



---

# **PreK-12 Appropriations Subcommittee**

# **Meeting Packet**

**February 14, 2012  
11:30 a.m. – 2:30 p.m.  
Reed Hall**



# The Florida House of Representatives

## APPROPRIATION COMMITTEE

PreK-12 Appropriations Subcommittee

**Dean Cannon**  
Speaker

**Marti Coley**  
Chair

### MEETING AGENDA

Reed Hall

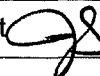

February 14, 2012

- I.** Meeting Called To Order
- II.** Opening Remarks by Chair
- III.** Consideration of the following bill(s):
  - HB 331 – Career and Adult Education by Rep. Patronis
  - HB 689 – American Founders' Month by Rep. Bileca
  - CS/HB 859 – Florida Tax Credit Scholarship Program by Finance & Tax Committee and Rep. Cocoran
  - CS/HB 903 – Charter Schools by K-20 Innovation Subcommittee and Rep. Adkins
  - CS/HB 1059 – Background Screening for Noninstructional Contractors on School Grounds by K-20 Competitiveness Subcommittee and Rep. Perry
  - HB 7063 – Digital Learning by K-20 Innovation Subcommittee and Rep. Stargel
- IV.** Closing Remarks
- V.** Meeting Adjourned



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 331 Career and Adult Education  
**SPONSOR(S):** Patronis  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1010

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	11 Y, 0 N	Thomas	Sherry
2) PreK-12 Appropriations Subcommittee		Seifert 	Heflin 
3) Education Committee			

### SUMMARY ANALYSIS

The bill revises various provisions relating to career and adult education. More specifically, the bill:

- Repeals the requirement that adult general education programs provide academic services to students who enroll in lifelong learning courses or activities and to students who enroll in courses related to students' recreational and leisurely pursuits.
- Establishes "Action Steps to Employment", activities for students entering adult general education programs after July 1, 2012. The following activities must be completed prior to completion of the first term:
  - Identify employment opportunities using market-driven tools;
  - Create a personalized employment goal;
  - Conduct a personalized skill and knowledge inventory;
  - Compare the results of the personalized skill and knowledge inventory with the knowledge and skills needed to attain the personalized employment goal; and
  - Upgrade skills and knowledge needed through adult general education programs and additional educational pursuits based on the personalized employment goal.
- Moves financial literacy from the mathematics Next Generation Sunshine State Standards to the social studies Next Generation Sunshine State Standards as part of the economics curriculum. The bill also adds financial literacy to s. 1003.42 as part of the public school required instruction.
- Provides authority to school districts and Florida College System institutions boards of trustees for a 10% variance of the learning outcomes for career education programs that do not require state or federal licensure, certification, or registration.
- Removes obsolete references to the College-Level Academic Skills Test (CLAST) examination and exemption from the payment of tuition and fees, including lab fees for students attending adult basic, adult secondary or vocational-preparatory instruction.

In addition, the bill makes the following technical changes:

- "Vocational preparatory instruction" is changed to "applied academics for adult education" or "applied academics instruction."
- "Career preparatory instruction" is changed to "career education program basic skills requirements."
- "Career preparatory instruction" is changed to "applied academics instruction."
- "Career programs" is changed to "career education programs."

The bill appears to have a minimal fiscal impact. See FISCAL COMMENTS.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The bill revises various provisions relating to career and adult education.

#### **Sunshine State Standards**

##### *Present Situation*

The Sunshine State Standards establish core curricula and benchmarks for student achievement in eight subject areas: language arts, science, mathematics, social studies, visual and performing arts, foreign language, health, and physical education.<sup>1</sup>

Section 1003.41, F.S., requires the State Board of Education to review the Sunshine State Standards and replace them with Next Generation Sunshine State Standards that specify the core content knowledge and skills that K-12 public school students are expected to acquire.<sup>2</sup> In September 2007, the State Board of Education adopted the Next Generation Sunshine Standards for Mathematics.<sup>3</sup> The mathematics standards must establish specific curricular content for, at a minimum, algebra, geometry, probability, statistics, calculus, discrete mathematics, financial literacy, and trigonometry.<sup>4</sup> In December 2008, the State Board of Education adopted the Next Generation Sunshine Standards for Social Studies.<sup>5</sup> The social studies standards must establish specific curricular content for, at a minimum, geography, United States and world history, government, civics, economics, and humanities.<sup>6</sup>

##### *Effect of Proposed Changes*

The bill removes financial literacy as a component of the mathematics standard requirements approved by the State Board of Education as part of the Next Generation Sunshine State Standards. The financial literacy component is added as a component of the social studies Next Generation Sunshine State Standards. This change will require the State Board of Education to revise both the mathematics and economics Next Generation Sunshine State Standards and adopt those revisions in Rule 6A-1.09401, F.A.C.

#### **High School Graduation Options**

##### *Present Situation*

Florida high school students are provided several options for earning a standard high school diploma. There are two 18-credit graduation options, College Preparatory Program and Career Preparatory Program, which allow students to graduate from high school in 3 years<sup>7</sup> and the 24-credit graduation option, which allows students to graduate from high school in 4 years.<sup>8</sup>

---

<sup>1</sup> Section 1003.41, F.S..

<sup>2</sup> Section 1003.41, F.S.(1), F.S.

<sup>3</sup> Florida Department of Education, *Next Generation Sunshine State Standards*, available at <http://www.fldoe.org/bii/curriculum/sss>, (last visited Jan. 23, 2012).

<sup>4</sup> Section 1003.41(1)(a)3., F.S.

<sup>5</sup> Florida Department of Education, *Next Generation Sunshine State Standards*, available at <http://www.fldoe.org/bii/curriculum/sss>, (last visited Jan. 23, 2012).

<sup>6</sup> Section 1003.41(1)(a)4., F.S.

<sup>7</sup> Section 1003.429, F.S.

<sup>8</sup> Section 1003.428, F.S.

Currently, three credits in social studies are required for earning a standard high school diploma<sup>9</sup> as follows: one credit in United States history; one credit in world history; one-half credit in economics; and one-half credit in United States government. Current law establishes a comprehensive list of required instruction for public schools.<sup>10</sup>

### Effect of Proposed Changes

The bill requires that the one-half credit in economics include financial literacy. Given that this is a new requirement that must be taught within the .5 credit economics course, professional development may be necessary for districts and social studies (economics) teachers.<sup>11</sup> The bill adds financial literacy to the required instruction for public schools.

### Career-preparatory Instruction

#### Present Situation

A student who is enrolled in a postsecondary program offered for career education credit of 450 hours or more is required to complete an entry-level basic skills examination within the first six weeks after admission to the program.<sup>12</sup> The State Board of Education must designate examinations that assess student mastery of basic skills. Any student found to lack the required level of basic skills must be referred to career-preparatory instruction or adult basic education for a structured program of basic skills instruction.<sup>13</sup>

The following students are exempt from the entry-level examination requirements:<sup>14</sup>

- An adult student with a disability;
- A student who possesses a college degree at the associate in applied science level or higher;
- A student who has completed or who is exempt from the college-level communication and computation skills examination or who is exempt from the college entry level examination;
- A student who has passed a state, national or industry licensure exam; and
- An adult student who is enrolled in an apprenticeship program that is registered with the Department of Education.

### Effect of Proposed Changes

The bill removes the exemption for a student who has completed or who is exempt from the college-level communication and computation skills examination or who is exempt from the college entry level examination and obsolete references to the College-Level Academic Skills Test (CLAST) examination. The CLAST examination was repealed in 2009, so removal of the provision has no effect.

### Adult General Education

#### Present Situation

Adult general education is defined as "comprehensive instructional programs designed to improve the employability of the state's workforce through adult basic education (ABE), adult secondary education (ASE), English for Speakers of Other Languages (ESOL), vocational-preparatory instruction, and instruction for adults with disabilities."<sup>15</sup>

---

<sup>9</sup> Sections 1003.429 and 1003.428, F.S.

<sup>10</sup> Section 1003.42, F.S.

<sup>11</sup> Staff of the Florida Department of Education, *Agency Legislative Bill Analysis for HB 331* (2012).

<sup>12</sup> Section 1004.91(2), F.S.

<sup>13</sup> Section 1004.91(1), F.S.

<sup>14</sup> Section 1004.91(3), F.S.

<sup>15</sup> Section 1004.02(3), F.S.

Current law encourages each district school board and Florida College System institution to provide educational services to enable adults to acquire a high school diploma or high school equivalency diploma and basic and functional literacy so that such adults become more employable, productive, and self-sufficient citizens. In order for adults to acquire the specified skills, the adult education program must provide academic services<sup>16</sup> to students enrolled in the program in the following order of priority:

- (a) Students who demonstrate skills at less than a fifth grade level.
- (b) Students who demonstrate skills at the fifth grade level or higher, but below the ninth grade level.
- (c) Students who are earning credit required for a high school diploma or who are preparing for the General Education Development (GED) test.
- (d) Students who have earned high school diploma and require specific improvement.
- (e) Students who enroll in lifelong learning courses.
- (f) Students who enroll in courses related to the recreational and leisurely pursuits.<sup>17</sup>

The Department of Education (DOE) is required to develop program standards and industry-driven benchmarks for career, adult, and community general education programs. These standards must be updated every three years. The standards must include career, academic, and workforce skills; viability of distance learning for instruction; and work/learn cycles that are responsive to business and industry.<sup>18</sup> The State Board of Education has adopted standards for successful completion of the following adult general education programs: ABE, Adult High School (formerly called General Education Promotion), GED, ESOL, Applied Academics for Adult Education (formerly called Vocational Preparatory Instruction), and Adult General Education for Adults with Disabilities. Based on these standards, DOE has developed a curriculum framework for each of the specified adult general education programs.<sup>19</sup>

## **Funding**

Funds for adult general education programs are included in the funds appropriated for workforce education programs.<sup>20</sup> These funds are provided in the General Appropriations Act.<sup>21</sup>

State funds are provided for the following adult general education programs: ABE, ASE, ESOL, vocational-preparatory instruction, and instruction for adults with disabilities. State funds are not provided for instruction in lifelong learning courses.<sup>22</sup> The cost of instruction in courses related to recreational and leisure pursuits and courses is supported by fees from students who enroll in those courses.<sup>23</sup>

## **Effect of Proposed Changes**

The bill repeals a requirement that the adult general education program provide academic services to students who enroll in lifelong learning courses or activities and to students who enroll in courses related to students' recreational and leisurely pursuits. Lifelong learning courses and courses related to recreational and leisurely pursuits are not included among the "comprehensive instructional programs

---

<sup>16</sup> Academic services for adult general education program encompass all instruction specified in the statewide curriculum framework for each type of program, academic testing for progress [e.g., Test for Adult Basic Education (TABE) and General Assessment of Instructional Needs (GAIN)], and other career exploration and workforce readiness activities. E-mail, Florida Department of Education, Division of Career and Adult Education (Jan. 19, 2012); *see also* Rule 6A-6.014, F.A.C.

<sup>17</sup> Section 1004.93(2), F.S.

<sup>18</sup> Section 1004.92(2)(b)4., F.S.

<sup>19</sup> E-mail, Florida Department of Education, Division of Career and Adult Education (Jan. 19, 2012); *see also* Rule 6A-6.0571, F.A.C.; and Florida Department of Education, *2012-13 Adult Education Curriculum Frameworks*, [http://www.fldoe.org/workforce/dwdframe/ad\\_frame.asp](http://www.fldoe.org/workforce/dwdframe/ad_frame.asp) (last visited Jan. 20, 2012).

<sup>20</sup> Section 1011.80(1)(a), F.S.

<sup>21</sup> Sections 1 and 2, ch. 2011-69, L.O.F.

<sup>22</sup> Telephone interview with staffs from the Florida Department of Education (Jan. 20, 2012); *see also* Florida Department of Education, Analysis of HB 331 (Oct. 20, 2011); and Section 1011.84(3)(b)3., F.S.

<sup>23</sup> Section 1004.93(2)(f), F.S.; *see also* s. 1011.84(3)(b)3., F.S.

[under adult general education] designed to improve the employability of the state's workforce."<sup>24</sup> As a result, DOE has not developed standards and curriculum frameworks for such courses.<sup>25</sup> Additionally, lifelong learning courses and courses related to recreational and leisurely pursuits are not supported by state funds.

## **Fee Exemption**

### **Present Situation**

During the 2011 Legislative Session, the fee exemption set forth in s. 1009.25(1), F.S., for students enrolled in adult basic, adult secondary and career-preparatory instruction from payment of tuition and fees was repealed. However, an obsolete reference to s. 1009.25, F.S., relating to the fee exemption for students who enter a Florida public school at the 11<sup>th</sup> or 12<sup>th</sup> grade from out-of-state or from a foreign country<sup>26</sup> remains in Florida Statutes.

### **Effect of Proposed Changes**

The bill removes the fee exemption for out-of state and out of country transfer students attending adult basic, adult secondary or vocational-preparatory instruction programs. This change is necessary to conform to changes made to s. 1009.25, F.S. during the 2011 Legislative Session.

## **Career Education Programs**

In accordance with statute and rule, the Division of Career and Adult Education reviews and updates career education curriculum frameworks every three years based on input from business and industry.<sup>27</sup> However, some program standards and outcomes, particularly in the Information Technology Cluster, change rapidly.

### **Effect of Proposed Changes**

The bill allows district school boards and Florida College System institution boards of trustees to vary the intended learning outcomes of each career education program up to 10 percent, provided that the career education program does not lead to an occupation that requires state or federal licensure, certification, or registration. The inclusion of a 10 percent variance on the learning outcomes for non-regulated career education programs would provide some flexibility to school districts and college providers to develop curriculum and learning outcomes specific to local employers needs. This variance would also give education providers the ability to alter specific standards and outcomes.

## **Action Steps to Employment**

### **Effect of Proposed Changes**

To ensure that students in adult general education programs identify goals and link their skills to potential employment opportunities, the bill establishes "Action Steps to Employment" activities for students entering an adult general education program after July 1, 2012. The following activities must be completed prior to completion of the first term:

- Identify employment opportunities using market-driven tools;
- Create a personalized employment goal;
- Conduct personalized skill and knowledge inventory;
- Compare the results of the personalized skill and knowledge inventory with the knowledge and skills needed to attain the personalized employment goal; and

---

<sup>24</sup> Section 1004.02(3), F.S.

<sup>25</sup> Telephone interview with staffs from the Florida Department of Education (Jan. 20, 2012).

<sup>26</sup> Section 1003.433(2)(c), F.S.

<sup>27</sup> Section 1004.92(2)(a), F.S., Rule 6A-6.0571, F.A.C.



- Upgrade skills and knowledge needed through adult general education program and additional educational pursuits based on the personalized employment goal.

The bill provides that the “Action Steps to Employment” may be developed through a blended approach with assistance provided to adult general education students by teachers, employment specialists, guidance counselors, business and industry representatives and online resources. Students should also be directed to online resources or provided information on financial literacy, student financial aid, industry certification, and occupational skills and knowledge tools, and a listing of job openings.

## **Technical Changes**

### **Effect of Proposed Changes**

The bill makes the following technical changes:

- “Vocational preparatory instruction” is changed to “applied academics for adult education” or “applied academics instruction.”
- “Career preparatory instruction” is changed to “career education program basic skills requirements.”
- “Career preparatory instruction” is changed to “applied academics instruction.”
- “Career programs” is changed to “career education programs.”

## **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1003.41, F.S., relating to Sunshine State Standards; requiring the Next Generation Sunshine State Standards to include financial literacy in the core curricular content of economics.

**Section 2.** Amends s. 1003.42, F.S., relating to required instruction; including the study of financial literacy in public school required instruction.

**Section 3.** Amends s. 1003.428, F.S., relating to general requirements for high school graduation; revised, providing that the credit requirement in economics for high school graduation includes instruction in financial literacy.

**Section 4.** Amends s. 1003.429, F.S., relating to accelerated high school graduation options; providing that the credit requirement in economics for high school graduation includes instruction in financial literacy.

**Section 5.** Amends s. 1003.433, F.S., relating to learning opportunities for out-of-state and out-of-country transfer students and students needing additional instruction to meet high school graduation requirements; deleting provisions that exempt adult general education students from payment of tuition and fees.

**Section 6.** Amends s. 1004.02, F.S., relating to definitions; revising definitions; replacing the term “vocational-preparatory” instruction with the term “applied academics for adult education” instruction with respect to adult general education.

**Section 7.** Amends s. 1004.91, F.S., relating to career preparatory instruction; conforming provisions relating to career education programs; deleting obsolete provisions.

**Section 8.** Amends s. 1004.92, F.S., relating to purpose and responsibilities for career education; authorizing district school boards and Florida College System institution boards of trustees to vary up to a specified percentage of intended learning outcomes of career education programs.

**Section 9.** Amends s. 1004.93, F.S., relating to adult general education; deleting lifelong learning courses or activities and recreational or leisure courses as priorities in the provision of adult education

program academic services; requiring students entering adult general education programs to complete specified "Action Steps to Employment" activities.

**Section 10.** Amends s. 1007.263, F.S., relating to Florida College System institutions, admissions of students; conforming terminology to changes made by the act.

**Section 11.** Amends s. 1007.271, F.S., relating to dual enrollment programs; conforming terminology to changes made by the act.

**Section 12.** Amends s. 1008.37, F.S., relating to postsecondary feedback of information to high schools; conforming terminology to changes made by the act.

**Section 13.** Amends s. 1009.22, F.S., relating to workforce education postsecondary student fees; conforming terminology to changes made by the act.

**Section 14.** Amends s. 1009.25, F.S., relating to fee exemptions; conforming terminology to changes made by the act.

**Section 15.** 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:

According to the DOE, the cost of developing the proposed adult education Action Steps to Employment criteria will be minimal and will be completed through the use of existing services and programs.<sup>28</sup> Additionally, it is anticipated that the financial literacy reclassification will require revised professional development criteria and guidance standards; however, the DOE anticipates these costs to be insignificant.<sup>29</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

None.

---

<sup>28</sup> Staff of the Florida Department of Education, *Agency Legislative Bill Analysis for HB 331* (2012).

<sup>29</sup> *Id.*

### **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**

None.

1                                   A bill to be entitled  
2           An act relating to career and adult education;  
3           amending s. 1003.41, F.S.; requiring the Next  
4           Generation Sunshine State Standards to include  
5           financial literacy in the core curricular content of  
6           economics; amending s. 1003.42, F.S.; including the  
7           study of financial literacy in public school required  
8           instruction; amending ss. 1003.428 and 1003.429, F.S.;  
9           providing that the credit requirement in economics for  
10          high school graduation includes instruction in  
11          financial literacy; amending s. 1003.433, F.S.,  
12          relating to learning opportunities for certain  
13          transfer students and students needing additional  
14          instruction to meet high school graduation  
15          requirements; deleting provisions that exempt adult  
16          general education students from payment of tuition and  
17          fees; amending s. 1004.02, F.S.; revising definitions;  
18          replacing the term "vocational-preparatory"  
19          instruction with the term "applied academics for adult  
20          education" instruction with respect to adult general  
21          education; amending s. 1004.91, F.S.; conforming  
22          provisions relating to career education programs;  
23          deleting obsolete provisions; amending s. 1004.92,  
24          F.S.; authorizing district school boards and Florida  
25          College System institution boards of trustees to vary  
26          up to a specified percentage of intended learning  
27          outcomes of career education programs; amending s.  
28          1004.93, F.S.; deleting lifelong learning courses or

HB 331

2012

29 activities and recreational or leisure courses as  
 30 priorities in the provision of adult education program  
 31 academic services; requiring students entering adult  
 32 general education programs to complete specified  
 33 "Action Steps to Employment" activities; amending ss.  
 34 1007.263, 1007.271, 1008.37, 1009.22, and 1009.25,  
 35 F.S.; conforming terminology to changes made by the  
 36 act; providing an effective date.

