Having a trained, interested, and consistent
 178 educational decisionmaker for the child when the parent is
 179 determined to be legally unavailable or when the foster parent
 180 is unwilling, has no significant relationship with the child, or
 181 is not trained in the exceptional student education process.

182 3. It is, therefore, the intent of the Legislature that
 183 all children with disabilities known to the department,
 184 consistent with the Individuals with Disabilities Education Act,
 185 have available to them a free, appropriate public education that
 186 emphasizes exceptional student education and related services
 187 designed to meet their unique needs and prepare them for further
 188 education, employment, and independent living and that the
 189 rights of children with disabilities are protected.

190 (b)1. Each district school superintendent or dependency
 191 court must appoint a surrogate parent for a child known to the
 192 department who has or is suspected of having a disability, as
 193 defined in s. 1003.01(3), when:

194 a. After reasonable efforts, no parent can be located; or

195 b. A court of competent jurisdiction over a child under
196 this chapter has determined that no person has the authority
197 under the Individuals with Disabilities Education Act, including
198 the parent or parents subject to the dependency action, or that
199 no person has the authority, willingness, or ability to serve as
200 the educational decisionmaker for the child without judicial
201 action.

202 2. A surrogate parent appointed by the district school
203 superintendent or the court must be at least 18 years old and
204 have no personal or professional interest that conflicts with
205 the interests of the student to be represented. Neither the
206 district school superintendent nor the court may appoint an
207 employee of the Department of Education, the local school
208 district, a community-based care provider, the Department of
209 Children and Family Services, or any other public or private
210 agency involved in the education or care of the child as
211 appointment of those persons is prohibited by federal law. This
212 prohibition includes group home staff and therapeutic foster
213 parents. However, a person who acts in a parental role to a
214 child, such as a foster parent or relative caregiver, is not
215 prohibited from serving as a surrogate parent if he or she is
216 employed by such agency, willing to serve, and knowledgeable
217 about the child and the exceptional student education process.
218 The surrogate parent may be a court-appointed guardian ad litem
219 or a relative or nonrelative adult who is involved in the
220 child's life regardless of whether that person has physical
221 custody of the child. Each person appointed as a surrogate
222 parent must have the knowledge and skills acquired by

223 successfully completing training using materials developed and
 224 approved by the Department of Education to ensure adequate
 225 representation of the child.

226 3. If a guardian ad litem has been appointed for a child,
 227 the district school superintendent must first consider the
 228 child's guardian ad litem when appointing a surrogate parent.
 229 The district school superintendent must accept the appointment
 230 of the court if he or she has not previously appointed a
 231 surrogate parent. Similarly, the court must accept a surrogate
 232 parent duly appointed by a district school superintendent.

233 4. A surrogate parent appointed by the district school
 234 superintendent or the court must be accepted by any subsequent
 235 school or school district without regard to where the child is
 236 receiving residential care so that a single surrogate parent can
 237 follow the education of the child during his or her entire time
 238 in state custody. Nothing in this paragraph or in rule shall
 239 limit or prohibit the continuance of a surrogate parent
 240 appointment when the responsibility for the student's
 241 educational placement moves among and between public and private
 242 agencies.

243 5. For a child known to the department, the responsibility
 244 to appoint a surrogate parent resides with both the district
 245 school superintendent and the court with jurisdiction over the
 246 child. If the court elects to appoint a surrogate parent, notice
 247 shall be provided as soon as practicable to the child's school.
 248 At any time the court determines that it is in the best
 249 interests of a child to remove a surrogate parent, the court may

250 appoint a new surrogate parent for educational decisionmaking
 251 purposes for that child.

252 6. The surrogate parent shall continue in the appointed
 253 role until one of the following occurs:

254 a. The child is determined to no longer be eligible or in
 255 need of special programs, except when termination of special
 256 programs is being contested.

257 b. The child achieves permanency through adoption or legal
 258 guardianship and is no longer in the custody of the department.

259 c. The parent who was previously unknown becomes known,
 260 whose whereabouts were unknown is located, or who was
 261 unavailable is determined by the court to be available.

262 d. The appointed surrogate no longer wishes to represent
 263 the child or is unable to represent the child.

264 e. The superintendent of the school district in which the
 265 child is attending school, the Department of Education contract
 266 designee, or the court that appointed the surrogate determines
 267 that the appointed surrogate parent no longer adequately
 268 represents the child.

269 f. The child moves to a geographic location that is not
 270 reasonably accessible to the appointed surrogate.

271 7. The appointment and termination of appointment of a
 272 surrogate under this paragraph shall be entered as an order of
 273 the court with a copy of the order provided to the child's
 274 school as soon as practicable.

275 8. The person appointed as a surrogate parent under this
 276 paragraph must:

277 a. Be acquainted with the child and become knowledgeable
 278 about his or her disability and educational needs.

279 b. Represent the child in all matters relating to
 280 identification, evaluation, and educational placement and the
 281 provision of a free and appropriate education to the child.

282 c. Represent the interests and safeguard the rights of the
 283 child in educational decisions that affect the child.

284 9. The responsibilities of the person appointed as a
 285 surrogate parent shall not extend to the care, maintenance,
 286 custody, residential placement, or any other area not
 287 specifically related to the education of the child, unless the
 288 same person is appointed by the court for such other purposes.

289 10. A person appointed as a surrogate parent shall enjoy
 290 all of the procedural safeguards afforded a parent with respect
 291 to the identification, evaluation, and educational placement of
 292 a student with a disability or a student who is suspected of
 293 having a disability.

294 11. A person appointed as a surrogate parent shall not be
 295 held liable for actions taken in good faith on behalf of the
 296 student in protecting the special education rights of the child.

297 ~~(4)~~~~(5)~~ TRAINING.--The department shall incorporate an
 298 education component into all training programs of the department
 299 regarding children known to the department. Such training shall
 300 be coordinated with the Department of Education and the local
 301 school districts. The department shall offer opportunities for
 302 education personnel to participate in such training. Such
 303 coordination shall include, but not be limited to, notice of
 304 training sessions, opportunities to purchase training materials,

305 proposals to avoid duplication of services by offering joint
 306 training, and incorporation of materials available from the
 307 Department of Education and local school districts into the
 308 department training when appropriate. The department training
 309 components shall include:

310 (a) Training for surrogate parents to include how an
 311 ability to learn of a child known to the department is affected
 312 by abuse, abandonment, neglect, and removal from the home.

313 (b) Training for parents in cases in which reunification
 314 is the goal, or for preadoptive parents when adoption is the
 315 goal, so that such parents learn how to access the services the
 316 child known to the department needs and the importance of their
 317 involvement in the education of the child known to the
 318 department.

319 (c) Training for caseworkers and foster parents to include
 320 information on the right of the child known to the department to
 321 an education, the role of an education in the development and
 322 adjustment of a child known to the department, the proper ways
 323 to access education and related services for the child known to
 324 the department, and the importance and strategies for parental
 325 involvement in education for the success of the child known to
 326 the department.

327 (d) Training of caseworkers regarding the services and
 328 information available through the Department of Education and
 329 local school districts, including, but not limited to, the
 330 current Sunshine State Standards, the Surrogate Parent Training
 331 Manual, and other resources accessible through the Department of
 332 Education or local school districts to facilitate educational

CS/HB 783

2009

333 access for a child known to the department.

334 Section 2. Paragraph (p) of subsection (2) of section
335 39.202, Florida Statutes, is amended to read:

336 39.202 Confidentiality of reports and records in cases of
337 child abuse or neglect.--

338 (2) Except as provided in subsection (4), access to such
339 records, excluding the name of the reporter which shall be
340 released only as provided in subsection (5), shall be granted
341 only to the following persons, officials, and agencies:

342 (p) An employee of the local school district who is
343 designated as a liaison between the school district and the
344 department pursuant to an interagency agreement required under
345 s. 39.0016 and the principal of a public school, private school,
346 or charter school where the child is a student. Information
347 contained in the records which the liaison or the principal
348 determines are necessary for a school employee to effectively
349 provide a student with educational services may be released to
350 that employee.

351 Section 3. Subsection (11) of section 39.402, Florida
352 Statutes, is amended to read:

353 39.402 Placement in a shelter.--

354 (11)(a) If a child is placed in a shelter pursuant to a
355 court order following a shelter hearing, the court shall require
356 in the shelter hearing order that the parents of the child, or
357 the guardian of the child's estate, if possessed of assets which
358 under law may be disbursed for the care, support, and
359 maintenance of the child, to pay, to the department or
360 institution having custody of the child, fees as established by

361 the department. When the order affects the guardianship estate,
 362 a certified copy of the order shall be delivered to the judge
 363 having jurisdiction of the guardianship estate. The shelter
 364 order shall also require the parents to provide to the
 365 department and any other state agency or party designated by the
 366 court, within 28 days after entry of the shelter order, the
 367 financial information necessary to accurately calculate child
 368 support pursuant to s. 61.30.

369 (b) The court shall request that the parents consent to
 370 provide access to the child's medical records and provide
 371 information to the court, the department or its contract
 372 agencies, and any guardian ad litem or attorney for the child.
 373 If a parent is unavailable or unable to consent or withholds
 374 consent and the court determines access to the records and
 375 information is necessary to provide services to the child, the
 376 court shall issue an order granting access. The court may also
 377 order the parents to ~~The parent or legal guardian shall~~ provide
 378 all known medical information to the department and to any
 379 others granted access under this subsection.

380 (c) The court shall request that the parents consent to
 381 provide access to the child's educational records and provide
 382 information to the court, the department or its contract
 383 agencies, and any guardian ad litem or attorney for the child.
 384 If a parent is unavailable or unable to consent or withholds
 385 consent and the court determines access to the records and
 386 information is necessary to provide services to the child, the
 387 court shall issue an order granting access.

388 (d) The court may appoint a surrogate parent or may refer
 389 the child to the district school superintendent for appointment
 390 of a surrogate parent if the child has or is suspected of having
 391 a disability and the parent is unavailable pursuant to s.
 392 39.0016(3)(b).

393 Section 4. Subsection (8) of section 39.701, Florida
 394 Statutes, is amended to read:

395 39.701 Judicial review.--

396 (8) The court and any citizen review panel shall take into
 397 consideration the information contained in the social services
 398 study and investigation and all medical, psychological, and
 399 educational records that support the terms of the case plan;
 400 testimony by the social services agency, the parent, the foster
 401 parent or legal custodian, the guardian ad litem or surrogate
 402 parent for educational decisionmaking if one has been appointed
 403 for the child, and any other person deemed appropriate; and any
 404 relevant and material evidence submitted to the court, including
 405 written and oral reports to the extent of their probative value.
 406 These reports and evidence may be received by the court in its
 407 effort to determine the action to be taken with regard to the
 408 child and may be relied upon to the extent of their probative
 409 value, even though not competent in an adjudicatory hearing. In
 410 its deliberations, the court and any citizen review panel shall
 411 seek to determine:

412 (a) If the parent was advised of the right to receive
 413 assistance from any person or social service agency in the
 414 preparation of the case plan.

415 (b) If the parent has been advised of the right to have

416 counsel present at the judicial review or citizen review
 417 hearings. If not so advised, the court or citizen review panel
 418 shall advise the parent of such right.

419 (c) If a guardian ad litem needs to be appointed for the
 420 child in a case in which a guardian ad litem has not previously
 421 been appointed or if there is a need to continue a guardian ad
 422 litem in a case in which a guardian ad litem has been appointed.

423 (d) Who holds the rights to make educational decisions for
 424 the child. If appropriate, the court may refer the child to the
 425 district school superintendent for appointment of a surrogate
 426 parent or may itself appoint a surrogate parent under the
 427 Individuals with Disabilities Education Act and s. 39.0016.

428 (e)~~(d)~~ The compliance or lack of compliance of all parties
 429 with applicable items of the case plan, including the parents'
 430 compliance with child support orders.

431 (f)~~(e)~~ The compliance or lack of compliance with a
 432 visitation contract between the parent and the social service
 433 agency for contact with the child, including the frequency,
 434 duration, and results of the parent-child visitation and the
 435 reason for any noncompliance.

436 (g)~~(f)~~ The compliance or lack of compliance of the parent
 437 in meeting specified financial obligations pertaining to the
 438 care of the child, including the reason for failure to comply if
 439 such is the case.

440 (h)~~(g)~~ Whether the child is receiving safe and proper care
 441 according to s. 39.6012, including, but not limited to, the
 442 appropriateness of the child's current placement, including
 443 whether the child is in a setting that is as family-like and as

444 close to the parent's home as possible, consistent with the
 445 child's best interests and special needs, and including
 446 maintaining stability in the child's educational placement, as
 447 documented by assurances from the community-based care provider
 448 that:

449 1. The placement of the child takes into account the
 450 appropriateness of the current educational setting and the
 451 proximity to the school in which the child is enrolled at the
 452 time of placement.

453 2. The community-based care agency has coordinated with
 454 appropriate local educational agencies to ensure that the child
 455 remains in the school in which the child is enrolled at the time
 456 of placement.

457 (i)-(h) A projected date likely for the child's return home
 458 or other permanent placement.

459 (j)-(i) When appropriate, the basis for the unwillingness
 460 or inability of the parent to become a party to a case plan. The
 461 court and the citizen review panel shall determine if the
 462 efforts of the social service agency to secure party
 463 participation in a case plan were sufficient.

464 (k)-(j) For a child who has reached 13 years of age but is
 465 not yet 18 years of age, the adequacy of the child's preparation
 466 for adulthood and independent living.

467 (l)-(k) If amendments to the case plan are required.
 468 Amendments to the case plan must be made under s. 39.6013.

469 Section 5. Paragraph (f) of subsection (1) and paragraph
 470 (g) of subsection (4) of section 1003.21, Florida Statutes, are
 471 amended to read:

472 1003.21 School attendance.--
 473 (1)
 474 (f) Homeless children, as defined in s. 1003.01, and
 475 children who are known to the department, as defined in s.
 476 39.0016, must have access to a free public education and must be
 477 admitted to school in the school district in which they or their
 478 families live. School districts shall assist homeless children
 479 and children who are known to the department to meet the
 480 requirements of subsection (4) and s. 1003.22, as well as local
 481 requirements for documentation.
 482 (4) Before admitting a child to kindergarten, the
 483 principal shall require evidence that the child has attained the
 484 age at which he or she should be admitted in accordance with the
 485 provisions of subparagraph (1)(a)2. The district school
 486 superintendent may require evidence of the age of any child whom
 487 he or she believes to be within the limits of compulsory
 488 attendance as provided for by law. If the first prescribed
 489 evidence is not available, the next evidence obtainable in the
 490 order set forth below shall be accepted:
 491 (g) If none of these evidences can be produced, an
 492 affidavit of age sworn to by the parent, accompanied by a
 493 certificate of age signed by a public health officer or by a
 494 public school physician, or, if neither of these is available in
 495 the county, by a licensed practicing physician designated by the
 496 district school board, which certificate states that the health
 497 officer or physician has examined the child and believes that
 498 the age as stated in the affidavit is substantially correct. A
 499 homeless child, as defined in s. 1003.01, and a child who is

500 known to the department, as defined in s. 39.0016, shall be
 501 given temporary exemption from this section for 30 school days.

502 Section 6. Subsection (1) and paragraph (e) of subsection
 503 (5) of section 1003.22, Florida Statutes, are amended to read:

504 1003.22 School-entry health examinations; immunization
 505 against communicable diseases; exemptions; duties of Department
 506 of Health.--

507 (1) Each district school board and the governing authority
 508 of each private school shall require that each child who is
 509 entitled to admittance to kindergarten, or is entitled to any
 510 other initial entrance into a public or private school in this
 511 state, present a certification of a school-entry health
 512 examination performed within 1 year prior to enrollment in
 513 school. Each district school board, and the governing authority
 514 of each private school, may establish a policy that permits a
 515 student up to 30 school days to present a certification of a
 516 school-entry health examination. A homeless child, as defined in
 517 s. 1003.01, and a child who is known to the department, as
 518 defined in s. 39.0016, shall be given a temporary exemption for
 519 30 school days. Any district school board that establishes such
 520 a policy shall include provisions in its local school health
 521 services plan to assist students in obtaining the health
 522 examinations. However, any child shall be exempt from the
 523 requirement of a health examination upon written request of the
 524 parent of the child stating objections to the examination on
 525 religious grounds.

526 (5) The provisions of this section shall not apply if:

527 (e) An authorized school official issues a temporary

CS/HB 783

2009

528 exemption, for a period not to exceed 30 school days, to permit
 529 a student who transfers into a new county to attend class until
 530 his or her records can be obtained. A homeless child, as defined
 531 in s. 1003.01, and a child who is known to the department, as
 532 defined in s. 39.0016, shall be given a temporary exemption for
 533 30 school days. The public school health nurse or authorized
 534 private school official is responsible for followup of each such
 535 student until proper documentation or immunizations are
 536 obtained. An exemption for 30 days may be issued for a student
 537 who enters a juvenile justice program to permit the student to
 538 attend class until his or her records can be obtained or until
 539 the immunizations can be obtained. An authorized juvenile
 540 justice official is responsible for followup of each student who
 541 enters a juvenile justice program until proper documentation or
 542 immunizations are obtained.

543 Section 7. This act shall take effect July 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 813 Instructional Materials for K-12 Public Education
SPONSOR(S): Hays
TIED BILLS: IDEN./SIM. BILLS: SB 1248

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: PreK-12 Policy Committee, Duncan, Ahearn.

SUMMARY ANALYSIS

Current law provides that the school principal is responsible for the management and care of instructional materials and has several duties related to this responsibility, including collecting money for lost or damaged books.

This bill deletes the language restricting the amount a school principal can collect for lost, destroyed, or damaged instructional material, thereby in effect authorizing a school principal to collect from a student or the student's parent the full purchase price of any instructional material lost, destroyed, or damaged by a student regardless of the age or condition of the instructional material.

This bill may have a small positive fiscal impact on school districts. See FISCAL COMMENTS section of this analysis.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Current law provides that it is the duty of the district school board to provide adequate instructional materials for all students.¹ The district school superintendent has the duty to recommend plans for improving, providing, distributing, accounting for, and caring for textbooks and other instructional materials.²

Instructional material means items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. The term does not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor does it include equipment or supplies.³

The school principal is responsible for the management and care of instructional materials and has several duties related to this responsibility, including collecting money for certain lost or damaged books. If a student loses, destroys, damages any instructional materials, then the school principal must collect from the student or the student's parent the purchase price of the instructional material. However, the law further provides that "if the *instructional materials* lost, destroyed, or damaged have been in school use for more than one year, a sum ranging between 50% and 75% of the purchase price of the *book* [will] be collected, determined by the physical condition of the *book*." This provision uses inconsistent terminology – "instructional materials" is more inclusive than just "books." However, because of the repeated use of the word "book," it appears that only the loss, destruction, or damage of a book enjoys a reduction in replacement cost if in use for more than one year.⁴

Any money collected must be transmitted to the district school superintendent.⁵ A student may be suspended from participating in extracurricular activities if the debt is not paid or required to participate in community service activities to satisfy the debt.⁶

¹ s. 1006.28(1), F.S.

² s. 1006.28(2), F.S.

³ s. 1006.29(4), F.S.

⁴ s. 1006.28(3)(b), F.S.

⁵ s. 1006.28(3), F.S.

⁶ *Id.*

In 2007, the Legislature directed the Department of Education (DOE), with the cooperation of the Florida Association of District School Superintendents, the Florida School Boards Association, and the school districts, to prepare and submit to the chair of the Senate Fiscal Policy and Calendar Committee and the chair of the House Policy and Budget Council, a report which addresses school district policies regarding lost text books, the number of books lost annually, the cost to replace lost books, and recommendations to reduce this cost.⁷

With the input from the Florida Association of District School Superintendents and the Florida School Boards Association, the DOE requested school districts to provide the following information:⁸

- Policies regarding lost textbooks.
- Number of textbooks lost annually.
- Cost for textbook replacement annually.
- Recommendations to reduce the cost of textbook replacement.
- Innovative ways to recover lost or damaged textbooks.

The DOE surveyed each school district and reported:⁹

Current School District Policies

- At least 54 of Florida's 67 school districts reported policies based on current law and sometimes quoted statute verbatim.
- Three districts also added that charges for lost or damaged textbooks are added to the student's senior-year debt which must be paid before the student is permitted to participate in graduation ceremonies.
- One district stated that it withholds the student's diploma until outstanding debts are paid.

Cost for Annual Replacement of Textbooks

- The number of textbooks lost annually varies from year to year and from district to district; therefore, the total cost to the state for replacement also varies annually.
- Some districts were only able to provide the amount of funds collected for lost textbooks instead of the cost for replacement.
- Some districts were able to show the difference between the amount collected from students and the actual textbook replacement cost.

DOE Recommendations

- The Legislature should amend current law to allow districts to collect from each student or the student's parent or guardian the full purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged.
- Districts should share practices that result in the reduction of lost or damaged textbooks and the DOE will sponsor a presentation at the next Florida Association of District Instructional Materials Administrators (FADIMA) Conference where the DOE will present this report and allow districts to share information.

⁷ Chapter 2007-72, L.O.F., section 2 – Education (All Other Funds).

⁸ Florida Department of Education, 2007-2008 Legislative Report on Lost Textbooks.

⁹ *Id.*

Effect of Proposed Changes

Currently, if a student loses, destroys, or damages any instructional materials, then the school principal must collect from the student or the student's parent the purchase price of the instructional material. However, if the instructional materials lost, destroyed, or damaged have been in school use for more than one year, a sum ranging from 50% -75% of the purchase price must be collected. The amount to be collected is determined by the physical condition of the book.

The bill deletes the language restricting the amount a school principal can collect for lost, destroyed, or damaged instructional material, thereby in effect authorizing a school principal to collect from a student or the student's parent the full purchase price of any instructional material lost, destroyed, or damaged by a student regardless of the age or condition of the instructional material. In deleting the restrictive language, the bill also removes the inconsistency in use of the terms "instructional materials" and "books."

The school principal maintains the authority to suspend a student from participating in extracurricular activities if the debt is not paid or require the student to participate in community service activities to satisfy the debt. Allowing the school principal to seek the full purchase price to replace instructional materials may result in increased student responsibility and care for the school's instructional materials and reduce school district costs.

B. SECTION DIRECTORY:

Section 1: Amends s. 1006.28, F.S., relating to duties of district school board; district superintendent; and school principal regarding K-12 instructional materials.

Section 2: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Parents and students may be required to pay the full purchase price of instructional materials lost, destroyed, or damaged unless the student is required to participate in community service activities to repay the debt or suspended from participating in extracurricular activities.

D. FISCAL COMMENTS:

The provisions in this bill may reduce the number of instructional materials lost, destroyed, or damaged, thus reducing costs to school districts, the amount of which is indeterminate at this time.

DOE Comment:

Districts would be authorized to collect an additional 25-50 percent beyond the current 75-50 percent of purchase price of instructional materials. After conducting a survey of school districts, the Department of Education's *2007-08 Legislative Report on Lost Textbooks* showed the number of textbooks lost annually varied from year to year and from district to district. Due to this variance and differences in district policies, the increase in collection is indeterminate.¹⁰

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A.

¹⁰ Department of Education, Analysis of SB 1248 (Identical), March 5, 2009.

1 A bill to be entitled
 2 An act relating to instructional materials for K-12 public
 3 education; amending s. 1006.28, F.S.; deleting a provision
 4 that restricts the cost to students for replacement of
 5 certain instructional materials that are lost, destroyed,
 6 or damaged; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (b) of subsection (3) of section
 11 1006.28, Florida Statutes, is amended to read:

12 1006.28 Duties of district school board, district school
 13 superintendent; and school principal regarding K-12
 14 instructional materials.--

15 (3) SCHOOL PRINCIPAL.--The school principal has the
 16 following duties for the management and care of instructional
 17 materials at the school:

18 (b) Money collected for lost or damaged books;
 19 enforcement.--The school principal shall collect from each
 20 student or the student's parent the purchase price of any
 21 instructional material the student has lost, destroyed, or
 22 unnecessarily damaged and to report and transmit the money
 23 collected to the district school superintendent. ~~if~~
 24 ~~instructional materials lost, destroyed, or damaged have been in~~
 25 ~~school use for more than 1 year, a sum ranging between 50 and 75~~
 26 ~~percent of the purchase price of the book shall be collected,~~
 27 ~~determined by the physical condition of the book.~~ The failure to
 28 collect such sum upon reasonable effort by the school principal

HB 813

2009

29 | may result in the suspension of the student from participation
30 | in extracurricular activities or satisfaction of the debt by the
31 | student through community service activities at the school site
32 | as determined by the school principal, pursuant to policies
33 | adopted by district school board rule.

34 | Section 2. This act shall take effect July 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 997 Student Discipline and School Safety

SPONSOR(S): Carroll and others

TIED BILLS: IDEN./SIM. BILLS: CS/SB 1540

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Policy Committee		Duncan <i>pdd</i>	Ahearn <i>[Signature]</i>
2) Public Safety & Domestic Security Policy Committee			
3) Education Policy Council			
4)			
5)			

SUMMARY ANALYSIS

Federal law, through the Gun-Free Schools Act, requires each state receiving federal funds under the Elementary and Secondary Education Act to have in effect a state law requiring local education agencies (school districts) to expel from school for a period of not less than one year a student who is determined to have brought a firearm to a school or to have possessed a firearm at school. Florida meets the federal Gun-Free Safety Act requirements through the provisions in current law relating to zero tolerance for crime and victimization which require school districts to adopt zero-tolerance policies for crime, substance abuse, and the victimization of students.

In July 2007, Governor Charlie Crist authorized the creation of the Blueprint Commission charged with developing recommendations to reform Florida's juvenile justice system. The commission issued its report in January 2008. Many of the provisions in HB 997 are in response to the findings and recommendations of the commission.

This bill requires district school boards to revise their zero tolerance policies so that they define: criteria for reporting acts to law enforcement, acts that pose a serious threat to school safety, and petty acts of misconduct. District school boards must also establish a procedure that ensures each student has the opportunity to appeal disciplinary action. For any disciplinary or prosecutorial action, school district zero tolerance policies must consider the individual student and the particular circumstances surrounding his or her misbehavior.

