



Education Committee

Tuesday, April 9, 2013

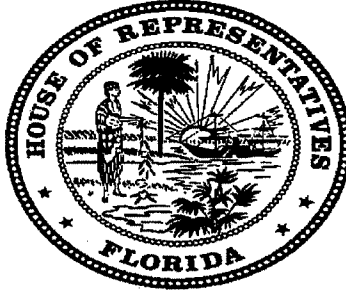
10:30 AM – 1:00 PM

102 HOB

Meeting Packet

Will Weatherford
Speaker

H. Marlene O'Toole
Chair



AGENDA

Education Committee
Tuesday, April 9, 2013
10:30 AM– 1:00 PM
102 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following proposed committee bill:
 - PCB EDC 13-02 Early Learning
- IV. Consideration of the following proposed committee substitute:
 - PCS for CS/HB 127 Meetings of District School Boards
- V. Consideration of the following bill(s):
 - CS/HB 369 School Emergencies by Local & Federal Affairs Committee, La Rosa
 - CS/CS/HB 465 Exceptional Student Education by Education Appropriations Subcommittee, Choice & Innovation Subcommittee, Brodeur, Diaz, M.
 - CS/CS/HB 637 Public Records & Public Meetings/Postsecondary Education Executive Search by Government Operations Subcommittee, Higher Education & Workforce Subcommittee, Tobia
 - CS/HB 657 Powers and Duties of District School Boards by K-12 Subcommittee, Metz
 - CS/HB 801 Certified School Counselors by Education Appropriations Subcommittee, Eagle
 - CS/CS/HB 803 Literacy Jump Start Pilot Project by Education Appropriations Subcommittee, Choice & Innovation Subcommittee, Lee
 - CS/HB 859 Extracurricular Activities by Choice & Innovation Subcommittee, Hutson, Saunders
 - CS/HB 1279 High School Athletics by Education Appropriations Subcommittee, Metz
- VI. Closing Remarks and Adjournment

1 A bill to be entitled
2 An act relating to early learning; creating s.
3 1001.213, F.S.; creating the Office of Early Learning
4 in the Department of Education; providing duties
5 relating to the establishment and operation of school
6 readiness programs and the Voluntary Prekindergarten
7 Education Program; amending s. 1002.51, F.S.;
8 conforming a cross-reference; amending s. 1002.53,
9 F.S.; clarifying Voluntary Prekindergarten Education
10 Program student enrollment provisions; amending s.
11 1002.55, F.S.; revising requirements for private
12 prekindergarten providers and instructors; providing
13 duties of the office; amending s. 1002.57, F.S.;
14 requiring the office to adopt standards for a
15 prekindergarten director credential; amending s.
16 1002.59, F.S.; requiring the office to adopt standards
17 for training courses on child performance standards;
18 amending s. 1002.61, F.S.; providing a requirement for
19 a public school delivering the summer prekindergarten
20 program; amending s. 1002.63, F.S.; providing a
21 requirement for a public school delivering the school-
22 year prekindergarten program; amending s. 1002.66,
23 F.S.; deleting obsolete provisions; amending s.
24 1002.67, F.S.; requiring the office to adopt
25 performance standards for students in the Voluntary
26 Prekindergarten Education Program and approve
27 curricula; revising provisions relating to removal of
28 provider eligibility, submission of an improvement

29 plan, and required corrective actions; amending s.
 30 1002.69, F.S.; providing duties of the office relating
 31 to statewide kindergarten screening, kindergarten
 32 readiness rates, and good cause exemptions for
 33 providers; amending s. 1002.71, F.S.; revising
 34 provisions relating to payment of funds to providers;
 35 amending s. 1002.72, F.S.; providing for the release
 36 of Voluntary Prekindergarten Education Program student
 37 records for the purpose of investigations; amending s.
 38 1002.75, F.S.; revising duties of the office for
 39 administering the Voluntary Prekindergarten Education
 40 Program; amending s. 1002.77, F.S.; revising
 41 provisions relating to the Florida Early Learning
 42 Advisory Council; amending s. 1002.79, F.S.; deleting
 43 certain State Board of Education rulemaking authority
 44 for the Voluntary Prekindergarten Education Program;
 45 creating part VI of ch. 1002, F.S., consisting of ss.
 46 1002.81-1002.98, relating to school readiness
 47 programs; providing definitions; providing powers and
 48 duties of the Office of Early Learning; providing for
 49 early learning coalitions; providing early learning
 50 coalition powers and duties for the school readiness
 51 program; providing requirements for early learning
 52 coalition plans; providing school readiness program
 53 student eligibility and enrollment requirements;
 54 providing school readiness provider standards and
 55 eligibility to deliver the school readiness program;
 56 providing school readiness program funding; providing

57 a market rate schedule; providing for investigation of
 58 fraud or overpayment and penalties therefor; providing
 59 for child care and early childhood resource and
 60 referral; providing for school readiness
 61 transportation services; providing for the Child Care
 62 Executive Partnership Program; providing for the
 63 Teacher Education and Compensation Helps scholarship
 64 program; providing for Early Head Start collaboration
 65 grants; providing requirements relating to infants and
 66 toddlers in state-funded education and care programs;
 67 providing for the confidentiality of records of
 68 children in school readiness programs; amending s.
 69 11.45, F.S.; conforming a cross-reference; amending s.
 70 20.15, F.S.; conforming provisions; amending s.
 71 196.198, F.S.; revising provisions relating to
 72 educational property tax exemption; amending s.
 73 216.136, F.S.; conforming a cross-reference; amending
 74 s. 402.281, F.S.; revising requirements relating to
 75 receipt of a Gold Seal Quality Care designation;
 76 amending s. 402.302, F.S.; conforming a cross-
 77 reference; amending s. 402.305, F.S.; providing that
 78 certain child care after-school programs may provide
 79 meals through a federal program; amending ss. 445.023,
 80 490.014, and 491.014, F.S.; conforming cross-
 81 references; amending s. 1001.11, F.S.; providing a
 82 duty of the Commissioner of Education relating to
 83 early learning programs; repealing s. 411.01, F.S.,
 84 relating to school readiness programs and early

85 learning coalitions; repealing s. 411.0101, F.S.,
 86 relating to child care and early childhood resource
 87 and referral; repealing s. 411.01013, F.S., relating
 88 to the prevailing market rate schedule; repealing s.
 89 411.01014, F.S., relating to school readiness
 90 transportation services; repealing s. 411.01015, F.S.,
 91 relating to consultation to child care centers and
 92 family day care homes; repealing s. 411.0102, F.S.,
 93 relating to the Child Care Executive Partnership Act;
 94 repealing s. 411.0103, F.S., relating to the Teacher
 95 Education and Compensation Helps scholarship program;
 96 repealing s. 411.0104, relating to Early Head Start
 97 collaboration grants; repealing s. 411.0105, F.S.,
 98 relating to the Early Learning Opportunities Act and
 99 Even Start Family Literacy Programs; repealing s.
 100 411.0106, F.S., relating to infants and toddlers in
 101 state-funded education and care programs; repealing s.
 102 411.011, F.S., relating to records of children in
 103 school readiness programs; authorizing specified
 104 positions for the Office of Early Learning; requiring
 105 the office to develop a reorganization plan for the
 106 office and submit a report to the Governor and the
 107 Legislature; providing an effective date.

108
 109 Be It Enacted by the Legislature of the State of Florida:

110
 111 Section 1. Section 1001.213, Florida Statutes, is created
 112 to read:

113 1001.213 Office of Early Learning.—There is created in the
 114 Department of Education the Office of Early Learning which shall
 115 be administered by an executive director. The office shall be
 116 fully accountable to the Commissioner of Education and shall:

117 (1) Exercise independently all powers, duties, and
 118 functions prescribed by law and shall not be construed as part
 119 of the K-20 education system.

120 (2) Adopt rules for the establishment and operation of
 121 school readiness programs and the Voluntary Prekindergarten
 122 Education Program. The office shall submit the rules to the
 123 State Board of Education for approval or disapproval. If the
 124 state board does not act on a rule within 60 days after
 125 receiving it, the rule shall be filed immediately with the
 126 Department of State.

127 (3) Administer the school readiness program at the state
 128 level for the state's eligible population described in s.
 129 1002.87 and provide guidance to early learning coalitions in the
 130 implementation of the program. The education component of the
 131 school readiness program should be developmentally appropriate
 132 and based on research, involve the parent as the child's first
 133 teacher, serve as a preventive measure for children at risk of
 134 future school failure, and enhance the educational readiness of
 135 eligible children. The school readiness program should be of
 136 assistance to parents in preparing their at-risk children for
 137 educational success, including, as appropriate, health screening
 138 and referral.

139 (4) Administer the requirements of the Voluntary
 140 Prekindergarten Education Program at the state level.

141 (5) Administer the operational requirements of the child
 142 care resource and referral network at the state level.

143 Section 2. Subsection (4) of section 1002.51, Florida
 144 Statutes, is amended to read:

145 1002.51 Definitions.—As used in this part, the term:

146 (4) "Early learning coalition" or "coalition" means an
 147 early learning coalition created under s. 1002.83 ~~411.01~~.

148 Section 3. Paragraph (a) of subsection (4) and paragraph
 149 (b) of subsection (6) of section 1002.53, Florida Statutes, is
 150 amended to read:

151 1002.53 Voluntary Prekindergarten Education Program;
 152 eligibility and enrollment.—

153 (4) (a) Each parent enrolling a child in the Voluntary
 154 Prekindergarten Education Program must complete and submit an
 155 application to the early learning coalition through the single
 156 point of entry established under s. 1002.82 ~~411.01~~.

157 (6) (b) A parent may enroll his or her child with any
 158 public school within the school district which is eligible to
 159 deliver the Voluntary Prekindergarten Education Program under
 160 this part, subject to available space. Each school district may
 161 limit the number of students admitted by any public school for
 162 enrollment in the school-year program; however, the school
 163 district must provide for the admission of every eligible child
 164 within the district whose parent enrolls the child in a summer
 165 prekindergarten program delivered by a public school under s.
 166 1002.61.

167 Section 4. Paragraphs (c) and (g) of subsection (3) of
 168 section 1002.55, Florida Statutes, are amended, paragraph (i) is

169 redesignated as paragraph (k), and new paragraphs (i) and (j)
 170 are added to that subsection, to read:

171 1002.55 School-year prekindergarten program delivered by
 172 private prekindergarten providers.—

173 (3) To be eligible to deliver the prekindergarten program,
 174 a private prekindergarten provider must meet each of the
 175 following requirements:

176 (c) The private prekindergarten provider must have, for
 177 each prekindergarten class of 11 children or fewer, at least one
 178 prekindergarten instructor who meets each of the following
 179 requirements:

180 1. The prekindergarten instructor must hold, at a minimum,
 181 one of the following credentials:

182 a. A child development associate credential issued by the
 183 National Credentialing Program of the Council for Professional
 184 Recognition; or

185 b. A credential approved by the Department of Children and
 186 Families ~~Family Services~~ as being equivalent to or greater than
 187 the credential described in sub-subparagraph a.

188
 189 The Department of Children and Families ~~Family Services~~ may
 190 adopt rules under ss. 120.536(1) and 120.54 which provide
 191 criteria and procedures for approving equivalent credentials
 192 under sub-subparagraph b.

193 2. The prekindergarten instructor must successfully
 194 complete an emergent literacy training course and a training
 195 course on the student performance standards approved by the
 196 office ~~department~~ as meeting or exceeding the minimum standards

197 adopted under s. 1002.59. The requirement for completion of the
 198 standards course shall take effect July 1, 2014, and the course
 199 shall be available online. ~~This subparagraph does not apply to a~~
 200 ~~prekindergarten instructor who successfully completes approved~~
 201 ~~training in early literacy and language development under s.~~
 202 ~~402.305(2)(d)5., s. 402.313(6), or s. 402.3131(5) before the~~
 203 ~~establishment of one or more emergent literacy training courses~~
 204 ~~under s. 1002.59 or April 1, 2005, whichever occurs later.~~

205 (g) ~~Before the beginning of the 2006-2007 school year, The~~
 206 private prekindergarten provider must have a prekindergarten
 207 director who has a prekindergarten director credential that is
 208 approved by the office department as meeting or exceeding the
 209 minimum standards adopted under s. 1002.57. Successful
 210 completion of a child care facility director credential under s.
 211 402.305(2)(f) before the establishment of the prekindergarten
 212 director credential under s. 1002.57 or July 1, 2006, whichever
 213 occurs later, satisfies the requirement for a prekindergarten
 214 director credential under this paragraph.

215 (i) The private prekindergarten provider must execute the
 216 statewide provider contract prescribed under s. 1002.75, except
 217 that an individual who owns or operates multiple private
 218 prekindergarten providers within a coalition's service area may
 219 execute a single agreement with the coalition on behalf of each
 220 provider.

221 (j) The private prekindergarten provider must maintain
 222 liability insurance coverage and the necessary business
 223 requirements to legally operate a business in the state,
 224 including any required worker's compensation insurance under

225 chapter 440 and unemployment compensation insurance under
 226 chapter 443.

227 Section 5. Subsection (1) of section 1002.57, Florida
 228 Statutes, is amended to read:

229 1002.57 Prekindergarten director credential.—

230 (1) ~~By July 1, 2006,~~ The office, in consultation with the
 231 Department of Children and Families, ~~department~~ shall adopt
 232 minimum standards for a credential for prekindergarten directors
 233 of private prekindergarten providers delivering the Voluntary
 234 Prekindergarten Education Program. The credential must encompass
 235 requirements for education and onsite experience.

236 Section 6. Section 1002.59, Florida Statutes, is amended
 237 to read:

238 1002.59 Emergent literacy and performance standards
 239 training courses.—

240 (1) ~~By April 1, 2005,~~ The office ~~department~~ shall adopt
 241 minimum standards for one or more training courses in emergent
 242 literacy for prekindergarten instructors. Each course must
 243 comprise 5 clock hours and provide instruction in strategies and
 244 techniques to address the age-appropriate progress of
 245 prekindergarten students in developing emergent literacy skills,
 246 including oral communication, knowledge of print and letters,
 247 phonemic and phonological awareness, and vocabulary and
 248 comprehension development. Each course must also provide
 249 resources containing strategies that allow students with
 250 disabilities and other special needs to derive maximum benefit
 251 from the Voluntary Prekindergarten Education Program. Successful
 252 completion of an emergent literacy training course approved

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253 under this section satisfies requirements for approved training
 254 in early literacy and language development under ss.
 255 402.305(2)(d)5., 402.313(6), and 402.3131(5).

256 (2) The office shall adopt minimum standards for one or
 257 more training courses on the student performance standards
 258 adopted under s. 1002.67(1). Each course must comprise at least
 259 3 clock hours, provide instruction in strategies and techniques
 260 to address age-appropriate progress of each child in attaining
 261 the standards, and be available online.

262 Section 7. Subsections (3), (4), and (8) of section
 263 1002.61, Florida Statutes, are amended to read:

264 1002.61 Summer prekindergarten program delivered by public
 265 schools and private prekindergarten providers.—

266 (3)(a) Each district school board shall determine which
 267 public schools in the school district are eligible to deliver
 268 the summer prekindergarten program. The school district shall
 269 use educational facilities available in the public schools
 270 during the summer term for the summer prekindergarten program.

271 (b) Each public school delivering the summer
 272 prekindergarten program must execute the statewide provider
 273 contract prescribed under s. 1002.75, except that the school
 274 district may execute a single agreement with the early learning
 275 coalition on behalf of all district schools.

276 (c)~~(b)~~ Except as provided in this section, to be eligible
 277 to deliver the summer prekindergarten program, a private
 278 prekindergarten provider must meet each requirement in s.
 279 1002.55.

280 (4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),

281 each public school and private prekindergarten provider must
 282 have, for each prekindergarten class, at least one
 283 prekindergarten instructor who+

284 ~~(a)~~ is a certified teacher, or
 285 ~~(b)~~ holds one of the educational credentials specified in
 286 s. 1002.55(4)(a) or (b). As used in this subsection, the term
 287 "certified teacher" means a teacher holding a valid Florida
 288 educator certificate under s. 1012.56 who has the qualifications
 289 required by the district school board to instruct students in
 290 the summer prekindergarten program. In selecting instructional
 291 staff for the summer prekindergarten program, each school
 292 district shall give priority to teachers who have experience or
 293 coursework in early childhood education.

294 (8) Each public school delivering the summer
 295 prekindergarten program must also+

296 ~~(a)~~ register with the early learning coalition on forms
 297 prescribed by the Office of Early Learning, and

298 ~~(b)~~ deliver the Voluntary Prekindergarten Education
 299 Program in accordance with this part.

300 Section 8. Subsections (3) and (8) of section 1002.63,
 301 Florida Statutes, are amended to read:

302 1002.63 School-year prekindergarten program delivered by
 303 public schools.—

304 (3) (a) The district school board of each school district
 305 shall determine which public schools in the district may deliver
 306 the prekindergarten program during the school year.

307 (b) Each public school delivering the school-year
 308 prekindergarten program must execute the statewide provider

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309 contract prescribed under s. 1002.75, except that the school
 310 district may execute a single agreement with the early learning
 311 coalition on behalf of all district schools.

312 (8) Each public school delivering the school-year
 313 prekindergarten program must:

314 ~~(a)~~ register with the early learning coalition on forms
 315 prescribed by the Office of Early Learning, and

316 ~~(b)~~ deliver the Voluntary Prekindergarten Education
 317 Program in accordance with this part.

318 Section 9. Subsection (1) of section 1002.66, Florida
 319 Statutes, is amended to read:

320 1002.66 Specialized instructional services for children
 321 with disabilities.—

322 (1) ~~Beginning with the 2012-2013 school year,~~ A child who
 323 has a disability and enrolls with the early learning coalition
 324 under s. 1002.53(3)(d) is eligible for specialized instructional
 325 services if:

326 (a) The child is eligible for the Voluntary
 327 Prekindergarten Education Program under s. 1002.53; and

328 (b) A current individual educational plan has been
 329 developed for the child by the local school board in accordance
 330 with rules of the State Board of Education.

331 Section 10. Subsection (1), paragraph (c) of subsection
 332 (2), and subsection (4) of section 1002.67, Florida Statutes,
 333 are amended to read:

334 1002.67 Performance standards; curricula and
 335 accountability.—

336 (1)(a) The office ~~department~~ shall develop and adopt

337 performance standards for students in the Voluntary
 338 Prekindergarten Education Program. The performance standards
 339 must address the age-appropriate progress of students in the
 340 development of:

- 341 1. The capabilities, capacities, and skills required under
- 342 s. 1(b), Art. IX of the State Constitution; and
- 343 2. Emergent literacy skills, including oral communication,
- 344 knowledge of print and letters, phonemic and phonological
- 345 awareness, and vocabulary and comprehension development.
- 346

347 By October 1, 2013, the office shall examine the existing
 348 student performance standards in the area of mathematical
 349 thinking and develop a plan to make appropriate professional
 350 development and training courses available to Voluntary
 351 Prekindergarten Education Program instructors.

352 (b) The office ~~State Board of Education~~ shall periodically
 353 review and revise the performance standards for the statewide
 354 kindergarten screening administered under s. 1002.69 and align
 355 the standards to the standards established by the state board
 356 for student performance on the statewide assessments
 357 administered pursuant to s. 1008.22.

358 (2)

359 (c) The office ~~department~~ shall review and approve
 360 curricula for use by private prekindergarten providers and
 361 public schools that are placed on probation under paragraph
 362 (4)(c). The office ~~department~~ shall maintain a list of the
 363 curricula approved under this paragraph. Each approved
 364 curriculum must meet the requirements of paragraph (b).

365 (4) (a) Each early learning coalition shall verify that
 366 each private prekindergarten provider delivering the Voluntary
 367 Prekindergarten Education Program within the coalition's county
 368 or multicounty region complies with this part. Each district
 369 school board shall verify that each public school delivering the
 370 program within the school district complies with this part.

371 (b) If a private prekindergarten provider or public school
 372 fails or refuses to comply with this part, or if a provider or
 373 school engages in misconduct, the office of ~~Early Learning~~ shall
 374 require the early learning coalition to remove the provider, and
 375 ~~the Department of Education shall~~ require the school district to
 376 remove the school from eligibility to deliver the Voluntary
 377 Prekindergarten Education Program and receive state funds under
 378 this part for a period of 5 years.

379 (c)1. If the kindergarten readiness rate of a private
 380 prekindergarten provider or public school falls below the
 381 minimum rate adopted by the office ~~State Board of Education~~ as
 382 satisfactory under s. 1002.69(6), the early learning coalition
 383 or school district, as applicable, shall require the provider or
 384 school to submit an improvement plan for approval by the
 385 coalition or school district, as applicable, and to implement
 386 the plan; -

387 ~~2. If a private prekindergarten provider or public school~~
 388 ~~fails to meet the minimum rate adopted by the State Board of~~
 389 ~~Education as satisfactory under s. 1002.69(6), the early~~
 390 ~~learning coalition or school district, as applicable, shall~~
 391 place the provider or school on probation; and shall ~~must~~
 392 require the provider or school to take certain corrective

393 | actions, including the use of a curriculum approved by the
 394 | office department under paragraph (2)(c) or a staff development
 395 | plan to strengthen instruction in language development and
 396 | phonological awareness approved by the office department.

397 | 2.3- A private prekindergarten provider or public school
 398 | that is placed on probation must continue the corrective actions
 399 | required under subparagraph 1. 2-, including the use of a
 400 | curriculum or a staff development plan to strengthen instruction
 401 | in language development and phonological awareness approved by
 402 | the office department, until the provider or school meets the
 403 | minimum rate adopted by the State Board of Education as
 404 | satisfactory under s. 1002.69(6). Failure to implement an
 405 | approved improvement plan or staff development plan shall result
 406 | in the termination of the provider's contract to deliver the
 407 | Voluntary Prekindergarten Education Program for a period of 5
 408 | years.

409 | 3.4- If a private prekindergarten provider or public
 410 | school remains on probation for 2 consecutive years and fails to
 411 | meet the minimum rate adopted by the office State Board of
 412 | Education as satisfactory under s. 1002.69(6) and is not granted
 413 | a good cause exemption by the office department pursuant to s.
 414 | 1002.69(7), the office of Early Learning shall require the early
 415 | learning coalition or the Department of Education shall require
 416 | the school district to remove, as applicable, the provider or
 417 | school from eligibility to deliver the Voluntary Prekindergarten
 418 | Education Program and receive state funds for the program for a
 419 | period of 5 years.

420 | (d) Each early learning coalition and, the office of Early

421 ~~Learning, and the department~~ shall coordinate with the Child
 422 Care Regulation Services Program Office of the Department of
 423 Children and Families Family Services to minimize interagency
 424 duplication of activities for monitoring private prekindergarten
 425 providers for compliance with requirements of the Voluntary
 426 Prekindergarten Education Program under this part, the school
 427 readiness programs under part VI of this chapter s. 411.01, and
 428 the licensing of providers under ss. 402.301-402.319.

429 Section 11. Subsections (2), (5), (6), and (7) of section
 430 1002.69, Florida Statutes, are amended to read:

431 1002.69 Statewide kindergarten screening; kindergarten
 432 readiness rates; state-approved prekindergarten enrollment
 433 screening; good cause exemption.—

434 (2) The statewide kindergarten screening shall provide
 435 objective data concerning each student's readiness for
 436 kindergarten and progress in attaining the performance standards
 437 adopted by the office department under s. 1002.67(1).

438 (5) The office State Board of Education shall adopt
 439 procedures ~~for the department~~ to annually calculate each private
 440 prekindergarten provider's and public school's kindergarten
 441 readiness rate, which must be expressed as the percentage of the
 442 provider's or school's students who are assessed as ready for
 443 kindergarten. The methodology for calculating each provider's
 444 kindergarten readiness rate must include student learning gains
 445 when available and the percentage of students who meet all state
 446 readiness measures. The rates must not include students who are
 447 not administered the statewide kindergarten screening. The state
 448 board shall determine learning gains using a value-added measure

449 based on growth demonstrated by the results of the pre- and
 450 post-assessment from at least 2 successive years of
 451 administration of the pre- and post-assessment.

452 (6) The office ~~State Board of Education~~ shall periodically
 453 adopt a minimum kindergarten readiness rate that, if achieved by
 454 a private prekindergarten provider or public school, would
 455 demonstrate the provider's or school's satisfactory delivery of
 456 the Voluntary Prekindergarten Education Program.

457 (7) (a) Notwithstanding s. 1002.67(4)(c)3. ~~1002.67(4)(e)4.~~,
 458 the office ~~State Board of Education~~, upon the request of a
 459 private prekindergarten provider or public school that remains
 460 on probation for 2 consecutive years or more and subsequently
 461 fails to meet the minimum rate adopted under subsection (6) and
 462 for good cause shown, may grant to the provider or school an
 463 exemption from being determined ineligible to deliver the
 464 Voluntary Prekindergarten Education Program and receive state
 465 funds for the program. Such exemption is valid for 1 year and,
 466 upon the request of the private prekindergarten provider or
 467 public school and for good cause shown, may be renewed.

468 (b) A private prekindergarten provider's or public
 469 school's request for a good cause exemption, or renewal of such
 470 an exemption, must be submitted to the office ~~state board~~ in the
 471 manner and within the timeframes prescribed by the office ~~state~~
 472 ~~board~~ and must include the following:

- 473 1. Submission of data by the private prekindergarten
 474 provider or public school which documents the achievement and
 475 progress of the children served as measured by the state-
 476 approved prekindergarten enrollment screening and the

477 standardized postassessment approved by the office ~~department~~
 478 pursuant to subparagraph (c)1.

479 2. Submission and review of data available from the
 480 respective early learning coalition or district school board,
 481 the Department of Children and Families ~~Family Services~~, local
 482 licensing authority, or an accrediting association, as
 483 applicable, relating to the private prekindergarten provider's
 484 or public school's compliance with state and local health and
 485 safety standards.

486 3. Submission and review of data available to the office
 487 ~~department~~ on the performance of the children served and the
 488 calculation of the private prekindergarten provider's or public
 489 school's kindergarten readiness rate.

490 (c) The office ~~State Board of Education~~ shall adopt
 491 criteria for granting good cause exemptions. Such criteria shall
 492 include, but are not limited to:

493 1. Learning gains of children served in the Voluntary
 494 Prekindergarten Education Program by the private prekindergarten
 495 provider or public school.

496 2. Verification that local and state health and safety
 497 requirements are met.

498 (d) A good cause exemption may not be granted to any
 499 private prekindergarten provider that has any class I violations
 500 or two or more class II violations within the 2 years preceding
 501 the provider's or school's request for the exemption. For
 502 purposes of this paragraph, class I and class II violations have
 503 the same meaning as provided in s. 402.281(4).

504 (e) A private prekindergarten provider or public school

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505 granted a good cause exemption shall continue to implement its
 506 improvement plan and continue the corrective actions required
 507 under s. 1002.67(4)(c)1. ~~1002.67(4)(c)2.~~, including the use of a
 508 curriculum approved by the office ~~department~~, until the provider
 509 or school meets the minimum rate adopted under subsection (6).

510 (f) ~~The State Board of Education shall notify the Office~~
 511 ~~of Early Learning of any good cause exemption granted to a~~
 512 ~~private prekindergarten provider under this subsection.~~ If a
 513 good cause exemption is granted to a private prekindergarten
 514 provider who remains on probation for 2 consecutive years, the
 515 office ~~of Early Learning~~ shall notify the early learning
 516 coalition of the good cause exemption and direct that the
 517 coalition, notwithstanding s. 1002.67(4)(c)3. ~~1002.67(4)(c)4.~~,
 518 not remove the provider from eligibility to deliver the
 519 Voluntary Prekindergarten Education Program or to receive state
 520 funds for the program, if the provider meets all other
 521 applicable requirements of this part.

522 Section 12. Paragraph (d) of subsection (3) and
 523 subsections (5) and (7) of section 1002.71, Florida Statutes,
 524 are amended to read:

525 1002.71 Funding; financial and attendance reporting.-

526 (3)

527 (d) For programs offered by school districts pursuant to
 528 s. 1002.61 ~~and beginning with the 2009 summer program~~, each
 529 district's funding shall be based on a student enrollment that
 530 is evenly divisible by 12. If the result of dividing a
 531 district's student enrollment by 12 is not a whole number, the
 532 district's enrollment calculation shall be adjusted by adding

533 the minimum number of students to produce a student enrollment
 534 calculation that is evenly divisible by 12.

535 (5) (a) Each early learning coalition shall maintain
 536 through the single point of entry established under s. 1002.82
 537 ~~411.01~~ a current database of the students enrolled in the
 538 Voluntary Prekindergarten Education Program for each county
 539 within the coalition's region.

540 (b) The Office of Early Learning shall adopt procedures
 541 for the payment of private prekindergarten providers and public
 542 schools delivering the Voluntary Prekindergarten Education
 543 Program. The procedures shall provide for the advance payment of
 544 providers and schools based upon student enrollment in the
 545 program, the certification of student attendance, and the
 546 reconciliation of advance payments in accordance with the
 547 uniform attendance policy adopted under paragraph (6) (d). The
 548 procedures shall provide for the monthly distribution of funds
 549 by the Office of Early Learning to the early learning coalitions
 550 for payment by the coalitions to private prekindergarten
 551 providers and public schools. ~~The department shall transfer to~~
 552 ~~the Office of Early Learning at least once each quarter the~~
 553 ~~funds available for payment to private prekindergarten providers~~
 554 ~~and public schools in accordance with this paragraph from the~~
 555 ~~funds appropriated for that purpose.~~

556 (7) The Office of Early Learning shall require that
 557 administrative expenditures be kept to the minimum necessary for
 558 efficient and effective administration of the Voluntary
 559 Prekindergarten Education Program. Administrative policies and
 560 procedures shall be revised, to the maximum extent practicable,

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561 to incorporate the use of automation and electronic submission
 562 of forms, including those required for child eligibility and
 563 enrollment, provider and class registration, and monthly
 564 certification of attendance for payment. A school district may
 565 use its automated daily attendance reporting system for the
 566 purpose of transmitting attendance records to the early learning
 567 coalition in a mutually agreed-upon format. In addition, actions
 568 shall be taken to reduce paperwork, eliminate the duplication of
 569 reports, and eliminate other duplicative activities. ~~Beginning~~
 570 ~~with the 2011-2012 fiscal year,~~ Each early learning coalition
 571 may retain and expend no more than 4.0 percent of the funds paid
 572 by the coalition to private prekindergarten providers and public
 573 schools under paragraph (5)(b). Funds retained by an early
 574 learning coalition under this subsection may be used only for
 575 administering the Voluntary Prekindergarten Education Program
 576 and may not be used for the school readiness program or other
 577 programs.

578 Section 13. Paragraph (a) of subsection (3) of section
 579 1002.72, Florida Statutes, is amended to read:

580 1002.72 Records of children in the Voluntary
 581 Prekindergarten Education Program.—

582 (3)(a) Confidential and exempt Voluntary Prekindergarten
 583 Education Program records may be released to:

584 1. The United States Secretary of Education, the United
 585 States Secretary of Health and Human Services, and the
 586 Comptroller General of the United States for the purpose of
 587 federal audits or investigations.

588 2. Individuals or organizations conducting studies for

589 institutions to develop, validate, or administer assessments or
 590 improve instruction.

591 3. Accrediting organizations in order to carry out their
 592 accrediting functions.

593 4. Appropriate parties in connection with an emergency if
 594 the information is necessary to protect the health or safety of
 595 the child or other individuals.

596 5. The Auditor General in connection with his or her
 597 official functions.

598 6. A court of competent jurisdiction in compliance with an
 599 order of that court pursuant to a lawfully issued subpoena.

600 7. Parties to an interagency agreement among early
 601 learning coalitions, local governmental agencies, Voluntary
 602 Prekindergarten Education Program providers, or state agencies
 603 for the purpose of implementing the Voluntary Prekindergarten
 604 Education Program.

605 Section 14. Subsection (1) and paragraphs (a) and (d) of
 606 subsection (2) of section 1002.75, Florida Statutes, are amended
 607 to read:

608 1002.75 Office of Early Learning; powers and duties,
 609 ~~operational requirements.~~

610 (1) The Office of Early Learning shall adopt by rule a
 611 standard statewide provider contract to be used with each
 612 Voluntary Prekindergarten Education Program provider, with
 613 standardized attachments by provider type. The office shall
 614 publish a copy of the standard statewide provider contract on
 615 its website. The standard statewide contract shall include, at a
 616 minimum, provisions for provider probation, termination for

617 cause, and emergency termination for those actions or inactions
 618 of a provider that pose an immediate and serious danger to the
 619 health, safety, or welfare of the children. The standard
 620 statewide contract shall also include appropriate due process
 621 procedures. During the pendency of an appeal of a termination,
 622 the provider may not continue to offer its services. Any
 623 provision imposed upon a provider that is inconsistent with, or
 624 prohibited by, law is void and unenforceable. ~~The Office of~~
 625 ~~Early Learning shall administer the operational requirements of~~
 626 ~~the Voluntary Prekindergarten Education Program at the state~~
 627 ~~level.~~

628 (2) The Office of Early Learning shall adopt procedures
 629 governing the administration of the Voluntary Prekindergarten
 630 Education Program by the early learning coalitions and school
 631 districts for:

632 (a) Enrolling children in and determining the eligibility
 633 of children for the Voluntary Prekindergarten Education Program
 634 under s. 1002.53, which shall include the enrollment of children
 635 by public schools and private providers that meet specified
 636 requirements.

637 (d) Determining the eligibility of private prekindergarten
 638 providers to deliver the program under ss. 1002.55 and 1002.61
 639 and streamlining the process of provider eligibility whenever
 640 possible.

641 Section 15. Subsections (1), (2), and (3) of section
 642 1002.77, Florida Statutes, are amended to read:

643 1002.77 Florida Early Learning Advisory Council.—

644 (1) There is created the Florida Early Learning Advisory

645 Council within the Office of Early Learning. The purpose of the
 646 advisory council is to submit recommendations to the office
 647 ~~department~~ on the early learning policy of this state, including
 648 recommendations relating to administration of the Voluntary
 649 Prekindergarten Education Program under this part and the school
 650 readiness programs under part VI of this chapter s. 411.01. The
 651 advisory council shall periodically analyze and provide
 652 recommendations to the office on the effective and efficient use
 653 of local, state, and federal funds; the content of instructor
 654 training programs; and best practices for the development and
 655 implementation of coalition plans pursuant to s. 1002.85.

656 (2) The advisory council shall be composed of the
 657 following members:

658 (a) The chair of the advisory council who shall be
 659 appointed by and serve at the pleasure of the Governor.

660 (b) The chair of each early learning coalition or the
 661 chair's designee.

662 (c) One member who shall be appointed by and serve at the
 663 pleasure of the President of the Senate.

664 (d) One member who shall be appointed by and serve at the
 665 pleasure of the Speaker of the House of Representatives.

666
 667 The chair of the advisory council appointed by the Governor and
 668 the members appointed by the presiding officers of the
 669 Legislature must each have a background in early learning or be
 670 from the business community.

671 (3) The advisory council shall meet at least quarterly but
 672 may meet as often as necessary to carry out its duties and

673 responsibilities. The advisory council may use any method of
 674 telecommunication to conduct meetings, including establishing a
 675 quorum through telecommunications, only if the public is given
 676 proper notice of a telecommunications meeting and reasonable
 677 access to observe and, when appropriate, participate.

678 Section 16. Section 1002.79, Florida Statutes, is amended
 679 to read:

680 1002.79 Rulemaking authority.—

681 ~~(1) The State Board of Education shall adopt rules under~~
 682 ~~ss. 120.536(1) and 120.54 to administer the provisions of this~~
 683 ~~part conferring duties upon the department.~~

684 ~~(2) The Office of Early Learning shall adopt rules under~~
 685 ~~ss. 120.536(1) and 120.54 to administer the provisions of this~~
 686 ~~part conferring duties upon the office.~~

687 Section 17. Part VI of chapter 1002, Florida Statutes,
 688 consisting of sections 1002.81 through 1002.98, is created to
 689 read:

690 PART VI

691 SCHOOL READINESS PROGRAMS

692 1002.81 Definitions.—Consistent with the requirements of
 693 45 C.F.R. parts 98 and 99 and as used in this part, the term:

694 (1) "At-risk child" means:

695 (a) A child from a family under investigation by the
 696 Department of Children and Families or a designated sheriff's
 697 office for child abuse, neglect, abandonment, or exploitation.

698 (b) A child who is in a diversion program provided by the
 699 Department of Children and Families or its contracted provider
 700 and who is from a family that is actively participating and

701 complying in department-prescribed activities, including
 702 education, health services, or work.

703 (c) A child from a family that is under supervision by the
 704 Department of Children and Families or a contracted service
 705 provider for abuse, neglect, abandonment, or exploitation.

706 (d) A child placed in court-ordered, long-term custody or
 707 under the guardianship of a relative or nonrelative after
 708 termination of supervision by the Department of Children and
 709 Families or its contracted provider.

710 (e) A child in the custody of a parent who is a victim of
 711 domestic violence as verified by a Department of Children and
 712 Families certified domestic violence shelter.

713 (f) A child in the custody of a parent who is considered
 714 homeless as verified by a Department of Children and Families
 715 certified homeless shelter.

716 (2) "Authorized hours of care" means the hours of care
 717 that are necessary to provide protection, maintain employment,
 718 or complete work activities or eligible educational activities,
 719 including reasonable travel time.

720 (3) "Average market rate" means the biennially determined
 721 average of the market rate by program care level and provider
 722 type in a predetermined geographic market.

723 (4) "Direct enhancement services" means services for
 724 families and children that are in addition to payments for the
 725 placement of children in school readiness programs. Direct
 726 enhancement services for families and children may include
 727 supports for providers, parent training and involvement
 728 activities, and strategies to meet the needs of unique

729 populations and local eligibility priorities. Direct enhancement
 730 services offered by an early learning coalition shall be
 731 consistent with the activities prescribed in s. 1002.89(6).

732 (5) "Disenrollment" means the removal either temporary or
 733 permanent, of a child from participation in the school readiness
 734 program. Removal of a child from the school readiness program
 735 may be based on the following events: a reduction in available
 736 school readiness funding, participant's failure to meet
 737 eligibility or program participation requirements, fraud, or a
 738 change in local service priorities or age limits.

739 (6) "Earned income" means gross remuneration derived from
 740 work, professional service, or self-employment. The term
 741 includes commissions, bonuses, back pay awards, and the cash
 742 value of all remuneration paid in a medium other than cash.

743 (7) "Economically disadvantaged" means having a family
 744 income that does not exceed 150 percent of the federal poverty
 745 level and includes being a child of a working migratory family
 746 as defined by 34 C.F.R. 200.81(d) or (f) or an agricultural
 747 worker who is employed by more than one agricultural employer
 748 during the course of a year, and whose income varies according
 749 to weather conditions and market stability.

750 (8) "Family income" means the combined gross income,
 751 whether earned or unearned, that is derived from any source by
 752 all family or household members who are 18 years of age or older
 753 who are currently residing together in the same dwelling unit.
 754 The term does not include income earned by a currently enrolled
 755 high school student who, since attaining the age of 18 years, or
 756 a student with a disability who, since attaining the age of 22

757 years, has not terminated school enrollment or received a high
 758 school diploma, high school equivalency diploma, special
 759 diploma, or certificate of high school completion. The term also
 760 does not include food stamp benefits or federal housing
 761 assistance payments issued directly to a landlord or the
 762 associated utilities expenses.

763 (9) "Family or household members" means spouses, former
 764 spouses, persons related by blood or marriage, persons who are
 765 parents of a child in common regardless of whether they have
 766 been married, and other persons who are currently residing
 767 together in the same dwelling unit as if a family.

768 (10) "Full-time care" means at least 6 hours, but not more
 769 than 11 hours, of child care or early childhood education
 770 services within a 24-hour period.

771 (11) "Market rate" means the price that a child care or
 772 early childhood education provider charges for full-time or
 773 part-time daily, weekly, or monthly child care or early
 774 childhood education services.

775 (12) "Office" means the Office of Early Learning of the
 776 Department of Education.

777 (13) "Part-time care" means less than 6 hours of child
 778 care or early childhood education services within a 24-hour
 779 period.

780 (14) "Single point of entry" means an integrated
 781 information system that allows a parent to enroll his or her
 782 child in the school readiness program or the Voluntary
 783 Prekindergarten Education Program at various locations
 784 throughout a county, that may allow a parent to enroll his or

785 her child by telephone or through a website, and that uses a
 786 uniform waiting list to track eligible children waiting for
 787 enrollment in the school readiness program.

788 (15) "Unearned income" means income other than earned
 789 income. The term includes, but is not limited to:

790 (a) Documented alimony and child support received.

791 (b) Social security benefits.

792 (c) Supplemental security income benefits.

793 (d) Workers' compensation benefits.

794 (e) Unemployment compensation benefits.

795 (f) Veterans' benefits.

796 (g) Retirement benefits.

797 (h) Temporary cash assistance under chapter 414.

798 (i) Military housing assistance under the federal Family
 799 Subsistence Supplemental Allowance Program.

800 (16) "Working family" means:

801 (a) A single-parent family in which the parent with whom
 802 the child resides is employed or engaged in eligible work or
 803 education activities for at least 20 hours per week;

804 (b) A two-parent family in which both parents with whom
 805 the child resides are employed or engaged in eligible work
 806 activity for a combined total of at least 55 hours per week of
 807 which 50 hours per week must be eligible core work activities;

808 or

809 (c) A two-parent family in which one of the parents with
 810 whom the child resides is exempt from work requirements due to
 811 age or disability, as determined and documented by a physician
 812 licensed under chapter 458 or chapter 459, and one parent is

813 engaged in eligible work activity at least 30 hours per week of
 814 which 20 hours per week are eligible core work activities, as
 815 prescribed by rules of the office.

816 1002.82 Office of Early Learning; powers and duties.—

817 (1) For purposes of administration of the Child Care and
 818 Development Block Grant Trust Fund, pursuant to 45 C.F.R. parts
 819 98 and 99, the Office of Early Learning is designated as the
 820 lead agency and must comply with lead agency responsibilities
 821 pursuant to federal law. The office may apply to the Governor
 822 and Cabinet for a waiver of, and the Governor and Cabinet may
 823 waive, any provision of ss. 411.223 and 1003.54 if the waiver is
 824 necessary for implementation of school readiness programs.
 825 Section 125.901(2)(a)3. does not apply to school readiness
 826 programs.

827 (2) The office shall:

828 (a) Focus on improving the educational quality of all
 829 providers participating in the school readiness programs.