37

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

39

40 Section 1. Paragraph (a) of subsection (1) of section  
 41 1003.41, Florida Statutes, is amended to read:

42 1003.41 Sunshine State Standards.—

43 (1) Public K-12 educational instruction in Florida is  
 44 based on the "Sunshine State Standards." The State Board of  
 45 Education shall review the Sunshine State Standards and replace  
 46 them with the Next Generation Sunshine State Standards that  
 47 establish the core content of the curricula to be taught in this  
 48 state and that specify the core content knowledge and skills  
 49 that K-12 public school students are expected to acquire. The  
 50 Next Generation Sunshine State Standards must, at a minimum:

51 (a) Establish the core curricular content for language  
 52 arts, science, mathematics, and social studies, as follows:

53 1. Language arts standards must establish specific  
 54 curricular content for, at a minimum, the reading process,  
 55 literary analysis, the writing process, writing applications,  
 56 communication, and information and media literacy. The standards

57 | must include distinct grade level expectations for the core  
 58 | content knowledge and skills that a student is expected to have  
 59 | acquired by each individual grade level from kindergarten  
 60 | through grade 8. The language arts standards for grades 9  
 61 | through 12 may be organized by grade clusters of more than one  
 62 | grade level. The language arts standards must also identify  
 63 | significant literary genres and authors that encompass a  
 64 | comprehensive range of historical periods. Beginning with the  
 65 | 2011-2012 school year, the reading portion of the language arts  
 66 | curriculum shall include civics education content for all grade  
 67 | levels. The State Board of Education shall, in accordance with  
 68 | the expedited schedule established under subsection (2), review  
 69 | and replace the language arts standards adopted by the state  
 70 | board in 2007 with Next Generation Sunshine State Standards that  
 71 | comply with this subparagraph.

72 |         2. Science standards must establish specific curricular  
 73 | content for, at a minimum, the nature of science, earth and  
 74 | space science, physical science, and life science. The standards  
 75 | must include distinct grade level expectations for the core  
 76 | content knowledge and skills that a student is expected to have  
 77 | acquired by each individual grade level from kindergarten  
 78 | through grade 8. The science standards for grades 9 through 12  
 79 | may be organized by grade clusters of more than one grade level.

80 |         3. Mathematics standards must establish specific  
 81 | curricular content for, at a minimum, algebra, geometry,  
 82 | probability, statistics, calculus, discrete mathematics,  
 83 | ~~financial literacy,~~ and trigonometry. The standards must include  
 84 | distinct grade level expectations for the core content knowledge

HB 331

2012

85 | and skills that a student is expected to have acquired by each  
 86 | individual grade level from kindergarten through grade 8. The  
 87 | mathematics standards for grades 9 through 12 may be organized  
 88 | by grade clusters of more than one grade level.

89 |         4. Social studies standards must establish specific  
 90 | curricular content for, at a minimum, geography, United States  
 91 | and world history, government, civics, economics to include  
 92 | financial literacy, and humanities. The standards must include  
 93 | distinct grade level expectations for the core content knowledge  
 94 | and skills that a student is expected to have acquired by each  
 95 | individual grade level from kindergarten through grade 8. The  
 96 | social studies standards for grades 9 through 12 may be  
 97 | organized by grade clusters of more than one grade level.

98 |         Section 2. Paragraph (u) is added to subsection (2) of  
 99 | section 1003.42, Florida Statutes, to read:

100 |         1003.42 Required instruction.-

101 |         (2) Members of the instructional staff of the public  
 102 | schools, subject to the rules of the State Board of Education  
 103 | and the district school board, shall teach efficiently and  
 104 | faithfully, using the books and materials required that meet the  
 105 | highest standards for professionalism and historic accuracy,  
 106 | following the prescribed courses of study, and employing  
 107 | approved methods of instruction, the following:

108 |         (u) Financial literacy, including the knowledge,  
 109 | understanding, skills, behaviors, attitudes, and values that  
 110 | will enable a student to make responsible and effective  
 111 | financial decisions in his or her daily life now and during  
 112 | adulthood.

113  
 114 The State Board of Education is encouraged to adopt standards  
 115 and pursue assessment of the requirements of this subsection.

116 Section 3. Paragraph (a) of subsection (2) of section  
 117 1003.428, Florida Statutes, is amended to read:

118 1003.428 General requirements for high school graduation;  
 119 revised.—

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

123 (a) Sixteen core curriculum credits:

124 1. Four credits in English, with major concentration in  
 125 composition, reading for information, and literature.

126 2. Four credits in mathematics, one of which must be  
 127 Algebra I, a series of courses equivalent to Algebra I, or a  
 128 higher-level mathematics course. Beginning with students  
 129 entering grade 9 in the 2010-2011 school year, in addition to  
 130 the Algebra I credit requirement, one of the four credits in  
 131 mathematics must be geometry or a series of courses equivalent  
 132 to geometry as approved by the State Board of Education.  
 133 Beginning with students entering grade 9 in the 2010-2011 school  
 134 year, the end-of-course assessment requirements under s.  
 135 1008.22(3)(c)2.a.(I) must be met in order for a student to earn  
 136 the required credit in Algebra I. Beginning with students  
 137 entering grade 9 in the 2011-2012 school year, the end-of-course  
 138 assessment requirements under s. 1008.22(3)(c)2.a.(I) must be  
 139 met in order for a student to earn the required credit in  
 140 geometry. Beginning with students entering grade 9 in the 2012-



HB 331

2012

141 2013 school year, in addition to the Algebra I and geometry  
 142 credit requirements, one of the four credits in mathematics must  
 143 be Algebra II or a series of courses equivalent to Algebra II as  
 144 approved by the State Board of Education.

145 3. Three credits in science, two of which must have a  
 146 laboratory component. Beginning with students entering grade 9  
 147 in the 2011-2012 school year, one of the three credits in  
 148 science must be Biology I or a series of courses equivalent to  
 149 Biology I as approved by the State Board of Education. Beginning  
 150 with students entering grade 9 in the 2011-2012 school year, the  
 151 end-of-course assessment requirements under s.

152 1008.22(3)(c)2.a.(II) must be met in order for a student to earn  
 153 the required credit in Biology I. Beginning with students  
 154 entering grade 9 in the 2013-2014 school year, one of the three  
 155 credits must be Biology I or a series of courses equivalent to  
 156 Biology I as approved by the State Board of Education, one  
 157 credit must be chemistry or physics or a series of courses  
 158 equivalent to chemistry or physics as approved by the State  
 159 Board of Education, and one credit must be an equally rigorous  
 160 course, as determined by the State Board of Education.

161 4. Three credits in social studies as follows: one credit  
 162 in United States history; one credit in world history; one-half  
 163 credit in economics to include financial literacy; and one-half  
 164 credit in United States government.

165 5. One credit in fine or performing arts, speech and  
 166 debate, or a practical arts course that incorporates artistic  
 167 content and techniques of creativity, interpretation, and  
 168 imagination. Eligible practical arts courses shall be identified

169 through the Course Code Directory.

170           6. One credit in physical education to include integration  
 171 of health. Participation in an interscholastic sport at the  
 172 junior varsity or varsity level for two full seasons shall  
 173 satisfy the one-credit requirement in physical education if the  
 174 student passes a competency test on personal fitness with a  
 175 score of "C" or better. The competency test on personal fitness  
 176 must be developed by the Department of Education. A district  
 177 school board may not require that the one credit in physical  
 178 education be taken during the 9th grade year. Completion of one  
 179 semester with a grade of "C" or better in a marching band class,  
 180 in a physical activity class that requires participation in  
 181 marching band activities as an extracurricular activity, or in a  
 182 dance class shall satisfy one-half credit in physical education  
 183 or one-half credit in performing arts. This credit may not be  
 184 used to satisfy the personal fitness requirement or the  
 185 requirement for adaptive physical education under an individual  
 186 education plan (IEP) or 504 plan. Completion of 2 years in a  
 187 Reserve Officer Training Corps (R.O.T.C.) class, a significant  
 188 component of which is drills, shall satisfy the one-credit  
 189 requirement in physical education and the one-credit requirement  
 190 in performing arts. This credit may not be used to satisfy the  
 191 personal fitness requirement or the requirement for adaptive  
 192 physical education under an individual education plan (IEP) or  
 193 504 plan.

194           Section 4. Paragraphs (b) and (c) of subsection (1) of  
 195 section 1003.429, Florida Statutes, are amended to read:

196           1003.429 Accelerated high school graduation options.—

HB 331

2012

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

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

212 1. Four credits in English, with major concentration in  
 213 composition and literature;

214 2. Three credits and, beginning with students entering  
 215 grade 9 in the 2010-2011 school year, four credits in  
 216 mathematics at the Algebra I level or higher from the list of  
 217 courses that qualify for state university admission. Beginning  
 218 with students entering grade 9 in the 2010-2011 school year, in  
 219 addition to the Algebra I credit requirement, one of the four  
 220 credits in mathematics must be geometry or a series of courses  
 221 equivalent to geometry as approved by the State Board of  
 222 Education. Beginning with students entering grade 9 in the 2010-  
 223 2011 school year, the end-of-course assessment requirements  
 224 under s. 1008.22(3)(c)2.a.(I) must be met in order for a student

225 | to earn the required credit in Algebra I. Beginning with  
 226 | students entering grade 9 in the 2011-2012 school year, the end-  
 227 | of-course assessment requirements under s. 1008.22(3)(c)2.a.(I)  
 228 | must be met in order for a student to earn the required credit  
 229 | in geometry. Beginning with students entering grade 9 in the  
 230 | 2012-2013 school year, in addition to the Algebra I and geometry  
 231 | credit requirements, one of the four credits in mathematics must  
 232 | be Algebra II or a series of courses equivalent to Algebra II as  
 233 | approved by the State Board of Education;

234 |         3. Three credits in science, two of which must have a  
 235 | laboratory component. Beginning with students entering grade 9  
 236 | in the 2011-2012 school year, one of the three credits in  
 237 | science must be Biology I or a series of courses equivalent to  
 238 | Biology I as approved by the State Board of Education. Beginning  
 239 | with students entering grade 9 in the 2011-2012 school year, the  
 240 | end-of-course assessment requirements under s.

241 | 1008.22(3)(c)2.a.(II) must be met in order for a student to earn  
 242 | the required credit in Biology I. Beginning with students  
 243 | entering grade 9 in the 2013-2014 school year, one of the three  
 244 | credits must be Biology I or a series of courses equivalent to  
 245 | Biology I as approved by the State Board of Education, one  
 246 | credit must be chemistry or physics or a series of courses  
 247 | equivalent to chemistry or physics as approved by the State  
 248 | Board of Education, and one credit must be an equally rigorous  
 249 | course, as approved by the State Board of Education;

250 |         4. Three credits in social sciences, which must include  
 251 | one credit in United States history, one credit in world  
 252 | history, one-half credit in United States government, and one-

253 half credit in economics to include financial literacy;

254 5. Two credits in the same second language unless the  
 255 student is a native speaker of or can otherwise demonstrate  
 256 competency in a language other than English. If the student  
 257 demonstrates competency in another language, the student may  
 258 replace the language requirement with two credits in other  
 259 academic courses; and

260 6. Three credits in electives and, beginning with students  
 261 entering grade 9 in the 2010-2011 school year, two credits in  
 262 electives; or

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

267 1. Four credits in English, with major concentration in  
 268 composition and literature;

269 2. Three credits and, beginning with students entering  
 270 grade 9 in the 2010-2011 school year, four credits in  
 271 mathematics, one of which must be Algebra I. Beginning with  
 272 students entering grade 9 in the 2010-2011 school year, in  
 273 addition to the Algebra I credit requirement, one of the four  
 274 credits in mathematics must be geometry or a series of courses  
 275 equivalent to geometry as approved by the State Board of  
 276 Education. Beginning with students entering grade 9 in the 2010-  
 277 2011 school year, the end-of-course assessment requirements  
 278 under s. 1008.22(3)(c)2.a.(I) must be met in order for a student  
 279 to earn the required credit in Algebra I. Beginning with  
 280 students entering grade 9 in the 2011-2012 school year, the end-

HB 331

2012

281 of-course assessment requirements under s. 1008.22(3)(c)2.a.(I)  
 282 must be met in order for a student to earn the required credit  
 283 in geometry. Beginning with students entering grade 9 in the  
 284 2012-2013 school year, in addition to the Algebra I and geometry  
 285 credit requirements, one of the four credits in mathematics must  
 286 be Algebra II or a series of courses equivalent to Algebra II as  
 287 approved by the State Board of Education;

288 3. Three credits in science, two of which must have a  
 289 laboratory component. Beginning with students entering grade 9  
 290 in the 2011-2012 school year, one of the three credits in  
 291 science must be Biology I or a series of courses equivalent to  
 292 Biology I as approved by the State Board of Education. Beginning  
 293 with students entering grade 9 in the 2011-2012 school year, the  
 294 end-of-course assessment requirements under s.

295 1008.22(3)(c)2.a.(II) must be met in order for a student to earn  
 296 the required credit in Biology I. Beginning with students  
 297 entering grade 9 in the 2013-2014 school year, one of the three  
 298 credits must be Biology I or a series of courses equivalent to  
 299 Biology I as approved by the State Board of Education, one  
 300 credit must be chemistry or physics or a series of courses  
 301 equivalent to chemistry or physics as approved by the State  
 302 Board of Education, and one credit must be an equally rigorous  
 303 course, as approved by the State Board of Education;

304 4. Three credits in social sciences, which must include  
 305 one credit in United States history, one credit in world  
 306 history, one-half credit in United States government, and one-  
 307 half credit in economics to include financial literacy;

308 5. Three credits in a single vocational or career

HB 331

2012

309 education program, three credits in career and technical  
 310 certificate dual enrollment courses, or five credits in  
 311 vocational or career education courses; and

312 6. Two credits and, beginning with students entering grade  
 313 9 in the 2010-2011 school year, one credit in electives unless  
 314 five credits are earned pursuant to subparagraph 5.

315

316 Any student who selected an accelerated graduation program  
 317 before July 1, 2004, may continue that program, and all  
 318 statutory program requirements that were applicable when the  
 319 student made the program choice shall remain applicable to the  
 320 student as long as the student continues that program.

321 Section 5. Paragraph (c) of subsection (2) of section  
 322 1003.433, Florida Statutes, is amended to read:

323 1003.433 Learning opportunities for out-of-state and out-  
 324 of-country transfer students and students needing additional  
 325 instruction to meet high school graduation requirements.-

326 (2) Students who have met all requirements for the  
 327 standard high school diploma except for passage of the grade 10  
 328 FCAT or an alternate assessment by the end of grade 12 must be  
 329 provided the following learning opportunities:

330 (c) Participation in an adult general education program as  
 331 provided in s. 1004.93 for such time as the student requires to  
 332 master English, reading, mathematics, or any other subject  
 333 required for high school graduation. ~~Students attending adult~~  
 334 ~~basic, adult secondary, or vocational preparatory instruction~~  
 335 ~~are exempt from any requirement for the payment of tuition and~~  
 336 ~~fees, including lab fees, pursuant to s. 1009.25.~~ A student

HB 331

2012

337 attending an adult general education program shall have the  
 338 opportunity to take the grade 10 FCAT an unlimited number of  
 339 times in order to receive a standard high school diploma.

340 Section 6. Subsections (3) and (24) of section 1004.02,  
 341 Florida Statutes, are amended to read:

342 1004.02 Definitions.—As used in this chapter:

343 (3) "Adult general education" means comprehensive  
 344 instructional programs designed to improve the employability of  
 345 the state's workforce through adult basic education, adult  
 346 secondary education, English for Speakers of Other Languages,  
 347 applied academics for adult education ~~vocational-preparatory~~  
 348 instruction, and instruction for adults with disabilities.

349 (24) "Applied academics for adult education instruction"  
 350 or "applied academics instruction" ~~"Vocational-preparatory~~  
 351 ~~instruction"~~ means adult general education through which persons  
 352 attain academic and workforce readiness skills at the level of  
 353 functional literacy (grade levels 6.0-8.9) or higher so that  
 354 such persons may pursue technical certificate education or  
 355 higher-level technical education.

356 Section 7. Section 1004.91, Florida Statutes, is amended  
 357 to read:

358 1004.91 Career education program basic skills requirements  
 359 ~~Career-preparatory instruction.~~—

360 (1) The State Board of Education shall adopt, by rule,  
 361 standards of basic skill mastery for completion of certificate  
 362 career education programs. Each school district and Florida  
 363 College System institution that conducts programs that confer  
 364 career credit shall provide applied academics ~~career-preparatory~~



365 instruction through which students receive the basic skills  
 366 instruction required pursuant to this section.

367 (2) Students who enroll in a program offered for career  
 368 credit of 450 hours or more shall complete an entry-level  
 369 examination within the first 6 weeks of admission into the  
 370 program. The State Board of Education shall designate  
 371 examinations that are currently in existence, the results of  
 372 which are comparable across institutions, to assess student  
 373 mastery of basic skills. Any student found to lack the required  
 374 level of basic skills for such program shall be referred to  
 375 applied academics ~~career-preparatory~~ instruction or another  
 376 adult general basic education program for a structured program  
 377 of basic skills instruction. Such instruction may include  
 378 English for speakers of other languages. A student may not  
 379 receive a career certificate of completion without first  
 380 demonstrating the basic skills required in the state curriculum  
 381 frameworks for the career education program.

382 (3) An adult student with a disability may be exempted  
 383 from the provisions of this section. A student who possesses a  
 384 college degree at the associate in applied science level or  
 385 higher is exempt from this section. ~~A student who has completed~~  
 386 ~~or who is exempt from the college level communication and~~  
 387 ~~computation skills examination pursuant to s. 1008.29, or who is~~  
 388 ~~exempt from the college entry level examination pursuant to s.~~  
 389 ~~1008.29, is exempt from the provisions of this section.~~ Students  
 390 who have passed a state, national, or industry licensure exam  
 391 aligned to the career education program in which a student is  
 392 enrolled are exempt from this section. An adult student who is

393 enrolled in an apprenticeship program that is registered with  
 394 the Department of Education in accordance with the provisions of  
 395 chapter 446 is exempt from the provisions of this section.

396 Section 8. Paragraph (c) is added to subsection (2) of  
 397 section 1004.92, Florida Statutes, to read:

398 1004.92 Purpose and responsibilities for career  
 399 education.—

400 (2)

401 (c) District school boards and Florida College System  
 402 institution boards of trustees may vary up to 10 percent of the  
 403 intended learning outcomes of each career education program. The  
 404 variance does not apply to career education programs that train  
 405 students for occupations requiring state or federal licensure,  
 406 certification, or registration.