The bill also requires district school boards and local law enforcement to establish agreements to specify guidelines for offenses that pose a serious threat to school safety and reporting them to law enforcement. The bill provides that zero tolerance does not require reports to law enforcement of petty misconduct and misdemeanors, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray, theft of less than \$300, trespassing, and vandalism of less than \$1,000. School districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

This bill does not appear to have a fiscal impact on state or local government revenues or expenditures. See FISCAL COMMENTS section of this analysis.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Law: Gun-Free Schools Act

Federal law, through the Gun-Free Schools Act (GFSA), requires each state receiving federal funds under the Elementary and Secondary Education Act to have in effect a state law requiring local education agencies (school districts) to expel from school for a period of not less than one year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at school. The state law must allow the chief administering officer of the school district to modify, in writing, the expulsion requirement for a student on a case-by-case basis.¹

The law also provides that funds will not be made available to school districts under any title of the Elementary and Secondary Education Act unless the school districts have a policy that requires referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by the school district.²

State Law: Zero Tolerance for Crime and Victimization

Florida meets the federal GFSA requirements through the provisions in current law relating to zero tolerance for crime and victimization which require school districts to adopt zero-tolerance policies for crime, substance abuse, and the victimization of students.³ The policy must require students found to have: (a) brought a firearm or weapon⁴ to school, to any school function, or onto any school-sponsored transportation or possessed a firearm at school; or (b) made a threat or false report,⁵ involving school or school personnel's property, school transportation, or a school-sponsored activity, to be expelled, with or without continuing education services, from the student's regular school for a period of not less than one full year and to be referred to the criminal justice or juvenile justice system.⁶

¹ The Gun-Free Schools Act was reauthorized by Title IV, Part A, Subpart 3, Section 4141 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001(NCLB; Public Law 107-110). See <http://www.ed.gov/policy/elsec/leg/esea02/index.html>

² *Id.*

³ s. 1006.13(1), F.S.

⁴ s. 790.001(6) and (13), F.S., define "firearm" and "weapon."

⁵ s. 790.162, F.S., and s. 790.163, F.S.

⁶ s. 1006.13(2), F.S.

The law does permit district school superintendents to consider the 1-year expulsion requirement on a case-by-case basis and request the district school board to modify the requirement by assigning the student to a disciplinary program or second chance school if the request for modification is in writing and it is determined to be in the best interest of the student and the school system.

Each district school board must enter into agreements with the county sheriff's office and local police department specifying the procedures and guidelines for ensuring that school personnel properly report delinquent acts and crimes to law enforcement and that all no contact orders entered by the court are enforced.⁷ These requirements are implemented through guidelines in cooperative agreements between school boards, law enforcement, and the Department of Juvenile Justice (DJJ).⁸ The agreements must include the role of school resource officers, if applicable, in handling reported incidents and special circumstances in which school officials may handle incidents without filing a report to law enforcement.⁹

The State Board of Education lists nine offenses which subject a student to the most severe disciplinary action provided for by school board policy and provides that all of these offenses must be reported to local law enforcement agencies.¹⁰ School districts must ensure that appropriate due process procedures are followed prior to taking disciplinary action and that discipline is administered in an equitable manner. District school boards are permitted to assign more severe consequences than normally authorized for violations of the Code of Student Conduct.¹¹

Code of Student Conduct

District school boards are required to provide for the proper accounting of students, the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students.¹² As part of meeting this requirement, each district school board must adopt a code of student conduct¹³ that includes consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function, or for the illegal use, sale, or possession of controlled substances. The code must also provide notice that certain offenses are grounds for disciplinary action and may result in the imposition of criminal penalties.¹⁴

State Blueprint Commission

In July 2007, Governor Charlie Crist authorized the creation of the Blueprint Commission charged with developing recommendations to reform Florida's juvenile justice system. The commission issued its report in January 2008.¹⁵

The commission reported the following:

Finding

- Zero tolerance laws and policies were intended to target more serious offenses involving weapons, drugs, or violent acts. Schools have expanded their use to include other less serious

⁷ *Id.*

⁸ Each district school board must negotiate a cooperative agreement with the Department of Juvenile Justice (DJJ) on the delivery of educational services to youths under the jurisdiction of the DJJ. *See* s. 1003.52(13), F.S.

⁹ s. 1006.13(2), F.S.

¹⁰ The nine offenses are: homicide (murder, manslaughter); sexual battery; armed robbery; aggravated battery; battery or aggravated battery on a teacher or other school personnel; kidnapping or abduction; arson; possession, use, or sale of any firearm; or possession, use, or sale of any explosive device. *See* Rule 6A-1.0404, F.A.C.

¹¹ Rule 6A-1.0404, F.A.C.

¹² s. 1006.07, F.S.

¹³ s. 1006.07(2), F.S.

¹⁴ *Id.*

¹⁵ <http://www.djj.state.fl.us/blueprint/index.html>, Report of the Blueprint Commission, Florida Department of Juvenile Justice, *Getting Smart About Juvenile Justice in Florida*, January 2008.

offenses and behaviors, resulting in large numbers of youth being referred to the juvenile justice system.¹⁶

Recommendations

- The Children and Youth Cabinet¹⁷ direct the Department of Education, law enforcement, school superintendents and the DJJ to partner to review and amend K-12 zero tolerance policies and practices to eliminate the referral of youth to DJJ for misdemeanor offenses. Ensure policies and practices are consistent with the original legislative intent of the zero tolerance laws targeting serious violent offenses, while developing alternatives that promote youth accountability while avoiding suspension and other punitive options.
- Amend s. 1006.13, F.S., to prohibit the unjust application of zero tolerance, clearly stating that zero tolerance shall not be applied to petty acts of misconduct and misdemeanors. Discipline and/or prosecution should be based on considerations of the individual student and the particular circumstances of misconduct. School districts should involve law enforcement only for serious offenses that threaten school safety. Alternatives to expulsion or referral for prosecution should be developed that will improve student behavior and school climate without making schools dangerous.¹⁸

Effect of Proposed Changes

This bill provides that it is the intent of the Legislature to promote a safe and supportive learning environment in schools and to encourage schools to use alternatives to expulsion or referral to law enforcement. In addition, the bill states that zero tolerance policies should apply equally regardless of economic status, race, or disability.¹⁹

The bill requires district school boards to revise their zero tolerance policies so that they define: criteria for reporting acts to law enforcement, acts that pose a serious threat to school safety and petty acts of misconduct. Since there are 67 school districts with varying demographics and interpretations, these criteria will not ensure uniformity among the zero tolerance policies.

District school boards must also establish a procedure that ensures each student has the opportunity to appeal disciplinary action. For any disciplinary or prosecutorial action, school district zero tolerance policies must consider the individual student and the particular circumstances surrounding his or her misbehavior. Current law requires district school boards to adopt rules for the control, discipline, in-school suspension, and expulsion of students and decide all cases recommended for expulsion. The provisions governing both suspension and expulsion hearings are also provided in current law.²⁰ The bill provides that school districts are encouraged to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

Current law requires district school boards to enter into agreements with local law enforcement for reporting felonies and violent misdemeanors, whether committed by a student or adult, and delinquent acts that would be felonies or violent misdemeanors if committed by an adult. The bill revises this provision by requiring school districts to enter into agreements with local law enforcement for reporting acts that pose a serious threat to school safety whether committed by an adult or student.

¹⁶ In 2006-2007, DJJ received 146,765 referrals. Of that amount, 16% (22,926) of these referrals to the DJJ came from Florida's schools and 66% (15,266) of the 22,926 referrals were for misdemeanors, the most common being disorderly conduct and misdemeanor assault and battery (fighting). See <http://www.djj.state.fl.us/blueprint/index.html>, Report of the Blueprint Commission, Florida Department of Juvenile Justice, *Getting Smart About Juvenile Justice in Florida*, January 2008.

¹⁷ Governor Charlie Crist created the Children and Youth Cabinet in 2007. The cabinet consists of 20 members and will coordinate state agencies and programs that deliver children's services. See http://www.flgov.com/youth_cabinet_background.

¹⁸ <http://www.djj.state.fl.us/blueprint/index.html>, Report of the Blueprint Commission, Florida Department of Juvenile Justice, *Getting Smart About Juvenile Justice in Florida*, January 2008.

¹⁹ The Individuals with Disabilities Education Act (IDEA) includes provisions governing discipline procedures for students with disabilities. See 34 CFR 300.530-535. <http://idea.ed.gov/explore/view/p/%2Croot%CDynamic%2CTopicalBrief%2C6%2C>.

²⁰ s. 1006.07, F.S.

The bill provides that zero tolerance does not require reports to law enforcement of petty misconduct and misdemeanors, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray²¹, theft of less than \$300, trespassing, and vandalism of less than \$1,000.

While these provisions may reduce the number of referrals to the DJJ, they do not ensure the reduction of petty misconduct and offenses occurring at schools.

School districts determine whether an offense is a petty act of misconduct and misdemeanor and this determination is not part of the agreement entered into with local law enforcement. While the bill provides examples of this type of misconduct such minor fights or disturbances, it does not provide a clear definition of petty offense which raises concern.

B. SECTION DIRECTORY:

Section 1: Amends s. 1006.13, F.S., relating to district school board zero tolerance policies for crime and victimization.

Section 2: Amends s. 1002.20, F.S., relating to K-12 and parent rights.

Section 3: Amends s. 1006.09, F.S., relating to duties of school principal relating to student discipline and school safety.

Section 4: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

DOE Comment:

The terminology alignment would also result in extensive review and revisions to data collection systems for agencies (DJJ, FDLE and FDOE) and school districts.

²¹ "Affray" means a fight between two or more people in a public place that disturbs the peace. Merriam-Webster Dictionary.

This will create a fiscal impact, as there will be an increase in costs to FDOE and school districts to make modifications to their individual systems.²²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

There is no new rulemaking authority, but the State Board of Education may adopt rules under the existing statute.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOE Comments:

Definitions of examples of petty acts of misconduct and misdemeanors vary greatly among the Department of Juvenile Justice (DJJ), the Florida Department of Law Enforcement (FDLE) and FDOE. The use of "petty" to define lower-level acts could be more clearly defined to alleviate confusion.

FDOE is in agreement with the need for the establishment of consistent terms between DJJ, FDLE and FDOE. However, the unintended consequences of aligning these definitions might result in more student offenders being directed immediately into the criminal justice system, which previously would not have been.

Initially, the margin of error in data reporting by school districts to FDOE will likely increase.

FDOE will be incurring the responsibility for making the changes to training, tools and materials for district training on incident and discipline reporting.

The provision "zero-tolerance policies must apply equally to all students regardless of their disability " may raise some concern given specific provisions in the Individuals with Disabilities Education Act regarding discipline of students with disabilities, requirements for conducting manifestation determinations and provision of interim alternative educational setting.²³

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A.

²² Department of Education, Bill Analysis of HB 997, March 13, 2009.

²³ *Id.*

1 A bill to be entitled
 2 An act relating to student discipline and school safety;
 3 amending s. 1006.13, F.S.; providing legislative intent
 4 relating to the district school board policies of zero
 5 tolerance for crime and victimization; revising the
 6 content of district school board policies of zero
 7 tolerance; revising criteria for reporting acts to law
 8 enforcement; requiring disciplinary or prosecutorial
 9 action taken against a student who violates a zero-
 10 tolerance policy to be based on the individual student and
 11 particular circumstances; encouraging school districts to
 12 use alternatives to expulsion or referral to law
 13 enforcement under certain circumstances; amending ss.
 14 1002.20 and 1006.09, F.S.; conforming cross-references;
 15 providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 1006.13, Florida Statutes, is amended
 20 to read:

21 1006.13 Policy of zero tolerance for crime and
 22 victimization.--

23 (1) It is the intent of the Legislature to promote a safe
 24 and supportive learning environment in schools, to protect
 25 students and staff from conduct that poses a serious threat to
 26 school safety, and to encourage schools to use alternatives to
 27 expulsion or referral to law enforcement in addressing
 28 disruptive behavior, including restitution, civil citation, teen

29 court, neighborhood restorative justice, or similar programs.
 30 Zero tolerance policies are not intended to rigorously apply to
 31 petty acts of misconduct and misdemeanors such as minor fights
 32 or disturbances. Zero tolerance policies should apply equally
 33 regardless of economic status, race, or disability.

34 (2)~~(1)~~ Each district school board shall adopt a policy of
 35 zero tolerance that for:

36 (a) Defines criteria for reporting acts to law enforcement
 37 ~~Crime and substance abuse, including the reporting of delinquent~~
 38 ~~acts and crimes~~ occurring whenever and wherever students are
 39 under the jurisdiction of the district school board.

40 (b) Defines acts that pose a serious threat to school
 41 safety.

42 (c) Defines petty acts of misconduct.

43 (d)~~(b)~~ Minimizes the victimization of students or staff,
 44 including taking all steps necessary to protect the victim of
 45 any violent crime from any further victimization.

46 (e) Establishes a procedure that ensures each student has
 47 the opportunity to appeal disciplinary action.

48 (3)~~(2)~~ The zero tolerance policy shall require students
 49 found to have committed one of the following offenses to be
 50 expelled, with or without continuing educational services, from
 51 the student's regular school for a period of not less than 1
 52 full year, and to be referred to the criminal justice or
 53 juvenile justice system.

54 (a) Bringing a firearm or weapon, as defined in chapter
 55 790, to school, to any school function, or onto any school-
 56 sponsored transportation or possessing a firearm at school.

57 (b) Making a threat or false report, as defined by ss.
 58 790.162 and 790.163, respectively, involving school or school
 59 personnel's property, school transportation, or a school-
 60 sponsored activity.

61
 62 District school boards may assign the student to a disciplinary
 63 program for the purpose of continuing educational services
 64 during the period of expulsion. District school superintendents
 65 may consider the 1-year expulsion requirement on a case-by-case
 66 basis and request the district school board to modify the
 67 requirement by assigning the student to a disciplinary program
 68 or second chance school if the request for modification is in
 69 writing and it is determined to be in the best interest of the
 70 student and the school system. If a student committing any of
 71 the offenses in this subsection is a student with a disability,
 72 the district school board shall comply with applicable State
 73 Board of Education rules.

74 (4) (a) (3) Each district school board shall enter into
 75 agreements with the county sheriff's office and local police
 76 department specifying guidelines for ensuring that acts that
 77 pose a serious threat to school safety felonies and violent
 78 misdemeanors, whether committed by a student or adult, and
 79 ~~delinquent acts that would be felonies or violent misdemeanors~~
 80 ~~if committed by an adult~~, are reported to law enforcement. Each
 81 ~~district school board shall adopt a cooperative agreement,~~
 82 ~~pursuant to s. 1003.52(13) with the Department of Juvenile~~
 83 ~~Justice, that specifies guidelines for ensuring that all no~~
 84 ~~contact orders entered by the court are reported and enforced~~

85 ~~and that all steps necessary are taken to protect the victim of~~
 86 ~~any such crime. Such~~

87 (b) The agreements shall include the role of school
 88 resource officers, if applicable, in handling reported
 89 incidents, ~~special~~ circumstances in which school officials may
 90 handle incidents without filing a report to law enforcement, and
 91 a procedure for ensuring that school personnel properly report
 92 appropriate delinquent acts and crimes.

93 (c) Zero tolerance does not require reporting to law
 94 enforcement petty acts of misconduct and misdemeanors,
 95 including, but not limited to, disorderly conduct, disrupting a
 96 school function, simple assault or battery, affray, theft of
 97 less than \$300, trespassing, and vandalism of less than \$1,000.

98 (d) The school principal shall be responsible for ensuring
 99 that all school personnel are properly informed as to their
 100 responsibilities regarding crime reporting, that appropriate
 101 delinquent acts and crimes are properly reported, and that
 102 actions taken in cases with special circumstances are properly
 103 taken and documented.

104 (5)~~(4)~~ Notwithstanding any other provision of law, each
 105 district school board shall adopt rules providing that any
 106 student found to have committed a violation of s. 784.081(1),
 107 (2), or (3) shall be expelled or placed in an alternative school
 108 setting or other program, as appropriate. Upon being charged
 109 with the offense, the student shall be removed from the
 110 classroom immediately and placed in an alternative school
 111 setting pending disposition.

112 (6)~~(5)~~(a) Notwithstanding any provision of law prohibiting
 113 the disclosure of the identity of a minor, whenever any student
 114 who is attending public school is adjudicated guilty of or
 115 delinquent for, or is found to have committed, regardless of
 116 whether adjudication is withheld, or pleads guilty or nolo
 117 contendere to, a felony violation of:

- 118 1. Chapter 782, relating to homicide;
- 119 2. Chapter 784, relating to assault, battery, and culpable
 120 negligence;
- 121 3. Chapter 787, relating to kidnapping, false
 122 imprisonment, luring or enticing a child, and custody offenses;
- 123 4. Chapter 794, relating to sexual battery;
- 124 5. Chapter 800, relating to lewdness and indecent
 125 exposure;
- 126 6. Chapter 827, relating to abuse of children;
- 127 7. Section 812.13, relating to robbery;
- 128 8. Section 812.131, relating to robbery by sudden
 129 snatching;
- 130 9. Section 812.133, relating to carjacking; or
- 131 10. Section 812.135, relating to home-invasion robbery,
- 132

133 and, before or at the time of such adjudication, withholding of
 134 adjudication, or plea, the offender was attending a school
 135 attended by the victim or a sibling of the victim of the
 136 offense, the Department of Juvenile Justice shall notify the
 137 appropriate district school board of the adjudication or plea,
 138 the requirements of this paragraph, and whether the offender is
 139 prohibited from attending that school or riding on a school bus

140 whenever the victim or a sibling of the victim is attending the
 141 same school or riding on the same school bus, except as provided
 142 pursuant to a written disposition order under s. 985.455(2).
 143 Upon receipt of such notice, the district school board shall
 144 take appropriate action to effectuate the provisions of
 145 paragraph (b).

146 (b) Each district school board shall adopt a cooperative
 147 agreement with the Department of Juvenile Justice that specifies
 148 guidelines for ensuring that all no contact orders entered by
 149 the court are reported and enforced and that all necessary steps
 150 are taken to protect the victim of the offense. Any offender
 151 described in paragraph (a), who is not exempted as provided in
 152 paragraph (a), shall not attend any school attended by the
 153 victim or a sibling of the victim of the offense or ride on a
 154 school bus on which the victim or a sibling of the victim is
 155 riding. The offender shall be permitted by the district school
 156 board to attend another school within the district in which the
 157 offender resides, provided the other school is not attended by
 158 the victim or sibling of the victim of the offense; or the
 159 offender may be permitted by another district school board to
 160 attend a school in that district if the offender is unable to
 161 attend any school in the district in which the offender resides.

162 (c) If the offender is unable to attend any other school
 163 in the district in which the offender resides and is prohibited
 164 from attending school in another school district, the district
 165 school board in the school district in which the offender
 166 resides shall take every reasonable precaution to keep the
 167 offender separated from the victim while on school grounds or on

168 school transportation. The steps to be taken by a district
 169 school board to keep the offender separated from the victim
 170 shall include, but are not limited to, in-school suspension of
 171 the offender and the scheduling of classes, lunch, or other
 172 school activities of the victim and the offender so as not to
 173 coincide.

174 (d) The offender, or the parents of the offender if the
 175 offender is a juvenile, shall be responsible for arranging and
 176 paying for transportation associated with or required by the
 177 offender's attending another school or that would be required as
 178 a consequence of the prohibition against riding on a school bus
 179 on which the victim or a sibling of the victim is riding.
 180 However, the offender or the parents of the offender shall not
 181 be charged for existing modes of transportation that can be used
 182 by the offender at no additional cost to the district school
 183 board.

184 (7) Any disciplinary or prosecutorial action taken against
 185 a student who violates a zero-tolerance policy must be based on
 186 the individual student and the particular circumstances of the
 187 student's misconduct.

188 (8) School districts are encouraged to use alternatives to
 189 expulsion or referral to law enforcement agencies unless the use
 190 of such alternatives will pose a threat to school safety.

191 Section 2. Subsection (5) of section 1002.20, Florida
 192 Statutes, is amended to read:

193 1002.20 K-12 student and parent rights.--Parents of public
 194 school students must receive accurate and timely information
 195 regarding their child's academic progress and must be informed

196 of ways they can help their child to succeed in school. K-12
 197 students and their parents are afforded numerous statutory
 198 rights including, but not limited to, the following:

199 (5) SAFETY.--In accordance with the provisions of s.
 200 1006.13(6)~~(5)~~, students who have been victims of certain felony
 201 offenses by other students, as well as the siblings of the
 202 student victims, have the right to be kept separated from the
 203 student offender both at school and during school
 204 transportation.

205 Section 3. Subsection (4) of section 1006.09, Florida
 206 Statutes, is amended to read:

207 1006.09 Duties of school principal relating to student
 208 discipline and school safety.--

209 (4) When a student has been the victim of a violent crime
 210 perpetrated by another student who attends the same school, the
 211 school principal shall make full and effective use of the
 212 provisions of subsection (2) and s. 1006.13(6)~~(5)~~. A school
 213 principal who fails to comply with this subsection shall be
 214 ineligible for any portion of the performance pay policy
 215 incentive or the differentiated pay under s. 1012.22. However,
 216 if any party responsible for notification fails to properly
 217 notify the school, the school principal shall be eligible for
 218 the incentive or differentiated pay.

219 Section 4. This act shall take effect July 1, 2009.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

Bill No. **HB 997**

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: PreK-12 Policy Committee
2 Representative Carroll offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6
7 Section 1. Paragraph (c) of subsection (4) and subsection
8 (5) of section 1002.20, Florida Statutes, are amended to read:

9 1002.20 K-12 student and parent rights.--Parents of public
10 school students must receive accurate and timely information
11 regarding their child's academic progress and must be informed
12 of ways they can help their child to succeed in school. K-12
13 students and their parents are afforded numerous statutory
14 rights including, but not limited to, the following:

15 (4) DISCIPLINE.--

16 (c) Corporal punishment.--In accordance with ~~the~~
17 ~~provisions of s. 1003.32~~, corporal punishment of a public school
18 student may only be administered by a teacher or school
19 principal within guidelines of the school principal and
20 according to district school board policy. Another adult must be
21 present and must be informed in the student's presence of the
22 reason for the punishment. Upon request, the teacher or school

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

23 principal must provide the parent with a written explanation of
24 the reason for the punishment and the name of the other adult
25 who was present. A district school board that has a policy
26 allowing the use of corporal punishment as a form of discipline
27 shall review its policy on corporal punishment once every 3
28 years during a district school board meeting held pursuant to s.
29 1001.372. The district school board must take public testimony
30 at the board meeting. If such board meeting is not held in
31 accordance with this paragraph, the portion of the district
32 school board's policy which allows corporal punishment shall
33 expire.

34 (5) SAFETY.--In accordance with the provisions of s.
35 1006.13~~(6)(5)~~, students who have been victims of certain felony
36 offenses by other students, as well as the siblings of the
37 student victims, have the right to be kept separated from the
38 student offender both at school and during school
39 transportation.

40 Section 2. Subsection (4) of section 1006.09, Florida
41 Statutes, is amended to read:

42 1006.09 Duties of school principal relating to student
43 discipline and school safety.--

44 (4) When a student has been the victim of a violent crime
45 perpetrated by another student who attends the same school, the
46 school principal shall make full and effective use of the
47 provisions of subsection (2) and s. 1006.13~~(6)(5)~~. A school
48 principal who fails to comply with this subsection shall be
49 ineligible for any portion of the performance pay policy
50 incentive or the differentiated pay under s. 1012.22. However,
51 if any party responsible for notification fails to properly
52 notify the school, the school principal shall be eligible for
53 the incentive or differentiated pay.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

54 Section 3. Section 1006.13, Florida Statutes, is amended
55 to read:

56 1006.13 Policy of zero tolerance for crime and
57 victimization.--

58 (1) It is the intent of the Legislature to promote a safe
59 and supportive learning environment in schools, to protect
60 students, staff, and volunteers from conduct that poses a
61 serious threat to school safety, and to encourage schools to use
62 alternatives to expulsion or referral to law enforcement in
63 addressing disruptive behavior, including restitution, civil
64 citation, teen court, neighborhood restorative justice, or
65 similar programs. Zero tolerance policies are not intended to
66 rigorously apply to petty acts of misconduct and misdemeanors
67 such as minor fights or disturbances. Zero tolerance policies
68 should apply equally regardless of economic status, race, or
69 disability.

70 (2)~~(1)~~ Each district school board shall adopt a policy of
71 zero tolerance that ~~for~~:

72 (a) Defines criteria for reporting to a law enforcement
73 agency an act that occurs ~~Crime and substance abuse, including~~
74 ~~the reporting of delinquent acts and crimes occurring~~ whenever
75 and wherever students are under the jurisdiction of the district
76 school board.

77 (b) Defines acts that pose a serious threat to school
78 safety.

79 (c) Defines petty acts of misconduct.

80 (d)~~(b)~~ Minimizes the victimization of students, staff, and
81 volunteers, including taking all steps necessary to protect the
82 victim of any violent crime from any further victimization.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

83 (e) Establishes a procedure that provides each student
84 with the opportunity for a review of a disciplinary action
85 imposed pursuant to s. 1006.07.

86 (3)(2) The zero tolerance policy shall require students
87 found to have committed one of the following offenses to be
88 expelled, with or without continuing educational services, from
89 the student's regular school for a period of not less than 1
90 full year, and to be referred to the criminal justice or
91 juvenile justice system.

92 (a) Bringing a firearm or weapon, as defined in chapter
93 790, to school, to any school function, or onto any school-
94 sponsored transportation or possessing a firearm at school.

95 (b) Making a threat or false report, as defined by ss.
96 790.162 and 790.163, respectively, involving school or school
97 personnel's property, school transportation, or a school-
98 sponsored activity.

99
100 District school boards may assign the student to a disciplinary
101 program for the purpose of continuing educational services
102 during the period of expulsion. District school superintendents
103 may consider the 1-year expulsion requirement on a case-by-case
104 basis and request the district school board to modify the
105 requirement by assigning the student to a disciplinary program
106 or second chance school if the request for modification is in
107 writing and it is determined to be in the best interest of the
108 student and the school system. If a student committing any of
109 the offenses in this subsection is a student with a disability,
110 the district school board shall comply with applicable State
111 Board of Education rules.

112 (4)(a)(3) Each district school board shall enter into
113 agreements with the county sheriff's office and local police

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

114 department specifying guidelines for ensuring that acts that
115 pose a serious threat to school safety felonies and violent
116 misdemeanors, whether committed by a student or adult, and
117 ~~delinquent acts that would be felonies or violent misdemeanors~~
118 ~~if committed by an adult~~, are reported to law enforcement. Each
119 ~~district school board shall adopt a cooperative agreement,~~
120 ~~pursuant to s. 1003.52(13) with the Department of Juvenile~~
121 ~~Justice, that specifies guidelines for ensuring that all no~~
122 ~~contact orders entered by the court are reported and enforced~~
123 ~~and that all steps necessary are taken to protect the victim of~~
124 ~~any such crime. Such~~

125 (b) The agreements shall include the role of school
126 resource officers, if applicable, in handling reported
127 incidents, ~~special~~ circumstances in which school officials may
128 handle incidents without filing a report to law enforcement, and
129 a procedure for ensuring that school personnel properly report
130 appropriate delinquent acts and crimes.