830 (b) Preserve parental choice by permitting parents to
 831 choose from a variety of child care categories, including
 832 center-based care, family child care, and informal child care to
 833 the extent authorized in the state's Child Care and Development
 834 Fund Plan as approved by the United States Department of Health
 835 and Human Services pursuant to 45 C.F.R. s. 98.18. Care and
 836 curriculum by a sectarian provider may not be limited or
 837 excluded in any of these categories.

838 (c) Be responsible for the prudent use of all public and
 839 private funds in accordance with all legal and contractual
 840 requirements, safeguarding the effective use of federal, state,

841 and local resources to achieve the highest practicable level of
 842 school readiness for the children described in s. 1002.87,
 843 including:

844 1. The adoption of a uniform chart of accounts for
 845 budgeting and financial reporting purposes that provides
 846 standardized definitions for expenditures and reporting,
 847 consistent with the requirements of 45 C.F.R. part 98 and s.
 848 1002.89 for each of the following categories of expenditure:

- 849 a. Direct services to children.
- 850 b. Administrative costs.
- 851 c. Quality activities.
- 852 d. Nondirect services.

853 2. Coordination with other state and federal agencies to
 854 perform data matches on children participating in school
 855 readiness programs and their families in order to verify the
 856 children's eligibility pursuant to s. 1002.87.

857 (d) Establish procedures for the biennial calculation of
 858 the average market rate.

859 (e) Review each early learning coalition's school
 860 readiness plans every 2 years and provide final approval of the
 861 plan and any amendments submitted.

862 (f) Establish a unified approach to the state's efforts to
 863 coordinate a comprehensive early learning program. In support of
 864 this effort, the office:

865 1. Shall adopt specific program support services that
 866 address the state's school readiness programs, including:

- 867 a. Statewide data information program requirements that
 868 include:

- 869 (I) Eligibility requirements.
 870 (II) Financial reports.
 871 (III) Program accountability measures.
 872 (IV) Child progress reports.
 873 b. Child care resource and referral services.
 874 c. A single point of entry and uniform waiting list.
 875 2. May provide technical assistance and guidance on
 876 additional support services to compliment the school readiness
 877 programs, including:
 878 a. Rating and improvement systems.
 879 b. Warm-Line services.
 880 c. Anti-fraud plans.
 881 c. Child performance standards.
 882 d. Child screening and assessments.
 883 e. Training and support for parental involvement in
 884 children's early education.
 885 f. Family literacy activities and services.
 886 (g) Provide technical assistance to early learning
 887 coalitions.
 888 (h) In cooperation with the early learning coalitions,
 889 coordinate with the Child Care Services Program Office of the
 890 Department of Children and Families to reduce paperwork and to
 891 avoid duplicating interagency activities, health and safety
 892 monitoring, and acquiring and composing data pertaining to child
 893 care training and credentialing.
 894 (i) Develop, in coordination with the Child Care
 895 Regulation Office of the Department of Children and Families,

896 and adopt a health and safety checklist to be completed by
 897 licensed-exempt providers.

898 (j) Develop and adopt child performance standards and
 899 benchmarks that address the age-appropriate progress of children
 900 in the development of school readiness skills. The child
 901 performance standards for children from birth to 4 years of age
 902 in school readiness programs must be aligned with the
 903 performance standards adopted for children in the Voluntary
 904 Prekindergarten Education Program and must address the following
 905 domains:

- 906 1. Approaches to learning.
- 907 2. Cognitive development and general knowledge.
- 908 3. Numeracy, language, and communication.
- 909 4. Physical development.
- 910 5. Self-regulation.

911 (k) Select assessments that are valid, reliable, and
 912 developmentally appropriate for use as preassessment and
 913 postassessment for the age ranges specified in the coalition
 914 plans. The assessments must be designed to measure progress in
 915 the domains of the performance standards adopted pursuant to
 916 paragraph (j), provide appropriate accommodations for children
 917 with disabilities and English language learners, and be
 918 administered by qualified individuals, consistent with the
 919 publisher's instructions.

920 (l) Adopt a list of approved curricula that meet the
 921 performance standards for school readiness programs and
 922 establish a process for the review and approval of a provider's
 923 curriculum that meets the performance standards.

924 (m) Adopt by rule a standard statewide provider contract
 925 to be used with each school readiness provider, with
 926 standardized attachments by provider type. The office shall
 927 publish a copy of the standard statewide provider contract on
 928 its website. The standard statewide contract shall include, at a
 929 minimum, provisions for provider probation, termination for
 930 cause, and emergency termination for those actions or inactions
 931 of a provider that pose an immediate and serious danger to the
 932 health, safety, or welfare of the children. The standard
 933 statewide provider contract shall also include appropriate due
 934 process procedures. During the pendency of an appeal of a
 935 termination, the provider may not continue to offer its
 936 services. Any provision imposed upon a provider that is
 937 inconsistent with, or prohibited by, law is void and
 938 unenforceable.

939 (n) Establish a single statewide information system that
 940 each coalition must use for the purposes of managing the single
 941 point of entry, tracking children's progress, coordinating
 942 services among stakeholders, determining eligibility of
 943 children, tracking child attendance, and streamlining
 944 administrative processes for providers and early learning
 945 coalitions.

946 (o) Adopt by rule standardized procedures for coalitions
 947 to use when monitoring the compliance of school readiness
 948 providers with the terms of the standard statewide provider
 949 contract.

950 (p) Monitor and evaluate the performance of each early
 951 learning coalition in administering the school readiness

952 program, ensuring proper payments for school readiness services,
 953 implementing the coalition's school readiness plan, and
 954 administering the Voluntary Prekindergarten Education Program.
 955 These monitoring and performance evaluations must include, at a
 956 minimum, onsite monitoring of each coalition's finances,
 957 management, operations, and programs.

958 (q) Work in conjunction with the Bureau of Federal
 959 Education Programs within the Department of Education to
 960 coordinate readiness and voluntary prekindergarten services to
 961 the populations served by the bureau.

962 (r) Administer a statewide toll-free Warm-Line to provide
 963 assistance and consultation to child care centers and family day
 964 care homes regarding health, developmental, disability, and
 965 special needs issues of the children they are serving,
 966 particularly children with disabilities and other special needs.
 967 The office shall:

968 1. Annually inform child care centers and family day care
 969 homes of the availability of this service through the child care
 970 resource and referral network under s. 1002.92.

971 2. Expand or contract for the expansion of the Warm-Line
 972 to maintain at least one Warm-Line in each early learning
 973 coalition service area.

974 (s) Administer the requirements of the Voluntary
 975 Prekindergarten Education Program at the state level.

976 (3) If the office determines during the review of school
 977 readiness plans, or through monitoring and performance
 978 evaluations conducted under s. 1002.85, that an early learning
 979 coalition has not substantially implemented its plan, has not

980 substantially met the performance standards and outcome measures
 981 adopted by the office, or has not effectively administered the
 982 school readiness program or Voluntary Prekindergarten Education
 983 Program, the office may temporarily contract with a qualified
 984 entity to continue school readiness and prekindergarten services
 985 in the coalition's county or multicounty region until the office
 986 reestablishes the coalition and a new school readiness plan is
 987 approved in accordance with the rules adopted by the office.

988 (4) The office may request the Governor to apply for a
 989 waiver to allow a coalition to administer the Head Start Program
 990 to accomplish the purposes of the school readiness program.

991 (5) By January 1 of each year, the office shall annually
 992 publish on its website a report of its activities conducted
 993 under this section. The report must include a summary of the
 994 coalitions' annual reports, a statewide summary, and the
 995 following:

996 (a) An analysis of early learning activities throughout
 997 the state, including the school readiness program and the
 998 Voluntary Prekindergarten Education Program.

999 1. The total and average number of children served in the
 1000 school readiness program, enumerated by age, eligibility
 1001 priority category, and coalition, and the total number of
 1002 children served in the Voluntary Prekindergarten Education
 1003 Program.

1004 2. A summary of expenditures by coalition, by fund source,
 1005 including a breakdown by coalition of the percentage of
 1006 expenditures for administrative activities, quality activities,
 1007 nondirect services, and direct services for children.

1008 3. A description of the office's and each coalition's
 1009 expenditures by fund source for the quality activities described
 1010 in s. 1002.89(6)(b).

1011 4. A summary of annual findings and collections related to
 1012 provider fraud and parent fraud.

1013 5. Data regarding the coalitions' delivery of early
 1014 learning programs.

1015 6. The total number of children disenrolled statewide and
 1016 the reason for disenrollment.

1017 7. The total number of providers by provider type.

1018 8. The total number of provider contracts revoked and the
 1019 reasons for revocation.

1020 (b) A summary of the activities and detailed expenditures
 1021 related to the Child Care Executive Partnership Program.

1022 (6) Administrative staff shall be kept to the minimum
 1023 necessary to administer the duties of the office.

1024 (7)(a) Parental choice of child care providers, including
 1025 private and faith-based providers, shall be established to the
 1026 maximum extent practicable in accordance with 45 C.F.R. s.
 1027 98.30.

1028 (b) As used in this subsection, the term "payment
 1029 certificate" means a child care certificate as defined in 45
 1030 C.F.R. s. 98.2.

1031 (c) The school readiness program shall, in accordance with
 1032 45 C.F.R. s. 98.30, provide parental choice through a payment
 1033 certificate that provides, to the maximum extent possible,
 1034 flexibility in the school readiness program and payment
 1035 arrangements. The payment certificate must bear the names of the

1036 beneficiary and the program provider and, when redeemed, must
 1037 bear the signatures of both the beneficiary and an authorized
 1038 representative of the provider.

1039 (d) If it is determined that a provider has given any cash
 1040 or other consideration to the beneficiary in return for
 1041 receiving a payment certificate, the early learning coalition or
 1042 its fiscal agent shall refer the matter to the Department of
 1043 Financial Services pursuant to s. 414.411 for investigation.

1044 (8) Participation in the school readiness program does not
 1045 expand the regulatory authority of the state, its officers, or
 1046 an early learning coalition to impose any additional regulation
 1047 on providers beyond those necessary to enforce the requirements
 1048 set forth in this part.

1049 1002.83 Early learning coalitions.-

1050 (1) Thirty-one or fewer early learning coalitions are
 1051 established and shall maintain direct enhancement services at
 1052 the local level and provide access to such services in all 67
 1053 counties. Two or more early learning coalitions may join for
 1054 purposes of planning and implementing a school readiness program
 1055 and the Voluntary Prekindergarten Education Program.

1056 (2) Each early learning coalition shall be composed of at
 1057 least 15 members but not more than 30 members.

1058 (3) The Governor shall appoint the chair and two other
 1059 members of each early learning coalition, who must each meet the
 1060 same qualifications as private sector business members appointed
 1061 by the coalition under subsection (5).

1062 (4) Each early learning coalition must include the
 1063 following member positions; however, in a multicounty coalition,

1064 each ex officio member position may be filled by multiple
 1065 nonvoting members but no more than one voting member shall be
 1066 seated per member position. If an early learning coalition has
 1067 more than one member representing the same entity, only one of
 1068 such members may serve as a voting member:

1069 (a) A Department of Children and Families regional
 1070 administrator or his or her designee who is authorized to make
 1071 decisions on behalf of the department.

1072 (b) A district superintendent of schools or his or her
 1073 designee who is authorized to make decisions on behalf of the
 1074 district.

1075 (c) A regional workforce board executive director or his
 1076 or her designee.

1077 (d) A county health department director or his or her
 1078 designee.

1079 (e) A children's services council or juvenile welfare
 1080 board chair or executive director, if applicable.

1081 (f) An agency head of a local licensing agency as defined
 1082 in s. 402.302, where applicable.

1083 (g) A president of a Florida College System institution or
 1084 his or her designee.

1085 (h) One member appointed by a board of county
 1086 commissioners or the governing board of a municipality.

1087 (i) A Head Start director.

1088 (j) A representative of private for-profit child care
 1089 providers, including private for-profit family day care homes.

1090 (k) A representative of faith-based child care providers.

1091 (1) A representative of programs for children with
 1092 disabilities under the federal Individuals with Disabilities
 1093 Education Act.

1094 (5) Including the members appointed by the Governor under
 1095 subsection (3), more than one-third of the members of each early
 1096 learning coalition must be private sector business members,
 1097 either for-profit or nonprofit, who do not have, and none of
 1098 whose relatives as defined in s. 112.3143 has, a substantial
 1099 financial interest in the design or delivery of the Voluntary
 1100 Prekindergarten Education Program created under part V of this
 1101 chapter or the coalition's school readiness program. To meet
 1102 this requirement an early learning coalition must appoint
 1103 additional members. The office shall establish criteria for
 1104 appointing private sector business members. These criteria must
 1105 include standards for determining whether a member or relative
 1106 has a substantial financial interest in the design or delivery
 1107 of the Voluntary Prekindergarten Education Program or the
 1108 coalition's school readiness program.

1109 (6) A majority of the voting membership of an early
 1110 learning coalition constitutes a quorum required to conduct the
 1111 business of the coalition. An early learning coalition may use
 1112 any method of telecommunications to conduct meetings, including
 1113 establishing a quorum through telecommunications, provided that
 1114 the public is given proper notice of a telecommunications
 1115 meeting and reasonable access to observe and, when appropriate,
 1116 participate.

1117 (7) A voting member of an early learning coalition may not
 1118 appoint a designee to act in his or her place, except as

1119 otherwise provided in this subsection. A voting member may send
 1120 a representative to coalition meetings but that representative
 1121 does not have voting privileges. When a regional administrator
 1122 for the Department of Children and Families appoints a designee
 1123 to an early learning coalition, the designee is the voting
 1124 member of the coalition, and any individual attending in the
 1125 designee's place, including the district administrator, does not
 1126 have voting privileges.

1127 (8) Each member of an early learning coalition is subject
 1128 to ss. 112.313, 112.3135, and 112.3143. For purposes of s.
 1129 112.3143(3)(a), each voting member is a local public officer who
 1130 must abstain from voting when a voting conflict exists.

1131 (9) For purposes of tort liability, each member or
 1132 employee of an early learning coalition shall be governed by s.
 1133 768.28.

1134 (10) An early learning coalition serving a multicounty
 1135 region must include representation from each county.

1136 (11) Each early learning coalition shall establish terms
 1137 for all appointed members of the coalition. The terms must be
 1138 staggered and must be a uniform length that does not exceed 4
 1139 years per term. Coalition chairs shall be appointed for 4 years
 1140 in conjunction with their membership on the Early Learning
 1141 Advisory Council pursuant to s. 20.052. Appointed members may
 1142 serve a maximum of two consecutive terms. When a vacancy occurs
 1143 in an appointed position, the coalition must advertise the
 1144 vacancy.

1145 (12) State, federal, and local matching funds provided to
 1146 the early learning coalitions may not be used directly or

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1147 indirectly to pay for meals, food, or beverages for coalition
 1148 members, coalition employees, or for subcontractor employees.
 1149 Preapproved, reasonable, and necessary per diem allowances and
 1150 travel expenses may be reimbursed. Such reimbursement shall be
 1151 at the standard travel reimbursement rates established in s.
 1152 112.061 and must comply with applicable federal and state
 1153 requirements.

1154 (13) Each early learning coalition shall use a coordinated
 1155 professional development system that supports the achievement
 1156 and maintenance of core competencies by school readiness
 1157 teachers in helping children attain the performance standards
 1158 adopted by the office.

1159 (14) Each school district shall, upon request of the
 1160 coalition, make a list of all individuals currently eligible to
 1161 act as a substitute teacher within the school district, pursuant
 1162 to rules adopted by the school district pursuant to s. 1012.35,
 1163 available to an early learning coalition serving students within
 1164 the school district. Child care facilities as defined in s.
 1165 402.302 may employ individuals listed as substitute instructors
 1166 for the purpose of offering the school readiness program, the
 1167 Voluntary Prekindergarten Education Program, and all other
 1168 legally operating child care programs.

1169 1002.84 Early learning coalitions; school readiness powers
 1170 and duties.—Each early learning coalition shall:

1171 (1) Administer and implement a local comprehensive program
 1172 of school readiness services in accordance with this part and
 1173 the rules adopted by the office, which enhances the cognitive,
 1174 social, and physical development of children to achieve the

1175 performance standards.

1176 (2) Establish a uniform waiting list to track eligible
 1177 children waiting for enrollment in the school readiness program
 1178 in accordance with rules adopted by the office.

1179 (3) Establish a resource and referral network operating
 1180 under 1002.92 to assist parents in making an informed choice and
 1181 provide maximum parental choice of providers, and to provide
 1182 information on available community resources.

1183 (4) Establish a regional Warm-Line as directed by the
 1184 office pursuant to s. 1002.82(2)(r). Regional Warm-Line staff
 1185 shall provide onsite technical assistance, when requested, to
 1186 assist child care centers and family day care homes with
 1187 inquiries relating to the strategies, curriculum, and
 1188 environmental adaptations the child care centers and family day
 1189 care homes may need as they serve children with disabilities and
 1190 other special needs.

1191 (5) Establish an age-appropriate screening, for children
 1192 ages birth to 5 years, of each child's development and an
 1193 appropriate referral process for children with identified
 1194 delays. Such screening shall not be a requirement of entry into
 1195 school readiness programs and shall be only given with parental
 1196 consent.

1197 (6) Implement an age-appropriate preassessment and
 1198 postassessment of children as specified in the coalition's plan.

1199 (7) Determine child eligibility pursuant to s. 1002.87 and
 1200 provider eligibility pursuant to s. 1002.88. At a minimum, child
 1201 eligibility must be redetermined annually. Redetermination must
 1202 also be conducted biannually for an additional 50 percent of a

1203 coalition's enrollment through a statistically valid random
 1204 sampling. A coalition must document the reason why a child is no
 1205 longer eligible for the school readiness program according to
 1206 the standard codes prescribed by the office.

1207 (8) Establish a parent sliding fee scale that requires a
 1208 parent copayment to participate in the school readiness program.
 1209 Providers are required to collect the parent's copayment. A
 1210 coalition may, on a case-by-case basis, waive the copayment for
 1211 an at-risk child or temporarily waive the copayment for a child
 1212 whose family experiences a natural disaster or an event that
 1213 limits the parent's ability to pay, such as incarceration,
 1214 placement in residential treatment, or becoming homeless, or an
 1215 emergency situation such as a household fire or burglary, or
 1216 while the parent is participating in parenting classes. A parent
 1217 may not transfer school readiness services to another school
 1218 readiness provider until the parent has submitted documentation
 1219 from the current school readiness provider to the early learning
 1220 coalition stating that the parent has satisfactorily fulfilled
 1221 the copayment obligation.

1222 (9) Establish proper maintenance of records related to
 1223 eligibility and enrollment files, provider payments, coalition
 1224 staff background screenings, and other documents required for
 1225 the implementation of the school readiness program.

1226 (10) Establish a records retention requirement for sign-in
 1227 and sign-out records that is consistent with state and federal
 1228 law. Attendance records shall not be altered or amended after
 1229 December 31 of the subsequent year.

1230 (11) Follow the requirements established by the Chief

1231 Financial Officer for the recording of property and for the
 1232 periodic review of property for inventory purposes.

1233 (12) Comply with federal procurement requirements and the
 1234 procurement requirements of ss. 215.971, 287.057, and 287.058,
 1235 except that an early learning coalition is not required to
 1236 competitively procure direct services for school readiness and
 1237 Voluntary Prekindergarten Education Program providers.

1238 (13) Establish proper information technology security
 1239 controls, including, but not limited to, periodically reviewing
 1240 the appropriateness of access privileges assigned to users of
 1241 certain systems; monitoring system hardware performance and
 1242 capacity-related issues; and ensuring appropriate backup
 1243 procedures and disaster recovery plans are in place.

1244 (14) Develop written policies, procedures, and standards
 1245 for monitoring vendor contracts, including, but not limited to,
 1246 provisions specifying the particular procedures that may be used
 1247 to evaluate contractor performance and the documentation that is
 1248 to be maintained to serve as a record of contractor performance.
 1249 This subsection does not apply to contracts with school
 1250 readiness providers or Voluntary Prekindergarten Education
 1251 Program providers.

1252 (15) Monitor school readiness providers on an annual
 1253 basis, or in response to a parental complaint, to determine that
 1254 the standards prescribed in ss. 1002.82 and 1002.88 are met
 1255 using a standard monitoring tool adopted by the office.
 1256 Providers determined to be high-risk by the coalition, as
 1257 demonstrated by substantial findings of violations of federal
 1258 law or the general or local laws of the state, shall be

1259 monitored more frequently. Providers with 3 consecutive years of
 1260 compliance may be monitored biennially.

1261 (16) Adopt a payment schedule that encompasses all
 1262 programs funded under this part. The payment schedule must take
 1263 into consideration the average market rate, include the
 1264 projected number of children to be served, and be submitted for
 1265 approval by the office. Informal child care arrangements shall
 1266 be reimbursed at not more than 50 percent of the rate adopted
 1267 for a family day care home.

1268 (17) Implement an anti-fraud plan addressing the
 1269 detection, reporting, and prevention of overpayments, abuse, and
 1270 fraud relating to the provision of and payment for school
 1271 readiness and Voluntary Prekindergarten Education Program
 1272 services and submit the plan to the office for approval, as
 1273 required by s. 1002:91.

1274 (18) By October 1 of each year, submit an annual report to
 1275 the office. The report shall conform to the format adopted by
 1276 the office and must include:

1277 (a) Segregation of school readiness funds, Voluntary
 1278 Prekindergarten Education Program funds, Child Care Executive
 1279 Partnership Program funds, and other local revenues available to
 1280 the coalition.

1281 (b) Details of expenditures by fund source, including
 1282 total expenditures for administrative activities, quality
 1283 activities, nondirect services, and direct services for
 1284 children.

1285 (c) The total number of coalition staff and the related
 1286 expenditures for salaries and benefits. For any subcontracts,

1287 the total number of contracted staff and the related
 1288 expenditures for salaries and benefits must be included.
 1289 (d) The number of children served in the school readiness
 1290 program, by provider type, enumerated by age and eligibility
 1291 priority category, reported as the number of children served
 1292 during the month, the average full-time equivalent child
 1293 participation throughout the month, and the number of children
 1294 served during the month.
 1295 (e) The total number of children disenrolled during the
 1296 year and the reasons for disenrollment.
 1297 (f) The total number of providers by provider type.
 1298 (g) A listing of any school readiness provider, by type,
 1299 whose eligibility to deliver the school readiness program is
 1300 revoked, including a brief description of the state or federal
 1301 violation that resulted in the revocation.
 1302 (h) An evaluation of its direct enhancement services.
 1303 (i) The total number of children served in each provider
 1304 facility.
 1305 (19) Maintain its administrative staff at the minimum
 1306 necessary to administer the duties of the early learning
 1307 coalition.
 1308 (20) To increase transparency and accountability, comply
 1309 with the requirements of this section before contracting with a
 1310 member of the coalition or a relative, as defined in s.
 1311 112.3143(1)(b), of a coalition member or of an employee of the
 1312 coalition. Such contracts may not be executed without the
 1313 approval of the office. Such contracts, as well as documentation
 1314 demonstrating adherence to this section by the office, must be

1315 approved by a two-thirds vote of the coalition, a quorum having
 1316 been established; all conflicts of interest must be disclosed
 1317 before the vote; and any member who may benefit from the
 1318 contract, or whose relative may benefit from the contract, must
 1319 abstain from the vote. A contract under \$25,000 between an early
 1320 learning coalition and a member of that coalition or between a
 1321 relative, as defined in s. 112.3143(1)(b), of a coalition member
 1322 or of an employee of the coalition is not required to have the
 1323 prior approval of the office but must be approved by a two-
 1324 thirds vote of the coalition, a quorum having been established,
 1325 and must be reported to the office within 30 days after
 1326 approval. If a contract cannot be approved by the office, a
 1327 review of the decision to disapprove the contract may be
 1328 requested by the early learning coalition or other parties to
 1329 the disapproved contract.

1330 1002.85 Early learning coalition plans.-

1331 (1) The office shall adopt rules prescribing the
 1332 standardized format and required content of school readiness
 1333 plans as necessary for a coalition or other qualified entity to
 1334 administer the school readiness program as provided in this
 1335 part.

1336 (2) Each early learning coalition must biennially submit a
 1337 school readiness plan to the office before the expenditure of
 1338 funds. A coalition may not implement its school readiness plan
 1339 until it receives approval from the office. A coalition may not
 1340 implement any revision to its school readiness plan until the
 1341 coalition submits the revised plan to and receives approval from
 1342 the office. If the office rejects a plan or revision, the

1343 coalition must continue to operate under its previously approved
 1344 plan. The plan must include, but is not limited to:

1345 (a) The coalition's operations, including its membership
 1346 and business organization, and the coalition's articles of
 1347 incorporation and bylaws if the coalition is organized as a
 1348 corporation. If the coalition is not organized as a corporation
 1349 or other business entity, the plan must include the contract
 1350 with a fiscal agent.

1351 (b) The minimum number of children to be served by care
 1352 level.

1353 (c) The coalition's procedures for implementing the
 1354 requirements of this part, including:

- 1355 1. Single point of entry.
- 1356 2. Uniform waiting list.
- 1357 4. Eligibility and enrollment processes.
- 1358 5. Parent access and choice.
- 1359 6. Sliding fee scale and policies on applying the waiver or
 1360 reduction of fees in accordance with 1002.84(8).
- 1361 7. Use of preassessments and postassessments, as
 1362 applicable.

1363 8. Payment rate.

1364 (d) A detailed description of the coalition's quality
 1365 activities and services, including:

- 1366 1. Resource and referral and school-age child care.
- 1367 2. Infant and toddler early learning.
- 1368 3. Inclusive early learning programs.

1369 (e) A detailed budget that outlines estimated expenditures
 1370 for state, federal, and local matching funds at the lowest level

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1371 | of detail available by other-cost-accumulator code number; all
 1372 | estimated sources of revenue with identifiable descriptions; a
 1373 | listing of full-time equivalent positions; contracted
 1374 | subcontractor costs with related annual compensation amount or
 1375 | hourly rate of compensation; and a capital improvements plan
 1376 | outlining existing fixed capital outlay projects and proposed
 1377 | capital outlay projects that will begin during the budget year.

1378 | (f) A detailed accounting, in the format prescribed by the
 1379 | office, of all revenues and expenditures during the previous
 1380 | state fiscal year. Revenue sources should be identifiable and
 1381 | expenditures should be reported by three categories: state and
 1382 | federal funds, local matching funds, and Child Care Executive
 1383 | Partnership Program funds.

1384 | (g) Updated policies and procedures, including those
 1385 | governing procurement, maintenance of tangible personal
 1386 | property, maintenance of records, information technology
 1387 | security, and disbursement controls.

1388 | (h) A description of the procedures for monitoring school
 1389 | readiness providers on an annual basis or, in response to a
 1390 | parental complaint, to determine that the standards prescribed
 1391 | in ss. 1002.82 and 1002.88 are met using a standard monitoring
 1392 | tool adopted by the office. Providers determined to be high risk
 1393 | by the coalition as demonstrated by substantial findings of
 1394 | violations of law shall be monitored more frequently.

1395 | (i) Documentation that the coalition has solicited and
 1396 | considered comments regarding the proposed school readiness plan
 1397 | from the local community.

1398 | (3) The coalition may periodically amend its plan as

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1399 necessary. An amended plan must be submitted to and approved by
 1400 the office before any expenditures are incurred on the new
 1401 activities proposed in the amendment.

1402 (4) The office shall publish a copy of the standardized
 1403 format and required content of school readiness plans on its
 1404 website.

1405 (5) The office shall collect and report data on coalition
 1406 delivery of early learning programs. Elements shall include, but
 1407 are not limited to, measures related to progress towards
 1408 reducing the number of children on the waitlist, the percentage
 1409 of children served by the program as compared to the number of
 1410 administrative staff and overhead, the percentage of children
 1411 served compared to total number of children under the age of 5
 1412 years below 150 percent of the federal poverty line, provider
 1413 payment processes, fraud intervention, child attendance and
 1414 stability, use of child care resource and referral, and
 1415 kindergarten readiness outcomes for children in the Voluntary
 1416 Prekindergarten Education Program or the school readiness
 1417 program upon entry into kindergarten. The office shall request
 1418 input from the coalitions and school readiness providers before
 1419 finalizing the format and data to be used. The report shall be
 1420 implemented beginning July 1, 2014, and results of the report
 1421 must be included in the annual report under s. 1002.82.

1422 1002.87 School readiness program; eligibility and
 1423 enrollment.-

1424 (1) Effective August 1, 2013, or upon reevaluation of
 1425 eligibility for children currently served, whichever is later,

1426 each early learning coalition shall give priority for
 1427 participation in the school readiness program as follows:
 1428 (a) Priority shall be given first to a child younger than
 1429 13 years of age from a family that includes a parent who is
 1430 receiving temporary cash assistance under chapter 414 and
 1431 subject to the federal work requirements or a parent who
 1432 transitions from the work program into employment as described
 1433 in s. 445.032.
 1434 (b) Priority shall be given next to an at-risk child
 1435 younger than 9 years of age.
 1436 (c) Priority shall be given next to a child from birth to
 1437 the beginning of the school year for which the child is eligible
 1438 for admission to kindergarten in a public school under s.
 1439 1003.21(1)(a)2., from a working family that is economically
 1440 disadvantaged. However, the child ceases to be eligible if his
 1441 or her family income exceeds 200 percent of the federal poverty
 1442 level.
 1443 (d) Priority shall be given next to an at-risk child who
 1444 is at least 9 years of age but younger than 13 years of age. An
 1445 at-risk child whose sibling is enrolled in the school readiness
 1446 program within an eligibility priority category listed in
 1447 paragraphs (a)-(c) shall be given priority over other children
 1448 who are eligible under this paragraph.
 1449 (e) Priority shall be given next to a child who has
 1450 special needs, has been determined eligible as a student with a
 1451 disability, has a current individual education plan with a
 1452 Florida school district, and is not younger than 3 years of age.
 1453 A special needs child eligible under this paragraph remains

1454 eligible until the child is eligible for admission to
 1455 kindergarten in a public school under s. 1003.21(1)(a)2.

1456 (f) Priority shall be given next to a child who is younger
 1457 than 13 years of age from a working family that is economically
 1458 disadvantaged. A child who is eligible under this paragraph
 1459 whose sibling is enrolled in the school readiness program under
 1460 paragraph (c) shall be given priority over other children who
 1461 are eligible under this paragraph.

1462 (g) Notwithstanding paragraphs (a)-(d), priority shall be
 1463 given last to a child who otherwise meets one of the eligibility
 1464 criteria in paragraphs (a)-(d) but who is also enrolled
 1465 concurrently in the federal Head Start Program and the Voluntary
 1466 Prekindergarten Education Program.

1467 (2) A school readiness provider may be paid only for
 1468 authorized hours of care provided for a child in the school
 1469 readiness program. A child enrolled in the Voluntary
 1470 Prekindergarten Education Program may receive care from the
 1471 school readiness program if the child is eligible according to
 1472 the eligibility priorities in this section.

1473 (3) Contingent upon the availability of funds, a coalition
 1474 shall enroll eligible children, including those from its waiting
 1475 list, according to the eligibility priorities in this section.

1476 (4) The parent of a child enrolled in the school readiness
 1477 program must notify the coalition or its designee within 10 days
 1478 after any change in employment, income, or family size. Upon
 1479 notification by the parent, the child's eligibility must be
 1480 reevaluated.

1481 (5) A child whose eligibility priority category requires
 1482 the child to be from a working family ceases to be eligible for
 1483 the school readiness program if a parent with whom the child
 1484 resides does not reestablish employment within 60 days after
 1485 becoming unemployed.

1486 (6) Eligibility for each child must be reevaluated
 1487 annually. Upon reevaluation, a child may not continue to receive
 1488 school readiness services if he or she has ceased to be eligible
 1489 under this section.

1490 (7) If a coalition disenrolls children from the school
 1491 readiness program, the coalition must disenroll the children in
 1492 reverse order of the eligibility priorities listed in subsection
 1493 (1) beginning with children from families with the highest
 1494 family incomes. A notice of disenrollment must be sent to the
 1495 parent and school readiness provider at least 2 weeks before
 1496 disenrollment to provide adequate time for the parent to arrange
 1497 alternative care for the child. However, an at-risk child may
 1498 not be disenrolled from the program without the written approval
 1499 of the Child Welfare Program Office of the Department of
 1500 Children and Families or the community-based lead agency.

1501 (8) If a child is absent from the program for 5
 1502 consecutive days without parental notification to the program of
 1503 such absence, the school readiness provider shall report the
 1504 absence to the early learning coalition for a determination of
 1505 the need for continued care.

1506 (9) Notwithstanding s. 39.604, a school readiness
 1507 provider, regardless of whether the provider is licensed, shall
 1508 comply with the reporting requirements of the Rilya Wilson Act

1509 for each at-risk child under the age of school entry who is
 1510 enrolled in the school readiness program.

1511 1002.88 School readiness provider standards; eligibility
 1512 to deliver the school readiness program.-

1513 (1) To be eligible to deliver the school readiness
 1514 program, a school readiness provider must:

1515 (a) Be a child care facility licensed under s. 402.305, a
 1516 family day care home licensed or registered under s. 402.313, a
 1517 large family child care home licensed under s. 402.3131, a
 1518 public school or nonpublic school exempt from licensure under s.
 1519 402.3025, a faith-based child care provider exempt from
 1520 licensure under s. 402.316, a before-school or after-school
 1521 program described in s. 402.305(1)(c), or an informal child care
 1522 provider to the extent authorized in the state's Child Care and
 1523 Development Fund Plan as approved by the United States
 1524 Department of Health and Human Services pursuant to 45 C.F.R. s.
 1525 98.18.

1526 (b) Provide instruction and activities to enhance the age-
 1527 appropriate progress of each child in attaining the child
 1528 development standards adopted by the office.

1529 (c) Provide basic health and safety of its premises and
 1530 facilities and compliance with requirements for age-appropriate
 1531 immunizations of children enrolled in the school readiness
 1532 program. For a child care facility, a large family child care
 1533 home, or a licensed family day care home, compliance with s.
 1534 402.305, s. 402.3131, or s. 402.313 satisfies this requirement.
 1535 For a public or nonpublic school, compliance with s. 402.3025 or
 1536 s. 1003.22 satisfies this requirement. A faith-based child care

1537 provider, an informal child care provider, or a nonpublic
 1538 school, exempt from licensure under ss. 402.316 or 402.3025,
 1539 shall annually complete the health and safety checklist adopted
 1540 by the office, post the checklist prominently on its premises in
 1541 plain site for visitors and parents, and submit it annually to
 1542 its local early learning coalition.

1543 (d) Provide an appropriate staff-to-children ratio,
 1544 pursuant to s. 402.305(4) or s. 402.302(8) or (11), as
 1545 applicable, and as verified pursuant to s. 402.311.

1546 (e) Provide a healthy and safe environment pursuant to s.
 1547 402.305(5), (6), and (7), as applicable, and as verified
 1548 pursuant to s. 402.311.

1549 (f) Implement one of the curriculum approved by the office
 1550 that meets the child development standards.

1551 (g) Implement a character development program to develop
 1552 basic values.

1553 (h) Collaborate with the respective early learning
 1554 coalition to complete initial screening for each child, aged 6
 1555 weeks to kindergarten eligibility, within 45 days after the
 1556 child's first or subsequent enrollment, to identify a child who
 1557 may need individualized supports.

1558 (i) Implement minimum standards for child discipline
 1559 practices that are age-appropriate and consistent with the
 1560 requirements in s. 402.305(12). Such standards must provide that
 1561 children not be subjected to discipline that is severe,
 1562 humiliating, or frightening or discipline that is associated
 1563 with food, rest, or toileting. Spanking or any other form of
 1564 physical punishment is prohibited.

1565 (j) Obtain and keep on file record of the child's
 1566 immunizations, physical development, and other health
 1567 requirements as necessary, including appropriate vision and
 1568 hearing screening and examination, within 30 days after
 1569 enrollment.

1570 (k) Implement before-school or after-school programs that
 1571 meet or exceed the requirements of s. 402.305(5), (6), and (7).

1572 (l) For a provider that is not an informal provider,
 1573 maintain general liability insurance and provide the coalition
 1574 written evidence of general liability insurance coverage,
 1575 including coverage of transportation of children if school
 1576 readiness children are transported by the provider. A provider
 1577 must obtain and retain an insurance policy that provides a
 1578 minimum of \$100,000 of coverage per occurrence and a minimum of
 1579 \$300,000 general aggregate coverage. A provider must add the
 1580 coalition as a named certificateholder and as an additional
 1581 insured. A provider must provide the coalition with a minimum of
 1582 10 calendar days' advance written notice of cancellation of or
 1583 changes to coverage. The general liability insurance required by
 1584 this paragraph must remain in full force and effect for the
 1585 entire period of the provider contract with the coalition.

1586 (m) For a provider that is an informal provider, comply
 1587 with the provisions of paragraph (l) or maintain homeowner's
 1588 liability insurance and, if applicable, a business rider. If an
 1589 informal provider chooses to maintain a homeowner's policy, the
 1590 provider must obtain and retain a homeowner's insurance policy
 1591 that provides a minimum of \$100,000 of coverage per occurrence
 1592 and a minimum of \$300,000 general aggregate coverage. An

1593 informal provider must add the coalition as a named
 1594 certificateholder and as an additional insured. An informal
 1595 provider must provide the coalition with a minimum of 10
 1596 calendar days' advance written notice of cancellation of or
 1597 changes to coverage. The general liability insurance required by
 1598 this paragraph must remain in full force and effect for the
 1599 entire period of the provider's contract with the coalition.

1600 (n) Obtain and maintain any required workers' compensation
 1601 insurance under chapter 440 and any required unemployment
 1602 compensation insurance under chapter 443.

1603 (o) Notwithstanding paragraph (l), for a provider that is
 1604 a state agency or a subdivision thereof, as defined in s.
 1605 768.28(2), agree to notify the coalition of any additional
 1606 liability coverage maintained by the provider in addition to
 1607 that otherwise established under s. 768.28. The provider shall
 1608 indemnify the coalition to the extent permitted by s. 768.28.

1609 (p) Execute the standard statewide provider contract
 1610 adopted by the office.

1611 (q) Operate on a full-time and part-time basis and provide
 1612 extended-day and extended-year services to the maximum extent
 1613 possible without compromising the quality of the program to meet
 1614 the needs of parents who work.

1615 (2) If a school readiness provider fails or refuses to
 1616 comply with this part or any contractual obligation of the
 1617 statewide provider contract under s. 1002.82(2)(m), the
 1618 coalition may revoke the provider's eligibility to deliver the
 1619 school readiness program or receive state or federal funds under
 1620 this chapter for a period of 5 years.

- 1621 (3) The office and the coalitions may not:
- 1622 (a) Impose any requirement on a child care provider or
- 1623 early childhood education provider that does not deliver
- 1624 services under the school readiness program or receive state or
- 1625 federal funds under this part; or
- 1626 (b) Impose any requirement on a school readiness provider
- 1627 that exceeds the authority provided under this part or rules
- 1628 adopted pursuant to this part.
- 1629 1002.89 School readiness program; funding.-
- 1630 (1) Funding for the school readiness program shall be
- 1631 allocated among the early learning coalitions in accordance with
- 1632 this section and the General Appropriations Act.
- 1633 (2) The office shall administer school readiness funds and
- 1634 prepare and submit a unified budget request for the school
- 1635 readiness program in accordance with chapter 216.
- 1636 (3) All instructions to early learning coalitions for
- 1637 administering this section shall emanate from the office in
- 1638 accordance with the policies of the Legislature.
- 1639 (4) All cost savings and all revenues received through a
- 1640 mandatory sliding fee scale shall be used to increase the number
- 1641 of children served.
- 1642 (5) All state, federal, and local matching funds provided
- 1643 to an early learning coalition for purposes of this section
- 1644 shall be used for implementation of its approved school
- 1645 readiness plan, including the hiring of staff to effectively
- 1646 operate the coalition's school readiness program.
- 1647 (6) Costs shall be kept to the minimum necessary for the
- 1648 efficient and effective administration of the school readiness

1649 program with the highest priority of expenditure being direct
 1650 services for eligible children. However, no more than 5 percent
 1651 of the funds described in subsection (5) may be used for
 1652 administrative costs and, except as otherwise specified in the
 1653 General Appropriations Act, for the 2013-2014 fiscal year no
 1654 more than 20 percent, and for the 2014-2015 fiscal year and
 1655 thereafter no more than 18 percent, of the funds described in
 1656 subsection (5) may be used for any combination of administrative
 1657 costs, quality activities, and nondirect services as follows:

1658 (a) Administrative costs as described in 45 C.F.R. s.
 1659 98.52, which shall include monitoring providers using the
 1660 standard methodology adopted under s. 1002.82 to improve
 1661 compliance with state and federal regulations and law pursuant
 1662 to the requirements of the statewide provider contract adopted
 1663 under s. 1002.82(2)(m).

1664 (b) Activities to improve the quality of child care as
 1665 described in 45 C.F.R. s. 98.51, which shall be limited to the
 1666 following:

1667 1. Developing, establishing, expanding, operating, and
 1668 coordinating resource and referral programs specifically related
 1669 to the provision of comprehensive consumer education to parents
 1670 and the public regarding participation in the school readiness
 1671 program and parental choice.

1672 2. Awarding grants to school readiness providers to assist
 1673 them in meeting applicable state requirements for child care
 1674 performance standards, implementing developmentally appropriate
 1675 curricula and related classroom resources that support
 1676 curricula, providing literacy supports, and providing

1677 professional development. Any grants awarded pursuant to this
 1678 subparagraph shall comply with the requirements of ss. 215.971
 1679 and 287.058.

1680 3. Providing training and technical assistance for school
 1681 readiness providers, staff, and parents on child performance
 1682 standards, child screenings, child assessments, developmentally
 1683 appropriate curricula, character development, teacher-child
 1684 interactions, age-appropriate discipline practices, health and
 1685 safety, nutrition, first aid, the recognition of communicable
 1686 diseases, and child abuse detection and prevention.

1687 4. Providing from among the funds provided for the
 1688 activities described in subparagraphs 1.-3., adequate funding
 1689 for infants and toddlers as necessary to meet federal
 1690 requirements related to expenditures for quality activities for
 1691 infant and toddler care.

1692 5. Improving the monitoring of compliance with, and
 1693 enforcement of, applicable state and local requirements as
 1694 described in and limited by 45 CFR s. 98.40.

1695 6. Responding to Warm-Line requests by providers and
 1696 parents related to school readiness children, including
 1697 providing developmental and health screenings to school
 1698 readiness children.