407 Section 9. Subsection (2) of section 1004.93, Florida  
 408 Statutes, is amended, subsection (8) is renumbered as subsection  
 409 (9), and a new subsection (8) is added to that section, to read:

410 1004.93 Adult general education.—

411 (2) The adult education program must provide academic  
 412 services to students in the following priority:

413 (a) Students who demonstrate skills at less than a fifth  
 414 grade level, as measured by tests approved for this purpose by  
 415 the State Board of Education, and who are studying to achieve  
 416 basic literacy.

417 (b) Students who demonstrate skills at the fifth grade  
 418 level or higher, but below the ninth grade level, as measured by  
 419 tests approved for this purpose by the State Board of Education,  
 420 and who are studying to achieve functional literacy.

HB 331

2012

421 (c) Students who are earning credit required for a high  
422 school diploma or who are preparing for the General Educational  
423 Development test.

424 (d) Students who have earned high school diplomas and  
425 require specific improvement in order to:

- 426 1. Obtain or maintain employment or benefit from  
427 certificate career education programs;
- 428 2. Pursue a postsecondary degree; or
- 429 3. Develop competence in the English language to qualify  
430 for employment.

431 ~~(e) Students who enroll in lifelong learning courses or~~  
432 ~~activities that seek to address community social and economic~~  
433 ~~issues that consist of health and human relations, government,~~  
434 ~~parenting, consumer economics, and senior citizens.~~

435 ~~(f) Students who enroll in courses that relate to the~~  
436 ~~recreational or leisure pursuits of the students. The cost of~~  
437 ~~courses conducted pursuant to this paragraph shall be borne by~~  
438 ~~the enrollees.~~

439 (8) In order to accelerate the employment of adult  
440 education students, students entering adult general education  
441 programs after July 1, 2012, must complete the following "Action  
442 Steps to Employment" activities prior to the completion of the  
443 first term:

444 (a) Identify employment opportunities using market-driven  
445 tools.

446 (b) Create a personalized employment goal.

447 (c) Conduct a personalized skill and knowledge inventory.

448 (d) Compare the results of the personalized skill and

449 | knowledge inventory with the knowledge and skills needed to  
 450 | attain the personalized employment goal.

451 | (e) Upgrade skills and knowledge needed through adult  
 452 | general education programs and additional educational pursuits  
 453 | based on the personalized employment goal.

454 |  
 455 | The "Action Steps to Employment" may be developed through a  
 456 | blended approach with assistance provided to adult general  
 457 | education students by teachers, employment specialists, guidance  
 458 | counselors, business and industry representatives, and online  
 459 | resources. Students should be directed to online resources or  
 460 | provided information on financial literacy, student financial  
 461 | aid, industry certifications, and occupational skills and  
 462 | knowledge tools and a listing of job openings.

463 | Section 10. Subsection (1) of section 1007.263, Florida  
 464 | Statutes, is amended to read:

465 | 1007.263 Florida College System institutions; admissions  
 466 | of students.—Each Florida College System institution board of  
 467 | trustees is authorized to adopt rules governing admissions of  
 468 | students subject to this section and rules of the State Board of  
 469 | Education. These rules shall include the following:

470 | (1) Admissions counseling shall be provided to all  
 471 | students entering college or career credit programs. Counseling  
 472 | shall utilize tests to measure achievement of college-level  
 473 | communication and computation competencies by all students  
 474 | entering college credit programs or tests to measure achievement  
 475 | of basic skills for career education programs as prescribed in  
 476 | s. 1004.91.

477  
 478 Each board of trustees shall establish policies that notify  
 479 students about, and place students into, adult basic education,  
 480 adult secondary education, or other instructional programs that  
 481 provide students with alternatives to traditional college-  
 482 preparatory instruction, including private provider instruction.  
 483 A student is prohibited from enrolling in additional college-  
 484 level courses until the student scores above the cut-score on  
 485 all sections of the common placement test.

486 Section 11. Subsection (2) of section 1007.271, Florida  
 487 Statutes, is amended to read:

488 1007.271 Dual enrollment programs.—

489 (2) For the purpose of this section, an eligible secondary  
 490 student is a student who is enrolled in a Florida public  
 491 secondary school or in a Florida private secondary school which  
 492 is in compliance with s. 1002.42(2) and conducts a secondary  
 493 curriculum pursuant to s. 1003.43. Students enrolled in  
 494 postsecondary instruction that is not creditable toward the high  
 495 school diploma shall not be classified as dual enrollments.  
 496 Students who are eligible for dual enrollment pursuant to this  
 497 section shall be permitted to enroll in dual enrollment courses  
 498 conducted during school hours, after school hours, and during  
 499 the summer term. Instructional time for such enrollment may vary  
 500 from 900 hours; however, the school district may only report the  
 501 student for a maximum of 1.0 FTE, as provided in s. 1011.61(4).  
 502 Any student so enrolled is exempt from the payment of  
 503 registration, tuition, and laboratory fees. Applied academics  
 504 for adult education ~~Vocational-preparatory~~ instruction, college-

HB 331

2012

505 preparatory instruction, and other forms of precollegiate  
 506 instruction, as well as physical education courses that focus on  
 507 the physical execution of a skill rather than the intellectual  
 508 attributes of the activity, are ineligible for inclusion in the  
 509 dual enrollment program. Recreation and leisure studies courses  
 510 shall be evaluated individually in the same manner as physical  
 511 education courses for potential inclusion in the program.

512 Section 12. Subsection (2) of section 1008.37, Florida  
 513 Statutes, is amended to read:

514 1008.37 Postsecondary feedback of information to high  
 515 schools.—

516 (2) The Commissioner of Education shall report, by high  
 517 school, to the State Board of Education, the Board of Governors,  
 518 and the Legislature, no later than November 30 of each year, on  
 519 the number of prior year Florida high school graduates who  
 520 enrolled for the first time in public postsecondary education in  
 521 this state during the previous summer, fall, or spring term,  
 522 indicating the number of students whose scores on the common  
 523 placement test indicated the need for remediation through  
 524 applied academics instruction or college-preparatory or  
 525 ~~vocational-preparatory~~ instruction pursuant to s. 1004.91 or s.  
 526 1008.30.

527 Section 13. Paragraph (a) of subsection (3) of section  
 528 1009.22, Florida Statutes, is amended to read:

529 1009.22 Workforce education postsecondary student fees.—

530 (3)(a) Except as otherwise provided by law, fees for  
 531 students who are nonresidents for tuition purposes must offset  
 532 the full cost of instruction. Residency of students shall be

HB 331

2012

533 determined as required in s. 1009.21. Fee-nonexempt students  
 534 enrolled in applied academics for adult education ~~vocational-~~  
 535 ~~preparatory~~ instruction shall be charged fees equal to the fees  
 536 charged for adult general education programs. Each Florida  
 537 College System institution that conducts college-preparatory and  
 538 applied academics for adult education ~~vocational-preparatory~~  
 539 instruction in the same class section may charge a single fee  
 540 for both types of instruction.

541 Section 14. Paragraphs (c) and (d) of subsection (1) of  
 542 section 1009.25, Florida Statutes, are amended to read:

543 1009.25 Fee exemptions.—

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

548 (c) A student who is or was at the time he or she reached  
 549 18 years of age in the custody of the Department of Children and  
 550 Family Services or who, after spending at least 6 months in the  
 551 custody of the department after reaching 16 years of age, was  
 552 placed in a guardianship by the court. Such exemption includes  
 553 fees associated with enrollment in applied academics for adult  
 554 education ~~career-preparatory~~ instruction. The exemption remains  
 555 valid until the student reaches 28 years of age.

556 (d) A student who is or was at the time he or she reached  
 557 18 years of age in the custody of a relative under s. 39.5085 or  
 558 who was adopted from the Department of Children and Family  
 559 Services after May 5, 1997. Such exemption includes fees  
 560 associated with enrollment in applied academics for adult

HB 331

2012

561 | education ~~career-preparatory~~ instruction. The exemption remains  
562 | valid until the student reaches 28 years of age.

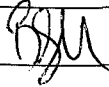

563 | Section 15. This act shall take effect July 1, 2012.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 689 American Founders' Month  
**SPONSOR(S):** Bileca  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1462

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	11 Y, 3 N	Graf	Sherry
2) PreK-12 Appropriations Subcommittee		Miller 	Heflin 
3) Education Committee			

### SUMMARY ANALYSIS

The bill authorizes the Governor to issue a proclamation each year designating the month of September as "American Founders' Month," urging public and private organizations within the state, including educational institutions, to celebrate the month accordingly.

The bill also requires district school boards to observe American Founders' Month and provide instruction that focuses on celebrating the American Founding Fathers and their role in drafting the founding documents. Celebrations during this month may be coordinated with Celebrate Freedom Week.

During American Founders' Month, the bill authorizes each district school board to provide instruction that focuses on the "moral and civic virtue, self-sacrifice, intellectual genius, and patriotism" of the Founding Fathers and the importance of the founding documents and the principles inherent in such documents. The bill authorizes district school boards to integrate instruction provided during American Founders' Month into existing school curriculum.

Current law requires the Department of Education to distribute a copy of the law on patriotic programs to each district school board and each district school superintendent is required to distribute a copy of the law to all teachers and administrators. The bill expands patriotic programs to include proclamation of American Founders' Month, and specified instruction on the Founding Fathers and founding documents. The bill changes the scope of distribution of the law on patriotic programs from all teachers and administrators to all instructional personnel and school administrators.

The bill does not appear to have a fiscal impact.

The bill takes effect July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### **Required Instruction in Public Schools**

Each district school board is required to provide courses that meet the State Board of Education standards in the various subject areas including social studies. Current law requires instruction in the history and content of the Declaration of Independence, the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government.<sup>1</sup>

###### **Patriotic Programs**

Each district school board is authorized to adopt rules that require programs of a patriotic nature in public schools to encourage respect for the United States government, its national anthem and flag, subject to the laws of the United States of America and of the State of Florida. Current law provides for procedures to observe patriotic events such as requiring students to stand and place their right hand over their heart during the rendition of the pledge of allegiance to the flag of the United States. Civilian men must remove headdress unless such headdress is worn for religious purposes.

Any teacher or school administrator may read or post specified historical documents (e.g. the national motto, the national anthem, the pledge of allegiance, the Constitution of the United States, and the Constitution of the State of Florida) in a public school building, classroom, or at any school-related event. Such documents may be read, posted, or taught only from a historical perspective, in a nonproselytizing manner. If an excerpt from a specified historical document is used, such selection must reflect the sentiment of the entire document. If such document refers to laws or judicial decisions that have been replaced or have expired, a statement must accompany the document highlighting that such law or decision is no longer valid.<sup>2</sup>

The Florida Department of Education (DOE) is required to distribute a copy of the law on patriotic programs to each district school board, and each district school superintendent is required to distribute it to all teachers and administrators in their school district.<sup>3</sup>

###### **Recitation of the Declaration of Independence**

Florida law requires that the last full week of classes in September must be recognized as Celebrate Freedom Week in public schools. This week must include at least three hours of instruction involving an in-depth study of the intent, meaning, and importance of the Declaration of Independence in each social studies class, as determined by each school district. Additionally, public school principals and teachers must conduct an oral recitation by students of the Declaration of Independence at the beginning of each school day or in homeroom to reaffirm the American ideals of individual liberty. Students must be excused from reciting the Declaration of Independence if their parents indicate their wish as such in writing.<sup>4</sup>

##### Effect of Proposed Changes

The bill authorizes the Governor to issue a proclamation each year designating the month of September as "American Founders' Month." Both public and private organizations within the state are urged to celebrate the month through appropriate programs, meetings, or services in which state and local government officials are invited to attend to commemorate American Founders' Month.

---

<sup>1</sup> Section 1003.42 (1) and (2)(a)-(d), F.S.

<sup>2</sup> Section 1003.44(2), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 1003.421, F.S.

The bill also requires each district school board to observe American Founders' Month in order to celebrate the American Founding Fathers and the principles inherent in the country's founding documents. Celebrations during this month may be coordinated with Celebrate Freedom Week.

To ensure an increase in student awareness regarding the Founding Fathers and their role in establishing the United States of America, the bill specifies the focus of instruction during American Founders' Month to include:

- The leading figures present at the country's founding who were instrumental in crafting the founding documents that institutionalized individual liberty and limited government that derives its power from the consent of the governed.
- The moral and civic virtue, self-sacrifice, intellectual genius, and patriotism demonstrated by the country's founding fathers.
- The founding documents, including, but not limited to, the Declaration of Independence, the Constitution of the United States, the Bill of Rights, and the Federalist Papers.
- The historical and philosophical importance of the Declaration of Independence with its emphasis that all people "are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness."
- The principles inherent in the founding documents, including, but not limited to, individual freedom, equality, limited representative government, a free market system, civic virtue, natural law, and self-evident truth.

The bill further authorizes each district school board to integrate instruction provided during American Founders' Month into existing school curriculum by supplementing lesson plans, holding school assemblies, or providing school-related activities. In addition, the bill increases the scope for a district school board superintendent to distribute a copy of the law on patriotic programs to include all school administrators and instructional personnel.

#### B. SECTION DIRECTORY:

**Section 1.** Provides a short title.

**Section 2.** Creates s. 683.147, F.S., relating to the "American Founders' Month Act," designating the month of September of each year as American Founders' Month.

**Section 3.** Amends s. 1003.44, F.S., relating to patriotic programs, requiring district school boards to observe American Founders' Month and coordinate celebrations with Celebrate Freedom Week; specifying the focus of instruction during the month; providing that such instruction may be integrated into existing school curriculum; and requiring distribution of specified information to school personnel.

**Section 4.** 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:**

School districts may provide students with instruction that focuses on the people, the events, the documents, the ideas, and the key principles surrounding the foundation of America. This instruction may be included in existing lesson plans, or taught in school assemblies or other school-related activities. School districts that choose to include this instruction could incur minimal costs.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The 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**

None.

1                                   A bill to be entitled  
 2       An act relating to American Founders' Month; providing  
 3       a short title; creating s. 683.147, F.S.; designating  
 4       the month of September as "American Founders' Month";  
 5       authorizing the Governor to annually issue a  
 6       proclamation designating the month and urging  
 7       participation; amending s. 1003.44, F.S.; requiring  
 8       district school boards to celebrate the American  
 9       Founders and the principles inherent in the country's  
 10      founding documents by observing American Founders'  
 11      Month; specifying the focus of instruction during the  
 12      month; providing that instruction may be integrated  
 13      into the existing school curriculum; requiring  
 14      distribution to school personnel of certain  
 15      information; providing an effective date.

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

19           Section 1. This act may be cited as the "American  
 20 Founders' Month Act."

21           Section 2. Section 683.147, Florida Statutes, is created  
 22 to read:

23           683.147 American Founders' Month.-

24           (1) The month of September of each year is designated as  
 25 "American Founders' Month."

26           (2) The Governor may annually issue a proclamation  
 27 designating the month of September as "American Founders' Month"  
 28 and urging all civic, fraternal, and religious organizations and

29 public and private educational institutions to recognize and  
 30 observe this occasion through appropriate programs, meetings,  
 31 services, or celebrations in which state, county, and local  
 32 governmental officials are invited to participate.

33 Section 3. Subsection (2) of section 1003.44, Florida  
 34 Statutes, is amended, and subsections (3) and (4) are added to  
 35 that section, to read:

36 1003.44 Patriotic programs; rules.—

37 (2) Each district school board may allow any teacher or  
 38 administrator to read, or to post in a public school building or  
 39 classroom or at any school-related event, any excerpt or portion  
 40 of the following historic material: the national motto; the  
 41 national anthem; the pledge of allegiance; the Constitution of  
 42 the State of Florida, including the Preamble; the Constitution  
 43 of the United States, including the Preamble; the Bill of  
 44 Rights; the Declaration of Independence; the Mayflower Compact;  
 45 the Emancipation Proclamation; the writings, speeches,  
 46 documents, and proclamations of the presidents of the United  
 47 States, the signers of the Constitution of the United States and  
 48 the Declaration of Independence, and civil rights leaders; and  
 49 decisions of the United States Supreme Court. However, any  
 50 material that is read, posted, or taught pursuant to this  
 51 provision may be presented only from a historical perspective  
 52 and in a nonproselytizing manner. When less than an entire  
 53 document is used, the excerpt or portion must include as much  
 54 material as is reasonably necessary to reflect the sentiment of  
 55 the entire document and avoid expressing statements out of the  
 56 context in which they were originally made. If the material

57 | refers to laws or judicial decisions that have been superseded,  
 58 | the material must be accompanied by a statement indicating that  
 59 | such law or decision is no longer the law of the land. No  
 60 | material shall be selected to advance a particular religious,  
 61 | political, or sectarian purpose. ~~The department shall distribute~~  
 62 | ~~a copy of this section to each district school board, whereupon~~  
 63 | ~~each district school superintendent shall distribute a copy to~~  
 64 | ~~all teachers and administrators.~~

65 |       (3) (a) Each district school board shall celebrate the  
 66 | American Founders and the principles inherent in the country's  
 67 | founding documents by observing American Founders' Month in  
 68 | September of each year as provided in s. 683.147. This month may  
 69 | be coordinated with Celebrate Freedom Week, which is observed  
 70 | pursuant to s. 1003.421.

71 |       (b) During American Founders' Month, students may be  
 72 | provided instruction that focuses on:

73 |       1. The leading figures present at the country's founding  
 74 | who were instrumental in crafting the founding documents that  
 75 | institutionalized individual liberty and limited government that  
 76 | derives its power from the consent of the governed.

77 |       2. The moral and civic virtue, self-sacrifice,  
 78 | intellectual genius, and patriotism demonstrated by the  
 79 | country's founding fathers.

80 |       3. The founding documents, including, but not limited to,  
 81 | the Declaration of Independence, the Constitution of the United  
 82 | States, the Bill of Rights, and the Federalist Papers.

83 |       4. The historical and philosophical importance of the  
 84 | Declaration of Independence with its emphasis that all people



85 "are endowed by their Creator with certain unalienable rights,  
 86 that among these are life, liberty, and the pursuit of  
 87 happiness."

88 5. The principles inherent in the founding documents,  
 89 including, but not limited to, individual freedom, equality,  
 90 limited representative government, a free market system, civic  
 91 virtue, natural law, and self-evident truth.

92 (c) The instruction may be integrated into the existing  
 93 school curriculum through methods including, but not limited to,  
 94 supplementing lesson plans, holding school assemblies, or  
 95 providing school-related activities.

96 (4) The department shall distribute a copy of this section  
 97 to each district school board, whereupon each district school  
 98 superintendent shall distribute a copy to all school  
 99 administrators and instructional personnel at the beginning of  
 100 each school year.

101 Section 4. This act shall take effect July 1, 2012.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 859 Florida Tax Credit Scholarship Program

**SPONSOR(S):** Corcoran

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	17 Y, 6 N, As CS	Wilson	Langston
2) PreK-12 Appropriations Subcommittee		Seifert 	Heflin 
3) Education Committee			

**SUMMARY ANALYSIS**

The Florida Tax Credit Scholarship Program (program) provides private school scholarships to students from families that meet specified income limitations. The program is funded with contributions to eligible nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for:

- Corporate income tax,
- Insurance premium tax,
- Severance taxes on oil and gas production,
- Self-accrued sales tax liabilities of direct pay permit holders, or
- Alcoholic beverage taxes on beer, wine, and spirits.

