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# **Education Committee**

**Thursday, February 23, 2012**

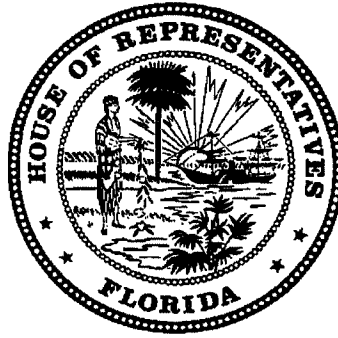
**8:30 am – 11:00 am**

**Reed Hall – 102 HOB**

**Meeting Packet**

**Dean Cannon  
Speaker**

**William Proctor  
Chair**



## AGENDA

Education Committee  
Thursday, February 23, 2012  
8:30 am – 11:00 am  
Reed Hall – 102 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bill(s):
  - CS/CS/HB 431 Joint Use of Public School Facilities by Judiciary Committee, K-20 Competitiveness Subcommittee, Nehr
  - CS/HB 949 Juvenile Justice Education and Workforce Programs by Criminal Justice Subcommittee, Baxley
  - CS/HB 1059 Background Screening for Noninstructional Contractors on School Grounds by K-20 Competitiveness Subcommittee, Perry
  - CS/HB 7063 Digital Learning by PreK-12 Appropriations Subcommittee, K-20 Innovation Subcommittee, Stargel
- IV. Consideration of the following proposed committee bill:
  - PCB EDC 12-03 Postsecondary Education
- V. Closing Remarks and Adjournment



CS/CS/HB 431

2012

1                                   A bill to be entitled  
 2           An act relating to the joint use of public school  
 3           facilities; creating s. 1013.105, F.S.; providing  
 4           legislative findings; encouraging each district school  
 5           board to adopt written policies to promote public  
 6           access to outdoor recreation and sports facilities on  
 7           school property, to increase the number of joint-use  
 8           agreements, and to develop and adopt policies and  
 9           procedures for an appeal process if negotiations for a  
 10          joint-use agreement fail; providing duties of district  
 11          school boards and the Department of Education;  
 12          creating s. 768.072, F.S.; providing immunity from  
 13          liability for a district school board that adopts  
 14          public access policies or enters into a joint-use  
 15          agreement except in instances of gross negligence or  
 16          intentional misconduct; defining the term "gross  
 17          negligence"; providing application; providing an  
 18          effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Section 1013.105, Florida Statutes is created  
 23           to read:

24           1013.105 Joint use of public school facilities.-  
 25           (1) The Legislature finds that greater access to  
 26           recreation and sports facilities is needed to reduce the impact  
 27           of obesity on personal health and health care expenditures. The  
 28           Legislature further finds that public schools are equipped with

29 taxpayer-funded playgrounds, fields, tracks, courts, and other  
 30 outdoor recreation and sports facilities that offer easily  
 31 accessible opportunities for physical activity for residents of  
 32 the community.

33 (2) Each district school board is encouraged to:

34 (a) Adopt written policies to promote public access to the  
 35 outdoor recreation and sports facilities on public school  
 36 property during nonschool hours when a school-sponsored or  
 37 school-related activity is not occurring. A public access policy  
 38 should outline the outdoor recreation and sports facilities that  
 39 are open to the public and the hours the facilities are open.

40 (b) Increase the number of joint-use agreements entered  
 41 into with a local government or a private organization. A joint-  
 42 use agreement should set forth the terms and conditions for the  
 43 shared use of outdoor recreation and sports facilities on public  
 44 school property.

45 (c) Develop and adopt policies and procedures providing  
 46 for an appeal process in which a party seeking to enter into a  
 47 joint-use agreement with a school district pursuant to this  
 48 section may file an appeal with the district school  
 49 superintendent if the negotiations for such joint-use agreement  
 50 fail.

51  
 52 Within 30 days after adopting a public access policy or entering  
 53 into a joint-use agreement, a district school board must submit  
 54 a copy of the policy or agreement to the Department of  
 55 Education.

56 (3) The Department of Education shall:

57        (a) Develop a model joint-use agreement and post the model  
 58 agreement on its website.

59        (b) Post on its website links to or copies of all district  
 60 school board public access policies and joint-use agreements  
 61 submitted to the department by a district school board.

62        (c) Develop criteria for the acceptance of grants for  
 63 implementing joint-use agreements and post the criteria on its  
 64 website.

65        Section 2. Section 768.072, Florida Statutes, is created  
 66 to read:

67        768.072 Limitation on public school premises liability.-

68        (1) A district school board is not liable for civil  
 69 damages for personal injury, property damage, or death that  
 70 occurs on a public school property that the district school  
 71 board has opened up to the public, through public access  
 72 policies or joint-use agreements under s. 1013.105, unless gross  
 73 negligence or intentional misconduct on the part of the district  
 74 school board is a proximate cause of the injury, damage, or  
 75 death.

76        (2) As used in this section, the term "gross negligence"  
 77 means the intentional failure to perform a manifest duty in  
 78 reckless disregard of the consequences as affecting the life or  
 79 property of another.

80        (3) Nothing in this section shall be deemed a waiver of  
 81 sovereign immunity beyond the limited waiver in s. 768.28.

82        Section 3. This act shall take effect July 1, 2012.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 431 Joint Use of Public School Facilities

**SPONSOR(S):** Judiciary Committee; K-20 Competitiveness Subcommittee; Nehr and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 808

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	13 Y, 0 N, As CS	Valenstein	Ahearn
2) Judiciary Committee	17 Y, 0 N, As CS	Bond	Havlicak
3) Education Committee		Valenstein <i>JBJ</i>	Klebacha <i>JK</i>

### SUMMARY ANALYSIS

Currently, the county and municipalities located within the geographic area of a school district must enter into an interlocal agreement with the district school board. Within the agreement, the parties must jointly establish the specific ways the entities will coordinate their growth and development plans and processes. The agreement must also include a process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency. Some district school boards currently authorize, through their interlocal agreements, public access to sports and recreational facilities on school campuses.

In an effort to address the obesity epidemic, the bill encourages each district school board to adopt written policies to promote public access to outdoor recreation and sports facilities on public school property and to increase the number of joint-use agreements a district school board enters into with local governments or private organizations. A public access policy should outline the outdoor recreation and sports facilities that are open to the public and the hours the facilities are open. A joint-use agreement should set forth the terms and conditions for the shared use of outdoor recreation and sports facilities on public school property.

The Department of Education (DOE) is required to develop and post on its website a model joint-use agreement; develop and post on its website criteria for the acceptance of grants for implementing joint-use agreements; and post links to, or copies of, the public access policies and joint-use agreements submitted by a district school board.

The bill also grants a district school board immunity from liability for civil damages for personal injury, property damage, or death that occurs on a public school property that the district has opened up to the public, through public access policies or joint-use agreements, unless gross negligence or intentional misconduct on the part of the district school board is a proximate cause of the damage, injury, or death.

This bill may have a minimal fiscal impact on state and local governments. See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT.

The bill provides an effective date of July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Overweight Children and Adults**

###### **Present Situation**

The Centers for Disease Control and Prevention (CDC) estimates that 33.9% of American adults are obese and another 34.4% are overweight, and more than 12.5 million children and adolescents are obese.<sup>1</sup> The prevalence of obesity among children and adolescents has almost tripled since 1980.<sup>2</sup>

The Surgeon General estimates 300,000 deaths per year may be attributed to obesity and reports individuals who are obese have a 50-100% increased risk of premature death from all causes, when compared to individuals with a healthy weight.<sup>3</sup>

One of the reasons proffered by the CDC for the increasing rates of obesity is the lack of safe and appealing places to play or be active. According to the CDC, many communities are built in ways that make it difficult or unsafe to be physically active. For some families, getting to parks and recreation centers may be difficult, and public transportation may not be available. For many children, safe routes for walking or biking to school or play may not exist. According to the Department of Health and Human Services and the CDC, less than half of Florida's youth have access to parks, community centers and sidewalks in their neighborhood. Also, youth without access to opportunities for physical activity during nonschool hours are less likely to be as physically active as their peers.<sup>4</sup>

###### **Effect of Proposed Changes**

In an effort to address the obesity epidemic, the bill encourages each district school board to adopt written policies to promote public access to outdoor recreation and sports facilities on public school property and to increase joint-use agreements between district school boards and local governments or private organizations. A public access policy should outline the outdoor recreation and sports facilities that are open to the public and the hours the facilities are open. A joint-use agreement should set forth the terms and conditions for the shared use of outdoor recreation and sports facilities on public school property. The bill requires that within 30 days of adopting a public access policy or entering into a joint-use agreement, a district school board must submit a copy of the policy or agreement to the DOE.

##### **Interlocal Agreements**

###### **Present Situation**

Currently, the county and municipalities located within the geographic area of a school district must enter into an interlocal agreement with the district school board. Within the agreement, the parties must jointly establish the specific ways they will coordinate their growth and development plans and processes. The agreement must also include a process for determining where and how joint use of

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<sup>1</sup> Centers for Disease Control and Prevention, *Obesity and Overweight*, <http://www.cdc.gov/nchs/fastats/overwt.htm> (last visited Jan. 15, 2012); Centers for Disease Control and Prevention, Data and Statistics, *Obesity rates among all children in the United States*, <http://www.cdc.gov/obesity/childhood/data.html> (last visited January 15, 2012).

<sup>2</sup> Centers for Disease Control and Prevention, Data and Statistics, *Obesity rates among all children in the United States*, <http://www.cdc.gov/obesity/childhood/data.html> (last visited January 15, 2012).

<sup>3</sup> Office of the Surgeon General, *Overweight and Obesity: Health Consequences*, [http://www.surgeongeneral.gov/topics/obesity/calltoaction/fact\\_consequences.htm](http://www.surgeongeneral.gov/topics/obesity/calltoaction/fact_consequences.htm) (last visited January 15, 2012).

<sup>4</sup> Centers for Disease Control and Prevention, *Overweight and Obesity: A Growing Problem*, <http://www.cdc.gov/obesity/childhood/problem.html> (last visited Jan. 15, 2012); Department of Health and Human Services and Centers for Disease Control and Prevention, *State Indicator Report on Physical Activity, 2010*, at 3 and 13, available at [http://www.cdc.gov/physicalactivity/downloads/PA\\_State\\_Indicator\\_Report\\_2010.pdf](http://www.cdc.gov/physicalactivity/downloads/PA_State_Indicator_Report_2010.pdf) (last visited February 10, 2012).



either school board or local government facilities can be shared for mutual benefit and efficiency.<sup>5</sup> Usually, interlocal agreements provide general information related to sharing facilities, but not specific details. The specific details related to sharing facilities, such as, the hours the facility will be open and which entity will be liable for any damages or injuries sustained on the property, are contained in a joint-use agreement.

Some district school boards currently authorize, through their interlocal agreements, public access to sports and recreational facilities on school campuses. In fact, according to DOE, school district facilities staff members have informally expressed support for shared use of facilities. However, the school district staff members report that reaching agreements for shared use is highly dependent on variables related to individual facilities. For this reason, while a district school board may have a general policy to allow public access and shared use of facilities, agreements for shared or public use of facilities are typically considered on a facility-by-facility basis.<sup>6</sup>

For example, the Pinellas County interlocal agreement with the School Board of Pinellas County, among others, authorizes the parties to establish an agreement “for each instance of collocation and shared use to address legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation or shared use.”<sup>7</sup>

According to the DOE, school district facilities planners have noted the following barriers to expanding joint-use of and public access to facilities: premises liability concerns; additional costs for supervision, custodial services, utilities, and wear and tear on fields and equipment; and forecasts of continued reductions in revenues available for facilities operation and maintenance.<sup>8</sup> Additionally, one school district risk manager reported that the school board has directed the development of a policy to prohibit public use of outdoor school grounds and facilities during periods of darkness.<sup>9</sup> The bill does not specifically address access during daylight hours; however, the bill does not prohibit a school district from establishing such a policy.

School districts are not limited to partnering with governmental entities in joint-use agreements. Pursuant to the terms of the school district’s interlocal agreements, school districts may establish joint-use agreements with private entities.<sup>10</sup> For example, in 2003, a Best Financial Management Practices Review of the Duval County School District stated that the school district had established 47 joint-use agreements with the City of Jacksonville, the YMCA, and various community groups for the use of school facilities.<sup>11</sup>

When establishing an interlocal agreement, the law requires district school boards and local governments to consider, among other things, allowing students to attend the school located nearest their homes when a new housing development is constructed, including attendance at a school located in an adjacent county; consider the effects of the location of public education facilities, including the

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<sup>5</sup> Sections 163.31777(1) and (2)(g) and 1013.33(2)(a) and (3)(g), F.S.

<sup>6</sup> Staff of the Florida Department of Education, *2012 Agency Legislative Bill Analysis for HB 431* (2012).

<sup>7</sup> The Pinellas County interlocal agreement states, “The collocation and shared use of facilities are important to the Parties. The Parties will look for opportunities to collocate or share the use of each Parties’ facilities. Opportunities for collocation and shared use will be considered for libraries, parks, recreational facilities, community centers, auditoriums, learning centers, museums, performing arts centers, stadiums, healthcare and social services, schools, and other uses and facilities as may be determined appropriate. An agreement will be developed for each instance of collocation and shared use to address legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation or shared use.” *Interlocal Agreement between Pinellas County, Florida, et al. and the School Board of Pinellas County, Florida*, at 4 (2007), available at [http://pinellascounty.org%2FPlan%2Fpdf\\_files%2F1906\\_IA.pdf&ei=XLmTs\\_aMo2-tgesjcWdCg&usg=AFQjCNFODeQ20Nfba1IH5mNDHW3u39EyHg&sig2=PIUZ5STd6Q-LR9U\\_yiZflw](http://pinellascounty.org%2FPlan%2Fpdf_files%2F1906_IA.pdf&ei=XLmTs_aMo2-tgesjcWdCg&usg=AFQjCNFODeQ20Nfba1IH5mNDHW3u39EyHg&sig2=PIUZ5STd6Q-LR9U_yiZflw). The term of the interlocal agreement is 5 years. *Id.* at 11.

<sup>8</sup> Staff of the Florida Department of Education, *2012 Agency Legislative Bill Analysis for HB 431* (2012).

<sup>9</sup> *Id.*

<sup>10</sup> See *Duval County Interlocal Agreement for Public School Facility Planning*, at 10 (Nov. 2007), available at [www.duvalschools.org/static/.../ILA%20FINAL%2011-30-07.pdf](http://www.duvalschools.org/static/.../ILA%20FINAL%2011-30-07.pdf).

<sup>11</sup> The Florida Legislature, Office of Program Policy Analysis and Government Accountability, *Best Financial Management Practices Review of the Duval County School District*, Report No. 03-41, ch. 7 Facilities Construction, at 18, Aug. 2003, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=03-41> (last visited January 15, 2012).

feasibility of keeping central city facilities viable in order to encourage central city redevelopment; and consult with state and local road departments to assist in implementing the Safe Routes to Schools Program administered by the Department of Transportation.<sup>12</sup>

Each interlocal agreement must be submitted to the Office of Educational Facilities of the Department of Education (DOE) and the state land planning agency.<sup>13</sup> The Office of Educational Facilities is required to submit any comments or concerns regarding an interlocal agreement to the state land planning agency.<sup>14</sup> Additionally the state land planning agency is required to assemble and make available model interlocal agreements.<sup>15</sup>

Additional public access to educational facilities and grounds is currently authorized in law for any legal assembly, community use centers, or voting precinct, if allowed by the district school board or the board of trustees for the Florida College System institution, the State University System institution, or the Florida School for the Deaf and the Blind. Rules, regulations, or policies and procedures must be adopted by each board to protect educational facilities and grounds when used for such purposes.<sup>16</sup>

### **Effect of Proposed Changes**

The bill encourages each district school board to adopt written policies to promote public access to outdoor recreation and sports facilities on public school property and to increase joint-use agreements between district school boards and local governments or private organizations. However, as demonstrated by Pinellas and Duval Counties, district school boards currently appear to have the authority to adopt public use policies and enter into joint-use agreements that include provisions regarding public use of school facilities.

The bill also requires the DOE to develop and post a model joint-use agreement on its website; develop and post criteria for the acceptance of grants for implementing joint-use agreements; and post links to or copies of each joint-use agreement received from a district school board on the DOE website. By developing and posting criteria for the acceptance of grants, the DOE may provide districts access to additional funding sources to expand public access to outdoor recreation and sports facilities on public school campuses.

The bill also requires schools boards to create a process for appeal to the district school superintendent should negotiations with a school board fail. This appeals process may create problems in school districts when the superintendent is an employee of the school board.

### **School District Liability**

#### **Present Situation -- Landowner Liability**

In tort law, a plaintiff must prove that a lawful duty exists, that the duty was breached, and that the plaintiff suffered damages as a result of the breach. Current tort law related to a landowner's duty to persons on his or her land is governed by the status of the person. There are two basic categories of persons on land: invitees and trespassers.

An invitee is a person who was invited to enter the land. Section 768.075(3)(a)1., F.S., defines invitation to mean "that the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs." A landowner owes certain duties to invitees, and can be sued in tort should the landowner fail a duty and a person is injured due to that failure. The duties owed to most invitees are: the duty to keep property in reasonably safe condition; the duty to warn of concealed dangers which are known or

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<sup>12</sup> Section 1013.33(1), F.S.

<sup>13</sup> Section 1013.33(2)(a), F.S.

<sup>14</sup> Section 1013.33(4)(a), F.S.

<sup>15</sup> Section 1013.33(2)(d), F.S.

<sup>16</sup> Section 1013.10, F.S.; *see also* s. 1013.01(3), F.S. (defines "Board").

should be known to the property holder, and which the invitee cannot discover through the exercise of due care; and the duty to refrain from wanton negligence or willful misconduct.

A trespasser is any person who is not an invitee. This bill does not affect tort law related to trespassers.

### **Present Situation -- Sovereign Immunity**

Where a government may be liable in tort, such as for landowner liability, current law limits such liability. Article X, s. 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the right to waive the state's immunity in part or in full by general law. The Legislature did in fact establish a limited waiver of sovereign immunity for liability for tort for state agencies or subdivisions.<sup>17</sup> School districts are a state agency or subdivision for purposes of sovereign immunity.<sup>18</sup> The statutory waiver of sovereign immunity limits the recovery in a tort action against the state or subdivision to \$200,000 for any one person or one incident and limits all recovery related to one incident to a total of \$300,000.<sup>19</sup> When the state's sovereign immunity applies, the officers, employees, and agents of the state that were involved in the commission of the tort are not personally liable to an injured party.<sup>20</sup>

### **Effect of Proposed Changes**

The bill changes the standard for liability for district school boards from negligence to gross negligence or intentional misconduct. More particularly, the bill provides a district school board immunity from liability for personal injury, property damage, or death that occurs on a public school property that the district school board has opened up to the public, through public access policies or joint-use agreements, unless gross negligence or intentional misconduct on the part of the district school board is a proximate cause of the damage, injury, or death.<sup>21</sup>

The bill defines gross negligence as the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another. By changing the liability standard from negligence to gross negligence or intentional misconduct, the bill may encourage more district school boards to adopt public access policies or enter into more joint-use agreements, and thus, increase the number of outdoor recreation and sports facilities available to the public.

The limitation on liability established in the bill will result in a plaintiff only receiving damages for personal injury, property damage, or death that was caused by gross negligence or intentional misconduct. Therefore, an injured party will not be able to recover damages for an injury sustained due to negligence. However, the bill does not prevent a lawsuit from being filed against the district; therefore, a school district may incur costs associated with litigation.

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<sup>17</sup> Section 768.28(1) and (2), F.S.; see Op. Att'y Gen. Fla. 78-145 (1978); see also *Wallace v. Dean*, 3 So.3d 1035, 1045 (Fla. 2009), citing *Hutchins v. Mills*, 363 So.2d 818, 821 (Fla. 1st DCA 1978). "Prior to the effective date of s. 768.28(6), F.S., courts did not have subject matter jurisdiction of tort suits against the State and its agencies because they enjoyed sovereign immunity pursuant to Article X, section 13, Florida Constitution. However, by enacting s. 768.28[ F.S.,] the Legislature provided for waiver of sovereign immunity in tort actions. Therefore, pursuant to that statute, courts...now have subject matter jurisdiction to consider suits that fall within the parameters of the statute."

<sup>18</sup> The term "state" means "state agencies or subdivisions" which includes the executive departments, the Legislature, the judicial branch, and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities. Section 768.28(2), F.S.

<sup>19</sup> Section 768.28(5), F.S.

<sup>20</sup> Section 768.28(9), F.S.

<sup>21</sup> While Art. 1, s. 21, Fla. Const., provides that the "courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay," and the Florida Supreme Court has in the past found that this provision limits the ability of the Legislature to amend tort law, the court in *Abdin v. Fischer*, held that limiting liability of owners and lessees who provide the public with a park area for outdoor recreational purposes, is a reasonable exercise of legislative power and does not violate Art. 1, s. 21, Fla. Const., regarding access to courts. 374 So.2d 1379 (Fla. 1979).

Additionally, even if a school district's actions are found to be a proximate cause of the damage, injury, or death, the school district is protected by sovereign immunity, and the damages would be capped pursuant to law.<sup>22</sup> The bill makes clear that this sovereign immunity still applies.

**B. SECTION DIRECTORY:**

**Section 1.** Creates s. 1013.105, F.S., relating to joint use of public school facilities.

**Section 2.** Creates s. 768.072, F.S., relating to limitation on public school premises liability.

**Section 3.** Provides an effective date of July 1, 2012.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

The bill does not appear to have any impact on state revenues.

**2. Expenditures:**

The bill requires the DOE to develop and make available a model joint-use agreement. The DOE is also required to post links to or copies of district joint-use agreements and also develop criteria for accepting grants for implementing joint-use agreements. These requirements are anticipated to be accomplished within departmental resources. Accordingly, no impact on state expenditures is expected.

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

**1. Revenues:**

The bill does not appear to have any impact on local government revenues.

**2. Expenditures:**

The bill appears to have an indeterminate impact on local government expenditures. The bill encourages school districts to adopt public access policies and enter into joint-use agreements to increase public access to outdoor recreation and sports facilities on public school property. If more school recreational facilities are open to the public, cities and counties may be able to reduce spending on the development and maintenance of public parks and recreation areas; however, school districts may have a fiscal impact from the increased "wear and tear" on the facilities. Additionally, school districts anticipate needing someone to oversee the use of the school property, which may result in an additional cost to the school district, even though the bill does not require this supervision.<sup>23</sup>

While the bill provides districts immunity from liability except in cases of gross negligence or intentional misconduct, the bill does not prevent a suit from being filed against the district; therefore, a school district may incur costs associated with litigation.

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

Damages received by an injured party may be limited due to a school district's immunity from liability. A plaintiff will only receive damages if the injury, damage, or death was caused by gross negligence or intentional misconduct. Therefore, an injured party will not be able to recover damages for an injury sustained due to negligence.

<sup>22</sup> Section 768.28(5), F.S.

<sup>23</sup> Memorandum, Florida School Boards Association, Inc. (Jan. 18, 2012).

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The 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:**

None.

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

It is unclear how the appeals process will work in a school district when the superintendent is an employee of the school board.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 25, 2012, the K-20 Competitiveness Subcommittee of the Education Committee reported the proposed committee substitute for HB 431 favorably as a committee substitute. The proposed committee substitute (PCS) differs from HB 431 in the following ways:

- The PCS removes the whereas clauses and the definitions from HB 431.
- The PCS adds a requirement that districts submit a copy of each public access policy or joint-use agreement to the DOE within 30 days of adoption of the policy or execution of the agreement.
- The PCS adds a requirement that DOE post the criteria it develops for the acceptance of grants for implementing joint-use agreements on its website.
- The PCS clarifies that liability does not exist for damages arising out of personal injury, property damage, or death that occur on school property that was open to the public, unless the gross negligence or intentional misconduct of a district school board is a proximate cause of the injury, damage, or death.
- The PCS amends the definition of "gross negligence" to be consistent with the legal definition.

On February 16, 2012, the Judiciary Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments create an appeals process regarding joint-use agreements and specify that the liability provisions of the bill are not a waiver of sovereign immunity.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 949 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Education Committee  
2 Representative Baxley offered the following:

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

5 Remove everything after the enacting clause and insert:

6  
7 Section 1. Subsections (1) and (3) of section 985.632,  
8 Florida Statutes, are amended to read:

9 985.632 Quality assurance and cost-effectiveness.—

10 (Substantial rewording of subsections (1) and (3).

11 See s. 985.632(1) and (3), F.S., for present text.)

12 (1) The department shall:

13 (a) Provide cost and effectiveness information on programs  
14 and program activities in order to compare, improve, or  
15 eliminate a program or program activity if necessary.

16 (b) Provide program and program activity cost and  
17 effectiveness data to the Legislature in order for resources to  
18 be allocated for achieving desired performance outcomes.

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Page 1 of 14

h0949-strike

Amendment No. 1

19 (c) Provide information to the public concerning program  
20 and program activity cost and effectiveness.

21 (d) Implement a system of accountability in order to  
22 provide the best and most appropriate programs and activities to  
23 meet client needs.

24 (e) Continue to improve service delivery.

25 (3) By March 1 each year, the department, in consultation  
26 with the Department of Education, shall submit a report to the  
27 Governor, the President of the Senate, and the Speaker of the  
28 House of Representatives regarding program costs and  
29 effectiveness. The report shall include uniform cost data for  
30 each program operated by the department or by providers under  
31 contract with the department. The Department of Education shall  
32 provide the cost data on each education program operated by a  
33 school district or provider under contract with the school  
34 district. Cost data shall be formatted and presented in a manner  
35 approved by the Legislature. The report shall also include data  
36 on student learning gains, as provided by the Department of  
37 Education, for all juvenile justice education programs as  
38 required under s. 1003.52(3)(b); information required under s.  
39 1003.52(20); the cost-effectiveness of each program offered; and  
40 recommendations for modification or elimination of programs or  
41 program activities.

42 Section 2. Paragraph (b) of subsection (18) of section  
43 1001.42, Florida Statutes, is amended to read:

44 1001.42 Powers and duties of district school board.—The  
45 district school board, acting as a board, shall exercise all  
46 powers and perform all duties listed below:

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 949 (2012)

Amendment No. 1

47 (18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—  
48 Maintain a state system of school improvement and education  
49 accountability as provided by statute and State Board of  
50 Education rule. This system of school improvement and education  
51 accountability shall be consistent with, and implemented  
52 through, the district's continuing system of planning and  
53 budgeting required by this section and ss. 1008.385, 1010.01,  
54 and 1011.01. This system of school improvement and education  
55 accountability shall comply with the provisions of ss. 1008.33,  
56 1008.34, 1008.345, and 1008.385 and include the following:

57 (b) Public disclosure.—The district school board shall  
58 provide information regarding the performance of students and  
59 educational programs as required pursuant to ss. 1008.22 and  
60 1008.385 and implement a system of school reports as required by  
61 statute and State Board of Education rule which shall include  
62 schools operating for the purpose of providing educational  
63 services to youth in Department of Juvenile Justice programs,  
64 and for those schools, report on the elements specified in s.  
65 1003.52(20) ~~1003.52(19)~~. Annual public disclosure reports shall  
66 be in an easy-to-read report card format and shall include the  
67 school's grade, high school graduation rate calculated without  
68 GED tests, disaggregated by student ethnicity, and performance  
69 data as specified in state board rule.

70 Section 3. Present subsections (10) and (15) through (22)  
71 of section 1003.52, Florida Statutes, are amended, and a new  
72 subsection (16) is added to that section, to read:

73 1003.52 Educational services in Department of Juvenile  
74 Justice programs.—

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

Page 3 of 14

h0949-strike

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 949 (2012)

Amendment No. 1

75 (10) The district school board shall recruit and train  
76 teachers who are interested, qualified, or experienced in  
77 educating students in juvenile justice programs. Students in  
78 juvenile justice programs shall be provided a wide range of  
79 educational programs ~~and opportunities including textbooks,~~  
80 ~~technology,~~ instructional support, and ~~other~~ resources  
81 commensurate with resources provided available to students in  
82 public schools, including textbooks and access to technology. If  
83 the district school board operates a juvenile justice education  
84 program at a juvenile justice facility, the district school  
85 board, in consultation with the director of the juvenile justice  
86 facility, shall select the instructional personnel assigned to  
87 that program. Instructional personnel must be certified by the  
88 Department of Education; however, a nondegreed teacher of career  
89 and technical education courses, certified by a school district  
90 under s. 1012.39, may provide services as an out-of-field  
91 teacher. Teachers assigned to educational programs in juvenile  
92 justice settings in which the district school board operates the  
93 educational program shall be selected by the district school  
94 board in consultation with the director of the juvenile justice  
95 facility. Educational programs in juvenile justice facilities  
96 ~~shall have access to~~ The substitute teacher pool utilized by the  
97 district school board shall be made available to the director of  
98 the juvenile justice facility for the delivery of educational  
99 programs in juvenile justice facilities.

100 (15) ~~(a)~~ The State Board ~~Department~~ of Education, in  
101 consultation with the Department of Juvenile Justice, district  
102 school boards, and providers, shall adopt by rule: establish

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

Page 4 of 14

h0949-strike

Amendment No. 1

103        (a) Objective and measurable quality assurance standards  
104 for the educational component of residential and nonresidential  
105 juvenile justice programs facilities. ~~These standards shall rate~~  
106 ~~the~~ A district school board's performance both as a provider and  
107 contractor shall be rated based upon these standards. The  
108 quality assurance rating for the educational component shall be  
109 disaggregated from the overall quality assurance rating score  
110 and reported separately. As part of the quality assurance  
111 review, the department, in collaboration with the Department of  
112 Juvenile Justice, shall monitor and report on the educational  
113 performance of youth in commitment, day treatment, early  
114 delinquency intervention, and detention programs. The report  
115 must include, at a minimum, the number and percentage of  
116 students:

- 117        1. Returning to middle school or high school upon release.
- 118        2. Receiving a standard high school diploma or a general  
119 equivalency diploma.
- 120        3. Receiving industry certification.
- 121        4. Receiving occupational completion points.
- 122        5. Enrolling in a postsecondary educational institution.
- 123        6. Completing a juvenile justice education program without  
124 reoffending.
- 125        7. Reoffending within 1 year after completion of a  
126 juvenile justice education program.
- 127        8. Remaining employed 1 year after completion of a  
128 juvenile justice education program.

129        (b) ~~The Department of Education shall develop A~~  
130 comprehensive quality assurance review process and schedule for  
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Published On: 2/22/2012 4:51:53 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 949 (2012)

Amendment No. 1

131 the evaluation of the educational component in juvenile justice  
132 programs. The Department of Juvenile Justice quality assurance  
133 site visit and the education quality assurance site visit shall  
134 be conducted during the same visit.