131 (c) Zero tolerance does not require reporting to law
132 enforcement petty acts of misconduct and misdemeanors,
133 including, but not limited to, disorderly conduct, disrupting a
134 school function, simple assault or battery, affray, theft of
135 less than \$300, trespassing, and vandalism of less than \$1,000.

136 (d) The school principal shall be responsible for ensuring
137 that all school personnel are properly informed as to their
138 responsibilities regarding crime reporting, that appropriate
139 delinquent acts and crimes are properly reported, and that
140 actions taken in cases with special circumstances are properly
141 taken and documented.

142 (5)-(4) Notwithstanding any other provision of law, each
143 district school board shall adopt rules providing that any
144 student found to have committed a violation of s. 784.081(1),

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

145 (2), or (3) shall be expelled or placed in an alternative school
146 setting or other program, as appropriate. Upon being charged
147 with the offense, the student shall be removed from the
148 classroom immediately and placed in an alternative school
149 setting pending disposition.

150 ~~(6)~~(5)(a) Notwithstanding any provision of law prohibiting
151 the disclosure of the identity of a minor, whenever any student
152 who is attending public school is adjudicated guilty of or
153 delinquent for, or is found to have committed, regardless of
154 whether adjudication is withheld, or pleads guilty or nolo
155 contendere to, a felony violation of:

- 156 1. Chapter 782, relating to homicide;
- 157 2. Chapter 784, relating to assault, battery, and culpable
158 negligence;
- 159 3. Chapter 787, relating to kidnapping, false
160 imprisonment, luring or enticing a child, and custody offenses;
- 161 4. Chapter 794, relating to sexual battery;
- 162 5. Chapter 800, relating to lewdness and indecent
163 exposure;
- 164 6. Chapter 827, relating to abuse of children;
- 165 7. Section 812.13, relating to robbery;
- 166 8. Section 812.131, relating to robbery by sudden
167 snatching;
- 168 9. Section 812.133, relating to carjacking; or
- 169 10. Section 812.135, relating to home-invasion robbery,
- 170

171 and, before or at the time of such adjudication, withholding of
172 adjudication, or plea, the offender was attending a school
173 attended by the victim or a sibling of the victim of the
174 offense, the Department of Juvenile Justice shall notify the
175 appropriate district school board of the adjudication or plea,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

176 the requirements of this paragraph, and whether the offender is
177 prohibited from attending that school or riding on a school bus
178 whenever the victim or a sibling of the victim is attending the
179 same school or riding on the same school bus, except as provided
180 pursuant to a written disposition order under s. 985.455(2).
181 Upon receipt of such notice, the district school board shall
182 take appropriate action to effectuate the provisions of
183 paragraph (b).

184 (b) Each district school board shall adopt a cooperative
185 agreement with the Department of Juvenile Justice that specifies
186 guidelines for ensuring that all no contact orders entered by
187 the court are reported and enforced and that all necessary steps
188 are taken to protect the victim of the offense. Any offender
189 described in paragraph (a), who is not exempted as provided in
190 paragraph (a), shall not attend any school attended by the
191 victim or a sibling of the victim of the offense or ride on a
192 school bus on which the victim or a sibling of the victim is
193 riding. The offender shall be permitted by the district school
194 board to attend another school within the district in which the
195 offender resides, provided the other school is not attended by
196 the victim or sibling of the victim of the offense; or the
197 offender may be permitted by another district school board to
198 attend a school in that district if the offender is unable to
199 attend any school in the district in which the offender resides.

200 (c) If the offender is unable to attend any other school
201 in the district in which the offender resides and is prohibited
202 from attending school in another school district, the district
203 school board in the school district in which the offender
204 resides shall take every reasonable precaution to keep the
205 offender separated from the victim while on school grounds or on
206 school transportation. The steps to be taken by a district

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

207 school board to keep the offender separated from the victim
208 shall include, but are not limited to, in-school suspension of
209 the offender and the scheduling of classes, lunch, or other
210 school activities of the victim and the offender so as not to
211 coincide.

212 (d) The offender, or the parents of the offender if the
213 offender is a juvenile, shall be responsible for arranging and
214 paying for transportation associated with or required by the
215 offender's attending another school or that would be required as
216 a consequence of the prohibition against riding on a school bus
217 on which the victim or a sibling of the victim is riding.
218 However, the offender or the parents of the offender shall not
219 be charged for existing modes of transportation that can be used
220 by the offender at no additional cost to the district school
221 board.

222 (7) Any disciplinary or prosecutorial action taken against
223 a student who violates a zero tolerance policy must be based on
224 the particular circumstances of the student's misconduct.

225 (8) School districts are encouraged to use alternatives to
226 expulsion or referral to law enforcement agencies unless the use
227 of such alternatives will pose a threat to school safety.

228 Section 4. This act shall take effect July 1, 2009.
229
230

231 -----
232 **T I T L E A M E N D M E N T**

233 Remove the entire title and insert:

234 A bill to be entitled

235 An act relating to student discipline and school safety;
236 amending s. 1002.20, F.S.; requiring that a district school
237 board review its policy allowing corporal punishment once every

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

238 3 years during a district school board meeting; requiring that
239 the district school board take public testimony during such
240 meeting; providing for the expiration of the district school
241 board's corporal punishment policy if meeting requirements are
242 not met; conforming a cross-reference; amending s. 1006.09,
243 F.S.; conforming a cross-reference; amending s. 1006.13, F.S.;
244 providing legislative intent relating to the district school
245 board policies of zero tolerance for crime and victimization;
246 revising the content of district school board policies of zero
247 tolerance; revising criteria for reporting acts to law
248 enforcement; requiring disciplinary or prosecutorial action
249 taken against a student who violates a zero tolerance policy to
250 be based on the particular circumstances of the student's
251 misconduct; encouraging school districts to use alternatives to
252 expulsion or referral to law enforcement under certain
253 circumstances; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1539

Certification of Public School Athletic Coaches

SPONSOR(S): Fresen

TIED BILLS:

IDEN./SIM. BILLS: SB 2066

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee		Fay <i>AF</i>	Ahearn <i>me</i>
2)	Education Policy Council			
3)	PreK-12 Appropriations Committee			
4)				
5)				

SUMMARY ANALYSIS

An individual who is employed and renders service as an athletic coach in a Florida public school must hold a valid five-year athletic coaching certificate, professional certificate with athletic coaching endorsement, or temporary three-year certificate. A five-year athletic coaching certificate and a professional certificate require nine hours of athletic coaching course work to be completed.

The bill allows a prospective athletic coach to complete a sports safety course to satisfy six of the nine hours of athletic coaching course work required. The Florida High School Athletic Association must approve of the sports safety course, and the course must also satisfy additional requirements.

The bill does not appear to have a fiscal impact on state or local governments.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

An individual who is employed and renders service as an athletic coach in a Florida public school must hold a valid five-year athletic coaching certificate, professional certificate with athletic coaching endorsement, or temporary three-year certificate.¹

Five-Year Athletic Coaching Certification

A five-year, renewable, athletic coaching certificate requires an individual to complete an application, submit a finger print report, and complete nine hours of athletic coaching course work prescribed by the State Board of Education.² The required athletic coaching course work includes:

- Three semester hours in care and prevention of athletic injuries and the effects and dangers of drug use;
- Three semester hours in coaching theory; and
- A course in theory and practice of coaching a specific sport.³

The five-year athletic coaching certificate also requires the completion of a cardiopulmonary resuscitation (CPR) course or the receipt of a certificate by the American Heart Association or the American Red Cross; or an equivalent course or certificate issued by an entity approved by the Florida Department of Health.⁴

Professional Certification with Athletic Coaching Endorsement

A professional certificate is the highest type of full-time certificate issued by the State.⁵ Florida law provides an extensive list of requirements for an individual to obtain a professional certificate.⁶ An

¹ Section 1012.55(2), F.S.

² See section 1012.55(1); rule 6A-4.004(4)(b), F.A.C.

³ Rule 6A-4.0282(2), F.A.C.

⁴ Rule 6A-4.0282(3), F.A.C.; rule 64J-1.022, F.A.C.

⁵ Section 1012.56, F.S.

⁶ See section 1012.56, F.S.

individual with a professional certificate may coach athletics if he or she completes the athletic coaching course work⁷ prescribed by the State Board of Education.⁸

Three-Year Athletic Coaching Certification

A three-year temporary certificate requires a prospective athletic coach to submit a finger print report and complete an application provided by the Department of Education's Bureau of Educator Certification. The temporary certificate does not require athletic coaching course work.⁹ However, an athletic coach with a temporary certificate may obtain a five-year athletic coaching certificate by completing the athletic coaching course work¹⁰ required by the State Board of Education.¹¹

Proposed Changes

The bill allows a prospective athletic coach to complete a sports safety course to satisfy six of the nine hours required for an athletic coaching certificate or endorsement. The sports safety course must:

- Be approved by the Florida High School Athletic Association Board of Directors;
- Consist of at least eight modules;¹²
- Be delivered through hands-on and online teaching methods;
- Limit hands-on course material to less than 120 pages;
- Have a health care professional, either a member of the National Athletic Trainers' Association or a member of the American Academy of Orthopaedic Surgeons, to teach the hands-off portion of the class;
- Exclude coaching principles and procedures for cardiopulmonary resuscitation;
- Be authorized or approved by at least 10 health care professionals, including doctors of medicine, doctors of osteopathy, registered nurses, physical therapists, and certified athletic trainers;
- Be revised and reviewed for updates at least once every 30 months;
- Be available to the general public for a retail price under \$50;
- Require each sports safety course examination to be automated and taken online with a score of 80 percent or better for successful completion; and
- Provide the individual with a "merit" certificate at the time of successful completion.

B. SECTION DIRECTORY:

Section 1: Amends s. 1012.55, F.S.; providing that completion of a sports safety course shall meet certain certification requirements; requiring the sports safety course to be approved by the Florida High School Athletic Association Board of Directors and to meet specified requirements.

Section 2: Provides for an effective date of July 1, 2009.

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 government revenues.

⁷ See *infra* note 3 and accompanying text.

⁸ Rule 6A-4.004(6), F.A.C.

⁹ Rule 6A-4.004, F.A.C.; rule 6A-4.0012, F.A.C. The request for a temporary certificate requires a seventy-five dollar application fee.

¹⁰ See *infra* note 3 and accompanying text.

¹¹ Rule 6A-4.004(6), F.A.C.

¹² The term "modules" is not defined.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government 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:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

3. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A.

1 A bill to be entitled
 2 An act relating to certification of public school athletic
 3 coaches; amending s. 1012.55, F.S.; providing that
 4 completion of a sports safety course shall meet certain
 5 certification requirements; requiring the sports safety
 6 course to be approved by the Florida High School Athletic
 7 Association Board of Directors and to meet specified
 8 requirements; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (2) of section 1012.55, Florida
 13 Statutes, is amended to read:

14 1012.55 Positions for which certificates required.--

15 (2) (a) Each person who is employed and renders service as
 16 an athletic coach in any public school in any district of this
 17 state shall hold a valid temporary or professional certificate
 18 or an athletic coaching certificate. The athletic coaching
 19 certificate may be used for either part-time or full-time
 20 positions. The provisions of this subsection do not apply to any
 21 athletic coach who voluntarily renders service and who is not
 22 employed by any public school district of this state.

23 (b) Completion of a sports safety course shall count for 6
 24 hours of required instruction for athletic coaching
 25 certification if the course is approved by the Florida High
 26 School Athletic Association Board of Directors and meets the
 27 following requirements:

28 1. The course consists of at least eight modules.

29 2. The course immediately provides an individual with a
 30 "merit" certificate at the time of successful completion.

31 3. The course is delivered through hands-on and online
 32 teaching methods.

33 4. A hands-on course is taught by a health care
 34 professional who is either a member of the National Athletic
 35 Trainers' Association or a member of the American Academy of
 36 Orthopaedic Surgeons.

37 5. Hands-on course material is less than 120 pages.

38 6. The course covers sports safety specifically, excluding
 39 coaching principles and procedures for cardiopulmonary
 40 resuscitation.

41 7. The course is authored or approved by at least 10
 42 health care professionals, including doctors of medicine,
 43 doctors of osteopathy, registered nurses, physical therapists,
 44 and certified athletic trainers.

45 8. The course is revised and reviewed for updates at least
 46 once every 30 months.

47 9. The course is available to the general public for a
 48 retail price under \$50.

49 10. Each course examination is automated and taken online
 50 with a score of 80 percent or better for successful completion.

51 Section 2. This act shall take effect July 1, 2009.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 001

Bill No. 1539

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

1 Council/Committee hearing bill: PreK-12 Policy Committee
2 Representative Fresen offered the following:

3
4 **Amendment**

5 Remove line(s) 24-25 and insert:
6 hours of required district in-service instruction for athletic
7 coaching certification if the course is approved by the Florida
8 High

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 13 Middle School Civics Education Assessment
SPONSOR(S): PreK-12 Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee		Duncan <i>pdd</i>	Ahearn <i>afw</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Current law requires middle school students to successfully complete three middle school or higher courses in social studies, one semester of which must include the study of state and federal government and civics education.

The Proposed Committee Substitute (PCS) for House Bill 13 provides that beginning in the 2011-2012 school year, students entering grade 6 are required to successfully complete a one-semester civics education course which must include the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, Declaration of Independence, and the Constitution of the United States.

The PCS provides that during the 2011-2012 school year, an end-of-course assessment in civics education must be administered as a field test at the middle school level. During in the 2012-2013 school year, each student's performance on the statewide, standardized end-of-course assessment in civics education must constitute 30% of the student's final course grade. Beginning with the 2013-2014 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and receive course credit.

The PCS includes the statewide, standardized end-of-course assessment in civics education at the middle school level as a factor in designating a school's grade beginning in the 2012-2013 school year.

The PCS does not appear to create a fiscal impact on school districts or local governments. Given the timeline provided in the bill, the start-up activities will be phased in by the Department of Education. See FISCAL COMMENTS section of this analysis.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Middle School Social Studies Requirements

Current law requires middle school students to successfully complete three middle school or higher courses in social studies, one semester of which must include the study of state and federal government and civics education.¹

Sunshine State Standards

The Sunshine State Standards establish core curricula and benchmarks for student achievement. The State Board of Education is reviewing the Sunshine State Standards and replacing them with Next Generation Sunshine State Standards that specify the core content knowledge and skills that K-12 public school students are expected to acquire.² In December 2008, the State Board of Education adopted the Next Generation Sunshine Standards for Social Studies.³ Below are the middle school grades and the category of knowledge required for social studies.

6th Grade: geography, economics, world history, civics & government.

7th Grade: geography, economics, civics & government.

8th Grade: American history, geography, history, civics & government.⁴

Student Assessment

The Florida Comprehensive Assessment Test (FCAT) measures student achievement in grades 3 through 10 using benchmarks from the Sunshine State Standards.⁵ Testing and reporting schedules are required to be published two years in advance of testing. The FCAT consists of criterion-referenced

¹ Section 1003.4156, F.S.

² Section 1003.41, F.S.

³ <http://www.floridastandards.org/Standards/FLStandardSearch.aspx>.

⁴ *Id.*

⁵ Section 1008.22(3), F.S.

tests in reading, writing, mathematics, and science.⁶ Reading and mathematics are tested annually in grades 3 through 10. Writing and science are tested once at the elementary, middle, and high school levels.⁷ Students take the FCAT Science test in grades 5, 8, and 11.⁸

End-of-course assessments for subject areas may be administered in addition to the comprehensive assessments. An end-of-course assessment must be rigorous, statewide, standardized, and developed or approved by the Department of Education (DOE).⁹

School Grades

All public schools, including charter schools, which have at least 30 students with valid FCAT scores in reading for the current and prior years and at least 30 students with valid FCAT scores in mathematics for the current and prior years are assigned a school grade.¹⁰ Student achievement data from the FCAT in grades 3 through 10 are used to establish both proficiency levels and annual progress for individual students, schools, districts, and the state.¹¹

Student assessment data used in determining school grades include:

- Aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT.
- Aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT and who have scored at or in the lowest 25th percentile of students in the school in reading, math, or writing, unless these students are exhibiting satisfactory performance.
- The achievement scores and learning gains of eligible students attending alternative schools that provide dropout prevention and academic intervention services.

Effect of Proposed Changes

Middle School Social Studies Requirements

The Proposed Committee Substitute (PCS) for House Bill 13 provides that, beginning in the 2011-2012 school year, students entering grade 6 are required to successfully complete a one-semester civics education course which must include the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, Declaration of Independence, and the Constitution of the United States.

End-of-Course Assessment

The PCS provides that during the 2011-2012 school year, an end-of-course assessment in civics education must be administered as a field test¹² at the middle school level. During in the 2012-2013 school year, each student's performance on the statewide, standardized end-of-course assessment in

⁶ Section 1008.22(3)(c)2., F.S. A criterion-referenced test (CRT) is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. CRTs show how well students performed on specific goals or standards rather than just telling how their performance compares to a norm group of students nationally or locally. The FCAT is based on the *Sunshine State Standards* and measures student progress toward meeting these standards. Florida Department of Education, *FCAT Handbook: A Resource for Educators*, 5 (2005), available at <http://fcats.fldoe.org/handbk/complete.pdf>.

⁷ Section 1008.22(3)(c), F.S.

⁸ Rule 6A-1.09422(3)(a), F.S.

⁹ Section 1008.22(3)(c), F.S.

¹⁰ Section 1008.34(3)(a)1., F.S.; Rule 6A-1.09981(4), F.A.C.

¹¹ Section 1008.34, F.S.

¹² **Field-test questions** are newly-developed questions that are being tried out before they can be used on a future test. Field-test questions must be tried out at least one year before they are used to decide a student's score. If the data on the field-test questions are acceptable, then the questions may be used on an actual test and count toward a student's score. These questions are removed from the released tests because they may be used in future versions of the tests. See <http://www.fldoe.org/faq/default.asp?Dept=202&ID=656>.

civics education must constitute 30% of the student's final course grade. Beginning with the 2013-2014 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and receive course credit.

School Grades

The PCS includes the statewide, standardized end-of-course assessment in civics education at the middle school level as a factor in designating a school's grade beginning in the 2012-2013 school year.

B. SECTION DIRECTORY:

Section 1: Amends s. 1003.4156, F.S., relating to general requirements for middle school promotion.

Section 2: Amends s. 1008.22, F.S., relating to student assessment program for public schools.

Section 3: Amends s. 1008.34, F.S., relating to school grading system; school report cards; and district grade.

Section 4: Provides an effective date of July 1, 2009.

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 government revenues.

2. Expenditures:

See FISCAL COMMENTS section.

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:

None.

D. FISCAL COMMENTS:

DOE Comment:

Generally, the estimated first year fiscal impact at the state-level for adding one examination, in one grade and subject, administered to all students, is approximately \$1,000,000. However, given the timeline provided in the bill, the start-up activities are able to be phased in between FY10 and FY11, as follows:

- FY10 (\$500,000). Activities to include selecting a contractor or amending a current contract, convening educator and experts to assist in developing test and item specifications, as well as other start-up activities.

- FY11 (\$500,000). Activities to include developing test items and preparing field test forms and administration and reporting procedures.
- FY12 (\$500,000-1,000,000—cost depends on the number of students to be tested, assumes computer-based administration). Activities to include field-testing and analyzing the results of the civics end-of-course assessment. Since this is the first year of the Civics requirement, it is assumed that the field test sample will be much smaller than in subsequent years.
- FY13 (\$1,500,000—cost depends on the number of students to be tested, assumes computer-based administration). Activities to include administering the civics end-of-course assessment and reporting student results.¹³

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A.

¹³ Department of Education, Analysis of PCS for HB 13, March 20, 2009.

1 A bill to be entitled
 2 An act relating to middle school civics education
 3 assessment; amending s. 1003.4156, F.S.; providing
 4 requirements for a civics education course that a student
 5 must successfully complete for middle grades promotion
 6 beginning with students entering grade 6 in the 2011-2012
 7 school year; amending s. 1008.22, F.S.; requiring the
 8 administration of an end-of-course assessment in civics
 9 education as a field test at the middle school level
 10 during the 2011-2012 school year; providing requirements
 11 for course grade and course credit for subsequent school
 12 years; amending s. 1008.34, F.S.; requiring the inclusion
 13 of civics education end-of-course assessment data in
 14 determining school grades beginning with the 2012-2013
 15 school year; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraph (a) of subsection (1) of section
 20 1003.4156, Florida Statutes, is amended to read:

21 1003.4156 General requirements for middle grades
 22 promotion.--

23 (1) Beginning with students entering grade 6 in the 2006-
 24 2007 school year, promotion from a school composed of middle
 25 grades 6, 7, and 8 requires that:

26 (a) The student must successfully complete academic
 27 courses as follows:

28 1. Three middle school or higher courses in English. These
 29 courses shall emphasize literature, composition, and technical
 30 text.

31 2. Three middle school or higher courses in mathematics.
 32 Each middle school must offer at least one high school level
 33 mathematics course for which students may earn high school
 34 credit.

35 3. Three middle school or higher courses in social
 36 studies, one semester of which must include the study of state
 37 and federal government and civics education. Beginning with
 38 students entering grade 6 in the 2011-2012 school year, one of
 39 these courses must be a one-semester civics education course
 40 that a student successfully completes in accordance with s.
 41 1008.22(3)(c) and that includes the roles and responsibilities
 42 of federal, state, and local governments; the structures and
 43 functions of the legislative, executive, and judicial branches
 44 of government; and the meaning and significance of historic
 45 documents, such as the Articles of Confederation, the
 46 Declaration of Independence, and the Constitution of the United
 47 States.

48 4. Three middle school or higher courses in science.

49 5. One course in career and education planning to be
 50 completed in 7th or 8th grade. The course may be taught by any
 51 member of the instructional staff; must include career
 52 exploration using CHOICES for the 21st Century or a comparable
 53 cost-effective program; must include educational planning using
 54 the online student advising system known as Florida Academic
 55 Counseling and Tracking for Students at the Internet website

56 | FACTS.org; and shall result in the completion of a personalized
 57 | academic and career plan.

58 |
 59 | Each school must hold a parent meeting either in the evening or
 60 | on a weekend to inform parents about the course curriculum and
 61 | activities. Each student shall complete an electronic personal
 62 | education plan that must be signed by the student; the student's
 63 | instructor, guidance counselor, or academic advisor; and the
 64 | student's parent. By January 1, 2007, the Department of
 65 | Education shall develop course frameworks and professional
 66 | development materials for the career exploration and education
 67 | planning course. The course may be implemented as a stand-alone
 68 | course or integrated into another course or courses. The
 69 | Commissioner of Education shall collect longitudinal high school
 70 | course enrollment data by student ethnicity in order to analyze
 71 | course-taking patterns.

72 | Section 2. Paragraph (c) of subsection (3) of section
 73 | 1008.22, Florida Statutes, is amended to read:

74 | 1008.22 Student assessment program for public schools.--

75 | (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
 76 | design and implement a statewide program of educational
 77 | assessment that provides information for the improvement of the
 78 | operation and management of the public schools, including
 79 | schools operating for the purpose of providing educational
 80 | services to youth in Department of Juvenile Justice programs.
 81 | The commissioner may enter into contracts for the continued
 82 | administration of the assessment, testing, and evaluation
 83 | programs authorized and funded by the Legislature. Contracts may

PCS for HB 13

ORIGINAL

2009

84 be initiated in 1 fiscal year and continue into the next and may
85 be paid from the appropriations of either or both fiscal years.
86 The commissioner is authorized to negotiate for the sale or
87 lease of tests, scoring protocols, test scoring services, and
88 related materials developed pursuant to law. Pursuant to the
89 statewide assessment program, the commissioner shall:

90 (c) Develop and implement a student achievement testing
91 program known as the Florida Comprehensive Assessment Test
92 (FCAT) as part of the statewide assessment program to measure a
93 student's content knowledge and skills in reading, writing,
94 science, and mathematics. Other content areas may be included as
95 directed by the commissioner. Comprehensive assessments of
96 reading and mathematics shall be administered annually in grades
97 3 through 10. Comprehensive assessments of writing and science
98 shall be administered at least once at the elementary, middle,
99 and high school levels. End-of-course assessments for a subject
100 may be administered in addition to the comprehensive assessments
101 required for that subject under this paragraph. An end-of-course
102 assessment must be rigorous, statewide, standardized, and
103 developed or approved by the department. The content knowledge
104 and skills assessed by comprehensive and end-of-course
105 assessments must be aligned to the core curricular content
106 established in the Sunshine State Standards. During the 2011-
107 2012 school year, an end-of-course assessment in civics
108 education shall be administered as a field test at the middle
109 school level. During the 2012-2013 school year, each student's
110 performance on the statewide, standardized end-of-course
111 assessment in civics education shall constitute 30 percent of

112 the student's final course grade. Beginning with the 2013-2014
 113 school year, a student must earn a passing score on the end-of-
 114 course assessment in civics education in order to pass the
 115 course and receive course credit. The commissioner may select
 116 one or more nationally developed comprehensive examinations,
 117 which may include, but need not be limited to, examinations for
 118 a College Board Advanced Placement course, International
 119 Baccalaureate course, or Advanced International Certificate of
 120 Education course or industry-approved examinations to earn
 121 national industry certifications as defined in s. 1003.492, for
 122 use as end-of-course assessments under this paragraph, if the
 123 commissioner determines that the content knowledge and skills
 124 assessed by the examinations meet or exceed the grade level
 125 expectations for the core curricular content established for the
 126 course in the Next Generation Sunshine State Standards. The
 127 commissioner may collaborate with the American Diploma Project
 128 in the adoption or development of rigorous end-of-course
 129 assessments that are aligned to the Next Generation Sunshine
 130 State Standards. The testing program must be designed as
 131 follows:

- 132 1. The tests shall measure student skills and competencies
 133 adopted by the State Board of Education as specified in
 134 paragraph (a). The tests must measure and report student
 135 proficiency levels of all students assessed in reading, writing,
 136 mathematics, and science. The commissioner shall provide for the
 137 tests to be developed or obtained, as appropriate, through
 138 contracts and project agreements with private vendors, public
 139 vendors, public agencies, postsecondary educational

PCS for HB 13

ORIGINAL

2009

140 institutions, or school districts. The commissioner shall obtain
141 input with respect to the design and implementation of the
142 testing program from state educators, assistive technology
143 experts, and the public.