HB 859 modifies eligibility requirements for the program. If they meet the requirements related to household income, students will be eligible to receive scholarship funding if they are also eligible to enter kindergarten through fifth grade (instead of kindergarten through first grade under current law).

The bill increases the cap on the amount of tax credits available to the program that may be approved in a fiscal year from \$175 million to \$229 million for FY 2012-13. For FY 2013-14 and thereafter, the cap will increase by 25% whenever tax credits approved in the prior fiscal year are equal to or greater than 90% of the tax credit cap amount for that year.

The bill also amends certain responsibilities and obligations of parents and students, private schools, the Department of Education, school districts, and the Commissioner of Education regarding the program, including a requirement that the Department of Education, upon request of a participating private school, provide statewide assessments and related materials for administering the assessments at no cost to the private school.

The bill further clarifies that the parents of a public school student may seek private school choice options under the program if a student is currently placed, or during the previous state fiscal year was placed, in foster care as provided by law.

The Revenue Estimating Conference (REC) has not estimated the impact on this bill. However, staff estimates this bill will have a -\$10.3 million cash impact in FY 2012-13 (-\$25.3 million recurring).

The bill is also expected to result in increased expenditure savings as fewer students will require funding within the Florida Education Finance Program (FEFP). The revenue impacts are expected to be greater than the expenditure savings attributable to the bill.

The bill also expands the assessment and evaluation budget needed by the Department of Education to serve the scholarship students that elect to participate in the FCAT. Because there is no way to estimate the number of students that would choose to participate, the total cost for the additional testing, training, and security is indeterminate at this time.

Also see FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Program Overview**

The Florida Tax Credit Scholarship Program (program) provides private school scholarships to students from families that meet specified income limitations. The program is funded with contributions to private nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for:

- Corporate income tax,
- Insurance premium tax,
- Severance taxes on oil and gas production,
- Self-accrued sales tax liabilities of direct pay permit holders, or
- Alcoholic beverage taxes on beer, wine, and spirits.

The tax credit is equal to 100% of the eligible contributions made. The SFOs administer the receipt of contributions and scholarship awards. The amount of credits that may be approved in a fiscal year was set at \$140 million in FY 2010-11. For FY 2011-12 and thereafter, the cap will increase by 25% whenever tax credits approved in the prior fiscal year are equal to or greater than 90% of the tax credit cap amount for that year.<sup>1</sup> The cap amount for current FY 2011-12 is \$175 million.

As of November 2011, there were 1,181 schools participating in the program and scholarships were awarded to 37,578 students.<sup>2</sup>

##### ***Scholarship Funding Organizations***

An SFO is a charitable organization exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code. Scholarships must be provided for eligible students on a first-come, first-serve basis, unless the student qualifies for priority consideration. An SFO may not restrict or reserve scholarships for use at a particular private school or for the child of an operator or owner of a private school or SFO. A taxpayer making the contribution may not designate a specific child or group of children as the beneficiaries of the scholarship. If the SFO has been in operation for three years and does not have any negative financial findings, the SFO may use up to three percent of the contributions received for reasonable and necessary administrative expenses. No more than one-third of the funds available for administrative expense may be used for expenses related to recruitment of contributions.

##### ***Private School Participants***

Private schools participating in the program must provide documentation of financial stability and comply with federal antidiscrimination law and all state laws regulating private schools.<sup>3</sup> To be eligible for participation in the Florida Tax Credit Scholarship (FTC) program, a private school must demonstrate fiscal soundness, provide academic accountability, and meet reporting requirements of the SFOs and Department of Education (DOE).<sup>4</sup> The inability to meet the various requirements will cause DOE to declare the private school ineligible to participate in the program.

##### ***Student Eligibility***

---

<sup>1</sup> Section 1002.395(5), F.S.

<sup>2</sup> Florida Tax Credit Scholarship Program, November 2011 Quarterly Report, Florida Department of Education. Available at [http://www.floridaschoolchoice.org/Information/CTC/quarterly\\_reports/ftc\\_report\\_nov2011.pdf](http://www.floridaschoolchoice.org/Information/CTC/quarterly_reports/ftc_report_nov2011.pdf) (last visited January 20, 2012)

<sup>3</sup> s. 1002.421, F.S.

<sup>4</sup> s. 1002.395(8), F.S.

Under the program, SFOs provide a scholarship to a student who qualifies for free or reduced-price school lunches under the National School Lunch Act<sup>5</sup> or who qualifies for the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance to Needy Families Program (TANF), or the Food Distribution Program on Indian Reservations (FDPIR) and:<sup>6</sup>

- Was counted as a full-time equivalent student during the previous state fiscal year for purposes of state per-student funding;
- Is eligible to enter kindergarten or the first grade;
- Received a scholarship under the program or from the state the previous school year; or
- Is placed, or during the previous state fiscal year was placed in foster care.

Contingent upon available funds, a student would not lose his or her scholarship due to a change in the economic status of the student's parents unless the parent's economic status exceeds 230% of the federal poverty guidelines.<sup>7</sup> A sibling of a scholarship student who continues to participate in the program and resides in the same household as the student is considered to be a first-time scholarship recipient, as long as the student's and the sibling's household income level does not exceed 230% of the federal poverty level.

### **Student Scholarships**

The maximum scholarship award to each individual student is set at a percentage of the unweighted Florida Education Finance Program (FEFP) student funding in the General Appropriations Act. The percentage for FY 2011-12 is 64%, or \$4,011 per student.<sup>8</sup> Thereafter, the percentage increases by four percentage points each fiscal year the tax credit cap increases (when the approved tax credits in the prior fiscal year equal or exceed 90% of the applicable tax credit cap). The percentage will stop increasing upon reaching 80%, and from that year forward, the scholarship limit will be 80% of the unweighted FEFP funding amount.<sup>9</sup>

50% of that scholarship amount is available for students with household income that is more than 215% but less than 230% of the federal poverty level, increasing to 75% for students with household income that is more than 200% but less than 215% of the federal poverty level. For students with a household income of 200% of the federal poverty level or below, the full scholarship award is available.

The following table shows the history of the program and the number of scholarships provided<sup>10</sup>. The actual FY 2011-2012 information will not be fully known until July 2012.

	<b>Award Per Student</b>	<b>Student Scholarships</b>	<b>Awarded Scholarships</b>	<b>Maximum Tax Credit Cap</b>	<b>Tax Credits Approved</b>
FY 2001-02	\$3,500			\$50,000,000	
FY 2002-03	\$3,500	15,585	\$50,000,000	\$50,000,000	\$47,686,000
FY 2003-04	\$3,500	11,550	\$40,000,000	\$88,000,000	\$47,579,000
FY 2004-05	\$3,500	10,549	\$36,655,500	\$88,000,000	\$47,560,000
FY 2005-06	\$3,500	15,123	\$46,745,482	\$88,000,000	\$80,323,071

<sup>5</sup> s. 220.187(3), F.S. The eligibility guidelines for 2009-2010 are published in the Federal Register, March 27, 2009.

<http://www.fns.usda.gov/CND/Governance/notices/iegs/IEGs09-10.pdf> (last visited January 20, 2012)

<sup>6</sup> Children from households that receive benefits under the Supplemental Nutrition Assistance Program (SNAP – formerly the Food Stamp Program), TANF, or the FDPIR, are deemed “categorically eligible” for free school meals, thereby eliminating the need for households to submit an application for meal benefits. *Direct Certification in the National School Lunch Program: State Progress in Implementation, Report to Congress – Summary*, U.S. Department of Agriculture (USDA), December 2008.

<http://www.fns.usda.gov/ora/MENU/published/CNP/FILES/DirectCert08-Sum.pdf> (last visited January 20, 2012)

<sup>7</sup> s. 1002.395(3)(b)2., F.S.

<sup>8</sup> Florida Tax Credit Scholarship Program, November 2011 Quarterly Report, Florida Department of Education. Available at [http://www.floridaschoolchoice.org/Information/CTC/quarterly\\_reports/ftc\\_report\\_nov2011.pdf](http://www.floridaschoolchoice.org/Information/CTC/quarterly_reports/ftc_report_nov2011.pdf) (last visited January 20, 2012)

<sup>9</sup> s. 1002.395(12)(a), F.S.

<sup>10</sup> Fast Facts and Program Statistics, Florida Department of Education. Available at [http://www.floridaschoolchoice.org/Information/CTC/files/ctc\\_fast\\_facts.pdf](http://www.floridaschoolchoice.org/Information/CTC/files/ctc_fast_facts.pdf) (last visited February 3, 2012).

	<b>Award Per Student</b>	<b>Student Scholarships</b>	<b>Awarded Scholarships</b>	<b>Maximum Tax Credit Cap</b>	<b>Tax Credits Approved</b>
FY 2006-07	\$3,750	17,819	\$59,300,655	\$88,000,000	\$87,123,000
FY 2007-08	\$3,750	21,493	\$73,450,691	\$88,000,000	\$85,611,140
FY 2008-09	\$3,950	24,871	\$88,626,463	\$118,000,000	\$97,415,847
FY 2009-10	\$3,950	28,927	\$106,049,940	\$118,000,000	\$111,773,617

### **History of the Tax Credit**

The Legislature initially capped the program at \$50 million in tax credits per state fiscal year<sup>11</sup>, but subsequently expanded the cap to \$88 million in 2003.<sup>12</sup> Beginning in FY 2008-2009, the cap was increased by \$30 million to \$118 million.<sup>13</sup> Until 2009, tax credits under the scholarship were only available against the state's corporate income tax under s. 220.1875, F.S.

In 2009, the Legislature expanded the revenue sources against which tax credits can be claimed to include the premium tax under s. 624.509, F.S.<sup>14</sup> The premium tax is imposed on insurance premiums written in Florida and paid by insurance companies.

In 2010, the revenue sources against which tax credits can be claimed were further expanded to include severance taxes on oil and gas production,<sup>15</sup> self-accrued sales tax liabilities of direct pay permit holders,<sup>16</sup> and alcoholic beverage taxes on beer, wine, and spirits.<sup>17,18</sup> The Legislature also increased the tax credit cap to \$140 million, beginning in 2010-11, and authorized the cap to increase by 25% whenever credits approved by DOR in the prior fiscal year exceed 90% of the tax credit cap for that year, beginning in 2011-12.<sup>19</sup>

The following table summarizes information related to the tax credits approved by DOR:<sup>20</sup>

<b>Tax Year</b>	<b>Number of Approved Tax Credit Allocation Applications</b>	<b>Number of Taxpayers</b>	<b>Total Amount of Tax Credit Allocations Approved for All Taxpayers</b>	<b>Number of Small Businesses Approved for Tax Credit Allocations</b>	<b>Total Amount of Tax Credit Allocations Approved for Small Businesses<sup>21</sup></b>
2002-03	77	48	\$47,686,000	4	\$186,000
2003-04	114	56	\$47,579,000	3	\$79,000
2004-05	102	58	\$47,560,000	2	\$60,000
2005-06	126	79	\$80,323,071	2	\$4,000
2006-07	94	65	\$87,123,000	1	\$3,000
2007-08 <sup>22</sup>	106	62	\$85,611,140	0	\$0

<sup>11</sup> ch. 2001-225, L.O.F.

<sup>12</sup> ch. 2003-391, L.O.F.

<sup>13</sup> ch. 2008-241, L.O.F.

<sup>14</sup> ch. 2009-108, L.O.F.

<sup>15</sup> s. 211.0251, F.S.

<sup>16</sup> s. 212.1831, F.S.

<sup>17</sup> s. 561.1211, F.S.

<sup>18</sup> ss. 211.0251, 212.1831, and 561.1211, F.S. directs DOR and the Department of Business and Professional Regulation to disregard tax credits accordingly for purposes of the distributions of tax revenue under ss. 211.06, 212.20, 561.12(1)(a) and 564.06(10), F.S., so that only amounts distributed to the General Revenue Fund are reduced.

<sup>19</sup> ch. 2010-24, L.O.F.

<sup>20</sup> DOR, January 23, 2012. (On file with the Finance & Tax Committee)

<sup>21</sup> Until 2006, s. 220.187(3)(a), F.S., provided that five percent of the tax credit was reserved for small businesses as defined under s. 288.703(1), F.S. Chapter 2006-75, L.O.F., reduced the small business cap to one percent. The cap was subsequently repealed by chapter 2008-241, L.O.F.

<sup>22</sup> Effective for tax years beginning January 1, 2006, section 220.187(5)(d), F.S., permits a taxpayer to rescind all or part of its previously allocated tax credit. When approved, the rescinded allocation can be allocated to another taxpayer.

Tax Year	Number of Approved Tax Credit Allocation Applications	Number of Taxpayers	Total Amount of Tax Credit Allocations Approved for All Taxpayers	Number of Small Businesses Approved for Tax Credit Allocations	Total Amount of Tax Credit Allocations Approved for Small Businesses <sup>21</sup>
2008-09	125	75	\$97,415,847	0	\$0
2009-10	121	83	\$111,773,617 <sup>23</sup>	0	\$0
2010-11	128	100	\$136,321,200	0	\$0
2011-12	134	116	\$171,928,768	0	\$0

Since the tax credit amount allocated for FY 2011-2012 exceeded 90 percent of the \$175 million credit cap, the tax credit cap amount will increase to \$218,750,000 in FY 2012-2013.<sup>24</sup>

### **Proposed Changes**

#### ***Scholarship Eligibility***

The bill modifies eligibility requirements for the program. If they meet the requirements related to household income, students will be eligible to receive scholarship funding if they are also eligible to enter kindergarten through fifth grade (instead of kindergarten through first grade under current law).

#### ***Scholarship Funding Tax Credits***

The bill amends s. 1002.395(5), F.S., to increase the cap on the amount of credits available to the program that may be approved in a fiscal year from \$140 million to \$229 million for FY 2012-13. Current law provisions for the cap to increase by 25% whenever tax credits approved in the prior fiscal year are equal to or greater than 90% of the tax credit cap amount of that year will continue to apply thereafter.

#### ***Participant Responsibilities and Obligations***

##### **Parents and Students**

The bill amends s. 1002.395(7)(e), F.S. to clarify that if a parent requests that a student participating in the program take statewide assessments and the private school has not chosen to offer and administer the statewide assessments<sup>25</sup>, the parent is responsible for transporting the student to the assessment site designated by the school district.

##### **Private Schools**

The bill amends s. 1002.395(8)(c)2., F.S., to provide that a participating private school annually report the scores of all participating students to an independent research organization by August 15. The bill also amends s. 1002.395(8)(c)3., F.S., to provide that if a participating private school chooses to offer the statewide assessments<sup>26</sup>, that the private school administer the assessments at the private school. The bill further provides that a participating private school can choose to offer and administer the statewide assessments to all students in grades 3 through 10, and must submit a written request to DOE by March 1 each year in order to administer the statewide assessment the following year.

##### **Department of Education**

The bill amends s. 1002.395(9)(n)1., F.S., to clarify that DOE may not make more than seven site visits to participating private schools each year. However, DOE may make additional site visits at any time to

<sup>23</sup> Of the total amount of the allocation of tax credits, \$21,899,000 was allocated to insurance companies based on 39 approved applications.

<sup>24</sup> Department of Revenue Tax Information Publication. No. 11ADM-03. August 25, 2011.

<https://taxlaw.state.fl.us/wordfiles/CIT%20TIP%2011ADM-03.pdf> (last visited January 20, 2012)

<sup>25</sup> Pursuant to s. 1008.22, F.S.

<sup>26</sup> *Id.*

any school that has received a notice of noncompliance or a notice of proposed action within the previous two years. The bill also amends s. 1002.395(9)(p), F.S., to provide that DOE, upon request of a participating private school, provide at no cost statewide assessments required under s. 1008.22, F.S., and related materials for administering the assessments.

#### School Districts

The bill adds s. 1002.395(10)(b), F.S., that upon request of DOE, a school district will coordinate with DOE to provide to a participating private school statewide assessments<sup>27</sup> and any related materials for administering the assessments.

#### Commissioner of Education

The bill amends s. 1002.395(11)(a)2., F.S., to clarify that the Commissioner of Education can consider various additional factors when determining a denial, suspension, or revocation of a private school's participation in the program, including, but not limited to:

- a private school owner's or operator's previous pattern of failure to comply with accountability measures of private schools provided under s. 1002.421, F.S,
- a private school owner's or operator's failure to reimburse DOR or an SFO for scholarship funds improperly received or retained by a school; and
- the imposition of a prior criminal sanction, civil fine, administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation related to an owner's or operator's management or operation of an educational institution.

The bill adds s. 1002.395(11)(c)2., F.S., to provide that the commissioner can immediately suspend payment of scholarship funds if it is determined that there is probable cause to believe that there is a previous pattern of failure to comply with the eligibility requirements of the program or accountability provisions<sup>28</sup> for participating private schools.

#### ***K-12 Student and Parent Rights***

The bill amends s. 1002.20, F.S., to clarify that the parent of a public school student may seek private school choice options under the program to include a student who is currently placed, or during the previous state fiscal year was placed, in foster care<sup>29</sup>. This provision conforms to current scholarship eligibility under s. 1002.395(3)(b)1.d., F.S.<sup>30</sup>

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

Section 1: Amends s. 1002.395, F.S., removing certain program eligibility requirements, increases the tax credit cap to \$250 million in FY 2012-13, and clarifies and adds various participant responsibilities and obligations for the program.

Section 2: Amends s. 1002.20, F.S., clarifying the private school choice options under the program include a student currently, or placed during the previous fiscal year in foster care.

Section 3: Provides the bill is effective upon becoming law.

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

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

---

<sup>27</sup> *Id.*

<sup>28</sup> s. 1002.421, F.S.

<sup>29</sup> As defined in s. 39.01, F.S.

<sup>30</sup> s. 1002.395(3)(b)1.d., F.S., provides a student is eligible for the program if student qualifies for free or reduced-price school lunches under the National School Lunch Act, or who qualifies for SNAP, TANF, or FDPIR, and is currently placed, or during the previous state fiscal year was placed in foster care as defined in s. 39.01, F.S.



1. Revenues:

The Revenue Estimating Conference (REC) has not estimated the impact on this bill. However, staff estimates this bill will have a -\$10.3 million cash impact in FY 2012-13 (-\$25.3 million recurring).

2. Expenditures:

The requirement that DOE, upon request of a participating private school, provide at no cost statewide assessments required under s. 1008.22, F.S., and related materials for administering the assessments may result in additional expenditure requirements for DOE.

The tax credit program is expected to result in expenditure savings as fewer students will require funding within the FEFP. Staff has estimated the FEFP savings under the provisions of the bill. As shown in Table 2 below the estimates indicate a continued total savings at slightly higher levels than under current law as fewer students will require funding within the FEFP as the program is expanded. The estimated total FEFP savings are expected to continue to exceed the total revenue impacts attributable to increased tax credits through FY 2015-16. Table 3 below shows estimated differences in FEFP savings, revenue reductions, and net savings under the bill compared to current law.