135 (c) ~~The Department of Education, in consultation with~~  
136 ~~district school boards and providers, shall establish~~ Minimum  
137 thresholds for the standards used to evaluate the and key  
138 ~~indicators for~~ educational component of programs in juvenile  
139 justice programs facilities. If a district school board fails to  
140 meet the established minimum standards, it will be given 6  
141 months to achieve compliance with the standards. If after 6  
142 months, the district school board's performance is still below  
143 minimum standards, the Department of Education shall exercise  
144 sanctions as prescribed by rules adopted by the State Board of  
145 Education. If a provider, under contract with the district  
146 school board, fails to meet minimum standards, such failure  
147 shall cause the district school board to cancel the provider's  
148 contract unless the provider achieves compliance within 6 months  
149 or unless there are documented extenuating circumstances.

150 ~~(d) The requirements in paragraphs (a), (b), and (c) shall~~  
151 ~~be implemented to the extent that funds are available.~~

152 (16) An individualized transition plan shall be developed  
153 for each student receiving services in a juvenile justice  
154 education program. The individualized transition plan shall be  
155 developed upon the student's entry into the program with the  
156 participation of the student, parent, school district or  
157 contracted provider personnel or both, and Department of  
158 Juvenile Justice staff. Once the student exits a juvenile

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

Page 6 of 14

h0949-strike

Amendment No. 1

159 justice education program, a copy of the individualized  
160 transition plan shall be provided to the student, the provider,  
161 and the Department of Juvenile Justice. The individualized  
162 transition plan becomes a part of the student's academic record.  
163 The individualized transition plan shall include, at a minimum,  
164 the student's:

165 (a) Results on district and statewide assessments;  
166 (b) Individual academic plan, 504 accommodation plan, or  
167 individual education plan, as appropriate;  
168 (c) Academic transcripts;  
169 (d) Academic reentry goals;  
170 (e) Career and employment goals;  
171 (f) Recommended educational placement;  
172 (g) Industry certification completion information;  
173 (h) Occupational completion points; and  
174 (i) Treatment, intervention, and support services that are  
175 accessible upon exiting the program.

176 ~~(17)-(16)~~ The district school board shall not be charged  
177 any rent, maintenance, utilities, or overhead on residential or  
178 nonresidential juvenile justice ~~such~~ facilities. Maintenance,  
179 repairs, and remodeling of existing facilities shall be provided  
180 by the Department of Juvenile Justice.

181 ~~(18)-(17)~~ When additional facilities are required, the  
182 district school board and the Department of Juvenile Justice  
183 shall agree on the appropriate site based on the instructional  
184 needs of the students. When the most appropriate site for  
185 instruction is on district school board property, a special  
186 capital outlay request shall be made by the commissioner in

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 949 (2012)

Amendment No. 1

187 accordance with s. 1013.60. When the most appropriate site is on  
188 state property, state capital outlay funds shall be requested by  
189 the Department of Juvenile Justice provided by s. 216.043 and  
190 shall be submitted as specified by s. 216.023. Any instructional  
191 facility to be built on state property shall have educational  
192 specifications jointly developed by the district school board  
193 and the Department of Juvenile Justice and approved by the  
194 Department of Education. The size of space and occupant design  
195 capacity criteria as provided by State Board of Education rules  
196 shall be used for remodeling or new construction whether  
197 facilities are provided on state property or district school  
198 board property.

199 ~~(19)~~ (18) The parent of an exceptional student shall have  
200 the due process rights provided for in this chapter.

201 ~~(20)~~ (19) The Department of Education and the Department of  
202 Juvenile Justice, after consultation with and assistance from  
203 ~~local~~ providers and district school boards, shall report  
204 annually to the Legislature by March ~~February~~ 1 on the progress  
205 toward developing effective educational programs for juvenile  
206 delinquents, including the amount of funding provided by  
207 district school boards to juvenile justice programs, the amount  
208 retained for administration including documenting the purposes  
209 for such expenses, the status of the development of cooperative  
210 agreements, the results of the quality assurance reviews  
211 including specific legislative recommendations for system  
212 improvement, and information on the identification of, and  
213 services provided to, exceptional students in juvenile justice  
214 commitment facilities to determine whether these students are

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

Page 8 of 14

h0949-strike

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 949 (2012)

Amendment No. 1

215 properly reported for funding and are appropriately served. This  
216 report shall be incorporated in, or provided in concert with,  
217 the report required under s. 985.632(3).

218 (21)~~(20)~~ The educational programs at the Arthur Dozier  
219 School for Boys in Jackson County and the Florida School for  
220 Boys in Okeechobee shall be operated by the Department of  
221 Education, either directly or through grants or contractual  
222 agreements with other public or duly accredited education  
223 agencies approved by the Department of Education.

224 (22)~~(21)~~ The State Board of Education shall ~~may~~ adopt ~~any~~  
225 rules necessary to implement the provisions of this section,  
226 ~~including uniform curriculum, funding, and second chance~~  
227 ~~schools~~. Such rules must require the minimum amount of paperwork  
228 and reporting.

229 (23)~~(22)~~ The Department of Juvenile Justice and the  
230 Department of Education, in consultation with Workforce Florida,  
231 Inc., the statewide Workforce Development Youth Council,  
232 district school boards, Florida College System institutions,  
233 providers, and others, shall jointly develop a multiagency plan  
234 for career education which describes the funding, curriculum,  
235 transfer of credits, goals, and outcome measures for career  
236 education programming in juvenile commitment facilities,  
237 pursuant to s. 985.622. The plan must be reviewed annually.

238 Section 4. The Stephen R. Wise Commission for Juvenile  
239 Justice Education and Workforce Programs.-

240 (1) The Stephen R. Wise Commission for Juvenile Justice  
241 Education and Workforce Programs is created to study federal and  
242 state law and best practices regarding the delivery of quality

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

Page 9 of 14

h0949-strike

Amendment No. 1

243 juvenile justice education programs, review governance and  
244 quality assurance structures and evaluation methodologies,  
245 evaluate existing educational program delivery successes and  
246 failures, identify all funding mechanisms, identify duplicative  
247 or unnecessary reporting requirements, and make specific  
248 recommendations to the Legislature regarding streamlined and  
249 accountable juvenile justice education programs that reduce  
250 rates of recidivism through increased educational attainment and  
251 acquisition of workforce-related skills that lead to continuing  
252 education or meaningful employment, or both.

253 (2) The commission shall consist of the following six  
254 members:

255 (a) The Commissioner of Education or a designee of the  
256 commissioner who is highly qualified in the areas of providing  
257 educational services to youth in Department of Juvenile Justice  
258 programs.

259 (b) The Secretary of Juvenile Justice or a designee of the  
260 secretary who is highly qualified in the area of providing  
261 educational services to youth in Department of Juvenile Justice  
262 programs.

263 (c) Two representatives of the business community who are  
264 committed to developing and enhancing the workforce-related  
265 skills of youth within and exiting a juvenile justice education  
266 program and reducing recidivism. One member shall be appointed  
267 by the Commissioner of Education and one member shall be  
268 appointed by the Secretary of Juvenile Justice.

269 (d) One school district provider of juvenile justice  
270 education programs appointed by the Commissioner of Education.

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

Page 10 of 14



Amendment No. 1

271 This appointee must be committed to developing and enhancing the  
272 education of youth within and exiting a juvenile justice  
273 education program and reducing recidivism.

274 (e) One contract provider of juvenile justice education  
275 programs appointed by the Secretary of Juvenile Justice. This  
276 appointee must be committed to developing and enhancing the  
277 education of youth within a juvenile justice education program  
278 and reducing recidivism.

279 (3) The Commissioner of Education, or his or her designee,  
280 and the Secretary of Juvenile Justice, or his or her designee,  
281 shall serve as co-chairs of the commission.

282 (4) The commission shall meet monthly or at the call of  
283 the co-chairs at a designated time and place. The meetings may  
284 be conducted by teleconference or other electronic means. The  
285 commission shall conduct at least three public hearings. All  
286 meetings shall be noticed and open to the public.

287 (5) The Department of Education and the Department of  
288 Juvenile Justice shall provide administrative support for the  
289 commission.

290 (6) The commission shall submit a report to the Governor,  
291 the President of the Senate, the Speaker of the House of  
292 Representatives, the Board of Governors of the State University  
293 System, the State Board of Education, and the Department of  
294 Juvenile Justice by December 31, 2012.

295 (a) The report shall include a state-of-the-state overview  
296 of juvenile justice education programs in Florida, including  
297 identification of effective and ineffective programs, delivery

Amendment No. 1

298 systems, governance structures, funding support, and quality  
299 assurance structures and evaluation methodologies.

300 (b) The report shall provide specific legislative  
301 recommendations, at a minimum, regarding:

302 1. A juvenile justice education program accountability  
303 system that identifies and rewards high-performing providers,  
304 identifies low-performing providers, specifies mandatory  
305 performance improvement standards, and establishes termination  
306 requirements.

307 2. Student performance standards and a system for  
308 evaluating whether school districts and providers of juvenile  
309 justice education programs meet those standards. Student  
310 performance expectations must be based upon the length of a  
311 student's stay in the juvenile justice program and the level of  
312 institutional supervision.

313 3. Requirements for educational services provided by  
314 school districts and providers that will increase opportunities  
315 for juveniles to continue their education and gain employment.

316 4. The identification of effective program practices and  
317 resources for students in need of academic remediation, credit  
318 recovery, and workforce training.

319 5. The elimination of duplicative processes and reporting  
320 requirements.

321 6. Funding mechanisms for local, state, and federal  
322 funding related to juvenile justice education and workforce  
323 programs.

324 (7) The commission shall be dissolved upon submission of  
325 its report.

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

Page 12 of 14

Amendment No. 1

326 Section 5. This act shall take effect upon becoming a law.

327

328

329 -----

330

**T I T L E A M E N D M E N T**

331

Remove the entire title and insert:

332

A bill to be entitled

333

An act relating to juvenile justice education and

334

workforce programs; amending s. 985.632, F.S.;

335

requiring the Department of Juvenile Justice to

336

provide cost and effectiveness information on programs

337

and program activities and to implement an

338

accountability system; requiring the department, in

339

consultation with the Department of Education, to

340

submit a report to the Governor and Legislature

341

regarding program costs and effectiveness; requiring

342

the report to include uniform cost data for programs,

343

data on student learning gains, and recommendations

344

for modification and elimination of programs and

345

program activities; amending s. 1001.42, F.S.;

346

conforming a cross-reference; amending s. 1003.52,

347

F.S., relating to educational services in Department

348

of Juvenile Justice programs; providing qualifications

349

for instructional personnel; requiring the State Board

350

of Education to adopt rules relating to quality

351

assurance standards and review; requiring the

352

Department of Education to monitor and report on the

353

educational performance of youth in juvenile justice

573277 - h0949-strike.docx

Published On: 2/22/2012 4:51:53 PM

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 949 (2012)

Amendment No. 1

354 programs; requiring an individualized transition plan  
355 to be developed for each student receiving services in  
356 a juvenile justice education program; conforming  
357 provisions to changes made by the act; creating the  
358 Stephen R. Wise Commission for Juvenile Justice  
359 Education and Workforce Programs; providing  
360 membership, administrative support, and meeting  
361 requirements; requiring the commission to make  
362 specific legislative recommendations and submit a  
363 report relating to overview of juvenile justice  
364 education programs, program accountability, program  
365 standards and evaluation, increasing opportunities for  
366 juveniles in education and employment, effective  
367 program practices, duplicative processes, and funding  
368 mechanisms; providing for the dissolution of the  
369 commission; providing an effective date.

1                                   A bill to be entitled  
 2           An act relating to juvenile justice education and  
 3           workforce programs; amending s. 985.03, F.S.;  
 4           providing a definition for the term "juvenile justice  
 5           education programs" for purposes of the act; amending  
 6           s. 985.46, F.S.; requiring that each juvenile  
 7           committed to a juvenile justice commitment program  
 8           have a transition plan upon release; requiring that  
 9           the transition plan include an education transition  
 10          plan component and information regarding delinquency  
 11          treatment and intervention services that are  
 12          accessible upon exiting the program; amending s.  
 13          985.618, F.S.; providing legislative intent regarding  
 14          juvenile justice education and workforce-related  
 15          programs; requiring that the Department of Juvenile  
 16          Justice, in collaboration with the Department of  
 17          Education, annually verify that each juvenile justice  
 18          education program meets specified minimum standards;  
 19          requiring that the department collaborate with certain  
 20          entities to adopt rules; amending s. 985.632, F.S.;  
 21          conforming provisions to changes made by the act;  
 22          requiring that the Department of Education rather than  
 23          the Department of Juvenile Justice ensure that there  
 24          is accurate cost accounting for certain education  
 25          programs; requiring that the Department of Education  
 26          submit annual cost data to the department; requiring  
 27          that the effectiveness of juvenile justice education  
 28          programs be determined by implementing systematic data

29 collection, data analysis, and evaluations; requiring  
 30 that the programs be evaluated based on student  
 31 performance outcomes; requiring that the Department of  
 32 Juvenile Justice, in collaboration with the Department  
 33 of Education and in consultation with other entities,  
 34 prepare and submit an annual report to the Governor  
 35 and the Legislature by a specified date; amending s.  
 36 985.721, F.S.; conforming a cross-reference; amending  
 37 s. 1001.42, F.S.; conforming provisions to changes  
 38 made by the act; conforming a cross-reference;  
 39 amending ss. 1002.20 and 1002.45, F.S.; conforming  
 40 cross-references; amending s. 1003.01, F.S.; revising  
 41 the term "juvenile justice education programs or  
 42 schools" to conform to changes made by the act;  
 43 creating s. 1003.515, F.S.; providing a short title;  
 44 providing a legislative finding; providing purposes of  
 45 the Florida Juvenile Justice Education Act; providing  
 46 a definition for the term "juvenile justice education  
 47 programs"; providing responsibilities for school  
 48 districts and private providers contracted by school  
 49 districts to offer education services to youth in  
 50 juvenile justice education programs; requiring that  
 51 each juvenile justice residential and nonresidential  
 52 program involve the regional workforce board or  
 53 economic development agency and local postsecondary  
 54 institutions to determine the occupational areas for  
 55 the education and workforce-related program; providing  
 56 requirements for education and workforce-related

57 | services in juvenile justice programs; providing  
 58 | responsibilities for the Department of Education;  
 59 | requiring that the department identify each juvenile  
 60 | justice residential and nonresidential education  
 61 | program, excluding detention programs, by performance  
 62 | ratings; providing criteria for determining  
 63 | performance ratings; requiring that the department  
 64 | make available a common student pre- and post-  
 65 | assessment to measure the academic progress in reading  
 66 | and mathematics of youth in juvenile justice education  
 67 | programs; requiring that juvenile justice residential  
 68 | and nonresidential education programs, excluding  
 69 | detention centers, be held accountable for student  
 70 | performance outcomes for a specified period after  
 71 | youth are released from the programs; providing for  
 72 | program accountability; requiring that the department  
 73 | monitor the education performance of youth, prohibit  
 74 | certain school district or private providers, under  
 75 | specified circumstances, from delivering education  
 76 | services, and verify that a school district is  
 77 | operating or contracting to deliver education  
 78 | services; providing for a school district's  
 79 | responsibilities; requiring that a youth who exits the  
 80 | program attain an industry certification, enroll in a  
 81 | program to complete the industry certification, be  
 82 | gainfully employed, or enroll in and continue his or  
 83 | her education based on a transition plan; requiring  
 84 | that an education transition plan component be

85 | incorporated in a youth's transition plan; requiring  
 86 | that each juvenile justice education program develop  
 87 | the education transition plan component during the  
 88 | course of the youth's stay in a juvenile justice  
 89 | residential or nonresidential program; providing  
 90 | funding requirements for the juvenile justice  
 91 | education programs; prohibiting a district school  
 92 | board from being charged rent, maintenance, utilities,  
 93 | or overhead on facilities; requiring that the  
 94 | Department of Juvenile Justice provide maintenance,  
 95 | repairs, and remodeling of existing facilities;  
 96 | requiring that the State Board of Education  
 97 | collaborate with the Department of Juvenile Justice,  
 98 | the Department of Economic Opportunity, school  
 99 | districts, and private providers to adopt rules;  
 100 | repealing s. 1003.52, F.S., relating to educational  
 101 | services in Department of Juvenile Justice programs;  
 102 | amending s. 1009.25, F.S.; providing an exemption from  
 103 | the payment of postsecondary education fees and  
 104 | tuition for certain youth who are ordered by a court  
 105 | to participate in a juvenile justice residential  
 106 | program; amending s. 1011.62, F.S.; extending dates  
 107 | relating to the funding of students who are enrolled  
 108 | in juvenile justice education programs or in education  
 109 | programs for juveniles placed in secure facilities;  
 110 | conforming a cross-reference; providing an effective  
 111 | date.

112



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

114

115 Section 1. Present subsections (30) through (57) of  
 116 section 985.03, Florida Statutes, are redesignated as  
 117 subsections (31) through (58), respectively, and a new  
 118 subsection (30) is added to that section, to read:

119 985.03 Definitions.—As used in this chapter, the term:  
 120 (30) "Juvenile justice education programs" has the same  
 121 meaning as provided in s. 1003.01(11)(a).

122 Section 2. Subsection (6) is added to section 985.46,  
 123 Florida Statutes, to read:

124 985.46 Conditional release.—

125 (6) Each juvenile committed to a commitment program shall  
 126 have a transition plan upon release. Transition planning shall  
 127 begin for each juvenile upon placement in a commitment program  
 128 and shall result in an individual transition plan for each youth  
 129 before he or she is released. The transition plan shall be  
 130 developed with the participation of the youth, representatives  
 131 of the commitment program, school district personnel, and  
 132 representatives of conditional release or postcommitment  
 133 probation programs, if appropriate. The transition plan shall  
 134 include an education transition plan component as provided in s.  
 135 1003.515(10), as well as information regarding pertinent  
 136 delinquency treatment and intervention services that are  
 137 accessible upon exiting the program.

138 (a) For a juvenile who is released on conditional release  
 139 or postcommitment probation status, the transition plan shall be  
 140 incorporated into the conditions of release.

141 (b) For a juvenile who is not released on conditional  
 142 release or postcommitment probation status, the transition plan  
 143 shall be explained to the youth and provided upon release, with  
 144 all necessary referrals having been made at least 30 days before  
 145 the youth exits the program.

146 (c) For a juvenile who participates in a nonresidential  
 147 program, the transition plan shall be explained to the youth and  
 148 provided upon release. For a juvenile who participates in a  
 149 nonresidential program and who is released on conditional  
 150 release or postcommitment probation status, the transition plan  
 151 shall be incorporated into the conditions of release.

152 Section 3. Section 985.618, Florida Statutes, is amended  
 153 to read:

154 (Substantial rewording of section. See  
 155 s. 985.618, F.S., for present text.)

156 985.618 Education and workforce-related programs.-

157 (1) The Legislature intends for youth in juvenile justice  
 158 programs to be provided a quality education that includes  
 159 workforce-related skills that lead to continuing education or  
 160 meaningful employment, or both, and that results in reduced  
 161 rates of recidivism.

162 (2) The department, in collaboration with the Department  
 163 of Education, shall annually verify that each juvenile justice  
 164 education program, at a minimum:

165 (a) Provides access to virtual course offerings that  
 166 maximize learning opportunities for youth.

167 (b) Encourages access to virtual counseling to address the  
 168 educational and workforce needs of adjudicated youth.

169 (c) Provides instruction from individuals who hold  
 170 industry credentials in the occupational areas in which they  
 171 teach.

172 (d) Ensures student access to instruction during evenings  
 173 and weekends.

174 (e) Considers, before placement, the age, interests, prior  
 175 education, training, work experience, emotional and mental  
 176 abilities, treatment needs, and physical capabilities of the  
 177 youth and the duration of the term of placement imposed.

178 (f) Provides specialized instruction, related services,  
 179 accommodations, and modifications as are necessary to ensure the  
 180 provision of a free, appropriate public education for students  
 181 with disabilities.

182 (g) Expends funds in a manner that directly supports the  
 183 attainment of successful student outcomes as specified in s.  
 184 1003.515(7) and that allows youth to engage in real work  
 185 situations whenever possible.

186 (3) The department shall collaborate with the Department  
 187 of Education, the Department of Economic Opportunity, school  
 188 districts, and private providers to adopt rules to administer  
 189 this section.

190 Section 4. Section 985.632, Florida Statutes, is amended  
 191 to read:

192 985.632 Quality assurance and cost-effectiveness.—

193 (1) It is the intent of the Legislature that the  
 194 department:

195 (a) Ensure that information be provided to decisionmakers  
 196 in a timely manner so that resources are allocated to programs

CS/HB 949

2012

197 of the department which achieve desired performance levels.

198 (b) Provide information about the cost of such programs  
 199 and their differential effectiveness so that the quality of such  
 200 programs can be compared and improvements made continually.

201 (c) Provide information to aid in developing related  
 202 policy issues and concerns.

203 (d) Provide information to the public about the  
 204 effectiveness of such programs in meeting established goals and  
 205 objectives.

206 (e) Provide a basis for a system of accountability so that  
 207 each client is afforded the best programs to meet his or her  
 208 needs.

209 (f) Improve service delivery to clients.

210 (g) Modify or eliminate activities that are not effective.

211 (2) As used in this section, the term:

212 (a) "Client" means any person who is being provided  
 213 treatment or services by the department or by a provider under  
 214 contract with the department.

215 (b) "Program component" means an aggregation of generally  
 216 related objectives which, because of their special character,  
 217 related workload, and interrelated output, can logically be  
 218 considered an entity for purposes of organization, management,  
 219 accounting, reporting, and budgeting.

220 (c) "Program effectiveness" means the ability of the  
 221 program to achieve desired client outcomes, goals, and  
 222 objectives.

223 (3) The department shall annually collect and report cost  
 224 data for every program operated by the department or its

CS/HB 949

2012

225 | contracted provider ~~or contracted by the department~~. The cost  
 226 | data shall conform to a format approved by the department and  
 227 | the Legislature. Uniform cost data shall be reported and  
 228 | collected for each education program operated by a school  
 229 | district or private provider contracted by a school district  
 230 | ~~state-operated and contracted programs~~ so that comparisons can  
 231 | be made among programs. The Department of Education shall ensure  
 232 | that there is accurate cost accounting for education programs  
 233 | operated by school districts, including those programs operated  
 234 | by private providers under contract with school districts ~~state-~~  
 235 | ~~operated services including market equivalent rent and other~~  
 236 | ~~shared cost. The cost of the educational program provided to a~~  
 237 | ~~residential facility shall be reported and included in the cost~~  
 238 | ~~of a program.~~ The Department of Education shall submit ~~an~~ annual  
 239 | cost data report to the department ~~President of the Senate, the~~  
 240 | ~~Speaker of the House of Representatives, the Minority Leader of~~  
 241 | ~~each house of the Legislature, the appropriate substantive and~~  
 242 | ~~fiscal committees of each house of the Legislature, and the~~  
 243 | ~~Governor, no later than December 1 of each year.~~ The annual cost  
 244 | data shall be included in the annual report required in  
 245 | subsection (7). Cost-benefit analysis for juvenile justice  
 246 | education ~~educational~~ programs shall ~~will~~ be developed and  
 247 | implemented in collaboration with and in cooperation with the  
 248 | Department of Education, local providers, and local school  
 249 | districts. ~~Cost data for the report shall include data collected~~  
 250 | ~~by the Department of Education for the purposes of preparing the~~  
 251 | ~~annual report required by s. 1003.52(19).~~

252 | (4) (a) The department, in consultation with the Office of

253 Economic and Demographic Research and contract service  
 254 providers, shall develop a cost-effectiveness model and apply  
 255 the model to each commitment program. Program recidivism rates  
 256 shall be a component of the model. The cost-effectiveness model  
 257 shall compare program costs to client outcomes and program  
 258 outputs. It is the intent of the Legislature that continual  
 259 development efforts take place to improve the validity and  
 260 reliability of the cost-effectiveness model.

261 (b) The department shall rank commitment programs based on  
 262 the cost-effectiveness model and shall submit a report to the  
 263 appropriate substantive and fiscal committees of each house of  
 264 the Legislature by December 31 of each year.

265 (c) Based on reports of the department on client outcomes  
 266 and program outputs and on the department's most recent cost-  
 267 effectiveness rankings, the department may terminate a program  
 268 operated by the department or a provider if the program has  
 269 failed to achieve a minimum threshold of program effectiveness.  
 270 This paragraph does not preclude the department from terminating  
 271 a contract as provided under this section or as otherwise  
 272 provided by law or contract, and does not limit the department's  
 273 authority to enter into or terminate a contract.

274 (d) In collaboration with the Office of Economic and  
 275 Demographic Research, and contract service providers, the  
 276 department shall develop a work plan to refine the cost-  
 277 effectiveness model so that the model is consistent with the  
 278 performance-based program budgeting measures approved by the  
 279 Legislature to the extent the department deems appropriate. The  
 280 department shall notify the Office of Program Policy Analysis

281 and Government Accountability of any meetings to refine the  
 282 model.

283 (e) Contingent upon specific appropriation, the  
 284 department, in consultation with the Office of Economic and  
 285 Demographic Research, and contract service providers, shall:

286 1. Construct a profile of each commitment program that  
 287 uses the results of the quality assurance report required by  
 288 this section, the cost-effectiveness report required in this  
 289 subsection, and other reports available to the department.

290 2. Target, for a more comprehensive evaluation, any  
 291 commitment program that has achieved consistently high, low, or  
 292 disparate ratings in the reports required under subparagraph 1.

293 3. Identify the essential factors that contribute to the  
 294 high, low, or disparate program ratings.

295 4. Use the results of these evaluations in developing or  
 296 refining juvenile justice programs or program models, client  
 297 outcomes and program outputs, provider contracts, quality  
 298 assurance standards, and the cost-effectiveness model.

299 (5) (a) Program effectiveness shall be determined by  
 300 implementing systematic data collection, data analysis, and  
 301 education and workforce-related program evaluations pursuant to  
 302 this section and s. 1003.515.

303 (b) The evaluation of juvenile justice education and  
 304 workforce-related programs shall be based on the performance  
 305 outcomes provided in s. 1003.515(7).

306 ~~(6)~~(5) The department shall:

307 (a) Establish a comprehensive quality assurance system for  
 308 each program operated by the department or its contracted

309 provider ~~operated by a provider under contract with the~~  
 310 ~~department~~. Each contract entered into by the department must  
 311 provide for quality assurance.

312 (b) Provide operational definitions of and criteria for  
 313 quality assurance for each specific program component.

314 (c) Establish quality assurance goals and objectives for  
 315 each specific program component.

316 (d) Establish the information and specific data elements  
 317 required for the quality assurance program.

318 (e) Develop a quality assurance manual of specific,  
 319 standardized terminology and procedures to be followed by each  
 320 program.

321 (f) Evaluate each program operated by the department or  
 322 its contracted ~~a provider under a contract with the department~~  
 323 and establish minimum thresholds for each program component. If  
 324 a provider fails to meet the established minimum thresholds,  
 325 such failure shall cause the department to cancel the provider's  
 326 contract unless the provider achieves compliance with minimum  
 327 thresholds within 6 months or unless there are documented  
 328 extenuating circumstances. In addition, the department may not  
 329 contract with the same provider for the canceled service for a  
 330 period of 12 months. If a department-operated program fails to  
 331 meet the established minimum thresholds, the department must  
 332 take necessary and sufficient steps to ensure and document  
 333 program changes to achieve compliance with the established  
 334 minimum thresholds. If the department-operated program fails to  
 335 achieve compliance with the established minimum thresholds  
 336 within 6 months and if there are no documented extenuating



CS/HB 949

2012

337 | circumstances, the department must notify the Executive Office  
 338 | of the Governor and the Legislature of the corrective action  
 339 | taken. Appropriate corrective action may include, but is not  
 340 | limited to:

- 341 |       1. Contracting out for the services provided in the
- 342 | program;
- 343 |       2. Initiating appropriate disciplinary action against all
- 344 | employees whose conduct or performance is deemed to have
- 345 | materially contributed to the program's failure to meet
- 346 | established minimum thresholds;
- 347 |       3. Redesigning the program; or
- 348 |       4. Realigning the program.

349 |  
 350 | The department shall submit an annual report to the President of  
 351 | the Senate, the Speaker of the House of Representatives, the  
 352 | Minority Leader of each house of the Legislature, the  
 353 | appropriate substantive and fiscal committees of each house of  
 354 | the Legislature, and the Governor, no later than February 1 of  
 355 | each year. The annual report must contain, at a minimum, for  
 356 | each specific program component: a comprehensive description of  
 357 | the population served by the program; a specific description of  
 358 | the services provided by the program; cost; a comparison of  
 359 | expenditures to federal and state funding; immediate and long-  
 360 | range concerns; and recommendations to maintain, expand,  
 361 | improve, modify, or eliminate each program component so that  
 362 | changes in services lead to enhancement in program quality. The  
 363 | department shall ensure the reliability and validity of the  
 364 | information contained in the report.

365        (7) The department, in collaboration with the Department  
 366 of Education and in consultation with the school districts and  
 367 private juvenile justice education program providers, shall  
 368 prepare an annual report containing the education performance  
 369 outcomes, based on the criteria in s. 1003.515(7), of youth in  
 370 juvenile justice education programs. The report shall delineate  
 371 the performance outcomes of youth in the state, in each school  
 372 district's juvenile justice education program, and for each  
 373 private provider's juvenile justice education program, including  
 374 the performance outcomes of all major student populations and  
 375 genders, as determined by the Department of Education. The  
 376 report shall address the use and successful completion of  
 377 virtual instruction courses and the successful implementation of  
 378 transition and reintegration plans. The report must include an  
 379 analysis of the performance of youth over time, including, but  
 380 not limited to, additional education attainment, employment,  
 381 earnings, industry certification, and rates of recidivism. The  
 382 report must also include recommendations for improving  
 383 performance outcomes and for additional cost savings and  
 384 efficiencies. The report shall be submitted to the Governor, the  
 385 President of the Senate, and the Speaker of the House of  
 386 Representatives by December 31, 2013, and each year thereafter.

387        (8)-(6) The department shall collect and analyze available  
 388 statistical data for the purpose of ongoing evaluation of all  
 389 programs. The department shall provide the Legislature with  
 390 necessary information and reports to enable the Legislature to  
 391 make informed decisions regarding the effectiveness of, and any  
 392 needed changes in, services, programs, policies, and laws.