144 2. The testing program shall be composed of criterion-
145 referenced tests that shall, to the extent determined by the
146 commissioner, include test items that require the student to
147 produce information or perform tasks in such a way that the core
148 content knowledge and skills he or she uses can be measured.

149 3. Beginning with the 2008-2009 school year, the
150 commissioner shall discontinue administration of the selected-
151 response test items on the comprehensive assessments of writing.
152 Beginning with the 2012-2013 school year, the comprehensive
153 assessments of writing shall be composed of a combination of
154 selected-response test items, short-response performance tasks,
155 and extended-response performance tasks, which shall measure a
156 student's content knowledge of writing, including, but not
157 limited to, paragraph and sentence structure, sentence
158 construction, grammar and usage, punctuation, capitalization,
159 spelling, parts of speech, verb tense, irregular verbs, subject-
160 verb agreement, and noun-pronoun agreement.

161 4. A score shall be designated for each subject area
162 tested, below which score a student's performance is deemed
163 inadequate. The school districts shall provide appropriate
164 remedial instruction to students who score below these levels.

165 5. Except as provided in s. 1003.428(8)(b) or s.
166 1003.43(11)(b), students must earn a passing score on the grade
167 10 assessment test described in this paragraph or attain

168 concordant scores as described in subsection (10) in reading,
 169 writing, and mathematics to qualify for a standard high school
 170 diploma. The State Board of Education shall designate a passing
 171 score for each part of the grade 10 assessment test. In
 172 establishing passing scores, the state board shall consider any
 173 possible negative impact of the test on minority students. The
 174 State Board of Education shall adopt rules which specify the
 175 passing scores for the grade 10 FCAT. Any such rules, which have
 176 the effect of raising the required passing scores, shall apply
 177 only to students taking the grade 10 FCAT for the first time
 178 after such rules are adopted by the State Board of Education.

179 6. Participation in the testing program is mandatory for
 180 all students attending public school, including students served
 181 in Department of Juvenile Justice programs, except as otherwise
 182 prescribed by the commissioner. If a student does not
 183 participate in the statewide assessment, the district must
 184 notify the student's parent and provide the parent with
 185 information regarding the implications of such nonparticipation.
 186 A parent must provide signed consent for a student to receive
 187 classroom instructional accommodations that would not be
 188 available or permitted on the statewide assessments and must
 189 acknowledge in writing that he or she understands the
 190 implications of such instructional accommodations. The State
 191 Board of Education shall adopt rules, based upon recommendations
 192 of the commissioner, for the provision of test accommodations
 193 for students in exceptional education programs and for students
 194 who have limited English proficiency. Accommodations that negate
 195 the validity of a statewide assessment are not allowable in the

196 administration of the FCAT. However, instructional
 197 accommodations are allowable in the classroom if included in a
 198 student's individual education plan. Students using
 199 instructional accommodations in the classroom that are not
 200 allowable as accommodations on the FCAT may have the FCAT
 201 requirement waived pursuant to the requirements of s.
 202 1003.428(8)(b) or s. 1003.43(11)(b).

203 7. A student seeking an adult high school diploma must
 204 meet the same testing requirements that a regular high school
 205 student must meet.

206 8. District school boards must provide instruction to
 207 prepare students to demonstrate proficiency in the core
 208 curricular content established in the Next Generation Sunshine
 209 State Standards adopted under s. 1003.41, including the core
 210 content knowledge and skills necessary for successful grade-to-
 211 grade progression and high school graduation. If a student is
 212 provided with instructional accommodations in the classroom that
 213 are not allowable as accommodations in the statewide assessment
 214 program, as described in the test manuals, the district must
 215 inform the parent in writing and must provide the parent with
 216 information regarding the impact on the student's ability to
 217 meet expected proficiency levels in reading, writing, and
 218 mathematics. The commissioner shall conduct studies as necessary
 219 to verify that the required core curricular content is part of
 220 the district instructional programs.

221 9. District school boards must provide opportunities for
 222 students to demonstrate an acceptable level of performance on an

223 alternative standardized assessment approved by the State Board
 224 of Education following enrollment in summer academies.

225 10. The Department of Education must develop, or select,
 226 and implement a common battery of assessment tools that will be
 227 used in all juvenile justice programs in the state. These tools
 228 must accurately measure the core curricular content established
 229 in the Sunshine State Standards.

230 11. For students seeking a special diploma pursuant to s.
 231 1003.438, the Department of Education must develop or select and
 232 implement an alternate assessment tool that accurately measures
 233 the core curricular content established in the Sunshine State
 234 Standards for students with disabilities under s. 1003.438.

235 12. The Commissioner of Education shall establish
 236 schedules for the administration of statewide assessments and
 237 the reporting of student test results. The commissioner shall,
 238 by August 1 of each year, notify each school district in writing
 239 and publish on the department's Internet website the testing and
 240 reporting schedules for, at a minimum, the school year following
 241 the upcoming school year. The testing and reporting schedules
 242 shall require that:

243 a. There is the latest possible administration of
 244 statewide assessments and the earliest possible reporting to the
 245 school districts of student test results which is feasible
 246 within available technology and specific appropriations;
 247 however, test results must be made available no later than the
 248 final day of the regular school year for students.

249 b. Beginning with the 2010-2011 school year, a
 250 comprehensive statewide assessment of writing is not

251 administered earlier than the week of March 1 and a
 252 comprehensive statewide assessment of any other subject is not
 253 administered earlier than the week of April 15.

254 c. A statewide standardized end-of-course assessment is
 255 administered within the last 2 weeks of the course.

256

257 The commissioner may, based on collaboration and input from
 258 school districts, design and implement student testing programs,
 259 for any grade level and subject area, necessary to effectively
 260 monitor educational achievement in the state, including the
 261 measurement of educational achievement of the Sunshine State
 262 Standards for students with disabilities. Development and
 263 refinement of assessments shall include universal design
 264 principles and accessibility standards that will prevent any
 265 unintended obstacles for students with disabilities while
 266 ensuring the validity and reliability of the test. These
 267 principles should be applicable to all technology platforms and
 268 assistive devices available for the assessments. The field
 269 testing process and psychometric analyses for the statewide
 270 assessment program must include an appropriate percentage of
 271 students with disabilities and an evaluation or determination of
 272 the effect of test items on such students.

273 Section 3. Paragraph (c) of subsection (3) of section
 274 1008.34, Florida Statutes, is amended to read:

275 1008.34 School grading system; school report cards;
 276 district grade.--

277 (3) DESIGNATION OF SCHOOL GRADES.--

PCS for HB 13

ORIGINAL

2009

278 (c) Student assessment data used in determining school
279 grades shall include:

280 1. The aggregate scores of all eligible students enrolled
281 in the school who have been assessed on the FCAT and, beginning
282 with the 2012-2013 school year, the statewide, standardized end-
283 of-course assessment in civics education at the middle school
284 level.

285 2. The aggregate scores of all eligible students enrolled
286 in the school who have been assessed on the FCAT and who have
287 scored at or in the lowest 25th percentile of students in the
288 school in reading, mathematics, or writing, unless these
289 students are exhibiting satisfactory performance.

290 3. Effective with the 2005-2006 school year, the
291 achievement scores and learning gains of eligible students
292 attending alternative schools that provide dropout prevention
293 and academic intervention services pursuant to s. 1003.53. The
294 term "eligible students" in this subparagraph does not include
295 students attending an alternative school who are subject to
296 district school board policies for expulsion for repeated or
297 serious offenses, who are in dropout retrieval programs serving
298 students who have officially been designated as dropouts, or who
299 are in programs operated or contracted by the Department of
300 Juvenile Justice. The student performance data for eligible
301 students identified in this subparagraph shall be included in
302 the calculation of the home school's grade. As used in this
303 section and s. 1008.341, the term "home school" means the school
304 to which the student would be assigned if the student were not
305 assigned to an alternative school. If an alternative school

306 chooses to be graded under this section, student performance
 307 data for eligible students identified in this subparagraph shall
 308 not be included in the home school's grade but shall be included
 309 only in the calculation of the alternative school's grade. A
 310 school district that fails to assign the FCAT scores of each of
 311 its students to his or her home school or to the alternative
 312 school that receives a grade shall forfeit Florida School
 313 Recognition Program funds for 1 fiscal year. School districts
 314 must require collaboration between the home school and the
 315 alternative school in order to promote student success. This
 316 collaboration must include an annual discussion between the
 317 principal of the alternative school and the principal of each
 318 student's home school concerning the most appropriate school
 319 assignment of the student.

320 4. Beginning with the 2009-2010 school year for schools
 321 comprised of high school grades 9, 10, 11, and 12, or grades 10,
 322 11, and 12, the data listed in subparagraphs 1.-3. and the
 323 following data as the Department of Education determines such
 324 data are valid and available:

325 a. The high school graduation rate of the school as
 326 calculated by the Department of Education;

327 b. The participation rate of all eligible students
 328 enrolled in the school and enrolled in College Board Advanced
 329 Placement courses; International Baccalaureate courses; dual
 330 enrollment courses; Advanced International Certificate of
 331 Education courses; and courses or sequence of courses leading to
 332 industry certification, as determined by the Agency for

333 Workforce Innovation under s. 1003.492(2) in a career and
 334 professional academy, as described in s. 1003.493;
 335 c. The aggregate scores of all eligible students enrolled
 336 in the school in College Board Advanced Placement courses,
 337 International Baccalaureate courses, and Advanced International
 338 Certificate of Education courses;
 339 d. Earning of college credit by all eligible students
 340 enrolled in the school in dual enrollment programs under s.
 341 1007.271;
 342 e. Earning of an industry certification, as determined by
 343 the Agency for Workforce Innovation under s. 1003.492(2) in a
 344 career and professional academy, as described in s. 1003.493;
 345 f. The aggregate scores of all eligible students enrolled
 346 in the school in reading, mathematics, and other subjects as
 347 measured by the SAT, the ACT, and the common placement test for
 348 postsecondary readiness;
 349 g. The high school graduation rate of all eligible at-risk
 350 students enrolled in the school who scored at Level 2 or lower
 351 on the grade 8 FCAT Reading and Mathematics examinations;
 352 h. The performance of the school's students on statewide
 353 standardized end-of-course assessments administered under s.
 354 1008.22; and
 355 i. The growth or decline in the data components listed in
 356 sub-subparagraphs a.-h. from year to year.
 357
 358 The State Board of Education shall adopt appropriate criteria
 359 for each school grade. The criteria must also give added weight
 360 to student achievement in reading. Schools designated with a

PCS for HB 13

ORIGINAL

2009

361 grade of "C," making satisfactory progress, shall be required to
362 demonstrate that adequate progress has been made by students in
363 the school who are in the lowest 25th percentile in reading,
364 mathematics, or writing on the FCAT, unless these students are
365 exhibiting satisfactory performance. Beginning with the 2009-
366 2010 school year for schools comprised of high school grades 9,
367 10, 11, and 12, or grades 10, 11, and 12, the criteria for
368 school grades must also give added weight to the graduation rate
369 of all eligible at-risk students, as defined in this paragraph.
370 Beginning in the 2009-2010 school year, in order for a high
371 school to be designated as having a grade of "A," making
372 excellent progress, the school must demonstrate that at-risk
373 students, as defined in this paragraph, in the school are making
374 adequate progress.

375 Section 4. This act shall take effect July 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 895 Pub. Rec./Education Testing/Investigation by DOE
SPONSOR(S): PreK-12 Policy Committee
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Orig. Comm.: PreK-12 Policy Committee, ANALYST: Paulson, STAFF DIRECTOR: Ahearn.

SUMMARY ANALYSIS

The proposed committee substitute (PCS) creates a public records exemption for the following information relating to an investigation of testing impropriety: the identity of a school or postsecondary institution; the personally identifiable information of any personnel; or any specific allegations of misconduct.

The PCS stipulates that these records remain confidential as long as the investigation is active. An investigation is considered active "so long as it is ongoing and there is a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future." An investigation is considered concluded:

- Upon a finding that no impropriety has occurred;
• Upon the completion of any law enforcement investigation; or
• Upon the referral to an employer with the authority to take disciplinary action.

The PCS provides the constitutionally required public necessity statement.

This public records exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2014, unless it is reenacted by the Legislature.

The PCS does not appear to have a fiscal impact on state or local governments.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following public purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or
- Protecting trade or business secrets.

Test Security

It is unlawful for anyone to knowingly and willfully violate test security rules set by the State Board of Education for mandatory tests administered by or through the State Board of Education or the Commissioner of Education to students, educators, or applicants for certification or administered by

¹ Article I, s. 24(c) of the Florida Constitution.

² Section 119.15, F.S.

school districts.³ The proper authority, including a district school superintendent or president of a public or nonpublic postsecondary educational institution, is required to cooperate with the Commissioner of Education in any investigation involving test security for a test administered pursuant to state statute or rule.⁴

Effect of Proposed Changes

The proposed committee substitute (PCS) creates a public records exemption for the following information relating to an investigation of testing impropriety: the identity of a school or postsecondary institution; the personally identifiable information of any personnel; or any specific allegations of misconduct.

The PCS stipulates that these records remain confidential as long as the investigation is active. An investigation is considered active "so long as it is ongoing and there is a reasonable, good faith anticipation that an administrative finding will be made in the foreseeable future." An investigation is considered concluded:

- Upon a finding that no impropriety has occurred;
- Upon the completion of any law enforcement investigation; or
- Upon the referral to an employer with the authority to take disciplinary action.

This public records exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2014, unless it is reenacted by the Legislature.

The PCS provides the constitutionally required public necessity statement.⁵ More particularly, the public necessity statement provides that decisions relating to testing in Florida are of statewide interest and there is a strong public interest in the circumstances surrounding an investigation of a testing impropriety, including the identity of a school or postsecondary institution and the actions by teachers, administrators, paraprofessionals, or other individuals which must be uncovered through a comprehensive investigation that may involve statistical and other analyses. The release of information before an investigation is concluded may reveal sensitive or personal information that could cause unwarranted damage to the names or reputations of the individuals involved.

B. SECTION DIRECTORY:

Section 1: Amends s. 1008.24, F.S.; provides a public records exemption for personally identifiable information or allegations of misconduct obtained or report in connection with an investigation of testing impropriety; limits the duration of the exemption; provides for future review and repeal.

Section 2: Provides a public necessity statement.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

³ Section 1008.24(1), F.S. Violations include, but are not limited to, giving examinees access to test questions before the exam, making answer keys available to examinees, or copying a secure test booklet. *See also* 6A-10.042, F.A.C.

⁴ Section 1008.24(3), F.S.

⁵ *See infra* note 1 and accompanying text.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The PCS does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The PCS does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The PCS does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

DOE Comments:

The Department has given significant consideration to the requirements of Art. I, section 24 of the State Constitution. That provision requires that an exemption created shall be no broader than necessary to accomplish the purpose of the law. This bill balances the interests of the public with the need to protect the integrity of investigations of testing impropriety.⁶

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

DOE Comments:

When information and evidence supports that a certified educator violated testing protocol, breached testing security or actually tampered with test results, the assessment office will refer this information to the Office of Professional Practices Services for investigation to determine if the educator's certificate should be sanctioned. Active investigations conducted by the Office of Professional Practices (PPS) are provided a statutory exemption from public record until the conclusion of the investigation. This confidentiality is vital to the integrity of the investigative process. Outside interferences can taint the findings

⁶ Analysis of HB 895, Department of Education, March 16, 2009.

of an investigation and create unnecessary and disruptive obstacles to the investigative process.

In PPS investigations, the information is open to the public upon conclusion of the preliminary investigation, a juncture which ensures the truth and accuracy of the process. Requiring the assessment office to release information, while another Department investigation is ongoing could potentially taint the results of the subsequent or concurrent investigation and result in inaccurate outcomes for the educator, the students, the public and/or the Department. Investigations by the Office of Assessment may also involve school board personnel who are not certified educators. In those cases, the protections provided by this bill would be extended to those individuals.⁷

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A.

⁷ *Id.*

1 A bill to be entitled
 2 An act relating to public records; amending s. 1008.24,
 3 F.S.; providing an exemption from public records
 4 requirements for personally identifiable information or
 5 allegations of misconduct obtained or reported in
 6 connection with an investigation of a testing impropriety
 7 conducted by the Department of Education; providing that
 8 the exemption applies until the investigation is concluded
 9 or becomes inactive; providing for future legislative
 10 review and repeal of the exemption under the Open
 11 Government Sunset Review Act; providing a statement of
 12 public necessity; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsection (3) of section 1008.24, Florida
 17 Statutes, is amended to read:

18 1008.24 Test security.--

19 (3) (a) A district school superintendent, a president of a
 20 public postsecondary educational institution, or a president of
 21 a nonpublic postsecondary educational institution shall
 22 cooperate with the Commissioner of Education in any
 23 investigation concerning the administration of a test
 24 administered pursuant to state statute or rule.

25 (b) The identity of a school or postsecondary educational
 26 institution, the personally identifiable information of any
 27 personnel of any school district or postsecondary educational
 28 institution, or any specific allegations of misconduct obtained

29 or reported pursuant to an investigation conducted by the
 30 Department of Education of a testing impropriety are
 31 confidential and exempt from the provisions of s. 119.07(1) and
 32 s. 24(a), Art. I of the State Constitution until the conclusion
 33 of the investigation or until such time as the investigation
 34 ceases to be active. For the purpose of this paragraph, an
 35 investigation shall be deemed concluded upon a finding that no
 36 impropriety has occurred, upon the conclusion of any resulting
 37 preliminary investigation pursuant to s. 1012.796, upon the
 38 completion of any resulting investigation by a law enforcement
 39 agency, or upon the referral of the matter to an employer who
 40 has the authority to take disciplinary action against an
 41 individual who is suspected of a testing impropriety. For the
 42 purpose of this paragraph, an investigation shall be considered
 43 active so long as it is ongoing and there is a reasonable, good
 44 faith anticipation that an administrative finding will be made
 45 in the foreseeable future. This paragraph is subject to the Open
 46 Government Sunset Review Act in accordance with s. 119.15 and
 47 shall stand repealed on October 2, 2014, unless reviewed and
 48 saved from repeal through reenactment by the Legislature.

49 Section 2. The Legislature finds that it is a public
 50 necessity that certain records related to the investigation of a
 51 testing impropriety that are held by the Department of Education
 52 be made confidential and exempt from public records requirements
 53 until an investigation conducted by the department is concluded
 54 or until such investigation becomes inactive. The decisions
 55 relating to accountability and to testing in Florida are of
 56 statewide interest, and there is a strong public interest in the

57 circumstances surrounding an investigation of a testing
58 impropriety, including the identity of a school or postsecondary
59 educational institution and the actions by teachers,
60 administrators, paraprofessionals, or other individuals, which
61 must be uncovered through a comprehensive investigation that may
62 involve statistical and other analyses. The release of
63 information before an investigation is concluded may reveal
64 sensitive or personal information that could cause unwarranted
65 damage to the names or reputations of the individuals involved.

66 Section 3. This act shall take effect July 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 991 School Improvement and Accountability
SPONSOR(S): PreK-12 Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee		Brock <i>ZEB</i>	Ahearn <i>JA</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The federal Elementary and Secondary Education Act of 1965, as revised by the *No Child Left Behind (NCLB) Act of 2001*, requires each state to have a single, statewide accountability system based on academic standards and assessments, containing sanctions and rewards to hold school districts and public schools accountable for student achievement.

The Proposed Committee Substitute (PCS) for HB 991 aligns the state and federal school improvement and accountability laws by:

- Extending the federal accountability requirements to *all* public schools in the state.
- Specifying that the State Board of Education (SBE) is responsible for public school improvement and accountability.
- Requiring the Department of Education (DOE) to categorize public schools annually based on a school's grade and the level of student performance and target schools with intervention and support strategies.
- Requiring the DOE to create a matrix that reflects which intervention and support strategies are applied to the lowest performing schools.
- Specifying that for a school identified in the low performing category, the school district must implement one of the following options:
 - Convert the school to a district-managed turnaround school;
 - Reassign students to another school and monitor the progress of the reassigned students;
 - Close the school and authorize a sponsor to reopen the school as a charter school or multiple charter schools; or
 - Contract with an outside entity to operate the school.
- Listing options that the SBE may use to enforce school improvement and accountability in the public schools.
- Requiring that the performance of disaggregated student subgroups on assessments be included in student achievement scores used to calculate school grades by the 2010-2011 school year.

The PCS does not appear to create a fiscal impact on state or local governments. The DOE estimates no fiscal impact. However, the DOE acknowledges that it is difficult to estimate costs associated with fiscal penalties for districts that do not comply, in addition to costs associated with reassigning students; exercising the charter school option; and contracting with outside management.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation:

No Child Left Behind Act of 2001

The federal *No Child Left Behind (NCLB) Act of 2001* reauthorized and substantially revised the Elementary and Secondary Education Act of 1965, which provides federal funds to states and school districts for economically disadvantaged students.¹ The NCLB Act emphasizes accountability, local flexibility in the use of federal funds, educational choice, and effective teaching methods.² Compliance with the federal law facilitates the receipt of federal funds for state public schools.

The NCLB Act also requires a demonstration of adequate yearly progress (AYP).³ The NCLB Act requires a state to demonstrate, using its academic assessments, that the state and all of its school districts and public elementary and secondary schools meet its annual measurable objectives, thereby showing annual increases in student achievement.⁴ Florida's state NCLB plan includes FCAT Reading and Mathematics for grades 3-10, and the essay portion of FCAT Writing+ in grades 4, 8, and 10, to determine a school's AYP.⁵

Statewide Accountability System

The NCLB Act requires each state to develop a single, statewide accountability system based on academic standards and assessments, and provide sanctions and rewards that the state will use to hold school districts and public schools accountable for student achievement. The NCLB Act requires each state to adopt challenging academic content and student achievement standards that apply to all public schools and students in the state.⁶ Each state must implement high-quality annual student

¹ *No Child Left Behind Act of 2001*, Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002), 20 U.S.C. § 6311, available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ110.107.pdf.

² See U.S. Department of Education, *Overview: Four Pillars of NCLB*, <http://www.ed.gov/nclb/overview/intro/4pillars.html> (last visited Nov. 14, 2008); U.S. Department of Education, *No Child Left Behind: A Desktop Reference 2002*, 9-11 (Sept. 2002), available at <http://www.ed.gov/admins/lead/account/nclbreference/reference.pdf>.

³ 20 U.S.C. § 6311(b)(1)(A)&(2)(B)&(C).

⁴ 20 U.S.C. § 6311(b)(2)(A)-(C).

⁵ See Florida Department of Education, *2008 Guide to Calculating Adequate Yearly Progress (AYP), Technical Assistance Paper 2007-08*, 2 (July 2008), available at <http://schoolgrades.fldoe.org/pdf/0708/2008AYPTAP.pdf> (reading and mathematics proficiency for purposes of AYP), at 11-18; see Pub. L. No. 107-110, 115 Stat. 1425 (2002).

⁶ 20 U.S.C. § 6311(b)(1)(A)&(B).

academic assessments in, at a minimum, mathematics, reading or language arts, and science.⁷ Florida's NCLB state plan uses the Florida Comprehensive Assessment Test (FCAT) as its academic assessment for purposes of the NCLB Act.⁸ The statewide accountability system also must include awards and sanctions, including annual report cards that include state and school district accomplishments on measurable performance objectives.⁹

The State Board of Education (SBE) is responsible for the system of performance and accountability in the public schools. The SBE must intervene in the operation of a district school system when one or more schools have failed to make adequate progress for 2 school years in a 4-year period. The SBE must recommend action to a district school board intended to improve educational services to students in each school that is designated with a grade of "F." Recommendations must consider the unique characteristics of the school, which must include student mobility rates, the number and type of exceptional students, and the availability of options for improved educational services. This process is provided for in SBE rules and the school districts are allowed time to improve student performance and present evidence of assistance and interventions that the district school board has implemented.¹⁰ The SBE may recommend one or more of the following actions to district school boards:

- Provide additional resources;
- Implement a plan to solve equity problems;
- Contract for education services at the school or reorganize the school;
- Allow parents of students in the school to send their children to another district school of their choice; or
- Take other action appropriate to improve the school's performance.¹¹

The SBE may require the Department of Education or Chief Financial Officer to withhold any transfer of state funds to the school district if, within the timeframe specified in state board action, the school district has failed to comply with the action ordered to improve the district's low performing schools. Withholding the transfer of funds must occur only after all other recommended actions for school improvement have failed to improve performance.¹²

District school boards are required to implement school improvement and accountability that includes implementation of district school improvement plans, intervention strategies, and notification of the SBE concerning school progress after 2 years.¹³

School Restructuring

Under the NCLB Act, with respect to Title I schools, failure to AYP can result in requiring the school district to: provide students with the option to transfer to another public school; continue to make supplemental educational services available to children who remain in the school; and prepare a plan and make necessary arrangements for alternative governance. Not later than the beginning of the school year following the year in which these efforts are made, the school district must implement one of the following alternative governance arrangements for the Title I school consistent with state law:

- Reopening the school as a public charter school.
- Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make AYP.

⁷ 20 U.S.C. § 6311(b)(3)(A).

⁸ Florida Department of Education, *Florida NCLB Consolidated State Application Accountability Workbook* (State Accountability Plan), 57-58 (June 8, 2008), available at <http://www.ed.gov/admins/lead/account/stateplans03/flcsa.pdf>; see sections 1000.21(7) & 1003.41, F.S.

⁹ 20 U.S.C. § 6311(b)(2)(A)(iii).

¹⁰ Section 1008.33(1), F.S.; see also 6A-1.09981, F.A.C. "Implementation of Florida's System of School Improvement and Accountability."

¹¹ Section 1008.33(2), F.S.

¹² Section 1008.33(4), F.S.; see also Rule 6A-1.09981, F.A.C. "Implementation of Florida's System of School Improvement and Accountability."

¹³ Section 1001.42(18), F.S.

- Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.
- Turning the operation of the school over to the State educational agency, if permitted under State law and agreed to by the State.
- Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress.¹⁴

Differentiated Accountability

On August 1, 2008, the U.S. Department of Education selected Florida as one of six states participating in a Differentiated Accountability Pilot Program. Participation in the program provides flexibility in implementing the NCLB Act to target interventions in all of the lowest performing schools, thus aligning the state and federal accountability systems. Using a five region model, the differentiated accountability program delivers assistance and support to schools as school grades and their AYP decline.¹⁵ Interventions focus on tailoring approaches to performance issues. The program includes focusing improvement efforts, increasing leadership and educator quality, targeting professional development to school needs, aligning and pacing curriculum, using data to drive instruction and continuous improvement, providing educational choice and tutoring, and monitoring, to improve student achievement and school performance.¹⁶ Interventions for schools are categorized and grouped based on school grade and the percent of AYP criteria met. The AYP criteria include: participation rates; reading, writing, and math proficiency; graduation rate (as applicable); and a school grade of "A," "B," or "C."¹⁷ Title I schools that have not met this criteria for two or more years and non-Title I repeating "F" (grade "F" in current year and one additional "F" in a 4-year window), "F," and "D" schools are identified in one of the following categories: Prevent, Correct, or Intervene. The roles of the school, district, and state in the Differentiated Accountability Pilot Program are as follows depending upon in which category the low performing school is placed:

- *Prevent I* – The school directs intervention, the district provides assistance, and the state monitors.
- *Prevent II* – The district directs intervention and provides assistance.
- *Correct I* – The district directs intervention and the state reviews progress.
- *Correct II* – The school and district implement state-directed interventions.
- *Intervene* – The school and district implement state-directed interventions and face possible closure, and the state monitors.¹⁸

Intervene schools are those schools that have failed to achieve AYP for five or more years in addition to demonstrating severe, long-standing reading and mathematics-based deficiencies.¹⁹

School Grades

Currently, a school's grade is based upon a combination of:

- **Student achievement scores**, including achievement scores for students seeking a special diploma;
- Student learning gains as measured by annual FCAT assessments in grades 3 through 10; and

¹⁴ 20 U.S.C. § 6316(b)(8)(B).

¹⁵ Department of Education, Bureau of School Improvement, PowerPoint Presentation, February 10, 2009, at 2.

¹⁶ *Regional Support System Training Manual*, Florida Department of Education, Bureau of School Improvement, 2008, at 27.

¹⁷ *Id.*, at 14.

¹⁸ *Id.*

¹⁹ *Id.*, at 28.

- Improvement of the lowest 25th percentile of students in the school in reading, mathematics, or writing on the FCAT, unless these students are exhibiting satisfactory performance.²⁰

High school grades are currently calculated in the same manner as school grades for elementary and middle schools, except that high schools are eligible for ten bonus points, added to their total school grade points, if at least 50 percent of 11th and 12th grade students retaking the reading and mathematics grade 10 FCAT pass.²¹

Beginning in the 2009-2010 school year, one-half of a high school's grade will continue to be based upon student achievement scores and annual learning gains based on FCAT scores. The other half will be based upon the:

- High school's graduation rate;
- High school's graduation rate of at-risk students scoring at achievement Level 1 or 2 in reading and mathematics on the grade 8 FCAT;
- Performance and participation of the school's students in Advanced Placement, International Baccalaureate, dual enrollment, and Advanced International Certificate of Education courses (as valid data becomes available);²²
- Achievement by the school's students of industry certification in a career and professional academy;²³
- Postsecondary readiness of the school's students, as measured by the SAT, ACT, or the Common Placement Test;²⁴
- Performance of the school's students on statewide standardized end-of-course assessments approved by the Department of Education (as valid data becomes available); and
- Growth or decline in these components.²⁵

In addition, beginning with the 2009-2010 school year, a high school may not receive an "A" unless its at-risk students (scoring at achievement Level 1 or 2 in reading and mathematics on the grade 8 FCAT) make adequate progress.²⁶

Assignment of Teachers

The legislature finds disparities between teachers assigned to teach in a majority of "A" graded schools and teachers assigned to teach in a majority of "F" graded schools. The disparities are found in the average years of experience, the mean salary, and the performance of the teachers on teacher certification examinations. School districts may not assign a higher percentage than the school district average of first-time teachers, temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools with above the school district average of minority and economically disadvantaged students or schools that are graded "D" or "F."²⁷

²⁰ Section 1008.34(3)(b)1., F.S.

²¹ Rule 6A-1.09981(8)(d), F.A.C.

²² See sections 1007.27 & 1007.271, F.S. (articulated acceleration mechanisms, dual enrollment); College Board, *Advanced Placement Program*, <http://www.collegeboard.com/student/testing/ap/about.html> (last visited Aug. 29, 2008); International Baccalaureate, <http://www.ibo.org> (last visited Aug. 29, 2008); University of Cambridge, International Examinations, *Cambridge Advanced International Certificate of Education Diploma*, <http://www.cie.org.uk/qualifications/academic/uppersec/aice> (last visited Aug. 29, 2008).

²³ See section 1003.493, F.S.

²⁴ See section 1008.30, F.S. (common placement test assesses the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution); *College Board, About the SAT*, <http://www.collegeboard.com/student/testing/sat/about.html> (last visited Mar. 20, 2009); ACT, Inc., *The ACT Test*, <http://www.act.org/aap> (last visited Mar. 20, 2009).

²⁵ Section 1008.34(3)(b)2. & (c)4., F.S.

²⁶ Section 1008.34(3), F.S. (flush-left provisions at end of subsection).

²⁷ Section 1012.2315 (1)(2), F.S.

Effect of Proposed Changes

Short Title

The act is entitled "Florida's Equal Opportunity in Education Act."

School Improvement and Accountability

Alignment between State and Federal Law

The proposed committee substitute aligns and directly connects the school improvement and accountability state statutes with the education accountability provisions from the federal Elementary and Secondary Education Act of 1965, as revised by the *No Child Left Behind (NCLB) Act of 2001*. The aligned school improvement and accountability system is extended to *all* public schools in the state.

The State Board of Education (SBE) is responsible for a system of school improvement and accountability that assesses student performance by school, identifies schools in which students are not making adequate progress toward state standards, institutes appropriate measures for enforcing improvement, and provides rewards and sanctions based on performance.

The proposed committee substitute states that the state system of school improvement and education accountability must provide for uniform accountability standards, provide assistance of escalating intensity to low-performing schools, direct support to schools in order to improve and sustain performance, focus on the performance of student subgroups, and provide options for equal opportunities for students to obtain a high-quality education.

Differentiated Accountability

The proposed committee substitute authorizes the SBE to equitably enforce the accountability requirements of the public school system, including the power to impose state requirements on districts to improve academic performance of all districts, schools, and students. The Department of Education (DOE) must annually categorize public schools in one of six categories based on a school's grade and the level of student performance, and the rate of change in performance, in reading and mathematics, disaggregated into student subgroups according to the education accountability requirements for meeting adequate yearly progress (AYP). Student subgroups include economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency.

Schools are targeted with intervention and support strategies addressing student performance, including but not limited to:

- Improvement planning;
- Leadership quality improvement;
- Educator quality improvement;
- Professional development;
- Curriculum alignment and pacing;
- The use of continuous improvement; and
- Monitoring plans and processes.

The SBE may prescribe reporting requirements to review and monitor the progress of the schools.

School Restructuring

The proposed committee substitute requires the DOE to create a matrix that reflects which intervention and support strategies may be applied to address the particular needs of schools in each category.

Intervention and support strategies shall be applied to schools based upon the school categorization. The most intense intervention and support strategies shall be applied to schools in the lowest performing category.

For a school identified in the category of lowest performing schools, the school district must select one of the following options and submit a plan to the SBE for implementing the option by the beginning of the second year after such identification, unless the school advances to a higher category or exits the category before such time:

- Convert the school to a district-managed turnaround school by means that include implementation of a turnaround plan approved by the Commissioner of Education that becomes the school's improvement plan;
- Reassign students to another school and monitor the progress of the reassigned students;
- Close the school and authorize a sponsor to reopen the school as a charter school or multiple charter schools; or
- Contract with an outside entity to operate the school.

Implementation of the option requires SBE approval. Once implemented, continuation of the option must be based on the school moving from the lowest performing category or on approval by the SBE upon finding that it is likely that the school will move from the lowest performing category if provided additional time to implement intervention and support strategies.

In order to advance to a higher category, a school must make significant progress by improving its school grade and by increasing student performance in mathematics and reading. Student performance must be evaluated for each subgroup. Subgroups include: economically disadvantaged students; students from major racial and ethnic groups; students with disabilities; and students with limited English proficiency.

State Board of Education Enforcement Authority

The SBE may impose a public reprimand upon a school district if the district deviates from or fails to implement any provisions of its improvement plan or of s. 1008.33, F.S. If the deviation or failure to comply is repeated, continuous, or serious, the SBE may withhold the transfer of all state funds generated by the students assigned to that school and allowable federal funds. This establishes a continuum of consequences for failure to comply.²⁸

District School Improvement Plans

The school improvement plans must be annually approved by the district school board and must comply with the provisions of s. 1008.33, F.S., relating to public school improvement, s. 1008.34, F.S., relating to the school grading system, s. 1008.345, F.S., relating to the state system of school improvement and education accountability, and s. 1008.385, F.S., relating to educational planning and information systems.

School Grades

The proposed committee substitute adds to the existing school grading requirements, specifically concerning the use of *student achievement scores*, that performance of "disaggregated subgroups" must be included by 2010-2011. The DOE indicates that the performance of disaggregated student subgroups is currently part of the data used to determine a school's AYP designation under the federal NCLB Act. By including the performance of disaggregated subgroups in school grades, the proposed committee substitute more closely aligns school grades for all schools with AYP and focuses on particular student subgroups that may not be performing as well as the school as a whole.²⁹

²⁸ Department of Education Bill Analysis on Senate Bill 2482, March 2, 2009 at 5.

²⁹ Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 2; see also 20 U.S.C. 6311(b)(2)(C)(v)(II): as previously indicated, the *NCLB Act* defines the subgroups as: economically disadvantaged students; students from major racial and ethnic groups;

Assignment of Teachers

The proposed committee substitute finds disparities between teachers assigned to teach in a majority of schools that do not need improvement and schools that do need improvement. The disparities may be found in the assignment of temporarily certified teachers, teachers in need of improvement, and out-of-field teachers, and in performance of the students of a teacher.³⁰ School districts may not assign a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools categorized as needing improvement pursuant to s. 1008.33, F.S., relating to public school improvement.

B. SECTION DIRECTORY:

Section 1: Provides a short title: "Florida's Equal Opportunity in Education Act."

Section 2: Amends s. 1001.42, F.S., requiring the state system of school improvement and educational accountability to comply with certain accountability requirements; deleting specific district school board duties relating to school improvement plans and forms of assistance and intervention; and requiring compliance with ss. 1008.33, 1008.34, 1008.345, & 1008.385, F.S.

Section 3: Substantially rewords s. 1008.33, F.S., requiring the state system of school improvement and education accountability to incorporate accountability requirements of federal law; providing duties of school districts to improve student academic achievement and to improve low-performing schools; providing State Board of Education responsibility for the state system and enforcement of its accountability requirements; providing requirements for the state system; providing duties of the Department of Education for determining the need for action to achieve school improvement; providing for intervention and support strategies to meet school needs; requiring State Board of Education approval of options for the lowest performing schools; providing penalties for deviation from or failure to implement certain school improvement provisions; and requiring Department of Education commencement of duties and State Board of Education adoption of rules.

Section 4: Amends s. 1008.34, F.S., revising provisions relating to the designation of school grades by specifying that the performance of disaggregated student subgroups be included in student achievement scores used to calculate school grades by the 2010-2011 school year.

Section 5: Amends s. 1008.345, F.S., conforming provisions on school improvement and accountability.

Section 6: Amends s. 1012.2315, F.S.; revising and conforming provisions relating to the assignment of teachers.

Section 7: Amends s. 1002.33, F.S., conforming provisions concerning charter schools.

Section 8: Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The proposed committee substitute does not appear to affect state government revenues.

2. Expenditures:

The proposed committee substitute does not appear to affect state government expenditures.

students with disabilities; and students with limited language proficiency.

³⁰ Currently, the law identifies disparities among teachers with regard to average years of experience, median salary, and performance on teacher certification examinations. Section 1012.2315, F.S.

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PAGE: 8

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The proposed committee substitute does not appear to affect local government revenues.

2. Expenditures:

The proposed committee substitute does not appear to affect local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The DOE indicates that there will be no additional costs to the department to implement the requirements of the proposed committee substitute.³¹ However, the DOE acknowledges that it is difficult to estimate costs associated with fiscal penalties for districts that do not comply, in addition to costs associated with reassigning students; exercising the charter school option; and contracting with outside management.³²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The proposed committee substitute does not appear to require a city or county to expend funds or to take any action requiring expenditures; reduce the authority that municipalities or counties had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The DOE is granted rulemaking authority to enforce public school improvement and accountability. By July 1, 2010, the State Board of Education must adopt rules to implement section 3 of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A.

³¹ Correspondence with the Department of Education, March 6, 2009.

³² Correspondence with the Department of Education, March 23, 2009.

PCS for HB 991

ORIGINAL

2009

1 A bill to be entitled
2 An act relating to school improvement and education
3 accountability; providing a short title; amending s.
4 1001.42, F.S.; requiring the state system of school
5 improvement and education accountability to comply with
6 specified accountability requirements; deleting certain
7 district school board duties relating to school
8 improvement plans and assistance and intervention;
9 amending s. 1008.33, F.S.; requiring the state system of
10 school improvement and education accountability to comply
11 with accountability requirements of federal law; providing
12 duties of school districts to improve student academic
13 achievement and to improve low-performing schools;
14 providing State Board of Education responsibility for the
15 state system and enforcement of its accountability
16 requirements; providing requirements for the state system;
17 providing duties of the Department of Education for
18 determining the need for action to achieve school
19 improvement; providing for intervention and support
20 strategies to meet school needs; requiring State Board of
21 Education approval of options for the lowest performing
22 schools; providing penalties for deviation from or failure
23 to implement certain school improvement provisions;
24 requiring Department of Education commencement of duties
25 and State Board of Education adoption of rules; amending
26 s. 1008.34, F.S.; revising provisions relating to the
27 designation of school grades; amending s. 1008.345, F.S.;
28 conforming provisions; amending s. 1012.2315, F.S.;

Page 1 of 16

PCS for HB 991.xml

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

29 revising and conforming provisions relating to the
 30 assignment of teachers; amending s. 1002.33, F.S.;
 31 conforming provisions; providing an effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:
 34

35 Section 1. This act may be cited as "Florida's Equal
 36 Opportunity in Education Act."

37 Section 2. Subsection (18) of section 1001.42, Florida
 38 Statutes, is amended to read:

39 1001.42 Powers and duties of district school board.--The
 40 district school board, acting as a board, shall exercise all
 41 powers and perform all duties listed below:

42 (18) IMPLEMENT SCHOOL IMPROVEMENT AND
 43 ACCOUNTABILITY.--Maintain a state system of school improvement
 44 and education accountability as provided by statute and State
 45 Board of Education rule. This system of school improvement and
 46 education accountability shall be consistent with, and
 47 implemented through, the district's continuing system of
 48 planning and budgeting required by this section and ss.
 49 1008.385, 1010.01, and 1011.01. This system of school
 50 improvement and education accountability shall comply with the
 51 provisions of ss. 1008.33, 1008.34, 1008.345, and 1008.385 and
 52 ~~include, but is not limited to,~~ the following:

53 (a) School improvement plans.--The district school board
 54 shall annually approve and require implementation of a new,
 55 amended, or continuation school improvement plan for each school
 56 in the district. ~~A district school board may establish a~~

57 ~~district school improvement plan that includes all schools in~~
 58 ~~the district operating for the purpose of providing educational~~
 59 ~~services to youth in Department of Juvenile Justice programs.~~
 60 ~~The school improvement plan shall be designed to achieve the~~
 61 ~~state education priorities pursuant to s. 1000.03(5) and student~~
 62 ~~proficiency on the Sunshine State Standards pursuant to s.~~
 63 ~~1003.41. Each plan shall address student achievement goals and~~
 64 ~~strategies based on state and school district proficiency~~
 65 ~~standards. The plan may also address issues relative to other~~
 66 ~~academic related matters, as determined by district school board~~
 67 ~~policy, and shall include an accurate, data based analysis of~~
 68 ~~student achievement and other school performance data. Beginning~~
 69 ~~with plans approved for implementation in the 2007-2008 school~~
 70 ~~year, each secondary school plan must include a redesign~~
 71 ~~component based on the principles established in s. 1003.413.~~
 72 ~~For each school in the district that earns a school grade of "C"~~
 73 ~~or below, or is required to have a school improvement plan under~~
 74 ~~federal law, the school improvement plan shall, at a minimum,~~
 75 ~~also include:~~

- 76 ~~1. Professional development that supports enhanced and~~
 77 ~~differentiated instructional strategies to improve teaching and~~
 78 ~~learning.~~
- 79 ~~2. Continuous use of disaggregated student achievement~~
 80 ~~data to determine effectiveness of instructional strategies.~~
- 81 ~~3. Ongoing informal and formal assessments to monitor~~
 82 ~~individual student progress, including progress toward mastery~~
 83 ~~of the Sunshine State Standards, and to redesign instruction if~~
 84 ~~needed.~~

85 ~~4. Alternative instructional delivery methods to support~~
 86 ~~remediation, acceleration, and enrichment strategies.~~

87 ~~(b) Approval process. Develop a process for approval of a~~
 88 ~~school improvement plan presented by an individual school and~~
 89 ~~its advisory council. In the event a district school board does~~
 90 ~~not approve a school improvement plan after exhausting this~~
 91 ~~process, the Department of Education shall be notified of the~~
 92 ~~need for assistance.~~

93 ~~(c) Assistance and intervention.~~

94 ~~1. Develop a 2 year plan of increasing individualized~~
 95 ~~assistance and intervention for each school in danger of not~~
 96 ~~meeting state standards or making adequate progress, as defined~~
 97 ~~pursuant to statute and State Board of Education rule, toward~~
 98 ~~meeting the goals and standards of its approved school~~
 99 ~~improvement plan.~~

100 ~~2. Provide assistance and intervention to a school that is~~
 101 ~~designated with a grade of "D" pursuant to s. 1008.34 and is in~~
 102 ~~danger of failing.~~

103 ~~3. Develop a plan to encourage teachers with demonstrated~~
 104 ~~mastery in improving student performance to remain at or~~
 105 ~~transfer to a school with a grade of "D" or "F" or to an~~
 106 ~~alternative school that serves disruptive or violent youths. If~~
 107 ~~a classroom teacher, as defined by s. 1012.01(2)(a), who meets~~
 108 ~~the definition of teaching mastery developed according to the~~
 109 ~~provisions of this paragraph, requests assignment to a school~~
 110 ~~designated with a grade of "D" or "F" or to an alternative~~
 111 ~~school that serves disruptive or violent youths, the district~~

112 ~~school board shall make every practical effort to grant the~~
 113 ~~request.~~

114 ~~4. Prioritize, to the extent possible, the expenditures of~~
 115 ~~funds received from the supplemental academic instruction~~
 116 ~~categorical fund under s. 1011.62(1)(f) to improve student~~
 117 ~~performance in schools that receive a grade of "D" or "F."~~

118 ~~(d) After 2 years. Notify the Commissioner of Education~~
 119 ~~and the State Board of Education in the event any school does~~
 120 ~~not make adequate progress toward meeting the goals and~~
 121 ~~standards of a school improvement plan by the end of 2 years of~~
 122 ~~failing to make adequate progress and proceed according to~~
 123 ~~guidelines developed pursuant to statute and State Board of~~
 124 ~~Education rule. School districts shall provide intervention and~~
 125 ~~assistance to schools in danger of being designated with a grade~~
 126 ~~of "F," failing to make adequate progress.~~

127 ~~(b)(e)~~ Public disclosure.--The district school board shall
 128 provide information regarding performance of students and
 129 educational programs as required pursuant to ss. 1008.22 and
 130 1008.385 and implement a system of school reports as required by
 131 statute and State Board of Education rule that shall include
 132 schools operating for the purpose of providing educational
 133 services to youth in Department of Juvenile Justice programs,
 134 and for those schools, report on the elements specified in s.
 135 1003.52(19). Annual public disclosure reports shall be in an
 136 easy-to-read report card format and shall include the school's
 137 grade, high school graduation rate calculated without GED tests,
 138 disaggregated by student ethnicity, and performance data as
 139 specified in state board rule.

140 (c) ~~(f)~~ School improvement funds.--The district school
 141 board shall provide funds to schools for developing and
 142 implementing school improvement plans. Such funds shall include
 143 those funds appropriated for the purpose of school improvement
 144 pursuant to s. 24.121(5)(c).

145 Section 3. Section 1008.33, Florida Statutes, is amended
 146 to read:

147 (Substantial rewording of section. See
 148 s. 1008.33, F.S., for present text.)

149 1008.33 Authority to enforce public school improvement.--

150 (1) The state system of school improvement and education
 151 accountability shall comply with the education accountability
 152 requirements of the federal Elementary and Secondary Education
 153 Act, 20 U.S.C. ss. 6301 et seq., and its implementing
 154 regulations, subject to evaluation and enforcement by the State
 155 Board of Education.

156 (2) School districts must be held accountable for
 157 improving the academic achievement of all students and for
 158 identifying and turning around low-performing schools that have
 159 failed to provide a high-quality education to their students,
 160 while providing alternatives to students in such schools, to
 161 enable the students to receive a high-quality education.

162 (3) (a) Pursuant to ss. 1008.34, 1008.345, and 1008.385 and
 163 subsections (1) and (2), the State Board of Education shall hold
 164 all school districts and public schools accountable for
 165 facilitating student performance at acceptable levels. The state
 166 board is responsible for a state system of school improvement
 167 and education accountability that assesses student performance

168 by school, identifies schools in which students are not making
 169 adequate progress toward state standards, institutes appropriate
 170 measures for enforcing improvement, and provides rewards and
 171 sanctions based on performance.

172 (b) The state system of school improvement and education
 173 accountability must provide for uniform accountability
 174 standards, provide assistance of escalating intensity to low-
 175 performing schools, direct support to schools in order to
 176 improve and sustain performance, focus on the performance of
 177 student subgroups, and provide options for equal opportunities
 178 for students to obtain a high-quality education.

179 (4) The academic performance of all students has a
 180 significant effect on the education accountability of the state
 181 school system. Pursuant to Art. IX of the State Constitution,
 182 which prescribes the duty of the State Board of Education to
 183 supervise Florida's public school system, the State Board of
 184 Education shall equitably enforce the accountability
 185 requirements of the state school system and may impose state
 186 requirements on school districts in order to improve the
 187 academic performance of all districts, schools, and students
 188 based upon the provisions in ss. 1008.34, 1008.345, and 1008.385
 189 and the education accountability requirements of the federal
 190 Elementary and Secondary Education Act, 20 U.S.C. ss. 6301 et
 191 seq., and its implementing regulations.

192 (a) For the purpose of determining whether a public school
 193 requires action to achieve a sufficient level of school
 194 improvement, the Department of Education shall annually
 195 categorize a public school in one of six categories based on the

196 school's grade, pursuant to the education accountability
 197 requirements of the state school grading system under s.
 198 1008.34, and the level and rate of change in student performance
 199 in the areas of reading and mathematics, disaggregated into
 200 student subgroups according to the education accountability
 201 requirements for meeting adequate yearly progress under federal
 202 law. Student subgroups as set forth in the education
 203 accountability requirements of the federal Elementary and
 204 Secondary Education Act, 20 U.S.C. s. 6311(b)(2)(C)(v)(II),
 205 include economically disadvantaged students, students from major
 206 racial and ethnic groups, students with disabilities, and
 207 students with limited English proficiency.

208 (b) Schools in need of improvement must be targeted with
 209 appropriate intervention and support strategies that address
 210 student performance, including, but not limited to, improvement
 211 planning, leadership quality improvement, educator quality
 212 improvement, professional development, curriculum alignment and
 213 pacing, and use of continuous improvement and monitoring plans
 214 and processes. The State Board of Education may prescribe
 215 reporting requirements to review and monitor the progress of the
 216 schools.

217 (5) The Department of Education shall create a matrix that
 218 reflects which intervention and support strategies may be
 219 applied to address the particular needs of schools in each
 220 category.

221 (a) Intervention and support strategies shall be applied
 222 to schools based upon the school categorization. The most

223 intense intervention and support strategies shall be applied to
 224 schools in the lowest performing category.

225 (b) For a school identified in the category of lowest
 226 performing schools, the school district must select one of the
 227 following options and submit a plan to the State Board of
 228 Education for implementing the option by the beginning of the
 229 second year after such identification, unless the school
 230 advances to a higher category pursuant to subsection (6) before
 231 such time:

232 1. Convert the school to a district-managed turnaround
 233 school by means that include implementation of a turnaround plan
 234 approved by the Commissioner of Education that becomes the
 235 school's improvement plan;

236 2. Reassign students to another school and monitor the
 237 progress of each reassigned student;

238 3. Close the school and authorize a sponsor to reopen the
 239 school as a charter school or multiple charter schools; or

240 4. Contract with an outside entity to operate the school.

241
 242 Implementation of the option requires State Board of Education
 243 approval. Once implemented, continuation of the option shall be
 244 based on the school moving from the lowest performing category
 245 or on approval by the State Board of Education upon finding that
 246 it is likely that the school will move from the lowest
 247 performing category if provided additional time to implement
 248 intervention and support strategies.

249 (6) In order to advance to a higher category, a school
 250 must make significant progress by improving its school grade and

251 by increasing student performance in mathematics and reading.
 252 Student performance must be evaluated for each student subgroup
 253 as set forth in subsection (4).

254 (7)(a) The State Board of Education may impose a public
 255 reprimand upon a school district if a school within the district
 256 deviates from or fails to implement any of the provisions of its
 257 school improvement plan or this section.

258 (b) If the deviation or failure is repeated, continuous,
 259 or serious, the State Board of Education may withhold the
 260 transfer of state funds generated by the students assigned to
 261 the school and allowable federal funds.

262 (8) Beginning July 1, 2009, the Department of Education
 263 shall commence its duties under this section.

264 (9) By July 1, 2010, the State Board of Education shall
 265 adopt rules pursuant to ss. 120.536(1) and 120.54 for
 266 implementation of this section.

267 Section 4. Paragraph (b) of subsection (3) of section
 268 1008.34, Florida Statutes, is amended to read:

269 1008.34 School grading system; school report cards;
 270 district grade.--

271 (3) DESIGNATION OF SCHOOL GRADES.--

272 (b)1. A school's grade shall be based on a combination of:

273 a. Student achievement scores, including achievement
 274 scores for students seeking a special diploma. Performance of
 275 disaggregated student subgroups shall be included by the 2010-
 276 2011 school year.

277 b. Student learning gains as measured by annual FCAT
 278 assessments in grades 3 through 10; learning gains for students

279 seeking a special diploma, as measured by an alternate
 280 assessment tool, shall be included not later than the 2009-2010
 281 school year.