**Table 1. Program Impacts under the Current Law (Baseline)**

(\$Millions)	FY 2012-13	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
FEFP Savings	197.6	275.3	329.3	390.3	464.2
Revenue Impact	-175.0	-218.8	-273.4	-341.8	-427.2
Net Savings	22.6	56.5	55.8	48.5	37.0

**Table 2. Program Impacts under the Proposed Bill**

(Millions)	FY 2012-13	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
FEFP Savings	197.6	285.2	341.9	405.2	482.0
Revenue Impact	-175.0	-229	-286.3	-357.8	-447.3
Net Savings	22.6	56.2	55.6	47.4	34.7

**Table 3. Program Impacts: Proposed vs. Current.**

(\$Millions)	FY 2012-13	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
FEFP Savings		4.3	5.9	6.3	6.6
Revenue Impact		-10.3	-12.8	-16.0	-20.0
Net Savings		-0.3	-0.2	-1.1	-2.3

Also see FISCAL COMMENTS below.

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

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The tax cap increase will allow taxpayers who make eligible contributions to SFOs to see a dollar for dollar reduction in their state tax liabilities.

D. FISCAL COMMENTS:

A recent report has discussed the difficulty in communicating to Legislators the full budgetary implications of changes to the Tax Credit Scholarship Program.<sup>31</sup> The report points out that conventions and practices in the Revenue Estimating Conference (REC) and the budgeting process result in estimates of recurring revenue losses (mostly in future years) for which the expected offsetting expenditure savings are not recognized when the budget is formulated. Consequently, policymakers often see only the revenue losses. The report suggests that REC and/or budgeting conventions and practices could be changed solely with respect to this particular program, given the unique characteristic that "future revenue impacts will create offsetting budget savings that are at least equal to, and in every case to date, greater than, the revenue impacts."

The 2010-2011 school year cost per student for the Florida Comprehensive Assessment Test (FCAT) was \$30.87.<sup>32</sup> If all of the scholarship students currently enrolled in private schools participated in the FCAT, the estimated cost of tests would be \$1,066,559 (\$30.87 per test x 34,550 students). As the number of scholarship participants increase each year, the testing costs would also increase. Because there is no way to estimate the number of students that would choose to participate, the total cost for the additional testing, training, and security is indeterminate at this time.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Should a significant number of private schools elect to participate in the statewide assessment program, the cost of testing materials and cost to school districts for the distribution of testing materials could be increased. The total cost for the additional participation in the state assessment program is indeterminate at this time.

---

<sup>31</sup> "The Need to Tailor Revenue Conventions to the Unique Characteristics of the Tax Credit Scholarship Program," Alan Johansen, Capital Analytics, January 11, 2012.

<sup>32</sup> Assessment and School Performance Frequently Asked Questions, Florida Department of Education, <http://www.fldoe.org/faq/default.asp?Dept=179&ID=977> (last visited February 6, 2012)

There are concerns surrounding test security and reliability for administration of FCAT, FCAT 2.0, and/or end-of-course assessments by participating private schools. It is unclear how the DOE could ensure that the necessary security measures would be in place, in addition to providing the training and test scoring for such tests. The private schools that administered the FCAT, FCAT 2.0, and end-of-course assessment would be included in the data forensics program the DOE conducts after testing is complete. It is unclear what recourse the DOE would have if testing improprieties occurred at a private school as the bill does not provide a line of authority for enforcing test administration requirements and accountability for any breaches of test security. Additionally, the bill is not clear whether private schools could request assessments outside the regularly scheduled administration.

Students with disabilities who attend private schools may have difficulty obtaining an accommodation to take the FCAT. Under s. 1008.22(3)(c), F.S., certain accommodations are allowed if included in a student's individual education plan. Since private school students do not have individual education plans, the procedures for allowing these students an accommodation is unclear.

The bill is not clear on who is responsible for the allocation of resources to train private school staff in administering the assessments.

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

On January 26, 2012, the Finance & Tax committee adopted a strike-all amendment that:

- Modifies eligibility requirements for the program. If they meet the requirements related to household income, students will be eligible to receive scholarship funding if they are also eligible to enter kindergarten through fifth grade (instead of kindergarten through first grade under current law).
- Increased the cap on the amount of tax credits available to the program that may be approved in a fiscal year from \$175 million to \$229 million for FY 2012-13. For FY 2013-14 and thereafter, the cap will increase by 25% whenever tax credits approved in the prior fiscal year are equal to or greater than 90% of the tax credit cap amount for that year.
- Provided certain responsibilities and obligations of parents and students, private schools, the Department of Education, school districts, and the Commissioner of Education regarding the program, including a requirement that Department of Education, upon request of a participating private school, provide at no cost certain statewide assessments and related materials for administering the assessments.
- Clarifies that the parents of a public school student may seek private school choice options under the program if a student is currently placed, or during the previous state fiscal year was placed, in foster care as provided by law.

1 A bill to be entitled

2 An act relating to the Florida Tax Credit Scholarship  
3 Program; amending s. 1002.395, F.S.; revising student  
4 eligibility requirements for participation in the  
5 program; increasing the tax credit cap amount  
6 applicable to the program; revising provisions  
7 relating to the reporting of test scores by private  
8 schools participating in the program; providing that a  
9 private school may choose to offer and administer  
10 statewide assessments at the school; revising  
11 Department of Education duties relating to site  
12 visits; requiring the department to provide at no cost  
13 statewide assessments and related materials to a  
14 school that makes such a request; requiring a school  
15 district to coordinate with the department to provide  
16 statewide assessments and related materials to a  
17 participating private school upon the department's  
18 request; revising the conditions upon which the  
19 Commissioner of Education may base the denial,  
20 suspension, or revocation of a private school's  
21 participation in the program or the suspension of  
22 scholarship fund payment; amending s. 1002.20, F.S.;  
23 conforming provisions; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:  
26

27 Section 1. Subsection (3), paragraph (a) of subsection  
28 (5), paragraph (e) of subsection (7), paragraph (c) of

29 subsection (8), paragraphs (j) and (n) of subsection (9),  
 30 subsection (10), and paragraphs (a) and (c) of subsection (11)  
 31 of section 1002.395, Florida Statutes, are amended, and  
 32 paragraph (p) is added to subsection (9) of that section, to  
 33 read:

34 1002.395 Florida Tax Credit Scholarship Program.—

35 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

36 (a) The Florida Tax Credit Scholarship Program is  
 37 established.

38 (b) Contingent upon available funds, +

39 ~~1.~~ a student is eligible for a Florida tax credit  
 40 scholarship under this section if the student meets one or more  
 41 of the following criteria:

42 1. The student qualifies for free or reduced-price school  
 43 lunches under the National School Lunch Act or is on the direct  
 44 certification list and:

45 a. Was counted as a full-time equivalent student during  
 46 the previous state fiscal year for purposes of state per-student  
 47 funding;

48 b. Received a scholarship from an eligible nonprofit  
 49 scholarship-funding organization or from the State of Florida  
 50 during the previous school year; or

51 c. Is eligible to enter kindergarten through fifth ~~or~~  
 52 ~~first~~ grade. + ~~or~~

53 2.d. The student is currently placed, or during the  
 54 previous state fiscal year was placed, in foster care as defined  
 55 in s. 39.01.

56 3.2. The A student continues ~~may continue~~ in the

CS/HB 859

2012

57 scholarship program as long as the student's household income  
58 level does not exceed 230 percent of the federal poverty level.

59 4.3. The student, who is a first-time tax credit  
60 scholarship recipient, is a sibling of a student who is  
61 continuing in the scholarship program and who resides in the  
62 same household as the student ~~shall also be eligible as a first-~~  
63 ~~time tax credit scholarship recipient~~ if the sibling meets one  
64 or more of the criteria specified in subparagraphs ~~subparagraph~~  
65 1. and 2. and as long as the student's and sibling's household  
66 income level does not exceed 230 percent of the federal poverty  
67 level.

68 (c) Household income for purposes of a student who is  
69 currently in foster care as defined in s. 39.01 shall consist  
70 only of the income that may be considered in determining whether  
71 he or she qualifies for free or reduced-price school lunches  
72 under the National School Lunch Act.

73 (5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

74 (a)1. The tax credit cap amount is \$229 ~~\$140~~ million in  
75 the 2012-2013 ~~2010-2011~~ state fiscal year.

76 2. In the 2013-2014 ~~2011-2012~~ state fiscal year and each  
77 state fiscal year thereafter, the tax credit cap amount is the  
78 tax credit cap amount in the prior state fiscal year. However,  
79 in any state fiscal year when the annual tax credit amount for  
80 the prior state fiscal year is equal to or greater than 90  
81 percent of the tax credit cap amount applicable to that state  
82 fiscal year, the tax credit cap amount shall increase by 25  
83 percent. The department shall publish on its website information  
84 identifying the tax credit cap amount when it is increased

85 pursuant to this subparagraph.

86 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
 87 PARTICIPATION.—

88 (e) The parent shall ensure that the student participating  
 89 in the scholarship program takes the norm-referenced assessment  
 90 offered by the private school. The parent may also choose to  
 91 have the student participate in the statewide assessments  
 92 pursuant to s. 1008.22. If the parent requests that the student  
 93 participating in the scholarship program take statewide  
 94 assessments pursuant to s. 1008.22 and the private school has  
 95 not chosen to offer and administer the statewide assessments,  
 96 the parent is responsible for transporting the student to the  
 97 assessment site designated by the school district.

98 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An  
 99 eligible private school may be sectarian or nonsectarian and  
 100 must:

101 (c) Be academically accountable to the parent for meeting  
 102 the educational needs of the student by:

- 103 1. At a minimum, annually providing to the parent a  
 104 written explanation of the student's progress.
- 105 2. Annually administering or making provision for students  
 106 participating in the scholarship program in grades 3 through 10  
 107 to take one of the nationally norm-referenced tests identified  
 108 by the Department of Education or the statewide assessments  
 109 pursuant to s. 1008.22. Students with disabilities for whom  
 110 standardized testing is not appropriate are exempt from this  
 111 requirement. A participating private school must report a  
 112 student's scores to the parent. A participating private school

113 must annually report by August 15 the scores of all  
 114 participating students ~~and~~ to the independent research  
 115 organization ~~selected by the Department of Education as~~  
 116 described in paragraph (9)(j).

117 3. Cooperating with the scholarship student whose parent  
 118 chooses to have the student participate in the statewide  
 119 assessments pursuant to s. 1008.22 or, if a private school  
 120 chooses to offer the statewide assessments, administering the  
 121 assessments at the school.

122 a. A participating private school may choose to offer and  
 123 administer the statewide assessments to all students who attend  
 124 the private school in grades 3 through 10.

125 b. A participating private school must submit a request in  
 126 writing to the Department of Education by March 1 of each year  
 127 in order to administer the statewide assessments in the  
 128 subsequent school year.

129  
 130 The inability of a private school to meet the requirements of  
 131 this subsection shall constitute a basis for the ineligibility  
 132 of the private school to participate in the scholarship program  
 133 as determined by the Department of Education.

134 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of  
 135 Education shall:

136 (j) Select an independent research organization, which may  
 137 be a public or private entity or university, to which  
 138 participating private schools must report the scores of  
 139 participating students on the nationally norm-referenced tests  
 140 or the statewide assessments administered by the private school



CS/HB 859

2012

141 in grades 3 through 10.

142 1. The independent research organization must annually  
 143 report to the Department of Education on the year-to-year  
 144 learning gains of participating students:

145 a. On a statewide basis. The report shall also include, to  
 146 the extent possible, a comparison of these learning gains to the  
 147 statewide learning gains of public school students with  
 148 socioeconomic backgrounds similar to those of students  
 149 participating in the scholarship program. To minimize costs and  
 150 reduce time required for the independent research organization's  
 151 analysis and evaluation, the Department of Education shall  
 152 conduct analyses of matched students from public school  
 153 assessment data and calculate control group learning gains using  
 154 an agreed-upon methodology outlined in the contract with the  
 155 independent research organization; and

156 b. According to each participating private school in which  
 157 there are at least 30 participating students who have scores for  
 158 tests administered during or after the 2009-2010 school year for  
 159 2 consecutive years at that private school.

160 2. The sharing and reporting of student learning gain data  
 161 under this paragraph must be in accordance with requirements of  
 162 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy  
 163 Act, and shall be for the sole purpose of creating the annual  
 164 report required by subparagraph 1. All parties must preserve the  
 165 confidentiality of such information as required by law. The  
 166 annual report must not disaggregate data to a level that will  
 167 identify individual participating schools, except as required  
 168 under sub-subparagraph 1.b., or disclose the academic level of

169 individual students.

170 3. The annual report required by subparagraph 1. shall be  
 171 published by the Department of Education on its website.

172 (n)1. Conduct ~~random~~ site visits to private schools  
 173 participating in the Florida Tax Credit Scholarship Program. The  
 174 purpose of the site visits is solely to verify the information  
 175 reported by the schools concerning the enrollment and attendance  
 176 of students, the credentials of teachers, background screening  
 177 of teachers, and teachers' fingerprinting results. The  
 178 Department of Education may not make more than seven ~~random~~ site  
 179 visits each year; however, the department may make additional  
 180 site visits at any time to any school that has received a notice  
 181 of noncompliance or a notice of proposed action within the  
 182 previous 2 years and may not make more than one random site  
 183 visit each year to the same private school.

184 2. Annually, by December 15, report to the Governor, the  
 185 President of the Senate, and the Speaker of the House of  
 186 Representatives the Department of Education's actions with  
 187 respect to implementing accountability in the scholarship  
 188 program under this section and s. 1002.421, any substantiated  
 189 allegations or violations of law or rule by an eligible private  
 190 school under this program concerning the enrollment and  
 191 attendance of students, the credentials of teachers, background  
 192 screening of teachers, and teachers' fingerprinting results and  
 193 the corrective action taken by the Department of Education.

194 (p) Upon the request of a participating private school,  
 195 provide at no cost to the school the statewide assessments  
 196 required under s. 1008.22 and any related materials for

197 | administering the assessments.

198 | (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

199 | (a) Upon the request of any eligible nonprofit  
 200 | scholarship-funding organization, a school district shall inform  
 201 | all households within the district receiving free or reduced-  
 202 | priced meals under the National School Lunch Act of their  
 203 | eligibility to apply for a tax credit scholarship. The form of  
 204 | such notice shall be provided by the eligible nonprofit  
 205 | scholarship-funding organization, and the district shall include  
 206 | the provided form, if requested by the organization, in any  
 207 | normal correspondence with eligible households. If an eligible  
 208 | nonprofit scholarship-funding organization requests a special  
 209 | communication to be issued to households within the district  
 210 | receiving free or reduced-price meals under the National School  
 211 | Lunch Act, the organization shall reimburse the district for the  
 212 | cost of postage. Such notice is limited to once a year.

213 | (b) Upon the request of the Department of Education, a  
 214 | school district shall coordinate with the department to provide  
 215 | to a participating private school the statewide assessments  
 216 | required under s. 1008.22 and any related materials for  
 217 | administering the assessments.

218 | (11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

219 | (a)1. The Commissioner of Education shall deny, suspend,  
 220 | or revoke a private school's participation in the scholarship  
 221 | program if it is determined that the private school has failed  
 222 | to comply with the provisions of this section. However, in  
 223 | instances in which the noncompliance is correctable within a  
 224 | reasonable amount of time and in which the health, safety, or

225 welfare of the students is not threatened, the commissioner may  
 226 issue a notice of noncompliance that shall provide the private  
 227 school with a timeframe within which to provide evidence of  
 228 compliance prior to taking action to suspend or revoke the  
 229 private school's participation in the scholarship program.

230 2. The Commissioner of Education may deny, suspend, or  
 231 revoke a private school's participation in the scholarship  
 232 program if the commissioner determines that:

233 a. An owner or operator of a private school has exhibited  
 234 a previous pattern of failure to comply with this section or s.  
 235 1002.421; or

236 b. An owner or operator of the private school is operating  
 237 or has operated an educational institution in this state or  
 238 another state or jurisdiction in a manner contrary to the  
 239 health, safety, or welfare of the public.

240

241 In making the ~~this~~ determination under this subparagraph, the  
 242 commissioner may consider factors that include, but are not  
 243 limited to, acts or omissions by an owner or operator that led  
 244 to a previous denial or revocation of participation in an  
 245 education scholarship program; an owner's or operator's failure  
 246 to reimburse the Department of Education or a nonprofit  
 247 scholarship-funding organization for scholarship funds  
 248 improperly received or retained by a school; imposition of a  
 249 prior criminal sanction, or civil fine, administrative fine,  
 250 license revocation or suspension, or program eligibility  
 251 suspension, termination, or revocation ~~sanction~~ related to an  
 252 owner's or operator's management or operation of an educational

253 institution; or other types of criminal proceedings in which the  
 254 owner or operator was found guilty of, regardless of  
 255 adjudication, or entered a plea of nolo contendere or guilty to,  
 256 any offense involving fraud, deceit, dishonesty, or moral  
 257 turpitude.

258 (c) The commissioner may immediately suspend payment of  
 259 scholarship funds if it is determined that there is probable  
 260 cause to believe that there is:

261 1. An imminent threat to the health, safety, and welfare  
 262 of the students;

263 2. A previous pattern of failure to comply with this  
 264 section or s. 1002.421; or

265 3.2. Fraudulent activity on the part of the private  
 266 school. Notwithstanding s. 1002.22, in incidents of alleged  
 267 fraudulent activity pursuant to this section, the Department of  
 268 Education's Office of Inspector General is authorized to release  
 269 personally identifiable records or reports of students to the  
 270 following persons or organizations:

271 a. A court of competent jurisdiction in compliance with an  
 272 order of that court or the attorney of record in accordance with  
 273 a lawfully issued subpoena, consistent with the Family  
 274 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

275 b. A person or entity authorized by a court of competent  
 276 jurisdiction in compliance with an order of that court or the  
 277 attorney of record pursuant to a lawfully issued subpoena,  
 278 consistent with the Family Educational Rights and Privacy Act,  
 279 20 U.S.C. s. 1232g.

280 c. Any person, entity, or authority issuing a subpoena for

CS/HB 859

2012

281 law enforcement purposes when the court or other issuing agency  
282 has ordered that the existence or the contents of the subpoena  
283 or the information furnished in response to the subpoena not be  
284 disclosed, consistent with the Family Educational Rights and  
285 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

286

287 The commissioner's order suspending payment pursuant to this  
288 paragraph may be appealed pursuant to the same procedures and  
289 timelines as the notice of proposed action set forth in  
290 paragraph (b).

291 Section 2. Paragraph (b) of subsection (6) of section  
292 1002.20, Florida Statutes, is amended to read:

293 1002.20 K-12 student and parent rights.—Parents of public  
294 school students must receive accurate and timely information  
295 regarding their child's academic progress and must be informed  
296 of ways they can help their child to succeed in school. K-12  
297 students and their parents are afforded numerous statutory  
298 rights including, but not limited to, the following:

299 (6) EDUCATIONAL CHOICE.—

300 (b) Private school choices.—Parents of public school  
301 students may seek private school choice options under certain  
302 programs.

303 1. Under the McKay Scholarships for Students with  
304 Disabilities Program, the parent of a public school student with  
305 a disability may request and receive a McKay Scholarship for the  
306 student to attend a private school in accordance with ~~the~~  
307 ~~provisions of~~ s. 1002.39.

308 2. Under the Florida Tax Credit Scholarship Program, the

CS/HB 859

2012

309 | parent of a student who qualifies for free or reduced-price  
310 | school lunch or who is currently placed, or during the previous  
311 | state fiscal year was placed, in foster care as defined in s.  
312 | 39.01 may seek a scholarship from an eligible nonprofit  
313 | scholarship-funding organization in accordance with ~~the~~  
314 | ~~provisions of~~ s. 1002.395.