CS/HB 949

2012

393 Section 5. Section 985.721, Florida Statutes, is amended  
 394 to read:

395 985.721 Escapes from secure detention or residential  
 396 commitment facility.—An escape from:

397 (1) Any secure detention facility maintained for the  
 398 temporary detention of children, pending adjudication,  
 399 disposition, or placement;

400 (2) Any residential commitment facility described in s.  
 401 985.03(46) ~~985.03(45)~~, maintained for the custody, treatment,  
 402 punishment, or rehabilitation of children found to have  
 403 committed delinquent acts or violations of law; or

404 (3) Lawful transportation to or from any such secure  
 405 detention facility or residential commitment facility,

406

407 constitutes escape within the intent and meaning of s. 944.40  
 408 and is a felony of the third degree, punishable as provided in  
 409 s. 775.082, s. 775.083, or s. 775.084.

410 Section 6. Paragraph (b) of subsection (18) of section  
 411 1001.42, Florida Statutes, is amended to read:

412 1001.42 Powers and duties of district school board.—The  
 413 district school board, acting as a board, shall exercise all  
 414 powers and perform all duties listed below:

415 (18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—  
 416 Maintain a state system of school improvement and education  
 417 accountability as provided by statute and State Board of  
 418 Education rule. This system of school improvement and education  
 419 accountability shall be consistent with, and implemented  
 420 through, the district's continuing system of planning and

CS/HB 949

2012

421 budgeting required by this section and ss. 1008.385, 1010.01,  
 422 and 1011.01. This system of school improvement and education  
 423 accountability shall comply with the provisions of ss. 1008.33,  
 424 1008.34, 1008.345, and 1008.385 and include the following:

425 (b) Public disclosure.—The district school board shall  
 426 provide information regarding the performance of students in ~~and~~  
 427 education ~~educational~~ programs as required pursuant to ss.  
 428 1008.22 and 1008.385 and implement a system of school reports as  
 429 required by statute and State Board of Education rule which  
 430 shall include schools operating for the purpose of providing  
 431 education ~~educational~~ services to youth in Department of  
 432 Juvenile Justice residential and nonresidential programs, and  
 433 for those programs ~~schools~~, report on the data and education  
 434 outcomes ~~elements~~ specified in s. 1003.515(7) ~~1003.52(19)~~.  
 435 Annual public disclosure reports shall be in an easy-to-read  
 436 report card format and shall include the school's grade, high  
 437 school graduation rate calculated without GED tests,  
 438 disaggregated by student ethnicity, and performance data as  
 439 specified in state board rule.

440 Section 7. Subsection (20) of section 1002.20, Florida  
 441 Statutes, is amended to read:

442 1002.20 K-12 student and parent rights.—Parents of public  
 443 school students must receive accurate and timely information  
 444 regarding their child's academic progress and must be informed  
 445 of ways they can help their child to succeed in school. K-12  
 446 students and their parents are afforded numerous statutory  
 447 rights including, but not limited to, the following:

448 (20) JUVENILE JUSTICE PROGRAMS.—Students who are in

CS/HB 949

2012

449 juvenile justice programs have the right to receive educational  
 450 programs and services in accordance with the provisions of s.  
 451 1003.515 ~~1003.52~~.

452 Section 8. Paragraph (b) of subsection (1) of section  
 453 1002.45, Florida Statutes, is amended to read:

454 1002.45 Virtual instruction programs.—

455 (1) PROGRAM.—

456 (b) Each school district that is eligible for the sparsity  
 457 supplement pursuant to s. 1011.62(7) shall provide all enrolled  
 458 public school students within its boundaries the option of  
 459 participating in part-time and full-time virtual instruction  
 460 programs. Each school district that is not eligible for the  
 461 sparsity supplement shall provide at least three options for  
 462 part-time and full-time virtual instruction. All school  
 463 districts must provide parents with timely written notification  
 464 of an open enrollment period for full-time students of at least  
 465 90 days that ends no later than 30 days before ~~prior to~~ the  
 466 first day of the school year. The purpose of the program is to  
 467 make quality virtual instruction available to students using  
 468 online and distance learning technology in the nontraditional  
 469 classroom. A school district virtual instruction program shall  
 470 provide the following:

471 1. Full-time virtual instruction for students enrolled in  
 472 kindergarten through grade 12.

473 2. Part-time virtual instruction for students enrolled in  
 474 grades 9 through 12 courses that are measured pursuant to  
 475 subparagraph (8)(a)2.

476 3. Full-time or part-time virtual instruction for students

477 enrolled in dropout prevention and academic intervention  
 478 programs under s. 1003.53, Department of Juvenile Justice  
 479 education programs under s. 1003.515 ~~1003.52~~, core-curricula  
 480 courses to meet class size requirements under s. 1003.03, or  
 481 Florida College System institutions under this section.

482 Section 9. Paragraph (a) of subsection (11) of section  
 483 1003.01, Florida Statutes, is amended to read:

484 1003.01 Definitions.—As used in this chapter, the term:

485 (11) (a) "Juvenile justice education programs ~~or schools~~"  
 486 means programs ~~or schools~~ operating for the purpose of providing  
 487 educational services to youth in Department of Juvenile Justice  
 488 programs, for a school year comprised of 250 days of instruction  
 489 distributed over 12 months. At the request of the provider, a  
 490 district school board may decrease the minimum number of days of  
 491 instruction by up to 10 days for teacher planning for  
 492 residential programs and up to 20 days for teacher planning for  
 493 nonresidential programs, subject to the approval of the  
 494 Department of Juvenile Justice and the Department of Education.

495 Section 10. Section 1003.515, Florida Statutes, is created  
 496 to read:

497 1003.515 The Florida Juvenile Justice Education Act.—

498 (1) SHORT TITLE.—This section may be cited as the "Florida  
 499 Juvenile Justice Education Act."

500 (2) LEGISLATIVE FINDING.—The Legislature finds that an  
 501 education is the single most important factor in the  
 502 rehabilitation of adjudicated youth who are in Department of  
 503 Juvenile Justice residential and nonresidential programs.

504 (3) PURPOSES.—The purposes of this section are to:

505 (a) Provide performance-based outcome measures and  
 506 accountability for juvenile justice education programs; and

507 (b) Improve academic and workforce-related outcomes so  
 508 that adjudicated and at-risk youth may successfully complete the  
 509 transition to and reenter the academic and workforce  
 510 environments.

511 (4) DEFINITION.—For purposes of this section, the term  
 512 "juvenile justice education programs" has the same meaning as in  
 513 s. 1003.01(11)(a).

514 (5) SCHOOL DISTRICT AND CONTRACTED EDUCATION PROVIDER  
 515 RESPONSIBILITIES.—

516 (a) A school district or private provider contracted by a  
 517 school district to offer education services to youth in a  
 518 juvenile justice education program shall:

519 1. Provide rigorous and relevant academic and workforce-  
 520 related curricula that will lead to industry certifications in  
 521 an occupational area of high demand identified in the Industry  
 522 Certification Funding list adopted by the State Board of  
 523 Education, or articulate to secondary or postsecondary-level  
 524 coursework, as appropriate.

525 2. Support state, local, and regional economic development  
 526 demands.

527 3. Make high-wage and high-demand careers more accessible  
 528 to adjudicated and at-risk youth.

529 4. Reduce rates of recidivism for adjudicated youth.

530 5. Provide access to the appropriate courses and  
 531 instruction to prepare youth for a standard high school diploma,  
 532 a special diploma, or a high school equivalency diploma, as

533 appropriate.

534 6. Provide access to virtual education courses that are  
 535 appropriate to meet the requirements of academic or workforce-  
 536 related programs and the requirements for continuing education  
 537 specified in the youth's transition and postrelease plans.

538 7. Provide opportunities for earning credits toward high  
 539 school graduation or credits that articulate to postsecondary  
 540 education institutions while the youth are in residential and  
 541 nonresidential juvenile justice facilities.

542 8. Ensure that the credits and partial credits earned by  
 543 the youth are transferred and included in the youth's records as  
 544 part of the transition plan.

545 9. Ensure that the education program consists of the  
 546 appropriate academic, workforce-related, or exceptional  
 547 education curricula and related services that directly support  
 548 performance outcomes, which must be specified in each youth's  
 549 education transition plan component as required by subsection  
 550 (10).

551 10. If the duration of a youth's stay in a program is less  
 552 than 40 days, ensure that the youth receives employability, life  
 553 skills, and academic remediation, as appropriate. In addition,  
 554 counseling and transition services must be provided which  
 555 mitigate the youth's identified risk factors and prepare the  
 556 youth for a successful reintegration into the school, community,  
 557 and home settings.

558 11. Maintain an academic record for each youth who is  
 559 enrolled in a juvenile justice facility, as required by s.  
 560 1003.51, and ensure that the coursework, credits, partial



561 credits, occupational completion points, and industry  
 562 certifications earned by the youth are transferred and included  
 563 in the youth's transition plan pursuant to s. 985.46.

564 (b) Each school district and private provider shall ensure  
 565 that the following youth participate in the program:

566 1. Youth who are of compulsory school attendance age  
 567 pursuant to s. 1003.21.

568 2. Youth who are not of compulsory school attendance age  
 569 and who have not received a high school diploma or its  
 570 equivalent, if the youth is in a residential or nonresidential  
 571 juvenile justice program. Such youth must participate in the  
 572 education program and participate in a workforce-related  
 573 education program that leads to industry certification in an  
 574 occupational area of high demand. This subparagraph does not  
 575 limit the rights of students with disabilities, as defined under  
 576 the Individuals with Disabilities Education Act, who are not of  
 577 compulsory school attendance age and who have not received a  
 578 high school diploma to receive a free, appropriate public  
 579 education in accordance with their individualized needs.

580 3. Youth who have attained a high school diploma or its  
 581 equivalent and who are not employed. Such youth must participate  
 582 in a workforce-related education program that leads to  
 583 employment in an occupational area of high demand. Such youth  
 584 may enroll in a state postsecondary institution to complete the  
 585 workforce-related education program and are exempt from the  
 586 payment of tuition and fees pursuant to s. 1009.25(1)(g).

587 (6) PROGRAM REQUIREMENTS.—In compliance with the strategic  
 588 5-year plan under s. 1003.491, each juvenile justice residential

589 and nonresidential education program shall, in collaboration  
 590 with the regional workforce board or economic development agency  
 591 and local postsecondary institutions, determine the appropriate  
 592 occupational areas for the program. Juvenile justice education  
 593 programs must:

594 (a) Ensure that rigorous academic and workforce-related  
 595 coursework is offered and meets or exceeds appropriate state-  
 596 approved subject area standards, and results in the attainment  
 597 of industry certification and postsecondary credit, when  
 598 appropriate;

599 (b) Ensure instruction from individuals who hold industry  
 600 credentials in the occupational areas in which they teach;

601 (c) Maximize the use of private sector personnel;

602 (d) Use strategies to maximize the delivery of virtual  
 603 instruction;

604 (e) Maximize instructional efficiency for youth in  
 605 juvenile justice facilities;

606 (f) Provide opportunities for youth to earn weighted or  
 607 dual enrollment credit for higher-level courses, when  
 608 appropriate;

609 (g) Promote credit recovery; and

610 (h) Provide instruction that results in competency,  
 611 certification, or credentials in workplace skills, including,  
 612 but not limited to, communication skills, interpersonal skills,  
 613 decisionmaking skills, work ethic, and the importance of  
 614 attendance and timeliness in the work environment.

615 (7) DEPARTMENT RESPONSIBILITIES.—

616 (a) The department shall identify each residential and

617 nonresidential juvenile justice education program, excluding  
 618 detention programs, as having one of the following performance  
 619 ratings as defined by State Board of Education rule:

- 620 1. High performance.
- 621 2. Adequate performance.
- 622 3. Failing performance.

623 (b) The department shall consider the level of rigor  
 624 associated with the attainment of a particular outcome when  
 625 assigning weight to the outcome. The department shall evaluate  
 626 the following elements in determining a juvenile justice  
 627 education program's performance rating:

628 1. One or more of the following outcomes for a youth who  
 629 is 14 years of age or younger:

630 a. Achieving academic progress in reading and mathematics,  
 631 as measured by the statewide common pre- and post-assessment  
 632 adopted by the department for use in juvenile justice education  
 633 programs, and participating in continuing education upon release  
 634 from a juvenile justice residential or nonresidential program.

635 b. Completing secondary coursework and participating in  
 636 continuing education upon release from a juvenile justice  
 637 residential or nonresidential program.

638 c. Attaining occupational completion points in an  
 639 occupational area of high demand identified in the Industry  
 640 Certification Funding list adopted by the State Board of  
 641 Education and participating in continuing education upon release  
 642 from a juvenile justice residential or nonresidential program.

643 d. Attaining an industry certification in an occupational  
 644 area of high demand identified in the Industry Certification

645 Funding list adopted by the State Board of Education, if  
 646 available and appropriate, and participating in continuing  
 647 education upon release from a juvenile justice residential or  
 648 nonresidential program.

649 2. One or more of the following outcomes for a youth who  
 650 is 15 years of age or older:

651 a. Achieving academic progress in reading and mathematics,  
 652 as measured by the statewide common pre- and post-assessment  
 653 adopted by the department for use in juvenile justice education  
 654 programs, and participating in continuing education upon release  
 655 from a juvenile justice residential or nonresidential program.

656 b. Earning secondary or postsecondary credit upon release  
 657 from a juvenile justice facility and participating in continuing  
 658 education upon release from a juvenile justice residential or  
 659 nonresidential program.

660 c. Attaining a high school diploma or its equivalent and  
 661 participating in continuing education at the postsecondary level  
 662 upon release from a juvenile justice residential or  
 663 nonresidential program.

664 d. Attaining a high school diploma or its equivalent and  
 665 obtaining employment.

666 e. Attaining an industry certification in an occupational  
 667 area of high demand identified in the Industry Certification  
 668 Funding list adopted by the State Board of Education and  
 669 obtaining employment.

670 f. Attaining occupational completion points in an  
 671 occupational area of high demand and obtaining employment.

672 g. Attaining occupational completion points in an

673 occupational area of high demand identified in the Industry  
 674 Certification Funding list adopted by the State Board of  
 675 Education and, upon release from a juvenile justice residential  
 676 or nonresidential program, participating in continuing education  
 677 in order to complete the industry certification in that  
 678 occupation.

679 (c) By September 1, 2012, the department shall make  
 680 available a common student pre- and post-assessment to measure  
 681 the academic progress in reading and mathematics of youth who  
 682 are assigned to juvenile justice education programs.

683  
 684 For purposes of performance ratings, juvenile justice  
 685 residential and nonresidential education programs, excluding  
 686 detention centers, shall be held accountable for the performance  
 687 outcomes of youth for no more than 6 months after the release of  
 688 youth from the residential or nonresidential program. This  
 689 subsection does not abrogate the provisions of s. 1002.22 which  
 690 relate to education records or the requirements of 20 U.S.C. s.  
 691 1232g, the Family Educational Rights and Privacy Act.

692 (8) PROGRAM ACCOUNTABILITY.—

693 (a) The department shall, in collaboration with the  
 694 Department of Juvenile Justice:

695 1. Monitor the education performance of youth in juvenile  
 696 justice facilities.

697 2. Prohibit school districts or private providers that  
 698 have failing performance ratings from delivering the education  
 699 services.

700 3. Verify that a school district is operating or

701 contracting with a private provider to deliver education  
 702 services.

703 (b) If a school district's juvenile justice residential or  
 704 nonresidential education program earns two failing performance  
 705 ratings in any 3-year period, as provided in subsection (7), the  
 706 school district shall contract with a private provider that has  
 707 an adequate or higher performance rating or enter into an  
 708 agreement with a school district that has an adequate or higher  
 709 performance rating to deliver the education services to the  
 710 youth in the program.

711 (c) Except as provided in paragraph (b), the school  
 712 district of the county in which the residential or  
 713 nonresidential facility is located shall deliver education  
 714 services to youth in Department of Juvenile Justice programs. A  
 715 school district may contract with a private provider to deliver  
 716 the education services in lieu of directly providing the  
 717 education services. The contract shall include performance  
 718 criteria as provided in subsection (7).

719 (d) When determining educational placement for youth who  
 720 enroll in a school district upon release, the school district  
 721 must adhere to the transition plan established under s.  
 722 985.46(6).

723 (e) If a private provider under contract with a school  
 724 district maintains a high-performance rating pursuant to  
 725 subsection (7), the school district may not require a private  
 726 provider to use the school district's personnel.

727 (f) Academic instructional personnel must be certified by  
 728 the Department of Education; however, a nondegreed teacher of

729 career education may be certified by a local school district  
 730 under s. 1012.39 and may be designated as teaching out-of-field.  
 731 An instructor who is deemed to be an expert in a specific field  
 732 may be employed under s. 1012.55(1).

733 (g) Each school district must provide juvenile justice  
 734 education programs access to substitute classroom teachers used  
 735 by the school district.

736 (9) EXITING PROGRAM.—Upon exiting a program, a youth must:

737 (a) Attain an industry certification in an occupational  
 738 area of high demand identified in the Industry Certification  
 739 Funding list adopted by the State Board of Education;

740 (b) Enroll in a program to complete the industry  
 741 certification;

742 (c) Be gainfully employed and earning full-time wages; or

743 (d) Enroll in and continue his or her education based on  
 744 the transition and postrelease plan provided in s. 958.46.

745 (10) EDUCATION TRANSITION PLAN COMPONENT.—

746 (a) The education transition plan component shall be  
 747 incorporated in the transition plan pursuant to s. 985.46(6).

748 (b) Each juvenile justice education program must develop  
 749 an education transition plan component during the course of a  
 750 youth's stay in a juvenile justice residential or nonresidential  
 751 program which coordinates academic and workforce services and  
 752 assists the youth in successful community reintegration upon the  
 753 youth's release.

754 (c) The development of the education transition plan  
 755 component shall begin upon a youth's placement in the program.

756 The education transition plan component must include the

757 academic and workforce services to be provided during the  
 758 program stay and the establishment of services to be implemented  
 759 upon release. The appropriate personnel in the juvenile justice  
 760 residential and nonresidential program, the members of the  
 761 community, the youth, and the youth's family, when appropriate,  
 762 shall collaborate to develop the education transition plan  
 763 component.

764 (d) Education planning for reintegration shall begin when  
 765 placement decisions are made and continue throughout the youth's  
 766 stay in order to provide for continuing education, job  
 767 placement, and other necessary services. Individuals who are  
 768 responsible for reintegration shall coordinate activities to  
 769 ensure that the education transition plan component is  
 770 successfully implemented and a youth is provided access to  
 771 support services that will sustain the youth's success once he  
 772 or she is no longer under the supervision of the Department of  
 773 Juvenile Justice. The education transition plan component must  
 774 provide for continuing education, workforce development, or  
 775 meaningful job placement pursuant to the performance outcomes in  
 776 subsection (7). For purposes of this section, the term  
 777 "reintegration" means the process by which a youth returns to  
 778 the community following release from a juvenile justice program.

779 (11) FUNDING.—

780 (a) Youth who are participating in GED preparation  
 781 programs while under the supervision of the Department of  
 782 Juvenile Justice shall be funded at the basic program cost  
 783 factor for juvenile justice programs in the Florida Education  
 784 Finance Program (FEFP). Juvenile justice education programs



785 shall be funded in the appropriate FEFP program based on the  
 786 education services needed by the students in the programs  
 787 pursuant to s. 1011.62.

788 (b) Juvenile justice education programs operated through a  
 789 contract with the Department of Juvenile Justice and under the  
 790 purview of the department's quality assurance standards and  
 791 performance outcomes shall receive the appropriate FEFP funding  
 792 for juvenile justice programs.

793 (c) A district school board shall fund the education  
 794 program in a juvenile justice facility at the same or higher  
 795 level of funding for equivalent students in the district school  
 796 system based on the funds generated through the FEFP and funds  
 797 allocated from federal programs.

798 (d) Consistent with the rules of the State Board of  
 799 Education, district school boards shall request an alternative  
 800 full-time equivalent (FTE) survey for juvenile justice programs  
 801 experiencing fluctuations in student enrollment.

802 (e) The State Board of Education shall prescribe rules  
 803 relating to FTE count periods which must be the same for  
 804 juvenile justice programs and other public school programs. The  
 805 summer school period for students in juvenile justice programs  
 806 shall begin on the day immediately preceding the subsequent  
 807 regular school year. Students may be funded for no more than 25  
 808 hours per week of direct instruction; however, students shall be  
 809 provided access to virtual instruction in order to maximize the  
 810 most efficient use of time.

811 (12) FACILITIES.—The district school board may not be  
 812 charged any rent, maintenance, utilities, or overhead on the

CS/HB 949

2012

813 facilities. Maintenance, repairs, and remodeling of existing  
 814 facilities shall be provided by the Department of Juvenile  
 815 Justice.

816 (13) RULEMAKING.—The State Board of Education shall  
 817 collaborate with the Department of Juvenile Justice, the  
 818 Department of Economic Opportunity, school districts, and  
 819 private providers to adopt rules pursuant to ss. 120.536(1) and  
 820 120.54 to administer this section.

821 Section 11. Section 1003.52, Florida Statutes, is  
 822 repealed.

823 Section 12. Present paragraph (g) of subsection (1) of  
 824 section 1009.25, Florida Statutes, is redesignated as paragraph  
 825 (h), and a new paragraph (g) is added to that subsection, to  
 826 read:

827 1009.25 Fee exemptions.—

828 (1) The following students are exempt from the payment of  
 829 tuition and fees, including lab fees, at a school district that  
 830 provides postsecondary career programs, Florida College System  
 831 institution, or state university:

832 (g) For purposes of completing coursework initiated while  
 833 in the temporary custody of the state, youth who are eligible  
 834 under s. 1003.515(5) (b) 3. and who are ordered by a court to  
 835 participate in a juvenile justice residential program.

836 Section 13. Paragraph (f) of subsection (1) of section  
 837 1011.62, Florida Statutes, is amended to read:

838 1011.62 Funds for operation of schools.—If the annual  
 839 allocation from the Florida Education Finance Program to each  
 840 district for operation of schools is not determined in the

841 annual appropriations act or the substantive bill implementing  
 842 the annual appropriations act, it shall be determined as  
 843 follows:

844 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR  
 845 OPERATION.—The following procedure shall be followed in  
 846 determining the annual allocation to each district for  
 847 operation:

848 (f) Supplemental academic instruction; categorical fund.—

849 1. There is created a categorical fund to provide  
 850 supplemental academic instruction to students in kindergarten  
 851 through grade 12. This paragraph may be cited as the  
 852 "Supplemental Academic Instruction Categorical Fund."

853 2. Categorical funds for supplemental academic instruction  
 854 shall be allocated annually to each school district in the  
 855 amount provided in the General Appropriations Act. These funds  
 856 shall be in addition to the funds appropriated on the basis of  
 857 FTE student membership in the Florida Education Finance Program  
 858 and shall be included in the total potential funds of each  
 859 district. These funds shall be used to provide supplemental  
 860 academic instruction to students enrolled in the K-12 program.  
 861 Supplemental instruction strategies may include, but are not  
 862 limited to: modified curriculum, reading instruction, after-  
 863 school instruction, tutoring, mentoring, class size reduction,  
 864 extended school year, intensive skills development in summer  
 865 school, and other methods for improving student achievement.  
 866 Supplemental instruction may be provided to a student in any  
 867 manner and at any time during or beyond the regular 180-day term  
 868 identified by the school as being the most effective and

CS/HB 949

2012

869 efficient way to best help that student progress from grade to  
 870 grade and to graduate.

871 3. Effective with the 2012-2013 ~~1999-2000~~ fiscal year,  
 872 funding on the basis of FTE membership beyond the 180-day  
 873 regular term shall be provided in the FEFP only for students  
 874 enrolled in juvenile justice education programs or in education  
 875 programs for juveniles placed in secure facilities or programs  
 876 under s. 985.19. Funding for instruction beyond the regular 180-  
 877 day school year for all other K-12 students shall be provided  
 878 through the supplemental academic instruction categorical fund  
 879 and other state, federal, and local fund sources with ample  
 880 flexibility for schools to provide supplemental instruction to  
 881 assist students in progressing from grade to grade and  
 882 graduating.

883 4. The Florida State University School, as a lab school,  
 884 is authorized to expend from its FEFP or Lottery Enhancement  
 885 Trust Fund allocation the cost to the student of remediation in  
 886 reading, writing, or mathematics for any graduate who requires  
 887 remediation at a postsecondary educational institution.

888 5. ~~Beginning in the 1999-2000 school year,~~ Dropout  
 889 prevention programs as defined in ss. 1003.515 ~~1003.52~~,  
 890 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in  
 891 group 1 programs under subparagraph (d)3.



892 Section 14. This act shall take effect upon becoming a  
 893 law.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 949 Juvenile Justice Education and Workforce Programs

**SPONSOR(S):** Criminal Justice Subcommittee; Baxley and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 834

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 1 N, As CS	Williams	Cunningham
2) Education Committee		Thomas 	Klebacha 
3) Appropriations Committee			
4) Judiciary Committee			

### SUMMARY ANALYSIS

The Florida Department of Juvenile Justice (DJJ) oversees at-risk and adjudicated youth in detention, residential, nonresidential (day treatment), and rehabilitation programs throughout the state. Education is a vital component of each of these programs.

Section 1003.52, F.S., sets forth how educational services must be provided in DJJ programs and establishes the educational expectations for DJJ youth in such programs. The bill repeals this statute in its entirety and creates s. 1003.515, F.S., entitled "The Florida Juvenile Justice Education Act" (Act). The purpose of the Act is to provide performance-based outcome measures and accountability for juvenile justice education programs and to improve academic and workforce-related outcomes for adjudicated and at-risk youth. The Act:

- Imposes requirements on school districts, or private providers contracted by a school district, that offer education services to youth in juvenile justice education programs;
- Requires school districts and private providers to ensure that specified youth participate in a juvenile justice education program;
- Imposes requirements on juvenile justice residential and nonresidential educational programs;
- Requires the Department of Education (DOE) to identify residential and nonresidential juvenile justice education programs, excluding detention programs, as having a high, adequate, or failing performance rating, and provides guidance in how to determine such rating;
- Provides accountability measures for juvenile justice educational programs;
- Provides requirements for youth exiting an educational program; and
- Requires school districts and private providers, in collaboration with others, to develop an education transition plan which will assist the youth in successful reintegration into the community.

The bill amends s. 985.46, F.S., to require that an individual transition plan be developed for each youth upon placement in a commitment program and provided to the youth upon release. The transition plan must include an education transition plan as well as information regarding relevant delinquency treatment and intervention services available upon release.

The bill substantially re-writes s. 985.618, F.S., relating to DJJ education and workforce-related programs, to require DJJ, in collaboration with DOE, to verify that each juvenile justice education program, at a minimum, provides access to virtual courses and encourages virtual counseling, provides instruction from credentialed individuals during specified time periods, provides specialized instruction to accommodate students with disabilities, and expends funds in a manner that directly supports the attainment of successful student outcomes and that allows youth to engage in real work situations whenever possible.

See Fiscal Comments.

The bill is effective upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0949b.EDC.DOCX

DATE: 2/21/2012

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

#### **Educational Services in Department of Juvenile Justice Programs**

The Department of Juvenile Justice (DJJ) oversees at-risk and adjudicated youth in prevention, detention, residential, nonresidential, day treatment, and rehabilitation programs throughout the state. Education is a vital component of each of these programs. In fact, the Legislature has found that education is the single most important factor in the rehabilitation of adjudicated youth.<sup>1</sup> Current law sets forth how educational services must be provided in DJJ programs and establishes the educational expectations for DJJ youth in such programs.<sup>2</sup>

The Department of Education (DOE) is the lead agency for juvenile justice education programs, curriculum, support services, and resources; however, district school boards are responsible for actually providing educational services to youth in juvenile justice programs.<sup>3</sup> Educational services consist of basic academic, career, or exceptional curricula that support treatment goals and reentry, and that may lead to the completion of a high school diploma or its equivalent.<sup>4</sup> These services can be provided by the district school board itself or by a private provider through a contract with the district school board.<sup>5</sup> However, school districts remain responsible for the quality of education provided in residential and day treatment juvenile justice facilities regardless of whether the school district provides those services directly or through a contractor.<sup>6</sup>

Annually, the DJJ and the DOE must develop a cooperative agreement and plan for juvenile justice education service enhancement, which must be submitted to the Secretary of Juvenile Justice and the Commissioner of Education.<sup>7</sup>

Each district school board must negotiate a cooperative agreement with DJJ regarding the delivery of educational programming to DJJ youth. These agreements must include provisions that address certain issues, such as:

- Curriculum and delivery of instruction;
- Classroom management procedures and attendance policies;
- Procedures for provision of qualified instructional personnel;
- Improving skills in teaching and working with juvenile delinquents;
- Transition plans for students moving into and out of juvenile facilities; and
- Strategies for correcting and deficiencies found through the quality assurance process.<sup>8</sup>

DOE and DJJ must each designate a coordinator to resolve issues not addressed by the district school boards and to provide each department's participation in:

- Training, collaborating, and coordinating with DJJ, district school boards, educational contract providers, and juvenile justice providers, whether state-operated or contracted;

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<sup>1</sup> Section 1003.52(1), F.S.

<sup>2</sup> Section 1003.52, F.S.

<sup>3</sup> Section 1003.52(1), (3), and (4), F.S.

<sup>4</sup> Section 1003.52(5), F.S.

<sup>5</sup> Section 1003.52(11), F.S.

<sup>6</sup> Office of Program Policy Analysis and Government Accountability, *Youth Entering the State's Juvenile Justice Programs Have Substantial Educational Deficits; Available Data Is Insufficient to Assess Learning Gains of Students*, Report No. 10-07 (2010), available at, <http://www.opaga.state.fl.us/Summary.aspx?reportNum=10-07> (last visited Feb. 6, 2012).

<sup>7</sup> Section 1003.52 (1), F.S.

<sup>8</sup> Section 1003.52(13), F.S.

- Collecting and reporting information on the academic performance of students in juvenile justice programs;
- Developing academic and career protocols that provide guidance to district school boards and providers in educational programming; and
- Prescribing the roles of program personnel and school district or provider collaboration strategies.<sup>9</sup>

The Department of Education and the Department of Juvenile Justice, after consulting with the district schools boards and local providers, must report annually to the Legislature on the progress towards developing effective educational programs for youth in the juvenile justice system. This report must include the results of the quality assessment reviews, including recommendations for system improvement.<sup>10</sup>

### Juvenile Justice Student Assessment

Section 1003.52(3)(b), F.S., requires the DOE, with the assistance of school districts, to select a common assessment instrument for students in juvenile justice facilities and implement it in all facilities by January 1, 2005. The DOE selected the Basic Achievement Skills Inventory (BASI) as the common assessment instrument to assess the learning gains of juvenile justice students in grades 3 through 12 in reading, mathematics, and language arts.<sup>11</sup> The test is administered as a pre-test within 10 school days after students enter juvenile justice programs and again as a post-test when student who were in the program for at least 45 school days leave the program. However, for the 2007-08 school year, 31 programs reported no valid test data for their students. In addition, 62 programs reported pre-test and post-test scores for fewer than half of their students who exited the programs during the year.<sup>12</sup>

For the 2009-10 school year the DOE reported that 3,036 (2008-09: 2,503) students had valid math entry and exit records, and 51% (2008-09: 50%) of these students demonstrated meaningful growth. There were 3,041 (2008-09: 2,524) students who had valid entry and exit records in reading, and 55% (2008-09: 55%) of these students demonstrated meaningful growth.<sup>13</sup> The Office of Program Policy Analysis and Government Accountability recommended that the Legislature amend s. 1003.52(3)(b), F.S., to require that the DOE make annual status reports to the Legislature on the learning gains of students in juvenile justice facilities and the steps it has taken to ensure the completeness and reliability of juvenile justice student performance data.<sup>14</sup>

However, DOE's contract for the use of the BASI expired in June 2011. The DJJ education programs are currently using the Florida Assessment for Instruction in Reading (FAIR) as the common assessment for reading and using several assessments for math, including STAR, Woodcock Johnson, New Century, and Discover Education. In February, 2012, DOE posted an intent to award WIN Learning a contract to administer the Florida Ready to Work assessment as the common assessment for reading and math in DJJ education programs. DOE is currently working on finalizing the contract.<sup>15</sup>

<sup>9</sup> Section 1003.52(1), F.S.