1699 (c) Nondirect services as described in applicable Office
 1700 of Management and Budget instructions are those services not
 1701 defined as administrative, direct, or quality services that are
 1702 required to administer the school readiness program. Such
 1703 services include, but are not limited to:

- 1704 1. Assisting families to complete the required application
- 1705 and eligibility documentation.
- 1706 2. Determining child and family eligibility.
- 1707 3. Recruiting eligible child care providers.
- 1708 4. Processing and tracking attendance records.
- 1709 5. Developing and maintaining a statewide child care
- 1710 information system.

1711

1712 As used in this paragraph, the term "nondirect services" does

1713 not include payments to school readiness providers for direct

1714 services provided to children who are eligible under s. 1002.87,

1715 administrative costs as described in paragraph (a), or quality

1716 activities as described in paragraph (b).

1717 (7) Funds appropriated for the school readiness program

1718 may not be expended for the purchase or improvement of land, for

1719 the purchase, construction, or permanent improvement of any

1720 building or facility, or for the purchase of buses. However,

1721 funds may be expended for minor remodeling and upgrading child

1722 care facilities to ensure that providers meet state and local

1723 child care standards, including applicable health and safety

1724 requirements.

1725 (8) Beginning in the 2014-2015 fiscal year, all state-

1726 appropriated funding for the school readiness program shall be

1727 allocated to early learning coalitions based on the average

1728 prior year enrollment and the uniform waiting list as adopted by

1729 the Early Learning Programs Estimating Conference pursuant to s.

1730 216.136(8) and using the average market rate by program care

1731 level and provider type pursuant to s. 1002.895.

1732 1002.895 Market rate schedule.—The school readiness market
 1733 rate schedule shall be implemented as follows:

1734 (1) The office shall establish procedures for the adoption
 1735 of a market rate schedule. The schedule must include, at a
 1736 minimum, county-by-county rates:

1737 (a) The market rate, including the minimum and the maximum
 1738 rates for child care providers that hold a Gold Seal Quality
 1739 Care designation under s. 402.281.

1740 (b) The market rate for child care providers that do not
 1741 hold a Gold Seal Quality Care designation.

1742 (2) The market rate schedule, at a minimum, must:

1743 (a) Differentiate rates by type, including, but not
 1744 limited to, a child care provider that holds a Gold Seal Quality
 1745 Care designation under s. 402.281, a child care facility
 1746 licensed under s. 402.305, a public or nonpublic school exempt
 1747 from licensure under s. 402.3025, a faith-based child care
 1748 facility exempt from licensure under s. 402.316 that does not
 1749 hold a Gold Seal Quality Care designation, a large family child
 1750 care home licensed under s. 402.3131, or a family day care home
 1751 licensed or registered under s. 402.313.

1752 (b) Differentiate rates by the type of child care services
 1753 provided for children with special needs or risk categories,
 1754 infants, toddlers, preschool-age children, and school-age
 1755 children.

1756 (c) Differentiate rates between full-time and part-time
 1757 child care services.

1758 (d) Consider discounted rates for child care services for
 1759 multiple children in a single family.

1760 (3) The market rate schedule must be based exclusively on
 1761 the prices charged for child care services.

1762 (4) The market rate schedule shall be considered by an
 1763 early learning coalition in the adoption of a payment schedule.
 1764 The payment schedule must take into consideration the average
 1765 market rate, include the projected number of children to be
 1766 served, and be submitted for approval by the Division of Early
 1767 Learning. Informal child care arrangements shall be reimbursed
 1768 at not more than 50 percent of the rate adopted for a family day
 1769 care home.

1770 (5) The office may contract with one or more qualified
 1771 entities to administer this section and provide support and
 1772 technical assistance for child care providers.

1773 (6) The office may adopt rules for establishing procedures
 1774 for the collection of child care providers' market rate, the
 1775 calculation of the average market rate by program care level and
 1776 provider type in a predetermined geographic market, and the
 1777 publication of the market rate schedule.

1778 1002.91 Investigations of fraud or overpayment;
 1779 penalties.-

1780 (1) As used in this subsection, the term "fraud" means an
 1781 intentional deception, omission, or misrepresentation made by a
 1782 person with knowledge that the deception, omission, or
 1783 misrepresentation may result in unauthorized benefit to that
 1784 person or another person, or any aiding and abetting of the
 1785 commission of such an act. The term includes any act that
 1786 constitutes fraud under applicable federal or state law.

1787 (2) To recover state, federal, and local matching funds,
 1788 the office shall investigate early learning coalitions,
 1789 recipients, and providers of the school readiness program and
 1790 the Voluntary Prekindergarten Education Program to determine
 1791 possible fraud or overpayment. If by its own inquiries, or as a
 1792 result of a complaint, the office has reason to believe that a
 1793 person, coalition, or provider has engaged in, or is engaging
 1794 in, a fraudulent act, it shall investigate and determine whether
 1795 any overpayment has occurred due to the fraudulent act. During
 1796 the investigation, the office may examine all records, including
 1797 electronic benefits transfer records, and make inquiry of all
 1798 persons who may have knowledge as to any irregularity incidental
 1799 to the disbursement of public moneys or other items or benefits
 1800 authorizations to recipients.

1801 (3) Based on the results of the investigation, the office
 1802 may, in its discretion, refer the investigation to the
 1803 Department of Financial Services for criminal investigation or
 1804 refer the matter to the applicable coalition. Any suspected
 1805 criminal violation identified by the office must be referred to
 1806 the Department of Financial Services for criminal investigation.

1807 (4) An early learning coalition may suspend or terminate a
 1808 provider from participation in the school readiness program or
 1809 the Voluntary Prekindergarten Education Program when it has
 1810 reasonable cause to believe that the provider has committed
 1811 fraud. The office shall adopt by rule appropriate due process
 1812 procedures that the early learning coalition shall apply in
 1813 suspending or terminating any provider, including the suspension
 1814 or termination of payment. If suspended, the provider shall

1815 remain suspended until the completion of any investigation by
 1816 the office, the Department of Financial Services, or any other
 1817 state or federal agency, and any subsequent prosecution or other
 1818 legal proceeding.

1819 (5) If a school readiness provider or a Voluntary
 1820 Prekindergarten Education Program provider, or an owner,
 1821 officer, or director thereof, is convicted of, found guilty of,
 1822 or pleads guilty or nolo contendere to, regardless of
 1823 adjudication, public assistance fraud pursuant to s. 414.39, or
 1824 is acting as the beneficial owner for someone who has been
 1825 convicted of, found guilty of, or pleads guilty or nolo
 1826 contendere to, regardless of adjudication, public assistance
 1827 fraud pursuant to s. 414.39, the early learning coalition shall
 1828 refrain from contracting with, or using the services of, that
 1829 provider for a period of 5 years. In addition, the coalition
 1830 shall refrain from contracting with, or using the services of,
 1831 any provider that shares an officer or director with a provider
 1832 that is convicted of, found guilty of, or pleads guilty or nolo
 1833 contendere to, regardless of adjudication, public assistance
 1834 fraud pursuant to s. 414.39 for a period of 5 years.

1835 (6) If the investigation is not confidential or otherwise
 1836 exempt from disclosure by law, the results of the investigation
 1837 may be reported by the office to the appropriate legislative
 1838 committees, the Department of Children and Families, and such
 1839 other persons as the office deems appropriate.

1840 (7) The early learning coalition may not contract with a
 1841 school readiness provider or a Voluntary Prekindergarten
 1842 Education Program provider who is on the United States

1843 Department of Agriculture National Disqualified List. In
 1844 addition, the coalition may not contract with any provider that
 1845 shares an officer or director with a provider that is on the
 1846 United States Department of Agriculture National Disqualified
 1847 List.

1848 (8) Each early learning coalition shall adopt an anti-
 1849 fraud plan addressing the detection and prevention of
 1850 overpayments, abuse, and fraud relating to the provision of and
 1851 payment for school readiness and Voluntary Prekindergarten
 1852 Education Program services and submit the plan to the office for
 1853 approval. The office shall adopt rules establishing criteria for
 1854 the anti-fraud plan, including appropriate due process
 1855 provisions. The anti-fraud plan must include, at a minimum:

1856 (a) A written description or chart outlining the
 1857 organizational structure of the plan's personnel who are
 1858 responsible for the investigation and reporting of possible
 1859 overpayment, abuse, or fraud.

1860 (b) A description of the plan's procedures for detecting
 1861 and investigating possible acts of fraud, abuse, or overpayment.

1862 (c) A description of the plan's procedures for the
 1863 mandatory reporting of possible overpayment, abuse, or fraud to
 1864 the Office of Inspector General within the office.

1865 (d) A description of the plan's program and procedures for
 1866 educating and training personnel on how to detect and prevent
 1867 fraud, abuse, and overpayment.

1868 (e) A description of the plan's procedures, including the
 1869 appropriate due process provisions adopted by the office for
 1870 suspending or terminating from the school readiness program or

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1871 the Voluntary Prekindergarten Education Program a recipient or
 1872 provider who the early learning coalition believes has committed
 1873 fraud.

1874 (9) A person who commits an act of fraud as defined in
 1875 this section is subject to the penalties provided in s.
 1876 414.39(5)(a) and (b).

1877 1002.92 Child care and early childhood resource and
 1878 referral.-

1879 (1) As a part of the school readiness program, the office
 1880 shall establish a statewide child care resource and referral
 1881 network that is unbiased and provides referrals to families for
 1882 child care and information on available community resources.
 1883 Preference shall be given to using early learning coalitions as
 1884 the child care resource and referral agencies. If an early
 1885 learning coalition cannot comply with the requirements to offer
 1886 the resource information component or does not want to offer
 1887 that service, the early learning coalition shall select the
 1888 resource and referral agency for its county or multicounty
 1889 region based upon the procurement requirements of s.
 1890 1002.84(12).

1891 (2) At least one child care resource and referral agency
 1892 must be established in each early learning coalition's county or
 1893 multicounty region. The office shall adopt rules regarding
 1894 accessibility of child care resource and referral services
 1895 offered through child care resource and referral agencies in
 1896 each county or multicounty region which include, at a minimum,
 1897 required hours of operation, methods by which parents may
 1898 request services, and child care resource and referral staff

1899 training requirements.

1900 (3) Child care resource and referral agencies shall
 1901 provide the following services:

1902 (a) Identification of existing public and private child
 1903 care and early childhood education services, including child
 1904 care services by public and private employers, and the
 1905 development of a resource file of those services through the
 1906 single statewide information system developed by the office
 1907 under s. 1002.82(2)(n). These services may include family day
 1908 care, public and private child care programs, the Voluntary
 1909 Prekindergarten Education Program, Head Start, the school
 1910 readiness program, special education programs for
 1911 prekindergarten children with disabilities, services for
 1912 children with developmental disabilities, full-time and part-
 1913 time programs, before-school and after-school programs, vacation
 1914 care programs, parent education, the temporary cash assistance
 1915 program, and related family support services. The resource file
 1916 shall include, but not be limited to:

- 1917 1. Type of program.
- 1918 2. Hours of service.
- 1919 3. Ages of children served.
- 1920 4. Number of children served.
- 1921 5. Program information.
- 1922 6. Fees and eligibility for services.
- 1923 7. Availability of transportation.

1924 (b) Establishment of a referral process that responds to
 1925 parental need for information and that is provided with full
 1926 recognition of the confidentiality rights of parents. The

1927 resource and referral network shall make referrals to legally
 1928 operating child care facilities. Referrals may not be made to a
 1929 child care facility that is operating illegally.

1930 (c) Maintenance of ongoing documentation of requests for
 1931 service tabulated through the internal referral process through
 1932 the single statewide information system. The following
 1933 documentation of requests for service shall be maintained by the
 1934 child care resource and referral network:

1935 1. Number of calls and contacts to the child care resource
 1936 information and referral network component by type of service
 1937 requested.

1938 2. Ages of children for whom service was requested.

1939 3. Time category of child care requests for each child.

1940 4. Special time category, such as nights, weekends, and
 1941 swing shift.

1942 5. Reason that the child care is needed.

1943 6. Name of the employer and primary focus of the business
 1944 for an employer based child care program.

1945 (d) Provision of technical assistance to existing and
 1946 potential providers of child care services. This assistance may
 1947 include:

1948 1. Information on initiating new child care services,
 1949 zoning, and program and budget development and assistance in
 1950 finding such information from other sources.

1951 2. Information and resources which help existing child
 1952 care services providers to maximize their ability to serve
 1953 children and parents in their community.

1954 3. Information and incentives that may help existing or

1955 planned child care services offered by public or private
 1956 employers seeking to maximize their ability to serve the
 1957 children of their working parent employees in their community,
 1958 through contractual or other funding arrangements with
 1959 businesses.

1960 (e) Assistance to families and employers in applying for
 1961 various sources of subsidy, including, but not limited to, the
 1962 Voluntary Prekindergarten Education Program, the school
 1963 readiness program, Head Start, Project Independence, private
 1964 scholarships, and the federal child and dependent care tax
 1965 credit.

1966 (f) Assistance to families to negotiate discounts or other
 1967 special arrangements with child care providers.

1968 (g) Assistance to families in identifying summer
 1969 recreation camp and summer day camp programs to help families
 1970 make informed choice. Contingent upon specific appropriation, a
 1971 checklist of important health and safety qualities that parents
 1972 can use to choose their summer camp programs shall be developed
 1973 and distributed in a manner that will reach parents interested
 1974 in such programs for their children.

1975 (h) Assistance to families for accessing local community
 1976 resources.

1977 (4) A child care facility licensed under s. 402.305 and
 1978 licensed and registered family day care homes must provide the
 1979 statewide child care and resource and referral network with the
 1980 following information annually:

1981 (a) Type of program.

1982 (b) Hours of service.

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1983 (c) Ages of children served.
 1984 (d) Fees and eligibility for services.
 1985 1002.93 School readiness transportation services.—
 1986 (1) The office may authorize an early learning coalition
 1987 to establish school readiness transportation services for
 1988 children at risk of abuse or neglect who are participating in
 1989 the school readiness program, pursuant to chapter 427. The early
 1990 learning coalitions may contract for the provision of
 1991 transportation services as required by this section.
 1992 (2) The transportation servicers may only provide
 1993 transportation to each child participating in the school
 1994 readiness program to the extent that such transportation is
 1995 necessary to provide child care opportunities that otherwise
 1996 would not be available to a child whose home is more than a
 1997 reasonable walking distance from the nearest child care facility
 1998 or family day care home.
 1999 1002.94 Child Care Executive Partnership Act.—
 2000 (1) This section may be cited as the "Child Care Executive
 2001 Partnership Act."
 2002 (2) There is created a body politic and corporate known as
 2003 the Child Care Executive Partnership which shall establish and
 2004 govern the Child Care Executive Partnership Program. The purpose
 2005 of the Child Care Executive Partnership Program is to use state
 2006 and federal funds as incentives for matching local funds derived
 2007 from local governments, employers, charitable foundations, and
 2008 other sources so that Florida communities may create local
 2009 flexible partnerships with employers. The Child Care Executive
 2010 Partnership Program funds shall be used at the discretion of

2011 local communities to meet the needs of working parents. A child
 2012 care purchasing pool shall be developed with the state, federal,
 2013 and local funds to provide subsidies to low-income working
 2014 parents whose family income does not exceed the allowable income
 2015 for any federally subsidized child care program with a dollar-
 2016 for-dollar match from employers, local government, and other
 2017 matching contributions. The funds used from the child care
 2018 purchasing pool must be used to supplement or extend the use of
 2019 existing public or private funds for slots.

2020 (3) The Child Care Executive Partnership, staffed by the
 2021 office, shall consist of a representative of the Executive
 2022 Office of the Governor and nine members of the corporate or
 2023 child care community, appointed by the Governor.

2024 (a) Members shall serve for a period of 4 years, except
 2025 that the representative of the Executive Office of the Governor
 2026 shall serve at the pleasure of the Governor.

2027 (b) The Child Care Executive Partnership shall be chaired
 2028 by a member chosen by a majority vote and shall meet at least
 2029 quarterly and at other times upon the call of the chair. The
 2030 Child Care Executive Partnership may use any method of
 2031 telecommunications to conduct meetings, including establishing a
 2032 quorum through telecommunications, only if the public is given
 2033 proper notice of a telecommunications meeting and reasonable
 2034 access to observe and, when appropriate, participate.

2035 (c) Members shall serve without compensation, but may be
 2036 reimbursed for per diem and travel expenses in accordance with
 2037 s. 112.061.

2038 (d) The Child Care Executive Partnership shall have all

2039 the powers and authority, not explicitly prohibited by law,
 2040 necessary to carry out and effectuate the purposes of this
 2041 section, as well as the functions, duties, and responsibilities
 2042 of the partnership, including, but not limited to, the
 2043 following:

- 2044 1. Assisting in the formulation and coordination of the
 2045 state's child care policy.
- 2046 2. Adopting an official seal.
- 2047 3. Soliciting, accepting, receiving, investing, and
 2048 expending funds from public or private sources.
- 2049 4. Contracting with public or private entities as
 2050 necessary.
- 2051 5. Approving an annual budget.
- 2052 6. Providing a report to the Governor, the Speaker of the
 2053 House of Representatives, and the President of the Senate, on or
 2054 before December 1 of each year.

2055

2056 Notwithstanding this subsection, the corporate body politic
 2057 previously established by prior law is the corporate body
 2058 politic for purposes of this section and shall continue in
 2059 existence. All member terms of the existing corporate body
 2060 politic expire as of June 30 and new members shall be appointed
 2061 beginning July 1 in accordance with this subsection.

2062 (4) (a) The Legislature shall annually determine the amount
 2063 of state or federal low-income child care moneys which shall be
 2064 used to create Child Care Executive Partnership Program child
 2065 care purchasing pools in counties chosen by the Child Care
 2066 Executive Partnership provided that at least two of the counties

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2067 have populations of no more than 300,000. The Legislature shall
 2068 annually review the effectiveness of the child care purchasing
 2069 pool program and reevaluate the percentage of additional state
 2070 or federal funds, if any, which can be used for the program's
 2071 expansion.

2072 (b) To ensure a seamless service delivery and ease of
 2073 access for families, the office shall administer the child care
 2074 purchasing pool funds.

2075 (c) The office, in conjunction with the Child Care
 2076 Executive Partnership, shall develop procedures for disbursement
 2077 of funds through the child care purchasing pools. In order to be
 2078 considered for funding, an early learning coalition or the
 2079 office must commit to:

2080 1. Matching the state purchasing pool funds on a dollar-
 2081 for-dollar basis.

2082 2. Expending only those public funds that are matched by
 2083 employers, local government, and other matching contributors who
 2084 contribute to the purchasing pool. Parents shall also pay a fee,
 2085 which may not be less than the amount identified in the early
 2086 learning coalition's school readiness program sliding fee scale.

2087 (d) Each early learning coalition shall establish a
 2088 community child care task force for each child care purchasing
 2089 pool. The task force must be composed of employers, parents,
 2090 private child care providers, and one representative from the
 2091 local children's services council, if one exists in the area of
 2092 the purchasing pool. The early learning coalition is expected to
 2093 recruit the task force members from existing child care
 2094 councils, commissions, or task forces already operating in the

2095 area of a purchasing pool. A majority of the task force shall
 2096 consist of employers.

2097 (e) Each participating early learning coalition shall
 2098 develop a plan for the use of child care purchasing pool funds.
 2099 The plan must show how many children will be served by the
 2100 purchasing pool, how many will be new to receiving child care
 2101 services, and how the early learning coalition intends to
 2102 attract new employers and their employees to the program.

2103 (5) The office may adopt any rules necessary for the
 2104 implementation and administration of this section.

2105 1002.95 Teacher Education and Compensation Helps (TEACH)
 2106 scholarship program.-

2107 (1) The office may contract for the administration of the
 2108 Teacher Education and Compensation Helps (TEACH) scholarship
 2109 program, which provides educational scholarships to caregivers
 2110 and administrators of early childhood programs, family day care
 2111 homes, and large family child care homes. The goal of the
 2112 program is to increase the education and training for
 2113 caregivers, increase the compensation for child caregivers who
 2114 complete the program requirements, and reduce the rate of
 2115 participant turnover in the field of early childhood education.

2116 (2) The office shall adopt rules as necessary to
 2117 administer this section.

2118 1002.96 Early Head Start collaboration grants.-

2119 (1) Contingent upon specific appropriation, the office
 2120 shall establish a program to award collaboration grants to
 2121 assist local agencies in securing Early Head Start programs
 2122 through Early Head Start program federal grants. The

2123 collaboration grants shall provide the required matching funds
 2124 for public and private nonprofit agencies that have been
 2125 approved for Early Head Start program federal grants.

2126 (2) Public and private nonprofit agencies providing Early
 2127 Head Start programs applying for collaborative grants must:

2128 (a) Meet the requirements in the Head Start program
 2129 performance standards and other applicable rules and
 2130 regulations.

2131 (b) Collaborate with other service providers at the local
 2132 level.

2133 (c) Provide a comprehensive array of health, nutritional,
 2134 and other services to the program's pregnant women and very
 2135 young children, and their families.

2136 (3) The office may adopt rules as necessary for the award
 2137 of collaboration grants to competing agencies and the
 2138 administration of the collaboration grants program under this
 2139 section.

2140 1002.97 Infants and toddlers in state-funded education and
 2141 care programs; brain development activities.—Each state-funded
 2142 education and care program for children from birth to 5 years of
 2143 age must provide activities to foster brain development in
 2144 infants and toddlers. A program must provide an environment that
 2145 helps children attain the performance standards adopted by the
 2146 office under s. 1002.82(2)(j) and must be rich in language and
 2147 music and filled with objects of various colors, shapes,
 2148 textures, and sizes to stimulate visual, tactile, auditory, and
 2149 linguistic senses in the children and must include music and at
 2150 least 30 minutes of reading to the children each day. A program

2151 may be offered through an existing early childhood program such
 2152 as Healthy Start, the Title I program, the school readiness
 2153 program, the Head Start program, or a private child care
 2154 program. A program must provide information to families to make
 2155 them aware of training for the infants' and toddlers' parents in
 2156 their area. Family day care centers are encouraged, but not
 2157 required, to comply with this section.

2158 1002.98 Records of children in the school readiness
 2159 programs.-

2160 (1) The individual records of children enrolled in school
 2161 readiness programs provided under this part, held by an early
 2162 learning coalition or the office, are confidential and exempt
 2163 from s. 119.07(1) and s. 24(a), Art. I of the State
 2164 Constitution. For purposes of this section, records include
 2165 assessment data, health data, records of teacher observations,
 2166 and personal identifying information.

2167 (2) A parent has the right to inspect and review the
 2168 individual school readiness program record of his or her child
 2169 and to obtain a copy of the record.

2170 (3) School readiness records may be released to:

2171 (a) The United States Secretary of Education, the United
 2172 States Secretary of Health and Human Services, and the
 2173 Comptroller General of the United States for the purpose of
 2174 federal audits and investigations.

2175 (b) Individuals or organizations conducting studies for
 2176 institutions to develop, validate, or administer assessments or
 2177 improve instruction.

2178 (c) Accrediting organizations in order to carry out their

2179 accrediting functions.

2180 (d) Appropriate parties in connection with an emergency if
 2181 the information is necessary to protect the health or safety of
 2182 the child enrollee or other individuals.

2183 (e) The Office of Program Policy and Government
 2184 Accountability and the Auditor General in connection with their
 2185 official functions.

2186 (f) A court of competent jurisdiction in compliance with
 2187 an order of that court in accordance with a lawfully issued
 2188 subpoena.

2189 (g) Parties to an interagency agreement among early
 2190 learning coalitions, local governmental agencies, providers of
 2191 school readiness programs, state agencies, and the office for
 2192 the purpose of implementing the school readiness program.

2193
 2194 Agencies, organizations, or individuals that receive school
 2195 readiness records in order to carry out their official functions
 2196 must protect the data in a manner that does not permit the
 2197 personal identification of a child enrolled in a school
 2198 readiness program and his or her parent by persons other than
 2199 those authorized to receive the records.

2200 Section 18. Paragraph (p) of subsection (3) of section
 2201 11.45, Florida Statutes, is amended to read:

2202 11.45 Definitions; duties; authorities; reports; rules.—

2203 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
 2204 Auditor General may, pursuant to his or her own authority, or at
 2205 the direction of the Legislative Auditing Committee, conduct
 2206 audits or other engagements as determined appropriate by the

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2207 Auditor General of:

2208 (p) The school readiness program system, including the
 2209 early learning coalitions, created under s. 1002.83 ~~411.01~~.

2210 Section 19. Paragraph (h) of subsection (3) of section
 2211 20.15, Florida Statutes, is amended to read:

2212 20.15 Department of Education.—There is created a
 2213 Department of Education.

2214 (3) DIVISIONS.—The following divisions of the Department
 2215 of Education are established:

2216 ~~(h) The Office of Early Learning, which shall administer~~
 2217 ~~the school readiness system in accordance with s. 411.01 and the~~
 2218 ~~operational requirements of the Voluntary Prekindergarten~~
 2219 ~~Education Program in accordance with part V of chapter 1002. The~~
 2220 ~~office is a separate budget entity and is not subject to~~
 2221 ~~control, supervision, or direction by the Department of~~
 2222 ~~Education or the State Board of Education in any manner~~
 2223 ~~including, but not limited to, personnel, purchasing,~~
 2224 ~~transactions involving personal property, and budgetary matters.~~
 2225 ~~The office director shall be appointed by the Governor and~~
 2226 ~~confirmed by the Senate, shall serve at the pleasure of the~~
 2227 ~~Governor, and shall be the agency head of the office for all~~
 2228 ~~purposes. The office shall enter into a service agreement with~~
 2229 ~~the department for professional, technological, and~~
 2230 ~~administrative support services. The office shall be subject to~~
 2231 ~~review and oversight by the Chief Inspector General or his or~~
 2232 ~~her designee.~~

2233 Section 20. Section 196.198, Florida Statutes, is amended
 2234 to read:

2235 | 196.198 Educational property exemption.—Educational
 2236 | institutions within this state and their property used by them
 2237 | or by any other exempt entity or educational institution
 2238 | exclusively for educational purposes shall be exempt from
 2239 | taxation. Sheltered workshops providing rehabilitation and
 2240 | retraining of disabled individuals and exempted by a certificate
 2241 | under s. (d) of the federal Fair Labor Standards Act of 1938, as
 2242 | amended, are declared wholly educational in purpose and shall be
 2243 | exempted from certification, accreditation, and membership
 2244 | requirements set forth in s. 196.012. Those portions of property
 2245 | of college fraternities and sororities certified by the
 2246 | president of the college or university to the appropriate
 2247 | property appraiser as being essential to the educational process
 2248 | shall be exempt from ad valorem taxation. The use of property by
 2249 | public fairs and expositions chartered by chapter 616 is
 2250 | presumed to be an educational use of such property and shall be
 2251 | exempt from ad valorem taxation to the extent of such use.
 2252 | Property used exclusively for educational purposes shall be
 2253 | deemed owned by an educational institution if the entity owning
 2254 | 100 percent of the educational institution is owned by the
 2255 | identical persons who own the property or if the entity owning
 2256 | 100 percent of the educational institution and the entity owning
 2257 | the property are owned by identical natural persons. Land,
 2258 | buildings, and other improvements to real property used
 2259 | exclusively for educational purposes shall be deemed owned by an
 2260 | educational institution if the entity owning 100 percent of the
 2261 | land is a nonprofit entity and the land is used, under a ground
 2262 | lease or other contractual arrangement, by an educational

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2263 institution that owns the buildings and other improvements to
 2264 the real property, is a nonprofit entity under s. 501(c)(3) of
 2265 the Internal Revenue Code, and provides education limited to
 2266 students in prekindergarten through grade 8. If legal title to
 2267 property is held by a governmental agency that leases the
 2268 property to a lessee, the property shall be deemed to be owned
 2269 by the governmental agency and used exclusively for educational
 2270 purposes if the governmental agency continues to use such
 2271 property exclusively for educational purposes pursuant to a
 2272 sublease or other contractual agreement with that lessee. If the
 2273 title to land is held by the trustee of an irrevocable inter
 2274 vivos trust and if the trust grantor owns 100 percent of the
 2275 entity that owns an educational institution that is using the
 2276 land exclusively for educational purposes, the land is deemed to
 2277 be property owned by the educational institution for purposes of
 2278 this exemption. Property owned by an educational institution
 2279 shall be deemed to be used for an educational purpose if the
 2280 institution has taken affirmative steps to prepare the property
 2281 for educational use. Affirmative steps means environmental or
 2282 land use permitting activities, creation of architectural plans
 2283 or schematic drawings, land clearing or site preparation,
 2284 construction or renovation activities, or other similar
 2285 activities that demonstrate commitment of the property to an
 2286 educational use.

2287 Section 21. Paragraph (a) of subsection (8) of section
 2288 216.136, Florida Statutes, is amended to read:

2289 216.136 Consensus estimating conferences; duties and
 2290 principals.—

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2291 (8) EARLY LEARNING PROGRAMS ESTIMATING CONFERENCE.—
 2292 (a) The Early Learning Programs Estimating Conference
 2293 shall develop estimates and forecasts of the unduplicated count
 2294 of children eligible for school readiness programs in accordance
 2295 with the standards of eligibility established in s. 1002.87
 2296 ~~411.01(6)~~, and of children eligible for the Voluntary
 2297 Prekindergarten Education Program in accordance with s.
 2298 1002.53(2), as the conference determines are needed to support
 2299 the state planning, budgeting, and appropriations processes.
 2300 Section 22. Paragraph (b) of subsection (1) and subsection
 2301 (3) of section 402.281, Florida Statutes, are amended to read:
 2302 402.281 Gold Seal Quality Care program.—
 2303 (1)
 2304 (b) A child care facility, large family child care home,
 2305 or family day care home that is accredited by an ~~a nationally~~
 2306 ~~recognized~~ accrediting association approved by the department
 2307 under subsection (3) and meets all other requirements shall,
 2308 upon application to the department, receive a separate "Gold
 2309 Seal Quality Care" designation.
 2310 (3)(a) In order to be approved by the department for
 2311 participation in the Gold Seal Quality Care program, an
 2312 accrediting association must apply to the department and
 2313 demonstrate that it:
 2314 1. Is a ~~nationally~~ recognized accrediting association.
 2315 2. Has accrediting standards that substantially meet or
 2316 exceed the Gold Seal Quality Care standards adopted by the
 2317 department under subsection (2).
 2318 (b) In approving accrediting associations, the department

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2319 shall consult with the Department of Education, the Florida Head
 2320 Start Directors Association, the Florida Association of Child
 2321 Care Management, the Florida Family Day Care Association, the
 2322 Florida Children's Forum, the Florida Association for the
 2323 Education of the Young ~~Early Childhood Association of Florida,~~
 2324 the Child Development Education Alliance, the Florida
 2325 Association of Academic Nonpublic Schools, the Association of
 2326 Early Learning Coalitions, providers receiving exemptions under
 2327 s. 402.316, and parents.

2328 Section 23. Subsection (9) of section 402.302, Florida
 2329 Statutes, is amended to read:

2330 402.302 Definitions.—As used in this chapter, the term:

2331 (9) "Household children" means children who are related by
 2332 blood, marriage, or legal adoption to, or who are the legal
 2333 wards of, the family day care home operator, the large family
 2334 child care home operator, or an adult household member who
 2335 permanently or temporarily resides in the home. Supervision of
 2336 the operator's household children shall be left to the
 2337 discretion of the operator unless those children receive
 2338 subsidized child care through the school readiness program
 2339 pursuant to s. 1002.92 ~~411.0101~~ to be in the home.

2340 Section 24. Paragraph (c) of subsection (1) of section
 2341 402.305, Florida Statutes, is amended to read:

2342 402.305 Licensing standards; child care facilities.—

2343 (1) LICENSING STANDARDS.—The department shall establish
 2344 licensing standards that each licensed child care facility must
 2345 meet regardless of the origin or source of the fees used to
 2346 operate the facility or the type of children served by the

2347 facility.

2348 (c) The minimum standards for child care facilities shall
 2349 be adopted in the rules of the department and shall address the
 2350 areas delineated in this section. The department, in adopting
 2351 rules to establish minimum standards for child care facilities,
 2352 shall recognize that different age groups of children may
 2353 require different standards. The department may adopt different
 2354 minimum standards for facilities that serve children in
 2355 different age groups, including school-age children. The
 2356 department shall also adopt by rule a definition for child care
 2357 which distinguishes between child care programs that require
 2358 child care licensure and after-school programs that do not
 2359 require licensure. Notwithstanding any other provision of law to
 2360 the contrary, minimum child care licensing standards shall be
 2361 developed to provide for reasonable, affordable, and safe
 2362 before-school and after-school care. After-school programs that
 2363 otherwise meet the criteria for exclusion from licensure may
 2364 provide snacks and meals through the federal Afterschool Meal
 2365 Program (AMP) administered by the Department of Health in
 2366 accordance with federal regulations and standards. The
 2367 Department of Health shall consider meals to be provided through
 2368 the AMP only if the program is actively participating in the
 2369 AMP, is in good standing with the department, and the meals meet
 2370 AMP requirements. Standards, at a minimum, shall allow for a
 2371 credentialed director to supervise multiple before-school and
 2372 after-school sites.

2373 Section 25. Paragraph (c) of subsection (1) and subsection
 2374 (4) of section 445.023, Florida Statutes, are amended to read:

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2375 445.023 Program for dependent care for families with
 2376 children with special needs.—

2377 (1) There is created the program for dependent care for
 2378 families with children with special needs. This program is
 2379 intended to provide assistance to families with children who
 2380 meet the following requirements:

2381 (c) The family meets the income guidelines established
 2382 under s. 1002.87 ~~411.01(6)~~, notwithstanding any financial
 2383 eligibility criteria to the contrary in s. 414.075, s. 414.085,
 2384 or s. 414.095.

2385 (4) In addition to school readiness services provided
 2386 under part VI of chapter 1002 ~~s. 411.01~~, dependent care may be
 2387 provided for children age 13 years and older who are in need of
 2388 care due to disability and where such care is needed for the
 2389 parent to accept or continue employment or otherwise participate
 2390 in work activities. The amount of subsidy shall be consistent
 2391 with the rates for special needs child care established by the
 2392 department. Dependent care needed for employment may be provided
 2393 as transitional services for up to 2 years after eligibility for
 2394 temporary cash assistance ends.

2395 Section 26. Paragraph (a) of subsection (2) of section
 2396 490.014, Florida Statutes, is amended to read:

2397 490.014 Exemptions.—

2398 (2) No person shall be required to be licensed or
 2399 provisionally licensed under this chapter who:

2400 (a) Is a salaried employee of a government agency; a
 2401 developmental disability facility or program; a mental health,
 2402 alcohol, or drug abuse facility operating under chapter 393,

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2403 chapter 394, or chapter 397; the statewide child care resource
 2404 and referral network operating under s. 1002.92 ~~411.0101~~; a
 2405 child-placing or child-caring agency licensed pursuant to
 2406 chapter 409; a domestic violence center certified pursuant to
 2407 chapter 39; an accredited academic institution; or a research
 2408 institution, if such employee is performing duties for which he
 2409 or she was trained and hired solely within the confines of such
 2410 agency, facility, or institution, so long as the employee is not
 2411 held out to the public as a psychologist pursuant to s.
 2412 490.012(1)(a).

2413 Section 27. Paragraph (a) of subsection (4) of section
 2414 491.014, Florida Statutes, is amended to read:

2415 491.014 Exemptions.—

2416 (4) No person shall be required to be licensed,
 2417 provisionally licensed, registered, or certified under this
 2418 chapter who:

2419 (a) Is a salaried employee of a government agency; a
 2420 developmental disability facility or program; a mental health,
 2421 alcohol, or drug abuse facility operating under chapter 393,
 2422 chapter 394, or chapter 397; the statewide child care resource
 2423 and referral network operating under s. 1002.92 ~~411.0101~~; a
 2424 child-placing or child-caring agency licensed pursuant to
 2425 chapter 409; a domestic violence center certified pursuant to
 2426 chapter 39; an accredited academic institution; or a research
 2427 institution, if such employee is performing duties for which he
 2428 or she was trained and hired solely within the confines of such
 2429 agency, facility, or institution, so long as the employee is not
 2430 held out to the public as a clinical social worker, mental

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2431 health counselor, or marriage and family therapist.

2432 Section 28. Paragraph (b) of subsection (1) of section
2433 1001.11, Florida Statutes, is amended to read:

2434 1001.11 Commissioner of Education; other duties.—

2435 (1) The Commissioner of Education must independently
2436 perform the following duties:

2437 (b) Serve as the primary source of information to the
2438 Legislature, including the President of the Senate and the
2439 Speaker of the House of Representatives, concerning the State
2440 Board of Education, ~~and~~ the K-20 education system, and early
2441 learning programs.

2442 Section 29. Sections 411.01, 411.0101, 411.01013,
2443 411.01014, 411.01015, 411.0102, 411.0103, 411.0104, 411.0105,
2444 411.0106, and 411.011, Florida Statutes, are repealed.

2445 Section 30. In addition to any other senior management and
2446 select exempt positions authorized for the Office of Early
2447 Learning, a senior management position for a general counsel and
2448 a select exempt position for an inspector general are authorized
2449 for the office.

2450 Section 31. By October 1, 2013, the Office of Early
2451 Learning, in collaboration with the Commissioner of Education,
2452 shall develop a reorganization plan for the office. The plan
2453 shall include any changes made prior to July 1, 2013; personnel,
2454 purchasing, and budgetary matters and their alignment with the
2455 duties and responsibilities of the office; a report of all
2456 outstanding contractual obligations; and recommendations for
2457 statutory and budgetary changes. The report shall be provided to
2458 the Governor, the President of the Senate, and the Speaker of

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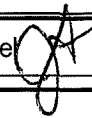

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2459 | the House of Representatives.

2460 | Section 32. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDC 13-02 Early Learning
SPONSOR(S): Education Committee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Ammel 	Mizereck 

SUMMARY ANALYSIS

The bill makes governance changes and increases accountability and transparency in the administration of the Early Learning Program by:

- Moving the School Readiness Program from Chapter 411 to the school code under Chapter 1002.
- Establishing the Office of Early Learning (OEL) within the Department of Education under an Executive Director that is fully accountable to the Commissioner of Education; providing powers and duties.
- Providing that the OEL will exercise independently all power, duties, and functions prescribed by law and must not be construed as part of the K-20 system.
- Clarifying that participation in the school readiness program does not expand the regulatory authority of the state, its officers, or an early learning coalition to impose any additional regulation on providers beyond those necessary to enforce the requirements outlined for this program.
- Requiring the OEL to: adopt a list of approved curricula and a process for the review and approval of a provider's curriculum that meets the performance standards; identify a preassessment and postassessment for School Readiness participants; adopt a statewide, standardized contract to be used by coalitions with each school readiness provider; coordinate with other agencies to perform data matches on individuals or families participating in the school readiness program.
- Revising procurement and expenditure requirements for early learning coalitions.
- Removing the requirement for the annual submission of a funding formula by OEL.
- Revising the methodology for calculating the market rate schedule to require that the OEL biennially calculate the market rate at the average of the market rate by program care level and provider type in a predetermined geographic market.
- Revising the eligibility criteria for the enrollment of children in the school readiness program.
- Providing for the allocation of school readiness funds as specified in the General Appropriations Act.
- Requiring the OEL and each ELC to limit its expenditures to no more than 20 percent of funds for any combination of administrative costs, nondirect services, and quality activities in 2013-14, and beginning 2014-15 and thereafter, no more than 18 percent.
- Including provisions for fraud investigations and penalties for school readiness providers and parents who knowingly submit false information related to child eligibility and attendance in a school readiness program.
- Requiring private prekindergarten providers to maintain liability insurance coverage and the necessary business requirements to legally operate a business in the state, including any required worker's compensation and unemployment compensation.
- Requiring the Early Learning Advisory Council to periodically analyze and provide recommendations to the office on the effective and efficient use of local, state and federal funds; the content of instructor training programs; and best practices for the development and implementation of coalition plans.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Readiness Program

Established in 1999,¹ the School Readiness Program provides subsidies for early childhood education and child care services to children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.² The School Readiness Program is a state-federal partnership between Florida's Office of Early Learning (OEL) and the Office of Child Care of the United States Department of Health and Human Services.³

The School Readiness Program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families (TANF) block grant, and general revenue and other state funds.⁴

For FY 2012-13, a total of \$581.5 million was appropriated for the School Readiness Program from state and federal funds, including \$341.7 million from the CCDF block grant, \$98 million from the TANF block grant, \$141.2 million from the state's General Revenue Fund, and \$500,000 from other federal fund sources.⁵ As part of the other state and federal funding sources, OEL was provided \$5.9 million for the continued development of a computerized data system known as the Early Learning Information System (ELIS).⁶

Office of Early Learning

Current Law

The OEL is Florida's lead agency for administering the federal CCDF from which funds are used to implement the School Readiness Program.⁷ Effective July 1, 2011, the OEL was transferred from the former Agency for Workforce Innovation to the Department of Education (DOE).⁸ The OEL is a separate budget entity and is not subject to control, supervision, or direction by the DOE or the State Board of Education in any manner including, but not limited to, personnel, purchasing, transactions involving personal property, and budgetary matters.⁹

Florida law directs OEL to establish a unified approach to the state's school readiness efforts by adopting specific system support services for the state's school readiness programs.¹⁰ System support services include:

- Child care resource and referral services.
- Warm-Line services.¹¹

¹ See s. 1, ch. 99-357, L.O.F.

² Section 411.01(6), F.S.

³ See U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, <http://www.acf.hhs.gov/programs/ccb/ccdf/factsheet.htm> (last visited January 20, 2012).

⁴ Specific Appropriation 2033, s. 6, ch. 2011-69, L.O.F.

⁵ *Id.*

⁶ Specific Appropriation 75 & 82A, s, ch. 2012-118, L.O.F.

⁷ Section 411.01(4)(c), F.S. The law directs the Governor to designate OEL as the lead agency for administering the CCDF. *Id.*

⁸ ch. 2011-142, L.O.F.

⁹ Section 20.12(3)(h), F.S.

¹⁰ Section 411.01(4)(d)3., F.S.