315 |       Section 3. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 859 (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	_____	

---

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations  
2 Subcommittee

3 Representative(s) Corcoran offered the following:  
4

5 **Amendment (with title amendment)**

6 Remove lines 196-217 and insert:

7 administered under s. 1008.22 and any related materials for  
8 administering the assessments. Students at a private school may  
9 be assessed using the statewide assessments if the addition of  
10 those students and the school does not cause the state to exceed  
11 its contractual caps for the number of students tested and the  
12 number of testing sites. The state shall provide the same  
13 materials and support to a private school that it provides to a  
14 public school. A private school that chooses to administer  
15 statewide assessments under s. 1008.22 shall follow the  
16 requirements set forth in ss. 1008.22 and 1008.24, rules adopted  
17 by the State Board of Education to implement those sections, and  
18 district-level testing policies established by the district  
19 school board. The department shall publish an accountability



Amendment No. 1

20 report that presents the results of the student assessments at  
21 private schools that choose to participate in the statewide  
22 student assessment program.

23 (10) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

24 (a) Upon the request of any eligible nonprofit scholarship-  
25 funding organization, a school district shall inform all  
26 households within the district receiving free or reduced-priced  
27 meals under the National School Lunch Act of their eligibility  
28 to apply for a tax credit scholarship. The form of such notice  
29 shall be provided by the eligible nonprofit scholarship-funding  
30 organization, and the district shall include the provided form,  
31 if requested by the organization, in any normal correspondence  
32 with eligible households. If an eligible nonprofit scholarship-  
33 funding organization requests a special communication to be  
34 issued to households within the district receiving free or  
35 reduced-price meals under the National School Lunch Act, the  
36 organization shall reimburse the district for the cost of  
37 postage. Such notice is limited to once a year.

38 (b) Upon the request of the Department of Education, a  
39 school district shall coordinate with the department to provide  
40 to a participating private school the statewide assessments  
41 administered under s. 1008.22 and any related materials for  
42 administering the assessments. A school district is responsible  
43 for implementing test administrations at a participating private  
44 school, including the:

45 1. Provision of training for private school staff on test  
46 security and assessment administration procedures;

47 2. Distribution of testing materials to a private school;

Amendment No. 1

48       3. Retrieval of testing materials from a private school;

49       4. Provision of the required format for a private school

50 to submit information to the district for test administration

51 and enrollment purposes; and

52       5. Provision of any required assistance, monitoring, or

53 investigation at a private school.

54

55

56

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

57

Remove lines 14-18 and insert:

58

school that makes such a request; providing conditions under

59

which statewide assessments may be administered at a private

60

school; requiring a private school to follow statutory

61

requirements, State Board of Education rules, and district

62

testing policies; requiring the department to publish an

63

accountability report; requiring a school district to coordinate

64

with the department to provide statewide assessments and related

65

materials to a private school upon the department's request;

66

providing school district responsibilities; revising the

67

conditions upon which the



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 903 Charter Schools
SPONSOR(S): K-20 Innovation Subcommittee; and Adkins
TIED BILLS: IDEN./SIM. BILLS: SB 1852

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) K-20 Innovation Subcommittee, 12 Y, 0 N, As CS, Beagle, Sherry. Row 2: 2) PreK-12 Appropriations Subcommittee, Seifert, Heflin. Row 3: 3) Education Committee.

SUMMARY ANALYSIS

The bill increases the accountability of charter schools by:

- Requiring the Commissioner of Education to annually determine a high-performing charter school's, or high-performing charter school system's, continued eligibility for "high-performing" status.
• Prohibiting a sponsor from renewing a charter school's charter if the school has received two school grades of "F" within the three year period prior to renewal.
• Requiring each charter school to maintain a website with information or online links to information regarding any entity that owns, operates, or manages the school and any management fees the school pays to such entity.

The bill also:

- Authorizes Florida College System institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12.
• Requires a sponsor to distribute a charter school's share of federal funds directly to the school, unless otherwise mutually agreed to by the charter school and sponsor.

The bill takes effect July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Charter Schools

Charter schools<sup>1</sup> are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”<sup>2</sup> The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.<sup>3</sup> One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.<sup>4</sup>

A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.<sup>5</sup> Each charter school is administered by a governing board.<sup>6</sup> State universities, Florida College System (FCS) institutions, municipalities, and private, nonprofit 501(c)(3) status organizations<sup>7</sup> may operate a charter school.<sup>8</sup>

#### **Florida College System Institution Charter Schools**

##### Present Situation

Florida College System (FCS) institutions are statutorily authorized to, in cooperation with the school board or boards within the institution’s service area, develop charter schools that offer secondary education<sup>9</sup> and allow students to obtain an associate degree<sup>10</sup> upon graduation from high school.<sup>11</sup> Students have full access to all college facilities, activities, and services.<sup>12</sup> There are seven FCS institution charter schools operating in Florida:

- Northwest Florida State College (NFSC): NFSC Collegiate High School in Okaloosa County;
- St. Petersburg College: St. Petersburg Collegiate High School in Pinellas County;
- Polk State College (PSC): PSC Lakeland Collegiate High School and PSC Chain of Lakes Collegiate High School in Polk County;
- Indian River State College: Clark Advanced Learning Center in Martin County; and

---

<sup>1</sup> In the 2011-12 school year, there are 525 charter schools operating in 44 of Florida’s 67 school districts and at two state universities. Charter schools currently serve 178,892 students. Florida Department of Education, *Charter Schools Funding Report*, at 1 (Jan. 1, 2012)(on file with the committee).

<sup>2</sup> Section 1002.33(7), F.S.

<sup>3</sup> Section 1002.33(2) and (16), F.S.

<sup>4</sup> Section 1002.33(2), F.S.

<sup>5</sup> Section 1002.33(5)(a), F.S.

<sup>6</sup> Section 1002.33(9)(h)-(j), F.S.

<sup>7</sup> The internal revenue code defines a 501(c)(3) status organization as a private, nonprofit organization that is organized exclusively for religious, scientific, literary, or educational purposes or for the purpose of promoting amateur sports or for preventing cruelty to animals or children. These organizations are exempt from federal income taxes. 26 U.S.C. s. 501(c)(3).

<sup>8</sup> Section 1002.33(5)(b)4., (12)(i), and (15)(b)-(c), F.S.

<sup>9</sup> Under Florida law, the term “secondary school” is synonymous with “high school” (grades 9 through 12). Section 1003.01(2), F.S. (definition of “school”). Generally speaking, elementary schools serve students in kindergarten through grade 5, middle schools serve students in grades 6 through 8, and high schools serve students in grades 9 through 12. Section 1003.01(2), F.S. High school grade levels served by FCS institution charter schools vary. For example, St. Petersburg Collegiate High School serves students in grades 10 through 12. St. Petersburg Collegiate High School, *Admissions*, <http://www.spcollege.edu/spchs/Admission.html> (last visited Feb. 2, 2012). In contrast, Edison State College’s two collegiate high schools serve students in grades 9 through 12. *See, e.g.*, Edison Collegiate High School, *Admissions*, <http://echs.edison.edu/about/admission-process/> (last visited Feb. 2, 2012).

<sup>10</sup> Associate degrees include the associate in arts, associate in science, and associate in applied science degrees. *See* rule 6A-14.030(1)-(3), F.A.C.

<sup>11</sup> Section 1002.33(5)(b)4., F.S.

<sup>12</sup> Section 1002.33(5)(b)4., F.S.

- Edison State College: Edison Collegiate High School in Charlotte County and Edison Collegiate High School in Lee County.<sup>13</sup>

FCS institution charter schools may not serve students in the elementary or middle grades.<sup>14</sup>

### Effect of Proposed Changes

Currently, FCS institution charter schools may only serve students in the secondary grades. The bill authorizes FCS institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12. This will enable FCS institutions to use these charter schools as teaching labs for prospective teachers enrolled in their teacher preparation programs.

## **High-Performing Charter Schools and Charter School Systems**

### Present Situation

Legislation enacted in 2011 established criteria for identifying charter schools and charter school systems with a track record of exemplary academic performance and financial stability. A high-performing charter school is a charter school that during each of the three previous years:

- Received at least two school grades of "A" and no grade below "B;"
- Received an unqualified opinion<sup>15</sup> on each annual financial audit; and
- Has not received an annual financial audit that reveals a financial emergency condition.<sup>16</sup>

A high-performing charter school system is a system of charter schools operated by a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit, s. 501(c)(3) of the Internal Revenue Code status corporation; or a private for-profit education management corporation that:

- Includes at least three high-performing charter schools in Florida;
- Has at least 50 percent of its charter schools designated as "high-performing" with no charter school receiving a school grade of "D" or "F;" and
- Has not received an annual financial audit that revealed a financial emergency condition for any charter school operated by the entity in Florida.

In order to receive "high-performing" status, a charter school or charter school system must request verification by the Commissioner of Education that the school meets the eligibility requirements.<sup>17</sup>

Among other benefits,<sup>18</sup> a high-performing charter school may, at its option, receive a 15-year charter. The law provides for removal of a charter school's "high-performing" status if it receives a school grade

<sup>13</sup> Review of FCS institution websites (January 26, 2012).

<sup>14</sup> Section 1002.33(5)(b)4., F.S.

<sup>15</sup> An unqualified audit opinion means that the charter school's financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

<sup>16</sup> Section 1002.331(1), F.S.; ss. 1 and 2, ch. 2011-232, L.O.F. A financial emergency condition includes: failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes; failure for one pay period to pay wages, salaries, and retirement benefits owed; or a fund balance or total net assets deficit. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements for "high-performing" status if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A "deteriorating financial condition" is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition. Section 1002.345(1)(a)3., F.S.

<sup>17</sup> Section 1002.332(1), F.S.

<sup>18</sup> Additional high-performing charter school benefits include expansion of enrollment by 15 percent annually, expansion of grade levels served, and replication of its school model in any district in the state, if specified requirements are met. Section 1002.331, F.S.

of "C" in any two years during the term of the 15-year charter.<sup>19</sup> The law does not provide a process for annually reviewing a charter school's, or charter school system's, continued eligibility for "high-performing" status. Nor does it specify a process for removing the status if a school or system is no longer eligible.<sup>20</sup>

### Effect of Proposed Changes

The bill requires the commissioner to annually determine a charter school's, or charter school system's, continued eligibility for "high-performing" status. A high-performing charter school or charter school system may maintain its "high-performing" status, unless the commissioner determines that the charter school or system no longer meets eligibility criteria. If a high-performing charter school or system fails to meet eligibility criteria, the commissioner must notify the school or system of its declassification as "high-performing." These changes establish explicit standards for reviewing continued eligibility for "high-performing" status and for declassifying high-performing charter schools and systems that fail to meet eligibility criteria.

### Charter School Accountability

#### Present Situation

Charter schools are subject to the same academic accountability requirements applicable to traditional public schools.<sup>21</sup> Charter school students must participate in statewide assessments.<sup>22</sup> Charter schools receive school grades and are subject to Florida's system of school improvement and intervention.<sup>23</sup>

If a charter school receives a school grade of "D," the school's director and a representative of the governing board must appear before the sponsor at least once a year to address any noted deficiencies. At this meeting and in writing, the sponsor must communicate what services will be provided to help the school address these deficiencies. The governing board must work with the sponsor to improve the school's academic performance.<sup>24</sup>

State law prescribes certain interventions to improve student performance at charter schools graded "D" for two consecutive years or "F."<sup>25</sup> The sponsor of such a charter school must require the governing board to implement a school improvement plan to improve student performance the following year.<sup>26</sup> If poor performance persists, the sponsor must place the school on probation and require it to take one of the following corrective actions:

- Contract with an outside provider to provide educational services at the school;
- Reorganize the school, make necessary staffing changes, and implement a plan that addresses the causes of inadequate progress; or
- Reconstitute the school.

The school must continue with corrective action until student performance improves.<sup>27</sup> The director and a representative of any charter school that has submitted a school improvement plan or has been put on probation must appear before its sponsor at least once a year to inform the sponsor of the corrective

---

<sup>19</sup> Section 1002.331(4), F.S.

<sup>20</sup> See ss. 1002.331 and 1002.332, F.S.

<sup>21</sup> Section 1002.33(16)(a)2., F.S.

<sup>22</sup> Section 1008.22(3), F.S. Statewide assessments include the Florida Comprehensive Assessment Test (FCAT) and state standardized end-of-course examinations. Section 1008.22(3)(c), F.S.

<sup>23</sup> Sections 1002.33(7)(a)4. and (16)(a)2., 1008.33, and 1008.34(3), F.S.; 20 U.S.C. s. 6311(2)(B), (C), and (K). Charter schools with less than 30 students do not receive school grades because at least 30 students are required in order to obtain a valid sample size for school grading purposes. See rule 6A-1.09981(4)(a)-(b), F.A.C. A charter school that is classified as an alternative school receives a school improvement rating in lieu of a school grade. Section 1008.341, F.S.

<sup>24</sup> Section 1002.33(9)(n), F.S.

<sup>25</sup> See s. 1002.33(9)(n)-(p), F.S.

<sup>26</sup> Section 1002.33(9)(o), F.S.

<sup>27</sup> Section 1002.33(9)(o)2., F.S.

strategies being implemented to improve student performance in accordance with the school improvement plan. At this meeting and in writing, the sponsor must communicate the services that will be provided to help the school address any deficiencies.<sup>28</sup> If poor performance persists, the sponsor may terminate the school's charter.<sup>29</sup>

Additionally, charter schools that fail to meet federal accountability requirements, i.e., adequate yearly progress (AYP), for two consecutive years are required to implement differentiated accountability interventions.<sup>30</sup> Under differentiated accountability, such a school is placed in one of six categories based upon the school's grade, progress towards AYP, and declines in student performance. A school's categorization determines the type and intensity of the intervention and whether the intervention is directed by the school, school district, or Florida Department of Education (DOE). Schools placed in the lowest performing categories are subject to the most intensive interventions and may be restructured if initial interventions fail to improve student performance at the school.<sup>31</sup>

In addition to these accountability requirements, a charter school's charter may be terminated or not renewed by the sponsor for any of the following reasons:

- Failure to participate in the state's education accountability system or meet the requirements for student performance stated in the charter;
- Failure to meet generally accepted standards of financial management;
- A violation of law; or
- Other good cause shown.<sup>32</sup>

The sponsor must provide a charter school with a formal hearing regarding termination or nonrenewal of its charter, if requested by a charter school's governing board. The sponsor may choose to provide either a direct hearing or a hearing before an administrative law judge. A final order on termination or nonrenewal is appealable to the District Court of Appeals.<sup>33</sup>

### Effect of Proposed Changes

Currently, sponsors may terminate or not renew the charters of failing charter schools; however, this authority is discretionary and is not always exercised when school improvement interventions do not improve the school's performance. The bill prohibits a sponsor from renewing a charter school's charter if the school has received two grades of "F" within the three year period prior to renewal. In addition, the bill requires the sponsor to terminate a charter school's charter if the school receives two grades of "F" in any three-year period. In such cases, students attending the charter school would be reassigned to new schools based upon the school district's enrollment policies. This provision ensures that failing charter schools are closed by the sponsor if school improvement interventions do not result in improved student academic performance.

## **Public Information Regarding Charter Schools**

### Present Situation

---

<sup>28</sup> Section 1002.33(9)(p), F.S.

<sup>29</sup> Section 1002.33(8) and (9)(o)3., F.S.

<sup>30</sup> 20 U.S.C. s. 6316(b); s. 1008.33(3)(b) and (4), F.S.; rule 6A-1.099811(3), F.A.C. These schools are classified as "schools in need of improvement" under the federal No Child Left Behind Act of 2001. 20 U.S.C. s. 6316(b).

<sup>31</sup> Section 1008.33(3)(b), (4), and (5)(a), F.S.; rule 6A-1.099811(3), F.A.C. On November 14, 2011, DOE submitted a federal Elementary and Secondary Education Act waiver request to the U.S. Secretary of Education which, if granted, will make significant changes to Florida's differentiated accountability system. If approved, categorization of schools and use of AYP status as a basis for school interventions will be eliminated. Instead, schools will be identified for school interventions based solely upon school grades. Florida Department of Education, *ESEA Flexibility Request*, at 75-76 (Nov. 14, 2011).

<sup>32</sup> Section 1002.33(8)(a), F.S. A sponsor may immediately terminate a charter school's charter if circumstances indicate that continued operation of the school is a danger to student health, safety, and welfare. Section 1002.33(8)(d), F.S.

<sup>33</sup> Section 1002.33(8)(b)-(c), F.S.



State law requires dissemination of information to the public regarding charter school performance. DOE must annually provide a statewide analysis and comparison of charter school students and traditional public school students. The comparison is based upon the academic performance of charter school students as measured by the statewide assessment program and information reported in each school's annual progress report.<sup>34</sup>

Charter schools with less than 30 students do not receive school grades because at least 30 students are required in order to obtain a valid sample size for school grading purposes.<sup>35</sup> DOE must report student assessment data to these charter schools, which in turn must report the data to parents of students attending the charter school, parents of children on the charter school's waiting list, the district in which the charter school is located, and the governing board of the charter school.<sup>36</sup> The charter school must post both student performance and comparison data on its internet website and also provide notice to the public at large.<sup>37</sup>

Legislation enacted in 2011 required each charter school's governing board to appoint a representative to facilitate parental involvement, assist stakeholders, and resolve disputes. The representative must reside in the school district where the charter school is located and a separate representative must be appointed for each charter school it operates in the district. Each governing board must hold at least two open public meetings in the district per school year. The charter school principal and appointed representative must be physically present at these meetings.<sup>38</sup>

A charter school's governing board may contract with a private, for-profit management company to provide management services on its behalf. Management companies provide, among other things, curriculum development, administrative, business, compliance, personnel, and student recruiting services.<sup>39</sup> The law does not require charter schools to maintain an internet website or post on a website information regarding entities that own, operate, or manage the charter school.

### Effect of Proposed Changes

The bill requires each charter school to maintain an internet website that enables the public to obtain information regarding the school, its personnel, and its programs. The website must include information or online links to information regarding any entity who owns, operates, or manages the school, including any nonprofit or for-profit entity; the names of all governing officers and administrative personnel of the entity; and any management fees the school pays to the entity. The information or online links must be prominently displayed and easily accessible to visitors of the website. This change will provide greater transparency regarding for-profit management companies or other entities that manage a charter school's operations. Members of the public will also be able to access information regarding the fees a charter school pays to a management company.

## **Federal Funding of Charter Schools**

### Present Situation

Charter schools, like traditional public schools, receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA),<sup>40</sup> Title I programs for disadvantaged

---

<sup>34</sup> Section 1002.33(23), F.S.

<sup>35</sup> See rule 6A-1.09981(4)(a)-(b), F.A.C.

<sup>36</sup> Section 1002.33(21)(b), F.S. Student performance data reporting requirements for ungraded and unrated charter schools apply only to schools with at least 10 students who are tested on statewide assessments. *Id.*

<sup>37</sup> Section 1002.33(21)(b), F.S. Reporting of data must comply with federal law governing education records privacy. *Id.*, see 20 U.S.C. s. 1232g.