<sup>10</sup> Section 1003.52(19), F.S.

<sup>11</sup> Section 1003.52(3)(b), F.S.; see also Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, Annual Report 200-2010, at 6 (2011), available at [http://www.fldoe.org/ese/pdf/jj\\_annual.pdf](http://www.fldoe.org/ese/pdf/jj_annual.pdf).

<sup>12</sup> Office of Program Policy Analysis and Government Accountability, *Youth Entering the State's Juvenile Justice Program Have Substantial Educational Deficits; Available Data is Insufficient to Assess Learning Gains of Students*, Report No. 10-07, at 6 (Jan. 2010), available at [www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1007rpt.pdf](http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1007rpt.pdf).

<sup>13</sup> Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, Annual Report 200-2010, at 4 (2011), available at [http://www.fldoe.org/ese/pdf/jj\\_annual.pdf](http://www.fldoe.org/ese/pdf/jj_annual.pdf).

<sup>14</sup> Office of Program Policy Analysis and Government Accountability, *Youth Entering the State's Juvenile Justice Program Have Substantial Educational Deficits; Available Data is Insufficient to Assess Learning Gains of Students*, Report No. 10-07, at 8 (Jan. 2010), available at [www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1007rpt.pdf](http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1007rpt.pdf).

<sup>15</sup> Email, Florida Department of Education, Bureau of Exceptional Education and Services (Feb. 10, 2012).

## Transition Plan

An individual transition plan is developed for each student entering a DJJ commitment, day treatment, early delinquency intervention, or detention program. The transition plan is based on the student's post-placement goals that are developed cooperatively with the student, his/her parents, school district and or contracted provider personnel, and DJJ program staff. Re-entry counselors, probation officers, and personnel from the student's "home" school district shall be involved in the transition planning to the extent practicable.<sup>16</sup> The transition plan also includes a student's academic record including each course completed by the student according to procedures in the State Course Code Directory, career re-entry goals maintained by the school district, and recommended educational placement. An exit plan is also conducted for each student. A copy of the academic records, student assessment, individual academic plan, work and project samples, and the transition plan is included in the discharge packet when the student exits a DJJ facility.<sup>17</sup>

According to the DOE, a web-based transition contact list is also available that identifies one person in each school district who will support students returning from a DJJ program with re-entering into school, assisting with transferring and receiving educational records, and providing information to other districts on local school options for returning DJJ students. The DJJ education program staff is responsible for notifying the transition contact in the receiving school district at least one week prior to that students scheduled release from the DJJ program and transmit the students' exit plan.<sup>18</sup>

## Teachers in Juvenile Justice Programs

District school boards must recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs.<sup>19</sup> Teachers assigned to educational programs in juvenile justice settings in which the district school board operates the educational program must be selected by the district school board in consultation with the director of the juvenile justice facility.<sup>20</sup>

## Quality Assurance and Cost-effectiveness

The DJJ is required to annually collect and report cost data for every program state-operated or contracted by the department. DJJ is responsible for accurate cost accounting for state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility must be reported and included in the cost of a program. The cost-benefit analysis for each educational program will be developed and implemented in collaboration with the Department of Education, local providers, and local school districts. Cost data for the report must include data collected by the DOE for the purpose of preparing the annual report required pursuant to s. 1003.52(19), F.S., relating to developing effective educational progress for juvenile delinquents.<sup>21</sup>

## Quality Assurance Review

The DOE in consultation with the DJJ, district school boards and providers must establish objective and measurable quality assurance standards for the educational components of residential and nonresidential juvenile justice facilities.<sup>22</sup> The quality assurance standards and indicators are revised annually for juvenile justice education programs, based on new statutory and regulatory requirements, best practices research, and input from school districts and educational providers.<sup>23</sup> These standards are required to rate the district school boards' performance both as a provider and contractor.<sup>24</sup>

<sup>16</sup> Email, Florida Department of Education, Governmental Relation Office (Feb. 8, 2012).

<sup>17</sup> Florida Department of Education, Legislative Bill Analysis for SB 834 (2011).

<sup>18</sup> Email, Florida Department of Education, Governmental Relation Office (Feb. 8, 2012).

<sup>19</sup> Section 1003.52(10), F.S.

<sup>20</sup> Section 1003.52(10), F.S.

<sup>21</sup> Section 985.632, F.S.

<sup>22</sup> Section 1003.52(15)(a), F.S.

<sup>23</sup> Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, Annual Report 2009-2010 (2011), available at, [www.fldoe.org/ese/pdf/jj\\_annual.pdf](http://www.fldoe.org/ese/pdf/jj_annual.pdf) (last visited Feb. 6, 2012).

<sup>24</sup> Section 1003.52(15)(a), F.S.



The DOE has developed a quality assurance review process to examine juvenile justice educational programs in four general areas: entry transition, service delivery, exit transition, and contract management. These areas are the same across all juvenile justice educational programs, but specific indicators vary for detention, day treatment and residential commitment programs.<sup>25</sup> The Juvenile Justice Educational Enhancement Program quality assurance review process is evidence-based, using the same data source to evaluate the quality of educational services provided in each juvenile justice educational program. To determine quality assurance rating, reviewers consider the preponderance of evidence from multiple sources, such as self-report documents; files maintained on site; interviews of educational program and school district administrators, support personnel, teachers, and students; and observation of classrooms, educational activities, and services.<sup>26</sup>

According to DOE funding for the quality assurance reviews was eliminated at the conclusion of the 2009-10 school year.<sup>27</sup>

### **DJJ Education Program Outcomes**

DOE has provided data on youth released from DJJ programs over several years using information from the Florida Education and Training Placement Information Program (FETPIP).<sup>28</sup> DOE tracked youth in DJJ residential programs to determine occupational, educational, and subsequent judicial placement in the years following release from the program. To provide context, DOE provided the same outcome information for high school dropouts and graduates. DOE found that youth released from DJJ are returning to school at progressively lower rates over time. In addition, DJJ youth are similar to dropouts in that low percentages enroll in postsecondary education. Youth released from DJJ were also less likely to be employed than dropouts or high school graduates. Finally, DJJ youth, following release, are more likely to be incarcerated as adults than dropouts or high school graduates. Of those who were later incarcerated by the Department of Corrections, they were less likely to earn full time equivalent wages after leaving the DJJ program.

In its annual report to the Legislature, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, the DOE made several recommendations to address educational accountability and improvement such as:

- Continue to develop a juvenile justice education accountability system for programs and explore a process in which high-performing programs are recognized and low-performing programs receive assistance.
- Develop a customized school improvement plan template for programs.
- Continue to support improvement in transition services for youth in juvenile justice education through the maintenance of an accurate statewide transition contact list.
- Provide additional training and support to programs to improve their efforts with BASI administration, data reporting, and data interpretation.
- Continue to identify effective program practices and resources for students in need of academic remediation and credit recovery.
- Continue to identify academic curriculum, resources, and instructional practices related to high academic achievement for all students while incarcerated.
- Continue to collaborate efforts among DOE, DJJ, school districts, and private providers to ensure appropriate and effective education for youth in juvenile justice programs.<sup>29</sup>

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<sup>25</sup> Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, Annual Report 2009-2010 (2011), available at, [www.fldoe.org/ese/pdf/jj\\_annual.pdf](http://www.fldoe.org/ese/pdf/jj_annual.pdf) (last visited Feb. 6, 2012).

<sup>26</sup> Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, Annual Report 2009-2010 (2011), available at, [www.fldoe.org/ese/pdf/jj\\_annual.pdf](http://www.fldoe.org/ese/pdf/jj_annual.pdf) (last visited Feb. 6, 2012).

<sup>27</sup> Florida Department of Education, Legislative Bill Analysis for SB 834 (2011).

<sup>28</sup> Florida Department of Education, Florida Education & Training Placement Information (FETPIP), <http://www.fldoe.org/fetpip/> (last visited on January 20, 2012).

<sup>29</sup> Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, Annual Report 200-2010, at 13 (2011), available at [http://www.fldoe.org/ese/pdf/jj\\_annual.pdf](http://www.fldoe.org/ese/pdf/jj_annual.pdf).

## **Effect of the Bill**

### **The Florida Juvenile Justice Education Act**

The bill repeals s. 1003.52, F.S., in its entirety. The bill creates s. 1003.515, F.S., entitled "The Florida Juvenile Justice Education Act" (Act). The purpose of the Act is to provide performance-based outcome measures and accountability for juvenile justice education programs; and to improve academic and workforce-related outcomes for adjudicated and at-risk youth. The bill also requires the State Board of Education to collaborate with DJJ, the Department of Economic Opportunity, school districts and private providers to adopt rules to administer "The Florida Juvenile Justice Education Act."

### **School District and Contracted Education Program Providers - Responsibilities**

The bill requires a school district or private provider contracted by a school district to offer education services to youth in a juvenile justice education program to:

- Provide rigorous and relevant academic and workforce-related curricula that will lead to industry certifications in an occupational area of high demand identified in the Industry Certification Funding list adopted by the State Board of Education, or articulate to secondary or postsecondary-level coursework, as appropriate.
- Support state, local, and regional economic development demands.
- Make high-wage and high-demand careers more accessible to adjudicated and at-risk youth.
- Reduce rates of recidivism for adjudicated youth.
- Provide access to the appropriate courses and instruction to prepare youth for a standard high school diploma, a special diploma, or a high school equivalency diploma, as appropriate.
- Provide access to virtual education courses that are appropriate to meet the requirements of academic or workforce-related programs and the requirements for continuing education specified in the youth's transition and postrelease plans.
- Provide opportunities for earning credits toward high school graduation or credits that articulate to postsecondary education institutions while the youth are in residential and nonresidential juvenile justice facilities.
- Ensure that the credits and partial credits earned by the youth are transferred and included in the youth's records as part of the transition plan.
- Ensure that the education program consists of the appropriate academic, workforce-related, or exceptional education curricula and related services that directly support performance outcomes, which must be specified in each youth's education transition plan component.
- Ensure that youth in a program for less than 40 days receive employability, life skills, and academic remediation, as appropriate. In addition, counseling and transition services must be provided which mitigate the youth's identified risk factors and prepare the youth for a successful reintegration into the school, community, and home settings.
- Maintain an academic record for each youth who is enrolled in a juvenile justice facility, as required by s. 1003.51, and ensure that the coursework, credits, partial credits, occupational completion points, and industry certifications earned by the youth are transferred and included in the youth's transition plan.

The bill requires school districts and private providers to ensure that the following youth participate in a juvenile justice education program:

- Youth who are of compulsory school attendance age.
- Youth who are not of compulsory school attendance age and who have not received a high school diploma or its equivalent, if the youth is in a residential or nonresidential juvenile justice program. Such youth must participate in the education program and participate in a workforce-related education program that leads to industry certification in an occupational area of high demand.<sup>30</sup>

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<sup>30</sup> The bill specifies that this requirement does not limit the rights of students with disabilities, as defined under the Individuals with Disabilities Education Act.

- Youth who have attained a high school diploma or its equivalent and who are not employed. Such youth must participate in a workforce-related education program that leads to employment in an occupational area of high demand. Such youth may enroll in a state postsecondary institution to complete the workforce-related education program and are exempt from the payment of tuition and fees pursuant to s. 1009.25(1)(g), F.S.

### Residential and Non-residential Education Program – Requirements

The bill requires each juvenile justice residential and nonresidential education program to, in collaboration with the regional workforce board or economic development agency and local postsecondary institutions, determine the appropriate occupational areas for the program. Juvenile justice education programs must also:

- Ensure that rigorous academic and workforce-related coursework is offered and meets or exceeds appropriate state-approved subject area standards, and results in the attainment of industry certification and postsecondary credit, when appropriate;
- Ensure instruction from individuals who hold industry credentials in the occupational areas in which they teach;
- Maximize the use of private sector personnel;
- Use strategies to maximize the delivery of virtual instruction;
- Maximize instructional efficiency;
- Provide opportunities to earn weighted or dual enrollment credit for higher-level courses;
- Promote credit recovery; and
- Provide instruction that results in competency, certification, or credentials in workplace skills.

### Performance Ratings and Outcomes of Residential and Non-residential Education Program

The bill requires DOE to identify each residential and nonresidential juvenile justice education program, excluding detention programs, as having a high, adequate, or failing performance rating as defined by the State Board of Education. The bill requires the performance ratings to be weighted based on the level of rigor associated with attaining a specified outcome. The bill requires DOE to evaluate the following elements in determining the performance rating, which differ based on the age-appropriate needs of the youth.

For youth 14 years of age or younger:

- Achievement of academic progress in reading and mathematics,<sup>31</sup> as measured by the statewide common pre- and post-assessment adopted by the DOE for use in juvenile justice education programs, and participation in continuing education upon release from a juvenile justice residential or nonresidential program.
- Completion of secondary coursework and participation in continuing education upon release from a juvenile justice residential or nonresidential program.
- Attainment of occupational completion points<sup>32</sup> in an occupational area of high demand identified in the Industry Certification Funding list<sup>33</sup> adopted by the State Board of Education and participation in continuing education upon release from a juvenile justice residential or nonresidential program.

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Disabilities Education Act, who are not of compulsory school attendance age and who have not received a high school diploma to receive a free, appropriate public education in accordance with their individualized needs.

<sup>31</sup> Section 1003.52(3)(b), F.S., requires DOE to select a valid assessment tool to measure learning gains in mathematics and reading.

<sup>32</sup> Occupational Completion Points (OCPs) are selected sets of student performance standards that fall between established occupational completion points, as identified in vocational job preparatory course descriptions. These selected standards guide the student in completing a modified program and developing marketable skills. See Florida Department of Education, Career and Education, <http://www.fldoe.org/workforce/programs/ss5.asp> (last visited on Jan. 20, 2012).

<sup>33</sup> See The Industry Certification Funding List, available at <https://www.fldoe.org/workforce/fcpea/pdf/1011icfl.pdf> (last visited on Jan. 20, 2012).

- Attainment of an industry certification in an occupational area of high demand identified in the Industry Certification Funding list, if available and appropriate, and participation in continuing education upon release from a juvenile justice residential or nonresidential program.

For youth 15 years of age or older:

- Achievement of academic progress in reading and mathematics,<sup>34</sup> as measured by the statewide common pre- and post-assessment adopted by the DOE for use in juvenile justice education programs, and participation in continuing education upon release from a juvenile justice residential or nonresidential program.
- Earning secondary or postsecondary credit upon release from a juvenile justice facility and participation in continuing education upon release from a juvenile justice residential or nonresidential program.
- Attainment of a high school diploma or its equivalent and participation in continuing education at the postsecondary level upon release from a juvenile justice residential or nonresidential program.
- Attainment of a high school diploma or its equivalent and obtaining employment.
- Attainment of an industry certification in an occupational area of high demand identified in the Industry Certification Funding list and obtaining employment.
- Attainment of occupational completion points in an occupational area of high demand and obtaining employment.
- Attainment of occupational completion points in an occupational area of high demand identified in the Industry Certification Funding list and, upon release from a juvenile justice residential or nonresidential program, participation in continuing education in order to complete the industry certification in that occupation.

For purposes of determining performance ratings, juvenile justice residential and nonresidential education programs, excluding detentions centers, are held accountable for student outcomes for no more than 6 months after the youth is released from the residential or nonresidential program.

The bill requires DOE to make available a common student pre- and post-assessment to measure the academic progress in reading and mathematics of youth in juvenile justice education programs by September 1, 2012.

#### Juvenile Justice Education Program – Accountability

The bill requires DOE, in collaboration with DJJ, to:

- Monitor the education performance of youth in juvenile justice facilities.
- Prohibit school districts or private providers that have failing performance ratings from delivering education services.
- Verify that a school district is operating or contracting with a private provider to deliver education services.

If a school district's juvenile justice residential or nonresidential program earns two failing performance ratings in any 3-year period, the school district must enter into a contract with a school district or private provider that has an adequate or higher performance rating to deliver education services to the youth in the program.

The bill prohibits school districts that contract with a private provider for educational services from dictating personnel decisions if the contracted provider maintains a high performance rating. The bill requires academic instructional personnel to be certified by DOE but permits non-degreed teachers of career education to be certified by a local school district under s. 1012.39, F.S., and be designated as

<sup>34</sup> Section 1003.52(3)(b), F.S., requires DOE to select a common assessment tool to measure academic progress in mathematics and reading.

teaching out-of-field. In addition, an instructor who is deemed to be an expert in a specific field may be employed under s. 1012.55(1), F.S.

### Juveniles Exiting an Education Program

When determining educational placement for a youth who enrolls in a school district upon release from a juvenile justice program, the bill requires the school district to adhere to the transition plan established pursuant to s. 985.46(6), F.S.

The bill requires youth exiting an educational program to:

- Attain an industry certification in a targeted occupation;
- Enroll in a program to complete an industry certification;
- Gain employment and earning full-time wages; or
- Enroll in and continuing education based on the youth's transition and post-release plan.

### Chapter 985, F.S. - Transition Plans

The bill amends s. 985.46, F.S., to require that an individual transition plan be developed for each youth upon placement in a commitment program and provided to the youth upon release. The transition plan must be developed in collaboration with the youth, commitment program representatives, school district personnel, and conditional release or post-commitment probation program representatives, if appropriate. The transition plan must include an education transition plan as well as information regarding relevant delinquency treatment and intervention services available upon release.

The bill requires the transition plan for youth released on conditional release or post commitment probation status to be incorporated into the conditions of release. For youth not released on conditional release or post commitment probation status, the transition plan must be explained to the youth and provided to the youth upon release, with all necessary referrals made 30 days before the youth exits the program.

### Education Transition Plans

The bill requires school districts and private providers, in collaboration with others, to develop an education transition plan which will assist the youth in successful reintegration into the community. The development of this plan must begin upon a youth's placement in a juvenile justice program and must include academic and workforce services to be provided during the youth's stay in the program and upon the youth's release. Individuals responsible for reintegration must coordinate activities to ensure that the education transition plan component is successfully implemented and the youth are provided access to support services that will sustain the youth's success once he or she is no longer under the supervision of DJJ.

The bill requires that an educational transition plan component be incorporated into the transition plan required by s. 985.46(6), F.S.

### Educational Programs - Funding

In regards to educational program funding, the bill provides the following:

- Youth who are participating in GED preparation programs while under the supervision of DJJ must be funded at the basic program cost factor for juvenile justice programs in the Florida Education Finance Program (FEFP).
- Juvenile justice education programs operated through a contract with DJJ and under the purview of DOE's quality assurance standards and performance outcomes must receive the appropriate FEFP funding for juvenile justice programs.

- A district school board must fund the education program in a juvenile justice facility at the same or higher level of funding for equivalent students in the district school system based on the funds generated through FEFP and funds allocated from federal programs.
- District school boards must request an alternative full-time equivalent (FTE) survey for juvenile justice programs experiencing fluctuations in student enrollment.
- The State Board of Education must prescribe rules relating to FTE count periods which must be the same for juvenile justice programs and other public school programs.

Section 1011.62(1)(f), F.S., (Funds for operation of schools) provides that effective with the 1999-2000 fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles placed in secure facilities or programs under s. 985.19, F.S. The bill amends this statute to require such funding to be provided in the FEFP effective with the 2012-2013 fiscal year.

The bill requires the State Board of Education to prescribe rules relating to FTE count periods which must be the same for juvenile justice programs and other public school programs.

### Fee Exemption

The bill exempts certain youth, specified in s. 1003.515(5)(b)(3), F.S., from the payment of tuition and fees at state postsecondary institutions, and amends s. 1009.25, F.S., to conform to these exemptions.

### Chapter 985, F.S. – Education and Career-Related Programs

Section 985.618, F.S., currently contains a variety of provisions relating to DJJ education and career-related programs. These provisions include:

- Legislative findings;
- Requirements that DJJ have specified objectives when adopting or modifying master plans for juvenile work programs and educational and career training programs;
- Guidelines for the operation of juvenile education and career-related programs;
- Guidelines for evaluating juvenile educational and career-related programs; and
- Authorization for DJJ to contract with the private sector for substantial involvement in juvenile industry programs.

According to the DJJ, the education and career-related programs offered under this section by DJJ provide flexibility for those students who have their GED, high school diploma, or who are so far behind in school that graduation or obtaining a GED so that they have an opportunity to obtain vocational skills training to prepare them for entering the workplace.<sup>35</sup>

The bill requires DJJ, in collaboration with DOE, to annually verify that each juvenile justice education program, at a minimum:

- Provides access to virtual course offerings that maximize learning opportunities for youth.
- Encourages access to virtual counseling to address the educational and workforce needs of adjudicated youth.
- Provides instruction from individuals who hold industry credentials in the occupational areas in which they teach.
- Ensures student access to instruction during evenings and weekends.
- Considers, before placement, the age, interests, prior education, training, work experience, emotional and mental abilities, treatment needs, and physical capabilities of the youth and the duration of the term of placement imposed.

<sup>35</sup> Email, Department of Juvenile Justice, (Feb. 16, 2010).

- Provides specialized instruction, related services, accommodations, and modifications as are necessary to ensure the provision of a free, appropriate public education for students with disabilities.
- Expends funds in a manner that directly supports the attainment of successful student outcomes as specified in s. 1003.515(7), F.S. and that allows youth to engage in real work situations whenever possible.

The bill requires the DJJ in collaboration with, the DOE, the Department of Economic Opportunity (DEO), school districts, and private providers to adopt rules requiring juvenile justice education programs to meet specified minimum standards in s. 985.618, F.S.

#### Quality Assurance and Cost Effectiveness

The bill requires DOE to ensure that there is accurate cost accounting for education operated by the school districts, including programs operated by contracted private providers.

Juvenile justice education program effectiveness must be determined by implementing systematic data collection, data analysis, and education and workforce-related program evaluations pursuant to ss. 985.632 and 1003.515, F.S. The evaluation of the juvenile justice education and workforce-related programs shall be based on the performance outcomes provided in s. 1003.515(7), F.S.

The bill requires DJJ, in collaboration with DOE, school districts, and private juvenile education program providers, to submit an annual report to the Legislature, beginning December 31, 2013, containing the education performance outcomes of youth in juvenile justice education programs. The report must:

- Delineate the performance outcomes of youth in the state, in each school district's juvenile justice education program, and for each private provider's juvenile justice education program, including the performance outcomes of all major student populations and genders, as determined by DOE.
- Address the use and successful completion of virtual instruction courses and the successful implementation of transition and reintegration plans.
- Include an analysis of the performance of youth over time, including, but not limited to, additional education attainment, employment, earnings, industry certification, and rates of recidivism.
- Provide recommendations for improving performance outcomes and for additional cost savings and efficiencies.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 985.03, F.S., relating to definitions; to provide a definition for the term "juvenile justice education programs" for purposes of the act.

Section 2. Amends s. 985.46, F.S., relating to conditional release; to require that each juvenile committed to a juvenile justice commitment program have a transition plan upon release; require that the transition plan include an education transition plan component and information regarding delinquency treatment and intervention services that are accessible upon exiting the program.

Section 3. Amends s. 985.618, F.S., relating to educational and career-related programs; to provide legislative intent regarding juvenile justice education and workforce-related programs; require that the DJJ, in collaboration with the DOE, annually verify that each juvenile justice education program meet specified minimum standards; require that the department collaborate with certain entities to adopt rules.

Section 4. Amends s. 985.632, F.S., relating to quality assurance and cost-effectiveness; to conform provisions to changes make by the act; require that the Department of Education rather than the Department of Juvenile Justice ensure that there is accurate cost accounting for certain education programs; require that the Department of Education submit annual cost data to the department; require

that the effectiveness of juvenile justice education programs be determined by implementing systematic data collection, data analysis, and evaluations; require that the programs be evaluated based on student performance outcomes; require that the Department of Juvenile Justice in collaboration with the Department of Education and in consultation with other entities, prepare and submit an annual report to the Governor and the Legislature by a specified date.

Section 5. Amends s. 985.721, F.S., relating to escapes from secure detention or residential commitment facility; to conform a cross-reference.

Section 6. Amends s. 1001.42, F.S., relating to powers and duties of district school board; to conform provisions to changes made by the act; to conform a cross-reference.

Section 7. Amends s. 1002.20, F.S., relating to K-12 student and parent rights; to conform cross references.

Section 8. Amends s. 1002.45, F.S., relating to virtual instruction programs; to conform a cross reference.

Section 9. Amends s. 1003.01, F.S., relating to definitions; to revise the term "juvenile justice education program or schools" to conform to changes made by the act.

Section 10. Creates s. 1003.515, F.S., relating to The Florida Juvenile Justice Education Act; to provide a short title; provide a legislative finding; provide purposes of the Florida Juvenile Justice Education Act; provide a definition for the term "juvenile justice education programs"; provide responsibilities for school districts and private providers contracted by school districts to offer education services to youth in juvenile justice education programs; require that each juvenile justice residential and nonresidential program involve the regional workforce board or economic development agency and local postsecondary institutions to determine the occupational areas for the education and workforce-related program; provide requirements for education and workforce-related services in juvenile justice programs; providing responsibilities for the DOE; require that the department identify each juvenile justice residential and nonresidential education program excluding detention programs, by performance ratings; providing criteria for determining performance ratings; require that the department make available a common student pre- and post- assessment to measure the academic progress in reading and mathematics of youth in juvenile justice education programs; require that juvenile justice residential and nonresidential education program, exclude detention centers, be held accountable for students performance outcomes for a specified period after youth are released from the program, providing for program accountability; require that the department monitor the education performance of youth, prohibit certain school districts or private providers, under specified circumstances, from delivering education services, and verify that a school district is operating or contracting to deliver education services; provide for a school district's responsibilities; require that a youth who exits the program attain an industry certification, enroll in a program to complete the industry certification, be gainfully employed, or enroll in and continue his or her education based on a transition plan; require that an education transition plan component be incorporated in a youth's transition plan; require that each juvenile justice education program develop the education transition plan component during the course of the youth's stay in a juvenile justice residential or nonresidential program; provide funding requirements for the juvenile justice education programs; prohibit a district school board from being charged rent, maintenance, utilities, or overhead on facilities; requiring that the Department of Juvenile Justice provided maintenance, repairs, and remodeling of existing facilities; requiring that the State Board of Education collaborate with the Department of Juvenile Justice, the Department of Economic Opportunity, school district, and private providers to adopt rules.

Section 11. Repeals s. 1003.52, F.S., relating to educational services in Department of Juvenile Justice programs.

Section 12. Amends s. 1009.25, F.S., relating to fee exemptions; to provide an exemption from the payment of postsecondary education fees and tuition for certain youth who are ordered by a court to participate in a juvenile justice residential program.



Section 13. Amends s. 1011.62 F.S., relating to funds for operation of schools; to extend dates relating to the funding of students who are enrolled in juvenile justice education programs or in education programs for juvenile placed in secure facilities', conform a cross-reference.

Section 14. Provides an effective date upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill provides that if a school district's juvenile justice residential or nonresidential program earns two failing performance ratings in any 3-year period, the school district must enter into a contract with a school district or private provider that has an adequate or higher performance rating to deliver education services to the youth in the program. As a result, high-performing school districts may experience a positive revenue impact.

#### **2. Expenditures:**

None.

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

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

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

The bill provides that if a school district's juvenile justice residential or nonresidential program earns two failing performance ratings in any 3-year period, the school district must enter into a contract with a school district or private provider that has an adequate or higher performance rating to deliver education services to the youth in the program. As a result, low-performing providers may experience a reduction in revenue, while high-performing providers may experience a positive fiscal impact.

### **D. FISCAL COMMENTS:**

The bill provides that youth who have attained a high school diploma or its equivalent and who are not employed, and who have been order by the court to participate in a juvenile justice residential program, shall be exempt from the payment for tuition and fees of state postsecondary institutions, if the youth enrolls in such institution. As a result, state postsecondary institutions may experience a negative revenue impact.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to affect county or municipal governments.

#### **2. Other:**

None.

## B. RULE-MAKING AUTHORITY:

A rule is an agency statement of general applicability which interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.<sup>36</sup> Rulemaking authority is delegated by the Legislature<sup>37</sup> through statute and authorizes an agency to “adopt, develop, establish, or otherwise create”<sup>38</sup> a rule. Agencies do not have discretion whether to engage in rulemaking.<sup>39</sup> To adopt a rule an agency must have a general grant of authority to implement a specific law by rulemaking.<sup>40</sup> The grant of rulemaking authority itself need not be detailed.<sup>41</sup> The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.<sup>42</sup>

The bill requires DJJ, in consultation with DOE, the Department of Economic Opportunity, school districts, and private providers, to adopt rules relating to juvenile justice education programs meeting specified minimum standards in s. 985.618, F.S.

The bill requires the State Board of Education to prescribe rules relating to FTE count periods which must be the same for juvenile justice programs and other public school programs. The bill also provides rulemaking authority to the State Board of Education in collaboration with DJJ, the Department of Economic Opportunity, school districts and private providers to administer “The Florida Juvenile Justice Education Act.” This authority appears to be adequate under ch. 120, F.S.

## C. DRAFTING ISSUES OR OTHER COMMENTS:

1. The bill creates a new s.1003.515, F.S., relating to The Florida Juvenile Justice Education Act. The following drafting notes apply to this section of the bill:

- The bill uses inconsistent terminology when referring to the juvenile justice educational programs. For example, the phrase “juvenile justice education program” is sometimes referred to as “programs” or “education program.” This could cause confusion because various statutes within ch. 985, F.S., refer to other, non-education related juvenile justice programs as “programs.”
- The bill requires juvenile justice education programs to ensure student access to instruction during evenings and weekends. Day treatment programs do not currently operate at such times. In addition, school districts which providers may use to provide educational services to youth may also not be accessible during such times.
- The bill creates a provision regarding the educational placement of youth who enroll in a school district upon release in subsection (8), “Program Accountability.” This provision may be more appropriate under subsection (9), “Exiting Program.”
- The bill specifies one of the outcomes for a youth in a juvenile justice education program for determining a program’s performance rating as attaining an industry certification in an occupational area of a high demand identified in the Industry Certification list. This requirement is also provided for in subsection (9), (Exiting Program). Such certification may not be accessible for youths committed to a program for a short length of time. In addition, the bill does not appear to provide who will be responsible for the costs associated with attaining the industry certification.