- Eligibility determinations.
- Child performance standards.
- Child screening and assessment.
- Developmentally appropriate curricula.
- Health and safety requirements.
- Statewide data system requirements.
- Rating and improvement systems.¹²

Additionally, OEL must develop and adopt performance standards and outcome measures for school readiness programs. Child performance standards must describe age-appropriate expectations for what a child in the School Readiness Program should know and be able to do. The standards for children from birth to age five must be integrated with the performance standards adopted by the Department of Education (DOE) for the Voluntary Prekindergarten Education (VPK) Program.¹³ ELC administered programs must be aligned to these performance standards.¹⁴

Florida's OEL coordinates the Early Learning Coalitions (ELCs) at the state level.¹⁵ The office must approve ELC school readiness plans, review the plans every two years, and monitor plan implementation.¹⁶ Additionally, Florida's OEL must provide technical assistance and training to the ELCs and monitor and evaluate their administration of the School Readiness and VPK programs.¹⁷

Early Learning Coalitions

Current Law

Each ELC administers the School Readiness Program,¹⁸ the VPK Program,¹⁹ and the state's child care resource and referral network in its county or multicounty region.²⁰ There are currently 31 ELCs.²¹ Each ELC is governed by a board of directors comprised of various stakeholders and community representatives. Three board members, including the chair, are appointed by the Governor.²²

¹¹ OEL is required to contract with the "statewide resource information and referral agency" to establish a statewide toll-free Warm-line for the purpose of assisting child care providers in serving children with disabilities and special needs. Section 402.3018, F.S.

¹² Section 411.01(4)(d)3.a.-i., F.S.

¹³ Section 411.01(4)(d)8., F.S.; *see also* Office of Early Learning, *Birth to Five Performance Standards*, <http://www.flbt5.com/selection.aspx> (last visited Jan 22, 2012). The performance standards must address the following school readiness skills: compliance with rules, limitations, and routines; ability to perform tasks; interactions with adults; interactions with peers; ability to cope with challenges; self-help skills; ability to express the child's needs; verbal communication skills; problem-solving skills; following of verbal directions; demonstration of curiosity, persistence, and exploratory behavior; interest in books and other printed materials; paying attention to stories; participation in art and music activities; and ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships. Section 411.01(4)(j), F.S.

¹⁴ Section 411.01(5)(c)1.a., F.S.

¹⁵ Section 411.01(4)(a), F.S.

¹⁶ Section 411.01(4)(d)2., F.S.

¹⁷ Section 411.01(4)(d)6., (l) and (n), F.S.; *see also* ss. 1002.55(1) and 1002.61(1)(b), F.S. Florida's OEL and the ELCs must coordinate with the Department of Children and Family Services to minimize duplicating interagency activities, health and safety monitoring, and acquiring and composing data pertaining to child care training and credentialing. Section 411.01(4)(d)7., F.S.

¹⁸ Section 411.01(5), F.S.

¹⁹ Sections 1002.55(1) and 1002.61(1)(b), F.S.

²⁰ Section 411.0101, F.S.

²¹ Florida's Office of Early Learning, *Early Learning Coalition Directory (Revised 3/23/2012)*, http://www.floridaearlylearning.com/EarlyLearning/OEL_Coalitions_CoalitionsDirectory.html (last visited April 20, 2012). Florida law permits the establishment of 31 or fewer ELCs. Section 411.01(5)(a)2.a., F.S.

²² Section 411.01(5)(a)4.-6., F.S.

Each ELC must serve a minimum of 2,000 children based upon the monthly average number of children served by the coalition's school readiness program during the previous 12 months.²³ If the number of children served by an ELC falls below this level, it must merge with another ELC to form a multicounty coalition.²⁴ Florida's OEL must waive the merger requirement if certain criteria are met.²⁵

In order to participate in the School Readiness Program, each ELC must submit a school readiness plan to Florida's OEL for approval.²⁶ The plan must demonstrate how ELC-offered programs will be aligned to statutory requirements, performance standards, and outcome measures. The plan must address how instruction will enable children birth through five years of age to meet the performance standards.²⁷ Florida's OEL must adopt rules establishing school readiness plan approval criteria²⁸ which, among other things, must include:

- A community plan that addresses the needs of eligible children and providers within the coalition's county or multicounty region.
- A sliding fee scale establishing a copayment for parents based upon their ability to pay, which is the same for all program providers.²⁹
- A choice of settings and locations in licensed, registered, religious-exempt, or school-based programs to be provided to parents.
- Child eligibility priorities.
- Performance standards and outcome measures adopted by Florida's OEL.
- Payment rates adopted by the ELCs and approved by Florida's OEL.
- Direct enhancement services for families and children.³⁰
- The business organization of the ELC.
- The implementation of locally developed quality programs in accordance with the requirements adopted by Florida's OEL regarding the expenditure of funds for improving the quality of child care.³¹

An ELC with an approved school readiness plan must implement a comprehensive system of school readiness services which enhance children's attainment of Florida's OEL-adopted performance standards and outcome measures.³² School readiness programs within each ELC's service area must include, among other things, use of a developmentally appropriate curriculum, age appropriate developmental assessment, and a pre- and post-test administered to children as they enter and leave

²³ Section 411.01(5)(a)2.b., F.S.

²⁴ Section 411.01(5)(a)3., F.S. Florida's OEL must adopt procedures for merging ELCs. *Id.*

²⁵ Section 411.01(5)(a)3.a.-c., F.S. Florida's OEL must waive the merger requirement if it determines that the ELC has substantially implemented its school readiness plan; the ELC demonstrates to Florida's OEL its ability to effectively and efficiently implement the VPK Program; and the ELC demonstrates to Florida's OEL its ability to perform its duties in accordance with the law. *Id.*

²⁶ Section 411.01(5)(d)1., F.S.

²⁷ Section 411.01(5)(d)2.a.-b., F.S.

²⁸ Florida's OEL held rule workshops for the school readiness plan in February 2012 and received the transcript from the workshop on March 14, 2012. Florida's OEL staffs are in the process of analyzing comments and preparing rule. E-mail, Florida's Office of Early Learning (Aug. 21, 2012).

²⁹ Each ELC is required to adopt, subject to approval by Florida's OEL, a copayment charged to the parent of a child enrolled in the School Readiness Program. Section 411.01(5)(d)1. and 4.b., F.S.; The co-payment is based on the parent's income and family size. Rule 6M-4.400(1), F.A.C. A School Readiness Program provider receives payment for school readiness services from the ELC and is responsible for collecting the co-payment directly from the parent. Rule 6M-4.401, F.A.C. A School Readiness Program provider is not prohibited from charging parent fees in addition to the co-payment. Rule 6M-4.400(4), F.A.C.

³⁰ "Direct enhancement services for families may include parent training and involvement activities and strategies to meet the needs of unique populations and local eligibility priorities. Enhancement services for children may include provider supports and professional development approved in the plan by [Florida's] OEL." Section 411.01(5)(d)4.g., F.S.

³¹ Section 411.01(5)(d)4., F.S.

³² Section 411.01(5)(c)1.a. and (d)1. and 2., F.S.

the program; character development education; appropriate staff to child ratios; a healthy and safe learning environment; and a parental resource and referral network.³³

Florida law requires each ELC to include a “choice of settings and locations in licensed, registered, religious-exempt, or school-based programs.”³⁴ A wide range of public and private providers of early childhood education and child care services participate in the School Readiness Program, including:

- Public and private schools;
- Licensed child care facilities and large family child care homes;
- Licensed and registered family day care homes;
- Faith-based child care facilities and after-school programs, which are both exempt from licensure; and
- Informal providers³⁵ (e.g., in-home and relative care).³⁶

In FY 2011-12, a total of 10,844 child care providers participated in the School Readiness Program, including 1,013 public schools; 6,508 private providers; and 3,043 family day care homes. Of these providers, 836 were faith-based.³⁷

Child care providers who provide school readiness services are regulated by the Department of Children and Families (DCF).³⁸

Effect of Proposed Changes

Governance

The bill establishes the Office of Early Learning within the Department of Education under the administration of an Executive Director who is fully accountable to the commissioner. The office will administer the school readiness and voluntary prekindergarten programs at the state level. The office must exercise independently all power, duties, and functions prescribed by law and must not be construed as part of the K-20 system. Moreover, participation in the school readiness program does not expand the regulatory authority of the state, its officers, or any early learning coalition to impose any additional regulation on providers beyond those necessary to enforce the requirements of law.

Accountability

The bill implements numerous accountability measures across several aspects of the school readiness program. Each area presented below outlines new provisions included in the bill.

Office of Early Learning

In addition to current responsibilities, the bill requires the OEL to:

- Adopt by rule a standard statewide provider contract to be used with each school readiness and VPK provider.

³³ Section 411.01(5)(c)2., F.S.

³⁴ Section 411.01(5)(d)4.c., F.S.

³⁵ Florida’s Office of Early Learning, Child Care and Development Fund State Plan, *CCDF Plan FFY 2012/13 Part 3-Health and Safety and Quality Improvement Activities*, available at http://www.floridaearlylearning.com/EarlyLearning/OEL_SysDev_CCDF.html.

³⁶ Section 411.01(5)(d)4.c., F.S. Federal regulations governing the CCDF block grant, in effect, require the School Readiness Program to serve children in center-based child care, group home child care, family child care, and in-home child care. 45 C.F.R. s. 98.30(e)(1); see also *supra* note 53, at 3.

³⁷ Email, Office of Early Learning (Apr 4, 2013).

³⁸ Chapter 402, F.S.

- Adopt of a uniform chart of accounts.
- Coordinate with other state and federal agencies to perform data matches.
- Establish procedures for the annual calculation of the prevailing market rate.
- Adopt program support services that include specific statewide data requirements.
- Provide technical assistance to coalitions on anti-fraud plans, training and support for parental involvement in children's early education; and family literacy activities and services.
- Develop and adopt a health and safety checklist for licensed exempt providers.
- Select instruments for pre- and post-assessment for the age ranges specified in the coalition's plans.
- Include provisions for probation, termination for cause, and emergency termination of a provider's contract by a coalition in the office's standard statewide provider contract.
- Adopt standardized monitoring procedures for coalitions to use when monitoring providers.
- Collaborate with the Bureau of Federal Education Programs within the Department of Education to coordinate readiness and voluntary prekindergarten services to the populations served by the bureau, including students served through the homeless education program.
- Provide for the administration of the statewide toll-free Warm-Line to be contingent upon appropriations.
- Administer the operational requirements of the Voluntary Prekindergarten (VPK) Education program.

The OEL will continue establishing a unified approach to coordinate a comprehensive early learning program and adopt specific program support services for school readiness programs, including:

- A statewide data information program that includes:
 - Eligibility requirements.
 - Financial reports.
 - Program accountability measures.
 - Child progress reports.
- Technical assistance and guidance on additional support services that compliment the school readiness programs, including:
 - Rating and improvement systems.
 - Warm-Line services.
 - Anti-fraud plans.
 - Child performance standards.
 - Child screening and assessments.
 - Training and support for parental involvement in children's early education.
 - Family literacy activities and services.

The OEL has developed and adopted performance standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. The standards are aligned with the performance standards adopted for children in the VPK program, which replaced current requirements with a much more robust set of child expectations for children, birth to five years of age.³⁹

³⁹ Email, Office of Early Learning (April 5, 2013). Also see Florida Early Learning and Developmental Standards for Four-Year-Olds (2011) – List of Standards and Benchmarks at <http://flbt5.floridaearlylearning.com/>.

Early Learning Coalitions

The bill revises the membership of the ELCs by removing a representative from a central agency as a member of the coalition, and updates terminology to include a president of a Florida College System institution, rather than a community college representative. The bill outlines the following specific duties and responsibilities of an ELC:

- Implement an age-appropriate pre- and post-assessment of children, as specified in the coalition's plan.
- Require a parent to be in good standing on copayment obligation with a provider prior to transferring to another provider.
- Specify instances in which a parent copayment can be waived.
- Provide a timeframe for attendance records to be altered or amended.
- Comply with federal and state procurement requirements.
- Provide proper information technology controls.
- Develop written procedures for monitoring vendor contracts.
- Monitor providers on an annual basis, using the standard monitoring tool adopted by the office.
- Monitor providers to be determined high-risk more frequently; providers with three consecutive years of compliance may be monitored biennially.
- Implement an anti-fraud plan addressing specific components.
- Specify components for the annual report that is submitted to the office by October 1.
- Requiring each early learning coalition shall use a coordinated professional development system that supports the achievement and maintenance of core competencies by school readiness teachers in helping children attain the performance standards adopted by the office.

ELCs must maintain direct enhancement services at the local level and provide access to such services in all 67 counties. The required annual report to OEL must include an evaluation of the ELC's direct enhancement services.

Coalition Plans

OEL must adopt rules prescribing the standardized format and required content of school readiness plans. The bill provides additional accountability by:

- Requiring ELCs to submit plans biennially before the expenditure of funds.
- Prohibiting an ELC from implementing its school readiness program until the plan is approved.
- Prohibiting an ELC from implementing any changes to its plan, until the changes have been submitted and approved. The plan must include:
 - The coalition's operation, including its membership and business organization.
 - The coalition's articles of incorporation and bylaws, as appropriate.
 - The minimum number of students to be served.
 - The coalition's procedures for implementing all requirements of administering the program.
 - A detailed description of the coalition's quality activities and services.
 - A detailed budget outlining the estimated expenditures for state, federal, and local maintenance of effort and matching funds at a specific level of detail.
 - A detailed accounting of all revenues and expenditures during the previous state fiscal year, in a format described by OEL.
 - Updated policies and procedures.
 - A description of the procedures for monitoring school readiness providers or for responding to a parental complaint.
 - Documentation that the coalition has solicited and considered comments regarding the proposed school readiness plan from the local community.

ELCs currently establish an age-appropriate screening, for children ages birth to 5, of each child's development and appropriate referral process for children with identified delays and implement an age-appropriate pre-assessment and post-assessment of children if it is specified in their plan. The plans must also include a description or the procedures for monitoring school readiness providers, on an annual basis, or in response to a parental complaint to verify that providers are meeting the performance standards and outcome measures adopted by the OEL.

If OEL determines during the review of school readiness plans, or through monitoring and performance evaluations, that an ELC has not substantially implemented its plan, has not substantially met the performance standards and outcome measures, or has not effectively administered the school readiness or VPK program, the office may temporarily contract with a qualified entity to continue providing services until the ELC is reestablished and a new school readiness plan is approved.

Report

The bill requires OEL to collect and report data on coalition delivery of early learning programs to be implemented beginning July 1, 2014 and results included in OEL's annual report. Elements shall include, but not be limited to, the following:

- Progress toward reducing the number of children on the waiting list.
- The percentage of students served compared to the number of administrative staff.
- Fraud intervention.
- Child attendance and stability.
- Provider payment processes.

Eligibility and Enrollment

The bill establishes, effective August 1, 2013 or upon reevaluation of eligibility, the following priorities for eligibility and enrollment in the School Readiness program:

- First priority is a child under 13 from a working family receiving from Temporary Assistance for Needy Families (TANF) and subject to the federal work requirements or transitioning from a work program into employment;
- Second priority is an at-risk child under 9;
- Third priority is child, birth to beginning of school year for which the child is eligible for kindergarten, from a working family that is economically disadvantaged; the child is no longer eligible if the family income exceeds 200% of the federal poverty level.
- Fourth priority is a child, ages 9 – 13, who is at risk; a child eligible under this priority whose sibling is enrolled in the school readiness program shall be given priority over other children;
- Fifth priority is a child ages 3-5 who has a current individual education plan with a Florida school district; child is eligible until they are old enough for kindergarten admission;
- Sixth priority is a child younger than 13 years of age from a working family that is economically disadvantaged; a child eligible under this priority whose sibling is enrolled in the school readiness program shall be given priority over other children;
- Last priority is for a child who is also concurrently enrolled in the Head Start program and the Voluntary Prekindergarten Program.

The bill additionally:

- Requires coalitions to enroll children in accordance with the eligibility priorities;

- Provides parents the opportunity to reestablish employment within 60 days (rather than the current 30 days for break in employment or 60 days for temporary break in employment due to medical reasons);
- Requires disenrollment of children to occur in reverse order of the eligibility priorities, beginning with children from families in with the highest incomes;
- Requires a notice of disenrollment be sent to the parent and school readiness provider at least 2 weeks before disenrollment; and
- Requires providers to report to the coalition if a child has been absent for five consecutive days without any parental notification.

Provider Standards and Eligibility

In addition to current standards and requirements for providers, the bill requires that providers:

- Other than informal providers, maintain a minimum general liability insurance coverage of \$100,000 and general aggregate coverage of \$300,000.
- Maintain worker's compensation insurance and any required unemployment compensation insurance.
- Maintain the coverage above, for informal providers, of homeowner's liability insurance.
- Notify the coalition of cancellation of or changes to coverage.
- Make provisions for coalitions to revoke provider's eligibility for five years if the provider refuses or fails to comply with the law or the statewide contract.

Funding – School Readiness Program

Present Situation

Funding for the School Readiness program is provided annually in the General Appropriations Act (GAA).⁴⁰ For the 2012-2013 fiscal year, a total of \$581.5 million was appropriated for the School Readiness Program from state and federal funds, including \$341.7 million from the CCDF block grant, \$98 million from the TANF block grant, \$141.3 million from the state's General Revenue Fund, and \$500,000 from other federal fund sources. Florida statute provides that the Office of Early Learning shall establish a formula for the allocation of all state and federal school readiness funds provided for children participating in the school readiness program. The formula is required to be based on equity and must be submitted to the Governor and the Legislature by January 1 of each year.⁴¹ Funding allocated for the 2012-2013 fiscal year was based on the formula submitted to the Governor and Legislature as of January 1, 2012.

Effect of Proposed Changes

The bill provides that funding shall be allocated to early learning coalitions as provided in the GAA. The bill also removes the requirement for the annual submission of a funding formula by OEL. Beginning in 2014-2015 all funding appropriated in the GAA shall be allocated using the average prior year enrollment and the uniform waiting list, as adopted by the School Readiness Estimating conference, and the average market rate.⁴²

The bill requires the OEL and each ELC to limit its expenditures to no more than 18 percent of funds for any combination of administrative costs, nondirect services, and quality activities. Of the 18 percent, no more than 5 percent may be used for administrative costs. Coalitions shall place the highest priority for the expenditure of funds on the provision of direct services for eligible children in the school readiness program.

⁴⁰ Specific Appropriation 75, ch. 2012-118, Laws of Florida.

⁴¹ Section 411.01(9), Florida Statutes.

⁴² Section 216.136(8)(a), Florida Statutes.

The bill limits expenditures related to improving the quality of child care to include:

- Developing, operating, expanding, and coordinating resource and referral program.
- Awarding grants to providers to assist in meeting applicable state requirements, implementing developmentally appropriate curricula and related classroom supports, providing literacy supports, and providing professional development.
- Providing training and technical assistance on child performance standards, child screenings, child assessments, curricula, charter development, teacher-child interactions, age-appropriate discipline practices, health and safety, nutrition, first aid, recognition of communicable diseases, and child abuse detection and prevention.
- Funding for quality activities for infants and toddler care, to meet applicable federal requirements.
- Improving compliance with state and local requirements.
- Responding to Warm Line requests by providers.

The bill includes provisions for the use of funds for nondirect services that include, but are not limited to:

- Assisting families complete the application.
- Determining child eligibility.
- Recruiting providers.
- Processing attendance records.
- Developing and maintaining a statewide information system.

The bill prohibits the use of state funds for purchase of improvement of land while providing for the use of funds for minor remodeling and upgrading of facilities.

Funding – Market Rate

Present Situation

Florida's OEL is responsible for annually calculating a market rate schedule as a provision of the Child Care and Development Block Grant that must include county by county rates by provider type including licensed child care facilities; religious exempt facilities, public and non-public schools, large family day care homes, family day care homes and those who hold a Gold Seal quality Care Designation under section 402.281, Florida Statutes. It must also differentiate rates by care level to include infants, toddlers, pre-school age, and school-age children. The market rate schedule is required to be set at the 75th percentile of a reasonable frequency distribution based exclusively on the prices charged for child care services. Each ELC then must utilize the prevailing market rate schedule to set its school readiness provider payment rates.

Effect of Proposed Changes

The bill revises the methodology for calculating the market rate schedule to require that the OEL biennially calculate the market rate at the average of the market rate by program care level and provider type in a predetermined geographic market. The average market rate will be used to allocate funding to early learning coalitions annually in the General Appropriations Act.

Investigations of Fraud

The Auditor General, in its 2012 report, included a number of findings related to the administration of the Voluntary Prekindergarten Program and the School Readiness Program, including deficiencies in early learning coalition financial management and operations. The follow-up audit still reported

deficiencies in these areas, specifically, the failure to conduct student data matches to ensure child eligibility and potential improper school readiness program payments.⁴³ The bill requires the OEL to coordinate with other agencies to perform data matches on individual and families participating in the school readiness program and that fraudulent information submitted by a school readiness provider or parent will be considered a misdemeanor of the first degree, which may include a fine up to \$1,000 and imprisonment not exceeding 1 year. Additionally, the bill:

- Defines “fraud” and the processes to investigate and refer fraud to Department of Financial Services for criminal investigation or to the applicable coalition.
- Applies the provisions and consequences regarding fraud to coalitions, recipients and providers.
- Provides that coalitions may suspend or terminate a provider from participation in School Readiness or the Voluntary Prekindergarten program if it has reasonable cause to believe that the provider has committed fraud.
- Permanently bars a provider from participation if provider is convicted of fraud.
- Prohibits coalitions from contracting with a provider who is on the U.S. Department of Agriculture disqualified list.
- Requires coalitions to adopt an anti-fraud plan.
- Specifies that a person who commits an act of fraud is subject to the penalties provided in s. 414.39(5)(a), F.S.

The bill also requires the Early Learning Advisory Council to periodically analyze and provide recommendations to the office on the effective and efficient use of local, state and federal funds; the content of instructor training programs; and best practices for the development and implementation of coalition plans.

Transparency

The bill includes a number of provisions that increase transparency by:

- Requiring ELCs to provide specific requirements prior to contracting with a member of the coalition or a relative which includes approval of the contract by the office.
- Requiring OEL to publish an annual report on the office’s website by January 1. The report must include a summary of coalitions’ annual report, a statewide summary, an analysis of early learning activities throughout the state with specified components, and a summary of activities and expenditures related to the Child Care Executive Partnership Program.
- Requiring OEL to review ELC delivery of the early learning program.
- Requiring VPK providers to maintain any necessary business requirements to legally operate in the state including any necessary insurance.
- Requiring OEL to review and adopt minimum performance standards for VPK.
- Requiring VPK instructors to complete an online training course on the performance standards by July 1, 2014.
- Requiring OEL to include a summary of activities and expenditures related to the Child Care Executive Partnership Program in the annual report.
- Clarifying that the provision of the school readiness program is not to be construed as part of the state’s K-20 education system.
- Clarifying that participation in the school readiness program does not expand the regulatory authority of the state, its officers, or any early learning coalition to impose any additional regulation on providers beyond those necessary to enforce the requirements set forth for administration of this program.
- Revising provisions related to the recognized accrediting organizations under the Gold Seal Quality Care program.

Educational Property

Current Situation

An educational institution and its property are exempt from ad valorem tax in Florida. Educational institutions often separate their property into separate corporate entities for business planning purposes. In an effort to address this situation, Florida also exempts property that is not directly owned by the educational institution, as long as the property is used exclusively for educational purposes and is owned by the identical owners of the educational institution. A recent Attorney General's opinion concluded that this exemption does not apply when both the property and the educational institution are in separate corporations and those corporations are owned by the identical people.

Effect of Proposed Changes

The bill extends the educational institution exemption to include situations when the property and the educational institution are owned by separate legal entities and those legal entities are owned by the identical people.

Reporting Requirements

The bill further provides that OEL, in collaboration with the Commissioner of Education, must develop a reorganization plan for the office by October 1, 2013. The plan must include the following:

- Any changes made prior to July 1, 2013;
- Personnel, purchasing, and budgetary matters and their alignment with the duties and responsibilities of the office;
- A report of all outstanding contractual obligations; and
- Recommendations for statutory and budgetary changes.

The report must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Afterschool Meals Program

Current Situation

The federally funded Afterschool Meal Program (AMP) was expanded to Florida and the rest of the nation by Congress in December 2010. Prior to that time, it was piloted in only 13 states and the District of Columbia. The federal regulations governing the program do not require child care licensure but do require AMP sites to meet state and local health and safety standards to participate.

Effect of Proposed Changes

The bill authorizes after school programs that are excluded from licensure to offer federally funded After School Meal Program meals, administered by the Department of Health, so long as the program is in good standing with the Department of Health and the meals meet the federal After School Meal Program requirements. The bill allows after-school programs that otherwise meet the criteria for exclusion from licensure.

B. SECTION DIRECTORY:

Section 1: Creating s. 1001.213, F.S.; establishing the Office of Early Learning in the Department of Education and providing duties thereof.

Section 2: Amending s. 1002.51, F.S.; conforming a cross-reference.

Section 3: Amending s. 1002.53, F.S.; clarifying Voluntary Prekindergarten Education Program student enrollment provisions.

Section 4: Amending s. 1002.55, F.S.; revising requirements for private prekindergarten providers and instructors; requiring State Board of Education rules; providing duties of the Office of Early Learning.

Section 5: Amending s. 1002.57, F.S.; requiring the office to adopt standards for a prekindergarten director credential.

Section 6: Amending s. 1002.59, F.S.; requiring the office to adopt standards for training courses on child performance standards.

Section 7: Amending s. 1002.61, F.S.; providing a requirement for a public school delivering a summer prekindergarten program.

Section 8: Amending s. 1002.63, F.S.; providing a requirement for a public school delivering a school-year prekindergarten program; requiring the state board to adopt rules.

Section 9: Amending s. 1002.66, F.S.; deleting obsolete provisions.

Section 10: Amending s. 1002.67, F.S.; requiring the office to adopt performance standards for students in the Voluntary Prekindergarten Education Program and approve curricula; revising provisions relating to removal of provider eligibility, submission of an improvement plan, and required corrective actions.

Section 11: Amending s. 1002.69, F.S.; providing duties of the office relating to statewide kindergarten screening, kindergarten readiness rates, and good cause exemptions for providers.

Section 12: Amending s. 1002.71, F.S.; revising provisions relating to payment of funds to providers.

Section 13: Amending s. 1002.72, F.S.; providing for the release of Voluntary Prekindergarten Education Program student records for the purpose of investigations.

Section 14: Amending s. 1002.75, F.S.; revising duties of the office for administering the Voluntary Prekindergarten Education Program.

Section 15: Amending s. 1002.77, F.S.; revising provisions relating to the Florida Early Learning Advisory Council.

Section 16: Amending s. 1002.79, F.S.; deleting certain state board rulemaking authority for the Voluntary Prekindergarten Education Program.

Section 17: Creating part VI of ch. 1002, F.S., consisting of ss. 1002.81-1002.98, relating to school readiness; providing definitions; providing powers and duties of the Office of Early Learning; providing for early learning coalitions; providing early learning coalition powers and duties for the school readiness program; providing requirements for early learning coalition plans; providing school readiness program requirements; providing school readiness program student eligibility and enrollment requirements; providing school readiness provider standards and eligibility to deliver the school readiness program; providing school readiness program funding; providing for investigation of fraud or overpayment and penalties therefor; providing for child care and early childhood resource and referral; providing for school readiness transportation services; providing for the Child Care Executive Partnership Program; providing for the Teacher Education and Compensation Helps scholarship program; providing for Early Head Start collaboration grants; providing requirements relating to infants

and toddlers in state-funded education and care programs; providing for the confidentiality of records of children in school readiness programs.

Section 18: Amending s. 11.45, F.S.; conforming a cross-reference.

Section 19: Amending s. 20.15, F.S.; conforming provisions.

Section 20: Amending s. 196.198, F.S.; revising provisions relating to educational property tax exemption.

Section 21: Amending s. 216.136, F.S.; conforming a cross-reference.

Section 22: Amending s. 402.281, F.S.; revising requirements relating to receipt of a Gold Seal Quality Care designation.

Section 23: Amending s. 402.302, F.S.; conforming a cross-reference.

Section 24: Amending s. 402.305, F.S.; providing that certain child care after-school programs may provide meals through a federal program.

Sections 25 – 27: Amending ss. 445.023, 490.014, 491.014, F.S.; conforming cross-references.

Section 28: Amending s. 1001.11, F.S.; providing a duty of the Commissioner of Education relating to early learning programs.

Section 29: Repealing ss. 411.01, 411.0101, 411.01013, 411.01014, 411.01015, 411.0102, 411.0103, 411.0104, 411.0105, 411.0106, and 411.011, F.S. and incorporating those sections into the newly created Part VI of Chapter 1002.

Section 30: Authorizing specified positions for the Office of Early Learning.

Section 31: Requiring the office to develop a reorganization plan for the office and submit a report to the Governor and Legislature.

Section 32: Providing an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No.

2. Expenditures:

There may be minimal costs, but they are unknown at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Office of Early Learning is provided rulemaking authority to implement specific provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to district school boards; amending s.
 3 1001.372, F.S.; clarifying that district school board
 4 meeting agenda items may be proposed by the district
 5 school superintendent or a member of the board;
 6 requiring district school boards to convene at least
 7 one regular meeting each quarter within a school year
 8 which begins no earlier than 5:00 p.m. and to create
 9 criteria for convening such a meeting; amending s.
 10 1001.41, F.S.; requiring a district school board to
 11 exercise its general powers after considering
 12 recommendations made by a school board member;
 13 requiring a district school board to allow a public
 14 school student whose parent has died to remain
 15 enrolled in the school he or she was attending at the
 16 time of the parent's death if requirements are met;
 17 amending s. 1001.42, F.S.; providing additional
 18 purposes for which an internal auditor may be
 19 employed; amending s. 1006.07, F.S.; defining and
 20 distinguishing emergency lockdown drills from
 21 emergency evacuation drills; requiring that emergency
 22 lockdown drills be conducted at least as often as
 23 emergency evacuation drills; encouraging local law
 24 enforcement officers or fire officials to participate
 25 in and to review at least one emergency lockdown drill
 26 at each school each year; requiring a designated staff
 27 member to submit an after-drill report to the school
 28 district after an emergency drill; providing

29 requirements for the after-drill report; providing an
 30 effective date.

31

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

33 Section 1. Subsection (1) of section 1001.372, Florida
 34 Statutes, is amended to read:

35 1001.372 District school board meetings.—

36 (1) REGULAR AND SPECIAL MEETINGS.—

37 (a) The district school board, after considering agenda
 38 items proposed by the district school superintendent or a member
 39 of the board, shall hold not less than one regular meeting each
 40 month for the transaction of business according to a schedule
 41 arranged by the district school board. The district school board
 42 shall convene at least one regular meeting each quarter within a
 43 school year which begins no earlier than 5:00 p.m. The district
 44 school board shall create written criteria for convening such a
 45 quarterly meeting.

46 (b) The district school board and shall convene in a
 47 special meeting sessions when called by the district school
 48 superintendent or by the district school superintendent on
 49 request of the chair of the district school board, or on request
 50 of a majority of the members of the district school board. If
 51 the district school superintendent does not call a special
 52 meeting when requested to do so, as prescribed in this
 53 paragraph, such a meeting may be called by the chair of the
 54 district school board or by a majority of the members of the
 55 district school board by giving 2 days' written notice of the
 56 time and purpose of the meeting to all members and to the

57 district school superintendent. An action; ~~provided that actions~~
 58 taken at a special meeting has meetings ~~shall have the same~~
 59 force and effect as if taken at a regular meeting, and; ~~and~~
 60 ~~provided further that in the event the district school~~
 61 ~~superintendent should fail to call a special meeting when~~
 62 ~~requested to do so, as prescribed herein, such a meeting may be~~
 63 ~~called by the chair of the district school board or by a~~
 64 ~~majority of the members of the district school board by giving 2~~
 65 ~~days' written notice of the time and purpose of the meeting to~~
 66 ~~all members and to the district school superintendent, in which~~
 67 ~~event~~ the minutes of the meeting must ~~shall~~ set forth the facts
 68 regarding the procedure in calling the meeting and the reason
 69 the meeting was called. The minutes must ~~therefor and shall~~ be
 70 signed ~~either~~ by the chair or by a majority of the members of
 71 the district school board.

72 Section 2. Section 1001.41, Florida Statutes, is amended
 73 to read:

74 1001.41 General powers of district school board.—The
 75 district school board, after considering recommendations
 76 submitted by the district school superintendent or a member of
 77 the board, shall exercise the following general powers:

78 (1) Determine policies and programs consistent with state
 79 law and rule deemed necessary by it for the efficient operation
 80 and general improvement of the district school system.

81 (2) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
 82 implement the provisions of law conferring duties upon it to
 83 supplement those prescribed by the State Board of Education and
 84 the Commissioner of Education.

85 (3) Prescribe and adopt standards and policies to provide
 86 each student the opportunity to receive a complete education
 87 program, including language arts, mathematics, science, social
 88 studies, health, physical education, foreign languages, and the
 89 arts, as defined by the Sunshine State Standards. The standards
 90 and policies must emphasize integration and reinforcement of
 91 reading, writing, and mathematics skills across all subjects,
 92 including career awareness, career exploration, and career and
 93 technical education.

94 (4) Contract, sue, and be sued. The district school board
 95 shall constitute the contracting agent for the district school
 96 system.

97 (5) Perform duties and exercise those responsibilities
 98 that are assigned to it by law or by rules of the State Board of
 99 Education or the Commissioner of Education and, in addition
 100 thereto, those that it may find to be necessary for the
 101 improvement of the district school system in carrying out the
 102 purposes and objectives of the education code.

103 (6) Assign students to schools. Notwithstanding any
 104 provision of law to the contrary, if a parent of a public school
 105 student has died while the student is attending a public school,
 106 the district school board must provide the student the option to
 107 remain at that school until the student is promoted to middle
 108 school or high school or graduates from high school, as
 109 applicable. However, this option is unavailable to a student
 110 who has been suspended in school, more than once; expelled; or
 111 suspended out of school, from that school.

112 (7) Enter into agreements for accepting credit card,

113 charge card, and debit card payments as compensation for goods,
 114 services, tuition, and fees, as authorized by law.

115 Section 3. Paragraph (1) of subsection (12) of section
 116 1001.42, Florida Statutes, is amended to read:

117 1001.42 Powers and duties of district school board.—The
 118 district school board, acting as a board, shall exercise all
 119 powers and perform all duties listed below:

120 (12) FINANCE.—Take steps to assure students adequate
 121 educational facilities through the financial procedure
 122 authorized in chapters 1010 and 1011 and as prescribed below:

123 (1) Internal auditor.—May employ an internal auditor to
 124 perform ongoing financial verification of the financial records
 125 of the school district and such other audits and reviews as the
 126 district school board directs for the purpose of overseeing
 127 school district resources and determining compliance with
 128 applicable laws and district school board-approved policies,
 129 procedures, and contracts. The internal auditor shall report
 130 directly to the district school board or its designee.

131 Section 4. Subsections (4) and (5) of section 1006.07,
 132 Florida Statutes, are reordered and amended, and subsection (6)
 133 of that section is amended, to read:

134 1006.07 District school board duties relating to student
 135 discipline and school safety.—The district school board shall
 136 provide for the proper accounting for all students, for the
 137 attendance and control of students at school, and for proper
 138 attention to health, safety, and other matters relating to the
 139 welfare of students, including:

140 (5)~~(4)~~ EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

141 (a) Formulate and prescribe policies and procedures for
 142 emergency lockdown drills, emergency evacuation drills, and ~~for~~
 143 actual emergencies, including, but not limited to, fires,
 144 natural disasters, weapon-use and hostage situations, and bomb
 145 threats, for all the public schools of the district which
 146 comprise grades K-12. District school board policies must ~~shall~~
 147 include commonly used alarm system responses for specific types
 148 of emergencies and verification by each school that drills have
 149 been provided as required by law and fire protection codes. As
 150 used in this paragraph, the term "evacuation drill" means an
 151 activity in which students and faculty practice the safest and
 152 quickest way to evacuate a school facility in case of an
 153 emergency in which evacuation is generally the safest option,
 154 such as in the case of a fire. As used in this paragraph, the
 155 term "lockdown drill" means an activity in which students and
 156 faculty practice securing a school facility or rooms within the
 157 facility in case of an emergency in which hiding from a hostile
 158 danger is generally deemed safer than evacuating the building,
 159 such as in the case of a tornado or the presence of an armed
 160 person who is threatening the safety of the students or
 161 employees of a school.

162 1. The policies and procedures must require that emergency
 163 lockdown drills be conducted at least as often as emergency
 164 evacuation drills. This subparagraph does not require an
 165 increase in the total number of emergency drills conducted at a
 166 school each year.

167 2. Local law enforcement officers or fire officials are
 168 encouraged to participate in, and to review, at least one

169 emergency lockdown drill at each school each year. After a
 170 drill, participating law enforcement officers or fire officials
 171 are encouraged to submit recommendations to the school on how it
 172 can improve its safety procedures in case of an emergency
 173 lockdown.

174 3. Each school shall designate the principal or a member
 175 of its staff as the person responsible for overseeing a school's
 176 emergency drills. Before an emergency drill is conducted, the
 177 designated staff member shall review the appropriate, most
 178 recent after-drill report required under subparagraph 4.

179 4. After a drill is completed, the designated staff member
 180 shall electronically submit to the school district an after-
 181 drill report that details the specific drill that was conducted.
 182 Such report must include positive observations and
 183 recommendations for improvement offered by the school or
 184 participating law enforcement officers or fire officials, if
 185 any.

186 (b) ~~The district school board shall~~ Establish model
 187 emergency management and emergency preparedness procedures for
 188 the following life-threatening emergencies:

- 189 1. Weapon-use and hostage situations.
- 190 2. Hazardous materials or toxic chemical spills.
- 191 3. Weather emergencies, including hurricanes, tornadoes,
 192 and severe storms.
- 193 4. Exposure as a result of a manmade emergency.

194 (4)-(5) EDUCATIONAL SERVICES IN DETENTION FACILITIES.-Offer
 195 educational services to minors who have not graduated from high
 196 school and eligible students with disabilities under the age of

197 22 who have not graduated with a standard diploma or its
 198 equivalent who are detained in a county or municipal detention
 199 facility, as defined in s. 951.23. These educational services
 200 must ~~shall~~ be based upon the estimated length of time the
 201 student will be in the facility and the student's current level
 202 of functioning. District school superintendents or their
 203 designees shall be notified by the county sheriff or chief
 204 correctional officer, or his or her designee, upon the
 205 assignment of a student under the age of 21 to the facility. A
 206 cooperative agreement with the district school board and
 207 applicable law enforcement units shall be developed to address
 208 the notification requirement and the provision of educational
 209 services to these students.

210 (6) SAFETY AND SECURITY BEST PRACTICES.—Use the Safety and
 211 Security Best Practices developed by the Office of Program
 212 Policy Analysis and Government Accountability to conduct a self-
 213 assessment of the school districts' current safety and security
 214 practices. Based on these self-assessment findings, the district
 215 school superintendent shall provide recommendations to the
 216 district school board which identify strategies and activities
 217 that the district school board should implement in order to
 218 improve school safety and security. ~~Annually~~ Each district
 219 school board must annually receive the self-assessment results
 220 at a publicly noticed district school board meeting to provide
 221 the public an opportunity to hear the district school board
 222 members discuss and take action on the report findings. Each
 223 district school superintendent shall report the self-assessment
 224 results and school board action to the commissioner within 30

PCS FOR CS/HB 127

ORIGINAL

2013

225 | days after the district school board meeting.

226 | Section 5. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 127 District School Boards
SPONSOR(S): Education Committee
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: Orig. Comm.: Education Committee, Beagle GB, Mizereck JM

SUMMARY ANALYSIS

Florida law requires each district school board to hold at least one regular meeting each month for the transaction of business according to a schedule arranged by the board. The law does not address when monthly meetings must be held, e.g., meeting days and times. Currently, policy issues considered by a school board must first be recommended to the board by the district school superintendent. Individual board members do not have authority to make such recommendations.

The bill requires each school board to convene at least one regular meeting per quarter which begins no earlier than 5:00 p.m. These quarterly meetings must coincide with the school year. The bill also provides that policy issues for consideration by the board may be recommended by a board member.

The law authorizes school boards to employ an internal auditor to perform ongoing financial verification of the financial records of the school district. The law is silent regarding whether an internal auditor may perform audits unrelated to the school district's financial records.

The bill adds authorization for internal auditors to provide audits and reviews as the school board directs for the purpose of overseeing school district resources and determining compliance with applicable laws and school board-approved policies, procedures, and contracts.

The law requires each school board to adopt enrollment plans and assign students to schools within the school district. The law does not specifically require boards to allow a public school student whose parent has died to continue in the school he or she was attending at the time of the parent's death.

The bill requires each school board to allow a public school student whose parent has died to continue in the school he or she was attending at the time of the parent's death. This option remains in effect until the student is promoted from elementary school to middle school, middle school to high school, or upon graduation from high school, as applicable. However, this option is unavailable to a student who has been suspended in school, more than once; expelled; or suspended out of school, from that school.

The law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats.

The bill adds "weapons and hostage situations" to the existing list of emergencies that each school board must address in its policies and procedures for emergency drills and actual emergencies. Additionally, the bill specifies that policies and procedures for emergency drills must encompass both "emergency lock down drills" and "emergency evacuation drills." Emergency lockdown drills must be conducted at least as often as emergency evacuation drills. School staff must complete an after-drill report detailing each drill conducted.

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

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The State Constitution provides that each county constitutes a school district and charges district school boards with the operation, control, and supervision of all free public schools within a school district.¹ The Florida statutes authorize each district school board to exercise any power not expressly prohibited by the State Constitution or law and require each board to perform all duties assigned to it by law or State Board of Education rule.² Among other things, the law specifies requirements regarding school board meetings,³ the employment of internal auditors,⁴ student school assignments,⁵ and school district emergency drills and procedures.⁶

District School Board Meetings

Current Law

Florida law requires each district school board to hold at least one regular meeting each month for the transaction of business according to a schedule arranged by the board.⁷ School board meetings must be held in the office of the district school superintendent or a room convenient to that office and regularly designated as the board meeting room. Meetings may be held at other public locations if at least 48 hours public notice is given.⁸ The law does not address when monthly meetings must be held, e.g., meeting days and times.

Florida law charges district school superintendents with recommending to the school board policies and rules he or she considers necessary for the efficient operation of the district school system. Such policies and rules may only be enacted with the advice and counsel of the school board at a publicly noticed board meeting.⁹ Thus, policy issues considered by a school board must first be recommended to the board by the superintendent. Individual board members may suggest issues for consideration, but the superintendent is not required to include such suggestions in his or her recommendations.¹⁰

Effect of Bill

The bill requires each school board to convene at least one regular meeting per quarter which begins no earlier than 5:00 p.m. These quarterly meetings must coincide with the school year. This change would provide increased opportunity for parent and public participation in board meetings.

¹ Section 4, Art. IX of the State Constitution.

² Sections 1001.32(2) and 1001.41(5), F.S.

³ Section 1001.372, F.S.

⁴ Section 1001.42(12)(I), F.S.

⁵ Sections 1001.41(6) and 1001.42(4)(a), F.S.

⁶ Section 1006.07(4) and (6), F.S.

⁷ Section 1001.372(1), F.S.