<sup>38</sup> Chapter 2011-232, L.O.F.; s. 1002.33(7)(d), F.S. A sponsor may not require that governing board members reside in the district if the governing board complies with these requirements. Section 1002.33(7)(d), F.S.

<sup>39</sup> Florida Department of Education, *Charter Schools – FAQs*,

[https://www.floridaschoolchoice.org/information/charter\\_schools/faqs.asp](https://www.floridaschoolchoice.org/information/charter_schools/faqs.asp) (last visited Jan. 26, 2012).

<sup>40</sup> 20 U.S.C. s. 1411(e).

students,<sup>41</sup> and Title II programs for improving teacher quality.<sup>42</sup> Typically, federal education programs are structured so that funding flows from the federal government to a state educational agency,<sup>43</sup> which then awards subgrants to local education agencies (LEA) within the state.<sup>44</sup> School districts are the LEA for district public schools, including charter schools. Federal education funds are received by the school district, which then distributes to the charter school its proportionate share of funding.<sup>45</sup> According to the DOE, school districts distribute federal funds directly to charter schools, provide in-kind services in lieu of funds, or use a combination of both methods.<sup>46</sup>

### Effect of Proposes Changes

The bill requires a sponsor to distribute a charter school's share of federal funds directly to the school, unless otherwise mutually agreed to by the charter school and sponsor. The sponsor is required to distribute the funds within 60 days of receipt. This change enables charter schools to choose to receive their federal funds directly from the sponsor instead of receiving services from the sponsor. Charter schools that choose to receive the funds directly must expend these funds in accordance with the expenditure requirements of each federal program. See Fiscal Comments.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 1002.33, F.S., relating to charter schools; authorizes a charter school operated by a FCS institution to serve students in kindergarten through grade 12 if certain criteria are met; requires a sponsor to terminate or not renew the charter of certain low-performing charter schools; requires charter schools to maintain an internet website; requires posting of information regarding any entity who owns, operates, or manages the school on the website; requires that federal education funding be paid directly to a charter school, unless otherwise mutually agreed to by the charter school and sponsor.

**Section 2.** Amends s. 1002.331, F.S., relating to high-performing charter schools; requires the commissioner to annually review a high-performing charter school's eligibility for high-performing status; requires declassification of charter schools that fail to maintain eligibility.

**Section 3.** Amends s. 1002.332, F.S., relating to high-performing charter school systems; requires the commissioner to annually review a high-performing charter school system's eligibility for high-performing status; requires declassification of charter school systems that fail to maintain eligibility.

**Section 4.** 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:

---

<sup>41</sup> 20 U.S.C. s. 6301 et. seq.

<sup>42</sup> 20 U.S.C. ss. 6601-6641; s. 1002.33(17)(c)-(d), F.S.

<sup>43</sup> The Florida Department of Education is Florida's state educational agency for federal funding purposes. See 20 U.S.C. s. 1412(a).

<sup>44</sup> See 20 U.S.C. ss. 1412(a) and 1413(a).

<sup>45</sup> Section 1002.33(17)(c), F.S.

<sup>46</sup> Florida Department of Education, *Legislative Bill Analysis for HB 903* (2012).

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Federal law requires school districts to provide charter schools with their proportionate share of federal education program funds. School districts may provide either direct funding or in-kind services to students attending charter schools.<sup>47</sup> Florida school districts distribute federal funds directly to charter schools, provide in-kind services in lieu of funds, or use a combination of both methods.<sup>48</sup>

Each federal education program has unique policy goals and expenditure, record keeping, and annual financial and performance accountability reporting requirements.<sup>49</sup> Federal regulations provide penalties for grantees and subgrantees<sup>50</sup> that fail to comply with grant requirements. These penalties include withholding, suspension, or termination of grant funds or designation as a "high risk" grantee.<sup>51</sup>

Federal law requires school districts to ensure that charter schools receiving federal funds comply with federal grant requirements.<sup>52</sup> School districts typically address issues related to a charter school's compliance with federal grant requirements in the charter.<sup>53</sup> In addition, Florida law provides several mechanisms which enable sponsors to provide financial oversight of charter schools. Charter schools must submit annual financial reports,<sup>54</sup> provide for an annual financial audit,<sup>55</sup> and submit to the sponsor monthly financial statements.<sup>56</sup> A charter school's annual financial audit must include any findings regarding material weaknesses in internal control; significant deficiencies in internal control; violations of law, contract provisions, or grant agreements; or abuse that may have a material effect on the charter school's financial statements.<sup>57</sup>

The bill does not require a charter school to take direct disbursements of federal funds if the school and sponsor agree to a different arrangement. This enables charter schools that do not have the capacity or desire to administer federal funds to opt to have services provided by the school district.

Charter schools that do not currently have a website might incur costs associated with website design and online hosting.

---

<sup>47</sup> See, e.g., 34 C.F.R. s. 300.209 (IDEA: Treatment of charter schools and their students).

<sup>48</sup> Florida Department of Education, *Legislative Bill Analysis for HB 903* (2012).

<sup>49</sup> 34 C.F.R. ss. 76.702, 80.36, 80.32, 80.33, and 80.42 (fiscal, procurement, and inventory management records); 34 C.F.R. s. 80.41 (financial reports include status, cash transaction, and capital outlay reports).

<sup>50</sup> 34 C.F.R. s. 80.3. Federal regulations governing administration of federal education grant programs define "grantee" to mean the government to which a grant is awarded and which is accountable for the use of the funds provided, i.e. DOE. Subgrantee means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided, i.e., school districts. *Id.*

<sup>51</sup> 34 C.F.R. s. 80.43 (noncompliance with grant terms); 34 C.F.R. s. 80.12 (high-risk grantees). Special conditions are placed upon "high risk" grantees, including payment of grant funds on a reimbursement basis; withholding of authority to proceed to subsequent grant phases until performance expectations are met; or requiring additional financial reports, project monitoring, and technical or management assistance. 34 C.F.R. s. 80.12. Grant recipients who commit fraud may be debarred or suspended from participation in all federally funded programs. 34 C.F.R. s. 80.43(d); Exec. Order No. 12549, 34 C.F.R. s. 80.35.

<sup>52</sup> 34 C.F.R. s. 80.3; 34 C.F.R. s. 300.209(b).

<sup>53</sup> Telephone interview with Florida Department of Education, Charter Schools Director (Feb. 1, 2012).

<sup>54</sup> Section 1002.33(9)(g), F.S.

<sup>55</sup> Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

<sup>56</sup> Sections 1002.33(9)(g) and 1002.33(1)(2)(c), F.S. High-performing charter schools may submit quarterly, rather than monthly, financial statements.

<sup>57</sup> Section 10.856(2)(b)2.c., Rules of the Auditor General.

### 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 31, 2012, the K-20 Innovation Subcommittee reported the proposed committee substitute (PCS) for HB 903 favorably as a committee substitute. The PCS added provisions that:

- Required the Commissioner of Education to annually determine a high-performing charter school's, or high-performing charter school system's, continued eligibility for "high-performing" status. A high-performing charter school or charter school system that fails to meet eligibility criteria will lose its classification as "high-performing."
- Prohibited a sponsor from renewing a charter school's charter if the school has received two school grades of "F" within the three year period prior to renewal. In addition, the PCS required the sponsor to terminate a charter if the school receives two school grades of "F" in any three-year period.
- Required each charter school to maintain a website with information or online links to information regarding any entity who owns, operates, or manages the school and any management fees the school pays to such entity.
- Authorized Florida College System institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12.

The PCS removed provisions that:

- Authorized school districts to proportionately share discretionary millage for capital outlay funds with charter schools on a per-student basis, for capital outlay purposes.
- Required recalculation of a school district's Florida Education Finance Program (FEFP) funding if it does not share discretionary millage for capital outlay funds with charter schools.
- Required a school district to distribute recalculated FEFP funds to each charter school in the district in an amount equal to the amount the charter school would have received if the district shared discretionary millage for capital outlay funds.
- Increased the annual number of new charter schools that may be created by a high-performing charter school from one to three.
- Restated that high-performing charter schools within a high-performing charter school system may receive the same benefits as individual high-performing charter schools, e.g., increase enrollment and expand grade levels.

1                                   A bill to be entitled  
2       An act relating to charter schools; amending s.  
3       1002.33, F.S.; authorizing a charter school operated  
4       by a Florida College System institution to serve  
5       students in kindergarten through grade 12 if certain  
6       criteria are met; requiring a sponsor to not renew or  
7       terminate the charter of certain low-performing  
8       charter schools; requiring charter schools to maintain  
9       an Internet website that enables the public to obtain  
10      information regarding the school, its personnel, and  
11      its programs; requiring that information regarding any  
12      entity that owns, operates, or manages the school be  
13      posted on the website; requiring that federal  
14      education funding be paid directly to a charter school  
15      unless otherwise mutually agreed to by the charter  
16      school and sponsor; amending s. 1002.331, F.S.,  
17      relating to high-performing charter schools; requiring  
18      the Commissioner of Education to annually review a  
19      high-performing charter school's eligibility for high-  
20      performing status; requiring declassification of high-  
21      performing charter schools that fail to maintain  
22      eligibility; amending s. 1002.332, F.S., relating to  
23      high-performing charter school systems; requiring the  
24      commissioner to annually review a high-performing  
25      charter school system's eligibility for high-  
26      performing status; requiring declassification of high-  
27      performing charter school systems that fail to  
28      maintain eligibility; providing an effective date.

29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56

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

Section 1. Paragraph (b) of subsection (5), paragraph (a) of subsection (8), and paragraph (c) of subsection (17) of section 1002.33, Florida Statutes, are amended, and paragraph (q) is added to subsection (9) of that section, to read:

1002.33 Charter schools.—

(5) SPONSOR; DUTIES.—

(b) Sponsor duties.—

1.a. The sponsor shall monitor and review the charter school in its progress toward the goals established in the charter.

b. The sponsor shall monitor the revenues and expenditures of the charter school and perform the duties provided in s. 1002.345.

c. The sponsor may approve a charter for a charter school before the applicant has identified space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working funds.

d. The sponsor's policies shall not apply to a charter school unless mutually agreed to by both the sponsor and the charter school.

e. The sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 1000.03(5).

f. The sponsor shall ensure that the charter school participates in the state's education accountability system. If

57 a charter school falls short of performance measures included in  
 58 the approved charter, the sponsor shall report such shortcomings  
 59 to the Department of Education.

60 g. The sponsor shall not be liable for civil damages under  
 61 state law for personal injury, property damage, or death  
 62 resulting from an act or omission of an officer, employee,  
 63 agent, or governing body of the charter school.

64 h. The sponsor shall not be liable for civil damages under  
 65 state law for any employment actions taken by an officer,  
 66 employee, agent, or governing body of the charter school.

67 i. The sponsor's duties to monitor the charter school  
 68 shall not constitute the basis for a private cause of action.

69 j. The sponsor shall not impose additional reporting  
 70 requirements on a charter school without providing reasonable  
 71 and specific justification in writing to the charter school.

72 2. Immunity for the sponsor of a charter school under  
 73 subparagraph 1. applies only with respect to acts or omissions  
 74 not under the sponsor's direct authority as described in this  
 75 section.

76 3. This paragraph does not waive a district school board's  
 77 sovereign immunity.

78 4. A Florida College System institution may work with the  
 79 school district or school districts in its designated service  
 80 area to develop charter schools that offer secondary education.  
 81 These charter schools must include an option for students to  
 82 receive an associate degree upon high school graduation. If a  
 83 Florida College System institution operates an approved teacher  
 84 preparation program under s. 1004.04 or s. 1004.85, the

85 institution may operate no more than one charter school that  
 86 serves students in kindergarten through grade 12. District  
 87 school boards shall cooperate with and assist the Florida  
 88 College System institution on the charter application. Florida  
 89 College System institution applications for charter schools are  
 90 not subject to the time deadlines outlined in subsection (6) and  
 91 may be approved by the district school board at any time during  
 92 the year. Florida College System institutions may not report FTE  
 93 for any students who receive FTE funding through the Florida  
 94 Education Finance Program.

95 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

96 (a) The sponsor may choose not to renew or may terminate  
 97 the charter for any of the following grounds:

98 1. Failure to participate in the state's education  
 99 accountability system created in s. 1008.31, as required in this  
 100 section, or failure to meet the requirements for student  
 101 performance stated in the charter.

102 2. Failure to meet generally accepted standards of fiscal  
 103 management.

104 3. Violation of law.

105 4. Other good cause shown.  
 106

107 Notwithstanding paragraph (9)(o), the sponsor may not renew the  
 108 charter if the charter school has received a grade of "F"  
 109 pursuant to s. 1008.34 for 2 years within the 3-year period  
 110 prior to renewal. The sponsor shall terminate the charter if the  
 111 charter school has received a grade of "F" pursuant to s.  
 112 1008.34 for 2 years within a 3-year period.



CS/HB 903

2012

113 (9) CHARTER SCHOOL REQUIREMENTS.—

114 (g) Each charter school shall maintain an Internet website  
115 that enables the public to obtain information regarding the  
116 school, its personnel, and its programs. The website shall  
117 include information or online links to information regarding any  
118 entity that owns, operates, or manages the school, including any  
119 nonprofit or for-profit entity; the names of all governing  
120 officers and administrative personnel of the entity; and any  
121 fees the school pays to the entity. The information or online  
122 links must be prominently displayed and easily accessible to  
123 visitors of the website.

124 (17) FUNDING.—Students enrolled in a charter school,  
125 regardless of the sponsorship, shall be funded as if they are in  
126 a basic program or a special program, the same as students  
127 enrolled in other public schools in the school district. Funding  
128 for a charter lab school shall be as provided in s. 1002.32.

129 (c) If the district school board is providing programs or  
130 services to students funded by federal funds, any eligible  
131 students enrolled in charter schools in the school district  
132 shall be provided federal funds for the same level of service  
133 provided students in the schools operated by the district school  
134 board. Unless otherwise mutually agreed to by the charter school  
135 and its sponsor, all federal funds received by the sponsor for  
136 the benefit of the charter school, the charter school's  
137 students, or the charter school's students as public school  
138 students in the school district, including, but not limited to,  
139 Title I, Title II, and IDEA funds, shall be paid in total to the  
140 charter school within 60 days after receipt by the sponsor.

CS/HB 903

2012

141 Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter  
 142 schools shall receive all federal funding for which the school  
 143 is otherwise eligible, including Title I funding, not later than  
 144 5 months after the charter school first opens and within 5  
 145 months after any subsequent expansion of enrollment.

146 Section 2. Subsections (4) and (5) of section 1002.331,  
 147 Florida Statutes, are amended to read:

148 1002.331 High-performing charter schools.-

149 (4) A high-performing charter school may not increase  
 150 enrollment or expand grade levels following any school year in  
 151 which it receives a school grade of "C" or below. If the charter  
 152 school receives a school grade of "C" or below in any 2 years  
 153 during the term of the charter awarded under subsection (2), the  
 154 term of the charter may be modified by the sponsor ~~and the~~  
 155 ~~charter school loses its high-performing charter school status~~  
 156 ~~until it regains that status under subsection (1).~~

157 (5) The Commissioner of Education, upon request by a  
 158 charter school, shall verify that the charter school meets the  
 159 criteria in subsection (1) and provide a letter to the charter  
 160 school and the sponsor stating that the charter school is a  
 161 high-performing charter school pursuant to this section. The  
 162 commissioner shall annually determine if a high-performing  
 163 charter school continues to meet the criteria in subsection (1).  
 164 A high-performing charter school shall maintain its high-  
 165 performing status unless the commissioner determines that the  
 166 charter school no longer meets the criteria in subsection (1),  
 167 at which time the commissioner shall send a letter providing

168 notification of its declassification as a high-performing  
 169 charter school.

170 Section 3. Paragraph (a) of subsection (2) of section  
 171 1002.332, Florida Statutes, is amended to read:

172 1002.332 High-performing charter school system.—

173 (2)(a) The Commissioner of Education, upon request by an  
 174 entity, shall verify that the entity meets the criteria in  
 175 subsection (1) for the prior school year and provide a letter to  
 176 the entity stating that it is a high-performing charter school  
 177 system. The commissioner shall annually determine if a high-  
 178 performing charter school system continues to meet the criteria  
 179 in subsection (1). A high-performing charter school system shall  
 180 maintain its high-performing status unless the commissioner  
 181 determines that the charter school system no longer meets the  
 182 criteria in subsection (1), at which time the commissioner shall  
 183 send a letter providing notification of its declassification as  
 184 a high-performing charter school system.

185 Section 4. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 903 (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	_____	

---

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations  
2 Subcommittee

3 Representative Coley offered the following:  
4

5 **Amendment (with title amendment)**

6 Remove lines 134-140 and insert:

7 board. Unless otherwise mutually agreed to by the charter  
8 school and its sponsor, and consistent with federal and state  
9 regulations governing the use and disbursement of federal  
10 funds, all federal funds available to the sponsor for the  
11 benefit of the charter school, the charter school's students,  
12 or the charter school's students as public school students in  
13 the school district, including, but not limited to, Title I,  
14 Title II, and IDEA funds shall be reimbursed to the charter  
15 school on a monthly basis. All invoices for such funds shall  
16 be provided by the charter school to the sponsor at least 30  
17 days prior to the monthly date of reimbursement set by the  
18 sponsor. In order to be reimbursed, any expenditure made by  
19 the charter school must comply with all applicable federal and

Amendment No. 1

20 state rules and regulations including but not limited to  
21 applicable OMB Circulars, EDGAR regulations, and program-  
22 specific statutes and regulations. No such funds may be made  
23 available to a charter school until a plan has been submitted  
24 to the sponsor for approval of the use of such funds in  
25 accordance with applicable federal requirements. The sponsor  
26 shall have 30 days to review and approve any plan submitted  
27 pursuant to this paragraph.  
28  
29  
30

31 -----  
32 **T I T L E A M E N D M E N T**

33 Remove lines 13-16 and insert:

34 posted on the website; authorizing a district school board to  
35 provide federal funds to charter schools; providing requirements  
36 for allocation of federal funds or equitable services; requiring  
37 charter school compliance with federal regulations; amending s.  
38 1002.331, F.S.,  
39

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 903 (2012)

Amendment No. 2

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	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations  
2 Subcommittee

3 Representative Adkins offered the following:

4  
5 **Amendment (with directory and title amendments)**

6 Between lines 145 and 146, insert:

7 (19) CAPITAL OUTLAY FUNDING; FACILITY STIPEND.—

8 (a) Charter schools are eligible for capital outlay funds  
9 pursuant to s. 1013.62. Capital outlay funds authorized in ss.  
10 1011.71(2) and 1013.62 which have been shared with a charter  
11 school-in-the-workplace prior to July 1, 2010, are deemed to  
12 have met the authorized expenditure requirements for such funds.

13 (b)1. The Department of Education shall annually calculate  
14 a charter school facility stipend which shall be remitted to a  
15 non-conversion charter school by the school district no later  
16 than January 15 annually. The charter school facility stipend  
17 shall be used for the purposes provided in s. 1013.62(2)(c)-(h).