<sup>36</sup> Section 120.52(16), F.S.; *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region*, 969 So.2d 527, 530 (Fla. 1<sup>st</sup> DCA 2007).

<sup>37</sup> *Southwest Florida Water Management District v. Save the Manatee Club, Inc.*, 773 So.2d 594 (Fla. 1<sup>st</sup> DCA 2000).

<sup>38</sup> Section 120.52(17), F.S.

<sup>39</sup> Section 120.54(1)(a), F.S.

<sup>40</sup> Sections 120.52(8) and 120.536(1), F.S.

<sup>41</sup> *Southwest Florida Water Management District*, 773 So.2d at 594.

<sup>42</sup> *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26, 29-30 (Fla. 1<sup>st</sup> DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So.2d 696, 704 (Fla. 1<sup>st</sup> DCA 2001).

2. The bill amends s. 985.632, F.S., to require DJJ to establish a comprehensive quality assurance system for each program operated by DJJ or its contracted providers. The bill also provides in s. 1003.515(7), F.S. that DOE must identify a performance rating, by evaluating specified elements, for each residential and nonresidential juvenile justice education program. As a result, the bill appears to provide for dual accountability without clear articulation of the differential basis for such accountability or how enforcement will interrelate.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 25, 2012, the Criminal Justice Subcommittee adopted one strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Moved substantive portions of the bill to more appropriate statutes;
- Provided a definition for “Juvenile Justice Education Programs”;
- Required DJJ in collaboration with DOE to annually verify specified requirements of juvenile justice education programs;
- Required DOE to ensure that there is accurate cost accounting for educational programs operated by the school districts, including programs operated by contracted private providers;
- Required juvenile justice residential and nonresidential education programs to be held accountable for student performance outcomes no longer than six months following the youths’ release from the program;
- Required DOE in collaboration with DJJ to monitor the education performance of youth in juvenile justice facilities; prohibit school districts or private providers that have failing performance ratings from delivering the education services; and verify that a school district is operating or contracting with a private provider to deliver education services;
- Removed provisions authorizing DJJ to use its statutory authority to sanction or prohibit a private provider from delivering education services due to non-education reasons;
- Required academic instructional personnel to be certified by the Department of Education, unless exempt as specified; and
- Provided payment exemption for tuition and fees of state postsecondary institutions for specified youth under s. 1003.515(5)(b)3., F.S.



1                   A bill to be entitled  
 2           An act relating to background screening for  
 3           noninstructional contractors on school grounds;  
 4           amending s. 1012.467, F.S.; requiring the Department  
 5           of Education to create a uniform, statewide  
 6           identification badge to be worn by noninstructional  
 7           contractors signifying that a contractor has met  
 8           specified requirements; requiring school districts to  
 9           issue the identification badge to a qualified  
 10          contractor; providing that the identification badge  
 11          shall be recognized by all school districts; providing  
 12          that the identification badge is valid for 5 years;  
 13          establishing conditions for return of an  
 14          identification badge; requiring the department to  
 15          determine a uniform cost a school district may charge  
 16          a contractor for receipt of the identification badge,  
 17          which shall be borne by the contractor; providing an  
 18          exception for certain contractors; providing an  
 19          effective date.

20  
 21   Be It Enacted by the Legislature of the State of Florida:

22  
 23          Section 1. Subsection (8) is added to section 1012.467,  
 24          Florida Statutes, to read:

25          1012.467 Noninstructional contractors who are permitted  
 26          access to school grounds when students are present; background  
 27          screening requirements.—

28          (8) (a) The Department of Education shall create a uniform,

29 statewide identification badge to be worn by noninstructional  
 30 contractors signifying that a contractor has met the  
 31 requirements of this section. The school district shall issue an  
 32 identification badge to the contractor, which must bear a  
 33 photograph of the contractor. An identification badge shall be  
 34 issued if the contractor:

35 1. Is a resident and citizen of the United States or a  
 36 permanent resident alien of the United States as determined by  
 37 the United States Bureau of Citizenship and Immigration  
 38 Services;

39 2. Is 18 years of age or older; and

40 3. Meets the background screening requirements under this  
 41 section.

42 (b) The uniform, statewide identification badge shall be  
 43 recognized by all school districts and must be visible at all  
 44 times a noninstructional contractor is on school grounds.

45 (c) The identification badge shall be valid for a period  
 46 of 5 years. If a noninstructional contractor provides  
 47 notification pursuant to subsection (6), the contractor shall,  
 48 within 48 hours, return the identification badge to the school  
 49 district that issued the badge.

50 (d) The Department of Education shall determine a uniform  
 51 cost that a school district may charge a noninstructional  
 52 contractor for receipt of the identification badge, which shall  
 53 be borne by the recipient of the badge.

54 (e) This subsection does not apply to noninstructional  
 55 contractors who are exempt from background screening  
 56 requirements pursuant to s. 1012.468.

CS/HB 1059

2012

57

Section 2. This act shall take effect July 1, 2012.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1059 Background Screening for Noninstructional Contractors on School Grounds  
**SPONSOR(S):** K-20 Competitiveness Subcommittee and Perry  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 1610

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	13 Y, 0 N, As CS	Beagle	Ahearn
2) PreK-12 Appropriations Subcommittee	15 Y, 0 N	Seifert	Heflin
3) Education Committee		Beagle <i>GB</i>	Klebacha <i>JK</i>

### SUMMARY ANALYSIS

The bill requires the Department of Education (DOE) to create a uniform, statewide identification badge signifying that a noninstructional contractor has satisfied the specified background screening requirements. The badge must include a photograph of the contractor and be recognized by each Florida school district. School districts must issue the badge to a contractor if he or she is a U.S. resident and citizen or permanent resident alien; 18 years of age or older; and meets the specified background screening requirements.

The badge is valid for five years and must be visibly worn at all times. DOE must determine a uniform cost that may be charged to a contractor for the badge. Contractors who are exempt from background screening requirements are not required to obtain a badge.

Currently, there is no required uniform, statewide identification badge that signifies that a noninstructional contractor has satisfied background screening requirements. School districts generally issue their own identification badges or proof of clearance.

Noninstructional contractors will be charged a fee for the identification badge, as set by DOE. Currently school districts that issue identification badges set their own fee. There is no way to know at this time whether DOE's set fee will be higher or lower than that currently charged by the districts. However, the bill eliminates the practice of other districts, not initially conducting the background screening and issuing the identification badge, from also requiring a badge and charging a fee. This may result in reduced costs for noninstructional contractors.

School districts that issue their own identification badges will have to redesign their current system in order to issue the uniform, statewide identification badge. The costs associated with this process are indeterminate. Districts that contract with a vendor for this process may incur costs associated with re-negotiating the contract. Also, a school district that does not originate the background screening and issuance of the statewide identification badge will no longer be able to issue its own badge and charge a corresponding fee.

The bill takes effect July 1, 2012.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### **Background Screening**

Florida law requires individuals who work in, or provide services to, public schools and school districts to undergo a fingerprint-based background screening before being permitted access to school grounds.<sup>1</sup> The individuals who must undergo background screening fall under three personnel classifications - instructional and noninstructional personnel,<sup>2</sup> noninstructional school district employees and contracted personnel,<sup>3</sup> and noninstructional contractors.<sup>4</sup> The background screening requirements for each personnel classification vary depending upon the individual's duties, whether or not the individual is a school district employee, and the degree of contact the individual has with students.<sup>5</sup>

Noninstructional contractors are vendors of services and contractors who are permitted access to school grounds when students are present, do not have direct contact with students, and are not school district employees.<sup>6</sup> The noninstructional contractor's fingerprints are submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks. FDLE is responsible for forwarding the fingerprints to the Federal Bureau of Investigation (FBI) for federal criminal records checks.<sup>7</sup> FDLE provides the results of the criminal records checks to the school district, which must then screen the records against a statutorily prescribed list of disqualifying offenses.<sup>8</sup> Noninstructional contractors must be screened against nine disqualifying offenses:<sup>9</sup>

- Offenses regarding registration as a sexual offender;<sup>10</sup>
- Sexual misconduct with certain developmentally disabled clients;<sup>11</sup>
- Sexual misconduct with certain mental health patients;<sup>12</sup>
- Terrorism;<sup>13</sup>
- Murder;<sup>14</sup>
- Kidnapping;<sup>15</sup>
- Offenses related to lewdness and indecent exposure;<sup>16</sup>
- Incest;<sup>17</sup> and

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<sup>1</sup> Sections 1012.32, 1012.465, and 1012.467, F.S. Private schools participating in educational choice scholarship programs must also submit fingerprints of employees and contracted personnel with direct student contact to FDLE. *See* ss. 943.0542 and 1002.421(2)(i), F.S.

<sup>2</sup> Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S.

<sup>3</sup> Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

<sup>4</sup> Section 1012.467(2)(a), F.S.

<sup>5</sup> Sections 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

<sup>6</sup> Section 1012.467(1)(a) and (2)(a) and (g), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 1012.32(2), F.S. (flush-left provisions at end of subsection; instructional and noninstructional personnel); s. 1012.465(3), F.S. (noninstructional school district employees); s. 1012.467(3), F.S. (noninstructional contractors).

<sup>9</sup> Section 1012.467(2)(g), F.S.

<sup>10</sup> Section 943.0435(1)(a)1., F.S.

<sup>11</sup> Section 393.135, F.S.

<sup>12</sup> Section 394.4593, F.S.

<sup>13</sup> Section 775.30, F.S.

<sup>14</sup> Section 782.04, F.S.

<sup>15</sup> Section 787.01, F.S.

<sup>16</sup> Chapter 800, F.S.

<sup>17</sup> Section 826.04, F.S.

- Child abuse, aggravated child abuse, or neglect of a child.<sup>18</sup>

If the noninstructional contractor has not been convicted of any of the nine disqualifying offenses, the school district may permit him or her to work on school grounds. School districts generally issue their own identification badges or proof of clearance. School districts are not currently prohibited from disqualifying a noninstructional contractor based upon additional offenses.<sup>19</sup>

Background screening is not required for noninstructional contractors who are:

- On school grounds while under the direct supervision of a school district employee or contractor who has been screened;
- Required to undergo level 2 background screening<sup>20</sup> for licensure, certification, employment, or other purposes;
- Law enforcement officers;
- Employees or medical directors of an ambulance service;
- Confined to an area where students are not permitted if the site is separated from school grounds by a chain link fence; and
- Providing pick-up or delivery services involving only brief visits on school grounds when students are present.<sup>21</sup>

Noninstructional contractors who are exempt from background screening must have their name searched in the FDLE and national sex offender registries. The individual may not be permitted on school grounds if he or she is identified as a sexual predator or sexual offender in the registry search. The school district may not charge the individual a fee for the search.<sup>22</sup>

Each noninstructional contractor's fingerprints are retained in the statewide automated fingerprint identification system for five years, at which time the individual must be rescreened.<sup>23</sup> The statewide system enables school districts to screen noninstructional contractors who are new to the district, but who have already had a criminal history check by another district, without having to initiate a new criminal history check. In such cases, the school district checks the database to see if the noninstructional contractor has any new arrests or convictions since the initial screening.<sup>24</sup>

Additionally, FDLE must periodically search all new arrest fingerprint cards received against the fingerprints retained in the system. If these periodic searches reveal a new arrest on a noninstructional contractor's record, FDLE must notify any school districts that have screened the contractor.<sup>25</sup>

Each noninstructional contractor must inform his or her employer (or other party to the contract) and the school district within 48 hours if he or she is arrested for any of the nine disqualifying offenses. Willful failure to do so is a third degree felony. If the employer (or other party to the contract) knows of such offense and allows the contractor access to school grounds when students are present, he or she commits a third degree felony.<sup>26</sup>

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<sup>18</sup> Section 827.03, F.S.

<sup>19</sup> Section 1012.467(4), F.S.

<sup>20</sup> Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 offenses. Instructional and noninstructional personnel and noninstructional school district employees and contractors must undergo level 2 screening. *See ss.* 435.04, 1012.32(2), 1012.465(1), and 1012.56(10), F.S.

<sup>21</sup> Section 1012.468(2), F.S.

<sup>22</sup> Section 1012.468(3), F.S.

<sup>23</sup> Section 1012.467(2)(e), F.S.; Rule 11C-6.010(7), F.A.C.

<sup>24</sup> Section 1012.467(2) (d) and (7)(a) F.S.

<sup>25</sup> Section 1012.467(2)(c), F.S.; Rule 11C-6.010(4), F.A.C.

<sup>26</sup> Section 1012.467(6), F.S. A third degree felony is punishable by a term of imprisonment not exceeding 5 years or fine not exceeding \$5000. Sections 775.082, and 775.083, F.S.

## **Effect of Proposed Changes**

The bill requires the Department of Education (DOE) to create a uniform, statewide identification badge signifying that a noninstructional contractor has satisfied the specified background screening requirements. The badge must include a photograph of the contractor and be recognized by each Florida school district. School districts must issue the badge to a noninstructional contractor who:

- Is a U.S. resident and citizen or permanent resident alien;
- Is 18 years of age or older; and
- Meets the background screening requirements for noninstructional contractors.

The badge is valid for five years and must be visibly worn at all times. DOE must determine a uniform cost that may be charged for the badge to a noninstructional contractor. Contractors who are exempt from background screening requirements are not required to obtain a badge.

Current law requires each noninstructional contractor to inform his or her employer (or other party to the contract) and the school district within 48 hours if he or she is arrested for a disqualifying offense. If the noninstructional contractor provides notification of a disqualifying offense, the bill requires that contractor to return his or her identification badge to the issuing school district within 48 hours.

Currently, when a school district screens noninstructional contractors who are new to the district, but who have already had a criminal history check conducted by another district, the school district uses the statewide automated fingerprint identification system to check for new arrests or convictions that may have occurred since the initial criminal history check. The school district is prohibited from charging the contractor a fee for verifying the results of his or her criminal history check,<sup>27</sup> but is not prohibited from charging a fee for issuance of a badge. Under the bill, a school district that does not originate the background screening and issuance of the identification badge will no longer be able to issue its own badge and charge a corresponding fee.

The bill appears to prevent a school district's discretion to disqualify a noninstructional contractor for offenses that are not currently listed as disqualifying offenses. Furthermore, the bill does not require a contractor who is fired by his or her employer to return the badge to the school district or employer.

Finally, the bill requires DOE to determine the cost to a noninstructional contractor for receipt of an identification badge, which must be borne by the recipient of the badge. Currently, the amount school districts charge for the identification badges varies, as does the length of time such badges are valid.

### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1012.467, F.S., relating to background screening of noninstructional contractors who are permitted access to school grounds; requires DOE to create a statewide photo identification badge for noninstructional contractors; requires Florida school districts to accept the badge as proof of the contractor's compliance with specified background screening requirements; provides criteria for issuance of the badge by school districts; provides that the badge is valid for five years; requires return of the badge if a contractor commits a disqualifying offense; requires DOE to determine a uniform cost of the badge charged to contractors; provides an exemption.

**Section 2.** Provides an effective date of July 1, 2012.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

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<sup>27</sup> Section 1012.467(2)(f), F.S.

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

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

Noninstructional contractors will be charged a fee for the identification badge, as set by DOE. Currently school districts that issue identification badges set their own fee. There is no way to know at this time whether DOE's set fee will be higher or lower than that currently charged by the districts. However, the bill eliminates the practice of other districts, not initially conducting the background screening and issuing the identification badge, from also requiring a badge and charging a fee. This may result in reduced costs for noninstructional contractors.

**D. FISCAL COMMENTS:**

School districts that issue their own identification badges will have to redesign their current system in order to issue the uniform, statewide identification badge. The costs associated with this process are indeterminate. Districts that contract with a vendor for this process may incur costs associated with re-negotiating the contract. Also, a school district that does not originate the background screening and issuance of the statewide identification badge will no longer be able to issue its own badge and charge a corresponding fee.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 25, 2012, the K-20 Competitiveness Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Clarified that DOE is only required to create a uniform identification badge for noninstructional contractors, rather than approve each contractor's receipt of a badge.
- Required issuance of the badge to noninstructional contractors meeting screening standards specific to contractors rather than Level 2 screening standards.
- Added provisions establishing a five-year validity period for the badge.
- Added provisions requiring noninstructional contractors who are arrested for disqualifying offenses to return the badge to the issuing school district within 48 hours of such offense.
- Clarified that noninstructional contractors who are exempt from background screening requirements are not required to obtain a badge.



1                                   A bill to be entitled  
 2           An act relating to digital learning; amending s.  
 3           1002.20, F.S.; providing student and parent rights  
 4           relating to the eligibility of Florida Virtual School  
 5           full-time students to participate in interscholastic  
 6           extracurricular activities at certain public schools;  
 7           amending s. 1002.321, F.S.; revising provisions  
 8           relating to virtual instruction through blended  
 9           learning courses; prohibiting any person from taking  
 10          an online course or examination on behalf of another  
 11          person; providing a penalty; amending s. 1002.37,  
 12          F.S.; providing that the Florida Virtual School may  
 13          provide part-time instruction for students in  
 14          kindergarten through grade 12; providing student  
 15          eligibility requirements for part-time instruction in  
 16          kindergarten through grade 5; deleting a requirement  
 17          that an elementary school principal provide certain  
 18          notification to parents; revising the location where  
 19          statewide assessments must be taken; amending s.  
 20          1002.45, F.S.; revising provisions relating to school  
 21          district options for providing full-time and part-time  
 22          virtual instruction programs and the open enrollment  
 23          period for participation; providing that a part-time  
 24          virtual instruction program offers instruction for  
 25          students enrolled in kindergarten through grade 12  
 26          courses; requiring an additional qualification for a  
 27          virtual instruction program provider to obtain  
 28          Department of Education approval; conforming funding

29 provisions to changes made by the act; amending s.  
 30 1002.455, F.S.; revising provisions relating to  
 31 eligibility requirements for virtual instruction and  
 32 virtual instruction options; amending s. 1003.428,  
 33 F.S.; placing restrictions on the online course  
 34 requirement for high school graduation; amending s.  
 35 1003.498, F.S.; providing requirements for blended  
 36 learning courses; amending s. 1003.57, F.S.; providing  
 37 responsibilities and requirements for the enrollment  
 38 of exceptional students in a full-time virtual  
 39 instruction program; amending s. 1006.15, F.S.;  
 40 providing conditions for eligibility for a Florida  
 41 Virtual School full-time student and certain students  
 42 who transfer to or from the Florida Virtual School to  
 43 participate in interscholastic extracurricular  
 44 activities; amending s. 1011.61, F.S.; revising and  
 45 conforming provisions relating to the definition of a  
 46 full-time equivalent student in full-time and part-  
 47 time virtual instruction programs; amending s.  
 48 1011.62, F.S.; correcting and conforming cross-  
 49 references; providing that full-time virtual  
 50 instruction programs are eligible to report student  
 51 membership in the ESOL program for funding purposes;  
 52 providing an effective date.

53

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

55

56 Section 1. Paragraph (d) of subsection (18) of section



CS/HB 7063

2012

57 | 1002.20, Florida Statutes, is redesignated as paragraph (e), and  
 58 | a new paragraph (d) is added to that subsection to read:

59 |       1002.20 K-12 student and parent rights.—Parents of public  
 60 | school students must receive accurate and timely information  
 61 | regarding their child's academic progress and must be informed  
 62 | of ways they can help their child to succeed in school. K-12  
 63 | students and their parents are afforded numerous statutory  
 64 | rights including, but not limited to, the following:

65 |       (18) EXTRACURRICULAR ACTIVITIES.—In accordance with the  
 66 | provisions of s. 1006.15:

67 |       (d) Florida Virtual School full-time students.—Florida  
 68 | Virtual School full-time students who meet specified academic  
 69 | and conduct requirements are eligible to participate in  
 70 | extracurricular activities at the public school to which the  
 71 | student would be assigned or could choose to attend according to  
 72 | district school board policies.

73 |       Section 2. Paragraph (e) of subsection (4) of section  
 74 | 1002.321, Florida Statutes, is amended, and subsection (5) is  
 75 | added to that section, to read:

76 |       1002.321 Digital learning.—

77 |       (4) CUSTOMIZED AND ACCELERATED LEARNING.—A school district  
 78 | must establish multiple opportunities for student participation  
 79 | in part-time and full-time kindergarten through grade 12 virtual  
 80 | instruction. Options include, but are not limited to:

81 |       (e) Courses delivered in the traditional school setting by  
 82 | personnel providing direct instruction through a virtual  
 83 | instruction environment or through ~~though~~ a blended learning  
 84 | courses consisting of both traditional classroom and online

85 ~~instructional techniques virtual and physical environment~~  
 86 pursuant to s. 1003.498.

87 (5) INTEGRITY OF ONLINE COURSES.—It is unlawful for any  
 88 person to knowingly and willfully take an online course or  
 89 examination on behalf of another person. Any person who violates  
 90 this subsection commits a misdemeanor of the first degree,  
 91 punishable as provided in s. 775.082 or s. 775.083.

92 Section 3. Subsections (8), (9), (10), and (11) of section  
 93 1002.37, Florida Statutes, are amended to read:

94 1002.37 The Florida Virtual School.—

95 (8) (a) The Florida Virtual School may provide full-time  
 96 and part-time instruction for students in kindergarten through  
 97 grade 12 ~~and part-time instruction for students in grades 4~~  
 98 ~~through 12.~~ To receive part-time instruction in kindergarten  
 99 through grade 5 full-time instruction in grades 2 through 5, a  
 100 student must meet at least one of the eligibility criteria in s.  
 101 1002.455(2). ~~Part-time instruction for grades 4 and 5 may be~~  
 102 ~~provided only to public school students taking grade 6 through~~  
 103 ~~grade 8 courses.~~

104 (b) For students receiving part-time instruction in  
 105 kindergarten through grade ~~grades 4 and 5~~ and students receiving  
 106 full-time instruction in kindergarten through grade 12 from the  
 107 Florida Virtual School, the combined total of all FTE reported  
 108 by both the school district and the Florida Virtual School may  
 109 not exceed 1.0 FTE.

110 ~~(9) Each elementary school principal must notify the~~  
 111 ~~parent of each student who scores at Level 4 or Level 5 on FCAT~~  
 112 ~~Reading or FCAT Mathematics of the option for the student to~~

113 ~~take accelerated courses through the Florida Virtual School.~~

114 (9)~~(10)~~ (a) Public school students receiving full-time  
 115 instruction in kindergarten through grade 12 by the Florida  
 116 Virtual School must take all statewide assessments required  
 117 pursuant to s. 1008.22.

118 (b) Public school students receiving part-time instruction  
 119 by the Florida Virtual School in courses requiring statewide  
 120 end-of-course assessments must take all statewide end-of-course  
 121 assessments required pursuant to s. 1008.22(3)(c)2.

122 (c) All statewide assessments must be taken at the school  
 123 to which the student would be assigned according to district  
 124 school board attendance areas ~~within the school district in~~  
 125 ~~which the student resides~~. A school district must provide the  
 126 student with access to the school's ~~district's~~ testing  
 127 facilities.

128 (10)~~(11)~~ The Florida Virtual School shall receive a school  
 129 grade pursuant to s. 1008.34 for students receiving full-time  
 130 instruction.

131 Section 4. Paragraph (b) of subsection (1), paragraph (a)  
 132 of subsection (2), and paragraphs (c) and (f) of subsection (7)  
 133 of section 1002.45, Florida Statutes, are amended to read:

134 1002.45 Virtual instruction programs.—

135 (1) PROGRAM.—

136 (b) Each school district that is eligible for the sparsity  
 137 supplement pursuant to s. 1011.62(7)(a) and (b) 1011.62(7) shall  
 138 provide all enrolled public school students within its  
 139 boundaries the option of participating in part-time and full-  
 140 time virtual instruction programs. Each school district that is

141 not eligible for the sparsity supplement pursuant to s.  
 142 1011.62(7)(a) and (b) shall provide at least three options for  
 143 part-time and full-time virtual instruction. All school  
 144 districts must provide parents with timely written notification  
 145 of at least one ~~an~~ open enrollment period for full-time students  
 146 of ~~at least~~ 90 days or more which ~~that~~ ends ~~no later than~~ 30  
 147 days before ~~prior to~~ the first day of the school year. The  
 148 purpose of the program is to make quality virtual instruction  
 149 available to students using online and distance learning  
 150 technology in the nontraditional classroom. A school district  
 151 virtual instruction program shall consist of ~~provide~~ the  
 152 following:

153 1. Full-time virtual instruction for students enrolled in  
 154 kindergarten through grade 12.

155 2. Part-time virtual instruction for students enrolled in  
 156 kindergarten ~~grades 9~~ through grade 12 courses that are measured  
 157 pursuant to subparagraph (8)(a)2.

158 3. Full-time or part-time virtual instruction for students  
 159 enrolled in dropout prevention and academic intervention  
 160 programs under s. 1003.53, Department of Juvenile Justice  
 161 education programs under s. 1003.52, core-curricula courses to  
 162 meet class size requirements under s. 1003.03, or Florida  
 163 College System institutions under this section.

164 (2) PROVIDER QUALIFICATIONS.—

165 (a) The department shall annually publish online a list of  
 166 providers approved to offer virtual instruction programs. To be  
 167 approved by the department, a provider must document that it:

168 1. Is nonsectarian in its programs, admission policies,

169 employment practices, and operations;

170 2. Complies with the antidiscrimination provisions of s.  
171 1000.05;

172 3. Locates an administrative office or offices in this  
173 state, requires its administrative staff to be state residents,  
174 requires all instructional staff to be Florida-certified  
175 teachers under chapter 1012, and conducts background screenings  
176 for all employees or contracted personnel, as required by s.  
177 1012.32, using state and national criminal history records;

178 4. Possesses prior, successful experience offering online  
179 courses to elementary, middle, or high school students as  
180 demonstrated by quantified student learning gains in each  
181 subject area and grade level provided for consideration as an  
182 instructional program option;

183 5. Is accredited by a regional accrediting association as  
184 defined by State Board of Education rule;

185 6. Ensures instructional and curricular quality through a  
186 detailed curriculum and student performance accountability plan  
187 that addresses every subject and grade level it intends to  
188 provide through contract with the school district, including:

189 a. Courses and programs that meet the standards of the  
190 International Association for K-12 Online Learning and the  
191 Southern Regional Education Board.

192 b. Instructional content and services that align with, and  
193 measure student attainment of, student proficiency in the Next  
194 Generation Sunshine State Standards.

195 c. Mechanisms that determine and ensure that a student has  
196 satisfied requirements for grade level promotion and high school

197 graduation with a standard diploma, as appropriate;  
 198 7. Publishes for the general public, in accordance with  
 199 disclosure requirements adopted in rule by the State Board of  
 200 Education, as part of its application as a provider and in all  
 201 contracts negotiated pursuant to this section:  
 202 a. Information and data about the curriculum of each full-  
 203 time and part-time program.  
 204 b. School policies and procedures.  
 205 c. Certification status and physical location of all  
 206 administrative and instructional personnel.  
 207 d. Hours and times of availability of instructional  
 208 personnel.  
 209 e. Student-teacher ratios.  
 210 f. Student completion and promotion rates.  
 211 g. Student, educator, and school performance  
 212 accountability outcomes; ~~and~~  
 213 8. If the provider is a Florida College System  
 214 institution, employs instructors who meet the certification  
 215 requirements for instructional staff under chapter 1012; and  
 216 9. Performs an annual financial audit of its accounts and  
 217 records conducted by an independent certified public accountant  
 218 which is in accordance with rules adopted by the Auditor  
 219 General, is conducted in compliance with generally accepted  
 220 auditing standards, and includes a report on financial  
 221 statements presented in accordance with generally accepted  
 222 accounting principles.  
 223 (7) VIRTUAL INSTRUCTION PROGRAM AND VIRTUAL CHARTER SCHOOL  
 224 FUNDING.—

CS/HB 7063

2012

225 (c) For a student enrolled ~~part-time~~ in a kindergarten  
 226 ~~grades 6~~ through grade 12 virtual instruction program, a "full-  
 227 time equivalent student" has the same meaning as provided in s.  
 228 1011.61(1)(c)1.b.(III) and (IV) ~~1011.61(1)(c)1.b.(IV)~~.

229 (f) The school district providing virtual instruction ~~in~~  
 230 ~~which the student resides~~ shall report full-time equivalent  
 231 students for a virtual instruction program or a virtual charter  
 232 school to the department in a manner prescribed by the  
 233 department, and funding shall be provided through the Florida  
 234 Education Finance Program. ~~Funds received by the school district~~  
 235 ~~of residence for a student in a virtual instruction program~~  
 236 ~~provided by another school district under this section shall be~~  
 237 ~~transferred to the school district providing the virtual~~  
 238 ~~instruction program.~~

239 Section 5. Subsections (2) and (3) of section 1002.455,  
 240 Florida Statutes, are amended to read:

241 1002.455 Student eligibility for K-12 virtual  
 242 instruction.—

243 (2) A student is eligible to participate in virtual  
 244 instruction if:

245 (a) The student spent the prior school year in attendance  
 246 at a public school in the state and was enrolled and reported by  
 247 the school district for funding during October and February for  
 248 purposes of the Florida Education Finance Program surveys;

249 (b) The student is a dependent child of a member of the  
 250 United States Armed Forces who was transferred within the last  
 251 12 months to this state from another state or from a foreign  
 252 country pursuant to a permanent change of station order;

253 (c) The student was enrolled during the prior school year  
 254 in a virtual instruction program under s. 1002.45, the K-8  
 255 Virtual School Program under s. 1002.415, or a full-time Florida  
 256 Virtual School program under s. 1002.37(8) (a);

257 (d) The student has a sibling who is currently enrolled in  
 258 a virtual instruction program and the sibling was enrolled in  
 259 that program at the end of the prior school year; ~~or~~

260 (e) The student is eligible to enter kindergarten or first  
 261 grade; or

262 (f) The student is eligible to enter grades 2 through 5  
 263 and is enrolled full-time in a school district virtual  
 264 instruction program, virtual charter school, or the Florida  
 265 Virtual School.

266 (3) The virtual instruction options for which this  
 267 eligibility section applies include:

268 (a) School district operated part-time or full-time  
 269 kindergarten through grade 12 virtual instruction programs under  
 270 s. 1002.45(1) (b) for students enrolled in the school district.

271 (b) Full-time virtual charter school instruction  
 272 authorized under s. 1002.33.