⁸ Section 1001.372(2)(a)-(b), F.S. School board meetings must be noticed in a newspaper of general circulation in the county. If there is no newspaper of general circulation in the county, the meeting may be noticed by announcements over at least one radio station whose signal is generally received in the county or notice posted on the courthouse door. Section 1001.372(2)(c), F.S. A special meeting may be convened when called by the district school superintendent, acting individually or on the request of the board chair or a majority of the board members. If the superintendent does not call a board meeting when, the meeting may be called by the chair or a majority of members by providing two days' written notice to all members and the superintendent. Section 1001.372(1), F.S.

⁹ Sections 1001.372, 1001.41, 1001.49, and 286.011, F.S.

¹⁰ Section 1001.41, F.S.; Op. Att'y Gen. Fla. 96-13 (1996); Op. Att'y Gen. Fla. 2002-08 (2002).

The bill also provides that policy issues for consideration by the school board may be recommended by a board member. This change allows both school board members and the superintendent to recommend issues for consideration by the board.

Internal Auditors

Current Law

District school boards may employ an internal auditor to perform ongoing financial verification of the financial records of the school district. The internal auditor reports directly to the district school board or its designee.¹¹ The law is silent regarding whether an internal auditor may perform other types of audits.

Effect of Bill

The bill adds authorization for internal auditors to provide audits and reviews as the school board directs for the purpose of overseeing school district resources and determining compliance with applicable laws and district school board-approved policies, procedures, and contracts. This change clarifies that internal auditors are authorized to perform audits beyond those relating to the district's financial records.

Student School Assignments

Current Law

The law requires each district school board to adopt enrollment plans and assign students to schools within the school district.¹² School boards are authorized, but not required, to adopt controlled open enrollment policies which enable parents to enroll their child in a district school outside their assigned attendance area.¹³ The law does not specifically require boards to allow a public school student whose parent has died to continue in the school he or she was attending at the time of the parent's death.

Effect of Bill

The bill requires each district school board to allow a public school student whose parent has died the option to continue in the school he or she was attending at the time of the parent's death. This option remains in effect until the student is promoted from elementary school to middle school, middle school to high school, or upon graduation from high school, as applicable. However, this option is unavailable to a student who has been suspended in school, more than once; expelled; or suspended out of school, from that school. This change would enable a student to stay in that school if, for example, the student's surviving parent chooses to move outside the school's attendance area because he or she can no longer afford to live there.

Emergency Drills and Procedures

Current Law

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.¹⁴

¹¹ Section 1001.42(12)(I), F.S.

¹² Sections 1001.41(6) and 1001.42(4)(a), F.S.

¹³ Section 1002.31, F.S.

¹⁴ Section 1006.07(4)(a), F.S. Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies. Section 1006.07(4)(b), F.S.

The *Safety and Security Best Practices* (Best Practices) is a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. The self-assessment is developed by the Office of Program Policy Analysis and Government Accountability. Among other "best practices," the self-assessment suggests that school districts:

- Implement procedures for emergency drills including procedures for verifying that regular drills are conducted and varying the time and conditions for such drills to prepare for a range of scenarios.
- Develop a checklist with step-by-step emergency procedures for use in every classroom which includes evacuation, lockdown, and shelter-in-place procedures developed in collaboration with local law enforcement, fire, and emergency response personnel.
- Share emergency plans, policies, procedures, and educational facilities floor plans with local law enforcement agencies and fire departments.¹⁵

Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent's recommendations must be addressed in a publicly noticed school board meeting.¹⁶

Effect of Bill

The bill adds "weapons and hostage situations" to the existing list of emergencies that each school board must address in its policies and procedures for emergency drills and actual emergencies. Additionally, the bill specifies that policies and procedures for emergency drills must encompass both "emergency lock down drills" and "emergency evacuation drills." The bill defines:

- "Evacuation drill" as an "activity in which students and faculty practice the safest and quickest way to evacuate a school facility in case of an emergency in which evacuation is generally the safest option."
- "Lockdown drill" as an "activity in which students and faculty practice securing a school facility or rooms within the facility in case of an emergency in which hiding from a hostile danger is generally deemed safer than evacuating the building."

Emergency policies and procedures must require that emergency lockdown drills be conducted at least as often as emergency evacuation drills. However, the bill states that school districts are not required to increase the annual number of emergency drills conducted at a school. The bill encourages local law enforcement or fire personnel to participate annually in at least one emergency lockdown drill per school, review its execution, and submit recommendations to the school for improving lockdown procedures.

The bill requires each school to designate the school principal or a staff member as the person responsible for overseeing the school's emergency drills. After a drill is completed, the designated staff member must electronically submit to the school district an after-drill report that details the specific drill that was conducted. Such report must include any feedback and recommendations for improvement offered by the school or participating law enforcement or fire personnel. The most recent after-drill reports must be reviewed by the designated staff member before each drill.

Current law provides a public record exemption for a security system plan or portion thereof for any property owned by or leased to the state or any of its political subdivisions, or for any privately owned or leased property held by an agency. Security system plans include, in part, threat assessments

¹⁵ Section 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp> (last visited March 12, 2013).

¹⁶ Section 1006.07(6), F.S. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting. *Id.*

conducted by any agency or any private entity, threat response plans, and emergency evacuation plans.¹⁷ This public records exemption would also protect a school's after-drill report and recommendations from participating law enforcement or fire personnel.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.372, F.S., relating to District school board meetings; requires school boards to convene one meeting per quarter within the school year during evening hours; provides that policy issues for consideration at a board meeting may be proposed by the superintendent or a board member.

Section 2. Amends s. 1001.41, F.S., relating to General powers of district school boards; authorizes individual school board members to make recommendations regarding policy issues for consideration by the board; requires boards to allow a public school student whose parent has died to remain enrolled in the school he or she was attending at the time of the parent's death, with exceptions.

Section 3. Amends s. 1001.42, F.S., relating to Powers and duties of district school boards; authorizes additional duties for school board internal auditors.

Section 4. Amends s. 1006.07, F.S., relating to District school board duties regarding student discipline and school safety; requires policies and procedures for certain emergency drills; prescribes requirements for after-drill reporting.

Section 5. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹⁷ Section 119.071(3)(a)2., F.S.
STORAGE NAME: pcs0127.EDC.DOCX
DATE: 4/5/2013

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:

The bill requires district school boards to create written criteria for convening a quarterly meeting no earlier than 5:00 p.m. As generally-applicable statements implementing the law within the district, these criteria meet the statutory definition of rules.¹⁸ District school boards are subject to the Administrative Procedure Act¹⁹ and are required to adopt these criteria through the statutory rulemaking process.²⁰ In addition, the bill's changes to school board emergency policies and procedures and student school assignments may require revisions to existing rules, policies, and procedures.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

¹⁸ Section 120.52(16), F.S.

¹⁹ Chapter 120, F.S. As an "educational unit," a district school board meets the definition of an "agency" under the Administrative Procedure Act. Section 120.52(1), F.S.

²⁰ Section 120.54, F.S. Some school boards have adopted existing meeting criteria by rule. School Board of Broward County Policy 1100A, "Scheduling of Meetings," available at <http://www.broward.k12.fl.us/sbbcpolicies/index.asp>; The School Board of Leon County, Policy 0160 – Meetings, available at <http://www.neola.com/leon-fl/>.

1 A bill to be entitled
2 An act relating to school emergencies; amending s.
3 1006.07, F.S.; requiring district school board
4 policies to list the emergency response agencies that
5 are responsible for notifying the school district of
6 emergencies; amending s. 1002.20, F.S.; authorizing a
7 public school to purchase and maintain a supply of
8 epinephrine auto-injectors; requiring that the school
9 district adopt a protocol developed by a licensed
10 physician for the administration of epinephrine auto-
11 injectors for emergency use when a student is having
12 an anaphylactic reaction; providing that the supply of
13 epinephrine auto-injectors may be provided to and used
14 by a student authorized to self-administer epinephrine
15 by auto-injector or trained school personnel;
16 providing that a school district and its employees and
17 agents, including a physician providing a standing
18 protocol for school epinephrine auto-injectors, are
19 not liable for an injury to a student arising from the
20 use of an epinephrine auto-injector under certain
21 circumstances; amending s. 1002.42, F.S.; requiring
22 the emergency response agencies to notify private
23 schools in the school district of emergencies under
24 certain circumstances; authorizing a private school to
25 purchase and maintain a supply of epinephrine auto-
26 injectors; requiring that the private school adopt a
27 protocol developed by a licensed physician for the
28 administration of epinephrine auto-injectors for

29 emergency use when a student is having an anaphylactic
 30 reaction; providing that the supply of epinephrine
 31 auto-injectors may be provided to and used by a
 32 student authorized to self-administer epinephrine by
 33 auto-injector or trained school personnel; providing
 34 that a private school and its employees and agents,
 35 including a physician providing a standing protocol
 36 for school epinephrine auto-injectors, are not liable
 37 for an injury to a student arising from the use of an
 38 epinephrine auto-injector under certain circumstances;
 39 providing an effective date.

40

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

42

43 Section 1. Subsection (4) of section 1006.07, Florida
 44 Statutes, is amended to read:

45

1006.07 District school board duties relating to student
 46 discipline and school safety.—The district school board shall
 47 provide for the proper accounting for all students, for the
 48 attendance and control of students at school, and for proper
 49 attention to health, safety, and other matters relating to the
 50 welfare of students, including:

51

(4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

52

(a) Formulate and prescribe policies and procedures for
 53 emergency drills and for actual emergencies, including, but not
 54 limited to, fires, natural disasters, and bomb threats, for all
 55 the public schools of the district which comprise grades K-12.

56

District school board policies shall include commonly used alarm

57 system responses for specific types of emergencies and
 58 verification by each school that drills have been provided as
 59 required by law and fire protection codes. The emergency
 60 response agency that is responsible for notifying the school
 61 district for each type of emergency must be listed in the
 62 district's emergency response policy.

63 (b) ~~The district school board shall~~ Establish model
 64 emergency management and emergency preparedness procedures,
 65 including emergency notification procedures pursuant to
 66 paragraph (a), for the following life-threatening emergencies:

- 67 1. Weapon-use and hostage situations.
- 68 2. Hazardous materials or toxic chemical spills.
- 69 3. Weather emergencies, including hurricanes, tornadoes,
 70 and severe storms.
- 71 4. Exposure as a result of a manmade emergency.

72 Section 2. Paragraph (i) of subsection (3) of section
 73 1002.20, Florida Statutes, is amended to read:

74 1002.20 K-12 student and parent rights.—Parents of public
 75 school students must receive accurate and timely information
 76 regarding their child's academic progress and must be informed
 77 of ways they can help their child to succeed in school. K-12
 78 students and their parents are afforded numerous statutory
 79 rights including, but not limited to, the following:

80 (3) HEALTH ISSUES.—

81 (i) Epinephrine use and supply.—

- 82 1. A student who has experienced or is at risk for life-
 83 threatening allergic reactions may carry an epinephrine auto-
 84 injector and self-administer epinephrine by auto-injector while

85 in school, participating in school-sponsored activities, or in
 86 transit to or from school or school-sponsored activities if the
 87 school has been provided with parental and physician
 88 authorization. The State Board of Education, in cooperation with
 89 the Department of Health, shall adopt rules for such use of
 90 epinephrine auto-injectors that shall include provisions to
 91 protect the safety of all students from the misuse or abuse of
 92 auto-injectors. A school district, county health department,
 93 public-private partner, and their employees and volunteers shall
 94 be indemnified by the parent of a student authorized to carry an
 95 epinephrine auto-injector for any and all liability with respect
 96 to the student's use of an epinephrine auto-injector pursuant to
 97 this paragraph.

98 2. A public school may purchase from a wholesale
 99 distributor, as defined in s. 499.003, and maintain in a locked,
 100 secure location on its premises a supply of epinephrine auto-
 101 injectors for use if a student is having an anaphylactic
 102 reaction. A participating school district shall adopt a protocol
 103 developed by a licensed physician for the administration by
 104 school personnel who are trained to recognize an anaphylactic
 105 reaction and to administer an epinephrine auto-injection. The
 106 supply of epinephrine auto-injectors may be provided to and used
 107 by a student authorized to self-administer epinephrine by auto-
 108 injector under subparagraph 1. or trained school personnel.

109 3. The school district and its employees and agents,
 110 including the physician who provides the standing protocol for
 111 school epinephrine auto-injectors, are not liable for any injury
 112 arising from the use of an epinephrine auto-injector

113 administered by trained school personnel who follow the adopted
 114 protocol and whose professional opinion is that the student is
 115 having an anaphylactic reaction:

116 a. Unless the trained school personnel's action is willful
 117 and wanton;

118 b. Notwithstanding that the parent of the student to whom
 119 the epinephrine is administered has not been provided notice or
 120 has not signed a statement acknowledging that the school
 121 district is not liable; and

122 c. Regardless of whether authorization has been given by
 123 the student's parent or by the student's physician, physician's
 124 assistant, or advanced registered nurse practitioner.

125 Section 3. Subsections (16) and (17) are added to section
 126 1002.42, Florida Statutes, to read:

127 1002.42 Private schools.—

128 (16) EMERGENCY PROCEDURES.—The emergency response agencies
 129 identified in a district school board's emergency response
 130 policy pursuant to s. 1006.07(4) which are responsible for
 131 notifying the school district of an occurrence that threatens
 132 student safety shall also notify private schools in the district
 133 that request such notification by opting into the district
 134 school board's emergency notification procedures.

135 (17) EPINEPHRINE SUPPLY.—

136 (a) A private school may purchase from a wholesale
 137 distributor, as defined in s. 499.003, and maintain in a locked,
 138 secure location on its premises a supply of epinephrine auto-
 139 injectors for use if a student is having an anaphylactic
 140 reaction. A participating private school shall adopt a protocol

141 developed by a licensed physician for the administration by
 142 private school personnel who are trained to recognize an
 143 anaphylactic reaction and to administer an epinephrine auto-
 144 injection. The supply of epinephrine auto-injectors may be
 145 provided to and used by a student authorized to self-administer
 146 epinephrine by auto-injector under s. 1002.20(3)(i) or trained
 147 school personnel.

148 (b) The private school and its employees and agents,
 149 including the physician who provides the standing protocol for
 150 school epinephrine auto-injectors, are not liable for any injury
 151 arising from the use of an epinephrine auto-injector
 152 administered by trained school personnel who follow the adopted
 153 protocol and whose professional opinion is that the student is
 154 having an anaphylactic reaction:

155 1. Unless the trained school personnel's action is willful
 156 and wanton;

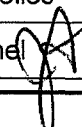

157 2. Notwithstanding that the parent of the student to whom
 158 the epinephrine is administered has not been provided notice or
 159 has not signed a statement acknowledging that the school
 160 district is not liable; and

161 3. Regardless of whether authorization has been given by
 162 the student's parent or by the student's physician, physician's
 163 assistant, or advanced registered nurse practitioner.

164 Section 4. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 369 Student Safety
SPONSOR(S): Local and Federal Affairs Committee, La Rosa and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 284

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	13 Y, 0 N	Ammel	Fudge
2) Local & Federal Affairs Committee	14 Y, 0 N, As CS	Baker	Rojas
3) Judiciary Committee	17 Y, 0 N	Arguelles	Havlicak
4) Education Committee		Ammel 	Mizereck 

SUMMARY ANALYSIS

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in a district school board's emergency response policy and in its model emergency management and preparedness procedures. The bill also authorizes private schools to opt into the district school board's emergency notification procedures and be notified by the relevant emergency response agencies.

Although current Florida law requires each district school board to establish policies and procedures for emergencies, the law does not require that district school board policies and procedures list the agencies responsible for notifying the school district in case of an emergency.

Currently, students with proper authorization may carry epinephrine auto-injectors, also known as "epi-pens," at school activities for allergic reactions. The bill gives an option to public and private schools to purchase and store the same devices on campus. A school that stores the auto-injector must adopt a protocol for administering the device. The bill provides that except for willful and wanton conduct, trained school employees and the physicians who develop the school's protocol on administering the auto-injectors are protected from liability arising from administering the auto-injector.

The emergency policies of private schools are not regulated by the state. Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency. Florida law does not expressly authorize private schools to opt into school district emergency notification procedures for the purpose of receiving emergency notifications.

The bill has no fiscal impact on state or local governments.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Emergency notification procedures

Florida law does not expressly require that school district emergency response policies and model emergency management and preparedness procedures list the agencies responsible for notifying the school district regarding emergencies. However, cooperation with emergency response agencies is incorporated into the *Safety and Security Best Practices*, a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. Among other “best practices,” the self-assessment suggests that school districts:

- Make arrangements to work with local emergency officials, including, without limitation, law enforcement; fire department; emergency management; hospital, mental health, health, and social services agencies; and court officials.
- Share comprehensive school safety plans and emergency procedures with appropriate emergency response agencies.
- Implement procedures for contacting all district schools simultaneously regarding an emergency.¹

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.² Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies.³

Private school emergency policies are not regulated by the state.⁴ Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency. Despite such arrangements, private schools do not always receive notification.⁵ Florida law does not expressly authorize private schools to opt into district school board emergency notification procedures for the purpose of receiving notification of emergencies from an emergency response agency.⁶

¹ Section 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp> (last visited April 1, 2013). The Best Practices are developed by the Office of Program Policy Analysis and Government Accountability. Section 1006.07(6), F.S. Each district school superintendent must make recommendations to the school board for improving safety and security based upon the self-assessment results. The self-assessment results and superintendent’s recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent’s recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting.

² Section 1006.07(4)(a), F.S.

³ Section 1006.07(4)(b), F.S.

⁴ Telephone interview with Bureau Chief, Emergency Management, Florida Department of Education (Mar. 17, 2011), confirmed by Bureau Chief, Emergency Management, Florida Department of Education (Mar. 15, 2013).

⁵ Telephone interview with Executive Director, Florida Council of Independent Schools (Mar. 11, 2011), confirmed by Executive Director, Florida Council of Independent Schools (Mar. 21, 2013).

⁶ See s. 1002.42, F.S.

Allergic Reactions

The law currently permits a student with parental or physician authorization to carry an epinephrine auto-injector at school activities for allergic reactions. As regards to any liability arising from the student's own use of an auto-injector, the parent of such a student must indemnify the school district and its employees of such liability.

Liability

Public school personnel

Currently, there is no civil liability for public school personnel who administer medication unless the person administering the medication acts negligently.⁷

Private persons

There does not appear to be any law specifically addressing the liability of private school personnel who administer medicine. However, Florida law does contain the Insect Sting Emergency Treatment Act, which applies to school teachers who have responsibility for a person with severe reactions to insect stings.⁸ That law establishes a certification scheme for administering epinephrine auto-injectors.⁹ That scheme merely authorizes a person to administer an auto-injector and does not address liability for improper administration.

For private persons, Florida's Good Samaritan Act may apply.¹⁰ However, that act still permits liability when an individual renders aid in a negligent fashion.¹¹ In addition, the actual protection of that act likely does not apply to private school personnel since only licensed hospitals, employees of such hospitals working in a clinic inside the hospital facility, and emergency room physicians are protected by the act.¹²

Thus, it seems the general rules of negligence and civil liability would apply to private school personnel who cause harm to a student by improper administration of an auto-injector.

Effect of Proposed Changes

Emergency notification procedures

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board's emergency response policy and in its model emergency management and preparedness procedures.

The bill provides that if a private school requests such notification by opting into the district school board's emergency notification procedures, then the emergency response agencies listed must notify a private school in the school district of occurrences that threaten student safety. This will enable a private school to receive emergency notifications in the same manner as district public schools.

⁷ Section 1006.062(2), F.S.

⁸ Section 381.88, F.S.

⁹ *Id.*

¹⁰ Section 768.13, F.S.

¹¹ Section 768.13(2)(a), F.S.

¹² *See Jackson County Hosp. Corp. v. Aldrich*, 835 So.2d 318 (2002).

Allergic Reactions

The bill gives an option to private and public schools to purchase and store epinephrine auto-injectors, also known as “epi-pens,” on campus. The bill requires schools that possess such auto-injectors to adopt a protocol developed by a licensed physician for the purpose of training school personnel to administer the device in the event of an allergic reaction. According to the bill, students who are authorized to self-administer may use the school’s auto-injectors.

Liability

The bill protects public and private school employees from liability for harm caused by their use of the auto-injector unless the employee acted in a willful and wanton manner. The same liability protection applies to physicians who develop the school’s protocol on administering the auto-injectors.

The bill further provides that liability does not exist for school employees despite:

- 1) the fact the parents of the affected student did not receive notice or sign an indemnity; and
- 2) the fact the student’s parents, physician, physician’s assistant, or advanced nurse practitioner have not authorized the administration of an epinephrine auto-injector on the student.

The bill effectively increases the protection for school employees who administer an auto-injector. Whereas, a plaintiff suing public school personnel under the current law must only prove negligence, this bill would increase the required proof to willful and wanton conduct.

For suits against private school personnel, the bill would increase the legal protection by increasing the necessary standard of proof for liability. Instead of mere negligence, the bill would require that a plaintiff prove willful and wanton conduct. Wantonness is a standard of proof used for the more extreme remedy of punitive damages.¹³

B. SECTION DIRECTORY:

Section 1: Amends s. 1006.07, F.S., relating to district school board duties regarding student discipline and school safety; requires school boards to identify in emergency policies and procedures the agency responsible for notifying the school district regarding emergencies.

Section 2: Amends s. 1002.20, F.S., relating to public schools; expressly permits public schools to store epinephrine auto-injectors on campus; requires schools to adopt a protocol developed by a licensed physician; removes school employees’ liability arising from administration of an auto-injector unless done in a willful or wanton manner; removes same liability from physician who developed the protocol.

Section 3: Amends s. 1002.42, F.S., relating to private schools; requires an emergency response agency to notify private schools of emergencies that threaten student safety; authorizes private schools to request such notification by opting into school board notification procedures; expressly permits private schools to store epinephrine auto-injectors on campus; requires schools to adopt protocol developed by a licensed physician; removes school employees’ liability arising from administration of an auto-injector unless done in a willful or wanton manner; removes same liability from physician who developed the protocol.

Section 4: Provides an effective date of July 1, 2013.

¹³ See *Penzer v. Transportation Ins. Co.*, 29 So. 3d 100 (Fla. 2010). Other terms that are associated with the standard of proving punitive damages in Florida are willfulness, malice, moral turpitude, outrageous aggravation, or reckless indifference.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on the state revenues.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

Indeterminate fiscal impact. The cost of purchase and storage of auto-injectors as well as adopting physician-developed protocols is difficult to determine since the bill merely authorizes, rather than requires, private and public schools to carry their own supply of auto-injectors.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Article I, section 21 of the Florida Constitution provides: "The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay." The Florida Constitution protects "only rights that existed at common law or by statute prior to the enactment of the Declaration of Rights of the Florida Constitution."¹⁴ In order to make a colorable claim of denial of access to courts, an aggrieved party must demonstrate that the Legislature has abolished a common-law right previously enjoyed by the people of Florida and, if so, that it has not provided a reasonable alternative for redress and that there is not an "overpowering public necessity" for eliminating the right.¹⁵

This right could be implicated if a court were to find that the bill abolishes a right of access to the courts that existed at common law or by statute prior to the enactment of the Declaration of Rights

¹⁴ Fla. Jur. 2d., s. 360.

¹⁵ Kluger v. White, 281 So.2d 1, 4 (Fla. 1973).

of the Florida Constitution.¹⁶ The bill may implicate concerns relating to the constitutional right of access to courts to the extent that the bill limits causes of actions against public and private school employees and physicians who developed the school's protocol on administering the auto-injectors.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear whether the bill would conflict with Florida law regarding restrictions on certain parties to drug distribution chains. Namely, the bill does not address whether a school that purchases auto-injectors is prohibited from distributing them to other parties.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2013, the Local and Federal Affairs Committee adopted one amendment. That amendment allowed public and private schools to purchase and store epinephrine auto-injectors, also known as "epi-pens," on campus to address allergic reactions. The amendment required that a school that chooses to store such auto-injectors must also develop a protocol for their use by trained school personnel. The amendment removed any liability for trained school personnel who administer the auto-injector to a student with certain exceptions. This analysis is drafted to the committee substitute as passed by the Local and Federal Affairs Committee.

¹⁶ The enactment of the Declaration of Rights of the Florida Constitution was part of Florida's new constitution of 1968 and occurred when it was ratified by the electorate on November 5, 1968.

1 A bill to be entitled
 2 An act relating to exceptional student education;
 3 amending s. 1002.20, F.S.; prohibiting certain actions
 4 with respect to parent meetings with school district
 5 personnel; providing requirements for meetings
 6 relating to exceptional student education and related
 7 services; amending s. 1003.57, F.S.; requiring a
 8 school district to use specified terms to describe the
 9 instructional setting for certain exceptional
 10 students; defining the term "inclusion" for purposes
 11 of exceptional student instruction; providing for
 12 determination of eligibility as an exceptional
 13 student; requiring certain assessments to facilitate
 14 inclusive educational practices for exceptional
 15 students; creating s. 1003.5715, F.S.; requiring the
 16 use of parental consent forms for specified actions in
 17 a student's individual education plan; providing
 18 requirements for the consent forms; providing
 19 requirements for changes in a student's individual
 20 education plan; requiring the State Board of Education
 21 to adopt rules; creating s. 1003.572, F.S.; defining
 22 the term "private instructional personnel";
 23 encouraging the collaboration of public and private
 24 instructional personnel and providing requirements
 25 therefor; amending s. 1003.58, F.S.; conforming a
 26 cross-reference; amending s. 1012.585, F.S.; providing
 27 requirements for renewal of a professional certificate
 28 relating to teaching students with disabilities;

29 authorizing the State Board of Education to adopt
 30 rules; providing an effective date.

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

33
 34 Section 1. Paragraph (a) of subsection (21) of section
 35 1002.20, Florida Statutes, is amended to read:

36 1002.20 K-12 student and parent rights.—Parents of public
 37 school students must receive accurate and timely information
 38 regarding their child's academic progress and must be informed
 39 of ways they can help their child to succeed in school. K-12
 40 students and their parents are afforded numerous statutory
 41 rights including, but not limited to, the following:

42 (21) PARENTAL INPUT AND MEETINGS.—

43 (a) Meetings with school district personnel.—Parents of
 44 public school students may be accompanied by another adult of
 45 their choice at any meeting with school district personnel.
 46 School district personnel may not object to the attendance of
 47 such adult or discourage or attempt to discourage, through any
 48 action, statement, or other means, parents from inviting another
 49 person of their choice to attend any meeting. Such prohibited
 50 actions include, but are not limited to, attempted or actual
 51 coercion or harassment of parents or students or retaliation or
 52 threats of consequences to parents or students.

53 1. Such meetings include, but are not limited to,
 54 meetings related to: the eligibility for exceptional student
 55 education or related services; the development of an individual
 56 family support plan (IFSP); the development of an individual

57 education plan (IEP); the development of a 504 accommodation
 58 plan issued under s. 504 of the Rehabilitation Act of 1973; the
 59 transition of a student from early intervention services to
 60 other services; the development of postsecondary goals for a
 61 student and the transition services needed to reach those goals;
 62 and other issues that may affect a student's educational
 63 environment, discipline, or placement.

64 2. The parents and school district personnel attending the
 65 meeting shall sign a document at the meeting's conclusion which
 66 states whether any school district personnel have prohibited,
 67 discouraged, or attempted to discourage the parents from
 68 inviting a person of their choice to the meeting.

69 Section 2. Subsection (1) of section 1003.57, Florida
 70 Statutes, is amended to read:

71 1003.57 Exceptional students instruction.-

72 (1) (a) For purposes of providing exceptional student
 73 instruction under this section:

74 1. A school district shall use the following terms to
 75 describe the instructional setting for a student with a
 76 disability, 6 through 21 years of age, who is not educated in a
 77 setting accessible to all children who are together at all
 78 times:

79 a. "Exceptional student education center" or "special day
 80 school" means a separate public school to which nondisabled
 81 peers do not have access.

82 b. "Other separate environment" means a separate private
 83 school, residential facility, or hospital or homebound program.

84 c. "Regular class" means a class in which a student spends

85 80 percent or more of the school week with nondisabled peers.

86 d. "Resource room" means a classroom in which a student
 87 spends between 40 percent to 80 percent of the school week with
 88 nondisabled peers.

89 e. "Separate class" means a class in which a student
 90 spends less than 40 percent of the school week with nondisabled
 91 peers.

92 2. A school district shall use the term "inclusion" to
 93 mean that a student is receiving education in a general
 94 education regular class setting, reflecting natural proportions
 95 and age-appropriate heterogeneous groups in core academic and
 96 elective or special areas within the school community; a student
 97 with a disability is a valued member of the classroom and school
 98 community; the teachers and administrators support universal
 99 education and have knowledge and supports available to enable
 100 them to effectively teach all children; and a student is
 101 provided access to technical assistance in best practices,
 102 instructional methods, and supports tailored to the student's
 103 needs based on current research.

104 (b) Each district school board shall provide for an
 105 appropriate program of special instruction, facilities, and
 106 services for exceptional students as prescribed by the State
 107 Board of Education as acceptable, including provisions that:

108 1. The district school board provide the necessary
 109 professional services for diagnosis and evaluation of
 110 exceptional students.

111 2. The district school board provide the special
 112 instruction, classes, and services, either within the district

113 school system, in cooperation with other district school
 114 systems, or through contractual arrangements with approved
 115 private schools or community facilities that meet standards
 116 established by the commissioner.

117 3. The district school board annually provide information
 118 describing the Florida School for the Deaf and the Blind and all
 119 other programs and methods of instruction available to the
 120 parent of a sensory-impaired student.

121 4. The district school board, once every 3 years, submit
 122 to the department its proposed procedures for the provision of
 123 special instruction and services for exceptional students.

124 (c) ~~(b)~~ A student may not be given special instruction or
 125 services as an exceptional student until after he or she has
 126 been properly evaluated and found eligible as an exceptional
 127 student, ~~classified, and placed~~ in the manner prescribed by
 128 rules of the State Board of Education. The parent of an
 129 exceptional student evaluated and found eligible or ineligible
 130 ~~placed or denied placement in a program of special education~~
 131 shall be notified of each such evaluation and determination
 132 ~~placement or denial~~. Such notice shall contain a statement
 133 informing the parent that he or she is entitled to a due process
 134 hearing on the identification, evaluation, and eligibility
 135 determination ~~placement~~, or lack thereof. Such hearings are
 136 exempt from ss. 120.569, 120.57, and 286.011, except to the
 137 extent that the State Board of Education adopts rules
 138 establishing other procedures. Any records created as a result
 139 of such hearings are confidential and exempt from s. 119.07(1).
 140 The hearing must be conducted by an administrative law judge

141 from the Division of Administrative Hearings pursuant to a
 142 contract between the Department of Education and the Division of
 143 Administrative Hearings. The decision of the administrative law
 144 judge is final, except that any party aggrieved by the finding
 145 and decision rendered by the administrative law judge has the
 146 right to bring a civil action in the state circuit court. In
 147 such an action, the court shall receive the records of the
 148 administrative hearing and shall hear additional evidence at the
 149 request of either party. In the alternative, in hearings
 150 conducted on behalf of a student who is identified as gifted,
 151 any party aggrieved by the finding and decision rendered by the
 152 administrative law judge has the right to request a review of
 153 the administrative law judge's order by the district court of
 154 appeal as provided in s. 120.68.

155 (d)~~(e)~~ Notwithstanding any law to the contrary, during the
 156 pendency of any proceeding conducted pursuant to this section,
 157 unless the district school board and the parents otherwise
 158 agree, the student shall remain in his or her then-current
 159 educational assignment or, if applying for initial admission to
 160 a public school, shall be assigned, with the consent of the
 161 parents, in the public school program until all such proceedings
 162 have been completed.

163 (e)~~(d)~~ In providing for the education of exceptional
 164 students, the district school superintendent, principals, and
 165 teachers shall utilize the regular school facilities and adapt
 166 them to the needs of exceptional students to the maximum extent
 167 appropriate. To the extent appropriate, students with
 168 disabilities, including those students in public or private

169 institutions or other facilities, shall be educated with
 170 students who are not disabled. Segregation of exceptional
 171 students shall occur only if the nature or severity of the
 172 exceptionality is such that education in regular classes with
 173 the use of supplementary aids and services cannot be achieved
 174 satisfactorily.

175 (f) Once every 3 years, each school district and school
 176 shall complete a Best Practices in Inclusive Education (BPIE)
 177 assessment with a Florida Inclusion Network facilitator and
 178 include the results of the BPIE assessment and all planned
 179 short-term and long-term improvement efforts in the school
 180 district's exceptional student education policies and
 181 procedures. BPIE is an internal assessment process designed to
 182 facilitate the analysis, implementation, and improvement of
 183 inclusive educational practices at the district and school team
 184 levels.

185 (g)~~(e)~~ In addition to the services agreed to in a
 186 student's individual educational plan, the district school
 187 superintendent shall fully inform the parent of a student having
 188 a physical or developmental disability of all available services
 189 that are appropriate for the student's disability. The
 190 superintendent shall provide the student's parent with a summary
 191 of the student's rights.

192 (h)~~(f)~~ School personnel may consider any unique
 193 circumstances on a case-by-case basis when determining whether a
 194 change in placement is appropriate for a student who has a
 195 disability and violates a district school board's code of
 196 student conduct. School personnel may remove and place such

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197 student in an interim alternative educational setting for not
 198 more than 45 school days, without regard to whether the behavior
 199 is determined to be a manifestation of the student's disability,
 200 if the student:

201 1. Carries a weapon to or possesses a weapon at school, on
 202 school premises, or at a school function under the jurisdiction
 203 of the school district;

204 2. Knowingly possesses or uses illegal drugs, or sells or
 205 solicits the sale of a controlled substance, while at school, on
 206 school premises, or at a school function under the jurisdiction
 207 of the school district; or

208 3. Has inflicted serious bodily injury upon another person
 209 while at school, on school premises, or at a school function
 210 under the jurisdiction of the school district.

211 (i)~~(g)~~ For purposes of paragraph (h)~~(f)~~, the term:

212 1. "Controlled substance" means a drug or other substance
 213 identified under Schedule I, Schedule II, Schedule III, Schedule
 214 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.
 215 812(c) and s. 893.02(4).

216 2. "Weapon" means a device, instrument, material, or
 217 substance, animate or inanimate, which is used for, or is
 218 readily capable of, causing death or serious bodily injury;
 219 however, this definition does not include a pocketknife having a
 220 blade that is less than 2 1/2 inches in length.

221 Section 3. Section 1003.5715, Florida Statutes, is created
 222 to read:

223 1003.5715 Parental consent; individual education plan.—

224 (1) The Department of Education shall adopt separate

225 parental consent forms that school districts must use for each
 226 of the following actions in a student's individual education
 227 plan (IEP):

228 (a) Administer to the student an alternate assessment
 229 pursuant to s. 1008.22 and provide instruction in the state
 230 standards access points curriculum.

231 (b) Place the student in an exceptional student education
 232 center.

233 (2) In accordance with 34 C.F.R. s. 300.503, each form
 234 shall be provided to the parent in the parent's native language,
 235 as defined in 34 C.F.R. s. 300.29, and include the following:

236 (a) A statement that the parent is a participant of the
 237 individual education plan team (IEP Team) and has the right to
 238 consent or refuse consent to the actions described in subsection
 239 (1). The statement shall include information that the refusal of
 240 parental consent means that the school district may not proceed
 241 with the actions described in subsection (1) without a school
 242 district due process hearing in accordance with 34 C.F.R. ss.
 243 300.507 and 300.508.

244 (b) A "does consent" box and a signature line.

245 (c) A "does not consent" box and a signature line.

246 (d) An informational statement of the benefits and
 247 consequences of giving parental consent to the actions described
 248 in subsection (1).

249 (3) A school district may not proceed with the actions
 250 described in subsection (1) without parental consent unless the
 251 school district documents reasonable efforts to obtain the
 252 parent's consent and the child's parent has failed to respond or

253 the school district obtains approval through a due process
 254 hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and
 255 resolution of appeals.

256 (4) Except for a change in placement described in s.
 257 1003.57(1)(h), if a school district determines that there is a
 258 need to change an exceptional student's IEP as it relates to
 259 actions described in subsection (1), the school must hold an IEP
 260 Team meeting that includes the parent to discuss the reason for
 261 the change. The school shall provide written notice of the
 262 meeting to the parent indicating the purpose, time, and location
 263 of the meeting and who, by title or position, will attend the
 264 meeting. The IEP Team meeting requirement may be waived by
 265 informed consent of the parent after the parent receives the
 266 written notice.

267 (5) For a change in actions described in subsection (1) in
 268 a student's IEP, the school district may not implement the
 269 change without parental consent unless the school district
 270 documents reasonable efforts to obtain the parent's consent and
 271 the child's parent has failed to respond or the school district
 272 obtains approval through a due process hearing in accordance
 273 with 34 C.F.R. ss. 300.507 and 300.508 and resolution of
 274 appeals.

275 (6) Pursuant to 34 C.F.R. s. 300.518, during the pendency
 276 of a due process hearing or appellate proceeding regarding a due
 277 process complaint, the student shall remain in his or her
 278 current educational assignment while awaiting the decision of
 279 any impartial due process hearing or court proceeding, unless
 280 the parent and the district school board otherwise agree.

281 (7) This section does not abrogate any parental right
 282 identified in the Individuals with Disabilities Education Act
 283 (IDEA) and its implementing regulations.

284 (8) The State Board of Education shall adopt rules
 285 pursuant to ss. 120.536(1) and 120.54 to implement this section,
 286 including, but not limited to, developing parental consent
 287 forms.

288 Section 4. Section 1003.572, Florida Statutes, is created
 289 to read:

290 1003.572 Collaboration of public and private instructional
 291 personnel.—

292 (1) As used in this section, the term "private
 293 instructional personnel" means:

294 (a) Individuals certified under s. 393.17 or licensed
 295 under chapter 490 or chapter 491 for applied behavior analysis
 296 services as defined in ss. 627.6686 and 641.31098.

297 (b) Speech-language pathologists licensed under s.
 298 468.1185.

299 (c) Occupational therapists licensed under part III of
 300 chapter 468.

301 (d) Physical therapists licensed under chapter 486.

302 (e) Psychologists licensed under chapter 490.

303 (f) Clinical social workers licensed under chapter 491.

304 (2) The collaboration of public and private instructional
 305 personnel shall be designed to enhance but not supplant the
 306 school district's responsibilities under the Individuals with
 307 Disabilities Education Act (IDEA). The school as the local
 308 education agency shall provide therapy services to meet the

309 expectations provided in federal law and regulations and state
 310 statutes and rules. Collaboration of public and private
 311 instructional personnel will work to promote educational
 312 progress and assist students in acquiring essential skills,
 313 including, but not limited to, readiness for pursuit of higher
 314 education goals or employment. Where applicable, public and
 315 private instructional personnel shall undertake collaborative
 316 programming. Coordination of services and plans between a public
 317 school and private instructional personnel is encouraged to
 318 avoid duplication or conflicting services or plans.

319 (3) Private instructional personnel who are hired or
 320 contracted by parents to collaborate with public instructional
 321 personnel must be permitted to observe the student in the
 322 educational setting, collaborate with instructional personnel in
 323 the educational setting, and provide services in the educational
 324 setting according to the following requirements:

325 (a) The student's public instructional personnel and
 326 principal consent to the time and place.

327 (b) The private instructional personnel satisfy the
 328 requirements of s. 1012.32 or s. 1012.321.

329 (4) The provision of private instructional personnel by a
 330 parent does not constitute a waiver of the student's or parent's
 331 right to a free and appropriate public education under IDEA.

332 Section 5. Subsection (3) of section 1003.58, Florida
 333 Statutes, is amended to read:

334 1003.58 Students in residential care facilities.—Each
 335 district school board shall provide educational programs
 336 according to rules of the State Board of Education to students

337 who reside in residential care facilities operated by the
 338 Department of Children and Family Services or the Agency for
 339 Persons with Disabilities.

340 (3) The district school board shall have full and complete
 341 authority in the matter of the assignment and placement of such
 342 students in educational programs. The parent of an exceptional
 343 student shall have the same due process rights as are provided
 344 under s. 1003.57(1)(c) ~~1003.57(1)(b)~~.

345
 346 Notwithstanding the provisions herein, the educational program
 347 at the Marianna Sunland Center in Jackson County shall be
 348 operated by the Department of Education, either directly or
 349 through grants or contractual agreements with other public or
 350 duly accredited educational agencies approved by the Department
 351 of Education.

352 Section 6. Paragraph (e) is added to subsection (3) of
 353 section 1012.585, Florida Statutes, and subsection (6) is added
 354 to that section, to read:

355 1012.585 Process for renewal of professional
 356 certificates.—

357 (3) For the renewal of a professional certificate, the
 358 following requirements must be met:

359 (e) Beginning July 1, 2014, an applicant for renewal of a
 360 professional certificate must earn a minimum of 1 college credit
 361 or the equivalent inservice points in the area of instruction
 362 for teaching students with disabilities. Educators who are
 363 certified in exceptional student education, who have passed the
 364 subject area test in exceptional student education, or who have

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365 successfully completed an exceptional student education course
 366 in a teacher preparation program are exempt from this
 367 requirement. The requirement in this paragraph may not add to
 368 the total hours required by the department for continuing
 369 education or inservice training.

370 (6) The State Board of Education may adopt rules under ss.
 371 120.536(1) and 120.54 to implement this section, including, but
 372 not limited to, applicant renewal requirements.



373 Section 7. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 465 Exceptional Student Education

SPONSOR(S): Education Appropriations Subcommittee, Choice & Innovation Subcommittee, Brodeur and others

TIED BILLS: IDEN./SIM. **BILLS:** SB 1108

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	13 Y, 0 N, As CS	Ammel	Fudge
2) Education Appropriations Subcommittee	11 Y, 1 N, As CS	Heflin	Heflin
3) Education Committee		Ammel 	Mizereck 

SUMMARY ANALYSIS

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school. The Individuals with Disabilities Education Act, the Code of Federal Regulations, state laws, and State Board of Education Rules outline specific requirements for the implementation and provision of educational programs and services for students with disabilities including, but not limited to, parental notification, parental involvement, determination of placement, procedural safeguards for parents and students, and dispute resolution options. Districts must submit to DOE for approval proposed procedures for the provision of special instruction and services for exceptional students every three years. Approved procedures are posted on the DOE website.