282 c. Improvement of the lowest 25th percentile of students
 283 in the school in reading, mathematics, or writing on the FCAT,
 284 unless these students are exhibiting satisfactory performance.

285 2. Beginning with the 2009-2010 school year for schools
 286 comprised of high school grades 9, 10, 11, and 12, or grades 10,
 287 11, and 12, 50 percent of the school grade shall be based on a
 288 combination of the factors listed in sub-subparagraphs 1.a.-c.
 289 and the remaining 50 percent on the following factors:

290 a. The high school graduation rate of the school;

291 b. As valid data becomes available, the performance and
 292 participation of the school's students in College Board Advanced
 293 Placement courses, International Baccalaureate courses, dual
 294 enrollment courses, and Advanced International Certificate of
 295 Education courses; and the students' achievement of industry
 296 certification, as determined by the Agency for Workforce
 297 Innovation under s. 1003.492(2) in a career and professional
 298 academy, as described in s. 1003.493;

299 c. Postsecondary readiness of the school's students as
 300 measured by the SAT, ACT, or the common placement test;

301 d. The high school graduation rate of at-risk students who
 302 scored at Level 2 or lower on the grade 8 FCAT Reading and
 303 Mathematics examinations;

304 e. As valid data becomes available, the performance of the
 305 school's students on statewide standardized end-of-course
 306 assessments administered under s. 1008.22; and

307 f. The growth or decline in the components listed in sub-
 308 subparagraphs a.-e. from year to year.

309 Section 5. Subsection (5) and paragraphs (b) and (d) of
 310 subsection (6) of section 1008.345, Florida Statutes, are
 311 amended to read:

312 1008.345 Implementation of state system of school
 313 improvement and education accountability.--

314 (5) The commissioner shall report to the Legislature and
 315 recommend changes in state policy necessary to foster school
 316 improvement and education accountability. Included in the report
 317 shall be a list of the schools, including schools operating for
 318 the purpose of providing educational services to youth in
 319 Department of Juvenile Justice programs, for which district
 320 school boards have developed school improvement ~~assistance and~~
 321 ~~intervention~~ plans and an analysis of the various strategies
 322 used by the school boards. School reports shall be distributed
 323 pursuant to this subsection and s. 1001.42 (18) (b) ~~(16) (e)~~ and
 324 according to rules adopted by the State Board of Education.

325 (6)

326 (b) Upon request, the department shall provide technical
 327 assistance and training to any school, including any school
 328 operating for the purpose of providing educational services to
 329 youth in Department of Juvenile Justice programs, school
 330 advisory council, district, or district school board for
 331 conducting needs assessments, developing and implementing school
 332 improvement plans, ~~developing and implementing assistance and~~
 333 ~~intervention plans,~~ or implementing other components of school
 334 improvement and accountability. Priority for these services

335 shall be given to schools designated with a grade of "D" or "F"
 336 and school districts in rural and sparsely populated areas of
 337 the state.

338 (d) The commissioner shall assign a community assessment
 339 team to each school district or governing board with a school
 340 graded "F" to review the school performance data and determine
 341 causes for the low performance, including the role of school,
 342 area, and district administrative personnel. The community
 343 assessment team shall review a high school's graduation rate
 344 calculated without GED tests for the past 3 years, disaggregated
 345 by student ethnicity. The team shall make recommendations to the
 346 school board or the governing board, to the commissioner
 347 department, and to the State Board of Education ~~for implementing~~
 348 ~~an assistance and intervention plan~~ that will address the causes
 349 of the school's low performance and may be incorporated into the
 350 school's improvement plan. The assessment team shall include,
 351 but not be limited to, a department representative, parents,
 352 business representatives, educators, representatives of local
 353 governments, and community activists, and shall represent the
 354 demographics of the community from which they are appointed.

355 Section 6. Subsections (1) and (2) of section 1012.2315,
 356 Florida Statutes, are amended to read:

357 1012.2315 Assignment of teachers.--

358 (1) LEGISLATIVE FINDINGS AND INTENT.--The Legislature
 359 finds disparities between teachers assigned to teach in a
 360 majority of schools that do not need improvement and schools
 361 that do need improvement pursuant to s. 1008.33 "A" graded
 362 ~~schools and teachers assigned to teach in a majority of "F"~~

363 ~~graded schools.~~ The disparities may ~~can~~ be found in the
 364 assignment of temporarily certified teachers, teachers in need
 365 of improvement, and out-of-field teachers and in average years
 366 ~~of experience, the median salary, and the performance of the~~
 367 students of a teacher ~~teachers on teacher certification~~
 368 ~~examinations.~~ It is the intent of the Legislature that district
 369 school boards have flexibility through the collective bargaining
 370 process to assign teachers more equitably across the schools in
 371 the district.

372 (2) ASSIGNMENT TO SCHOOLS CATEGORIZED AS IN NEED OF
 373 IMPROVEMENT. GRADED "D" OR "F."--School districts may not assign
 374 a higher percentage than the school district average of ~~first-~~
 375 ~~time teachers,~~ temporarily certified teachers, teachers in need
 376 of improvement, or out-of-field teachers to schools categorized
 377 as needing improvement pursuant to s. 1008.33. ~~with above the~~
 378 ~~school district average of minority and economically~~
 379 ~~disadvantaged students or schools that are graded "D" or "F."~~
 380 Each school district shall annually certify to the Commissioner
 381 of Education that this requirement has been met. If the
 382 commissioner determines that a school district is not in
 383 compliance with this subsection, the State Board of Education
 384 shall be notified and shall take action pursuant to s. 1008.32
 385 in the next regularly scheduled meeting to require compliance.

386 Section 7. Paragraph (p) of subsection (9) of section
 387 1002.33, Florida Statutes, is amended to read:

388 1002.33 Charter schools.--

389 (9) CHARTER SCHOOL REQUIREMENTS.--

390 (p) Upon notification that a charter school receives a
 391 school grade of "D" for 2 consecutive years or a school grade of
 392 "F" under s. 1008.34(2), the charter school sponsor or the
 393 sponsor's staff shall require the director and a representative
 394 of the governing body to submit to the sponsor for approval a
 395 school improvement plan to raise student achievement and to
 396 implement the plan. The sponsor has the authority to approve a
 397 school improvement plan that the charter school will implement
 398 in the following school year. ~~The sponsor may also consider the~~
 399 ~~State Board of Education's recommended action pursuant to s.~~
 400 ~~1008.33(1) as part of the school improvement plan.~~ The
 401 Department of Education shall offer technical assistance and
 402 training to the charter school and its governing body and
 403 establish guidelines for developing, submitting, and approving
 404 such plans.

405 1. If the charter school fails to improve its student
 406 performance from the year immediately prior to the
 407 implementation of the school improvement plan, the sponsor shall
 408 place the charter school on probation and shall require the
 409 charter school governing body to take one of the following
 410 corrective actions:

411 a. Contract for the educational services of the charter
 412 school;

413 b. Reorganize the school at the end of the school year
 414 under a new director or principal who is authorized to hire new
 415 staff and implement a plan that addresses the causes of
 416 inadequate progress; or

417 c. Reconstitute the charter school.

PCS for HB 991

ORIGINAL

2009

418 2. A charter school that is placed on probation shall
419 continue the corrective actions required under subparagraph 1.
420 until the charter school improves its student performance from
421 the year prior to the implementation of the school improvement
422 plan.

423 3. Notwithstanding any provision of this paragraph, the
424 sponsor may terminate the charter at any time pursuant to the
425 provisions of subsection (8).

426 Section 8. This act shall take effect July 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB PT 09-01 Student Achievement
SPONSOR(S): PreK-12 Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee		Brock <i>YEB</i>	Ahearn <i>JA</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The proposed committee bill contains several provisions related to student achievement and amends Florida law to:

- Clarify the definition of a secondary school and repeal the Secondary School Improvement Award program.
- Offer an exemption from the required intensive reading course for certain middle grade students scoring Level 1 or 2 on FCAT Reading.
- Provide that students who have scored at Level 1 or 2 on the grade 10 FCAT Reading, but not below Level 3 on FCAT Reading in the prior year, may be exempt from remediation if the student demonstrates acceptable performance on an alternative standardized reading assessment. If the student passes the FCAT Reading assessment, which is in the Level 2 range, the student is exempt from mandatory remediation.
- Provide that students who have earned a passing score on the grade 10 FCAT Mathematics or achieved a score on a standardized test which is concordant with a passing score on the grade 10 FCAT Mathematics are exempt from remediation.
- Raise the mathematics requirements for students entering ninth grade in 2009-10 who choose the accelerated graduation option of a 3-year college preparatory program to match the regular 4-year, 24-credit regular graduation program option.
- Prevent eighth grade out-of-state and out-of country transfer students from having to spend additional time in middle school.
- Reduce from 3 years to 1 year the period of time that a school district can be designated an "Academically High-Performing School District."
- Clarify and update the circumstances under which concordant scores are used for passing the grade 10 FCAT by specifying that concordant scores earned prior to taking the grade 10 FCAT are not eligible for use in fulfilling the student assessment requirement and by removing language requiring failing the grade 10 FCAT three times prior to using concordant scores.
- Change the date from November 1 to February 1 of each year for school staff and the school advisory council to reach an agreement on how school recognition funds will be distributed.

The proposed committee bill does not appear to create a fiscal impact on state or local governments. The Department of Education estimates no fiscal impact.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Improvement

Florida Secondary School Redesign Act

Current Law

The Florida Secondary School Redesign Act was enacted in 2006 and requires the Commissioner of Education to create and implement a Secondary School Improvement Award Program to reward public secondary schools for student gains and achievement in reading and math. The Department of Education (DOE) has never implemented this program.¹

Effect of Proposed Changes

The proposed committee bill defines "secondary school" as a school that serves students in grades 6 through 12 and specifically excludes an elementary school serving students only through grade 6. The DOE indicates that it is important that the level of school must be defined since there are legislative requirements that are specific to a level of school. The Secondary School Improvement Award Program to reward public secondary schools for student gains and achievement in reading and math is repealed. The DOE indicates that it has not implemented this program since its creation in 2006 because there was no funding.²

Academically High-Performing School Districts

Current Law

School districts that demonstrate the ability to consistently maintain or improve their high-performing status are eligible to be designated as "Academically High-Performing School Districts" by the State Board of Education (SBE).³ The districts receive flexibility and exemption from various statutory requirements in the School Code (chapters 1000-1013, F.S.) and rules of the SBE. To receive this designation, school districts must meet the following criteria:

¹ "There is no supporting evidence a Secondary School Improvement Award Program is currently up and running." Department of Education Bill Analysis on Senate Bill 2482, March 2, 2009, at 5.

² Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 1.

³ Section 1003.621, F.S.

- Earn a grade of "A" for two consecutive years and have no district-operated schools that earn a grade of "F";
- Comply with all class size requirements; and
- Have no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted.⁴

The academically high-performing school district retains the designation as a high-performing school district for three years, at the end of which time the district may renew the designation if the district meets statutory requirements. In order to maintain the designation as an academically high-performing school district, a school district must meet the following requirements:

- Continue to comply with all class size requirements and have no material weaknesses or instances of material noncompliance noted in the annual financial audit; and
- Earn a grade of "A" for 2 years within a 3-year period. A district in which a district operated school earns a grade of "F" during the three-year period may not continue to be designated as an academically high-performing school district.⁵

The academically high-performing school district must submit a report to the SBE on December 1 of each year that includes longitudinal performance data and a description of the waiver received concerning statutes and SBE rules.⁶

On April 15, 2008, the following 11 school districts were designated as high-performing school districts by the SBE: Brevard, Calhoun, Charlotte, Gilchrist, Martin, Nassau, St. Johns, Sarasota, Seminole, Wakulla, and Walton.⁷ On March 17, 2009, the following 14 school districts were designated as 2008-2009 academically high-performing school districts by the SBE: Alachua, Calhoun, Charlotte, Citrus, Clay, Gilchrist, Leon, Martin, Nassau, Okaloosa, St. Johns, Seminole, Wakulla, and Walton.⁸

Effect of Proposed Changes

The proposed committee bill changes the SBE designation of academically high-performing school districts from a three-year designation to an annual designation and requires the designation to be made at the next SBE meeting occurring on or after February 1 of each year. The designation is effective beginning the following school year. The proposed committee bill also includes a requirement for a report that includes a description of each statute and rule that the district did not comply with and the exemption's effect on the district's ability to maintain or improve its high-performing status.⁹

Remediation in Reading and Mathematics

Current Law

Students scoring below proficiency in reading and mathematics on the FCAT must receive remedial instruction, as follows:

- A student identified to have a substantial deficiency in reading through local or statewide assessments in any grade from kindergarten through grade 3, or through teacher observations, must be given intensive reading instruction until the deficiency is remedied.¹⁰
- A middle school student (grades 6-8) or high school student (grades 9-11) must:¹¹

⁴ Section 1003.621(1)(a), F.S.

⁵ Section 1003.621(1)(d), F.S.

⁶ Section 1003.621(4)(f), F.S.

⁷ "Designation of Academically High Performing School Districts," State Board of Education Agenda Item, April 15, 2008.

⁸ "Designation of Academically High Performing School Districts," State Board of Education Agenda Item, March 17, 2009.

⁹ *Id.*, at 2.

¹⁰ Section 1008.25(5)(a), F.S.; Rule 6A-6.054, F.A.C.

¹¹ These requirements apply to middle school students entering grade 6 in the 2006-2007 school year and high school students entering the first year of high school in the 2007-2008 school year. Sections 1003.4156(1) & 1003.428(1), F.S.

- ◆ If the student scores at Level 1 on FCAT Reading, complete an intensive reading course the following year.¹² If the student scores at Level 2, the student must be placed in either an intensive reading course or a content-area course in which reading strategies are determined by diagnosis of reading needs.¹³
- ◆ If the student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation, which may be integrated into other mathematics courses.¹⁴

A student in grades 3-10 who scores below Level 3 on FCAT Reading or FCAT Mathematics must be administered additional diagnostic assessments to determine the nature of the student's difficulty, the areas of academic need, and strategies for appropriate intervention and instruction.¹⁵ The student's school, in consultation with the student's parents, must implement one of the following progress monitoring plans:

- A federally required student plan, such as an individual education plan;
- A school-wide system of progress monitoring for all students; or
- An individualized progress monitoring plan.¹⁶

Effect of Proposed Changes

The proposed committee bill offers an exemption from the required intensive reading course for certain middle grade and high school students scoring Level 1 or Level 2 on FCAT Reading. A middle grade student who scores at Level 1 or Level 2 on FCAT Reading, but who did not score below Level 3 on FCAT Reading in the prior school year, may be exempt from the remediation requirement, if the student demonstrates acceptable performance on an alternative standardized reading assessment approved by the SBE.

A high school student who scores at Level 1 or Level 2 on FCAT Reading, but who did not score below level 3 on FCAT Reading in the prior school year, may be exempt from the remediation requirement if the student demonstrates acceptable performance on an alternative standardized reading assessment approved by the SBE. Also, the proposed committee bill exempts students who pass FCAT Reading from remediation requirements. Currently, a passing score is in the Level 2 range (upper Level 2).

Students who have earned a passing score on the grade 10 FCAT Mathematics or achieved a score on a standardized test which is concordant with a passing score on the grade 10 FCAT mathematics are exempt from remediation. Currently, a passing score is in the Level 2 range (upper Level 2). The proposed committee bill exempts those Level 2 performers from remediation.

The DOE indicates that the reason for the statutory change is that "the provision for middle and high school students to take an alternative standardized assessment if they score below grade level on FCAT reading and did not score below grade level the previous year is a way to ensure that the student was not simply 'having a bad day.' Without this provision, these students **must** be placed in an intensive reading class (Students at Level 1 or 2) or a content area intervention (Students at Level 2)."¹⁷

¹² Sections 1003.4156(1)(b) & (2) & 1003.428(2)(b)2.c., F.S.

¹³ *Id.*

¹⁴ Sections 1003.4156(1)(c) & 1003.428(2)(b)2.d., F.S.

¹⁵ Section 1008.25(4)(a), F.S.

¹⁶ Section 1008.25(4)(b), F.S.

¹⁷ Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 1. Further, DOE states: "While no empirical data has been collected, it is safe to say that hundreds of calls, letters and e-mails from parents and students come in each year to the Department. The stories range from a potential valedictorian who came to school (at her school's urging) with a fever of 102 degrees (and scored at level 2) to a student whose pet or family member died during FCAT week. There are many extenuating circumstances that occur in the lives of our children, and this provision gives them a second chance to demonstrate that they can read on grade level before being placed in a reading intervention class. If the alternative assessment corroborates the low FCAT score, then at least the child had a chance to prove otherwise."

Accelerated High School Graduation

Current Law

Students must earn credits in required high school courses to graduate from high school. There are three options for high school graduation: a traditional 24-credit/4-year option, an accelerated 18-credit/3-year College Preparatory Program option, and an accelerated 18-credit/3-year Career Preparatory Program option. Students must also pass the grade 10 FCAT in reading and mathematics or attain a concordant score on either the SAT or the ACT tests.¹⁸

Students selecting an accelerated 18-credit/3-year Career Preparatory Program must complete three credits at the Algebra I level or higher that qualify for state university admission and three credits in electives.¹⁹

Effect of Proposed Changes

Beginning with students who enter grade 9 in the 2009-2010 school year, the proposed committee bill requires students selecting the accelerated college preparatory graduation option to meet increased mathematics requirements. The proposed committee bill increases the required mathematics credits from 3 to 4 and reduces electives from 3 to 2 credits. Increasing the mathematics requirement aligns the accelerated graduation requirement with the regular 24-credit core graduation requirement.²⁰

Middle Grades Transfer Students

Current Law

Provision is made for a *high school* transfer student to avoid spending additional time in school fulfilling high school course requirements.²¹ There is *not* a similar provision for transferring middle school students. However, there is a SBE rule that establishes uniform procedures relating to the acceptance of transfer work and courses for students entering Florida's public schools composed of middle grades 6, 7, and 8 from out of state or out of country. Student performance is validated through official transcripts, successful completion of courses during the first grading period at the receiving school, or through an alternative validation procedure that includes: 1) portfolio validation; 2) demonstrated performance in courses taken at other public and private accredited schools; 3) demonstrated proficiencies on nationally-normed standardized subject area assessments; 4) demonstrated proficiencies on the FCAT; or 5) written review of the criteria utilized for a given subject provided by the former school. Students are given at least 90 days from the transfer date to prepare for the assessments.²²

Effect of Proposed Changes

The proposed committee bill provides that students who enter a public middle school at the eighth grade level from out of state or from a foreign country shall not be required to spend additional time in a Florida public school in order to meet the middle grades promotion requirements if the student has met all of the requirements of the school district, state, or country from which he or she is transferring. The DOE states that since this is the first year that eighth grade students must fulfill promotion requirements, many districts have inquired as to whether they should promote eighth grade students who are on grade level but who transfer in from out of state without meeting state requirements.²³

¹⁸ Sections 1003.428, 1003.429, & 1003.43., F.S.

¹⁹ Section 1003.429(1)(b)2. & 6., F.S.

²⁰ *Id.*

²¹ Section 1003.433, F.S.; *see also* Rule 6A-1.09941, F.A.C., "State Uniform Transfer of High School Credits." Current middle grade promotion requirements include the following credits in 5 areas: 3 in English; 3 in Mathematics; 3 in Social Sciences; 3 in Sciences; and 1 in Career & Education Planning.

²² Rule 6A-1.09942, F.A.C., "State Uniform Transfer of Students in the Middle Grades."

²³ Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 2.

The proposed committee bill also requires middle grades transfer students who are not proficient in English to receive immediate and intensive instruction in English language acquisition.²⁴

Student Assessment – Concordant Scores

Current Law

The Florida Comprehensive Assessment Test (FCAT) measures student achievement in grades 3 through 11 using benchmarks from the *Sunshine State Standards*.²⁵ The FCAT consists of criterion-referenced tests in reading, writing, mathematics, and science.²⁶ Grade 10 FCAT Reading and Mathematics must be passed in order to graduate from high school. A student generally has five opportunities to pass the grade 10 FCAT before graduation.²⁷

Concordant scores for the FCAT are scores on the SAT or ACT standardized assessments usually used as college entrance exams. The FCAT concordant scores are as follows.²⁸

- FCAT Reading—SAT 410, ACT 15
- FCAT Mathematics—SAT 370, ACT 15

The use of concordant scores as a means of meeting high school graduation requirements is demonstrated in the following table.²⁹

Academic Year	Number of Standard High School Diploma Graduates Using a Concordant Score (SAT/ACT)
2005-2006	1,780
2006-2007	4,275
2007-2008	7,110

Current law does not address whether students who take the SAT or ACT tests and achieve a concordant score *prior* to taking the grade 10 FCAT should be allowed to use that score to satisfy graduation requirements.

A student is required to take the grade 10 FCAT three times without earning a passing score in order to use a concordant score on the SAT or ACT tests to satisfy the high school graduation requirement.³⁰

Effect of Proposed Changes

The proposed committee bill addresses concordant scores by:

²⁴ *Id.* The DOE indicates that this is to clarify that this provision is not misinterpreted to mean English Language Learner (ELL) students (since these students generally transfer in from out of state and out of country) are not required to be provided English for Speakers of Other Language (ESOL) services.

²⁵ Section 1008.22(3), F.S.

²⁶ Section 1008.22(3)(c)2., F.S. A criterion-referenced test (CRT) is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. CRTs show how well students performed on specific goals or standards rather than just telling how their performance compares to a norm group of students nationally or locally. The FCAT is based on the *Sunshine State Standards* and measures student progress toward meeting these standards. Florida Department of Education, *FCAT Handbook: A Resource for Educators*, 5 (2005), available at <http://fcats.fdoe.org/handbk/complete.pdf>.

²⁷ Sections 1003.428(4)(b), 1003.429(6)(a), 1003.43(5)(a) & 1008.22(3)(c)5. & (10), F.S.; Rule 6A-1.09422(7), F.A.C.; Florida Department of Education, *FCAT Graduation Requirements* (January 2009), available at <http://fcats.fdoe.org/pdf/fcatpass.pdf>, at 1.

²⁸ Correspondence with the Department of Education, March 20, 2009. The DOE indicates that this is data is reported on the "Florida Public High School Graduates" Reports at <http://www.fdoe.org/eias/eiaspubs/default.asp#student>.

²⁹ *Id.*

³⁰ Section 1008.22(10)(b), F.S.

- Removing the requirement that a student must take the grade 10 FCAT a total of three times without earning a passing score before concordant scores are used to satisfy the assessment requirement for a standard high school diploma. The DOE maintains that the requirement to take and fail the FCAT three times prior to using a concordant score is difficult for students transferring into the Florida school system toward the end of grade 11 and in grade 12. The FCAT summer retakes were eliminated due to budget cuts, making it more difficult to retake the test.³¹
- Clarifying that concordant scores earned prior to taking the grade 10 FCAT are not eligible for use in fulfilling the student assessment requirement in order to obtain a standard high school diploma. The DOE states that the purpose of this requirement is to maintain the integrity of each student's first attempt on the grade 10 FCAT. If a student has a concordant SAT/ACT score prior to taking the grade 10 FCAT, the student's motivation to pass the assessment will be diminished.³²
- Providing that a student who has not earned a passing score on the grade 10 assessment must participate in each retake of the assessment until the student earns a passing score on a concordant assessment.

Florida School Recognition Program

Current Law

The Florida School Recognition Program is a performance incentive program with criteria for outstanding faculty and staff in highly productive schools. Selected schools receive financial awards depending on the availability of funds appropriated and the number and size of schools selected to receive an award. Funds must be distributed as determined jointly by the school's staff and school advisory council. If school staff and the school advisory council cannot reach agreement by November 1, the awards must be equally distributed to all classroom teachers currently teaching in the school.³³

Effect of Proposed Changes

The proposed committee bill changes the date from November 1 to February 1 of each year for school staff and the school advisory council to reach an agreement on how school recognition funds will be distributed. This gives school advisory councils an additional three months to determine how to distribute award funds.³⁴

B. SECTION DIRECTORY:

Section 1. Amends section 1003.413, F.S., defining a "secondary school" and specifically excluding an elementary school serving students only through grade 6 and deleting subsection (5) requiring the Commissioner of Education to create and implement a Secondary School Improvement Award Program.

Section 2. Amends section 1003.4156 F.S., renaming the "CHOICES for the 21st Century" program to the "Florida CHOICES" program and offering an exemption from required intensive reading course for certain middle grade students scoring Level 1 or 2 on FCAT Reading.

Section 3. Amends section 1003.428, F.S., offering an exemption from required intensive reading course for certain high school students scoring Level 1 or 2 on FCAT Reading and providing an exemption for certain high school students who earn a passing score on the grade 10 FCAT Mathematics exam or achieve a concordant passing score on a standardized test.

³¹ Correspondence with the Department of Education concerning Senate Bill 2482, March 15, 2009, at 1.

³² *Id.*

³³ Section 1008.36, F.S.

³⁴ Department of Education Bill Analysis on Senate Bill 2482, March 2, 2009, at 5.

Section 4. Amends section 1003.429, F.S., increasing the mathematics requirement for the accelerated high school college preparatory program, from 3 to 4 credits and reducing from 3 to 2 the credits required in electives, beginning with students who enter grade 9 in the 2009-2010 school year.

Section 5. Amends section 1003.433, F.S., providing that students who enter the 8th grade from out of state or from a foreign country must not be required to spend additional time meeting middle grades promotion requirements if the student has met all the requirements of the school district, state, or country from which the student is transferring and providing that students not proficient in English should receive immediate and intensive instruction in English language acquisition.

Section 6. Amends section 1003.621, F.S., reducing from 3 to 1 year the designation of academically high-performing school district by the State Board of Education and expanding reporting requirements.

Section 7. Amends section 1008.22, F.S., clarifying that concordant scores earned prior to taking the grade 10 FCAT are not eligible for use in fulfilling the student assessment requirement; clarifying that a student who has not earned a passing score on the grade 10 assessment must participate in each retake of the assessment until the student earns a passing score or achieves a passing score on a concordant assessment; and removing the requirement that a student must take the grade 10 FCAT a total of three times without earning a passing score before concordant scores are used to satisfy the assessment requirement for a standard high school diploma.

Section 8. Amends section 1008.25, F.S., changing the date of the annual student progress report from September 1 of each year to October 1 of each year and authorizing publication to occur on the district school board Internet website.