273 ~~(c) Courses delivered in the traditional school setting by~~  
 274 ~~personnel providing direct instruction through a virtual~~  
 275 ~~environment or through a blended virtual and physical environment~~  
 276 ~~pursuant to s. 1003.498 and as authorized pursuant to s.~~  
 277 ~~1002.321(4)(c).~~

278 (c)(d) Virtual courses offered in the course code  
 279 directory to students within the school district or to students  
 280 in other school districts throughout the state pursuant to s.



281 1003.498.

282 Section 6. Paragraph (c) of subsection (2) of section  
 283 1003.428, Florida Statutes, is amended to read:

284 1003.428 General requirements for high school graduation;  
 285 revised.—

286 (2) The 24 credits may be earned through applied,  
 287 integrated, and combined courses approved by the Department of  
 288 Education. The 24 credits shall be distributed as follows:

289 (c) Beginning with students entering grade 9 in the 2011-  
 290 2012 school year, at least one course within the 24 credits  
 291 required in this subsection must be completed through online  
 292 learning. A school district may not require a student to take  
 293 the online course outside the school day or in addition to a  
 294 student's courses for a given semester. ~~However,~~ An online  
 295 course taken during grades 6 through 8 fulfills this  
 296 requirement. This requirement shall be met through an online  
 297 course offered by the Florida Virtual School, an online course  
 298 offered by the high school, or an online dual enrollment course  
 299 ~~offered pursuant to a district interinstitutional articulation~~  
 300 ~~agreement pursuant to s. 1007.235.~~ A student who is enrolled in  
 301 a full-time or part-time virtual instruction program under s.  
 302 1002.45 meets this requirement. This requirement does not apply  
 303 to a student who has an individual educational plan under s.  
 304 1003.57 which indicates that an online course would be  
 305 inappropriate or a student who is enrolled in a Florida high  
 306 school and has less than 1 academic year remaining in high  
 307 school.

308 Section 7. Subsection (1) of section 1003.498, Florida

309 Statutes, is amended to read:

310 1003.498 School district virtual course offerings.—

311 (1) School districts may deliver courses in the  
 312 traditional school setting by personnel certified pursuant to s.  
 313 1012.55 who provide direct instruction through a virtual  
 314 instruction environment or through ~~though a~~ blended learning  
 315 courses consisting of both traditional classroom and online  
 316 instructional techniques ~~virtual and physical environment~~.  
 317 Students in a blended learning course must be full-time students  
 318 of the school and receive the online instruction in a classroom  
 319 setting at the school. The funding, performance, and  
 320 accountability requirements for blended learning courses are the  
 321 same as those for traditional courses.

322 Section 8. Subsection (5) is added to section 1003.57,  
 323 Florida Statutes, to read:

324 1003.57 Exceptional students instruction.—

325 (5) Each full-time virtual instruction program under s.  
 326 1002.37 or s. 1002.45 must fulfill the obligations of a school  
 327 district under this section for public school exceptional  
 328 students who are enrolled in a full-time virtual instruction  
 329 program. A student whose individual educational plan indicates  
 330 that full-time virtual instruction is appropriate may be  
 331 enrolled in a full-time virtual instruction program.

332 Section 9. Paragraphs (e), (f), and (g) are added to  
 333 subsection (3) of section 1006.15, Florida Statutes, to read:

334 1006.15 Student standards for participation in  
 335 interscholastic and intrascholastic extracurricular student  
 336 activities; regulation.—

337           (3)

338           (e) A student of the Florida Virtual School full-time

339 program may participate in any interscholastic extracurricular

340 activity at the public school to which the student would be

341 assigned according to district school board attendance area

342 policies or which the student could choose to attend, pursuant

343 to district or interdistrict controlled open enrollment

344 policies, if the student:

345           1. During the period of participation in the

346 interscholastic extracurricular activity, meets the requirements

347 in paragraph (a).

348           2. Meets any additional requirements as determined by the

349 board of trustees of the Florida Virtual School.

350           3. Meets the same residency requirements as other students

351 in the school at which he or she participates.

352           4. Meets the same standards of acceptance, behavior, and

353 performance that are required of other students in

354 extracurricular activities.

355           5. Registers his or her intent to participate in

356 interscholastic extracurricular activities with the school

357 before the beginning date of the season for the activity in

358 which he or she wishes to participate. A Florida Virtual School

359 student must be able to participate in curricular activities if

360 that is a requirement for an extracurricular activity.

361           (f) A student who transfers from the Florida Virtual

362 School full-time program to a traditional public school before

363 or during the first grading period of the school year is

364 academically eligible to participate in interscholastic

365 extracurricular activities during the first grading period if  
 366 the student has a successful evaluation from the previous school  
 367 year pursuant to paragraph (a).

368 (g) A public school or private school student who has been  
 369 unable to maintain academic eligibility for participation in  
 370 interscholastic extracurricular activities is ineligible to  
 371 participate in such activities as a Florida Virtual School  
 372 student until the student successfully completes one grading  
 373 period in the Florida Virtual School pursuant to paragraph (a).

374 Section 10. Paragraph (c) of subsection (1) of section  
 375 1011.61, Florida Statutes, is amended to read:

376 1011.61 Definitions.—Notwithstanding the provisions of s.  
 377 1000.21, the following terms are defined as follows for the  
 378 purposes of the Florida Education Finance Program:

379 (1) A "full-time equivalent student" in each program of  
 380 the district is defined in terms of full-time students and part-  
 381 time students as follows:

382 (c)1. A "full-time equivalent student" is:

383 a. A full-time student in any one of the programs listed  
 384 in s. 1011.62(1)(c); or

385 b. A combination of full-time or part-time students in any  
 386 one of the programs listed in s. 1011.62(1)(c) which is the  
 387 equivalent of one full-time student based on the following  
 388 calculations:

389 (I) A full-time student in a combination of programs  
 390 listed in s. 1011.62(1)(c) shall be a fraction of a full-time  
 391 equivalent membership in each special program equal to the  
 392 number of net hours per school year for which he or she is a

393 member, divided by the appropriate number of hours set forth in  
 394 subparagraph (a)1. or subparagraph (a)2. The difference between  
 395 that fraction or sum of fractions and the maximum value as set  
 396 forth in subsection (4) for each full-time student is presumed  
 397 to be the balance of the student's time not spent in such  
 398 special education programs and shall be recorded as time in the  
 399 appropriate basic program.

400 (II) A prekindergarten ~~handicapped~~ student with a  
 401 disability shall meet the requirements specified for  
 402 kindergarten students.

403 (III) A full-time equivalent student for students in  
 404 kindergarten through grade 12 ~~5~~ in a full-time virtual  
 405 instruction program under s. 1002.45 or a virtual charter school  
 406 under s. 1002.33 shall consist of six full credit completions or  
 407 the prescribed level of content that counts toward promotion to  
 408 the next grade in programs listed in s. 1011.62(1)(c) ~~a student~~  
 409 ~~who has successfully completed a basic program listed in s.~~  
 410 ~~1011.62(1)(c)1.a. or b., and who is promoted to a higher grade~~  
 411 ~~level.~~ Credit completions may be a combination of full-credit  
 412 courses or half-credit courses. Beginning in the 2014-2015  
 413 fiscal year, when s. 1008.22(3)(g) is implemented, the reported  
 414 full-time equivalent students and associated funding of students  
 415 enrolled in courses requiring passage of an end-of-course  
 416 assessment shall be adjusted after the student completes the  
 417 end-of-course assessment.

418 (IV) A full-time equivalent student for students in  
 419 kindergarten ~~grades 6~~ through grade 12 in a part-time virtual  
 420 instruction program under s. 1002.45 ~~1002.45(1)(b)1., 2., or 3.~~

CS/HB 7063

2012

421 ~~or a virtual charter school under s. 1002.33~~ shall consist of  
 422 six full credit completions in programs listed in s.  
 423 1011.62(1)(c)1. and 3. ~~1011.62(1)(e)1.b. or c. and 3.~~ Credit  
 424 completions may be a combination of full-credit courses or half-  
 425 credit courses. Beginning in the 2014-2015 fiscal year, when s.  
 426 1008.22(3)(g) is implemented, the reported full-time equivalent  
 427 students and associated funding of students enrolled in courses  
 428 requiring passage of an end-of-course assessment shall be  
 429 adjusted after the student completes the end-of-course  
 430 assessment.

431 (V) A Florida Virtual School full-time equivalent student  
 432 shall consist of six full credit completions or the prescribed  
 433 level of content that counts toward promotion to the next grade  
 434 in the programs listed in s. 1011.62(1)(c)1. and 3.  
 435 ~~1011.62(1)(e)1.a. and b.~~ for students participating in  
 436 kindergarten through grade 12 part-time virtual instruction &  
 437 and the programs listed in s. 1011.62(1)(c) ~~1011.62(1)(e)1.e.~~  
 438 for students participating in kindergarten through grade 12  
 439 full-time virtual instruction ~~grades 9 through 12.~~ Credit  
 440 completions may be a combination of full-credit courses or half-  
 441 credit courses. Beginning in the 2014-2015 fiscal year, when s.  
 442 1008.22(3)(g) is implemented, the reported full-time equivalent  
 443 students and associated funding of students enrolled in courses  
 444 requiring passage of an end-of-course assessment shall be  
 445 adjusted after the student completes the end-of-course  
 446 assessment.

447 (VI) Each successfully completed full-credit course earned  
 448 through an online course delivered by a district other than the

449 one in which the student resides shall be calculated as 1/6 FTE.

450 (VII) Each successfully completed credit earned under the  
 451 alternative high school course credit requirements authorized in  
 452 s. 1002.375, which is not reported as a portion of the 900 net  
 453 hours of instruction pursuant to subparagraph (1)(a)1., shall be  
 454 calculated as 1/6 FTE.

455 2. A student in membership in a program scheduled for more  
 456 or less than 180 school days or the equivalent on an hourly  
 457 basis as specified by rules of the State Board of Education is a  
 458 fraction of a full-time equivalent membership equal to the  
 459 number of instructional hours in membership divided by the  
 460 appropriate number of hours set forth in subparagraph (a)1.;  
 461 however, for the purposes of this subparagraph, membership in  
 462 programs scheduled for more than 180 days is limited to students  
 463 enrolled in juvenile justice education programs and the Florida  
 464 Virtual School.

465  
 466 The department shall determine and implement an equitable method  
 467 of equivalent funding for experimental schools and for schools  
 468 operating under emergency conditions, which schools have been  
 469 approved by the department to operate for less than the minimum  
 470 school day.

471 Section 11. Paragraphs (e) and (g) of subsection (1) and  
 472 subsection (11) of section 1011.62, Florida Statutes, are  
 473 amended to read:

474 1011.62 Funds for operation of schools.—If the annual  
 475 allocation from the Florida Education Finance Program to each  
 476 district for operation of schools is not determined in the

477 | annual appropriations act or the substantive bill implementing  
 478 | the annual appropriations act, it shall be determined as  
 479 | follows:

480 |       (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR  
 481 | OPERATION.—The following procedure shall be followed in  
 482 | determining the annual allocation to each district for  
 483 | operation:

484 |       (e) Funding model for exceptional student education  
 485 | programs.—

486 |       1.a. The funding model uses basic, at-risk, support levels  
 487 | IV and V for exceptional students and career Florida Education  
 488 | Finance Program cost factors, and a guaranteed allocation for  
 489 | exceptional student education programs. Exceptional education  
 490 | cost factors are determined by using a matrix of services to  
 491 | document the services that each exceptional student will  
 492 | receive. The nature and intensity of the services indicated on  
 493 | the matrix shall be consistent with the services described in  
 494 | each exceptional student's individual educational plan. The  
 495 | Department of Education shall review and revise the descriptions  
 496 | of the services and supports included in the matrix of services  
 497 | for exceptional students and shall implement those revisions  
 498 | before the beginning of the 2012-2013 school year.

499 |       b. In order to generate funds using one of the two  
 500 | weighted cost factors, a matrix of services must be completed at  
 501 | the time of the student's initial placement into an exceptional  
 502 | student education program and at least once every 3 years by  
 503 | personnel who have received approved training. Nothing listed in  
 504 | the matrix shall be construed as limiting the services a school



505 district must provide in order to ensure that exceptional  
 506 students are provided a free, appropriate public education.

507 c. Students identified as exceptional, in accordance with  
 508 chapter 6A-6, Florida Administrative Code, who do not have a  
 509 matrix of services as specified in sub-subparagraph b. shall  
 510 generate funds on the basis of full-time-equivalent student  
 511 membership in the Florida Education Finance Program at the same  
 512 funding level per student as provided for basic students.

513 Additional funds for these exceptional students will be provided  
 514 through the guaranteed allocation designated in subparagraph 2.

515 2. For students identified as exceptional who do not have  
 516 a matrix of services and students who are gifted in grades K  
 517 through 8, there is created a guaranteed allocation to provide  
 518 these students with a free appropriate public education, in  
 519 accordance with s. 1001.42(4)(1) ~~1001.42(4)(m)~~ and rules of the  
 520 State Board of Education, which shall be allocated annually to  
 521 each school district in the amount provided in the General  
 522 Appropriations Act. These funds shall be in addition to the  
 523 funds appropriated on the basis of FTE student membership in the  
 524 Florida Education Finance Program, and the amount allocated for  
 525 each school district shall not be recalculated during the year.  
 526 These funds shall be used to provide special education and  
 527 related services for exceptional students and students who are  
 528 gifted in grades K through 8. Beginning with the 2007-2008  
 529 fiscal year, a district's expenditure of funds from the  
 530 guaranteed allocation for students in grades 9 through 12 who  
 531 are gifted may not be greater than the amount expended during  
 532 the 2006-2007 fiscal year for gifted students in grades 9

533 through 12.

534 (g) Education for speakers of other languages.—A school  
 535 district or a full-time virtual instruction program is ~~shall be~~  
 536 eligible to report full-time equivalent student membership in  
 537 the ESOL program in the Florida Education Finance Program  
 538 provided the following conditions are met:

539 1. The school district or the full-time virtual  
 540 instruction program has a plan approved by the Department of  
 541 Education.

542 2. The eligible student is identified and assessed as  
 543 limited English proficient based on assessment criteria.

544 3.a. An eligible student may be reported for funding in  
 545 the ESOL program for a base period of 3 years. However, a  
 546 student whose English competency does not meet the criteria for  
 547 proficiency after 3 years in the ESOL program may be reported  
 548 for a fourth, fifth, and sixth year of funding, provided his or  
 549 her limited English proficiency is assessed and properly  
 550 documented prior to his or her enrollment in each additional  
 551 year beyond the 3-year base period.

552 b. If a student exits the program and is later  
 553 reclassified as limited English proficient, the student may be  
 554 reported in the ESOL program for funding for an additional year,  
 555 or extended annually for a period not to exceed a total of 6  
 556 years pursuant to this paragraph, based on an annual evaluation  
 557 of the student's status.

558 4. An eligible student may be reported for funding in the  
 559 ESOL program for membership in ESOL instruction in English and  
 560 ESOL instruction or home language instruction in the basic



561 subject areas of mathematics, science, social studies, and  
 562 computer literacy.

563 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may  
 564 annually provide in the Florida Education Finance Program a  
 565 virtual education contribution. The amount of the virtual  
 566 education contribution shall be the difference between the  
 567 amount per FTE established in the General Appropriations Act for  
 568 virtual education and the amount per FTE for each district and  
 569 the Florida Virtual School, which may be calculated by taking  
 570 the sum of the base FEFP allocation, the discretionary local  
 571 effort, the state-funded discretionary contribution, the  
 572 discretionary millage compression supplement, the research-based  
 573 reading instruction allocation, and the instructional materials  
 574 allocation, and then dividing by the total unweighted FTE. This  
 575 difference shall be multiplied by the virtual education  
 576 unweighted FTE for programs and options identified in s.  
 577 1002.455(3) ~~1002.455(3)(a), (b), and (d)~~ and the Florida Virtual  
 578 School and its franchises to equal the virtual education  
 579 contribution and shall be included as a separate allocation in  
 580 the funding formula.

581 Section 12. This act shall take effect July 1, 2012.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 7063      PCB KINS 12-01      Digital Learning  
**SPONSOR(S):** PreK-12 Appropriations Subcommittee; K-20 Innovation Subcommittee, Stargel  
**TIED BILLS:**                      **IDEN./SIM. BILLS:** CS/SB 1402

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Innovation Subcommittee	12 Y, 2 N	Fudge	Sherry
1) PreK-12 Appropriations Subcommittee	14 Y, 1 N, As CS	Seifert	Heflin
2) Education Committee		Fudge 	Klebacha 

### SUMMARY ANALYSIS

The bill expands digital learning options for students in public schools, allows students eligible to enter kindergarten through grade 5 to participate in Florida Virtual School Full Time (FLVS FT), full-time district virtual instruction programs, and full-time virtual charter schools. The bill also authorizes FLVS FT students to participate in interscholastic extracurricular activities.

The bill authorizes FLVS to expand part-time instruction to kindergarten through grade 3. The bill also expands part-time offerings for grades 4 and 5 by removing the limitation which restricts students to taking grades 6 through 8 courses. The bill authorizes FLVS FT students to participate in interscholastic extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies. This provision is similar to current law that authorizes eligible home school, private school, and charter school students to participate in public school interscholastic extracurricular activities who meet specified academic standards and eligibility requirements.

The bill also requires FLVS to provide exceptional student education services and the English for Speakers of other Languages program to its eligible students and authorizes FLVS to receive funding for providing such services and programs.

A school district ineligible for the sparsity supplement must provide at least three options for part-time and full-time virtual instruction. The bill clarifies that the eligibility for the sparsity supplement is prior to any wealth adjustment. This would increase the number of districts eligible for the sparsity supplement, thereby reducing the number of districts that must provide at least three options.

The bill removes the student eligibility requirement for courses delivered in the traditional school setting thereby allowing school districts to offer virtual and blended courses delivered in the traditional school setting to its students who may have been unable to take such courses due to the eligibility criteria. The bill clarifies that the funding and performance accountability requirements for blended learning courses offered by school districts are the same as those for traditional courses.

The bill clarifies the online course requirements for high school graduation.

Part-time district virtual instruction is expanded to students enrolled in kindergarten through grade 8.

See FISCAL COMMENTS.

The bill is effective July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

Virtual instruction programs, commonly described as online or digital learning instruction, provide an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>1</sup>

During the 2011 Session, the Legislature enacted CS/CS/HB 7197 creating the “Digital Learning Now Act” (“the Act”) which required high school students to take an online course, authorized blended learning courses, increased access to high quality digital providers, established metrics for evaluating the quality of content and instruction, and required administration of assessments online.

### **Florida’s Public K-12 Virtual Education Options**

#### **School District Virtual Instruction Program**

##### **Present Situation**

A school district virtual instruction program is a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>2</sup> The purpose of the program is to make instruction available to students using online and distance learning technology in the nontraditional classroom.<sup>3</sup> In 2008, the Legislature required all school districts to provide a virtual instruction program beginning with the 2009-2010 academic year.<sup>4</sup> In 2011, the Legislature revised the program requirements.<sup>5</sup>

Each school district must offer:

- A full-time virtual instruction program for students in kindergarten through grade 12;<sup>6</sup>
- Part-time virtual instruction for students enrolled in grades 9 through 12 courses that are measured by an evaluation method developed by the Department of Education (DOE);<sup>7</sup> and
- A full-time or part-time virtual instruction program for students enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or Florida College System institutions offering a school district virtual instruction program.<sup>8</sup>

To provide its students with the opportunity to participate in a virtual instruction program, a school district may choose one or more of the following options:

- Contract with the Florida Virtual School (FLVS) or establish a franchise of the FLVS;<sup>9</sup>
- Contract with an approved provider;<sup>10</sup>
- Contract with a Florida College System institution;<sup>11</sup>
- Enter into an agreement with another school district to allow its students to participate in a virtual instruction program provided by the other school district;<sup>12</sup>

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<sup>1</sup> Section 1002.45(1)(a)2., F.S.

<sup>2</sup> Section 1002.45(1)(a)2., F.S.

<sup>3</sup> Section 1002.45(1)(b), F.S.

<sup>4</sup> Section 4, ch. 2008-147, L.O.F.

<sup>5</sup> Section 1002.45(1)(b), F.S.

<sup>6</sup> Section 1002.45(1)(b)1., F.S.

<sup>7</sup> Section 1002.45(1)(b)2., F.S.

<sup>8</sup> Section 1002.45(1)(b)3., F.S.

<sup>9</sup> Section 1002.45(1)(c)1., F.S.

<sup>10</sup> Sections 1002.45(1)(a)1., and 1002.45(1)(c)2., F.S.

<sup>11</sup> Section 9, ch. 2010-154, L.O.F.; s. 1002.45(1)(a) and (1)(c)2., F.S.

<sup>12</sup> Section 1002.45(1)(c)3., F.S.

- Establish and operate a virtual instruction program for students enrolled in the school district,<sup>13</sup> or
- Enter into an agreement with a virtual charter school.<sup>14</sup>

Contracts with the FLVS or other providers may include multidistrict contractual arrangements executed by a regional consortium.<sup>15</sup>

Each contract between a school district and a provider must include the following:

- A detailed curriculum plan;
- A method for determining that a student has satisfied the requirements for graduation, if the contract is for a full-time virtual instruction program in grades 9-12;
- A method for resolving conflicts among parties;
- Authorized reasons for termination of the contract;
- A requirement that the approved provider be responsible for all debts of the program if the contract is terminated or not renewed; and
- A requirement that the approved provider comply with all statutory requirements relating to the program.<sup>16</sup>

Each provider contracted to provide a school district virtual instruction program must participate in the statewide assessment program and the state's education performance accountability system.<sup>17</sup> Each provider receives a school grade or school improvement rating, which is based upon the aggregated assessment scores of all students served by the provider statewide.<sup>18</sup> School grades or school improvement ratings are published on the Department's website.<sup>19</sup>

If a provider receives a school grade of "D" or "F" or a school improvement rating of "Declining," the provider must file with the DOE a school improvement plan for correcting low performance.<sup>20</sup> The school improvement plan must identify causes of the low performance and propose a plan for improvement. If a provider receives a school grade of "D" or "F" for any two years during a four-year period, the provider's contract must be terminated and the provider cannot be approved for at least one year.<sup>21</sup>

### Effect of Proposed Changes

The bill expands part-time virtual instruction, currently offered for grades 9 through 12, to kindergarten through grade 8 for courses that are evaluated by a method developed by DOE. The evaluations include the percentage of students making learning gains, the percentage of students successfully passing any required end-of-course assessments, the percentage of students taking AP course exams, and the percentage of students scoring a three (3) or above on the AP course exam.

In addition to preexisting requirements, the bill requires that to be approved by the DOE a provider of virtual instruction must provide documentation of an annual financial audit of its accounts and records, conducted by an independent certified public accountant and in accordance with rules adopted by the Auditor General. The audit must be conducted in compliance with generally accepted auditing

<sup>13</sup> Section 1002.45(1)(c)4., F.S.

<sup>14</sup> Section 1002.45(1)(c)5., F.S.

<sup>15</sup> Section 1002.45(1)(c), F.S. Multidistrict consortia include Panhandle Area Educational Consortium (PAEC), Heartland Educational Consortium (HEC), and Northeast Florida Educational Consortium (NEFEC). See s. 1001.451, F.S.

<sup>16</sup> Section 1002.45(4), F.S.

<sup>17</sup> Section 1002.45(8)(a)1., F.S.

<sup>18</sup> The performance of part-time 9-12 students is not included in the provider's school grade or school improvement rating. Performance of such students is included in the nonvirtual school that provides the student's primary instruction. Section 1002.45(8)(b), F.S.

<sup>19</sup> Section 1002.45(8)(a)2., F.S.

<sup>20</sup> Section 10082.45(8)(c), F.S.

<sup>21</sup> Section 1002.45(8)(c) and (d), F.S.

standards and must include a report on financial statements presented in accordance with generally accepted accounting principles.

A school district must provide at least three options for part-time and full-time virtual instruction if the school district is not eligible for the sparsity supplement. The bill clarifies that for purposes of this requirement, the calculation of the sparsity supplement is prior to any wealth adjustment. The bill also clarifies that school districts must provide at least one open enrollment period for full-time students of at least 90 days which ends at least 30 days before the first day of the school year thereby allowing school districts to offer more than one enrollment period.

## **Student Eligibility**

### Present Situation

Students are eligible to participate in the virtual instruction program if the student is eligible to enter kindergarten or first grade<sup>22</sup> or if the student was:<sup>23</sup>

- Enrolled in a public school and reported for funding in the Florida Education Finance Program (FEFP) in the prior school year;
- A dependent child of a member of the armed forces whose parent was transferred in the last 12 months;
- Enrolled during the prior school year in a school district operated virtual instruction program, K-8 virtual school program, or FLVS FT;<sup>24</sup> or
- A sibling of a student currently enrolled a virtual school program.<sup>25</sup>

These student eligibility requirements apply to: school district part-time or full-time kindergarten through grade 12 Virtual Instruction Programs (VIPs); full-time virtual charter school instruction; courses delivered in the traditional school setting through a virtual environment or through blended learning; virtual courses offered in the course code directory to students within the school district or in other school districts; and full-time instruction in grades 2 through 5 provided by FLVS.

### Effect of Proposed Changes

The bill revises the eligibility criteria for the FLVS FT program, the school district operated full-time virtual instruction program, and full-time virtual charter schools to allow students eligible to enter grades 2 through 5 to participate in these full-time programs.

Applying the student eligibility requirement to courses delivered in the traditional school setting prevented school districts from offering virtual or blended courses to all of their students. Consequently, the bill removes the student eligibility requirement for courses delivered in the traditional school setting. The bill clarifies that the funding and performance accountability requirements for blended learning courses offered by school districts are the same as those for traditional courses.

## **Integrity of Online Courses**

### Present Situation

It is unlawful for any individual to knowingly and willfully violate test security by: giving examinees access to test questions prior to testing, copying any portion of any secure test booklet, coaching examinees during testing, making answer keys available to examinees, failing to follow test

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<sup>22</sup> Section 1002.455(2)(e), F.S.

<sup>23</sup> Section 1002.455, F.S.

<sup>24</sup> Section 1002.455(2)(c), F.S.

<sup>25</sup> Section 1002.455(2)(d), F.S.

administration directions, or participating in, directing, aiding, counseling, assisting in, or encouraging any of these prohibited acts.<sup>26</sup>

While these provisions are very proscriptive, they do not prohibit an individual from taking a course or examination on behalf of another person.

### Effect of Proposed Changes

The bill prohibits any individual from knowingly and willfully taking an online course or examination on behalf of another person. Any individual that violates this provision commits a misdemeanor of the first degree.

## **Online Course Requirement**

### Present Situation

Students entering grade 9 in the 2011-2012 school year must complete at least one course, within the 24 credits required for high school graduation, through online learning. An online course taken during grades 6 through 8 fulfills this requirement. The online course requirement may be met through courses offered by the Florida Virtual School, an online course offered by the high school, or an online dual enrollment course. Students enrolled in a full-time or part-time virtual instruction program meet this requirement.<sup>27</sup>

### Effect of Proposed Changes

The bill clarifies that a school district may not require the student to fulfill the online course requirement outside of the school day or in addition to the student's courses for a given semester. The online course requirement would not apply to a student who has an IEP which indicates that an online course would be inappropriate or to a student who is enrolled in a Florida high school and has less than 1 academic year remaining.

## **Florida Virtual School**

### Present Situation

The Florida Virtual School (FLVS) is a public online school providing students with several virtual education options.<sup>28</sup> FLVS offers more than 90 courses in core subjects, world languages, electives, honors, and Advanced Placement.<sup>29</sup>

FLVS offers individual course enrollments to all Florida students in grades 6-12, including public school, private school, and home education students.<sup>30</sup> FLVS also provides part-time instruction to students in grades 4-5 taking grades 6 through 8 courses. Each elementary school principal must notify the parent of each student who score at Level 4 or Level 5 on FCAT Reading or FCAT Mathematics of the option for the student to take accelerated courses through FLVS.<sup>31</sup>

FLVS has partnered with Connections Academy to provide a full-time virtual education program to students in grades K-12.<sup>32</sup> Florida Virtual School Full Time (FLVS FT) is open to any public school

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<sup>26</sup> Section 1008.24, F.S.

<sup>27</sup> Section 1003.428(2)(c), F.S.

<sup>28</sup> See Section 1002.37(1), F.S. See also Florida Virtual School, *Grade K-12 Options* <http://www.flvs.net/AREAS/CVP/Pages/default.aspx> (last visited January 30, 2012).

<sup>29</sup> Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited January 30, 2012).

<sup>30</sup> Florida Virtual School, *supra* note 19.

<sup>31</sup> 1002.37(9), F.S.

<sup>32</sup> Florida Virtual School Full Time, *Florida Virtual School Full Time*, <http://www.flvsft.com/> (last visited January 30, 2012).



student in grades K-12 provided the student meets certain eligibility criteria.<sup>33</sup> Separate statutory requirements relating to student eligibility, assessment and accountability, and funding exist for each of these options.<sup>34</sup>

FLVS is governed by a board of trustees appointed by the governor,<sup>35</sup> and its performance is monitored by the Commissioner of Education and reported to the State Board of Education and Legislature.<sup>36</sup> FLVS is fully accredited by the Southern Association of Colleges and Schools and AdvanceED.<sup>37</sup>

Public school students receiving full-time and part-time instruction from the FLVS are required to take statewide assessments – including FCAT and statewide end-of-course exams. A student must take these assessments in the school district in which the student resides. A school district must provide access to the district’s testing facilities.<sup>38</sup>

### Effect of Proposed Changes

The bill authorizes FLVS to offer part-time instruction to students in kindergarten through grade 3. The bill also expands part-time offerings in grades 4 and 5 by removing the limitation which restricted students to taking only grades 6 through 8 courses. The bill also repeals the requirement of each elementary school principal to notify certain students of the ability to take accelerated courses through the virtual school. Such notification would no longer be required because the previous restriction to grades 6 through 8 courses was removed thereby allowing those elementary students to take any course.

The bill requires school districts to allow FLVS students to take statewide assessments at the school to which the student would be assigned according to district school board attendance area polices, instead of any school within the district. In addition, the school district must provide the student access to the school’s testing facilities. The bill may make it more convenient for FLVS students to comply with the assessment requirement.

### **Interscholastic Extracurricular Activities**

#### Present Situation

In addition to students enrolled in traditional schools, eligible home school and charter school students may participate in interscholastic extracurricular activities at assigned public schools or at public schools to which the student could choose to attend, pursuant to district or interdistrict controlled open-enrollment provisions.<sup>39</sup> A student from a charter school may be eligible to participate in these activities at the selected public school, if such activity is not offered by that charter school.<sup>40</sup> Likewise, private school students may participate at select public schools if the student is enrolled in a non- Florida High School Athletic Association (FHSAA) member private school of less than 125 students and the school does not offer an interscholastic or intrascholastic athletic program.<sup>41</sup> Eligible home school, charter

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<sup>33</sup> Section 1002.37(8)(a), F.S.