The bill reiterates a number of provisions and guidelines already codified under IDEA, state laws, and State Board of Education rule. The bill proposes additional regulations, including but not limited to, requiring:

- Districts to obtain parental consent or obtain consent through a due process hearing before administering the Florida Alternate Assessment to a student, instructing the student in the state standard access points, or placing the student in an Exceptional Student Education Center.
- DOE to develop and adopt in State Board Rule separate parental notifications for specific actions related to the development of an Individual Educational Plan (IEP).
- Districts not to discourage parents from inviting a qualified individual to attend specific meetings.
- Additional notifications to be issued for specific actions and specific meetings, including meetings to determine eligibility for 504 Accommodations.
- Additional content to be included in the parental consent forms.
- DOE to develop a form that parents and districts must sign verifying districts did not discourage parents from inviting other individuals to specific meetings.
- All schools in every school district to complete a Best Practices in Inclusive Education assessment every three years, in conjunction with a Florida Inclusion Network facilitator.
- Districts to allow private instructional personnel hired by parents to enter the classroom to observe the student, collaborate with public instructional personnel, and provide services to the student.
- Applicants for renewal of a professional certificate to earn at least one college credit or equivalent inservice points in instruction for teaching exceptional students.

The bill may have fiscal impact on state and local governments. *See Fiscal Comments.*

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES

Background

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.¹ As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.²

An individual educational plan (IEP) or individual family support plan (IFSP) must be developed, reviewed, and revised for each eligible student or child with a disability served by a school district, or other state agency that provides special education and related services either directly, by contract, or through other arrangements.³ In developing an IEP, the IEP team must consider a child's strengths, concerns of the parents for enhancing education, results of the initial evaluation or most recent evaluation of the child, the academic, developmental, functional needs of the child, as well as special factors.⁴

Parents are partners with schools and school district personnel in developing, reviewing, and revising the IEP for their student. The role of parents in developing IEPs includes, but is not limited to:

1. Providing critical information regarding the strengths of their student;
2. Expressing their concerns for enhancing the education of their student so that their student can receive FAPE;
3. Participating in discussions about the student's need for special education and related services;
4. Participating in the determination of how the student will be involved and progress in the general curriculum, including participation in the statewide assessment program and in district-wide assessments;
5. Participating in the determination of what services the school district will provide to the student and in what setting; and
6. Participating in the determination of whether the student is pursuing a course of study leading towards a standard diploma, consistent with Sections 1003.43 and 1004.428, F.S., or a special diploma, consistent with Section 1003:438, F.S.⁵

Each school district must establish procedures that provide the opportunity for one or both of the student's parents to participate in meetings and decisions concerning the IEP for the student. Parents must be members of any group that makes decisions on the educational placement of their student. The following procedures must be included:

- Notifying parents of the meeting early enough to ensure that they will have an opportunity to attend.
- Scheduling the meeting at a mutually agreed on time and place.

¹ 20 U.S.C. s.1400 et. seq., as amended by P.L. 108-446; 34 C.F.R. s. 300.17.

² 34 C.F.R. s. 300.149.

³ Rule 6A-6.03028(3), F.A.C.

⁴ 20 U.S.C. s.1414(d)(3)(A) and (B).

⁵ Rule 6A-6.03028(3)(a), F.A.C.

- A written notice of the meeting must be provided to the parents and must indicate the purpose, time, and location of the meeting, and who, by title or position, will be attending. The notice must also include a statement informing the parents that they have the right to invite individuals with special knowledge or expertise about their student and that they may request that a Part C service coordinator or other representative of the Part C system⁶ be invited to attend the initial IEP Team meeting for a child previously receiving early intervention services under Part C of the IDEA.
- No later than the first IEP to be in effect when the student turns fourteen (14), or younger if determined appropriate by the IEP Team, the notice must also indicate that a purpose of the meeting will be identifying transition services needs of the student and that the district will invite the student.
- Not later than the first IEP to be in effect when the student turns sixteen (16), or younger if determined appropriate by the IEP Team, the notice must also indicate that a purpose of the meeting will be consideration of the postsecondary goals and transition services for the student, that the district will invite the student, and identify any other agency that will be invited to send a representative to the meeting.
- If neither parent can attend, the school district shall use other methods to ensure parent participation, including individual or conference telephone calls or video conferencing.
- A meeting may be conducted without a parent in attendance if the school district is unable to obtain the attendance of the parents. In this case, the district must have a record of its attempts to arrange a mutually agreed on time and place, such as:
 - Detailed records of telephone calls made or attempted and the results of those calls;
 - Copies of correspondence sent to the parents and any responses received; and
 - Detailed records of visits made to the parents' home or place of employment and the results of those visits.
- The district shall take whatever action is necessary to ensure that the parents and the student, beginning at age fourteen (14), understand the proceedings at a meeting, which may include arranging for an interpreter for parents and students who are deaf or whose native language is a language other than English.
- A meeting does not include informal or unscheduled conversations involving school district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that school district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.
- The district shall give the parents a copy of the IEP at no cost to the parents.⁷

The IEP Team participants must include:

- the parents of the student
- at least one regular education teacher of the student, where appropriate
- at least one special education teacher of the student
- a school district representative qualified to provide or supervise the provision of specially designed instruction for meeting the unique needs of students with disabilities, and
- an individual who can interpret the instructional implications of evaluation results.

The IEP Team may also include, at the discretion of the parent or school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate. Additionally, other team members may include the student, when appropriate; agencies responsible for providing or paying for transition services, and the Part C service coordinator or other representative of the Part C system if the student previously received such services.⁸

⁶ 34 C.F.R. s. 300.321(f)

⁷ Rule 6A-6.03028(3)(b), F.A.C.

⁸ Rule 6A-6.03028(3)(c), F.A.C.

An IEP must be in effect before special education services are provided to an eligible student and must be implemented as soon as possible following the IEP meeting. The parent retains the right to ask for revisions of the child's IEP or to invoke due process procedures.⁹ Meetings shall be held to develop, review and revise the IEP. A meeting shall be held at least annually to review each IEP and, as appropriate, revise its provisions in accordance with aspects outlined in rule.¹⁰

District school boards are also required to submit to the Department of Education (DOE) proposed procedures for the provision of special instruction and services for exceptional students once every three years.¹¹ DOE must approve this document as a prerequisite for the district's use of weighted cost factors under the Florida Education Finance Program (FEFP). This document also serves as the basis for the identification, evaluation, eligibility determination, and placement of students to receive exceptional education services, and is a component of the district's application for funds available under the Individuals with Disabilities Education Act (IDEA). Approved plans are available online and include, among other topics, procedural safeguards and assurances for the parents of students with disabilities.¹²

Changes to the IEP are generally made by the entire IEP Team at an IEP Team meeting and may be made by amending the IEP rather than by redrafting the entire IEP. If changes are recommended after the annual IEP meeting for a school year, the parent and school district may agree not to convene an IEP team meeting to make those changes, and may instead develop a written document to amend or modify the student's current IEP. The IEP Team must be informed of any changes, and the parent must receive a copy of the revised IEP, with the amendments incorporated.¹³

Additionally, parents of students with disabilities are informed of their rights through the "Notice of Procedural Safeguards for Parents with Disabilities," at least once per year, although the document is available at any time the parent requests it. The document outlines the federal requirements which includes that district notify parents, in writing, whenever it:

- Proposes to initiate or to change the identification, evaluation, or educational placement of your child, or the provision of a free appropriate public education (FAPE) to your child; or
- Refuses to initiate or to change the identification, evaluation, or educational placement of your child or the provision of FAPE to your child.¹⁴

Parents who have issues with the district regarding their student's exceptional student education may be able to resolve those issues informally at the local level. However, administrative remedies, including mediation, state complaint, and due process hearing requests are also available. Procedures for such requests are outlined in the "Notice of Procedural Safeguards for Parents of Students with Disabilities" document as well as on the Department of Education's website.¹⁵

Parent Meetings with Districts

Present Situation

Parents and districts have the discretion to invite individuals to IEP and IFSP meetings.¹⁶ Additionally, other team members may include the student, when appropriate; agencies responsible for providing or

⁹ Rule 6A-6.03028(3)(m), F.A.C.

¹⁰ Rule 6A-6.03028(3)(f)3., F.A.C.

¹¹ Section 1003.57(1)(d), F.S.

¹² See FLDOE ESE Policies and Procedures available at <http://www.fldoe.org/ese/ppd.asp>.

¹³ Rule 6A-6.03028(3)(k), F.A.C.

¹⁴ 34 C.F.R. s. 300.503

¹⁵ See FLDOE Dispute Resolution Systems available at <http://www.fldoe.org/ese/resolution.asp>

¹⁶ 34 C.F.R. s. 300.321(a)(6).

paying for transition services, and the Part C service coordinator or other representative of the Part C system if the student previously received such services.¹⁷

Effect of Proposed Changes

The bill identifies specific meetings at which parents may invite another individual to attend, including those already authorized above. Additionally, the bill includes the following meetings: the development of a 504 accommodation plan and the transition of a student from early intervention services to other services. Eligible children with disabilities ages birth to three years of age are served by the Department of Health (DOH), Children's Medical Services, Early Steps, and therefore are not the responsibility of the school district. This program is provided under the authority of Part C of IDEA. Section 504 of the Rehabilitation Act of 1973 does not require that a parent be on the Section 504 team responsible for eligibility and placement decisions. However, most school districts have incorporated into their procedures the requirement to invite parents to attend, and DOE provides sample notification forms for districts to use.¹⁸

The bill prohibits school districts from discouraging parents from bringing other adults to meetings by "attempted or actual coercion; harassment of parents or students; or threats of consequences to parents or students", and provides language to expressly prohibit such actions. Additionally, it requires the school district and parent attending any such meetings to sign a document when the meeting concludes stating whether school district personnel prohibited, discouraged, or attempted to discourage parents from inviting a person of their choice to the meeting.

Best Practices in Inclusive Education (BPIE) Assessment

Present Situation

Best Practices for Inclusive Education (BPIE) is an assessment instrument to facilitate the analysis, implementation, and improvement of inclusive educational practices at the district, school, and education team levels.¹⁹ The Florida Inclusion Network (FIN) is a discretionary project funded by the Bureau of Exceptional Education and Students Services using IDEA Part B funding. The primary focus of FIN is the provision of technical assistance and professional development to support inclusive practices. Over the past three years, FIN staff have worked with schools in five districts to implement the BPIE assessment process.

Effect of Proposed Changes

The bill expands the inclusion of the BPIE by requiring all 67 school districts, and specifically, every school in each district, to complete a BPIE assessment with a Florida Inclusion Network facilitator every three years. The bill requires the results of the BPIE assessment and all planned short-term and long-term improvement efforts be included in the school district's exceptional education policies and procedures. SEE FISCAL COMMENTS.

Parental Consent

Present Situation

IDEA requires informed parental consent when: 1) the school district proposes to conduct an initial evaluation to determine if a child qualifies as a student with a disability; 2) before the initial provision of special education and related services; and 3) prior to conducting a reevaluation. Provisions are made

¹⁷ Rule 6A-6.03028(3)(c), F.A.C.

¹⁸ See "District Guide for Implementation of Section 504" available at <http://www.fldoe.org/ese/pdf/sect504.pdf>

¹⁹ See "An Administrator's Guide to Universal/Inclusive Education" available at

<http://www.fddc.org/sites/default/files/file/publications/Universal%20Education%20Administrator-final.pdf>

to proceed with reevaluation if a parent fails to respond to reasonable efforts made to obtain consent for reevaluation.²⁰

If the parent fails to respond or refuses to provide consent for initial services, the public agency may not use due process procedures to obtain agreement or a ruling that the services may be provided to the child.²¹ If the parent refuses to consent to the initial provision of special education and related services or fails to respond to a request to provide consent for the initial provision of special education and related services, the school district will not be considered to be in violation of the requirements to make FAPE available to the child for the failure to provide the child with the special education and related services for which the public agency requests consent.²²

Notice must be provided before the district proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child or when the district refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The notice for consent must include the following specific content:

- A description of the action proposed or refused by the agency;
- An explanation of why the agency proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
- A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
- Sources for parents to contact to obtain assistance in understanding the provisions of this part;
- A description of other options that the IEP Team considered and the reasons why those options were rejected; and
- A description of other factors that are relevant to the agency's proposal or refusal.²³

If an IEP team determines that a student will take the Florida Alternate Assessment (FAA) instead of the state's general assessment of student achievement, the IEP must include a statement of why the student cannot participate. School districts must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation.²⁴

The IEP Team shall make placement determinations in accordance with the least restrictive environment provisions in accordance with IDEA and State Board of Education rules.²⁵

Effect of Proposed Changes

In addition to current requirements for parental consent, the bill requires the department to develop and adopt in rule separate parental consent forms for notifying parents when a district decides to administer the FAA, to instruct the student in the state standards access points, and place the student in an exceptional student education center. Notification is already required for administration of the FAA and placement in an exceptional student education center; however, the use of specific notification forms is new. The bill also includes additional information to be included on the notification forms including a "does not consent" checkbox and signature line and a "does consent" box with a signature line.

The bill prohibits a district from proceeding with the administration of the FAA, instruction in the state standard access points, or placement in an exceptional student education center, unless the district

²⁰ 34 C.F.R. s. 300.300 and Rule 6A-6.0331, F.A.C.

²¹ 34 C.F.R. s. 300.300(b)(3)

²² 34 C.F.R. s. 300.300(b)(4)

²³ 34 C.F.R. s. 300.503

²⁴ Section 1008.22(3)(c)6., F.S.

²⁵ 34 C.F.R. s. 300.114(a)(2) and Rules 6A-6.03011 – 6A-6.0361, F.A.C.

documents reasonable efforts to obtain the parent's consent, or the parent has failed to respond and the district obtains approval through a due process hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and resolution of appeals. Lines 325-327 seem to indicate that the student already has an IEP, and therefore, none of the actions described above would be considered as providing initial services.²⁶

The bill reiterates current federal and state law that requires a student to remain in his or her current educational assignment during the pendency of a due process hearing or appellate proceeding regarding a due process complaint, unless the parent and school board agree otherwise.²⁷

Collaboration of Public and Private Instructional Personnel

Present Situation

Schools may currently collaborate with private instructional personnel working with a student or family in a setting outside the school. This may include sharing of information to assist in the provision of therapies that occur outside the classroom. Decisions regarding whether private instructional personnel may enter a school setting to observe a student, collaborate with school district personnel, or provide services is a local decision and handled by the principal of the school. Instructional personnel who are hired by a district through a contract to fill a position that requires direct contact with students are currently required to undergo background screenings.²⁸

Effect of Proposed Changes

The bill creates a new section of statute defining "private instructional personnel" who will work with local school district personnel to promote educational progress and assist students in acquiring essential skills such as readiness for pursuit of higher education goals or employment. Private instructional personnel are defined as:

- behavior analysts certified under s. 393.17, F.S. or individuals licensed under chapter 490 (Psychological Services) or chapter 491 (Clinical, Counseling, and Psychotherapy Services) to provide applied behavior analysis services as defined in ss. 627.6686 and 641.31098, F.S.;
- speech-language pathologists licensed under s. 468.1185, F.S.;
- occupational therapists licensed under part III of chapter 468;
- physical therapists licensed under chapter 486;
- psychologists licensed under chapter 490; and
- clinical social workers licensed under chapter 491.

The bill proposes that public and private instructional personnel collaborate and coordinate services for ESE students, and the partnership is designed to enhance but not supplant the school district's responsibilities under IDEA. If parents hire or contract with private instructional personnel, the bill requires districts to allow that individual to observe the student in their educational setting; collaborate with instructional personnel in the educational setting; and provide services in that setting if:

- the student's public instructional personnel and principal consent to the time and place; and
- the private instructional person meets background screening requirements.

The bill provides that the provision of private instructional personnel by a parent does not constitute a waiver of the student's or parent's right to FAPE under IDEA.

²⁶ Current federal regulations prohibits a public agency from using due process to obtain consent to provide initial services. 34. C.F.R. s. 300.300(b)(3)

²⁷ See 34 C.F.R. s. 300.518 and Section 1003.57(1)(c), F.S.

²⁸ Sections 1012.465 and 1012.56, F.S.

Instructional Settings

Present Situation

IDEA and corresponding State Board of Education rules require that school districts ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services, including: instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions. Additionally, school districts must make provisions for supplementary services such as resource room or itinerant instruction to be provided in conjunction with regular class placement.²⁹ The DOE must report to USDOE each year the number of students with IEPs in the following categories:

- those served in a regular class for 80 percent or more of the day.
- those service in a regular class less than 40 percent of the day.
- those served in separate schools, residential placement, or homebound/hospital placements.³⁰

Effect of Proposed Changes

The bill requires school districts to use specific definitions for a student with a disability, ages 6 through 21 years, with regard to instructional setting, for the following terms:

- “Exceptional student education center” or “special day school” as a separate public school to which nondisabled peers do not have access.
- “Other separate environment” as a separate private school, residential facility, or hospital or homebound program.
- “Regular class” as a class in which a student spends 80% or more of the school week with nondisabled peers.
- “Resource room” as a classroom in which a student spends 40%-80% of the school week with nondisabled peers.
- “Separate class” as a class in which a student spends less than 40% of the school week with nondisabled peers.
- “Inclusion” means that a student is receiving education in a regular general education classroom, reflecting natural proportions and age-appropriate heterogeneous groups in core academic and elective or special areas within the school community.

The bill reiterates current federal regulations requiring, to the extent appropriate, that students with disabilities, in public, private or other institutions, be educated with students who are not disabled.³¹

Renewal of Professional Certificate

Present Situation

The purpose of school personnel certification is to protect the educational interests of students, parents, and the public at large by assuring that teachers in the state are professionally qualified. The certificate renewal process was established to promote the continuing professional improvement of school personnel, thereby enhancing public education in all areas of the state.³² Current law specifies the minimum semester hours and appropriate equivalencies required to grant renewal of a state-issued professional certificate for each successive five-year validity period; outlines acceptable categories of courses and inservice activities for retention of specialization areas on a professional certificate through

²⁹ 34 C.F.R. s. 300.115 and Rule 6A-6.0311, F.A.C.

³⁰ See “2012 SEA Profile” at <http://www.fl DOE.org/ese/datapage.asp>

³¹ See 34 C.F.R. s. 300 & Rule 6A-6.03028(3)(i), F.A.C.

³² Section 1012.54, F.S.

the certificate renewal process; and codifies that courses and inservice activities in exceptional student education are acceptable categories for renewal of any area of specialization.³³

Effect of Proposed Changes

The bill requires every applicant who is applying for renewal of a professional certificate to earn at least one college credit or the equivalent inservice points in the area of instruction for teaching students with disabilities. The provision states that this requirement may not add to the total hours required for continuing education or inservice training. Educators who meet any of the following qualifications are exempt from this requirement:

- Certified in exceptional student education;³⁴
- Passed the subject area test in exceptional student education; or
- Successful completion in an exceptional student education course in a teacher preparation program.

However, the bill does not account for any professional development activities or courses in instructing exceptional students that the educator may have completed over the course of the educator's career, particularly when such activities and individual courses are completed outside the educator's teacher preparation program, which is often the case for many experienced educators.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.20, F.S.; prohibiting certain actions with respect to parent meetings with school district personnel; providing requirements for meetings relating to exceptional student education and related services.

Section 2. Amends s. 1003.57, F.S.; requiring a school district to use specified terms to describe the instructional setting for certain exceptional students; defining the term "inclusion" for purposes of exceptional student instruction; providing for determination of eligibility as an exceptional student; requiring certain assessments to facilitate inclusive educational practices for exceptional students.

Section 3. Creates s. 1003.5715, FS.; requiring the use of parental consent forms for specified actions in a student's individual education plan; providing requirements for the consent forms; providing requirements for changes in a student's individual education plan; requiring the State Board of Education to adopt rules.

Section 4. Creates s. 1003.572, F.S.; defining the term "private instructional personnel"; encouraging the collaboration of public and private instructional personnel and providing requirements therefor.

Section 5. Amends s. 1003.58, F.S.; conforming a cross-reference.

Section 6. Amends s. 1012.585, F.S.; providing requirements for renewal of a professional certificate relating to teaching students with disabilities; authorizing the State Board of Education to adopt rules.

Section 7. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

³³ Section 1012.585(3), F.S.

³⁴ The bill does not grant a similar exemption for certificate holders with specific exceptionalities such as Gifted, Hearing Impaired, Prekindergarten Disabilities, Speech-Language Impaired, Visually Impaired, Emotionally Handicapped, Mentally Handicapped, Specific Learning Disabilities, Varying Exceptionalities, etc.

1. Revenues:

None.

2. Expenditures:

The DOE will be responsible for creating and distributing parental consent forms that allow instruction on the state standards access points, with an alternate assessment given and the student placed in an ESE center. The forms must be provided to the parent for consent in the parent's native language. The cost for creating and distributing the parental consent forms is indeterminate.

As the number of students receiving ESE services increases, the demand will increase for student access to technical assistance, instructional methods, and supports tailored to the student's needs. Florida Inclusion Network (FIN) provides free information, training, and support to families with a student with disabilities; therefore, the costs may only increase if there is a need for more computers to access the information. The increased cost is indeterminate.

The bill requires that each school district and school complete a Best Practices in Inclusive Education (BPIE) with a FIN facilitator once every three years. Although FIN resources are free to the district, the staff time required by the district and school to perform the assessment and update the ESE policies and procedures is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Although indeterminate at this time, the requirement that all schools complete a BPIE assessment with an FIN facilitator every three years, will likely increase expenditures to support additional staff needed to perform these functions within the time required. The FIN administrators are currently only working with a limited number of schools in five districts. The increased cost to the DOE to increase staff time for the FIN and BPIE is indeterminate.

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:

The bill provides rule-making authority for:

- Developing parental consent forms and procedures for determination of administration of the Florida Alternate Assessment, instruction in state standards access points, and placement in an exceptional student education center.
- Implementing the requirements that applicants for renewal of professional certification earn at least one college credit or equivalency points in the instruction for teaching students with disabilities.

C. DRAFTING ISSUES OR OTHER COMMENTS

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2013, the Choice & Innovation Subcommittee reported HB 465 favorably as a committee substitute. There were four amendments adopted to:

- Remove language addressing the reimbursement of federal funds to charter schools as identical language is already included in CS/HB 7009.
- Remove language requiring Exceptional Student Education Centers to choose to receive a school grade or school improvement rating as the issue is addressed in HB 7029.
- Clarify that an Exceptional Student Education Center is a separate public school to which nondisabled peers do not have access.
- Clarify that all students with disabilities, including gifted, are eligible for specific services after proper evaluation.

The analysis is drafted to the committee substitute.

On April 4, 2013, the Education Appropriations Subcommittee reported CS/HB 465 favorably with one amendment. The amendment removed the potential \$96 million fiscal impact caused by requiring school districts to provide exceptional student education-related services to home education students. Currently, districts may provide services, and can report these students for funding through the FEFP.³⁵ The analysis is drafted to the committee substitute as passed by the Education Appropriations Subcommittee.

³⁵ See "Home Education and Exceptional Student Education Services – Frequently Asked Questions" available at http://www.floridaschoolchoice.org/information/home_education/files/ESE_faqs.pdf.

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 creating s. 1004.097, F.S.; providing an exemption
 4 from public records requirements for any personal
 5 identifying information of an applicant for president,
 6 provost, or dean of any state university or Florida
 7 College System institution; providing an exemption
 8 from public meeting requirements for any meeting held
 9 for the purpose of identifying or vetting applicants
 10 for president, provost, or dean of any state
 11 university or Florida College System institution and
 12 for any portion of a meeting held for the purpose of
 13 establishing qualifications of, or any compensation
 14 framework to be offered to, such potential applicants
 15 that would disclose personal identifying information
 16 of an applicant or potential applicant; providing
 17 applicability; requiring release of the names of
 18 specified applicants within a certain timeframe;
 19 providing for future legislative review and repeal of
 20 the exemptions; providing a statement of public
 21 necessity; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 1004.097, Florida Statutes, is created
 26 to read:

27 1004.097 Information identifying applicants for president,
 28 provost, or dean at state universities and Florida College

29 System institutions; public records exemption; public meeting
 30 exemption.

31 (1) Any personal identifying information of an applicant
 32 for president, provost, or dean of any state university or
 33 Florida College System institution is confidential and exempt
 34 from s. 119.07(1) and s. 24(a), Art. I of the State
 35 Constitution.

36 (2) Any meeting held for the purpose of identifying or
 37 vetting applicants for president, provost, or dean of any state
 38 university or Florida College System institution is exempt from
 39 s. 286.011 and s. 24(b), Art. I of the State Constitution. This
 40 exemption does not apply to a meeting held for the purpose of
 41 establishing qualifications of potential applicants or any
 42 compensation framework to be offered to potential applicants.
 43 However, any portion of such a meeting that would disclose
 44 personal identifying information of an applicant or potential
 45 applicant is exempt from s. 286.011 and s. 24(b), Art. I of the
 46 State Constitution.

47 (3) Any meeting or interview held after a final group of
 48 applicants has been established and held for the purpose of
 49 making a final selection to fill the position of president,
 50 provost, or dean of any state university or Florida College
 51 System institution is subject to the provisions of s. 286.011
 52 and s. 24(b), Art. I of the State Constitution.

53 (4) The names of any applicants who comprise a final group
 54 of applicants pursuant to subsection (3) must be released by the
 55 state university or Florida College System institution no later
 56 than 21 days before the date of the meeting at which final

57 action or vote is to be taken on the employment of the
 58 applicants.

59 (5) Any personal identifying information of applicants who
 60 comprise a final group of applicants pursuant to subsection (3)
 61 become subject to the provisions of s. 119.07(1) and s. 24(a),
 62 Art. I of the State Constitution at the time the names of such
 63 applicants are released pursuant to subsection (4).

64 (6) This section is subject to the Open Government Sunset
 65 Review Act in accordance with s. 119.15 and shall stand repealed
 66 on October 2, 2018, unless reviewed and saved from repeal
 67 through reenactment by the Legislature.

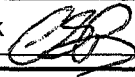

68 Section 2. The Legislature finds that it is a public
 69 necessity that any personal identifying information of an
 70 applicant for president, provost, or dean of any state
 71 university or Florida College System institution be made
 72 confidential and exempt from s. 119.07(1), Florida Statutes, and
 73 s. 24(a), Art. I of the State Constitution. It is also the
 74 finding of the Legislature that any meeting held for the purpose
 75 of identifying or vetting applicants for president, provost, or
 76 dean of any state university or Florida College System
 77 institution and any portion of a meeting held for the purpose of
 78 establishing qualifications of, or any compensation framework to
 79 be offered to, such potential applicants that would disclose
 80 personal identifying information of an applicant or potential
 81 applicant be made exempt from s. 286.011, Florida Statutes, and
 82 s. 24(b), Art. I of the State Constitution. The task of filling
 83 the position of president, provost, or dean within a state
 84 university or Florida College System institution is often

85 conducted by an executive search committee. Many, if not most,
 86 applicants for such a position are currently employed at another
 87 job at the time they apply and could jeopardize their current
 88 positions if it were to become known that they were seeking
 89 employment elsewhere. These exemptions from public records and
 90 public meeting requirements are needed to ensure that such a
 91 search committee can avail itself of the most experienced and
 92 desirable pool of qualified applicants from which to fill the
 93 position of president, provost, or dean of a state university or
 94 Florida College System institution. If potential applicants fear
 95 the possibility of losing their current jobs as a consequence of
 96 attempting to progress along their chosen career path or simply
 97 seeking different and more rewarding employment, failure to have
 98 these safeguards in place could have a chilling effect on the
 99 number and quality of applicants available to fill the position
 100 of president, provost, or dean of a state university or Florida
 101 College System institution.

102 Section 3. This act shall take effect October 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 637 Pub. Rec./Postsecondary Education Executive Search
SPONSOR(S): Government Operations Subcommittee; Higher Education and Workforce Subcommittee; Tobia
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	13 Y, 0 N, As CS	Brink	Sherry
2) Government Operations Subcommittee	9 Y, 0 N, As CS	Williamson	Williamson
3) Education Committee		Brink 	Mizereck 

SUMMARY ANALYSIS

When filling a vacant president or provost position, state universities and Florida College System (FCS) institutions tend to establish a search committee for the purpose of locating qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position. Information obtained by a search committee, including applications and other information gathered by the committee regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process, including vetting of applicants, are open to the public.

The bill creates an exemption from public record and public meeting requirements for information associated with the applicant recruitment process, in addition to discussions associated with the applicant search. Specifically, the bill provides that any personal identifying information of an applicant for president, provost, or dean of any state university or FCS institution is confidential and exempt from public record requirements. It also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president, provost, or dean of any state university or FCS institution.

The bill provides instances when the public meeting exemption does not apply. In addition, it provides that the names of any applicants who comprise a final group of applicants must be released by the state university or FCS institution no later than 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. All documents containing personal identifying information of any applicants who comprise a final group of applicants become subject to public record requirements at the time the applicants' names are released.

The bill provides for repeal of the section on October 2, 2018, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

The bill provides an effective date of October 1, 2013.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a public record and public meeting exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Public Record and Public Meeting Exemptions

The Legislature, however, may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.⁵

Furthermore, the Open Government Sunset Review Act⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

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

¹ Section 286.011(1), F.S.

² *Id.*

³ Section 286.011(6), F.S.

⁴ Section 286.011(2), F.S.

⁵ Art. I, s. 24(c), Fla. Const.

⁶ Section 119.15, F.S.

- Protects trade or business secrets.

Search Committees

Often, when looking to fill a vacant president or provost position, state universities and Florida College System (FCS) institutions⁷ establish a search committee, which may be comprised of members from an institution's board of trustees, faculty or student representatives, members of the community, a member from the Board of Governors or State Board of Education, and other potentially interested persons. The purpose of the committee is to locate qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position.⁸

The search committee often retains the services of a consulting firm for the purpose of conducting the search for a president or provost. It is typical for the consultant to make the initial contact with a potential applicant to determine if the person is interested in applying to fill the vacancy at the state university or FCS institution.

Information obtained by a search committee or consultant, including applications and other information gathered by a committee or consultant regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process, including vetting of applicants, are open to the public.⁹

Effect of Proposed Changes

The bill creates an exemption from public record requirements for information associated with the applicant recruitment process, in addition to an exemption from public meeting requirements for discussions associated with the applicant search.

Specifically, the bill provides that any personal identifying information of an applicant for president, provost, or dean of any state university or FCS institution is confidential and exempt¹⁰ from public record requirements.

The bill also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president, provost, or dean of any state university or FCS institution. It provides that the public meeting exemption does not apply to a meeting held for the purpose of establishing qualifications of potential applicants or any compensation framework to be offered to potential applicants; however, any portion of such meeting that would disclose personal identifying information of an applicant or potential applicant is exempt from public meeting requirements.

Any meeting or interview held after a final group of applicants has been established and held for the purpose of making a final selection to fill the position of president, provost, or dean is subject to public meeting requirements. In addition, the names of any applicants who comprise a final group of

⁷ The Board of trustees for a FCS institution is charged with appointing an institution president and may appoint a search committee for this purpose. Section 1001.64(19), F.S.

⁸ The Board of Governors must confirm the selected candidate for president of a state university Section 1001.706(6)(a), F.S.

⁹ FCS institutions and state universities are considered state agencies, subject to public records and public meetings laws. See *Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983) (holding that a University of Florida screening committee was subject to Florida's Sunshine Law); *Rhea v. District Bd. Of Trustees of Santa Fe College*, 2013 WL 950544 at 3, n. 1 (Fla. 1st DCA 2013) (noting that Santa Fe College, as part of the Florida College System, is a state agency having a duty to provide access to public records).

¹⁰ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. See Attorney General Opinion 85-62 (August 1, 1985).

applicants must be released by the state university or FCS institution no later than 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. All documents containing personal identifying information of any applicants who comprise a final group of applicants become subject to public record requirements at the time the applicants' names are released.

The bill provides that the section is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2018, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

B. SECTION DIRECTORY:

Section 1 creates s. 1004.097, F.S., to provide public record and public meeting exemptions associated with a search conducted by a state university or FCS institution for the purpose of identifying or vetting applicants for president, provost, or dean.

Section 2 provides a statement of public necessity as required by the State Constitution.

Section 3 provides an effective date of October 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill likely could create a minimal fiscal impact on state universities and FCS institutions, because staff responsible for complying with public record requests could require training related to creation of the public record exemption. In addition, state universities and FCS institutions could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the universities and institutions.

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:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates public record and public meeting exemptions; thus, it includes a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for any personal identifying information of an applicant for president, provost, or dean of any state university or FCS institution, in addition to a public meeting exemption for any meetings wherein such information is discussed or such applicants are vetted. The exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish the stated purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments: Retroactive Application

The bill does not state that the expanded public record exemptions apply retroactively. The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied as such.¹¹

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Tuesday, March 19, 2013, a strike-all amendment was offered by the bill sponsor and adopted by the committee. The strike-all amendment makes the following changes to the bill:

- Exempts from public record laws all personal identifying information of applicants for the positions of president, provost, or dean with a state university or FCS institution.
- Provides that meetings for the purpose of identifying or vetting such applicants be exempt from public meeting laws.
- Provides that meetings for the purpose of establishing qualifications or compensation frameworks be subject to public meetings laws.
- Provides that meetings and interviews held after a final group of applicants has been established for the purpose of making a final selection are subject to public meeting laws.
- Requires state universities and FCS institutions to release the names of applicants to be considered in the final round of interviews no later than 10 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants.
- Provides that all documents containing personal identifying information of any applicants within the final group become subject to public records laws at the time the applicants' names are released.

¹¹ *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d 373 (Fla. 2001).

On April 1, 2013, the Government Operations Subcommittee adopted an amendment and reported the bill favorably with committee substitute. The committee substitute:

- Clarifies that the public record exemption applies to personal identifying information of applicants for the positions of president, provost, or dean with a state university or FCS institution instead of the entire record containing such information.
- Requires the release of the names of any applicants who comprise a final group of applicants no later than 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. The bill provided for release of the information 10 days before such meeting.
- Provides that the entire section is subject to the Open Government Sunset Review Act.

This analysis is drafted to the committee substitute as passed by the Government Operations Subcommittee.

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A bill to be entitled
An act relating to powers and duties of district school boards; amending s. 1001.41, F.S.; requiring a district school board to exercise its general powers after considering recommendations made by a school board member; amending s. 1001.42, F.S.; authorizing a district school board to set an opening date for schools in the district to accommodate the completion of student classwork and assessments before a specified day; providing additional purposes for which an internal auditor may be employed; providing an effective date.

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

Section 1. Section 1001.41, Florida Statutes, is amended to read:

1001.41 General powers of district school board.—The district school board, after considering recommendations submitted by the district school superintendent or made by a member of the district school board, shall exercise the following general powers:

(1) Determine policies and programs consistent with state law and rule deemed necessary by it for the efficient operation and general improvement of the district school system.

(2) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it to supplement those prescribed by the State Board of Education and

29 the Commissioner of Education.

30 (3) Prescribe and adopt standards and policies to provide
 31 each student the opportunity to receive a complete education
 32 program, including language arts, mathematics, science, social
 33 studies, health, physical education, foreign languages, and the
 34 arts, as defined by the Sunshine State Standards. The standards
 35 and policies must emphasize integration and reinforcement of
 36 reading, writing, and mathematics skills across all subjects,
 37 including career awareness, career exploration, and career and
 38 technical education.

39 (4) Contract, sue, and be sued. The district school board
 40 shall constitute the contracting agent for the district school
 41 system.

42 (5) Perform duties and exercise those responsibilities
 43 that are assigned to it by law or by rules of the State Board of
 44 Education or the Commissioner of Education and, in addition
 45 thereto, those that it may find to be necessary for the
 46 improvement of the district school system in carrying out the
 47 purposes and objectives of the education code.

48 (6) Assign students to schools.

49 (7) Enter into agreements for accepting credit card,
 50 charge card, and debit card payments as compensation for goods,
 51 services, tuition, and fees, as authorized by law.

52 Section 2. Paragraph (f) of subsection (4) and paragraph
 53 (1) of subsection (12) of section 1001.42, Florida Statutes, are
 54 amended to read:

55 1001.42 Powers and duties of district school board.—The
 56 district school board, acting as a board, shall exercise all

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57 powers and perform all duties listed below:

58 (4) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF
 59 SCHOOLS.—Adopt and provide for the execution of plans for the
 60 establishment, organization, and operation of the schools of the
 61 district, including, but not limited to, the following:

62 (f) Opening and closing of schools; fixing uniform date.—
 63 Adopt policies for the opening and closing of schools and fix
 64 uniform dates; however, ~~beginning with the 2007-2008 school~~
 65 ~~year,~~ the opening date for schools in the district may not be
 66 earlier than 14 days before Labor Day each year. However, a
 67 district school board may advance the opening date for schools
 68 in the district by up to 5 school days if students complete all
 69 of their classwork and assessments for the first semester before
 70 Christmas Day.

71 (12) FINANCE.—Take steps to assure students adequate
 72 educational facilities through the financial procedure
 73 authorized in chapters 1010 and 1011 and as prescribed below:

74 (1) Internal auditor.—May employ an internal auditor to
 75 perform ongoing financial verification of the financial records
 76 of the school district and such other audits and reviews as the
 77 district school board directs for the purpose of overseeing
 78 school district resources and determining compliance with
 79 applicable laws and district school board-approved policies,
 80 procedures, and contracts. The internal auditor shall report
 81 directly to the district school board or its designee.

82 Section 3. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 657 Powers and Duties of District School Boards
SPONSOR(S): K-12 Subcommittee, Metz
TIED BILLS: IDEN./SIM. BILLS: SB 806

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N, As CS	Beagle	Ahearn
2) Education Committee		Beagle <i>GB</i>	Mizereck <i>KM</i>

SUMMARY ANALYSIS

Under Florida law, district school boards are required to provide for the operation of all district schools for a term of 180 days, or the equivalent on an hourly basis as specified by rules of the State Board of Education. School boards must adopt policies establishing the opening and closing date for the school year. Legislation enacted in 2006 provided that, "beginning with the 2007-2008 school year, the opening date for schools in the district may not be earlier than 14 days before Labor Day each year."

Currently, policy issues addressed by a district school board must first be recommended to the board by the district school superintendent. Individual board members do not have authority to make such recommendations.

In addition, district school boards may employ an internal auditor to perform ongoing financial verification of the financial records of the school district. The internal auditor reports directly to the district school board or its designee.

The bill authorizes a district school board to start the school year up to five school days earlier than 14 days before Labor Day if students will complete all first semester classwork and assessments before Christmas Day.

The bill authorizes individual school board members to make recommendations regarding policy issues for consideration by the board. School boards must consider such recommendations, if provided. This will enable school boards to consider policy issues without a specific recommendation by the district school superintendent.

The bill adds authorization for internal auditors to provide audits and reviews as the school board directs for the purpose of overseeing school district resources and determining compliance with applicable laws and district school board-approved policies, procedures, and contracts. This change clarifies that internal auditors are authorized to perform these duties.

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

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

School Start Date

Under Florida law, district school boards are required to provide for the operation of all district schools for a term of 180 days, or the equivalent on an hourly basis as specified by rules of the State Board of Education. School boards must adopt policies establishing the opening and closing date for the school year.¹ In most school districts, the school board bargains collectively with the certified bargaining agent (i.e., union) that represents the district's instructional personnel to set the school district calendar, including the work year, workday hours, and school holidays observed by the school district.²

Legislation enacted in 2006 provided that, "beginning with the 2007-2008 school year, the opening date for schools in the district may not be earlier than 14 days before Labor Day each year."³ The school start date issue was arguably the most controversial education issue of the 2006 session; pitting tourism industry labor needs and parent groups desiring a longer summer against advocates of local control of public schools.⁴

History of Earliest and Latest School Start Dates: 2002-03 through 2012-13⁵

Year	Earliest Start Date	Districts	Latest Start Date	Districts
2002-03	August 2	1	August 26	2
2003-04	August 1	1	August 25	2
2004-05	August 2	4	August 17	1
2005-06	August 1	4	August 16	1
2006-07	July 31	1	August 21	2
2007-08	August 20	62	August 24	1
2008-09	August 18	60	August 22	1
2009-10	August 10	2	August 27	1
2010-11	August 5	1	August 26	1
2011-12	August 8	4	August 25	1
2012-13	August 7	1	August 29	1

School districts designated by the state board as Academically High-Performing School Districts (AHPSD) have the authority to waive the school start date requirement.¹ In the 2012-13 school year, 19 districts – Brevard, Calhoun, Charlotte, Citrus, Clay, Flagler, Gilchrist, Gulf, Lee, Leon, Martin, Nassau, Palm Beach, St. Johns, Sarasota, Seminole, Sumter, Wakulla, and Walton – were eligible to waive the

¹ Section 1001.42(4)(f) and (12)(a), F.S.

² See, e.g., Hillsborough County School District and Hillsborough Classroom Teachers Association, Inc., *Teacher Contract 2010-2013*, (2010), available at http://www.sdhc.k12.fl.us/HumanResources/PDFs/CONTRACT/bargaining_agreement.pdf (see table of contents); see, e.g., Brevard County School District and Brevard Federation of Teachers, *Collective Bargaining Agreement*, (Feb. 10, 2009), available at <http://benefits.brevard.k12.fl.us/images/gt/LR/old%20stuff/old%20stuff/BFT-FY09&FY10.pdf> (see table of contents). Sections 447.203(2) and 447.309(1), F.S. The State Constitution provides that "the right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged." Section 6, Art. I of the State Constitution. The only school district whose instructional personnel are not represented by a union is Calhoun County. Section 447.305, F.S., requires that every employee organization seeking to become a certified bargaining agent for public employees register with the Public Employees Relations Commission (PERC). No such registration exists for Calhoun County. See Public Employees Relations Commission, Search Registration Orders, <http://perc.myflorida.com/co/regfilter.aspx> (last visited May 31, 2012).

³ Section 11, ch. 2006-74, L.O.F.

⁴ *Standardizing School Start Date*; Hearing before the House PreK-12 Committee, Nov. 8, 2005; Save Our Summers – Florida, <http://www.saveoursummers.org/faqs.html> (last visited March 14, 2013).

⁵ Florida Department of Education, *2012-13 School Start and End Dates*, at 1 (May 2012), available at <http://www.fldoe.org/eias/eiaspubs/word/startend1213.doc>.

requirement because of their status as an AHPSD. Fourteen of these districts started the school year between August 7th and August 16th.⁶

Powers and Duties of District School Boards

Currently, district school boards are responsible for adopting policies necessary for the operation and improvement of the district school system. However, policy issues considered by a district school board must first be recommended to the board by the district school superintendent. Individual board members do not have authority to make such recommendations.⁷

District school boards may employ an internal auditor to perform ongoing financial verification of the financial records of the school district. The internal auditor reports directly to the district school board or its designee.⁸

Effect of Proposed Changes

The bill authorizes a district school board to start the school year up to five school days earlier than 14 days before Labor Day if students will complete all first semester classwork and assessments before Christmas Day.