Section 9. Amends section 1008.36, F.S., changing the date from November 1 to February 1 of each year for school staff and the school advisory council to reach an agreement on how school recognition funds will be distributed.

Section 10. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The proposed committee bill does not appear to affect state government revenues.

2. Expenditures:

The proposed committee bill does not appear to affect state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The proposed committee bill does not appear to affect local government revenues.

2. Expenditures:

The proposed committee bill does not appear to affect local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

DOE indicates that there will be no additional costs to the department to implement the requirements of the proposed committee bill.³⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The proposed committee substitute does not appear to require a city or county to expend funds or to take any action requiring expenditures; reduce the authority that municipalities or counties had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

There is no new rulemaking authority but the State Board of Education may adopt rules under the existing statute.³⁶

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A.

³⁵ Correspondence with the Department of Education on PCB-PT-09-01, March 6, 2009.

³⁶ Section 1001.02(1), F.S.

PCB PT 09-01

ORIGINAL

2009

1 A bill to be entitled
2 An act relating to student achievement; amending s.
3 1003.413, F.S.; redefining the term "secondary school" to
4 no longer include an elementary school serving students
5 through grade 6 only; deleting the requirement that the
6 Commissioner of Education create and implement the
7 Secondary School Improvement Award Program; amending s.
8 1003.4156, F.S.; revising provisions relating to the
9 general requirements for middle grades promotion;
10 providing an exception; amending s. 1003.428, F.S.;
11 revising provisions relating to the general requirements
12 for high school graduation; providing exceptions; amending
13 s. 1003.429, F.S.; updating references to general
14 requirements for high school graduation; revising the
15 credits for certain courses required under the 3-year
16 standard college preparatory program which apply to
17 students who enter grade 9 in the 2009-2010 school year;
18 amending s. 1003.433, F.S.; providing that a student who
19 enters middle school at the eighth grade from out of state
20 or from a foreign country is not required to spend
21 additional time in school to meet the requirements for
22 middle grades promotion under certain circumstances;
23 amending s. 1003.621, F.S.; requiring that the State Board
24 of Education annually designate districts as academically
25 high-performing schools districts if certain criteria are
26 met; revising the information that an academically high-
27 performing school district must include in its annual
28 report to the State Board of Education and the

PCB PT 09-01

ORIGINAL

2009

29 Legislature; amending s. 1008.22, F.S.; providing that
 30 concordant scores earned before taking the grade 10 FCAT
 31 may not be used to qualify for a standard high school
 32 diploma; providing requirements for retake of the
 33 assessment for a student who has not earned passing scores
 34 on the grade 10 FCAT; deleting provisions relating to
 35 concordant scores for the FCAT; amending s. 1008.25, F.S.;
 36 revising annual district school board reporting
 37 requirements relating to student progress; amending s.
 38 1008.36, F.S.; revising the date for agreement for
 39 distribution of Florida School Recognition Program awards;
 40 providing an effective date.

41
 42 Be It Enacted by the Legislature of the State of Florida:

43
 44 Section 1. Subsections (1) and (5) of section 1003.413,
 45 Florida Statutes, are amended to read:

46 1003.413 Florida Secondary School Redesign Act.--

47 (1) For purposes of this section, the term "secondary
 48 school" means a school that serves ~~Secondary schools are schools~~
 49 ~~that primarily serve~~ students in grades 6 through 12. A
 50 secondary school does not include an elementary school serving
 51 students only through grade 6. It is the intent of the
 52 Legislature to provide for secondary school redesign so that
 53 students promoted from the 8th grade have the necessary academic
 54 skills for success in high school and students graduating from
 55 high school have the necessary skills for success in the
 56 workplace and postsecondary education.

PCB PT 09-01

ORIGINAL

2009

57 ~~(5) The Commissioner of Education shall create and~~
 58 ~~implement the Secondary School Improvement Award Program to~~
 59 ~~reward public secondary schools that demonstrate continuous~~
 60 ~~student academic improvement and show the greatest gains in~~
 61 ~~student academic achievement in reading and mathematics.~~

62 Section 2. Paragraphs (a) and (b) of subsection (1) of
 63 section 1003.4156, Florida Statutes, are amended to read:

64 1003.4156 General requirements for middle grades
 65 promotion.--

66 (1) Beginning with students entering grade 6 in the 2006-
 67 2007 school year, promotion from a school composed of middle
 68 grades 6, 7, and 8 requires that:

69 (a) The student must successfully complete academic
 70 courses as follows:

71 1. Three middle school or higher courses in English. These
 72 courses shall emphasize literature, composition, and technical
 73 text.

74 2. Three middle school or higher courses in mathematics.
 75 Each middle school must offer at least one high school level
 76 mathematics course for which students may earn high school
 77 credit.

78 3. Three middle school or higher courses in social
 79 studies, one semester of which must include the study of state
 80 and federal government and civics education.

81 4. Three middle school or higher courses in science.

82 5. One course in career and education planning to be
 83 completed in 7th or 8th grade. The course may be taught by any
 84 member of the instructional staff; must include career

PCB PT 09-01

ORIGINAL

2009

85 exploration using Florida CHOICES ~~for the 21st Century~~ or a
 86 comparable cost-effective program; must include educational
 87 planning using the online student advising system known as
 88 Florida Academic Counseling and Tracking for Students at the
 89 Internet website FACTS.org; and shall result in the completion
 90 of a personalized academic and career plan.

91
 92 Each school must hold a parent meeting either in the evening or
 93 on a weekend to inform parents about the course curriculum and
 94 activities. Each student shall complete an electronic personal
 95 education plan that must be signed by the student; the student's
 96 instructor, guidance counselor, or academic advisor; and the
 97 student's parent. ~~By January 1, 2007,~~ The Department of
 98 Education shall develop course frameworks and professional
 99 development materials for the career exploration and education
 100 planning course. The course may be implemented as a stand-alone
 101 course or integrated into another course or courses. The
 102 Commissioner of Education shall collect longitudinal high school
 103 course enrollment data by student ethnicity in order to analyze
 104 course-taking patterns.

105 (b) For each year in which a student scores at Level 1 on
 106 FCAT Reading, the student must be enrolled in and complete an
 107 intensive reading course the following year. Placement of Level
 108 2 readers in either an intensive reading course or a content
 109 area course in which reading strategies are delivered shall be
 110 determined by diagnosis of reading needs. The department shall
 111 provide guidance on appropriate strategies for diagnosing and
 112 meeting the varying instructional needs of students reading

PCB PT 09-01

ORIGINAL

2009

113 below grade level. Reading courses shall be designed and offered
 114 pursuant to the comprehensive reading plan required by s.
 115 1011.62(9). A student who scores at Level 1 or Level 2 on FCAT
 116 Reading, but who did not score below Level 3 on FCAT Reading in
 117 the prior school year, may be exempt from the requirement in
 118 this paragraph if the student demonstrates acceptable
 119 performance on an alternative standardized reading assessment
 120 approved by the State Board of Education.

121 Section 3. Paragraph (b) of subsection (2) of section
 122 1003.428, Florida Statutes, is amended to read:

123 1003.428 General requirements for high school graduation;
 124 revised.--

125 (2) The 24 credits may be earned through applied,
 126 integrated, and combined courses approved by the Department of
 127 Education and shall be distributed as follows:

128 (b) Eight credits in majors, minors, or electives:

129 1. Four credits in a major area of interest, such as
 130 sequential courses in a career and technical program, fine and
 131 performing arts, or academic content area, selected by the
 132 student as part of the education plan required by s. 1003.4156.
 133 Students may revise major areas of interest each year as part of
 134 annual course registration processes and should update their
 135 education plan to reflect such revisions. Annually by October 1,
 136 the district school board shall approve major areas of interest
 137 and submit the list of majors to the Commissioner of Education
 138 for approval. Each major area of interest shall be deemed
 139 approved unless specifically rejected by the commissioner within
 140 60 days. Upon approval, each district's major areas of interest

PCB PT 09-01

ORIGINAL

2009

141 shall be available for use by all school districts and shall be
 142 posted on the department's website.

143 2. Four credits in elective courses selected by the
 144 student as part of the education plan required by s. 1003.4156.
 145 These credits may be combined to allow for a second major area
 146 of interest pursuant to subparagraph 1., a minor area of
 147 interest, elective courses, or intensive reading or mathematics
 148 intervention courses as described in this subparagraph.

149 a. Minor areas of interest are composed of three credits
 150 selected by the student as part of the education plan required
 151 by s. 1003.4156 and approved by the district school board.

152 b. Elective courses are selected by the student in order
 153 to pursue a complete education program as described in s.
 154 1001.41(3) and to meet eligibility requirements for
 155 scholarships.

156 c. For each year in which a student scores at Level 1 on
 157 FCAT Reading, the student must be enrolled in and complete an
 158 intensive reading course the following year. Placement of Level
 159 2 readers in either an intensive reading course or a content
 160 area course in which reading strategies are delivered shall be
 161 determined by diagnosis of reading needs. The department shall
 162 provide guidance on appropriate strategies for diagnosing and
 163 meeting the varying instructional needs of students reading
 164 below grade level. Reading courses shall be designed and offered
 165 pursuant to the comprehensive reading plan required by s.
 166 1011.62(9). A student who scores at Level 1 or Level 2 on FCAT
 167 Reading, but who did not score below Level 3 on FCAT Reading in
 168 the prior school year, may be exempt from the requirement in

PCB PT 09-01

ORIGINAL

2009

169 this sub-subparagraph if the student demonstrates acceptable
 170 performance on an alternative standardized reading assessment
 171 approved by the State Board of Education. The requirements in
 172 this sub-subparagraph do not apply to a student who has earned a
 173 passing score on grade 10 FCAT Reading pursuant to s.
 174 1008.22(3)(c) or who has achieved a score on a standardized test
 175 which is concordant with a passing score on grade 10 FCAT
 176 Reading pursuant to s. 1008.22(10).

177 d. For each year in which a student scores at Level 1 or
 178 Level 2 on FCAT Mathematics, the student must receive
 179 remediation the following year. These courses may be taught
 180 through applied, integrated, or combined courses and are subject
 181 to approval by the department for inclusion in the Course Code
 182 Directory. The requirements of this sub-subparagraph do not
 183 apply to a student who has earned a passing score on grade 10
 184 FCAT Mathematics pursuant to s. 1008.22(3)(c) or who has
 185 achieved a score on a standardized test which is concordant with
 186 a passing score on grade 10 FCAT Mathematics pursuant to s.
 187 1008.22(10).

188 Section 4. Subsection (1), paragraph (c) of subsection
 189 (7), and subsection (8) of section 1003.429, Florida Statutes,
 190 are amended to read:

191 1003.429 Accelerated high school graduation options.--

192 (1) Students who enter grade 9 in the 2006-2007 school
 193 year and thereafter may select, upon receipt of each consent
 194 required by this section, one of the following three high school
 195 graduation options:

196 (a) Completion of the general requirements for high school

PCB PT 09-01

ORIGINAL

2009

197 graduation pursuant to s. 1003.428 or s. 1003.43, as applicable;

198 (b) Completion of a 3-year standard college preparatory
 199 program requiring successful completion of a minimum of 18
 200 academic credits in grades 9 through 12. At least 6 of the 18
 201 credits required for completion of this program must be received
 202 in classes that are offered pursuant to the International
 203 Baccalaureate Program, the Advanced Placement Program, dual
 204 enrollment, Advanced International Certificate of Education, or
 205 specifically listed or identified by the Department of Education
 206 as rigorous pursuant to s. 1009.531(3). The 18 credits required
 207 for completion of this program shall be primary requirements and
 208 shall be distributed as follows:

209 1. Four credits in English, with major concentration in
 210 composition and literature;

211 2. Three credits in mathematics at the Algebra I level or
 212 higher from the list of courses that qualify for state
 213 university admission. Beginning with students who enter grade 9
 214 in the 2009-2010 school year, four credits in mathematics at the
 215 Algebra I level or higher from the list of courses that qualify
 216 for state university admission;

217 3. Three credits in natural science, two of which must
 218 have a laboratory component;

219 4. Three credits in social sciences, which must include
 220 one credit in American history, one credit in world history,
 221 one-half credit in American government, and one-half credit in
 222 economics;

223 5. Two credits in the same second language unless the
 224 student is a native speaker of or can otherwise demonstrate

PCB PT 09-01

ORIGINAL

2009

225 competency in a language other than English. If the student
 226 demonstrates competency in another language, the student may
 227 replace the language requirement with two credits in other
 228 academic courses; and

229 6. Three credits in electives. Beginning with students who
 230 enter grade 9 in the 2009-2010 school year, two credits in
 231 electives; or

232 (c) Completion of a 3-year career preparatory program
 233 requiring successful completion of a minimum of 18 academic
 234 credits in grades 9 through 12. The 18 credits shall be primary
 235 requirements and shall be distributed as follows:

236 1. Four credits in English, with major concentration in
 237 composition and literature;

238 2. Three credits in mathematics, one of which must be
 239 Algebra I;

240 3. Three credits in natural science, two of which must
 241 have a laboratory component;

242 4. Three credits in social sciences, which must include
 243 one credit in American history, one credit in world history,
 244 one-half credit in American government, and one-half credit in
 245 economics;

246 5. Three credits in a single vocational or career
 247 education program, three credits in career and technical
 248 certificate dual enrollment courses, or five credits in
 249 vocational or career education courses; and

250 6. Two credits in electives unless five credits are earned
 251 pursuant to subparagraph 5.

252

253 Any student who selected an accelerated graduation program
 254 before July 1, 2004, may continue that program, and all
 255 statutory program requirements that were applicable when the
 256 student made the program choice shall remain applicable to the
 257 student as long as the student continues that program.

258 (7) If, at the end of grade 10, a student is not on track
 259 to meet the credit, assessment, or grade-point-average
 260 requirements of the accelerated graduation option selected, the
 261 school shall notify the student and parent of the following:

262 (c) The right of the student to change to the 4-year
 263 program set forth in s. 1003.428 or s. 1003.43, as applicable.

264 (8) A student who selected one of the accelerated 3-year
 265 graduation options shall automatically move to the 4-year
 266 program set forth in s. 1003.428 or s. 1003.43, as applicable,
 267 if the student:

268 (a) Exercises his or her right to change to the 4-year
 269 program;

270 (b) Fails to earn 5 credits by the end of grade 9 or fails
 271 to earn 11 credits by the end of grade 10;

272 (c) Does not achieve a score of 3 or higher on the grade
 273 10 FCAT Writing assessment; or

274 (d) By the end of grade 11 does not meet the requirements
 275 of subsections (1) and (6).

276 Section 5. Section 1003.433, Florida Statutes, is amended
 277 to read:

278 1003.433 Learning opportunities for out-of-state and out-
 279 of-country transfer students and students needing additional
 280 instruction to meet middle grades promotion or high school

PCB PT 09-01

ORIGINAL

2009

281 graduation requirements.--

282 (1) Students who enter a Florida public middle school at
 283 the eighth grade from out of state or from a foreign country
 284 shall not be required to spend additional time in a Florida
 285 public school in order to meet the middle grades promotion
 286 requirements if the student has met all requirements of the
 287 school district, state, or country from which he or she is
 288 transferring. Such students who are not proficient in English
 289 should receive immediate and intensive instruction in English
 290 language acquisition.

291 ~~(2)~~⁽¹⁾ Students who enter a Florida public school at the
 292 eleventh or twelfth grade from out of state or from a foreign
 293 country shall not be required to spend additional time in a
 294 Florida public school in order to meet the high school course
 295 requirements if the student has met all requirements of the
 296 school district, state, or country from which he or she is
 297 transferring. Such students who are not proficient in English
 298 should receive immediate and intensive instruction in English
 299 language acquisition. However, to receive a standard high school
 300 diploma, a transfer student must earn a 2.0 grade point average
 301 and pass the grade 10 FCAT required in s. 1008.22(3) or an
 302 alternate assessment as described in s. 1008.22(10).

303 ~~(3)~~⁽²⁾ Students who have met all requirements for the
 304 standard high school diploma except for passage of the grade 10
 305 FCAT or an alternate assessment by the end of grade 12 must be
 306 provided the following learning opportunities:

307 (a) Participation in an accelerated high school
 308 equivalency diploma preparation program during the summer.

PCB PT 09-01

ORIGINAL

2009

309 (b) Upon receipt of a certificate of completion, be
310 allowed to take the College Placement Test and be admitted to
311 remedial or credit courses at a state community college, as
312 appropriate.

313 (c) Participation in an adult general education program as
314 provided in s. 1004.93 for such time as the student requires to
315 master English, reading, mathematics, or any other subject
316 required for high school graduation. Students attending adult
317 basic, adult secondary, or vocational-preparatory instruction
318 are exempt from any requirement for the payment of tuition and
319 fees, including lab fees, pursuant to s. 1009.25. A student
320 attending an adult general education program shall have the
321 opportunity to take the grade 10 FCAT an unlimited number of
322 times in order to receive a standard high school diploma.

323 (4)~~(3)~~ Students who have been enrolled in an ESOL program
324 for less than 2 school years and have met all requirements for
325 the standard high school diploma except for passage of the grade
326 10 FCAT or alternate assessment may receive immersion English
327 language instruction during the summer following their senior
328 year. Students receiving such instruction are eligible to take
329 the FCAT or alternate assessment and receive a standard high
330 school diploma upon passage of the grade 10 FCAT or the
331 alternate assessment. This subsection shall be implemented to
332 the extent funding is provided in the General Appropriations
333 Act.

334 (5)~~(4)~~ The district school superintendent shall be
335 responsible for notifying all students of the consequences of
336 failure to receive a standard high school diploma, including the

PCB PT 09-01

ORIGINAL

2009

337 potential ineligibility for financial assistance at
 338 postsecondary educational institutions.

339 ~~(6)~~⁽⁵⁾ The State Board of Education may adopt rules
 340 pursuant to ss. 120.536(1) and 120.54 to administer this
 341 section.

342 Section 6. Subsection (1) and paragraph (f) of subsection
 343 (4) of section 1003.621, Florida Statutes, are amended to read:

344 1003.621 Academically high-performing school
 345 districts.--It is the intent of the Legislature to recognize and
 346 reward school districts that demonstrate the ability to
 347 consistently maintain or improve their high-performing status.
 348 The purpose of this section is to provide high-performing school
 349 districts with flexibility in meeting the specific requirements
 350 in statute and rules of the State Board of Education.

351 (1) ACADEMICALLY HIGH-PERFORMING SCHOOL DISTRICT.--

352 (a) The State Board of Education shall annually designate
 353 a school district as ~~is~~ an academically high-performing school
 354 district if the district ~~it~~ meets the following criteria:

355 1.a. Beginning with the 2004-2005 school year, earns a
 356 grade of "A" under s. 1008.34(7) for 2 consecutive years; and

357 b. Has no district-operated school that earns a grade of
 358 "F" under s. 1008.34;

359 2. Complies with all class size requirements in s. 1, Art.
 360 IX of the State Constitution and s. 1003.03; and

361 3. Has no material weaknesses or instances of material
 362 noncompliance noted in the annual financial audit conducted
 363 pursuant to s. 218.39.

364 (b) ~~Each school district that satisfies the eligibility~~

365 ~~criteria in this subsection shall be designated by The State~~
 366 ~~Board of Education shall designate a school district as an~~
 367 ~~academically high-performing school district at the next State~~
 368 ~~Board of Education meeting occurring on or after February 1 of~~
 369 ~~each year. The designation is effective beginning with the~~
 370 ~~following school year and remains effective through the entire~~
 371 ~~school year. With the exception of the statutes listed in~~
 372 ~~subsection (2), upon designation as an academically high-~~
 373 ~~performing school district, each such district is exempt from~~
 374 ~~the provisions in chapters 1000-1013 which pertain to school~~
 375 ~~districts and rules of the State Board of Education which~~
 376 ~~implement these exempt provisions. This exemption remains in~~
 377 ~~effect during the time of the designation if the district~~
 378 ~~continues to meet all eligibility criteria.~~

379 ~~(c) The academically high performing school district shall~~
 380 ~~retain the designation as a high performing school district for~~
 381 ~~3 years, at the end of which time the district may renew the~~
 382 ~~designation if the district meets the requirements in this~~
 383 ~~section. A school district that fails to meet the requirements~~
 384 ~~in this section shall provide written notification to the State~~
 385 ~~Board of Education that the district is no longer eligible to be~~
 386 ~~designated as an academically high performing school district.~~

387 ~~(c)(d)~~ In order to annually maintain the designation as an
 388 academically high-performing school district pursuant to this
 389 section, a school district must meet the following requirements:

- 390 1. Comply with the provisions of sub-subparagraph (a)1.b.
 391 and subparagraphs (a)2. and 3.; and
- 392 2. Earn a grade of "A" under s. 1008.34(7) for 2 years

PCB PT 09-01

ORIGINAL

2009

393 within a 3-year period.

394

395 ~~However, a district in which a district operated school earns a~~
396 ~~grade of "F" under s. 1008.34 during the 3 year period may not~~
397 ~~continue to be designated as an academically high performing~~
398 ~~school district during the remainder of that 3 year period. The~~
399 ~~district must meet the criteria in paragraph (a) in order to be~~
400 ~~redesignated as an academically high performing school district.~~

401 (4) REPORTS.--The academically high-performing school
402 district shall submit to the State Board of Education and the
403 Legislature an annual report on December 1 which delineates the
404 performance of the school district relative to the academic
405 performance of students at each grade level in reading, writing,
406 mathematics, science, and any other subject that is included as
407 a part of the statewide assessment program in s. 1008.22. The
408 annual report shall be submitted in a format prescribed by the
409 Department of Education and shall include, but need not be
410 limited to, the following:

411 (f) A description of each statute and rule that the
412 district did not comply with pursuant to paragraph (1)(b) and
413 the effect that the exemption had upon the district's ability to
414 consistently maintain or improve its high-performing status
415 ~~waiver and the status of each waiver.~~

416 Section 7. Paragraph (c) of subsection (3) and paragraphs
417 (b) and (c) of subsection (10) of section 1008.22, Florida
418 Statutes, are amended to read:

419 1008.22 Student assessment program for public schools.--

420 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall

421 design and implement a statewide program of educational
 422 assessment that provides information for the improvement of the
 423 operation and management of the public schools, including
 424 schools operating for the purpose of providing educational
 425 services to youth in Department of Juvenile Justice programs.
 426 The commissioner may enter into contracts for the continued
 427 administration of the assessment, testing, and evaluation
 428 programs authorized and funded by the Legislature. Contracts may
 429 be initiated in 1 fiscal year and continue into the next and may
 430 be paid from the appropriations of either or both fiscal years.
 431 The commissioner is authorized to negotiate for the sale or
 432 lease of tests, scoring protocols, test scoring services, and
 433 related materials developed pursuant to law. Pursuant to the
 434 statewide assessment program, the commissioner shall:

435 (c) Develop and implement a student achievement testing
 436 program known as the Florida Comprehensive Assessment Test
 437 (FCAT) as part of the statewide assessment program to measure a
 438 student's content knowledge and skills in reading, writing,
 439 science, and mathematics. Other content areas may be included as
 440 directed by the commissioner. Comprehensive assessments of
 441 reading and mathematics shall be administered annually in grades
 442 3 through 10. Comprehensive assessments of writing and science
 443 shall be administered at least once at the elementary, middle,
 444 and high school levels. End-of-course assessments for a subject
 445 may be administered in addition to the comprehensive assessments
 446 required for that subject under this paragraph. An end-of-course
 447 assessment must be rigorous, statewide, standardized, and
 448 developed or approved by the department. The content knowledge

449 and skills assessed by comprehensive and end-of-course
 450 assessments must be aligned to the core curricular content
 451 established in the Sunshine State Standards. The commissioner
 452 may select one or more nationally developed comprehensive
 453 examinations, which may include, but need not be limited to,
 454 examinations for a College Board Advanced Placement course,
 455 International Baccalaureate course, or Advanced International
 456 Certificate of Education course or industry-approved
 457 examinations to earn national industry certifications as defined
 458 in s. 1003.492, for use as end-of-course assessments under this
 459 paragraph, if the commissioner determines that the content
 460 knowledge and skills assessed by the examinations meet or exceed
 461 the grade level expectations for the core curricular content
 462 established for the course in the Next Generation Sunshine State
 463 Standards. The commissioner may collaborate with the American
 464 Diploma Project in the adoption or development of rigorous end-
 465 of-course assessments that are aligned to the Next Generation
 466 Sunshine State Standards. The testing program must be designed
 467 as follows:

- 468 1. The tests shall measure student skills and competencies
 469 adopted by the State Board of Education as specified in
 470 paragraph (a). The tests must measure and report student
 471 proficiency levels of all students assessed in reading, writing,
 472 mathematics, and science. The commissioner shall provide for the
 473 tests to be developed or obtained, as appropriate, through
 474 contracts and project agreements with private vendors, public
 475 vendors, public agencies, postsecondary educational
 476 institutions, or school districts. The commissioner shall obtain

477 input with respect to the design and implementation of the
 478 testing program from state educators, assistive technology
 479 experts, and the public.

480 2. The testing program shall be composed of criterion-
 481 referenced tests that shall, to the extent determined by the
 482 commissioner, include test items that require the student to
 483 produce information or perform tasks in such a way that the core
 484 content knowledge and skills he or she uses can be measured.

485 3. Beginning with the 2008-2009 school year, the
 486 commissioner shall discontinue administration of the selected-
 487 response test items on the comprehensive assessments of writing.
 488 Beginning with the 2012-2013 school year, the comprehensive
 489 assessments of writing shall be composed of a combination of
 490 selected-response test items, short-response performance tasks,
 491 and extended-response performance tasks, which shall measure a
 492 student's content knowledge of writing, including, but not
 493 limited to, paragraph and sentence structure, sentence
 494 construction, grammar and usage, punctuation, capitalization,
 495 spelling, parts of speech, verb tense, irregular verbs, subject-
 496 verb agreement, and noun-pronoun agreement.

497 4. A score shall be designated for each subject area
 498 tested, below which score a student's performance is deemed
 499 inadequate. The school districts shall provide appropriate
 500 remedial instruction to students who score below these levels.

501 5. Except as provided in s. 1003.428(8)(b) or s.
 502 1003.43(11)(b), students must earn a passing score on the grade
 503 10 assessment test described in this paragraph or attain
 504 concordant scores as described in subsection (10) in reading,

PCB PT 09-01

ORIGINAL

2009

505 writing, and mathematics to qualify for a standard high school
506 diploma. Concordant scores earned before taking the grade 10
507 FCAT for the first time in grade 10 may not be used to satisfy
508 the requirement in this subparagraph. The State Board of
509 Education shall designate a passing score for each part of the
510 grade 10 assessment test. In establishing passing scores, the
511 state board shall consider any possible negative impact of the
512 test on minority students. The State Board of Education shall
513 adopt rules which specify the passing scores for the grade 10
514 FCAT. Any such rules, which have the effect of raising the
515 required passing scores, shall apply only to students taking the
516 grade 10 FCAT for the first time after such rules are adopted by
517 the State Board of Education.