<sup>34</sup> Section 1002.37, F.S.

<sup>35</sup> Section 1002.37(2), F.S.

<sup>36</sup> Section 1002.37(1)(a), F.S.

<sup>37</sup> Florida Virtual School, *Accreditation*, <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx> (last visited January 30, 2012);

AdvancED, *International Registry for Accreditation*,

<http://www.advanced.org/oasis2/u/par/accreditation/summary?institutionId=22450> (last visited January 30, 2012).

<sup>38</sup> Section 1002.37(10)(c), F.S.

<sup>39</sup> Sections 1002.41(4) and 1006.15(3)(c) and (d), F.S. “Interscholastic activities” are limited to high school athletic competitions. Section 1006.20(1), F.S. The Florida High School Athletic Association defines interscholastic contest as “any competition between organized teams of different schools in a sport recognized or sanctioned” by the FHSAA. Florida High School Athletic Association, *Interscholastic Contests*, available at, <http://www.fhsaa.org/about> (last visited January 30, 2012). “Extracurricular” activities include any school-authorized or education-related activity occurring during or outside the regular instructional school day. Section 1006.15(2), F.S.

<sup>40</sup> Section 1006.15(3)(d), F.S.

<sup>41</sup> Section 1006.15(8), F.S.

school, and private school students must register with the public school their intent to participate in interscholastic extracurricular activities, and are subject to the same eligibility requirements as other public school students.<sup>42</sup>

To be eligible to participate in interscholastic extracurricular activities, a student must maintain a 2.0 grade point average (GPA) in the semester prior to participation, or a 2.0 cumulative GPA in specified high school courses. If a student's cumulative GPA falls below 2.0 in the specified courses, the student must execute an academic performance contract with the district school board, the FHSAA, and the student's parents. At a minimum, the contract must require the student to attend summer school to improve his or her GPA.<sup>43</sup> A student must also maintain good conduct to remain eligible to participate in interscholastic extracurricular activities. The district school board policy governs the eligibility of a student to participate in these activities if he or she is found to be involved in a felony or delinquent act.<sup>44</sup>

### Effect of Proposed Changes

The bill authorizes eligible FLVS FT students to participate in interscholastic extracurricular activities at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend, pursuant to district or interdistrict controlled open-enrollment policies. FLVS FT students must meet the same academic standards and eligibility requirements applicable to private school, home school, and charter school students as well as any additional requirement as determined by the board of trustees of FLVS.

The bill requires that a student register his or her intent to participate in extracurricular activities with the school before the beginning date of the season for the activity in which he or she wishes to participate. A FLVS student must be allowed to participate in curricular activities if that is a requirement for an extracurricular activity.

## **Exceptional Student Education**

### Present Situation

Exceptional Student Education (ESE) is specially designed instruction and related services that are provided to students with disabilities and students who are identified as gifted.<sup>45</sup> Student enrollment in ESE programs is one factor considered in determining the funding a school district receives.<sup>46</sup>

The federal Individuals with Disabilities Education Act (IDEA) requires school districts to make a free appropriate public education (FAPE) available to students with disabilities ages 3 through 21.<sup>47</sup> A school district, at its discretion, may provide services to eligible infants and toddlers with disabilities below three years of age.<sup>48</sup> A FAPE must include special education and related services<sup>49</sup> that are

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<sup>42</sup> Section 1006.15(3), F.S.

<sup>43</sup> Sections 1006.15(3)(a)(1) and (2) and 1003.43(1), F.S.

<sup>44</sup> Section 1006.15(3)(a)4., F.S.

<sup>45</sup> Section 1003.57(1), F.S.; rule 6A-6.03411(1)(m) and (n), F.A.C. Whether the gifted program should continue to be part of the exceptional student education (ESE) program or whether it should be a separate stand-alone program has been a topic of recent discussion. The Office of Program Policy Analysis and Government Accountability (OPPAGA) identified the advantages and disadvantages of classifying gifted students as exceptional students by reviewing available research and holding focus group discussions with parents, gifted students, teachers, and district administrators. See Office of Program Policy Analysis and Government Accountability, *Florida Gifted Grew Faster Than the Overall School Enrollment*, Report No. 08-01, at 11 (Jan. 2008), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0801rpt.pdf> [hereinafter *OPPAGA Report No. 08-01*].

<sup>46</sup> See s. 1011.62(1)(c), F.S.

<sup>47</sup> 20 U.S.C. s. 1400(d)(1)(A); 34 C.F.R. s. 300.101; rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.; see also Individuals with Disabilities Education Act (IDEA) Fact Sheet.

<sup>48</sup> Rules 6A-6.0331 and 6A-6.03026, F.A.C.

<sup>49</sup> "Related services" means "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early

provided by the public school system at no cost to the parent, which meet the standards of the state and which conform with the student's individual educational plan (IEP).<sup>50</sup>

The IDEA does not address gifted students; however, state law and State Board of Education rule require school districts to provide a FAPE to gifted students as well.<sup>51</sup> State law specifies that districts must provide special instruction and services to gifted students, but does not mandate or describe the specific types of instruction and services required.<sup>52</sup>

Services for exceptional education students are funded primarily via the Florida Education Finance Program (FEFP) through the use of basic funding, an ESE Guaranteed Allocation, and two weighted cost factors. FEFP funds are calculated by multiplying the number of full-time equivalent (FTE) students in each of the funded education programs by cost factors to obtain weighted FTE students. Weighted FTE students are then multiplied by a base student allocation and by a district cost differential. In FY 2011-12, \$943.2 million was appropriated to school districts through the ESE Guaranteed Allocation.<sup>53</sup>

Since July 1, 2000, ESE students are reported under basic programs 111 (grades PK-3 basic, with ESE services), 112 (grades 4-8 basic with ESE services) or 113 (grades 9-12 basic with ESE services). In order to fund exceptional education and related services (including therapies) for these students, an ESE Guaranteed Allocation was established by the Legislature in addition to the basic funding. The guaranteed allocation is a fixed amount provided to each district.<sup>54</sup>

For the remaining five percent of students with disabilities (those with the most intense needs), funding is determined using a matrix of services. Consistent with the services identified in the IEP, each matrix is completed by checking all the services that will be provided to the student. Students with the two highest matrix ratings (254 and 255) generate funding at a significantly higher weight than basic funding.<sup>55</sup>

Each year the IDEA awards (IDEA, Part B and IDEA, Part B Preschool) are made to states from the United States Department of Education. A major portion of these funds are distributed to school districts/agencies as entitlement grants. Allocations to districts/agencies are calculated using a federally-mandated formula. Funds must be used to supplement the excess costs of providing special education and related services for students with disabilities. Remaining award funds are used by DOE to support capacity building and other state-level activities as required by the IDEA.<sup>56</sup>

### Effect of Proposed Changes

The bill requires full-time virtual instruction programs operated by FLVS<sup>57</sup> and school districts<sup>58</sup> to fulfill the obligations of a school district for exceptional students who are enrolled in such programs. The bill also authorizes a student whose individual educational plan indicates that full-time virtual instruction is appropriate to enroll in a full-time virtual instruction program.

Under the bill, funds for students identified as exceptional are allocated annually to the Florida Virtual School in the same manner such funds are allocated to school districts through the FEFP.

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identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes." "Related services" also include school health services and school nurse services, social work services in schools, and parent counseling and training. 34 C.F.R. s. 300.34 (a).

<sup>50</sup> 34 C.F.R. s. 300.17; rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

<sup>51</sup> See ss. 1003.01(3)(a) and 1011.62(1)(e)c.2., F.S.; rules 6A-6.0331(1) and 6A-6.03411(1)(m), F.A.C.

<sup>52</sup> Section 1003.57(1), F.S.

<sup>53</sup> Specific Appropriation 68, s. 2, ch. 2011-69, L.O.F.

<sup>54</sup> Florida Department of Education, Bureau of School Business Services, Office of Funding and Financial Reporting, *Funding for Florida School Districts 2011-2012 Statistical Report*, available at <http://www.fldoe.org/fefp/pdf/fefpdist.pdf>.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> Section 1002.37, F.S.

<sup>58</sup> Section 1002.45, F.S.

## English for Speakers of Other Languages

### Present Situation

English for Speakers of Other Languages (ESOL) is an educational approach in which English language learners (ELLs)<sup>59</sup> are instructed in the use of the English language. Their instruction is based upon a special curriculum that typically involves little or no use of the native language and focuses on language (as opposed to content). ESOL instructional strategies are also used to teach any subject in English to ELLs who have limited English proficiency in speaking, reading, writing or listening in English.<sup>60</sup>

A student is classified as an ELL if the student has been assessed for English language proficiency and qualifies as a non English speaker or limited English speaker on a Florida Department of Education (DOE) approved ESOL placement test.<sup>61</sup> During the 2010-11 academic year, there were 2,643,396 Prekindergarten through grade 12 students enrolled in Florida's public schools.<sup>62</sup> Of that number, 239,076 or 9.0 percent of the students were ELLs and 75.8 percent of the ELL students were Hispanic children.<sup>63</sup>

A district school board must:

- Develop and submit a district plan for providing English language instruction to DOE for review and approval;
- Identify ELLs through assessment;
- Provide for student exit from and reclassification into the English instruction program;
- Provide ELLs with ESOL instruction in English (to develop sufficient skills in listening, speaking, reading, and writing which enable the student to become proficient in English);
- Provide ELLs with ESOL instruction or home language instruction in reading, mathematics, science, social studies, and computer literacy;
- Maintain a student plan for each ELL;
- Provide qualified teachers;
- Provide equal access to other programs for eligible ELLs based on need; and
- Provide for parental involvement in ESOL programs.<sup>64</sup>

A school district is eligible to report full-time equivalent student membership in the ESOL program in the FEFP if the school district has a plan approved by DOE and the eligible student is identified as limited English proficient.<sup>65</sup>

### Effect of Proposed Changes

The bill makes full-time virtual instruction programs subject to the same requirements applicable to school districts regarding ELL students. In doing so, full-time virtual instruction programs are eligible to report full-time equivalent student membership in the ESOL program in the FEFP, if the full-time virtual instruction program meets the same conditions applicable to school districts.

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<sup>59</sup> "English language learner" (ELL) means "Limited English proficient" (LEP) student. Rule 6A-6.0901(1), F.A.C. "Limited English Proficiency" is used by the U.S. Department of Education to refer to ELLs who lack sufficient mastery of English to meet standards and excel in an English-language classroom. Increasingly, ELL is used to describe this population because it highlights learning, rather than suggesting that non-native-English-speaking students are deficient." National Council of Teachers of English, *English Language Learners: A Policy Research Brief*, at 2 (2008), available at <http://www.ncte.org/library/NCTEFiles/Resources/PolicyResearch/ELLResearchBrief.pdf>.

<sup>60</sup> See rule 6A-6.0904, F.A.C. and s. 1003.56, F.S.

<sup>61</sup> Section 1003.56(2)(a), F.S.

<sup>62</sup> Florida Department of Education, Education Information and Accountability Services Data Report, *English Language Learners*, (May 2011), available at <http://www.fldoe.org/eias/eiaspubs/word/ell1011.doc>.

<sup>63</sup> *Id.*

<sup>64</sup> Section 1003.56 (3)(a)-(h), F.S.

<sup>65</sup> Section 1011.62(10)(g), F.S.

## B. SECTION DIRECTORY:

**Section 1.** Amending s. 1002.20, F.S., relating to K-12 student and parental rights, authorizing FLVS FT students to participate in interscholastic extracurricular activities.

**Section 2.** Amending s. 1002.321, F.S., relating to digital learning, revising definition of blended learning courses, and prohibiting any individual from taking an online course or examination on behalf of someone else.

**Section 3.** Amending s. 1002.37, F.S., relating to the Florida Virtual School, requiring school districts to provide access to school testing facilities for FLVS students, revising student eligibility criteria for full-time instruction in grades 2 through 5; repealing a requirement that each elementary principal notify certain students of the ability to take accelerated courses through FLVS, and expanding part-time instruction to kindergarten through grade 5.

**Section 4.** Amending s. 1002.45, F.S., relating to virtual instruction programs, clarifying use of the sparsity supplement and virtual instruction, revising open enrollment period, expanding part-time virtual instruction, and revising provider requirements.

**Section 5.** Amending s. 1002.455, F.S., relating to student eligibility for K-12 virtual instruction, revising eligibility requirements for district full-time programs and specified school district courses.

**Section 6.** Amending s. 1003.428, F.S., relating to general requirements for high school graduation, clarifying applicability of online course requirement for high school graduation.

**Section 7.** Amending s. 1003.498, F.S., relating to school district virtual course offerings, defining blended learning courses offered by school districts.

**Section 8.** Amending s. 1003.57, F.S., relating to exceptional students instruction, requiring full-time virtual instruction programs to provide exceptional education services for specified students.

**Section 9.** Amending s. 1006.15, F.S., relating to student standards for participation in interscholastic and intrascholastic extracurricular student activities, authoring FLVS FT students to participate in interscholastic extracurricular activities if certain conditions are met.

**Section 10.** Amending s. 1011.61, F.S., relating to definitions, authorizing full-time virtual instruction programs to receive funding for exceptional student education services.

**Section 11.** Amending s. 1011.62, F.S., relating to funds for operation of schools, authorizing full-time virtual instruction programs to receive funding for providing an ESOL program.

**Section 12.** Provides an effective date of July 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill expands options for students to participate in virtual instruction. The bill will increase enrollment for the Florida Virtual School as well as for school district and charter school operated virtual instruction programs. All of the expanded enrollment options for virtual instruction will add enrollment to the Florida Education Finance Program (FEFP) for funding in Fiscal Year 2012-2013. However, the enrollments would not be added to the forecast used for the 2012-2013 FEFP calculation included in the General Appropriations Act because the bill will not have become law prior to the adoption of the General Appropriations Act. It is expected that the impact will become evident at subsequent calculations of the FEFP. A Public School Enrollment Estimating conference was held on February 10, 2012, and adopted estimates for full-time equivalent enrollment impacts for several provisions of proposed bill language. Although the estimating conference did not adopt estimates for all of the provisions of this bill, the following estimates apply:

<b>Cumulative Impacts</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>
Expands the FLVS part-time program to grades K-3.	474.74	949.48	1,424.22	1,898.96
<i>Estimated fiscal impact</i>	<b>\$2,373,700</b>	<b>\$4,747,400</b>	<b>\$7,121,100</b>	<b>\$9,494,800</b>
Removes the eligibility requirements for FLVS grades 2-5 full-time program	360.00	522.00	626.00	673.00
<i>Estimated fiscal impact</i>	<b>\$1,800,000</b>	<b>\$2,610,000</b>	<b>\$3,130,000</b>	<b>\$3,365,000</b>
Removes the eligibility requirements under s.1002.455, F.S., for full-time district virtual instruction programs in K-5, full-time virtual charter school instruction for grades K-5 and courses provided in a virtual environments or though a blended or physical environment.	176.00	299.00	394.00	461.00
<i>Estimated fiscal impact</i>	<b>\$622,512</b>	<b>\$1,057,563</b>	<b>\$1,393,578</b>	<b>\$1,630,557</b>
<b>Total Estimated fiscal impact</b>	<b>\$4,796,212</b>	<b>\$8,414,963</b>	<b>\$11,644,678</b>	<b>\$14,490,357</b>

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 24, 2012, the K-20 Innovation Subcommittee adopted one amendment. The amendment revised outdated terminology by changing the term "handicapped student" to a "student with a disability."

On February 14, 2012, the PreK-12 Appropriations Subcommittee adopted two technical amendments.

- The first amendment was a technical correction to the eligibility requirements for participation in virtual instruction options to clarify that a student must be enrolled full-time in order to participate in virtual instruction programs in grades two through five without having met the prior year attendance in public school requirement.
- The second amendment was a technical correction to clarify that in order to be funded in full-time school district virtual instruction programs or in a virtual charter school, the student must earn credit for the course or be promoted to the next grade.





1 A bill to be entitled  
 2 An act relating to postsecondary education; amending  
 3 s. 1001.02, F.S.; providing duties of the State Board  
 4 of Education relating to the 5-year plan for  
 5 postsecondary enrollment and the strategic plan that  
 6 specifies goals and objectives for public schools and  
 7 Florida College System institutions; providing powers  
 8 and duties of the state board relating to the  
 9 evaluation of Florida College System presidents,  
 10 institution service delivery areas, and credit hour  
 11 requirements; amending s. 1001.03, F.S.; requiring the  
 12 state board to adopt a unified state plan for STEM and  
 13 STEM-related programs; amending s. 1001.64, F.S.;  
 14 conforming provisions; amending s. 1001.706, F.S.;  
 15 providing requirements for the strategic plan and the  
 16 accountability plan specifying goals and objectives  
 17 for the State University System and its institutions  
 18 developed by the Board of Governors; authorizing the  
 19 Board of Governors to waive or modify certain fee  
 20 requirements; providing requirements relating to state  
 21 university presidential selection and reappointment;  
 22 authorizing the Board of Governors to revoke or modify  
 23 certain powers or duties; amending s. 1005.22, F.S.;  
 24 requiring the Commission for Independent Education to  
 25 collect certain student data; amending s. 1007.25,  
 26 F.S.; revising provisions relating to general  
 27 education course and associate and baccalaureate  
 28 degree requirements; amending s. 1007.33, F.S.;

PCB EDC 12-03

ORIGINAL

2012

29 requiring a Florida College System institution  
 30 offering a baccalaureate degree program to report its  
 31 status using specified performance and compliance  
 32 standards; deleting provisions relating to exemption  
 33 from state board approval of certain baccalaureate  
 34 degree programs; amending s. 1008.46, F.S.; conforming  
 35 provisions; providing an effective date.  
 36

37 Be It Enacted by the Legislature of the State of Florida:  
 38

39 Section 1. Paragraph (v) of subsection (2), paragraph (a)  
 40 of subsection (3), paragraphs (b) and (d) of subsection (4), and  
 41 paragraph (d) of subsection (6) of section 1001.02, Florida  
 42 Statutes, are amended to read:

43 1001.02 General powers of State Board of Education.—

44 (2) The State Board of Education has the following duties:

45 (v) To develop, in conjunction with the Board of  
 46 Governors, and periodically review for adjustment, a coordinated  
 47 5-year plan for postsecondary enrollment, identifying enrollment  
 48 and graduation expectations by baccalaureate degree program, and  
 49 annually submit the plan to the Legislature as part of its  
 50 legislative budget request.

51 (3) (a) The State Board of Education shall adopt a  
 52 strategic plan that specifies goals and objectives for the  
 53 state's public schools and Florida College System institutions.  
 54 The plan shall be formulated in conjunction with plans of the  
 55 Board of Governors in order to provide for the roles of the  
 56 universities and Florida College System institutions to be

PCB EDC 12-03

ORIGINAL

2012

57 | coordinated to best meet state needs and reflect cost-effective  
 58 | use of state resources. The strategic plan must clarify the  
 59 | mission statements of each Florida College System institution  
 60 | and the system as a whole and identify degree programs,  
 61 | including baccalaureate degree programs, to be offered at each  
 62 | Florida College System institution in accordance with the  
 63 | objectives provided in this subsection and the coordinated 5-  
 64 | year plan pursuant to paragraph (2)(v). The strategic plan must  
 65 | cover a period of 5 years, with modification of the program  
 66 | lists after 2 years. Development of each 5-year plan must be  
 67 | coordinated with and initiated after completion of the master  
 68 | plan. The strategic plans must specifically include programs and  
 69 | procedures for responding to the educational needs of teachers  
 70 | and students in the public schools of this state and consider  
 71 | reports and recommendations of the Higher Education Coordinating  
 72 | Council pursuant to s. 1004.015 and the Articulation  
 73 | Coordinating Committee pursuant to s. 1007.01. The state board  
 74 | shall submit a report to the President of the Senate and the  
 75 | Speaker of the House of Representatives upon modification of the  
 76 | plan and as part of its legislative budget request.

77 | (4) The State Board of Education shall:

78 | (b) Specify, by rule, procedures to be used by the Florida  
 79 | College System institution boards of trustees in the annual  
 80 | evaluations of presidents and review the evaluations of  
 81 | presidents by the boards of trustees, including the extent to  
 82 | which presidents serve both institutional and system goals. The  
 83 | state board may require boards of trustees to consider  
 84 | recommendations of the Chancellor of the Florida College System

85 when evaluating the performance of the president.

86 (d) Establish criteria for making recommendations for  
 87 modifying district boundary lines for Florida College System  
 88 institutions, including criteria for service delivery areas of  
 89 institutions designated as state colleges.

90 (6) The State Board of Education shall prescribe minimum  
 91 standards, definitions, and guidelines for Florida College  
 92 System institutions that will ensure the quality of education,  
 93 coordination among the Florida College System institutions and  
 94 state universities, and efficient progress toward accomplishing  
 95 the Florida College System institution mission. At a minimum,  
 96 these rules must address:

97 (d) Provisions for curriculum development, graduation  
 98 requirements, college calendars, and program service areas.  
 99 These provisions must include rules that:

100 1. Provide for the award of an associate in arts degree to  
 101 a student who successfully completes 60 semester credit hours at  
 102 the Florida College System institution.

103 2. Require all of the credits accepted for the associate  
 104 in arts degree to be in the statewide course numbering system as  
 105 credits toward a baccalaureate degree offered by a state  
 106 university or a Florida College System institution.

107 3. Require no more than 30 ~~36~~ semester credit hours in  
 108 general education courses in the subject areas of communication,  
 109 mathematics, social sciences, humanities, and natural sciences.

110  
 111 The rules should encourage Florida College System institutions  
 112 to enter into agreements with state universities that allow

PCB EDC 12-03

ORIGINAL

2012

113 Florida College System institution students to complete upper-  
 114 division-level courses at a Florida College System institution.  
 115 An agreement may provide for concurrent enrollment at the  
 116 Florida College System institution and the state university and  
 117 may authorize the Florida College System institution to offer an  
 118 upper-division-level course or distance learning.

119 Section 2. Subsection (16) is added to section 1001.03,  
 120 Florida Statutes, to read:

121 1001.03 Specific powers of State Board of Education.—

122 (16) UNIFIED PLAN FOR STEM.—The State Board of Education  
 123 shall adopt a definition of STEM and STEM-related programs. The  
 124 state board shall also, in consultation with the Board of  
 125 Governors and the Department of Economic Opportunity, adopt a  
 126 unified state plan to improve K-20 education and prepare  
 127 students for high-skill, high-wage, and high-demand employment  
 128 in STEM and STEM-related fields. The unified plan must advise  
 129 school districts, Florida College System institutions, and state  
 130 universities to inform, advise, and recruit students into STEM  
 131 and STEM-related programs and employment opportunities.

132 Section 3. Paragraph (d) of subsection (8) of section  
 133 1001.64, Florida Statutes, is amended to read:

134 1001.64 Florida College System institution boards of  
 135 trustees; powers and duties.—

136 (8) Each board of trustees has authority for policies  
 137 related to students, enrollment of students, student records,  
 138 student activities, financial assistance, and other student  
 139 services.

140 (d) Boards of trustees shall identify their general

PCB EDC 12-03

ORIGINAL

2012

141 education ~~core~~ curricula, ~~which shall include courses required~~  
 142 ~~by the State Board of Education,~~ pursuant to the provisions of  
 143 s. 1007.25(6).

144 Section 4. Paragraph (c) of subsection (4), subsection  
 145 (5), paragraph (a) of subsection (6), and subsections (9) and  
 146 (10) of section 1001.706, Florida Statutes, are amended, and  
 147 subsection (11) is added to that section, to read:

148 1001.706 Powers and duties of the Board of Governors.—

149 (4) POWERS AND DUTIES RELATING TO FINANCE.—

150 (c) The Board of Governors, or the board's designee, shall  
 151 establish tuition and fees pursuant to ss. 1009.24 and 1009.26,  
 152 unless otherwise provided in law.

153 (5) POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

154 (a) The Legislature intends that the Board of Governors  
 155 shall align the missions of each constituent university with the  
 156 academic success of its students; the national reputation of its  
 157 faculty and its academic and research programs; the quantity of  
 158 externally generated research, patents, and licenses; and the  
 159 strategic and accountability plans required in paragraphs (b)  
 160 and (c). The mission alignment and strategic plan shall consider  
 161 peer institutions at the constituent universities. The mission  
 162 alignment and strategic plan shall acknowledge that universities  
 163 that have a national and international impact have the greatest  
 164 capacity to promote the state's economic development through:  
 165 new discoveries, patents, licenses, and technologies that  
 166 generate state businesses of global importance; research  
 167 achievements through external grants and contracts that are  
 168 comparable to nationally recognized and ranked universities; the

169 creation of a resource rich academic environment that attracts  
 170 high-technology business and venture capital to the state; and  
 171 this generation's finest minds focusing on solving the state's  
 172 economic, social, environmental, and legal problems in the areas  
 173 of life sciences, water, sustainability, energy, and health  
 174 care. A nationally recognized and ranked university that has a  
 175 global perspective and impact shall be afforded the opportunity  
 176 to enable and protect the university's competitiveness on the  
 177 global stage in fair competition with other institutions of  
 178 other states in the highest Carnegie Classification.

179 (b) The Board of Governors shall develop a strategic plan  
 180 specifying goals and objectives for the State University System  
 181 and each constituent university, including each university's  
 182 contribution to overall system goals and objectives. The  
 183 strategic plan must:

184 1. Include performance metrics and standards common for  
 185 all institutions and metrics and standards unique to  
 186 institutions depending on institutional core missions,  
 187 including, but not limited to, student admission requirements,  
 188 graduation, retention, employment, continuing education,  
 189 licensure passage, excess hours, student loan burden and default  
 190 rates, faculty awards, state and federal research funding,  
 191 patents, licenses and royalties, intellectual property, startup  
 192 companies, annual giving, endowments, and well-known, highly  
 193 respected national rankings for institutional and program  
 194 achievements.

195 2. Consider reports and recommendations of the Higher  
 196 Education Coordinating Council pursuant to s. 1004.015 and the

197 Articulation Coordinating Committee pursuant to s. 1007.01.

198 3. Include student enrollment and performance data  
 199 delineated by traditional, online, or distance learning  
 200 instruction.

201 (c) The Board of Governors shall develop an accountability  
 202 plan for the State University System and each constituent  
 203 university. The accountability plan must address institutional  
 204 and system achievement of goals and objectives specified in the  
 205 strategic plan adopted pursuant to paragraph (b) and must be  
 206 submitted as part of its legislative budget request.

207 (d) The Board of Governors shall maintain an effective  
 208 information system to provide accurate, timely, and cost-  
 209 effective information about each university. The board shall  
 210 continue to collect and maintain, at a minimum, management  
 211 information as such information existed on June 30, 2002.

212 (e) If the Board of Governors of the State University  
 213 System determines that a state university board of trustees is  
 214 unwilling or unable to address substantiated allegations made by  
 215 any person relating to waste, fraud, or financial mismanagement  
 216 within the state university, the Office of the Inspector General  
 217 shall investigate the allegations.

218 (f) The Board of Governors may consider waiving its  
 219 regulations and waive or modify tuition differential use  
 220 requirements under s. 1009.24(16)(a). If not currently  
 221 authorized, the Board of Governors may request from the  
 222 Legislature waiver or modification of specific statutory  
 223 requirements, including percentages and dollar amount  
 224 limitations in s. 1009.24, in order to reduce barriers and



PCB EDC 12-03

ORIGINAL

2012

225 support attainment of goals identified in institutional plans as  
 226 necessary for advancing system and unique institutional  
 227 priorities. Regulatory or statutory flexibilities authorized or  
 228 sought by the Board of Governors pursuant to this paragraph must  
 229 be disclosed in the accountability plan prepared and submitted  
 230 pursuant to paragraph (c).

231 (6) POWERS AND DUTIES RELATING TO PERSONNEL.—

232 (a) The Board of Governors, or the board's designee, shall  
 233 establish the personnel program for all employees of a state  
 234 university. The Board of Governors shall confirm the  
 235 presidential selection and reappointment by a university board  
 236 of trustees as a means of acknowledging that system cooperation  
 237 is expected. The recommendation of the Chancellor of the State  
 238 University System must be considered by a university board of  
 239 trustees when fulfilling requirements of this paragraph.

240 (9) COOPERATION WITH OTHER BOARDS.—The Board of Governors  
 241 shall implement a plan for working on a regular basis with the  
 242 State Board of Education, the Commission for Independent  
 243 Education, the Higher Education Coordinating Council, the  
 244 Articulation Coordinating Committee, the university boards of  
 245 trustees, representatives of the Florida College System  
 246 institution boards of trustees, representatives of the private  
 247 colleges and universities, and representatives of the district  
 248 school boards to achieve a seamless education system.

249 (10) PROHIBITION.—The Board of Governors is prohibited  
 250 from assessing any fee on state universities, unless  
 251 specifically authorized by law.

252 (11) AUTHORIZATION TO REVOKE OR MODIFY.—The Board of

253 Governors may revoke or modify the scope of any power or duty it  
 254 has delegated.

255 Section 5. Paragraph (i) of subsection (1) of section  
 256 1005.22, Florida Statutes, is amended to read:

257 1005.22 Powers and duties of commission.—

258 (1) The commission shall:

259 (i) Serve as a central agency for collecting and  
 260 distributing current information regarding institutions licensed  
 261 by the commission. The commission shall collect, and all  
 262 institutions licensed by the commission shall report, student-  
 263 level data for each student who receives state funds. At a  
 264 minimum, data must be reported annually and include retention  
 265 rates, transfer rates, completion rates, graduation rates,  
 266 employment and placement rates, and earnings of graduates.

267 Section 6. Subsections (3), (6), (7), (8), and (10) of  
 268 section 1007.25, Florida Statutes, are amended to read:

269 1007.25 General education courses; common prerequisites;  
 270 other degree requirements.—

271 (3) The Chancellor of the Florida College System and the  
 272 Chancellor of the State University System ~~department~~ shall  
 273 jointly appoint faculty committees to identify these courses  
 274 that meet general education requirements, including statewide  
 275 core course requirements, within the subject areas of  
 276 communication, mathematics, social sciences, humanities, and  
 277 natural sciences. General education core course requirements  
 278 shall consist of 15 to 18 semester credit hours that contain  
 279 high-level academic and critical thinking skills and  
 280 competencies that students must demonstrate to successfully

281 complete the courses. Each general education course ~~The courses~~  
 282 shall be identified by its ~~their~~ statewide course ~~code~~ number.  
 283 All public postsecondary educational institutions shall offer  
 284 and accept core ~~these~~ general education courses.