The bill authorizes individual school board members to make recommendations regarding policy issues for consideration by the board. School boards must consider such recommendations, if provided. This will enable school boards to consider policy issues without a specific recommendation by the district school superintendent.

The bill adds authorization for internal auditors to provide audits and reviews as the school board directs for the purpose of overseeing school district resources and determining compliance with applicable laws and district school board-approved policies, procedures, and contracts. This change clarifies that internal auditors are authorized to perform these duties.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.41, F.S., relating to General powers of district school boards; authorizes individual school board members to make recommendations regarding policy issues for consideration by the board.

Section 2. Amends s. 1001.42, F.S., relating to Powers and duties of district school boards; provides an exception to school start date requirements; authorizes additional duties for school board internal auditors.

Section 3. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

⁶ *Id.*; see s. 1003.621, F.S.

⁷ Section 1001.41, F.S.; Op. Att'y Gen. Fla. 96-13 (1996); Op. Att'y Gen. Fla. 2002-08 (2002).

⁸ Section 1001.42(12)(I), F.S.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Public school students residing in school districts that establish an earlier school start date pursuant to the bill may have a shorter time period to work summer jobs. This could decrease their earnings during the summer months.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2013, the K-12 Subcommittee adopted two amendments and reported HB 657 favorably as a committee substitute (CS). The CS:

- Limits the earlier school start date authorized by HB 657 to five school days. HB 657 placed no limitation on the number of days in which an earlier school start date may be established.
- Adds provisions authorizing individual school board members to make recommendations regarding policy issues for consideration by the board.

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A bill to be entitled
 An act relating to certified school counselors;
 amending ss. 322.091, 381.0057, 1002.3105, 1003.21,
 1003.43, 1003.491, 1004.04, 1006.025, 1007.35,
 1008.42, 1009.53, 1012.71, and 1012.98, F.S.;
 requiring that counselors in elementary, middle, and
 high schools be certified school counselors; amending
 s. 1012.01, F.S.; prohibiting certified school
 counselors from being used as support staff for
 administrative duties under certain circumstances;
 providing an effective date.

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

Section 1. Paragraph (b) of subsection (3) of section
 322.091, Florida Statutes, is amended to read:

322.091 Attendance requirements.—

(3) HARDSHIP WAIVER AND APPEAL.—

(b) The public school principal, the principal's designee,
 or the designee of the governing body of a private school shall
 waive the requirements of subsection (1) for any minor under the
 school's jurisdiction for whom a personal or family hardship
 requires that the minor have a driver's license for his or her
 own, or his or her family's, employment or medical care. The
 minor or the minor's parent or guardian may present other
 evidence that indicates compliance with the requirements of
 subsection (1) at the waiver hearing. The public school
 principal, the principal's designee, or the designee of the

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29 governing body of a private school shall consider ~~take into~~
 30 ~~consideration~~ the recommendations of teachers, other school
 31 officials, certified school ~~guidance~~ counselors, or academic
 32 advisers before waiving the requirements of subsection (1).

33 Section 2. Paragraph (b) of subsection (3) of section
 34 381.0057, Florida Statutes, is amended to read:

35 381.0057 Funding for school health services.—

36 (3) Any school district, school, or laboratory school
 37 which desires to receive state funding under the provisions of
 38 this section shall submit a proposal to the joint committee
 39 established in subsection (2). The proposal shall state the
 40 goals of the program, provide specific plans for reducing
 41 teenage pregnancy, and describe all of the health services to be
 42 available to students with funds provided pursuant to this
 43 section, including a combination of initiatives such as health
 44 education, counseling, extracurricular, and self-esteem
 45 components. School health services shall not promote elective
 46 termination of pregnancy as a part of counseling services. Only
 47 those program proposals which have been developed jointly by
 48 county health departments and local school districts or schools,
 49 and which have community and parental support, shall be eligible
 50 for funding. Funding shall be available specifically for
 51 implementation of one of the following programs:

52 (b) Student support services team program.—The program
 53 shall include a multidisciplinary team composed of a
 54 psychologist, social worker, and nurse whose responsibilities
 55 are to provide basic support services and to assist, in the
 56 school setting, children who exhibit mild to severely complex

57 | health, behavioral, or learning problems affecting their school
 58 | performance. Support services shall include, but not be limited
 59 | to: evaluation and treatment for minor illnesses and injuries,
 60 | referral and followup for serious illnesses and emergencies,
 61 | onsite care and consultation, referral to a physician, and
 62 | followup care for pregnancy or chronic diseases and disorders as
 63 | well as emotional or mental problems. Services also shall
 64 | include referral care for drug and alcohol abuse and sexually
 65 | transmitted diseases, sports and employment physicals,
 66 | immunizations, and in addition, effective preventive services
 67 | aimed at delaying early sexual involvement and aimed at
 68 | pregnancy, acquired immune deficiency syndrome, sexually
 69 | transmitted diseases, and destructive lifestyle conditions, such
 70 | as alcohol and drug abuse. Moneys for this program shall be used
 71 | to fund three teams, each consisting of one half-time
 72 | psychologist, one full-time nurse, and one full-time social
 73 | worker. Each team shall provide student support services to an
 74 | elementary school, middle school, and high school that are a
 75 | part of one feeder school system and shall coordinate all
 76 | activities with the school administrator and certified school
 77 | ~~guidance~~ counselor at each school. A program that ~~which~~ places
 78 | all three teams in middle schools or high schools may also be
 79 | proposed.

80 |
 81 | Funding may also be available for any other program that is
 82 | comparable to a program described in this subsection but is
 83 | designed to meet the particular needs of the community.

84 | Section 3. Paragraph (e) of subsection (3) of section

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85 | 1002.3105, Florida Statutes, is amended to read:

86 | 1002.3105 Academically Challenging Curriculum to Enhance
87 | Learning (ACCEL) options.—

88 | (3) STUDENT ELIGIBILITY CONSIDERATIONS.—When establishing
89 | student eligibility requirements, principals and school
90 | districts must consider, at a minimum:

91 | (e) A recommendation from a certified school ~~guidance~~
92 | counselor if one is assigned to the school in which the student
93 | is enrolled.

94 | Section 4. Paragraph (c) of subsection (1) of section
95 | 1003.21, Florida Statutes, is amended to read:

96 | 1003.21 School attendance.—

97 | (1)

98 | (c) A student who attains the age of 16 years during the
99 | school year is not subject to compulsory school attendance
100 | beyond the date upon which he or she attains that age if the
101 | student files a formal declaration of intent to terminate school
102 | enrollment with the district school board. Public school
103 | students who have attained the age of 16 years and who have not
104 | graduated are subject to compulsory school attendance until the
105 | formal declaration of intent is filed with the district school
106 | board. The declaration must acknowledge that terminating school
107 | enrollment is likely to reduce the student's earning potential
108 | and must be signed by the student and the student's parent. The
109 | school district shall ~~must~~ notify the student's parent of
110 | receipt of the student's declaration of intent to terminate
111 | school enrollment. The student's certified school ~~guidance~~
112 | counselor or other school personnel shall ~~must~~ conduct an exit

113 interview with the student to determine the reasons for the
 114 student's decision to terminate school enrollment and actions
 115 that could be taken to keep the student in school. The student's
 116 certified school counselor or other school personnel shall
 117 inform the student ~~must be informed~~ of opportunities to continue
 118 his or her education in a different environment, including, but
 119 not limited to, adult education and GED test preparation.
 120 Additionally, the student shall ~~must~~ complete a survey in a
 121 format prescribed by the Department of Education to provide data
 122 on student reasons for terminating enrollment and actions taken
 123 by schools to keep students enrolled.

124 Section 5. Paragraph (d) of subsection (7) of section
 125 1003.43, Florida Statutes, is amended to read:

126 1003.43 General requirements for high school graduation.—

127 (7) No student may be granted credit toward high school
 128 graduation for enrollment in the following courses or programs:

129 (d) Any Level I course unless the student's assessment
 130 indicates that a more rigorous course of study would be
 131 inappropriate, in which case a written assessment of the need
 132 must be included in the student's individual educational plan or
 133 in a student performance plan, signed by the principal, the
 134 certified school ~~guidance~~ counselor, and the parent of the
 135 student, or the student if the student is 18 years of age or
 136 older.

137 Section 6. Subsection (3) and paragraph (a) of subsection
 138 (4) of section 1003.491, Florida Statutes, are amended to read:

139 1003.491 Florida Career and Professional Education Act.—
 140 The Florida Career and Professional Education Act is created to

141 provide a statewide planning partnership between the business
 142 and education communities in order to attract, expand, and
 143 retain targeted, high-value industry and to sustain a strong,
 144 knowledge-based economy.

145 (3) The strategic 3-year plan developed jointly by the
 146 local school district, regional workforce boards, economic
 147 development agencies, and state-approved postsecondary
 148 institutions shall be constructed and based on:

149 (a) Research conducted to objectively determine local and
 150 regional workforce needs for the ensuing 3 years, using labor
 151 projections of the United States Department of Labor and the
 152 Department of Economic Opportunity;

153 (b) Strategies to develop and implement career academies
 154 or career-themed courses based on those careers determined to be
 155 high-wage, high-skill, and high-demand;

156 (c) Strategies to provide shared, maximum use of private
 157 sector facilities and personnel;

158 (d) Strategies that ensure instruction by industry-
 159 certified faculty and standards and strategies to maintain
 160 current industry credentials and for recruiting and retaining
 161 faculty to meet those standards;

162 (e) Strategies to provide personalized student advisement,
 163 including a parent-participation component, and coordination
 164 with middle schools to promote and support career-themed courses
 165 and education planning as required under s. 1003.4156;

166 (f) Alignment of requirements for middle school career
 167 planning under s. 1003.4156(1)(a)5., middle and high school
 168 career and professional academies or career-themed courses

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169 leading to industry certification or postsecondary credit, and
 170 high school graduation requirements;

171 (g) Provisions to ensure that career-themed courses and
 172 courses offered through career and professional academies are
 173 academically rigorous, meet or exceed appropriate state-adopted
 174 subject area standards, result in attainment of industry
 175 certification, and, when appropriate, result in postsecondary
 176 credit;

177 (h) Plans to sustain and improve career-themed courses and
 178 career and professional academies;

179 (i) Strategies to improve the passage rate for industry
 180 certification examinations if the rate falls below 50 percent;

181 (j) Strategies to recruit students into career-themed
 182 courses and career and professional academies which include
 183 opportunities for students who have been unsuccessful in
 184 traditional classrooms but who are interested in enrolling in
 185 career-themed courses or a career and professional academy.
 186 School boards shall provide opportunities for students who may
 187 be deemed as potential dropouts to enroll in career-themed
 188 courses or participate in career and professional academies;

189 (k) Strategies to provide sufficient space within
 190 academies to meet workforce needs and to provide access to all
 191 interested and qualified students;

192 (l) Strategies to implement career-themed courses or
 193 career and professional academy training that lead to industry
 194 certification in juvenile justice education programs;

195 (m) Opportunities for high school students to earn
 196 weighted or dual enrollment credit for higher-level career and

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197 technical courses;

198 (n) Promotion of the benefits of the Gold Seal Bright
199 Futures Scholarship;

200 (o) Strategies to ensure the review of district pupil-
201 progression plans and to amend such plans to include career-
202 themed courses and career and professional academy courses and
203 to include courses that may qualify as substitute courses for
204 core graduation requirements and those that may be counted as
205 elective courses;

206 (p) Strategies to provide professional development for
207 secondary certified school ~~guidance~~ counselors on the benefits
208 of career and professional academies and career-themed courses
209 that lead to industry certification; and

210 (q) Strategies to redirect appropriated career funding in
211 secondary and postsecondary institutions to support career
212 academies and career-themed courses that lead to industry
213 certification.

214 (4) The State Board of Education shall establish a process
215 for the continual and uninterrupted review of newly proposed
216 core secondary courses and existing courses requested to be
217 considered as core courses to ensure that sufficient rigor and
218 relevance is provided for workforce skills and postsecondary
219 education and aligned to state curriculum standards.

220 (a) The review of newly proposed core secondary courses
221 shall be the responsibility of a curriculum review committee
222 whose membership is approved by Workforce Florida, Inc., and
223 shall include:

224 1. Three certified high school ~~guidance~~ counselors

225 recommended by the Florida Association of Student Services
 226 Administrators.

227 2. Three assistant superintendents for curriculum and
 228 instruction, recommended by the Florida Association of District
 229 School Superintendents and who serve in districts that operate
 230 successful career and professional academies pursuant to s.
 231 1003.492 or a successful series of courses that lead to industry
 232 certification. Committee members in this category shall employ
 233 the expertise of appropriate subject area specialists in the
 234 review of proposed courses.

235 3. Three workforce representatives recommended by the
 236 Department of Economic Opportunity.

237 4. Three admissions directors of postsecondary
 238 institutions accredited by the Southern Association of Colleges
 239 and Schools, representing both public and private institutions.

240 5. The Commissioner of Education, or his or her designee,
 241 responsible for K-12 curriculum and instruction. The
 242 commissioner shall employ the expertise of appropriate subject
 243 area specialists in the review of proposed courses.

244 Section 7. Paragraph (f) of subsection (5) of section
 245 1004.04, Florida Statutes, is amended to read:

246 1004.04 Public accountability and state approval for
 247 teacher preparation programs.—

248 (5) CONTINUED PROGRAM APPROVAL.—Notwithstanding subsection
 249 (4), failure by a public or nonpublic teacher preparation
 250 program to meet the criteria for continued program approval
 251 shall result in loss of program approval. The Department of
 252 Education, in collaboration with the departments and colleges of

253 education, shall develop procedures for continued program
 254 approval that document the continuous improvement of program
 255 processes and graduates' performance.

256 (f)1. Each Florida public and private institution that
 257 offers a state-approved teacher preparation program must
 258 annually report information regarding these programs to the
 259 state and the general public. This information shall be reported
 260 in a uniform and comprehensible manner that is consistent with
 261 definitions and methods approved by the Commissioner of the
 262 National Center for Educational Statistics and that is approved
 263 by the State Board of Education. This information must include,
 264 at a minimum:

265 a. The percent of graduates obtaining full-time teaching
 266 employment within the first year of graduation.

267 b. The average length of stay of graduates in their full-
 268 time teaching positions.

269 c. Satisfaction ratings required in paragraph (e).

270 2. Each public and private institution offering training
 271 for school readiness related professions, including training in
 272 the fields of child care and early childhood education, whether
 273 offering career credit, associate in applied science degree
 274 programs, associate in science degree programs, or associate in
 275 arts degree programs, shall annually report information
 276 regarding these programs to the state and the general public in
 277 a uniform and comprehensible manner that conforms with
 278 definitions and methods approved by the State Board of
 279 Education. This information must include, at a minimum:

280 a. Average length of stay of graduates in their positions.

281 b. Satisfaction ratings of graduates' employers.

282

283 This information shall be reported through publications,
 284 including college and university catalogs and promotional
 285 materials sent to potential applicants, certified secondary
 286 school ~~guidance~~ counselors, and prospective employers of the
 287 institution's program graduates.

288 Section 8. Paragraphs (a) and (c) of subsection (2) of
 289 section 1006.025, Florida Statutes, are amended to read:

290 1006.025 Guidance services.—

291 (2) The guidance report shall include, but not be limited
 292 to, the following:

293 (a) Examination of student access to certified school
 294 ~~guidance~~ counselors.

295 (c) Evaluation of the information and training available
 296 to certified school ~~guidance~~ counselors and career specialists
 297 to advise students on areas of critical need, labor market
 298 trends, and technical training requirements.

299 Section 9. Paragraph (a) of subsection (5) of section
 300 1007.35, Florida Statutes, is amended to read:

301 1007.35 Florida Partnership for Minority and
 302 Underrepresented Student Achievement.—

303 (5) Each public high school, including, but not limited
 304 to, schools and alternative sites and centers of the Department
 305 of Juvenile Justice, shall provide for the administration of the
 306 Preliminary SAT/National Merit Scholarship Qualifying Test
 307 (PSAT/NMSQT), or Preliminary ACT (PLAN) to all enrolled 10th
 308 grade students. However, a written notice shall be provided to

309 each parent that shall include the opportunity to exempt his or
 310 her child from taking the PSAT/NMSQT or PLAN.

311 (a) Test results will provide each high school with a
 312 database of student assessment data which certified school
 313 ~~guidance~~ counselors will use to identify students who are
 314 prepared or who need additional work to be prepared to enroll
 315 and be successful in AP courses or other advanced high school
 316 courses.

317 Section 10. Paragraph (b) of subsection (2) of section
 318 1008.42, Florida Statutes, is amended to read:

319 1008.42 Public information on career education programs.—

320 (2) The dissemination shall be conducted in accordance
 321 with the following procedures:

322 (b)1. Each district school board shall publish, at a
 323 minimum, the most recently available placement rate for each
 324 career certificate program conducted by that school district at
 325 the secondary school level and at the career degree level. The
 326 placement rates for the preceding 3 years shall be published, if
 327 available, shall be included in each publication that informs
 328 the public of the availability of the program, and shall be made
 329 available to each certified school ~~guidance~~ counselor. If a
 330 program does not have a placement rate, a publication that lists
 331 or describes that program must state that the rate is
 332 unavailable.

333 2. Each Florida College System institution shall publish,
 334 at a minimum, the most recent placement rate for each career
 335 certificate program and for each career degree program in its
 336 annual catalog. The placement rates for the preceding 3 years

337 shall be published, if available, and shall be included in any
 338 publication that informs the public of the availability of the
 339 program. If a program does not have a placement rate, the
 340 publication that lists or describes that program must state that
 341 the rate is unavailable.

342 3. If a school district or a Florida College System
 343 institution has calculated for a program a placement rate that
 344 differs from the rate reported by the department, and if each
 345 record of a placement was obtained through a process that was
 346 capable of being audited, procedurally sound, and consistent
 347 statewide, the district or the Florida College System
 348 institution may use the locally calculated placement rate in the
 349 report required by this section. However, that rate may not be
 350 combined with the rate maintained in the computer files of the
 351 Department of Education's Florida Education and Training
 352 Placement Information Program.

353 4. An independent career, trade, or business school may
 354 not publish a placement rate unless the placement rate was
 355 determined as provided by this section.

356 Section 11. Subsection (3) of section 1009.53, Florida
 357 Statutes, is amended to read:

358 1009.53 Florida Bright Futures Scholarship Program.—

359 (3) The Department of Education shall administer the
 360 Bright Futures Scholarship Program according to rules and
 361 procedures established by the State Board of Education. A single
 362 application must be sufficient for a student to apply for any of
 363 the three types of awards. The department shall ~~must~~ advertise
 364 the availability of the scholarship program and shall ~~must~~

365 notify students, teachers, parents, certified school ~~guidance~~
 366 counselors, and principals or other relevant school
 367 administrators of the criteria and application procedures. The
 368 department must begin this process of notification no later than
 369 January 1 of each year.

370 Section 12. Paragraph (b) of subsection (2) of section
 371 1012.01, Florida Statutes, is amended to read:

372 1012.01 Definitions.—As used in this chapter, the
 373 following terms have the following meanings:

374 (2) INSTRUCTIONAL PERSONNEL.—"Instructional personnel"
 375 means any K-12 staff member whose function includes the
 376 provision of direct instructional services to students.
 377 Instructional personnel also includes K-12 personnel whose
 378 functions provide direct support in the learning process of
 379 students. Included in the classification of instructional
 380 personnel are the following K-12 personnel:

381 (b) Student personnel services.—Student personnel services
 382 include staff members responsible for: advising students with
 383 regard to their abilities and aptitudes, educational and
 384 occupational opportunities, and personal and social adjustments;
 385 providing placement services; performing educational
 386 evaluations; and similar functions. Included in this
 387 classification are certified school ~~guidance~~ counselors, social
 388 workers, career specialists, and school psychologists. Certified
 389 school counselors shall perform only the duties and functions as
 390 provided by law and may only be used as support staff for
 391 administrative duties, including, but not limited to,
 392 coordinating, administering, or monitoring academic testing and

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393 testing programs, working bus or cafeteria lines, or substitute
 394 teaching, if the performance of such administrative duties does
 395 not limit their ability to perform the duties and functions
 396 required by this paragraph.

397 Section 13. Subsection (1) of section 1012.71, Florida
 398 Statutes, is amended to read:

399 1012.71 The Florida Teachers Lead Program.—

400 (1) For purposes of the Florida Teachers Lead Program, the
 401 term "classroom teacher" means a certified teacher employed by a
 402 public school district or a public charter school in that
 403 district on or before September 1 of each year whose full-time
 404 or job-share responsibility is the classroom instruction of
 405 students in prekindergarten through grade 12, including full-
 406 time media specialists and certified school ~~guidance~~ counselors
 407 serving students in prekindergarten through grade 12, who are
 408 funded through the Florida Education Finance Program. A "job-
 409 share" classroom teacher is one of two teachers whose combined
 410 full-time equivalent employment for the same teaching assignment
 411 equals one full-time classroom teacher.

412 Section 14. Paragraph (a) of subsection (3) of section
 413 1012.98, Florida Statutes, is amended to read:

414 1012.98 School Community Professional Development Act.—

415 (3) The activities designed to implement this section
 416 must:

417 (a) Support and increase the success of educators through
 418 collaboratively developed school improvement plans that focus
 419 on:

420 1. Enhanced and differentiated instructional strategies to

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421 engage students in a rigorous and relevant curriculum based on
 422 state and local educational standards, goals, and initiatives;

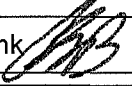

423 2. Increased opportunities to provide meaningful
 424 relationships between teachers and all students; and

425 3. Increased opportunities for professional collaboration
 426 among and between teachers, certified school ~~guidance~~
 427 counselors, instructional leaders, postsecondary educators
 428 engaged in preservice training for new teachers, and the
 429 workforce community.

430 Section 15. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 801 Certified School Counselors
SPONSOR(S): Education Appropriations Subcommittee, Eagle
TIED BILLS: IDEN./SIM. **BILLS:** 154

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	12 Y, 0 N	Brink	Ahearn
2) Education Appropriations Subcommittee	12 Y, 0 N, As CS	Seifert	Heflin
3) Education Committee		Brink 	Mizereck 

SUMMARY ANALYSIS

This bill substitutes "certified school counselor" for the term "guidance counselor" to reflect the current requirement that persons employed as school counselors be certified as set forth by law and State Board of Education rule.

The bill also provides that certified school counselors shall perform only the duties and functions as provided by law. However, the bill allows public schools to utilize certified school counselors as support staff for administrative duties so long as their ability to perform the duties and functions required by law would not be limited. The bill also makes various technical changes.

This bill may have some fiscal impact on some school districts. However, the extent of the impact is indeterminate. See Fiscal Comments.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Counselors

Present Situation

School counselors play a significant role in school guidance and counseling programs, which are designed to promote student success through a focus on academic achievement, prevention, intervention, and advocacy.¹ They evaluate students and participate in decisions relating to the promotion, remediation, and retention of students. Effective school guidance counselors work with school administrators, faculty, students, parents, and members of the community to plan, implement, and evaluate comprehensive guidance and counseling programs. In advising students, counselors identify needs, define priorities, and determine appropriate objectives. They also determine the personnel, physical resources, programs, and activities required to best serve the student.²

School counselors are considered instructional personnel within Florida's public school system.³ To be employed as a school counselor, a person must be certified as required by law and State Board of Education (SBE) rule.⁴ To be certified in guidance and counseling, a person must hold a master's or higher degree with a graduate major in guidance and counseling or counselor education or a master's or higher degree with 30 semester hours of graduate credit in specified guidance and counseling courses.⁵

Currently, there are no restrictions or prohibitions set forth by law or rule with respect to what school or administrative support activities school administrations may require a school counselor to perform.

The table below indicates the number of school counselors in the Florida public school system for the year 2010-2011:

Florida School Counselors by Area					
Elementary	Middle/Jr.	Senior High	Other Type School	Career Specialist	TOTAL
1,751	1,134	2,005	433	100	5,423

Effect of Proposed Changes

This bill rephrases within the Florida Statutes the term "guidance counselor" to read "certified school counselor." This change reflects the current requirement that persons employed as school counselors hold a certificate in guidance and counseling as provided by law and SBE rule.⁶

The bill also provides that certified school counselors shall perform only the duties and functions as provided by law. However, the bill allows, to the extent it would not limit their ability to perform the

¹ Florida Department of Education, Division of Workforce Development, *Florida's School Counseling and Guidance Framework: A comprehensive Student Development Model* (2001), available at <http://www.fl DOE.org/workforce/pdf/guidance.pdf> (last visited March 12, 2013).

² *Id.*

³ Section 1012.01(2)(b), F.S.

⁴ Section 1012.55(1), F.S.

⁵ Rule 6A-4.0181, F.A.C.

⁶ See Section 1012.55(1), F.S.; Rule 6A-4.0181, F.S.

duties and functions required by law, certified school counselors to be used by public schools as support staff for administrative duties including:

- Coordinating, administering, or monitoring academic testing and testing programs;
- Working bus or cafeteria lines; and
- Substitute teaching.

B. SECTION DIRECTORY:

Section 1. Amends s. 322.091(3)(b), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor"; providing technical changes.

Section 2. Amends s. 381.0057(3)(b), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor"; providing technical changes.

Section 3. Amends s. 1002.3105(3)(e), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 4. Amends s. 1003.21(1)(c), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor"; providing technical changes.

Section 5. Amends s. 1003.43(7)(d), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 6. Amends s. 1003.491(3) and (4)(a), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 7. Amends s. 1004.04(5)(f), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 8. Amends s. 1006.025(2)(a) and (c), F.S.; specifying the requirement that students have access to certified school counselors; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 9. Amends s. 1007.35(5)(a), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 10. Amends s. 1008.42(2)(b), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 11. Amends s. 1009.53(3), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor"; providing technical changes.

Section 12. Amends s. 1012.01(2)(b), F.S.; allows certified school counselors to be used as support staff for administrative duties as long as the administrative duties do not conflict with their responsibility of coordination of student support services.

Section 13. Amends s. 1012.71(1), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 14. Amends s. 1012.98(3)(a), F.S.; conforming provisions to changes made in the bill by rephrasing references to "guidance counselor" to read "certified school counselor."

Section 15. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

School districts that currently utilize certified school counselors as support staff for certain administrative activities may be required to hire additional staff if the counselor's administrative activities conflict with student services. This is because public schools, as of the effective date of this bill, may not be able to assign certified school counselors to perform these activities. The fiscal impact to districts is indeterminate because the use of certified school counselors for these administrative functions varies by school and school district.

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 April 4, 2013, the Education Appropriations Subcommittee reported HB 801 favorably with one amendment. The amendment clarifies that school counselors may only perform administrative duties to the extent that performing those duties does not conflict with their primary responsibility of the coordination of student support services.

This analysis is drafted to the committee substitute as passed by the Education Appropriations Subcommittee.

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A bill to be entitled
 An act relating to the Literacy Jump Start Pilot
 Project; requiring the Department of Education to
 establish the pilot project in St. Lucie County to
 assist low-income, at-risk children in developing
 emergent literacy skills; providing eligibility
 requirements for participation; requiring the
 department to establish performance standards and
 outcome measures for participating children; requiring
 emergent literacy training for instructors; requiring
 the department to allocate funds for the pilot
 project; providing an effective date.

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

Section 1. (1) The Department of Education shall
establish the 5-year Literacy Jump Start Pilot Project in St.
Lucie County to assist low-income, at-risk children in
developing emergent literacy skills. The pilot project shall be
implemented in one or more municipalities in St. Lucie County,
which are selected by the department in consultation with the
Early Learning Coalition of St. Lucie County. A municipality
within which locally or federally subsidized housing is located
is eligible for participation in the pilot project. The
department shall seek partnerships with local nonprofit
organizations and the business community in implementing the
pilot project.

28 (2) As used in this section, the term "emergent literacy"
 29 means a variety of early behaviors and skills associated with
 30 successful reading and writing development. These fundamental
 31 skills, which develop during the first 5 years of life,
 32 contribute to a child's foundations for literacy and learning
 33 and future success in school and life.

34 (3) To participate in the pilot project, a child must be:

35 (a) Two or 3 years of age.

36 (b) Eligible for a federally subsidized child care
 37 program.

38 (c) A member of a family that is economically
 39 disadvantaged and resides in locally or federally subsidized
 40 housing. For purposes of this paragraph, the term "economically
 41 disadvantaged" means having a family income that does not exceed
 42 150 percent of the federal poverty level.

43 (4) The Department of Education shall establish
 44 performance standards and outcome measures that address the age-
 45 appropriate progress of children in developing emergent literacy
 46 behaviors and skills. An instructor in the pilot project must
 47 have successfully completed an emergent literacy training course
 48 approved by the department.

49 (5) The emergent literacy instruction shall be conducted
 50 in a subsidized housing unit in order to provide easy access for
 51 participating children and families.

52 (6) The Department of Education shall allocate funds for
 53 implementation of the pilot project.

54 Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 803 Jump Start Literacy Pilot Project

SPONSOR(S): Education Appropriations Subcommittee, Choice & Innovation Subcommittee, Lee, Jr.

TIED BILLS: IDEN./SIM. **BILLS:** SB 1034

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	12 Y, 0 N, As CS	Ammel	Fudge
2) Education Appropriations Subcommittee	12 Y, 0 N, As CS	Seifert	Heflin
3) Education Committee		Ammel <i>JA</i>	Mizereck <i>KN</i>

SUMMARY ANALYSIS

The bill requires the Department of Education (DOE) to establish a 5-year Literacy Jump Start Pilot Project in St. Lucie County to assist low-income, at-risk children in developing emergent literacy skills. The DOE, in consultation with the Early Learning Coalition of St. Lucie County shall select one or more municipalities to participate in the project. The DOE must seek partnerships with local nonprofit organizations and the business community to implement the project. The bill:

- Provides a definition for "emergent literacy".
- Defines child eligibility.
- Requires DOE to establish performance standards and outcome measures that address the age-appropriate progress of children in developing emergent literacy behaviors and skills.
- Requires instructors in the project to complete an emergent literacy training course approved by DOE.
- Requires the instruction to be conducted in a subsidized housing unit to provide easy access for participating children and families.

Specific Appropriation 103 of House Bill 5001 includes \$110,000 for the Literacy Jump Start Pilot Project.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida's Office of Early Learning (OEL) is the lead agency for administration of the federal Child Care and Development Block Grant Trust Fund, 45 C.F.R. parts 98 and 99 in Florida and must comply with the lead agency responsibilities under those sections.¹ The OEL is responsible for administering school readiness programs at the state level and must coordinate with the early learning coalitions in providing school readiness services on a full-day, full-year, full-choice basis to the extent possible in order to enable parents to work and be financially self-sufficient.²

The OEL provides funding and oversight to the School Readiness Program through the Early Learning Coalition of St. Lucie County. School Readiness services are offered by private schools, public schools, faith-based, profit and non-profit providers. The coalition determines a family's eligibility for School Readiness services, by considering several factors including verification of child age, residency, family income, purpose of care (work/education activities), whether children are at risk of abuse or neglect, and at risk of future school failure. OEL must follow specified criteria for prioritizing participants for the School Readiness Program.³ The coalition currently partners with local non-profits and private businesses to administer early learning programs. Some individuals representing these entities may serve on the early learning coalition board. The coalition also verifies required instructor credentials and training, and monitors early learning provider sites.⁴

The Office of Early Learning is administratively housed within the Department of Education per s. 20.15(2)(h), Florida Statutes.

Effect of Proposed Changes

The bill requires the Department of Education (DOE) to:

- Establish the 5-year Literacy Jump Start Pilot Project in St. Lucie County.
- Seek partnerships with local nonprofit organizations and the business community in implementing the pilot project.
- Establish performance standards and outcome measures that address the age-appropriate progress of children in developing emergent literacy behaviors and skills.

Instructors in the pilot project must have successfully completed an emergent literacy training course approved by the office. The emergent literacy instruction must be conducted in a subsidized housing unit in order to provide easy access for participating children and families.

The bill requires the DOE in consultation with the Early Learning Coalition of St. Lucie County to select municipalities in St. Lucie County for implementation. A municipality within which locally or federally subsidized housing is located is eligible for participation in the pilot project.

To participate in the pilot project a child must be:

- Two or 3 years of age
- Eligible for a federally subsidized child care program

¹ Section 411.01(4)(c), F.S.

² Section 411.01(4)(a), F.S.

³ Section 411.01(6), F.S.

⁴ Florida Department of Education 2013 Bill Analysis for HB 803

- A member of a family that is economically disadvantaged and reside in locally or federally subsidized housing.

The bill provides the following definitions:

- "Economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level.
- "Emergent literacy" means a variety of early behaviors and skills associated with successful reading and writing development during the first 5 years of life that contribute to a child's foundations for literacy and learning and future success in school and life.

B. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law; requiring the Department of Education (DOE) to establish the pilot project in St. Lucie County to assist low-income, at-risk children in developing emergent literacy skills; providing eligibility requirements for participation; requiring DOE to establish performance standards and outcome measures for participating children: requiring emergent literacy training for instructors; requiring the office to allocate funds for the pilot project.

Section 2. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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:

Specific Appropriation 103 of House Bill 5001 includes \$110,000 for the Literacy Jump Start Pilot Project.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2013, the Choice & Innovation Subcommittee reported HB 803 favorably as a committee substitute. There was one amendment to the bill that:

- clarified that the statewide Office of Early Learning was required to administer the program, not the Office of Early Learning within the Department of Education, and
- renamed the program to Literacy Jump Start so it is not confused with the national Jumpstart Program.

The analysis is drafted to the committee substitute.

On April 4, 2013, the Education Appropriations Subcommittee reported CS/HB 803 favorably with one amendment. The amendment clarifies the Department of Education, as the agency, to issue the grant since the statewide Office of Early Learning is administratively housed within the Department of Education. The analysis is drafted to the committee substitute as passed by the Education Appropriations Subcommittee.

1 A bill to be entitled
 2 An act relating to extracurricular activities;
 3 amending s. 1002.20, F.S.; providing that K-12 public
 4 school students who meet certain requirements have a
 5 right to participate in extracurricular activities;
 6 amending s. 1006.15, F.S.; authorizing certain
 7 students enrolled in virtual instruction to
 8 participate in an extracurricular activity at a public
 9 or private school if certain requirements are met;
 10 authorizing public school students attending a public
 11 school that does not offer a particular
 12 extracurricular activity to participate in that
 13 extracurricular activity at a public or private
 14 school, subject to certain requirements; deleting a
 15 criterion for students who are enrolled in non-FHSAA
 16 member private schools to participate in
 17 interscholastic or intrascholastic sports; providing
 18 an effective date.

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

21
 22 Section 1. Present paragraph (e) of subsection (18) of
 23 section 1002.20, Florida Statutes, is redesignated as paragraph
 24 (f), and a new paragraph (e) is added to that subsection to
 25 read:

26 1002.20 K-12 student and parent rights.—Parents of public
 27 school students must receive accurate and timely information
 28 regarding their child's academic progress and must be informed

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

32 (18) EXTRACURRICULAR ACTIVITIES.—In accordance with the
 33 provisions of s. 1006.15:

34 (e) Public school students.—Public school students who
 35 meet specified academic and conduct requirements may participate
 36 in extracurricular activities at any public school that the
 37 student could choose to attend pursuant to district or
 38 interdistrict controlled open enrollment provisions, or may
 39 develop an agreement to participate at a private school.

40 Section 2. Paragraph (e) of subsection (3) and subsection
 41 (8) of section 1006.15, Florida Statutes, are amended, and
 42 paragraphs (h), (i), and (j) are added to subsection (3) of that
 43 section, to read:

44 1006.15 Student standards for participation in
 45 interscholastic and intrascholastic extracurricular student
 46 activities; regulation.—

47 (3)

48 (e) A student enrolled of the Florida Virtual School full-
 49 time in a virtual instruction program, virtual charter school,
 50 or the Florida Virtual School may participate in any
 51 interscholastic extracurricular activity at the public school to
 52 which the student would be assigned according to district school
 53 board attendance area policies or which the student could choose
 54 to attend, pursuant to district or interdistrict controlled open
 55 enrollment policies, or may develop an agreement to participate
 56 in that extracurricular activity at a private school, if the

57 student:

58 1. During the period of participation in the
59 interscholastic extracurricular activity, meets the requirements
60 in paragraph (a).

61 ~~2. Meets any additional requirements as determined by the~~
62 ~~board of trustees of the Florida Virtual School.~~

63 2.3. Meets the same residency requirements as other
64 students in the school at which he or she participates.

65 3.4. Meets the same standards of acceptance, behavior, and
66 performance that are required of other students in
67 extracurricular activities.

68 4.5. Registers his or her intent to participate in
69 interscholastic extracurricular activities with the school
70 before the beginning date of the season for the activity in
71 which he or she wishes to participate. A ~~Florida Virtual School~~
72 student must be able to participate in curricular activities if
73 that is a requirement for an extracurricular activity.

74 (h) A student who attends a public school that does not
75 offer a particular extracurricular activity may participate at
76 any public school that the student could choose to attend
77 pursuant to district or interdistrict controlled open enrollment
78 provisions, or may develop an agreement to participate in that
79 extracurricular activity at a private school, if the student:

80 1. Meets the requirements for eligibility to participate
81 in interscholastic extracurricular activities, as provided under
82 paragraph (a);

83 2. Demonstrates educational progress at the school he or
84 she attends as required in paragraph (b);

85 3. Meets the same standards of acceptance, behavior, and
 86 performance that are required of other students in
 87 extracurricular activities;

88 4. Pays any fees required of other students who
 89 participate in the extracurricular activity; and

90 5. Registers with the school that offers the
 91 extracurricular activity his or her intent to participate in the
 92 interscholastic extracurricular activity at that school before
 93 the beginning date of the season for the activity in which he or
 94 she wishes to participate. A public school student must be able
 95 to participate in a curricular activity if it is a requirement
 96 for an extracurricular activity. The student may choose to
 97 participate in the required curricular activity at the school he
 98 or she attends or at the school in which he or she participates
 99 in the extracurricular activity.

100 (i) A student who has been unable to maintain academic
 101 eligibility for participation in interscholastic extracurricular
 102 activities is ineligible to participate in such activities under
 103 paragraph (h) until the student has successfully completed one
 104 grading period.

105 (j) The parents of a student who participates in an
 106 extracurricular activity under paragraph (e) or paragraph (h)
 107 are responsible for transporting their child to and from the
 108 school at which the student participates. The public school the
 109 student attends, the school at which the student participates in
 110 the extracurricular activity, the district school board, and the
 111 Florida High School Athletic Association (FHSA) are exempt from

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112 civil liability arising from any injury that occurs to the
 113 student during such transportation.

114 (8) (a) The FHSAA ~~Florida High School Athletic Association~~
 115 ~~(FHSAA)~~, in cooperation with each district school board, shall
 116 facilitate a program in which a middle school or high school
 117 student who attends a private school shall be eligible to
 118 participate in an interscholastic or intrascholastic sport at a
 119 public high school, a public middle school, or a 6-12 public
 120 school that is zoned for the physical address at which the
 121 student resides if:

122 1. The private school in which the student is enrolled is
 123 not a member of the FHSAA and does not offer an interscholastic
 124 or intrascholastic athletic program.

125 2. The private school student meets the guidelines for the
 126 conduct of the program established by the FHSAA's board of
 127 directors and the district school board. At a minimum, such
 128 guidelines shall provide:

129 a. A deadline for each sport by which the private school
 130 student's parents must register with the public school in
 131 writing their intent for their child to participate at that
 132 school in the sport.

133 b. Requirements for a private school student to
 134 participate, including, but not limited to, meeting the same
 135 standards of eligibility, acceptance, behavior, educational
 136 progress, and performance which apply to other students
 137 participating in interscholastic or intrascholastic sports at a
 138 public school or FHSAA member private school.

139 (b) The parents of a private school student participating
 140 in a public school sport under this subsection are responsible
 141 for transporting their child to and from the public school at
 142 which the student participates. The private school the student
 143 attends, the public school at which the student participates in
 144 a sport, the district school board, and the FHSAA are exempt
 145 from civil liability arising from any injury that occurs to the
 146 student during such transportation.

147 (c) For each academic year, a private school student may
 148 only participate at the public school in which the student is
 149 first registered under sub-subparagraph (a)2.a. or makes himself
 150 or herself a candidate for an athletic team by engaging in a
 151 practice.

152 (d) The athletic director of each participating FHSAA
 153 member public school shall maintain the student records
 154 necessary for eligibility, compliance, and participation in the
 155 program.

156 (e) Any non-FHSAA member private school that has a student
 157 who wishes to participate in this program must make all student
 158 records, including, but not limited to, academic, financial,
 159 disciplinary, and attendance records, available upon request of
 160 the FHSAA.



161 (f) A student must apply to participate in this program
 162 through the FHSAA program application process.

163 (g) Only Students who are enrolled in non-FHSAA member
 164 private schools ~~consisting of 125 students or fewer~~ are eligible
 165 to participate in the program in any given academic year.

166 Section 3. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 859 Extracurricular Activities
SPONSOR(S): Choice & Innovation Subcommittee, Hutson and others
TIED BILLS: IDEN./SIM. BILLS: SB 956

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	13 Y, 0 N, As CS	Fudge	Fudge
2) Education Appropriations Subcommittee	12 Y, 0 N	Seifert	Heflin
3) Education Committee		Fudge 	Mizereck 

SUMMARY ANALYSIS

The bill increases opportunities for public school students, including those enrolled in full-time virtual education programs, to participate in extracurricular activities. Public school students who attend a public school that does not offer a particular extracurricular activity may participate at any public school that offers the extracurricular activity that the student could choose to attend through district or interdistrict controlled open enrollment, or may develop an agreement to participate at a private school. The student must meet the same student eligibility and participation requirements as other students, and pay any fees required of other students participating in the extracurricular activity. The student must also register his or her intent to participate in the activity at the school before the beginning date of the season for the activity.

The parents of a student who participates in extracurricular activities pursuant to this new requirement must transport the student to and from the school at which the student participates. The public school, the district school board, and the FHSAA are exempt from civil liability arising from any injury that occurs due to such transportation.

The bill also increases the opportunity for private school students who attend a private school that is not a member of the Florida High School Athletic Association (FHSAA) to participate in interscholastic and intrascholastic sports at public schools. Currently, participation is limited to students enrolled in non-FHSAA member private schools with 125 or fewer students that do not offer a sports program. The bill removes this enrollment cap and allows students from any non-FHSAA private schools to participate in intrascholastic or interscholastic sports at a public school if the private school does not offer the specific sport offered at the public school.