18 2. The annual calculation of the charter school facility  
19 stipend shall be equal to 80 percent of the amount of revenue

Amendment No. 2

20 generated by the district levy of the capital improvement  
21 millage per student for the school district in which the charter  
22 school is operated, less any funding per student received by the  
23 charter school from the allocation of maintenance, repair,  
24 renovation, and remodeling funding from the Public Education  
25 Capital Outlay and Debt Service Trust Fund in the General  
26 Appropriations Act, and less any expenditures associated with  
27 the provision of facilities to charter schools by the school  
28 district. The charter school facility stipend shall be based on  
29 the number of FTE students reported by the charter school in the  
30 October student membership count.

31  
32 -----  
33 **D I R E C T O R Y A M E N D M E N T**

34 Remove line 33 and insert:

35 of subsection (8), paragraph (c) of subsection (17), and  
36 subsection (19) of

37  
38 -----  
39 **T I T L E A M E N D M E N T**

40 Remove line 16 and insert:

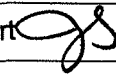
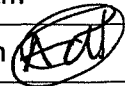
41 school and sponsor; requiring the Department of Education to  
42 annually calculate a charter school facility stipend to be  
43 remitted to a charter school by the school district; providing  
44 uses for the stipend; amending s. 1002.331, F.S.,





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1059 Background Screening for Noninstructional Contractors on School Grounds  
SPONSOR(S): Perry  
TIED BILLS: IDEN./SIM. BILLS: 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		Seifert 	Heflin 
3) Education Committee			

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.

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

---

<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> Sections 1012.32(2), 1012.465(2), and 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>

---

<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 contractor that:

- 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 contractor provides notification of a disqualifying offense, the bill requires the 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 district uses the statewide automated fingerprint identification system. The contractor's records are checked 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.

Because the bill states that the identification badge must be recognized by school districts as proof the noninstructional contractor has cleared his or her background screening, it appears to preclude a school district from disqualifying the individual for new arrests and convictions. This also would preclude a district's discretion to disqualify a contractor based upon offenses not currently listed as disqualifiers for such contractors. 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. Although this enhances the portability of the badge, it may cause security concerns for school districts.

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, how much school districts charge for the identification badges vary, 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.

---

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

## 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:

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

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		Seifert 	Heflin 
2) Education Committee			

**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>

---

<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

---

<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

---

<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

---

<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

---

<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.

---

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.

---

<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>	<i>\$2,373,700</i>	<i>\$4,747,400</i>	<i>\$7,121,100</i>	<i>\$9,494,800</i>
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>	<i>\$1,800,000</i>	<i>\$2,610,000</i>	<i>\$3,130,000</i>	<i>\$3,365,000</i>
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 through a blended or physical environment.	176.00	299.00	394.00	461.00
<i>Estimated fiscal impact</i>	<i>\$622,512</i>	<i>\$1,057,563</i>	<i>\$1,393,578</i>	<i>\$1,630,557</i>
Total Estimated fiscal impact	\$4,796,212	\$8,414,963	\$11,644,678	\$14,490,357

**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."

HB 7063

2012

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

Page 1 of 20

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

hb7063-00

29 provisions to changes made by the act; amending s.  
 30 1002.455, F.S.; revising provisions relating to  
 31 virtual instruction options for which students in the  
 32 school district are eligible; 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



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

HB 7063

2012

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~~

HB 7063

2012

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

HB 7063

2012

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,

HB 7063

2012

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.—

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. Subsection (3) of section 1002.455, Florida  
 240 Statutes, is amended to read:

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

243 (3) The virtual instruction options for which this  
 244 eligibility section applies include:

245 (a) School district operated part-time ~~or full-time~~  
 246 kindergarten through grade 12 and full-time grades 6 through 12  
 247 virtual instruction programs under s. 1002.45(1)(b) for students  
 248 enrolled in the school district.

249 (b) Full-time virtual charter school instruction for  
 250 grades 6 through 12 authorized under s. 1002.33.

251 ~~(c) Courses delivered in the traditional school setting by~~  
 252 ~~personnel providing direct instruction through a virtual~~

HB 7063

2012

253 ~~environment or through a blended virtual and physical environment~~  
254 ~~pursuant to s. 1003.498 and as authorized pursuant to s.~~  
255 ~~1002.321(4)(e).~~

256 ~~(c)(d)~~ Virtual courses offered in the course code  
257 directory to students within the school district or to students  
258 in other school districts throughout the state pursuant to s.  
259 1003.498.

260 Section 6. Paragraph (c) of subsection (2) of section  
261 1003.428, Florida Statutes, is amended to read:

262 1003.428 General requirements for high school graduation;  
263 revised.—

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

267 (c) Beginning with students entering grade 9 in the 2011-  
268 2012 school year, at least one course within the 24 credits  
269 required in this subsection must be completed through online  
270 learning. A school district may not require a student to take  
271 the online course outside the school day or in addition to a  
272 student's courses for a given semester. ~~However,~~ An online  
273 course taken during grades 6 through 8 fulfills this  
274 requirement. This requirement shall be met through an online  
275 course offered by the Florida Virtual School, an online course  
276 offered by the high school, or an online dual enrollment course  
277 ~~offered pursuant to a district interinstitutional articulation~~  
278 ~~agreement pursuant to s. 1007.235.~~ A student who is enrolled in  
279 a full-time or part-time virtual instruction program under s.  
280 1002.45 meets this requirement. This requirement does not apply



HB 7063

2012

281 to a student who has an individual educational plan under s.  
282 1003.57 which indicates that an online course would be  
283 inappropriate or a student who is enrolled in a Florida high  
284 school and has less than 1 academic year remaining in high  
285 school.

286 Section 7. Subsection (1) of section 1003.498, Florida  
287 Statutes, is amended to read:

288 1003.498 School district virtual course offerings.—

289 (1) School districts may deliver courses in the  
290 traditional school setting by personnel certified pursuant to s.  
291 1012.55 who provide direct instruction through ~~a~~ virtual  
292 instruction environment or through ~~though~~ a blended learning  
293 courses consisting of both traditional classroom and online  
294 instructional techniques ~~virtual and physical environment.~~  
295 Students in a blended learning course must be full-time students  
296 of the school and receive the online instruction in a classroom  
297 setting at the school. The funding, performance, and  
298 accountability requirements for blended learning courses are the  
299 same as those for traditional courses.

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

302 1003.57 Exceptional students instruction.—

303 (5) Each full-time virtual instruction program under s.  
304 1002.37 or s. 1002.45 must fulfill the obligations of a school  
305 district under this section for public school exceptional  
306 students who are enrolled in a full-time virtual instruction  
307 program. A student whose individual educational plan indicates  
308 that full-time virtual instruction is appropriate may be

309 enrolled in a full-time virtual instruction program.

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

312 1006.15 Student standards for participation in  
 313 interscholastic and intrascholastic extracurricular student  
 314 activities; regulation.—

315 (3)

316 (e) A student of the Florida Virtual School full-time  
 317 program may participate in any interscholastic extracurricular  
 318 activity at the public school to which the student would be  
 319 assigned according to district school board attendance area  
 320 policies or which the student could choose to attend, pursuant  
 321 to district or interdistrict controlled open enrollment  
 322 policies, if the student:

323 1. During the period of participation in the  
 324 interscholastic extracurricular activity, meets the requirements  
 325 in paragraph (a).

326 2. Meets any additional requirements as determined by the  
 327 board of trustees of the Florida Virtual School.

328 3. Meets the same residency requirements as other students  
 329 in the school at which he or she participates.

330 4. Meets the same standards of acceptance, behavior, and  
 331 performance that are required of other students in  
 332 extracurricular activities.

333 5. Registers his or her intent to participate in  
 334 interscholastic extracurricular activities with the school  
 335 before the beginning date of the season for the activity in  
 336 which he or she wishes to participate. A Florida Virtual School

HB 7063

2012

337 student must be able to participate in curricular activities if  
338 that is a requirement for an extracurricular activity.

339 (f) A student who transfers from the Florida Virtual  
340 School full-time program to a traditional public school before  
341 or during the first grading period of the school year is  
342 academically eligible to participate in interscholastic  
343 extracurricular activities during the first grading period if  
344 the student has a successful evaluation from the previous school  
345 year pursuant to paragraph (a).

346 (g) A public school or private school student who has been  
347 unable to maintain academic eligibility for participation in  
348 interscholastic extracurricular activities is ineligible to  
349 participate in such activities as a Florida Virtual School  
350 student until the student successfully completes one grading  
351 period in the Florida Virtual School pursuant to paragraph (a).

352 Section 10. Paragraph (c) of subsection (1) of section  
353 1011.61, Florida Statutes, is amended to read:

354 1011.61 Definitions.—Notwithstanding the provisions of s.  
355 1000.21, the following terms are defined as follows for the  
356 purposes of the Florida Education Finance Program:

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

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

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

363 b. A combination of full-time or part-time students in any  
364 one of the programs listed in s. 1011.62(1)(c) which is the

HB 7063

2012

365 equivalent of one full-time student based on the following  
366 calculations:

367 (I) A full-time student in a combination of programs  
368 listed in s. 1011.62(1)(c) shall be a fraction of a full-time  
369 equivalent membership in each special program equal to the  
370 number of net hours per school year for which he or she is a  
371 member, divided by the appropriate number of hours set forth in  
372 subparagraph (a)1. or subparagraph (a)2. The difference between  
373 that fraction or sum of fractions and the maximum value as set  
374 forth in subsection (4) for each full-time student is presumed  
375 to be the balance of the student's time not spent in such  
376 special education programs and shall be recorded as time in the  
377 appropriate basic program.

378 (II) A prekindergarten ~~handicapped~~ student with a  
379 disability shall meet the requirements specified for  
380 kindergarten students.

381 (III) A full-time equivalent student for students in  
382 kindergarten through grade 12 ~~5~~ in a full-time virtual  
383 instruction program under s. 1002.45 or a virtual charter school  
384 under s. 1002.33 shall consist of six full credit completions in  
385 programs listed in s. 1011.62(1)(c) ~~a student who has~~  
386 ~~successfully completed a basic program listed in s.~~  
387 ~~1011.62(1)(c)1.a. or b., and who is promoted to a higher grade~~  
388 ~~level.~~ Credit completions may be a combination of full-credit  
389 courses or half-credit courses. Beginning in the 2014-2015  
390 fiscal year, when s. 1008.22(3)(g) is implemented, the reported  
391 full-time equivalent students and associated funding of students  
392 enrolled in courses requiring passage of an end-of-course

HB 7063

2012

393 assessment shall be adjusted after the student completes the  
394 end-of-course assessment.

395 (IV) A full-time equivalent student for students in  
396 kindergarten ~~grades 6~~ through grade 12 in a part-time virtual  
397 instruction program under s. 1002.45 ~~1002.45(1)(b)1., 2., or 3.~~  
398 ~~or a virtual charter school under s. 1002.33~~ shall consist of  
399 six full credit completions in programs listed in s.  
400 1011.62(1)(c)1. and 3. ~~1011.62(1)(e)1.b. or c. and 3.~~ Credit  
401 completions may be a combination of full-credit courses or half-  
402 credit courses. Beginning in the 2014-2015 fiscal year, when s.  
403 1008.22(3)(g) is implemented, the reported full-time equivalent  
404 students and associated funding of students enrolled in courses  
405 requiring passage of an end-of-course assessment shall be  
406 adjusted after the student completes the end-of-course  
407 assessment.

408 (V) A Florida Virtual School full-time equivalent student  
409 shall consist of six full credit completions or the prescribed  
410 level of content that counts toward promotion to the next grade  
411 in the programs listed in s. 1011.62(1)(c)1. and 3.  
412 ~~1011.62(1)(e)1.a. and b.~~ for students participating in  
413 kindergarten through grade 12 part-time virtual instruction &  
414 and the programs listed in s. 1011.62(1)(c) ~~1011.62(1)(e)1.e.~~  
415 for students participating in kindergarten through grade 12  
416 full-time virtual instruction ~~grades 9 through 12~~. Credit  
417 completions may be a combination of full-credit courses or half-  
418 credit courses. Beginning in the 2014-2015 fiscal year, when s.  
419 1008.22(3)(g) is implemented, the reported full-time equivalent  
420 students and associated funding of students enrolled in courses

HB 7063

2012

421 requiring passage of an end-of-course assessment shall be  
422 adjusted after the student completes the end-of-course  
423 assessment.

424 (VI) Each successfully completed full-credit course earned  
425 through an online course delivered by a district other than the  
426 one in which the student resides shall be calculated as 1/6 FTE.

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

432 2. A student in membership in a program scheduled for more  
433 or less than 180 school days or the equivalent on an hourly  
434 basis as specified by rules of the State Board of Education is a  
435 fraction of a full-time equivalent membership equal to the  
436 number of instructional hours in membership divided by the  
437 appropriate number of hours set forth in subparagraph (a)1.;  
438 however, for the purposes of this subparagraph, membership in  
439 programs scheduled for more than 180 days is limited to students  
440 enrolled in juvenile justice education programs and the Florida  
441 Virtual School.

442  
443 The department shall determine and implement an equitable method  
444 of equivalent funding for experimental schools and for schools  
445 operating under emergency conditions, which schools have been  
446 approved by the department to operate for less than the minimum  
447 school day.

448 Section 11. Paragraphs (e) and (g) of subsection (1) and

HB 7063

2012

449 subsection (11) of section 1011.62, Florida Statutes, are  
450 amended to read:

451 1011.62 Funds for operation of schools.—If the annual  
452 allocation from the Florida Education Finance Program to each  
453 district for operation of schools is not determined in the  
454 annual appropriations act or the substantive bill implementing  
455 the annual appropriations act, it shall be determined as  
456 follows:

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

461 (e) Funding model for exceptional student education  
462 programs.—

463 1.a. The funding model uses basic, at-risk, support levels  
464 IV and V for exceptional students and career Florida Education  
465 Finance Program cost factors, and a guaranteed allocation for  
466 exceptional student education programs. Exceptional education  
467 cost factors are determined by using a matrix of services to  
468 document the services that each exceptional student will  
469 receive. The nature and intensity of the services indicated on  
470 the matrix shall be consistent with the services described in  
471 each exceptional student's individual educational plan. The  
472 Department of Education shall review and revise the descriptions  
473 of the services and supports included in the matrix of services  
474 for exceptional students and shall implement those revisions  
475 before the beginning of the 2012-2013 school year.

476 b. In order to generate funds using one of the two

HB 7063

2012

477 weighted cost factors, a matrix of services must be completed at  
478 the time of the student's initial placement into an exceptional  
479 student education program and at least once every 3 years by  
480 personnel who have received approved training. Nothing listed in  
481 the matrix shall be construed as limiting the services a school  
482 district must provide in order to ensure that exceptional  
483 students are provided a free, appropriate public education.

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

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

492 2. For students identified as exceptional who do not have  
493 a matrix of services and students who are gifted in grades K  
494 through 8, there is created a guaranteed allocation to provide  
495 these students with a free appropriate public education, in  
496 accordance with s. 1001.42(4)(1) ~~1001.42(4)(m)~~ and rules of the  
497 State Board of Education, which shall be allocated annually to  
498 each school district in the amount provided in the General  
499 Appropriations Act. These funds shall be in addition to the  
500 funds appropriated on the basis of FTE student membership in the  
501 Florida Education Finance Program, and the amount allocated for  
502 each school district shall not be recalculated during the year.  
503 These funds shall be used to provide special education and  
504 related services for exceptional students and students who are



HB 7063

2012

505 | gifted in grades K through 8. Beginning with the 2007-2008  
506 | fiscal year, a district's expenditure of funds from the  
507 | guaranteed allocation for students in grades 9 through 12 who  
508 | are gifted may not be greater than the amount expended during  
509 | the 2006-2007 fiscal year for gifted students in grades 9  
510 | through 12.

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

516 | 1. The school district or the full-time virtual  
517 | instruction program has a plan approved by the Department of  
518 | Education.

519 | 2. The eligible student is identified and assessed as  
520 | limited English proficient based on assessment criteria.

521 | 3.a. An eligible student may be reported for funding in  
522 | the ESOL program for a base period of 3 years. However, a  
523 | student whose English competency does not meet the criteria for  
524 | proficiency after 3 years in the ESOL program may be reported  
525 | for a fourth, fifth, and sixth year of funding, provided his or  
526 | her limited English proficiency is assessed and properly  
527 | documented prior to his or her enrollment in each additional  
528 | year beyond the 3-year base period.

529 | b. If a student exits the program and is later  
530 | reclassified as limited English proficient, the student may be  
531 | reported in the ESOL program for funding for an additional year,  
532 | or extended annually for a period not to exceed a total of 6

HB 7063

2012

533 years pursuant to this paragraph, based on an annual evaluation  
534 of the student's status.

535 4. An eligible student may be reported for funding in the  
536 ESOL program for membership in ESOL instruction in English and  
537 ESOL instruction or home language instruction in the basic  
538 subject areas of mathematics, science, social studies, and  
539 computer literacy.

540 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may  
541 annually provide in the Florida Education Finance Program a  
542 virtual education contribution. The amount of the virtual  
543 education contribution shall be the difference between the  
544 amount per FTE established in the General Appropriations Act for  
545 virtual education and the amount per FTE for each district and  
546 the Florida Virtual School, which may be calculated by taking  
547 the sum of the base FEFP allocation, the discretionary local  
548 effort, the state-funded discretionary contribution, the  
549 discretionary millage compression supplement, the research-based  
550 reading instruction allocation, and the instructional materials  
551 allocation, and then dividing by the total unweighted FTE. This  
552 difference shall be multiplied by the virtual education  
553 unweighted FTE for programs and options identified in s.  
554 1002.455(3) ~~1002.455(3)(a), (b), and (d)~~ and the Florida Virtual  
555 School and its franchises to equal the virtual education  
556 contribution and shall be included as a separate allocation in  
557 the funding formula.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7063 (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	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations  
2 Subcommittee

3 Representative(s) Stargel offered the following:

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

6 Remove lines 239-250 and insert:

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

9 1002.455 Student eligibility for K-12 virtual  
10 instruction.-

11 (2) A student is eligible to participate in virtual  
12 instruction if:

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

17 (b) The student is a dependent child of a member of the  
18 United States Armed Forces who was transferred within the last

Amendment No. 1

19 12 months to this state from another state or from a foreign  
20 country pursuant to a permanent change of station order;

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

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

28 (e) The student is eligible to enter kindergarten or first  
29 grade; or

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

34 (3) The virtual instruction options for which this  
35 eligibility section applies include:

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

39 (b) Full-time virtual charter school instruction  
40 authorized under s. 1002.33.

41  
42  
43  
44  
45  
46

-----

**T I T L E   A M E N D M E N T**

Remove lines 31-32 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7063 (2012)

Amendment No. 1

47 | eligibility requirements for virtual instruction and virtual  
48 | instruction options; amending s. 1003.428,

49

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7063 (2012)

Amendment No. 2

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 \_\_\_\_\_

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations  
2 Subcommittee

3 Representative Stargel offered the following:

4  
5 **Amendment**

6 Remove lines 381-385 and insert:

7 (III) A full-time equivalent student for students in  
8 kindergarten through grade 12 ~~5~~ in a full-time virtual  
9 instruction program under s. 1002.45 or a virtual charter school  
10 under s. 1002.33 shall consist of six full credit completions or  
11 the prescribed level of content that counts toward promotion to  
12 the next grade in programs listed in s. 1011.62(1)(c) a student  
13 ~~who has~~  
14