285 (6) ~~The boards of trustees of the Florida College System~~  
 286 ~~institutions shall identify their core curricula, which shall~~  
 287 ~~include courses required by the State Board of Education. The~~  
 288 ~~boards of trustees of the state universities shall identify~~  
 289 ~~their core curricula, which shall include courses required by~~  
 290 ~~the Board of Governors.~~ The universities and Florida College  
 291 System institutions shall work with their school districts to  
 292 assure that high school curricula coordinate with the general  
 293 education ~~core~~ curricula and to prepare students for college-  
 294 level work. General education ~~Core~~ curricula for associate in  
 295 arts programs shall be identified by each institution ~~adopted in~~  
 296 ~~rule by the State Board of Education~~ and shall include 30 ~~36~~  
 297 semester hours ~~of general education courses~~ in the subject areas  
 298 of communication, mathematics, social sciences, humanities, and  
 299 natural sciences.

300 (7) An associate in arts degree shall require no more than  
 301 60 semester hours of college credit, including 30 ~~36~~ semester  
 302 hours of general education coursework and 8 semester hours of  
 303 college credit in one foreign language if two high school  
 304 credits in one foreign language were not earned in high school.  
 305 Except for college-preparatory coursework required pursuant to  
 306 s. 1008.30, all required coursework shall count toward the  
 307 associate in arts degree or the baccalaureate degree.

308 (8) A baccalaureate degree program shall require no more

PCB EDC 12-03

ORIGINAL

2012

309 than 120 semester hours of college credit, including 30 ~~36~~  
 310 semester hours of general education coursework, unless prior  
 311 approval has been granted by the Board of Governors for  
 312 baccalaureate degree programs offered by state universities and  
 313 by the State Board of Education for baccalaureate degree  
 314 programs offered by Florida College System institutions.

315 (10) Students at state universities may request associate  
 316 in arts certificates if they have successfully completed the  
 317 minimum requirements for the degree of associate in arts (A.A.).  
 318 The university must grant the student an associate in arts  
 319 degree if the student has successfully completed minimum  
 320 requirements for college-level communication and computation  
 321 skills adopted by the State Board of Education and 60 academic  
 322 semester hours or the equivalent within a degree program area,  
 323 with 30 ~~36~~ semester hours in general education courses in the  
 324 subject areas of communication, mathematics, social sciences,  
 325 humanities, and natural sciences, consistent with the general  
 326 education requirements specified in the articulation agreement  
 327 pursuant to s. 1007.23.

328 Section 7. Subsections (5), (6), and (7) of section  
 329 1007.33, Florida Statutes, are amended to read:

330 1007.33 Site-determined baccalaureate degree access.—

331 (5) The approval process for baccalaureate degree programs  
 332 shall require:

333 (a) Each Florida College System institution to submit a  
 334 notice of its intent to propose a baccalaureate degree program  
 335 to the Division of Florida Colleges at least 100 days before the  
 336 submission of its proposal under paragraph (d). The notice must

PCB EDC 12-03

ORIGINAL

2012

337 include a brief description of the program, independently  
 338 determined ~~the~~ workforce demand and unmet need for graduates of  
 339 the program, the geographic region to be served, and an  
 340 estimated timeframe for implementation. Notices of intent may be  
 341 submitted by a Florida College System institution at any time  
 342 throughout the year.

343 (b) The Division of Florida Colleges to forward the notice  
 344 of intent within 10 business days after receiving such notice to  
 345 the Chancellor of the State University System, the President of  
 346 the Independent Colleges and Universities of Florida, and the  
 347 Executive Director of the Council for Independent Education.  
 348 State universities shall have 60 days following receipt of the  
 349 notice by the Chancellor of the State University System to  
 350 submit objections to the proposed new program or submit an  
 351 alternative proposal to offer the baccalaureate degree program.  
 352 If a proposal from a state university is not received within the  
 353 60-day period, the State Board of Education shall provide  
 354 regionally accredited private colleges and universities 30 days  
 355 to submit objections to the proposed new program or submit an  
 356 alternative proposal. Alternative proposals shall be submitted  
 357 to the Division of Florida Colleges and must be considered by  
 358 the State Board of Education in making its decision to approve  
 359 or deny a Florida College System institution's proposal.

360 (c) An alternative proposal submitted by a state  
 361 university or private college or university to adequately  
 362 address:

363 1. The extent to which the workforce demand and unmet need  
 364 described in the notice of intent will be met.

365           2. The extent to which students will be able to complete  
 366 the degree in the geographic region proposed to be served by the  
 367 Florida College System institution.

368           3. The level of financial commitment of the college or  
 369 university to the development, implementation, and maintenance  
 370 of the specified degree program, including timelines.

371           4. The extent to which faculty at both the Florida College  
 372 System institution and the college or university will  
 373 collaborate in the development and offering of the curriculum.

374           5. The ability of the Florida College System institution  
 375 and the college or university to develop and approve the  
 376 curriculum for the specified degree program within 6 months  
 377 after an agreement between the Florida College System  
 378 institution and the college or university is signed.

379           6. The extent to which the student may incur additional  
 380 costs above what the student would expect to incur if the  
 381 program were offered by the Florida College System institution.

382           (d) Each proposal submitted by a Florida College System  
 383 institution to, at a minimum, include:

384           1. A description of the planning process and timeline for  
 385 implementation.

386           2. An independent analysis of workforce demand and unmet  
 387 need for graduates of the program on a district, regional, or  
 388 statewide basis, as appropriate.

389           3. Identification of the facilities, equipment, and  
 390 library and academic resources that will be used to deliver the  
 391 program.

392           4. The program cost analysis of creating a new

393 | baccalaureate degree when compared to alternative proposals and  
 394 | other program delivery options.

395 |         5. The program's admission requirements, academic content,  
 396 | curriculum, faculty credentials, student-to-teacher ratios, and  
 397 | accreditation plan.

398 |         6. The program's enrollment projections and funding  
 399 | requirements.

400 |         7. A plan of action if the program is terminated.

401 |         (e) The Division of Florida Colleges to review the  
 402 | proposal, notify the Florida College System institution of any  
 403 | deficiencies in writing within 30 days following receipt of the  
 404 | proposal, and provide the Florida College System institution  
 405 | with an opportunity to correct the deficiencies. Within 45 days  
 406 | following receipt of a completed proposal by the Division of  
 407 | Florida Colleges, the Commissioner of Education shall recommend  
 408 | approval or disapproval of the proposal to the State Board of  
 409 | Education. The State Board of Education shall consider such  
 410 | recommendation, the proposal, and any alternative proposals at  
 411 | its next meeting. If the State Board of Education disapproves  
 412 | the Florida College System institution's proposal, it shall  
 413 | provide the Florida College System institution with written  
 414 | reasons for that determination.

415 |         (f) The Florida College System institution to obtain from  
 416 | the Commission on Colleges of the Southern Association of  
 417 | Colleges and Schools accreditation as a baccalaureate-degree-  
 418 | granting institution if approved by the State Board of Education  
 419 | to offer its first baccalaureate degree program.

420 |         (g) The Florida College System institution to notify the

421 Commission on Colleges of the Southern Association of Colleges  
 422 and Schools of subsequent degree programs that are approved by  
 423 the State Board of Education and to comply with the  
 424 association's required substantive change protocols for  
 425 accreditation purposes.

426 (h) The Florida College System institution to annually,  
 427 and upon request of the State Board of Education, the  
 428 Commissioner of Education, the Chancellor of the Florida College  
 429 System, or the Legislature, report its status using the  
 430 following performance and compliance indicators:

- 431 1. Obtaining and maintaining appropriate Southern  
 432 Association of Colleges and Schools accreditation;
- 433 2. Maintaining qualified faculty and institutional  
 434 resources;
- 435 3. Maintaining enrollment projections in previously  
 436 approved programs;
- 437 4. Managing fiscal resources appropriately;
- 438 5. Complying with the primary mission and responsibility  
 439 requirements in subsections (2) and (3);
- 440 6. Timely submitting the institution's annual performance  
 441 accountability report; and
- 442 7. Other indicators of success, including program  
 443 completers, placements, and surveys of students and employers.

444  
 445 The State Board of Education, upon review of the performance and  
 446 compliance indicators, may require a Florida College System  
 447 institution's board of trustees to modify or terminate a  
 448 baccalaureate degree program authorized under this section.



PCB EDC 12-03

ORIGINAL

2012

449 ~~(6) (a) Beginning July 1, 2010, and each subsequent July 1,~~  
 450 ~~the Division of Florida Colleges may accept and review~~  
 451 ~~applications from a Florida College System institution to obtain~~  
 452 ~~an exemption from the State Board of Education's approval for~~  
 453 ~~subsequent degrees as required in subsection (5), if the Florida~~  
 454 ~~College System institution is accredited by the Commission on~~  
 455 ~~Colleges of the Southern Association of Colleges and Schools as~~  
 456 ~~a baccalaureate degree-granting institution and has been~~  
 457 ~~offering baccalaureate degree programs for 3 or more years. The~~  
 458 ~~division shall develop criteria for determining eligibility for~~  
 459 ~~an exemption based upon demonstrated compliance with the~~  
 460 ~~requirements for baccalaureate degrees, primary mission, and~~  
 461 ~~fiscal, including, but not limited to:~~

- 462 ~~1. Obtaining and maintaining appropriate SACS~~  
 463 ~~accreditation;~~
- 464 ~~2. The maintenance of qualified faculty and institutional~~  
 465 ~~resources;~~
- 466 ~~3. The maintenance of enrollment projections in previously~~  
 467 ~~approved programs;~~
- 468 ~~4. The appropriate management of fiscal resources;~~
- 469 ~~5. Compliance with the primary mission and responsibility~~  
 470 ~~requirements in subsections (2) and (3);~~
- 471 ~~6. The timely submission of the institution's annual~~  
 472 ~~performance accountability report; and~~
- 473 ~~7. Other indicators of success such as program completers,~~  
 474 ~~placements, and surveys of students and employers.~~

475 ~~(b) If the Florida College System institution has~~  
 476 ~~demonstrated satisfactory progress in fulfilling the eligibility~~

PCB EDC 12-03

ORIGINAL

2012

477 ~~criteria in this subsection, the Division of Florida Colleges~~  
 478 ~~may recommend to the State Board of Education that the~~  
 479 ~~institution be exempt from the requirement in subsection (5) for~~  
 480 ~~approval of future baccalaureate degree programs. The State~~  
 481 ~~Board of Education shall review the division's recommendation~~  
 482 ~~and determine if an exemption is warranted. If the State Board~~  
 483 ~~of Education approves the application, the Florida College~~  
 484 ~~System institution is exempt from subsequent program approval~~  
 485 ~~under subsection (5) and such authority is delegated to the~~  
 486 ~~Florida College System institution board of trustees. If the~~  
 487 ~~State Board of Education disapproves of the Florida College~~  
 488 ~~System institution's request for an exemption, the college shall~~  
 489 ~~continue to be subject to the State Board of Education's~~  
 490 ~~approval of subsequent baccalaureate degree programs.~~

491 ~~(c) Prior to developing or proposing a new baccalaureate~~  
 492 ~~degree program, all Florida College System institutions,~~  
 493 ~~regardless of an exemption from subsection (5), shall:~~

494 ~~1. Engage in need, demand, and impact discussions with the~~  
 495 ~~state university in their service district and other local and~~  
 496 ~~regional, accredited postsecondary providers in their region.~~

497 ~~2. Send documentation, data, and other information from~~  
 498 ~~the inter-institutional discussions regarding program need,~~  
 499 ~~demand, and impact required in subparagraph 1. to the college's~~  
 500 ~~board of trustees, the Division of Florida Colleges, and the~~  
 501 ~~Chancellor of the State University System.~~

502 ~~3. Base board of trustees approval of the new program upon~~  
 503 ~~the documentation, data, and other information required in this~~  
 504 ~~paragraph and the factors in subsection (5) (d).~~

505  
 506 ~~The Division of Florida Colleges shall use the documentation,~~  
 507 ~~data, and other information required in this subsection,~~  
 508 ~~including information from the Chancellor of the State~~  
 509 ~~University System, in its compliance review.~~

510 ~~(d) The board of trustees of a Florida College System~~  
 511 ~~institution that is exempt from subsection (5) must submit newly~~  
 512 ~~approved programs to the Division of Florida Colleges and SACS~~  
 513 ~~within 30 days after approval.~~

514 ~~(e) Within 30 days after receiving the approved~~  
 515 ~~baccalaureate degree program, the Division of Florida Colleges~~  
 516 ~~shall conduct a compliance review and notify the college if the~~  
 517 ~~proposal meets the criteria for implementation based upon the~~  
 518 ~~criteria in paragraphs (5) (d) and (6) (c). If the program fails~~  
 519 ~~to meet the criteria for implementation as determined by the~~  
 520 ~~Division of Florida Colleges, the college may not proceed with~~  
 521 ~~implementation of the program until the State Board of Education~~  
 522 ~~reviews the proposal and the compliance materials and gives its~~  
 523 ~~final approval of the program.~~

524 ~~(6)(7)~~ The State Board of Education shall adopt rules to  
 525 prescribe format and content requirements and submission  
 526 procedures for notices of intent, proposals, and alternative  
 527 proposals, and compliance reviews under subsection (5).

528 Section 8. Section 1008.46, Florida Statutes, is amended  
 529 to read:

530 1008.46 State university accountability process.—It is the  
 531 intent of the Legislature that an accountability process be  
 532 implemented that provides for the systematic, ongoing evaluation

533 of quality and effectiveness of state universities. It is  
 534 further the intent of the Legislature that this accountability  
 535 process monitor performance at the system level in each of the  
 536 major areas of instruction, research, and public service, while  
 537 recognizing the differing missions of each of the state  
 538 universities. The accountability process shall provide for the  
 539 adoption of systemwide performance standards and performance  
 540 goals for each standard identified through a collaborative  
 541 effort involving state universities, the Board of Governors, the  
 542 Legislature, and the Governor's Office, consistent with  
 543 requirements specified in s. 1001.706. These standards and goals  
 544 shall be consistent with s. 216.011(1) to maintain congruity  
 545 with the performance-based budgeting process. This process  
 546 requires that university accountability reports reflect measures  
 547 defined through performance-based budgeting. The performance-  
 548 based budgeting measures must also reflect the elements of  
 549 teaching, research, and service inherent in the missions of the  
 550 state universities.

551 (1) By December 31 of each year, the Board of Governors  
 552 shall submit an annual accountability report providing  
 553 information on the implementation of performance standards,  
 554 actions taken to improve university achievement of performance  
 555 goals, the achievement of performance goals during the prior  
 556 year, and initiatives to be undertaken during the next year. The  
 557 accountability reports shall be designed in consultation with  
 558 the Governor's Office, the Office of Program Policy Analysis and  
 559 Government Accountability, and the Legislature.

560 (2) The Board of Governors shall recommend in the annual

PCB EDC 12-03

ORIGINAL

2012

561 | accountability report any appropriate modifications to this  
562 | section.



563 |       Section 9. This act shall take effect upon becoming a law.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB EDC 12-03 Postsecondary Education

**SPONSOR(S):** Education Committee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Thomas 	Klebacha 

### SUMMARY ANALYSIS

The bill amends provisions of law relating to the State University System (SUS), the Florida College System (FCS), general education requirements, and various other provisions.

The bill requires that the strategic plan adopted by the BOG address, not only goals and objectives for the State University System (SUS) and each constituent university, but also each university's contribution to overall system goals and objectives. The BOG may consider waiving its regulations to reduce barriers and support attainment of goals identified in institutional plans as necessary for advancing system and unique institutional priorities.

The bill directs the State Board of Education (SBE) to clarify the mission statements of each Florida College System (FCS) institution and its role within the system as a whole. More specifically, the bill requires the SBE to identify the role of each institution in baccalaureate degree production and establish criteria for service delivery areas of "state colleges."

The bill requires a FCS institution notice of intent to propose a baccalaureate degree program, to include independently-determined workforce demand and unmet need data. The bill repeals the unused provision allowing FCS institutions to bypass SBE approval for additional baccalaureate degrees and requires each FCS institution offering baccalaureate degree programs to annually report its status using specific performance and compliance indicators.

The bill revises provisions related to general education by reducing the requirement from 36 semester credit hours to 30 semester credit hours for an associate or baccalaureate degree. The bill also requires an additional 8 semester hours of college credit in one foreign language for an associate in arts degree, if two high school credits in one foreign language are not earned in high school. The Chancellor of the FCS and the Chancellor of the SUS are required to jointly convene faculty committees to identify 15 to 18 statewide general education core course requirements.

The bill requires the SBE, in consultation with the Board of Governors (BOG) and the Department of Economic Opportunity (DEO) to adopt a unified state plan for Science, Technology, Engineering, and Mathematics (STEM).

The bill requires boards of trustees of FCS institutions and boards of trustees at state universities to consider the extent to which presidents are serving both institutional and system goals when evaluating the performance of presidents.

The Commission for Independent Education (CIE) is required to collect, and institutions under its jurisdiction to report, student-level data for all respective institutions that receive state funds.

The bill shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **State Board of Education**

###### Present Situation

As set forth in the Florida Constitution, the State Board of Education (SBE) is responsible for supervising the system of free public education as provided by law and serves as the head of the Department of Education (DOE).<sup>1</sup> The SBE is the chief implementing and coordinating body of public education in Florida, except for the State University System (SUS).<sup>2</sup> The SBE, in conjunction with the Board of Governors (BOG), is required to develop and periodically review a 5-year plan for postsecondary enrollment and annually submit the plan to the Legislature.

Current law requires SBE to adopt a strategic plan that specifies goals and objectives for the state's public schools and Florida College System institutions (FCS). The plan must be formulated in conjunction with plans of the BOG in order to provide for the roles of the universities and FCS institutions to be coordinated to best meet state needs and reflect cost-effective use of state resources.<sup>3</sup>

The SBE is required to specify, by rule, procedures for use by FCS institution boards of trustees in annual evaluation of college presidents and must review the evaluation of each president by their board of trustees.

###### Effect of Proposed Changes

In order to strengthen the oversight function of the SBE in relation to the FCS institutions, the bill requires the SBE to:

- Clarify the mission statements of each FCS institution and the system as a whole as part of its strategic plan. The strategic plan must consider reports and recommendations of the Higher Education Coordinating Council (HECC) and the Articulation Coordinating Committee (ACC).
- In conjunction with the Board of Governors, identify enrollment and graduation expectations by baccalaureate degree program as part of the required 5-year plan to be submitted to the Legislature as part of its legislative budget request (LBR).
- Adopt a definition of STEM and STEM-related programs pursuant to recommendations of the HECC.
- Adopt a unified state plan to improve K-20 education and prepare students for high skill, high wage, and high-demand employment in STEM and STEM-related fields in conjunction with the BOG and the DEO. The unified plan must advise school districts, FCS institutions, and state universities of requirements to inform, advise, and recruit students into said programs and employment opportunities.
- Include procedures used to evaluate the extent to which college presidents serve both institutional and system goals. The SBE may also require boards of trustees to consider recommendations of the chancellor when evaluating the performance of the president.

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<sup>1</sup> Art. IX, s. 2, Fla Const.

<sup>2</sup> Section 1001.02, F.S.

<sup>3</sup> Section 1001.02(3)(a), F.S.

## **State University System Accountability**

### **Present Situation**

Current law requires an accountability process be implemented that provides for the systematic, ongoing evaluation of quality and effectiveness of state universities. This accountability process is required to monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing mission of each of the state universities. The accountability process provides for the adoption of system-wide performance standards and performance goals for each standard identified through a collaborative effort involving state universities, the BOG, the Legislature, and the Governor's office. These standards and goals must be consistent with and maintain congruity with the performance based budgeting process. This process requires that university accountability reports reflect measures defined through performance based budgeting. The performance based budgeting measures must also reflect the elements of teaching, research, and service inherent in the mission of the state universities.<sup>4</sup>

The BOG must submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, providing information on the SUS's performance on quality and effectiveness indicators in the areas of instruction, research, and public service.<sup>5</sup> Each board of trustees must submit to the BOG a university annual report that describes progress regarding articulated goals and summarizes other key data, with accompanying narrative to highlight or explain information. Each university's annual report must include, at a minimum, the following:

- An executive summary that captures key performance data required by the BOG;
- The university's mission and vision;
- Summary information on budgets, enrollments, and other core resources;
- Reports on undergraduate education, graduate education, and research and economic development, as appropriate to the university's mission, including narrative to provide context and perspective on key goals, data trends, and university performance on metrics specified by the BOG; and
- Any other specific performance information requested by the BOG in advance of the submission deadline.<sup>6</sup>

### **Effect of Proposed Changes**

In order to ensure that the BOG and all institutions within the SUS System are working together to provide the best quality education, the bill requires the BOG to include as part of the strategic plan each university's contribution to overall system goals and objectives. The strategic plan must include performance metrics and standards common for all institutions, and metrics and standards unique to institutions depending on institutional core missions, including:

- Student admission requirements
- Graduation
- Retention
- Employment
- Continuing education
- Licensure passage
- Excess hours
- Student loan burden and default rates
- Faculty awards
- State and federal research funding

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<sup>4</sup> Section 1008.46, F.S.

<sup>5</sup> Section 1008.46(1) F.S.

<sup>6</sup> Florida Board of Governors Regulation 2.002; *see also* s. 1008.46, F.S.



- Patents
- Licenses and royalties
- Intellectual property
- Start-up companies
- Annual giving
- Endowments
- Well-known, highly-respected national rankings for institutional and program achievements.

The bill also requires the BOG strategic plan to consider reports and recommendations of the Higher Education Coordinating Council and the Articulation Coordinating Committee and include student enrollment and performance data, delineated by traditional, online, or distance learning credits.

## **Tuition differential**

### Present Situation

Current law and BOG regulation authorizes each university board of trustees to establish a tuition differential for undergraduate courses upon approval from the BOG. The combination of base tuition and tuition differential cannot increase more than 15 percent over the prior year, or exceed the national average. Seventy percent of the revenues from the tuition differential must be expended for the purposes of enhancing undergraduate education. The remaining 30 percent of the tuition differential must be used to provide financial assistance to undergraduate students who exhibit financial need. Universities that have met the entire tuition and fee costs of all students who exhibit financial need are allowed to expend the excess portion of the 30 percent in the same manner as required for the other seventy percent of the tuition differential revenues.<sup>7</sup>

### Effect of Proposed Changes

In order to reduce barriers and support attainment of goals identified in institutional plans necessary for advancing system and unique institutional priorities, the bill provides flexibility to the BOG to waive regulations and request from the Legislature a waiver or modification of specific statutory requirements, including percentage and dollar amount limitations relating to state university student fees. Regulatory or statutory flexibilities authorized or sought by the BOG related to waiving or modifying tuition differential must be disclosed in the accountability plan.

## **The Commission for Independent Education**

### Present Situation

The Commission for Independent Education (CIE) regulates independent postsecondary education institutions, which are postsecondary educational institutions that operate or make application to operate in Florida and that are not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government.<sup>8</sup> For these institutions, the CIE is responsible for matters concerning licensure, consumer protection, and program improvement.<sup>9</sup> Independent postsecondary educational institutions may not grant diplomas or degrees until they have been licensed by the CIE.<sup>10</sup>

Currently, the CIE has jurisdiction over 377 degree-granting independent postsecondary educational institutions. During FY 2010-11, these institutions enrolled 264,491 students and reported 55,651 graduates. The CIE also has jurisdiction over 567 non-degree-granting independent postsecondary

<sup>7</sup> Section 1009.24(16)(a), F.S.; Florida board of Governors Regulation 7.001 (Feb. 20, 2012).

<sup>8</sup> Section 1005.02(11), F.S.

<sup>9</sup> Section 1005.21(2), F.S.

<sup>10</sup> Section 1005.21(1), F.S.

educational institutions. During 2010-11 these institutions enrolled 73,500 students and reported 44,531 graduates.<sup>11</sup>

The CIE requires all licensed institutions to report enrollment, graduation, and placement outcomes using CIE Annual Data Collection forms<sup>12</sup> and institutions may volunteer to participate in the Florida Education and Training Placement Information Program (FETPIP), which is required for those licensed institutions that are Workforce Development training providers.<sup>13</sup>

### Effect of Proposed Changes

The bill requires the CIE to collect, and institutions licensed by the commission to report, student-level data for all respective institutions that receive state funds. Data must be reported annually and include retention rates, transfer rates, completion rates, graduation rates, employment and placement rates, and earning of graduates.

## **General Education**

### Present Situation

To meet regional accreditation requirements, each institution must require in each undergraduate degree program, "the successful completion of a general education component at the collegiate level that (1) is a substantial component of each undergraduate degree, (2) ensures breadth of knowledge, and (3) is based on a coherent rationale."<sup>14</sup> For baccalaureate degree programs, the general education component constitutes a minimum of thirty semester hours or the equivalent. These credit hours must be drawn from and include at least one course from each of the following areas: humanities/fine arts, social/behavioral sciences, and natural science/mathematics.<sup>15</sup>

The DOE is required to identify courses that meet general education requirements within the subject areas of communication, mathematics, social sciences, humanities, and natural sciences. Such courses must be identified by their statewide course code number using the statewide course numbering system. All public postsecondary educational institutions are required to accept the general education courses.<sup>16</sup> In Florida, the general education component for undergraduate degree programs constitutes a total of thirty-six semester hours.<sup>17</sup>

### Effect of Proposed Changes

In order to provide institutions the flexibility in developing a solid foundation for students entering their undergraduate programs, the bill revises provisions related to general education by requiring 30 semester credit hours of general education rather than 36 semester credit hours. The bill also requires students to complete 8 semester hours of college credit in one foreign language for an associate in arts degree if two credits in one foreign language in high school are not met. The SBE and BOG are required to jointly convene faculty committees to identify statewide general education core course requirements.

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<sup>11</sup> Florida Department of Education, Commission for Independent Education, <http://www.fldoe.org/cie> (last visited Feb. 21, 2012).

<sup>12</sup> Florida Department of Education, Commission for Independent Education, Chapter 6E, Florida Administrative Code, [http://www.fldoe.org/cie/pdf/chapter6E\\_rules.pdf](http://www.fldoe.org/cie/pdf/chapter6E_rules.pdf) (last visited Feb. 21, 2012).

<sup>13</sup> Section 1008.39, F.S.

<sup>14</sup> Southern Association of Colleges and Schools Commission on Colleges, *Foundations for Quality Enhancement*, at 19 (2012), available at <http://sacscoc.org/principles.asp> (last visited Feb. 15, 2012).

<sup>15</sup> Southern Association of Colleges and Schools Commission on Colleges, *Foundations for Quality Enhancement*, at 19 (2012), available at <http://sacscoc.org/principles.asp> (last visited Feb. 15, 2012).

<sup>16</sup> Section 1007.25 (3), F.S.

<sup>17</sup> Rule 6A-10.024, F.A.C.

## Site-determined baccalaureate degree access<sup>18</sup>

### Present Situation

Section 1007.33(6), F.S., effective July 1, 2010, allows eligible FCS institutions to apply for an exemption from the existing State Board of Education approval process for offering subsequent baccalaureate degree programs. To qualify for this exemption, and bypass State Board of Education approval for new baccalaureate degrees, a FCS institution must have received a Level 2 accreditation from the Southern Association of Colleges and Schools and must have been a baccalaureate-degree-granting institution that has offered baccalaureate degree programs at their institution for 3 years or more. According to DOE, the FCS institutions that would qualify for this are Chipola College, Miami Dade College, Edison State College, Northwest Florida State College, Daytona State College, Florida State College at Jacksonville, and Indian River State College. Broward College and Palm Beach College will become eligible later in 2012.<sup>19</sup>

### Effect of Proposed Changes

The bill removes section 1007.33 (6), F.S., governing the approval process for subsequent baccalaureate degrees at FCS institutions offering baccalaureate degree programs for 3 or more years. Currently, an institution that has been authorized to offer baccalaureate degrees, received Level 2 accreditation from the Southern Association of Colleges and Schools, and has offered baccalaureate degrees for at least 3 years, can request an exemption from the State Board of Education approval process. To date no colleges have applied for the exemption.<sup>20</sup> The repeal of this section does not prohibit FCS institutions from adding baccalaureate degree programs for which a need is demonstrated and approval is received by the SBE.

The bill also includes as part of the approval process for baccalaureate degree programs that the FCS institutions annually and upon the request of the State Board of Education, Commissioner of Education, Chancellor of the Florida College System, or Legislature, report on the status using the following performance and compliance indicators:

- Obtaining and maintaining appropriate Southern Association of Colleges and Schools accreditation;
- Maintaining qualified faculty and institutional resources;
- Maintaining enrollment projections in previously approved programs;
- Managing fiscal resources appropriately;
- Complying with primary mission and responsibility requirements;
- Submitting the institution's annual performance accountability report timely;
- Other indicators of success, including program completers, placements, and survey of students and employers.

The bill authorizes the SBE, upon review of the performance and compliance indicators, to require a Florida College System institution's board of trustees, to modify or terminate a baccalaureate degree program.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 1001.02, F.S., relating to general powers of State Board of Education; to provide duties of the State Board of Education relating to the 5-year plan for postsecondary enrollment and the strategic plan that specifies goals and objectives for public schools and Florida College System institutions; provide powers and duties of the state board relating to the evaluation of Florida College System presidents, institution service delivery areas, and credit hour requirements.

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<sup>18</sup> Section 1007.33(6), F.S.

<sup>19</sup> Staff of the Florida Department of Education, Division of Florida Colleges, *Agency Legislative Bill Analysis for SB 492* (2012).

<sup>20</sup> Telephone Conversation with Department of Education Staff (March 18, 2011).

**Section 2.** Amends s. 1001.03, F.S., relating to specific powers of State Board of Education; to require the state board to adopt a unified state plan for STEM and STEM-related programs.

**Section 3.** Amends s. 1001.64, F.S., relating to Florida College System institution boards of trustees; powers and duties; to conform provisions.

**Section 4.** Amends s. 1001.706, F.S., relating to powers and duties of the Board of Governors; to provide requirements for the strategic plan and the accountability plan specifying goals and objectives for the State University System and its institutions developed by the Board of Governors; authorize the Board of Governors to waive or modify certain fee requirements; provide requirements relating to state university presidential selection and reappointment; authorize the Board of Governors to revoke or modify certain powers or duties.

**Section 5.** Amends s. 1005.22, F.S., relating to powers and duties of commission; to require the Commission for Independent Education to collect certain student data.

**Section 6.** Amends s. 1007.25, F.S., relating to general education courses; common prerequisites; other degree requirements; to revise provisions relating to general education course and associate and baccalaureate degree requirements.

**Section 7.** Amends 1007.33, F.S., relating to site-determined baccalaureate degree access; to require a Florida College System institution offering a baccalaureate degree program to report its status using specified performance and compliance standards; delete provisions relating to exemption from state board approval of certain baccalaureate degree programs.

**Section 8.** Amends 1008.46, F.S., relating to state university accountability process; to conform provisions.

**Section 9.** Provides an effective date of upon becoming law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### **D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.