518 6. Participation in the testing program is mandatory for
519 all students attending public school, including students served
520 in Department of Juvenile Justice programs, except as otherwise
521 prescribed by the commissioner. A student who has not earned
522 passing scores on the grade 10 assessment as provided in
523 subparagraph 5. must participate in each retake of the
524 assessment until the student earns a passing score or achieves a
525 score on a standardized assessment which is concordant with
526 passing scores pursuant to subsection (10). If a student does
527 not participate in the statewide assessment, the district must
528 notify the student's parent and provide the parent with
529 information regarding the implications of such nonparticipation.
530 A parent must provide signed consent for a student to receive
531 classroom instructional accommodations that would not be
532 available or permitted on the statewide assessments and must

PCB PT 09-01

ORIGINAL

2009

533 acknowledge in writing that he or she understands the
534 implications of such instructional accommodations. The State
535 Board of Education shall adopt rules, based upon recommendations
536 of the commissioner, for the provision of test accommodations
537 for students in exceptional education programs and for students
538 who have limited English proficiency. Accommodations that negate
539 the validity of a statewide assessment are not allowable in the
540 administration of the FCAT. However, instructional
541 accommodations are allowable in the classroom if included in a
542 student's individual education plan. Students using
543 instructional accommodations in the classroom that are not
544 allowable as accommodations on the FCAT may have the FCAT
545 requirement waived pursuant to the requirements of s.
546 1003.428(8)(b) or s. 1003.43(11)(b).

547 7. A student seeking an adult high school diploma must
548 meet the same testing requirements that a regular high school
549 student must meet.

550 8. District school boards must provide instruction to
551 prepare students to demonstrate proficiency in the core
552 curricular content established in the Next Generation Sunshine
553 State Standards adopted under s. 1003.41, including the core
554 content knowledge and skills necessary for successful grade-to-
555 grade progression and high school graduation. If a student is
556 provided with instructional accommodations in the classroom that
557 are not allowable as accommodations in the statewide assessment
558 program, as described in the test manuals, the district must
559 inform the parent in writing and must provide the parent with
560 information regarding the impact on the student's ability to

PCB PT 09-01

ORIGINAL

2009

561 meet expected proficiency levels in reading, writing, and
 562 mathematics. The commissioner shall conduct studies as necessary
 563 to verify that the required core curricular content is part of
 564 the district instructional programs.

565 9. District school boards must provide opportunities for
 566 students to demonstrate an acceptable level of performance on an
 567 alternative standardized assessment approved by the State Board
 568 of Education following enrollment in summer academies.

569 10. The Department of Education must develop, or select,
 570 and implement a common battery of assessment tools that will be
 571 used in all juvenile justice programs in the state. These tools
 572 must accurately measure the core curricular content established
 573 in the Sunshine State Standards.

574 11. For students seeking a special diploma pursuant to s.
 575 1003.438, the Department of Education must develop or select and
 576 implement an alternate assessment tool that accurately measures
 577 the core curricular content established in the Sunshine State
 578 Standards for students with disabilities under s. 1003.438.

579 12. The Commissioner of Education shall establish
 580 schedules for the administration of statewide assessments and
 581 the reporting of student test results. The commissioner shall,
 582 by August 1 of each year, notify each school district in writing
 583 and publish on the department's Internet website the testing and
 584 reporting schedules for, at a minimum, the school year following
 585 the upcoming school year. The testing and reporting schedules
 586 shall require that:

587 a. There is the latest possible administration of
 588 statewide assessments and the earliest possible reporting to the

PCB PT 09-01

ORIGINAL

2009

589 school districts of student test results which is feasible
 590 within available technology and specific appropriations;
 591 however, test results must be made available no later than the
 592 final day of the regular school year for students.

593 b. Beginning with the 2010-2011 school year, a
 594 comprehensive statewide assessment of writing is not
 595 administered earlier than the week of March 1 and a
 596 comprehensive statewide assessment of any other subject is not
 597 administered earlier than the week of April 15.

598 c. A statewide standardized end-of-course assessment is
 599 administered within the last 2 weeks of the course.

600

601 The commissioner may, based on collaboration and input from
 602 school districts, design and implement student testing programs,
 603 for any grade level and subject area, necessary to effectively
 604 monitor educational achievement in the state, including the
 605 measurement of educational achievement of the Sunshine State
 606 Standards for students with disabilities. Development and
 607 refinement of assessments shall include universal design
 608 principles and accessibility standards that will prevent any
 609 unintended obstacles for students with disabilities while
 610 ensuring the validity and reliability of the test. These
 611 principles should be applicable to all technology platforms and
 612 assistive devices available for the assessments. The field
 613 testing process and psychometric analyses for the statewide
 614 assessment program must include an appropriate percentage of
 615 students with disabilities and an evaluation or determination of
 616 the effect of test items on such students.

PCB PT 09-01

ORIGINAL

2009

617 (10) CONCORDANT SCORES FOR THE FCAT.--
 618 ~~(b) In order to use a concordant subject area score~~
 619 ~~pursuant to this subsection to satisfy the assessment~~
 620 ~~requirement for a standard high school diploma as provided in s.~~
 621 ~~1003.429(6)(a), s. 1003.43(5)(a), or s. 1003.428, a student must~~
 622 ~~take each subject area of the grade 10 FCAT a total of three~~
 623 ~~times without earning a passing score. The requirements of this~~
 624 ~~paragraph shall not apply to a new student who enters the~~
 625 ~~Florida public school system in grade 12, who may either achieve~~
 626 ~~a passing score on the FCAT or use an approved subject area~~
 627 ~~concordant score to fulfill the graduation requirement.~~

628 (b) ~~(e)~~ The State Board of Education may define by rule the
 629 allowable uses, other than to satisfy the high school graduation
 630 requirement, for concordant scores as described in this
 631 subsection. Such uses may include, but need not be limited to,
 632 achieving appropriate standardized test scores required for the
 633 awarding of Florida Bright Futures Scholarships and college
 634 placement.

635 Section 8. Paragraph (b) of subsection (8) of section
 636 1008.25, Florida Statutes, is amended to read:

637 1008.25 Public school student progression; remedial
 638 instruction; reporting requirements.--

639 (8) ANNUAL REPORT.--

640 (b) Each district school board must annually publish in
 641 the local newspaper or on the district school board's Internet
 642 website, and report in writing to the State Board of Education
 643 by October 1 ~~September 1~~ of each year, the following information
 644 on the prior school year:

PCB PT 09-01

ORIGINAL

2009

645 1. The provisions of this section relating to public
 646 school student progression and the district school board's
 647 policies and procedures on student retention and promotion.

648 2. By grade, the number and percentage of all students in
 649 grades 3 through 10 performing at Levels 1 and 2 on the reading
 650 portion of the FCAT.

651 3. By grade, the number and percentage of all students
 652 retained in grades 3 through 10.

653 4. Information on the total number of students who were
 654 promoted for good cause, by each category of good cause as
 655 specified in paragraph (6) (b).

656 5. Any revisions to the district school board's policy on
 657 student retention and promotion from the prior year.

658 Section 9. Subsection (4) of section 1008.36, Florida
 659 Statutes, is amended to read:

660 1008.36 Florida School Recognition Program.--

661 (4) All selected schools shall receive financial awards
 662 depending on the availability of funds appropriated and the
 663 number and size of schools selected to receive an award. Funds
 664 must be distributed to the school's fiscal agent and placed in
 665 the school's account and must be used for purposes listed in
 666 subsection (5) as determined jointly by the school's staff and
 667 school advisory council. If school staff and the school advisory
 668 council cannot reach agreement by February 1 ~~November 1~~, the
 669 awards must be equally distributed to all classroom teachers
 670 currently teaching in the school.

671
 672 Notwithstanding statutory provisions to the contrary, incentive

PCB PT 09-01

ORIGINAL

2009

673 awards are not subject to collective bargaining.

674 Section 10. This act shall take effect July 1, 2009.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB PT 09-02 Exceptional Students
SPONSOR(S): PreK-12 Policy Committee
TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Policy Committee		Paulson <i>PR</i>	Ahearn <i>Ahearn</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

A state is eligible to receive funds under the Individuals with Disabilities Education Act (IDEA) if it submits a plan which ensures the state meets the IDEA requirements. Also, State rules, regulations, and policies must conform to the purposes of the IDEA in order for the state to receive funds.

Florida's application for Fiscal Year 2008 under Part B of the IDEA received conditional approval based upon several assurances made by the State. One "assurance" made was that Florida statutes, regulations, policies, and procedures are consistent with the IDEA and its implementing regulations, and that all changes necessary to State law would be made by no later than June 30, 2009.

The conditional approval also addressed certain concerns regarding Florida's due process safeguards and discipline and placement of children with disabilities in alternative educational settings.

The bill revises the due process hearing requirements to make sure that parents of students with disabilities are able to present new evidence in an appeal, establishes procedures and definitions relating to the discipline and placement of children with disabilities in alternative educational settings, and requires the State Board of Education to adopt rules to comply with the IDEA and its implementing regulations. All of these changes align Florida Statutes with the IDEA.

The bill makes changes necessary to ensure the continued receipt of federal funding under the IDEA. See FISCAL COMMENTS section of this analysis.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Individuals with Disabilities Education Act

The federal Individuals with Disabilities Education Act (IDEA), as amended in 2004, requires that all children with disabilities have access to free appropriate public education and that the rights of such children and their parents are protected. The law also requires that efforts to educate children with disabilities are assessed for effectiveness.¹

A state is eligible to receive funds under the IDEA if it submits a plan which meets the IDEA requirements.² Also, State rules, regulations, and policies must conform to the purposes of the IDEA in order for the state to receive funds.³

For the 2008-2009 fiscal year, Florida received the following federal funds under Part B of the IDEA: \$598,437,209 for school-age children and \$18,170,242 for preschool children.⁴

Florida's application for 2008-2009 fiscal year under Part B of the IDEA received conditional approval based upon several assurances made by the State. One "assurance" made was that Florida statutes, regulations, policies, and procedures are consistent with the IDEA and its implementing regulations, and that all changes necessary to State law would be made by no later than June 30, 2009.⁵

As more fully discussed below, the conditional approval also addressed certain concerns regarding Florida's due process safeguards and discipline and placement of children with disabilities in alternative educational settings.⁶

¹ 20 U.S.C. 1400(d).

² See 20 U.S.C. 1412.

³ 20 U.S.C. 1407(a).

⁴ Analysis of SB 2038, Florida Department of Education, March 2, 2009.

⁵ Letter from the Acting Director, Office of Special Education Programs, U.S. Department of Education to Commissioner, Florida Department of Education, July 1, 2008; see 34 C.F.R. §§ 300.516(c)(2) and 300.530(i)(4) for specific regulations.

⁶ *Id.*

Due Process Safeguards

Current Law

The IDEA requires that any party aggrieved pursuant to a determination regarding identification, evaluation, and placement of a student with a disability has the right to present new evidence in any appeal.⁷

In Florida, the district school board must notify the parent of an exceptional student evaluated and placed or denied placement in a program of special education of each such evaluation or denial. Such notice must contain a statement informing the parent that he or she is entitled to a due process hearing on the identification, evaluation, and placement, or lack thereof. The hearing must be conducted by an administrative law judge from the Division of Administrative Hearings. The decision of the administrative law judge is final, except that any party aggrieved by the finding and decision rendered by the administrative law judge has the right to bring a civil action in the circuit court. In such an action, the court receives the records of the administrative hearing and hears additional evidence at the request of either party. In the alternative, any party aggrieved by the finding and decision rendered by the administrative law judge has the right to request an impartial review of the administrative law judge's order by the district court of appeal.⁸ If the administrative law judge ruled in favor of the district school board and the board appealed to the district court of appeal, the parent of a student with a disability would not be able to present new evidence, which is required by IDEA.

Effect of Proposed Changes

The bill revises Florida's due process hearing requirements by restricting appeal rights to state circuit court in cases involving the identification, evaluation, or placement of students with disabilities. Accordingly, either party can submit new evidence, thus aligning Florida's law with the IDEA.

Discipline and Placement in Alternative Educational Settings

Current Law

The IDEA provides that school personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct. The IDEA limits such placement to no more than 10 school days. During an alternative placement, the child must continue to receive educational services and, as appropriate, a behavioral assessment or intervention services designed to eliminate the behavior problem.⁹

The IDEA limits an alternative placement to 45 days, regardless of whether the behavior is determined to be a result of the child's disability, if the child:

- Carries a "weapon" to or possesses a weapon at school or school functions;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a "controlled substance" while at school or a school function; or
- Has inflicted serious bodily injury while at school or a school function.¹⁰

The IDEA defines "weapon" as a "weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length."¹¹ Florida does not define "weapon" in any law relating to education. However, a definition does exist in Chapter

⁷ 34 C.F.R. 300.516(c)(2).

⁸ Section 1003.57(1)(e), F.S.

⁹ 20 U.S.C. 1415(k)(1)(A), (B), & (D).

¹⁰ 20 U.S.C. 1415(k)(1)(G).

¹¹ 20 U.S.C. 1415(k)(7)(C); see 18 U.S.C. 930(g)(2).

790, F.S., relating to weapons and firearms. "Weapon" is defined as "any dirk, knife, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon except a firearm or a common pocketknife, plastic knife, or blunt-bladed table knife."¹²

The IDEA defines "controlled substance" as "a drug or other substance identified under schedule I, II, III, IV, or V" in the federal Controlled Substances Act.¹³ Florida does not define "controlled substance" in any law relating to education. However, Chapter 893, F.S., relating to drug abuse prevention and control, defines "controlled substance" in terms similar to those of the Controlled Substances Act.¹⁴

Effect of Proposed Changes

The bill creates a provision which allows school personnel to remove a student who has a disability and violates the code of student conduct and to place that student in an alternative educational setting, for no more than 45 school days, if the student:

- Carries a weapon to or possesses a weapon at school or school functions;
- Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or a school function; or
- Has inflicted serious bodily injury while at school or a school function.

This provision is nearly identical to one found in the IDEA.

For purposes of this provision, the bill defines the term "weapon" to mean "a device, instrument, material, or substance, animate or inanimate, which is used for, or is readily capable of, causing death or serious bodily injury; however, this definition does not include a pocketknife having a blade that is less than 2 ½ inches in length." This definition is consistent with the IDEA. The bill also defines "controlled substance" by reference to the definition in Florida Statutes and the definition in the federal Controlled Substances Act, thereby aligning it with the IDEA.

Compliance with the IDEA

Current Law

The IDEA requires a state to align its statutes, rules, regulations and policies with the purposes of the IDEA in order for the state to receive funds.¹⁵ The purposes defined in the IDEA are:

- That all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for future education, employment, and independent living;
- That the rights of children with disabilities and parents of such children are protected; and
- That the efforts to educate children with disabilities are assessed for effectiveness.

Florida law includes language indicating the "intent" of the Legislature that the K-20 education accountability system complies with the requirements of the IDEA.¹⁶ The Joint Administrative Procedures Committee (JAPC) advised DOE that this language does not sufficiently support compliance with the requirements of the IDEA.¹⁷ Additionally, JAPC raised concerns about the State Board of Education's ability to adopt rules to comply with the IDEA without specific statutory authority.

¹² Section 790.001(13), F.S.

¹³ 20 U.S.C. 1415(k)(7)(A); *see* 21 U.S.C. 12(c)

¹⁴ Section 893.02(4), F.S.; *see* section 893.03, F.S.

¹⁵ 20 U.S.C. 1407(a).

¹⁶ Section 1008.31(1)(a), F.S.

¹⁷ Analysis of SB 2038, Department of Education, March 2, 2009.

JAPC recommended the creation of specific legislative authority to participate in the IDEA after an agency evaluation of whether the IDEA is consistent with legislatively defined objectives.¹⁸

Effect of Proposed Changes

The bill creates a new section of law that requires the State Board of Education to comply with the IDEA and its implementing regulations, after the State Board of Education evaluates and determines that the IDEA, as amended, and its implementing regulations are consistent with the following principles:

- That all children who have disabilities are afforded a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- That the rights of children who have disabilities and their parents are protected; and
- That the efforts to educate children with disabilities are assessed for effectiveness.¹⁹

JAPC comments:

[The bill] does accomplish the primary task of giving DOE the go-ahead to implement the IDEA and all of the ... federal requirements as long as they evaluate it and determine that it helps exceptional students. JAPC would be able to review the rules, question whether any new provisions required by the [Federal Government] are consistent with Florida's principles ..., and move forward much better than we can now. Most importantly, it emphasizes that state agencies cannot implement federal programs without explicit authority from the State (i.e., Legislature).²⁰

B. SECTION DIRECTORY:

Section 1: Amends s. 1003.56, F.S.; revises provisions relating to due process hearing for exceptional students; authorizes district school board to consider a change in placement for a student who has a disability if the student violates the code of student conduct; provides for the removal and placement of such student in an alternative educational setting for a limited period; provides definitions for the terms "weapon" and "controlled substance."

Section 2: Creates s. 1003.571, F.S.; requires that the State Board of Education comply with the IDEA if the act is consistent with certain principles; requires that the State Board of Education adopt rules to comply with the act.

Section 3: Amends s. 1003.58; conforms a cross-reference.

Section 4: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

¹⁸ Staff Analysis of SB 2038, Education Pre-K – 12 Committee, March 12, 2009.

¹⁹ 20 U.S.C. 1400(d).

²⁰ E-mail from Chief Attorney, Joint Administrative Procedures Committee, March 9, 2009.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government 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:

None.

D. FISCAL COMMENTS:

The bill makes changes necessary for the continued receipt of federal funding under the IDEA. For the 2008-2009 fiscal year, Florida received \$598,437,209 for school-children and \$18,170,242 for preschool children under Part B of the IDEA.²¹

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules in order to comply with the IDEA.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A.

²¹ Analysis of SB 2038, Department of Education, March 10, 2009.

1 A bill to be entitled
 2 An act relating to exceptional students; amending s.
 3 1003.57, F.S.; revising provisions relating to due process
 4 hearings for exceptional students; requiring that such
 5 hearings be conducted by an administrative law judge from
 6 the Division of Administrative Hearings pursuant to a
 7 contract with the Department of Education; providing that
 8 any party to a hearing related to gifted students may
 9 request that the findings or decision be reviewed by the
 10 district court of appeal; authorizing a district school
 11 board to consider a change in placement for a student who
 12 has a disability if the student engages in behavior that
 13 violates the district school board's code of student
 14 conduct; providing for the removal and placement of such
 15 student in an alternative educational setting for a
 16 limited period; specifying the grounds for removal;
 17 providing definitions for the terms "controlled substance"
 18 and "weapon"; creating s. 1003.571, F.S.; requiring that
 19 the State Board of Education comply with the Individuals
 20 with Disabilities Education Act after evaluating and
 21 determining that such act is consistent with certain
 22 principles; requiring that the State Board of Education
 23 adopt rules; amending s. 1003.58, F.S.; conforming a
 24 cross-reference; providing an effective date.

25
 26 Be It Enacted by the Legislature of the State of Florida:

27
 28 Section 1. Subsection (1) of section 1003.57, Florida

PCB PT 09-02

ORIGINAL

2009

29 Statutes, is amended to read:

30 1003.57 Exceptional students instruction.--

31 (1) (a) Each district school board shall provide for an
 32 appropriate program of special instruction, facilities, and
 33 services for exceptional students as prescribed by the State
 34 Board of Education as acceptable, including provisions that:

35 1.(a) The district school board provide the necessary
 36 professional services for diagnosis and evaluation of
 37 exceptional students.

38 2.(b) The district school board provide the special
 39 instruction, classes, and services, either within the district
 40 school system, in cooperation with other district school
 41 systems, or through contractual arrangements with approved
 42 private schools or community facilities that meet standards
 43 established by the commissioner.

44 3.(e) The district school board annually provide
 45 information describing the Florida School for the Deaf and the
 46 Blind and all other programs and methods of instruction
 47 available to the parent of a sensory-impaired student.

48 4.(d) The district school board, once every 3 years,
 49 submit to the department its proposed procedures for the
 50 provision of special instruction and services for exceptional
 51 students.

52 (b) ~~(e)~~ A student may not be given special instruction or
 53 services as an exceptional student until after he or she has
 54 been properly evaluated, classified, and placed in the manner
 55 prescribed by rules of the State Board of Education. The parent
 56 of an exceptional student evaluated and placed or denied

57 placement in a program of special education shall be notified of
 58 each such evaluation and placement or denial. Such notice shall
 59 contain a statement informing the parent that he or she is
 60 entitled to a due process hearing on the identification,
 61 evaluation, and placement, or lack thereof. Such hearings are
 62 ~~shall be~~ exempt from ~~the provisions of~~ ss. 120.569, 120.57, and
 63 286.011, except to the extent that the State Board of Education
 64 adopts rules establishing other procedures. ~~and~~ Any records
 65 created as a result of such hearings are ~~shall be~~ confidential
 66 and exempt from ~~the provisions of~~ s. 119.07(1). The hearing must
 67 be conducted by an administrative law judge from the Division of
 68 Administrative Hearings pursuant to a contract between the
 69 Department of Education and the Division of Administrative
 70 Hearings of the Department of Management Services. The decision
 71 of the administrative law judge is ~~shall be~~ final, except that
 72 any party aggrieved by the finding and decision rendered by the
 73 administrative law judge has ~~shall have~~ the right to bring a
 74 civil action in the state circuit court. In such an action, the
 75 court shall receive the records of the administrative hearing
 76 and shall hear additional evidence at the request of either
 77 party. In the alternative, in hearings conducted on behalf of a
 78 student who is identified as gifted, any party aggrieved by the
 79 finding and decision rendered by the administrative law judge
 80 has ~~shall have~~ the right to request a ~~an impartial~~ review of the
 81 administrative law judge's order by the district court of appeal
 82 as provided in ~~by~~ s. 120.68.

83 (c) Notwithstanding any law to the contrary, during the
 84 pendency of any proceeding conducted pursuant to this section,

85 unless the district school board and the parents otherwise
 86 agree, the student shall remain in his or her then-current
 87 educational assignment or, if applying for initial admission to
 88 a public school, shall be assigned, with the consent of the
 89 parents, in the public school program until all such proceedings
 90 have been completed.

91 (d)~~(f)~~ In providing for the education of exceptional
 92 students, the district school superintendent, principals, and
 93 teachers shall utilize the regular school facilities and adapt
 94 them to the needs of exceptional students to the maximum extent
 95 appropriate. Segregation of exceptional students shall occur
 96 only if the nature or severity of the exceptionality is such
 97 that education in regular classes with the use of supplementary
 98 aids and services cannot be achieved satisfactorily.

99 (e)~~(g)~~ In addition to the services agreed to in a
 100 student's individual educational ~~education~~ plan, the district
 101 school superintendent shall fully inform the parent of a student
 102 having a physical or developmental disability of all available
 103 services that are appropriate for the student's disability. The
 104 superintendent shall provide the student's parent with a summary
 105 of the student's rights.

106 (f) School personnel may consider any unique circumstances
 107 on a case-by-case basis when determining whether a change in
 108 placement is appropriate for a student who has a disability and
 109 violates a district school board's code of student conduct.
 110 School personnel may remove and place such student in an interim
 111 alternative educational setting for not more than 45 school
 112 days, without regard to whether the behavior is determined to be

- 113 a manifestation of the student's disability, if the student:
 114 1. Carries a weapon to or possesses a weapon at school, on
 115 school premises, or at a school function under the jurisdiction
 116 of the school district;
 117 2. Knowingly possesses or uses illegal drugs, or sells or
 118 solicits the sale of a controlled substance, while at school, on
 119 school premises, or at a school function under the jurisdiction
 120 of the school district; or
 121 3. Has inflicted serious bodily injury upon another person
 122 while at school, on school premises, or at a school function
 123 under the jurisdiction of the school district.

124 (g) For purposes of paragraph (f), the term:

- 125 1. "Controlled substance" means a drug or other substance
 126 identified under Schedule I, Schedule II, Schedule III, Schedule
 127 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.
 128 812(c) and s. 893.02(4).
 129 2. "Weapon" means a device, instrument, material, or
 130 substance, animate or inanimate, which is used for, or is
 131 readily capable of, causing death or serious bodily injury;
 132 however, this definition does not include a pocketknife having a
 133 blade that is less than 2 1/2 inches in length.

134 Section 2. Section 1003.571, Florida Statutes, is created
 135 to read:

136 1003.571 Instruction for exceptional students who have a
 137 disability.--

- 138 (1) The State Board of Education shall comply with the
 139 Individuals with Disabilities Education Act (IDEA), as amended,
 140 and its implementing regulations after evaluating and

141 determining that the IDEA, as amended, and its implementing
 142 regulations are consistent with the following principles:

143 (a) Ensuring that all children who have disabilities are
 144 afforded a free and appropriate public education that emphasizes
 145 special education and related services designed to meet their
 146 unique needs and prepare them for further education, employment,
 147 and independent living;

148 (b) Ensuring that the rights of children who have
 149 disabilities and their parents are protected; and

150 (c) Assessing and ensuring the effectiveness of efforts to
 151 educate children who have disabilities.

152 (2) The State Board of Education shall adopt rules
 153 pursuant to ss. 120.536(1) and 120.54 to implement this section.

154 Section 3. Subsection (3) of section 1003.58, Florida
 155 Statutes, is amended to read:

156 1003.58 Students in residential care facilities.--Each
 157 district school board shall provide educational programs
 158 according to rules of the State Board of Education to students
 159 who reside in residential care facilities operated by the
 160 Department of Children and Family Services or the Agency for
 161 Persons with Disabilities.

162 (3) The district school board shall have full and complete
 163 authority in the matter of the assignment and placement of such
 164 students in educational programs. The parent of an exceptional
 165 student shall have the same due process rights as are provided
 166 under s. 1003.57(1)(b) ~~s. 1003.57(1)(e)~~.

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PCB PT 09-02

ORIGINAL

2009

168 | Notwithstanding the provisions herein, the educational program
169 | at the Marianna Sunland Center in Jackson County shall be
170 | operated by the Department of Education, either directly or
171 | through grants or contractual agreements with other public or
172 | duly accredited educational agencies approved by the Department
173 | of Education.

174 | Section 4. This act shall take effect July 1, 2009.