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

The bill is effective July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Interscholastic Extracurricular Activities

Interscholastic extracurricular activities are school-authorized athletic or education-related activities for students that occur during or outside of the regular instructional school day.¹ Such activities include athletics,² marching band, chorus, and academic clubs.

Student Eligibility

To be eligible for participation in interscholastic extracurricular activities, a high school student must:

- Maintain either a 2.0 grade point average (GPA) or above on a 4.0 scale in the semester preceding participation; or a cumulative 2.0 GPA or above in the courses required for high school graduation;³
- Execute and fulfill the requirements of an academic performance contract if the student's GPA falls below 2.0 in the courses required for graduation. An academic performance contract is an agreement between the student, the district school board, the appropriate governing association, and the student's parents, which at a minimum requires the student to attend summer school or its graded equivalent, between grades nine and 10 or grades 10 and 11, as necessary;⁴
- Have a cumulative GPA of 2.0 or above in the courses required for graduation in his or her junior or senior year;⁵ and
- Demonstrate satisfactory conduct to be eligible to participate in interscholastic extracurricular activities. The eligibility of a student who is convicted of, or found to have committed, a felony or delinquent act that would have been a felony if committed by an adult is governed by district school board policy.⁶

A school district may set additional eligibility requirements, but the requirements must not make participation less accessible to home education students than to other students.⁷ An eligible student may participate in high school athletics at the school in which he or she first enrolls each school year or, at the school in which the student becomes a candidate for an athletic team by engaging in a practice prior to enrolling in the school.⁸

A high school student may be eligible to participate in interscholastic extracurricular activities in the school to which the student has transferred during the school year if the transfer is made by a deadline established by the Florida High School Athletic Association (FHSAA),⁹ which may not be prior to the date authorized for the beginning of practice for the sport.¹⁰

¹ Section 1006.15, F.S.

² "Interscholastic athletic programs encompass all activities relating to competitive sport contests involving individual students or teams of students from one school against individual students or teams of students from another school. Such activities include, but are not limited to, tryouts, offseason conditioning, summer workouts, preseason conditioning, in-season practice and contests." Section 9.2.1.2 of Bylaw 9.2.1, *FHSAA Handbook*, available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf.

³ Section 1006.15(3)(a)1., F.S.

⁴ Section 1006.15(3)(a)2., F.S.

⁵ Section 1006.15(3)(a)3., F.S.

⁶ Section 1006.15(3)(a)4., F.S.

⁷ Section 1006.15(4), F.S.

⁸ Section 1006.20(2)(a), F.S.

⁹ The FHSAA is the designated governing nonprofit organization of athletics in Florida public schools. Section 1006.20(1), F.S.

¹⁰ Section 1006.20(2)(a), F.S.

A student who transfers from a charter school or a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year.¹¹

A public or private school student who has not maintained academic eligibility may not participate in interscholastic extracurricular activities as a charter school or a home education student until the student successfully demonstrates educational progress for one grading period.¹²

Charter School and Homeschool Student Participation

A charter school or home education student may participate in interscholastic extracurricular activities at the public school to which the student would be assigned, the public school that the student could choose to attend pursuant to the school district's open enrollment policy, or a private school that the student could choose to attend pursuant to a participation agreement.¹³ To be eligible for such participation, a charter school or home education student must:

- Demonstrate educational progress by an agreed upon method of evaluation;¹⁴
- Meet the same residency requirements as other students in the school;¹⁵
- Meet the same standards of acceptance, behavior, and performance required of other participating students;¹⁶ and
- Register his or her intent to participate in interscholastic extracurricular activities with the school before the beginning date of the season for the activity for which he or she wishes to participate. The student must be able to participate in curricular activities if such participation is a requirement for an extracurricular activity.¹⁷

In addition, a home education student must be in a home education program¹⁸ that meets the requirements of Florida law,¹⁹ while a charter school student must meet all of the charter school education program requirements established by the charter school governing board.²⁰

Private School Student Participation

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school where the student is enrolled is not a member of the FHSAA (non-FHSAA member) and does not offer an interscholastic or intrascholastic athletic program.²¹ Only students attending a non-FHSAA member private school with enrollment of 125 or fewer students may participate in a public school athletic program.²² A private school that has a student who wishes to participate in a public school athletic program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request by the FHSAA.²³

¹¹ Sections 1006.15(3)(c)6. and 1006.15(3)(d)6., F.S.

¹² Sections 1006.15(3)(c)7. and 1006.15(3)(d)7., F.S.

¹³ Sections 1002.41(4) and 1006.15(3)(c), F.S.

¹⁴ Section 1006.15(3)(c)2., F.S.

¹⁵ Section 1006.15(3)(c)3., F.S.

¹⁶ Section 1006.15(3)(c)4., F.S.

¹⁷ Section 1006.15(3)(c)5., F.S.

¹⁸ Sections 1002.01(1) and 1002.41, F.S.

¹⁹ Section 1006.15(3)(c)1., F.S.

²⁰ Section 1006.15(3)(d)1., F.S.

²¹ Section 1006.15(8)(a), F.S.

²² Section 1006.15(8)(a)1., F.S.

²³ Section 1006.15(8)(e), F.S.

The FHSAA and district school board must adopt guidelines that establish:

- Registration deadlines and procedures for each sport,²⁴ and
- Student participation requirements that include, but are not limited to, the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to students attending FHSAA member public and private schools.²⁵

A private school student may only participate at the public school in which the student first registers or is a candidate for participation by engaging in a practice.²⁶

The parents of a private school student who participates in athletics at a public school are responsible for transporting the student to and from the public school. The student's private school, the public school where the student participates in athletics, the district school board, and the FHSAA are exempt from liability arising from any injury that occurs during such transportation.²⁷

Effect of Proposed Changes

The bill allows a student who attends a public school, including a student enrolled full-time in a virtual instruction program, the Florida Virtual School, or virtual charter school, that does not offer a particular extracurricular activity to participate at any public school that offers the extracurricular activity that the student could choose to attend through district or interdistrict controlled open enrollment. The student may also develop an agreement to participate at a private school. The student must meet requirements for participation identified above, demonstrate education progress, and meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities and pay any fee required of other students participating in the extracurricular activity. The student must also register with his or her intent to participate in the activity at the school before the beginning date of the season for the activity. A public school student must be able to participate in the curricular activity if it is a requirement for an extracurricular activity. The public school student may choose to participate in the required activity at the school he or she attends or at the school in which he or she participates in the extracurricular activity.

The parents of a student who participates in extracurricular activities pursuant to these new requirements must transport the student to and from the school at which the student participates. The public school, the district school board, and the FHSAA are exempt from civil liability arising from any injury that occurs due to such transportation.

The bill increases the opportunity for private school students who attend a private school that is not a member of the FHSAA to participate in interscholastic and intrascholastic sports at public schools. Currently, participation is limited to students enrolled in non-FHSAA member private schools with 125 or fewer students that do not offer a sports program. The bill removes this enrollment cap and allows students from any non-FHSAA member private schools to participate in intrascholastic or interscholastic sports at a public school if the private school does not offer the specific sport offered at the public school.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.20, F.S., authorizing public school students, to participate in extracurricular activities at other specified public or private schools.

Section 2: Amends s. 1006.15, F.S., authorizing public school students, including those in full-time virtual education programs, to participate in extracurricular activities at any public school that offers the extracurricular activity that the student could choose to attend through district or interdistrict controlled open enrollment, establishing criteria for participation, and rendering the public school, district school

²⁴ Section 1006.15(8)(a)2.a., F.S.

²⁵ Section 1006.15(8)(a)2.b., F.S.

²⁶ Section 1006.15(8)(c), F.S.

²⁷ Section 1006.15(8)(b), F.S.

board and the FHSAA exempt from civil liability from any injury that occurs to the student during transportation of the student by the parents.

Section 3: Establishes an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 20, 2013, the Choice & Innovation Subcommittee reported HB 859 favorable as a committee substitute. The committee adopted a strike-all amendment that provides public school students, including those enrolled full-time in a virtual instruction program, virtual charter school, or the Florida Virtual School, the opportunity to participate in an extracurricular activity at a private school, through an agreement with the private school, or another public school the student could choose pursuant to district or interdistrict controlled open enrollment. It also required such students participating in extracurricular activities to pay any fees required of other students participating in the extracurricular activity.

The analysis is drafted to the committee substitute.

1 A bill to be entitled
 2 An act relating to high school athletics; reenacting
 3 and amending s. 1002.20(17), F.S.; making technical
 4 changes; amending s. 1006.15, F.S.; revising criteria
 5 for student eligibility for participation in
 6 extracurricular activities to include students in
 7 charter schools; authorizing public school students
 8 attending a public school that does not offer a
 9 particular extracurricular activity to participate in
 10 that activity at another school subject to certain
 11 requirements; amending s. 1006.19, F.S.; providing
 12 requirements for an annual financial and compliance
 13 audit of an association that supervises
 14 interscholastic activities of public high schools;
 15 amending s. 1006.20, F.S.; providing that the
 16 designation of the Florida High School Athletic
 17 Association as the governing nonprofit organization of
 18 athletics expires on a specified date; revising the
 19 criteria for bylaws, policies, or guidelines adopted
 20 by the association; requiring the association to
 21 complete a review by a specified date; requiring that
 22 the association submit a report to the Commissioner of
 23 Education, the Governor, and the Legislature;
 24 providing requirements for investigations and
 25 investigators; establishing notice requirements to
 26 specified parties; providing procedures for student
 27 residence and transfer approvals; providing that the
 28 burden is on the association to demonstrate by clear

29 and convincing evidence that a student is ineligible
 30 to participate in a high school athletic competition;
 31 requiring that the association pay costs and attorney
 32 fees in certain circumstances; revising the
 33 composition of the board of directors of the
 34 association and terms of office; revising what
 35 constitutes a quorum of the board of directors;
 36 providing for the appointment of an executive
 37 director; providing restrictions for the salary,
 38 benefits, per diem, and travel expenses of the
 39 association's executive director; providing that
 40 members of the association's public liaison advisory
 41 committee are entitled to reimbursement for per diem
 42 and travel expenses at the same rate as state
 43 employees; providing restrictions on the levy of dues
 44 and fees and the collection of contest receipts;
 45 providing authority to levy fines, penalties, and
 46 sanctions against schools and coaches; providing for
 47 expiration of the terms of members of the 2012-2013
 48 board of directors; providing an effective date.

49

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

51

52 Section 1. Subsection (17) of section 1002.20, Florida
 53 Statutes, is reenacted and amended to read:

54 1002.20 K-12 student and parent rights.—Parents of public
 55 school students must receive accurate and timely information
 56 regarding their child's academic progress and must be informed

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

60 (17) ATHLETICS; PUBLIC HIGH SCHOOL.—

61 (a) Eligibility.—Eligibility requirements for all students
 62 participating in a high school athletic competition must allow a
 63 student to be eligible in the school in which he or she first
 64 enrolls each school year, the school in which the student makes
 65 himself or herself a candidate for an athletic team by engaging
 66 in practice before enrolling, or the school to which the student
 67 has transferred with approval of the district school board, in
 68 accordance with ~~the provisions of~~ s. 1006.20(2)(a).

69 (b) Medical evaluation.—Students must satisfactorily pass
 70 a medical evaluation each year before participating in
 71 athletics, unless the parent objects in writing based on
 72 religious tenets or practices, in accordance with ~~the provisions~~
 73 ~~of~~ s. 1006.20(2)(d).

74 Section 2. Paragraphs (a), (d), and (f) of subsection (3)
 75 and subsections (5) and (8) of section 1006.15, Florida
 76 Statutes, are amended, and paragraphs (h), (i), and (j) are
 77 added to subsection (3) of that section, to read:

78 1006.15 Student standards for participation in
 79 interscholastic and intrascholastic extracurricular student
 80 activities; regulation.—

81 (3)(a) A student attending a public school or a school
 82 identified in this section is presumed eligible to participate
 83 in interscholastic extracurricular student activities. For the
 84 purposes of this section, a charter school is considered a

85 public school. A student remains eligible to participate in
 86 interscholastic extracurricular student activities if the
 87 student ~~To be eligible to participate in interscholastic~~
 88 ~~extracurricular student activities, a student must:~~

89 1. Maintains ~~Maintain~~ a grade point average of 2.0 or
 90 above on a 4.0 scale, or its equivalent, in the previous
 91 semester or a cumulative grade point average of 2.0 or above on
 92 a 4.0 scale, or its equivalent, in the courses required by s.
 93 1003.43(1).

94 2. Executes ~~Execute~~ and fulfills ~~fulfill~~ the requirements
 95 of an academic performance contract between the student, the
 96 district school board, the appropriate governing association,
 97 and the student's parents, if the student's cumulative grade
 98 point average falls below 2.0, or its equivalent, on a 4.0 scale
 99 in the courses required by s. 1003.43(1) or, for students who
 100 entered the 9th grade before ~~prior to~~ the 1997-1998 school year,
 101 if the student's cumulative grade point average falls below 2.0
 102 on a 4.0 scale, or its equivalent, in the courses required by s.
 103 1003.43(1) which are taken after July 1, 1997. At a minimum, the
 104 contract must require that the student attend summer school, or
 105 its graded equivalent, between grades 9 and 10 or grades 10 and
 106 11, as necessary.

107 3. Has ~~Have~~ a cumulative grade point average of 2.0 or
 108 above on a 4.0 scale, or its equivalent, in the courses required
 109 by s. 1003.43(1) during his or her junior or senior year.

110 4. Maintains ~~Maintain~~ satisfactory conduct, including
 111 adherence to appropriate dress and other codes of student
 112 conduct policies described in s. 1006.07(2). If a student is

113 convicted of, or is found to have committed, a felony or a
 114 delinquent act that would have been a felony if committed by an
 115 adult, regardless of whether adjudication is withheld, the
 116 student's participation in interscholastic extracurricular
 117 activities is contingent upon established and published district
 118 school board policy.

119 (d) An individual public ~~charter~~ school student pursuant
 120 ~~to s. 1002.33~~ is eligible to participate at the public school to
 121 which the student would be assigned, including a charter school,
 122 according to district school board attendance area policies or
 123 which the student could choose to attend, pursuant to district
 124 or interdistrict controlled open-enrollment policies ~~provisions,~~
 125 in any interscholastic extracurricular activity of that school,
 126 unless such activity is provided by the student's current
 127 ~~charter~~ school, if the following conditions are met:

128 1. The ~~charter school~~ student must meet the requirements
 129 of the student's current ~~charter~~ school education program ~~as~~
 130 ~~determined by the charter school governing board.~~

131 2. During the period of participation at a school, the
 132 ~~charter school~~ student must demonstrate educational progress as
 133 required in paragraph (b).

134 3. The ~~charter school~~ student must meet the same residency
 135 requirements as other students in the school at which he or she
 136 participates.

137 4. The ~~charter school~~ student must meet the same standards
 138 of acceptance, behavior, and performance which ~~that~~ are required
 139 of other students in extracurricular activities.

140 5. The ~~charter school~~ student must register with the

141 school his or her intent to participate in interscholastic
 142 extracurricular activities as a representative of the school
 143 before the beginning date of the season for the activity in
 144 which he or she wishes to participate. A ~~charter school~~ student
 145 must be able to participate in curricular activities if there
 146 ~~that~~ is a requirement for an extracurricular activity.

147 6. A student who transfers from a public ~~charter~~ school
 148 ~~program~~ to a different ~~traditional~~ public school before or
 149 during the first grading period of the school year is
 150 academically eligible to participate in interscholastic
 151 extracurricular activities during the first grading period if
 152 the student has a successful evaluation from the previous school
 153 year, pursuant to subparagraph 2.

154 7. A ~~Any~~ public school or private school student who has
 155 been unable to maintain academic eligibility for participation
 156 in interscholastic extracurricular activities is ineligible to
 157 participate in such activities as a public ~~charter~~ school
 158 student until the student has successfully completed one grading
 159 period in a ~~charter~~ school pursuant to subparagraph 2. ~~to become~~
 160 ~~eligible to participate as a charter school student.~~

161 (f) A student who transfers from the Florida Virtual
 162 School full-time program to a ~~traditional~~ public school before
 163 or during the first grading period of the school year is
 164 academically eligible to participate in interscholastic
 165 extracurricular activities during the first grading period if
 166 the student has a successful evaluation from the previous school
 167 year pursuant to paragraph (a).

168 (h) A student who attends a public school that does not
 169 offer a particular extracurricular activity may participate at
 170 any public school that the student could choose to attend
 171 pursuant to district or interdistrict controlled open enrollment
 172 provisions, or may develop an agreement to participate in that
 173 extracurricular activity at a private school, if the student:
 174 1. Meets the requirements for eligibility to participate
 175 in interscholastic extracurricular activities, as provided under
 176 paragraph (a);
 177 2. Demonstrates educational progress at the school he or
 178 she attends as required in paragraph (b);
 179 3. Meets the same standards of acceptance, behavior, and
 180 performance that are required of other students in
 181 extracurricular activities;
 182 4. Pays any fees required of other students who
 183 participate in the extracurricular activity; and
 184 5. Registers with the school that offers the
 185 extracurricular activity his or her intent to participate in the
 186 interscholastic extracurricular activity at that school before
 187 the beginning date of the season for the activity in which he or
 188 she wishes to participate. A public school student must
 189 participate in a curricular activity if it is a requirement for
 190 an extracurricular activity. The student may choose to
 191 participate in the required curricular activity at the school he
 192 or she attends or at the school in which he or she participates
 193 in the extracurricular activity.
 194 (i) A student who has been unable to maintain academic
 195 eligibility for participation in interscholastic extracurricular

196 activities is ineligible to participate in such activities under
 197 paragraph (h) until the student has successfully completed one
 198 grading period.

199 (j) The parents of a student who participates in an
 200 extracurricular activity under paragraph (h) are responsible for
 201 transporting their child to and from the school at which the
 202 student participates. The public school the student attends, the
 203 school at which the student participates in the extracurricular
 204 activity, the district school board, and the Florida High School
 205 Athletic Association (FHSAA) are exempt from civil liability
 206 arising from any injury that occurs to the student during such
 207 transportation.

208 (5) An ~~Any~~ organization or entity that regulates or
 209 governs interscholastic extracurricular activities of public
 210 schools:

211 (a) Shall permit home education associations to join as
 212 member schools.

213 (b) May ~~Shall~~ not discriminate against any eligible
 214 student based on an educational choice of public, private, or
 215 home education.

216 (8) (a) The FHSAA ~~Florida High School Athletic Association~~
 217 ~~(FHSAA)~~, in cooperation with each district school board, shall
 218 facilitate a program in which a middle school or high school
 219 student who attends a private school shall be eligible to
 220 participate in an interscholastic or intrascholastic sport at a
 221 public high school, a public middle school, or a 6-12 public
 222 school that is zoned for the physical address at which the
 223 student resides if:

224 1. The private school in which the student is enrolled is
 225 not a member of the FHSAA and does not offer an interscholastic
 226 or intrascholastic athletic program.

227 2. The private school student meets the guidelines for the
 228 conduct of the program established by the FHSAA's board of
 229 directors and the district school board. At a minimum, such
 230 guidelines shall provide:

231 a. A deadline for each sport by which the private school
 232 student's parents must register with the public school in
 233 writing their intent for their child to participate at that
 234 school in the sport.

235 b. Requirements for a private school student to
 236 participate, including, but not limited to, meeting the same
 237 standards of eligibility, acceptance, behavior, educational
 238 progress, and performance which apply to other students
 239 participating in interscholastic or intrascholastic sports at a
 240 public school or FHSAA member private school.

241 (b) The parents of a private school student participating
 242 in a public school sport under this subsection are responsible
 243 for transporting their child to and from the public school at
 244 which the student participates. The private school the student
 245 attends, the public school at which the student participates in
 246 a sport, the district school board, and the FHSAA are exempt
 247 from civil liability arising from any injury that occurs to the
 248 student during such transportation.

249 (c) For each academic year, a private school student may
 250 only participate at the public school in which the student is
 251 first registered under sub-subparagraph (a)2.a. or makes himself

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252 or herself a candidate for an athletic team by engaging in a
 253 practice.

254 (d) The athletic director of each participating FHSAA
 255 member public school shall maintain the student records
 256 necessary for eligibility, compliance, and participation in the
 257 program.

258 (e) Any non-FHSAA member private school that has a student
 259 who wishes to participate in this program must make all student
 260 records, including, but not limited to, academic, financial,
 261 disciplinary, and attendance records, available upon request of
 262 the FHSAA.

263 (f) A student must apply to participate in this program
 264 through the FHSAA program application process.

265 (g) Only students who are enrolled in non-FHSAA member
 266 private schools consisting of 125 students or fewer in the
 267 middle school grades and 125 students in the high school grades
 268 are eligible to participate in the program in any given academic
 269 year.

270 Section 3. Subsection (1) of section 1006.19, Florida
 271 Statutes, is amended to read:

272 1006.19 Audit of records of nonprofit corporations and
 273 associations handling interscholastic activities.—

274 (1) Each nonprofit association or corporation that
 275 operates for the purpose of supervising and controlling
 276 interscholastic activities of public high schools and whose
 277 membership is composed of duly certified representatives of
 278 public high schools, and whose rules and regulations are
 279 established by members thereof, shall have an annual financial

280 and compliance audit of its accounts and records by an
 281 independent certified public accountant retained by it and paid
 282 from its funds, in accordance with rules adopted by the Auditor
 283 General. The audit must be conducted in compliance with
 284 generally accepted auditing standards and include a report on
 285 financial statements presented in accordance with generally
 286 accepted accounting principles set forth by the American
 287 Institute of Certified Public Accountants for not-for-profit
 288 organizations and a determination of compliance with the
 289 statutory eligibility and expenditure requirements of s.
 290 1006.20. Audits shall be submitted to the Auditor General, the
 291 Speaker of the House of Representatives, and the Senate
 292 President within 180 days after the end of each fiscal year. The
 293 ~~accountant shall furnish a copy of the audit report to the~~
 294 ~~Auditor General.~~

295 Section 4. Subsections (1) through (4) of section 1006.20,
 296 Florida Statutes, are amended, and paragraph (f) is added to
 297 subsection (6) of that section to read:

298 1006.20 Athletics in public K-12 schools.—

299 (1) GOVERNING NONPROFIT ORGANIZATION.—The Florida High
 300 School Athletic Association (FHSAA) is designated as the
 301 governing nonprofit organization of athletics in Florida public
 302 schools. This designation expires July 1, 2017. If the FHSAA
 303 fails to meet the provisions of this section or the Legislature
 304 does not timely designate a successor, the commissioner shall
 305 designate a nonprofit organization to govern athletics with the
 306 approval of the State Board of Education for successive terms
 307 not to exceed 4 years each or until the Legislature designates a

308 | successor. The FHSAA is not a state agency as defined in s.
 309 | 120.52. The FHSAA shall be subject to ~~the provisions of~~ s.
 310 | 1006.19. A private school that wishes to engage in high school
 311 | athletic competition with a public high school may become a
 312 | member of the FHSAA. Any high school in the state, including
 313 | charter schools, virtual schools, and home education
 314 | cooperatives, may become a member of the FHSAA and participate
 315 | in the activities of the FHSAA. However, membership in the FHSAA
 316 | is not mandatory for any school. The FHSAA may not deny or
 317 | discourage interscholastic competition between its member
 318 | schools and non-FHSAA member Florida schools, including members
 319 | of another athletic governing organization, and may not take any
 320 | retributory or discriminatory action against any of its member
 321 | schools that participate in interscholastic competition with
 322 | non-FHSAA member Florida schools. The FHSAA may not unreasonably
 323 | withhold its approval of an application to become an affiliate
 324 | member of the National Federation of State High School
 325 | Associations submitted by any other organization that governs
 326 | interscholastic athletic competition in this state. The bylaws
 327 | of the FHSAA are the rules by which high school athletic
 328 | programs in its member schools, and the students who participate
 329 | in them, are governed, unless otherwise specifically provided by
 330 | statute. For the purposes of this section, "high school"
 331 | includes grades 6 through 12.

332 | (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

333 | (a) The FHSAA shall adopt bylaws that, unless otherwise
 334 | provided by statute, presume the eligibility of students and
 335 | specify limited violations that result in ineligibility for

336 students who participate in high school athletic competition in
 337 its member schools. The bylaws must ensure that:

338 1. A student remains eligible in the school in which he or
 339 she first enrolls each school year or the school in which the
 340 student makes himself or herself a candidate for an athletic
 341 team by engaging in a practice before enrolling in the school.

342 2. A student remains eligible in the school to which the
 343 student has transferred during the school year if the transfer
 344 is made by a deadline established by the FHSAA, which may not be
 345 before the date authorized for the beginning of practice for the
 346 sport.

347 3. Once a student residence or transfer is approved by the
 348 district school board or private school, as applicable, the
 349 student remains eligible in the school if he or she remains
 350 enrolled in the school and complies with applicable
 351 requirements.

352 4. Rule, eligibility, and recruiting violations by a
 353 teammate, coach, administrator, school, or adult representative
 354 may not be used against a student.

355 5. A student is ineligible if the student or parent
 356 intentionally and knowingly falsifies an enrollment or
 357 eligibility document or intentionally and knowingly accepts a
 358 significant benefit or a promise of significant benefit that is
 359 not reasonably available to the school's students or family
 360 members and that is provided based primarily on the student's
 361 athletic interest, potential, or performance.

362 6. Ineligibility based upon recruitment is not
 363 demonstrated merely because a student participates in a

364 nonschool-sponsored extracurricular activity after the end of
 365 one school year and before the beginning of the next school year
 366 that is coached by a person who the student knows from having
 367 participated in a different school-sponsored extracurricular
 368 activity in the past or who the student seeks to participate
 369 with in the future in a different school-sponsored activity.

370 7. Ineligibility requirements shall be applied to public
 371 school students on an equal basis with private school students.

372 8. Ineligibility requirements shall be applied to transfer
 373 students on an equal basis with nontransfer students.

374 9. Prescribed violations must be substantially related to
 375 specific, important objectives and must be limited to address
 376 only the minimal requirements necessary to accomplish the
 377 objectives.

378
 379 The FHSAA shall complete a comprehensive review and analysis of
 380 all existing bylaws, policies, and administrative procedures to
 381 determine compliance with this paragraph by October 1, 2013. The
 382 FHSAA shall provide a detailed report originating from its
 383 review and analysis, which must include, but need not be limited
 384 to, specifically articulating how each violation or requirement
 385 in the bylaws, policies, and administrative procedures is
 386 substantially related to an identified, important objective and
 387 any necessary corrective action. The FHSAA shall provide a copy
 388 of the report to the Commissioner of Education, the Governor,
 389 the President of the Senate, and the Speaker of the House of
 390 Representatives by October 15, 2013. Bylaws, policies, or
 391 administrative procedures that are noncompliant with this

392 ~~paragraph are void as of January 1, 2014 The FHSAA shall adopt~~
393 ~~bylaws that, unless specifically provided by statute, establish~~
394 ~~eligibility requirements for all students who participate in~~
395 ~~high school athletic competition in its member schools. The~~
396 ~~bylaws governing residence and transfer shall allow the student~~
397 ~~to be eligible in the school in which he or she first enrolls~~
398 ~~each school year or the school in which the student makes~~
399 ~~himself or herself a candidate for an athletic team by engaging~~
400 ~~in a practice prior to enrolling in the school. The bylaws shall~~
401 ~~also allow the student to be eligible in the school to which the~~
402 ~~student has transferred during the school year if the transfer~~
403 ~~is made by a deadline established by the FHSAA, which may not be~~
404 ~~prior to the date authorized for the beginning of practice for~~
405 ~~the sport. These transfers shall be allowed pursuant to the~~
406 ~~district school board policies in the case of transfer to a~~
407 ~~public school or pursuant to the private school policies in the~~
408 ~~case of transfer to a private school. The student shall be~~
409 ~~eligible in that school so long as he or she remains enrolled in~~
410 ~~that school. Subsequent eligibility shall be determined and~~
411 ~~enforced through the FHSAA's bylaws. Requirements governing~~
412 ~~eligibility and transfer between member schools shall be applied~~
413 ~~similarly to public school students and private school students.~~

414 (b) The FHSAA shall adopt bylaws that specifically
415 prohibit the recruiting of students for athletic purposes. The
416 bylaws must ~~shall~~ prescribe penalties and an appeals process for
417 athletic recruiting violations. If it is determined that a
418 school has recruited a student in violation of FHSAA bylaws, the
419 FHSAA may require the school to participate in a higher

420 classification for the sport in which the recruited student
 421 competes for a minimum of one classification cycle, in addition
 422 to any other appropriate fine and sanction imposed on the
 423 school, its coaches, or adult representatives who violate
 424 recruiting rules. ~~A student may not be declared ineligible based~~
 425 ~~on violation of recruiting rules unless the student or parent~~
 426 ~~has falsified any enrollment or eligibility document or accepted~~
 427 ~~any benefit or any promise of benefit if such benefit is not~~
 428 ~~generally available to the school's students or family members~~
 429 ~~or is based in any way on athletic interest, potential, or~~
 430 ~~performance.~~

431 (c) The FHSAA shall adopt bylaws that require all students
 432 participating in interscholastic athletic competition or who are
 433 candidates for an interscholastic athletic team to
 434 satisfactorily pass a medical evaluation each year before ~~prior~~
 435 ~~to~~ participating in interscholastic athletic competition or
 436 engaging in any practice, tryout, workout, or other physical
 437 activity associated with the student's candidacy for an
 438 interscholastic athletic team. Such medical evaluation may be
 439 administered only by a practitioner licensed under chapter 458,
 440 chapter 459, chapter 460, or s. 464.012, and in good standing
 441 with the practitioner's regulatory board. The bylaws must ~~shall~~
 442 establish requirements for eliciting a student's medical history
 443 and performing the medical evaluation required under this
 444 paragraph, which must ~~shall~~ include a physical assessment of the
 445 student's physical capabilities to participate in
 446 interscholastic athletic competition as contained in a uniform
 447 preparticipation physical evaluation and history form. The

448 evaluation form must ~~shall~~ incorporate the recommendations of
449 the American Heart Association for participation cardiovascular
450 screening and must ~~shall~~ provide a place for the signature of
451 the practitioner performing the evaluation with an attestation
452 that each examination procedure listed on the form was performed
453 by the practitioner or by someone under the direct supervision
454 of the practitioner. The form must ~~shall~~ also contain a place
455 for the practitioner to indicate if a referral to another
456 practitioner was made in lieu of completion of a certain
457 examination procedure. The form must ~~shall~~ provide a place for
458 the practitioner to whom the student was referred to complete
459 the remaining sections and attest to that portion of the
460 examination. The preparticipation physical evaluation form must
461 ~~shall~~ advise students to complete a cardiovascular assessment
462 and must ~~shall~~ include information concerning alternative
463 cardiovascular evaluation and diagnostic tests. Results of such
464 medical evaluation must be provided to the school. No student
465 shall be eligible to participate in any interscholastic athletic
466 competition or engage in any practice, tryout, workout, or other
467 physical activity associated with the student's candidacy for an
468 interscholastic athletic team until the results of the medical
469 evaluation have been received and approved by the school.

470 (d) Notwithstanding ~~the provisions of~~ paragraph (c), a
471 student may participate in interscholastic athletic competition
472 or be a candidate for an interscholastic athletic team if the
473 parent of the student objects in writing to the student
474 undergoing a medical evaluation because such evaluation is
475 contrary to his or her religious tenets or practices. However,

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476 in such case, there shall be no liability on the part of any
 477 person or entity in a position to otherwise rely on the results
 478 of such medical evaluation for any damages resulting from the
 479 student's injury or death arising directly from the student's
 480 participation in interscholastic athletics where an undisclosed
 481 medical condition that would have been revealed in the medical
 482 evaluation is a proximate cause of the injury or death.

483 (e) The FHSAA shall adopt bylaws that regulate persons who
 484 conduct investigations on behalf of the FHSAA. A formal
 485 investigation must be completed within 90 days after the onset
 486 of the investigation, and the FHSAA may not contract or in any
 487 way pay for more than 520 hours of work for any investigation.

488 The bylaws must ~~shall~~ include provisions that require an
 489 investigator to:

490 1. Undergo level 2 background screening under s. 435.04,
 491 establishing that the investigator has not committed any
 492 disqualifying offense listed in s. 435.04, unless the
 493 investigator can provide proof of compliance with level 2
 494 screening standards submitted within the previous 5 years to
 495 meet any professional licensure requirements, provided:

496 a. The investigator has not had a break in service from a
 497 position that requires level 2 screening for more than 90 days;
 498 and

499 b. The investigator submits, under penalty of perjury, an
 500 affidavit verifying that the investigator has not committed any
 501 disqualifying offense listed in s. 435.04 and is in full
 502 compliance with this paragraph.

503 2. Be appointed as an investigator by the executive

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504 director.

505 3. Carry a photo identification card that shows the FHSAA
506 name, logo, and the investigator's official title.

507 4. Notwithstanding s. 493.6102, maintain a valid class "C"
508 license as established in chapter 493.

509 5.4. Adhere to the following guidelines:

510 a. Investigate only those alleged violations assigned by
511 the executive director or the board of directors.

512 b. Conduct interviews on Monday through Friday between the
513 hours of 9 a.m. and 7 p.m. only, unless previously agreed to by
514 the interviewee.

515 c. Advise at least one ~~Allow the~~ parent of any student
516 being interviewed that one or more parents are entitled to be
517 present during the interview.

518 ~~d. Search residences or other private areas only with the~~
519 ~~permission of the executive director and the written consent of~~
520 ~~the student's parent and only with a parent or a representative~~
521 ~~of the parent present.~~

522 6. Provide notice to the affected student, parent, coach,
523 and school within 2 business days after the assignment of a
524 formal investigation into ineligibility or other violation of
525 law or rule. If the executive director certifies in writing that
526 a compelling need to withhold notice exists, identifying with
527 specificity why notice must not be provided, the notice is not
528 required until the investigator concludes the investigation. The
529 executive director shall provide a copy of the certification to
530 the Commissioner of Education within 1 business day after
531 signing the certification.

532 7. Provide the affected student, parent, coach, and school
 533 within 5 business days after completion of the formal
 534 investigation a copy of the investigation, report, and any
 535 recommendation made by the investigator, executive director, or
 536 board of directors.

537 (f) The FHSAA shall adopt bylaws that establish sanctions
 538 for coaches who have committed major violations of the FHSAA's
 539 bylaws and policies.

540 1. Major violations include, but are not limited to,
 541 knowingly allowing an ineligible student to participate in a
 542 contest representing a member school in an interscholastic
 543 contest or committing a violation of the FHSAA's recruiting or
 544 sportsmanship policies.

545 2. Sanctions placed upon an individual coach may include,
 546 but are not limited to, prohibiting or suspending the coach from
 547 coaching, participating in, or attending any athletic activity
 548 sponsored, recognized, or sanctioned by the FHSAA and the member
 549 school for which the coach committed the violation. If a coach
 550 is sanctioned by the FHSAA and the coach transfers to another
 551 member school, those sanctions remain in full force and effect
 552 during the term of the sanction.

553 3. If a member school is assessed a financial penalty as a
 554 result of a coach committing a major violation, the coach shall
 555 reimburse the member school before being allowed to coach,
 556 participate in, or attend any athletic activity sponsored,
 557 recognized, or sanctioned by the FHSAA and a member school.

558 4. The FHSAA shall establish a due process procedure for
 559 coaches sanctioned under this paragraph, consistent with the

560 appeals procedures set forth in subsection (7).

561 (g) The FHSAA shall adopt bylaws establishing the process
 562 and standards by which FHSAA investigations into ineligibility
 563 are initiated and determinations of sanctions or eligibility
 564 determinations against a coach or school ~~eligibility~~ are made.

565 Such bylaws must ~~shall~~ provide that:

566 1. Ineligibility must be established by clear and
 567 convincing evidence;

568 2. Initial investigations into allegations of
 569 ineligibility may be initiated by the FHSAA only if supported by
 570 credible information from an identified source or from an
 571 anonymous source with credible corroboration and which, if
 572 proven true, would reasonably rebut the presumption of
 573 ineligibility. An informal investigation is limited to
 574 determining whether there is a sufficient evidentiary basis to
 575 initiate a formal investigation and to produce the sworn
 576 testimony or affidavit necessary to do so as hereinafter
 577 provided. Formal investigations into ineligibility may not be
 578 initiated unless supported by sworn testimony or affidavits
 579 which, if proven true, would reasonably demonstrate
 580 ineligibility by clear and convincing evidence. The investigator
 581 and individual making the determination shall receive and
 582 consider, from students, parents, coaches, and schools, all
 583 evidence of a type commonly relied upon by reasonably prudent
 584 persons in the conduct of their affairs. Such evidence shall be
 585 admissible in the proceeding, whether or not such evidence would
 586 be admissible in a trial court in this state. An investigator or
 587 other agent of the FHSAA may not conduct searches of residences

588 or other private areas during the course of an investigation.
 589 ~~Student athletes, parents, and schools must have notice of the~~
 590 ~~initiation of any investigation or other inquiry into~~
 591 ~~eligibility and may present, to the investigator and to the~~
 592 ~~individual making the eligibility determination, any information~~
 593 ~~or evidence that is credible, persuasive, and of a kind~~
 594 ~~reasonably prudent persons rely upon in the conduct of serious~~
 595 ~~affairs;~~

596 3. An investigator may not determine matters of
 597 eligibility but must submit information and evidence to the
 598 executive director or a person designated by the executive
 599 director or by the board of directors for an unbiased and
 600 objective determination of eligibility; and

601 4. A determination of ineligibility must be made in
 602 writing, setting forth the findings of fact and specific
 603 violation upon which the decision is based.

604 (h) In lieu of bylaws adopted under paragraph (g), the
 605 FHSAA may adopt bylaws providing as a minimum the procedural
 606 safeguards of ss. 120.569 and 120.57, making appropriate
 607 provision for appointment of unbiased and qualified hearing
 608 officers.

609 (i) ~~The FHSAA bylaws may not limit the competition of~~
 610 ~~student athletes prospectively for rule violations of their~~
 611 ~~school or its coaches or their adult representatives. The FHSAA~~
 612 ~~bylaws may not unfairly punish student athletes for eligibility~~
 613 ~~or recruiting violations perpetrated by a teammate, coach, or~~
 614 ~~administrator. Contests may not be forfeited for inadvertent~~
 615 ~~eligibility violations unless the coach or a school~~

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616 administrator should have known of the violation. Contests may
 617 not be forfeited for other eligibility violations or recruiting
 618 violations in excess of the number of contests that the coaches
 619 and adult representatives responsible for the violations are
 620 prospectively suspended.

621 (j) The FHSAA ~~organization~~ shall adopt guidelines to
 622 educate athletic coaches, officials, administrators, and student
 623 athletes and their parents of the nature and risk of concussion
 624 and head injury.

625 (k) The FHSAA ~~organization~~ shall adopt bylaws or policies
 626 that require the parent of a student who is participating in
 627 interscholastic athletic competition or who is a candidate for
 628 an interscholastic athletic team to sign and return an informed
 629 consent that explains the nature and risk of concussion and head
 630 injury, including the risk of continuing to play after
 631 concussion or head injury, each year before participating in
 632 interscholastic athletic competition or engaging in any
 633 practice, tryout, workout, or other physical activity associated
 634 with the student's candidacy for an interscholastic athletic
 635 team.

636 (l) The FHSAA ~~organization~~ shall adopt bylaws or policies
 637 that require each student athlete who is suspected of sustaining
 638 a concussion or head injury in a practice or competition to be
 639 immediately removed from the activity. A student athlete who has
 640 been removed from an activity may not return to practice or
 641 competition until the student submits to the school a written
 642 medical clearance to return stating that the student athlete no
 643 longer exhibits signs, symptoms, or behaviors consistent with a

644 concussion or other head injury. Medical clearance must be
 645 authorized by the appropriate health care practitioner trained
 646 in the diagnosis, evaluation, and management of concussions as
 647 defined by the Sports Medicine Advisory Committee of the Florida
 648 High School Athletic Association.

649 (m) The FHSAA ~~organization~~ shall adopt bylaws for the
 650 establishment and duties of a sports medicine advisory committee
 651 composed of the following members:

- 652 1. Eight physicians licensed under chapter 458 or chapter
- 653 459 with at least one member licensed under chapter 459.
- 654 2. One chiropractor licensed under chapter 460.
- 655 3. One podiatrist licensed under chapter 461.
- 656 4. One dentist licensed under chapter 466.
- 657 5. Three athletic trainers licensed under part XIII of
- 658 chapter 468.
- 659 6. One member who is a current or retired head coach of a
- 660 high school in the state.

661 (n) Student residence and transfer approvals shall be
 662 determined by the district school board in the case of a public
 663 school student and by the private school in the case of a
 664 private school student. Such approvals shall uphold the
 665 eligibility standards in subparagraphs (a)1. and 2. unless the
 666 district school board or private school finds that compelling
 667 facts and circumstances are demonstrated and that the best
 668 interests of the student outweigh all other considerations and
 669 justify a waiver. Otherwise, the district school board or
 670 private school may determine such approvals in its reasonable
 671 discretion. If the district school board or private school

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672 approves the student residence or transfer, the student remains
 673 eligible to participate in high school athletic competition
 674 under the FHSAA jurisdiction.

675 1. The FHSAA may challenge the student's eligibility to
 676 participate in a high school athletic competition under its
 677 jurisdiction by filing a petition for a hearing with the
 678 Division of Administrative Hearings pursuant to s. 120.569, with
 679 a copy of the petition contemporaneously provided to the
 680 student, parent, coach, and school. The student remains eligible
 681 unless a final order finding the student's ineligibility is
 682 rendered.

683 2. The burden is on the FHSAA to demonstrate by clear and
 684 convincing evidence that the student is ineligible. The
 685 administrative law judge shall issue a final order pursuant to
 686 s. 120.68. If the administrative law judge finds that the
 687 student remains eligible, the final order shall award all
 688 reasonable costs and attorney fees to be paid to all respondents
 689 by the FHSAA. The FHSAA may not seek to recoup these costs and
 690 expenses from any other person, entity, or party.

691 (3) GOVERNING STRUCTURE OF THE ORGANIZATION.—

692 (a) The FHSAA shall operate as a representative democracy
 693 in which the sovereign authority is within its member schools.
 694 Except as provided in this section, the FHSAA shall govern its
 695 affairs through its bylaws.

696 (b) Each member school, on its annual application for
 697 membership, shall name its official representative to the FHSAA.
 698 This representative must be either the school principal or his
 699 or her designee. That designee must either be an assistant

700 principal or athletic director housed within that same school.

701 (c) The FHSAA's membership shall be divided along existing
 702 county lines into four contiguous and compact administrative
 703 regions, each containing an equal or nearly equal number of
 704 member schools to ensure equitable representation on the FHSAA's
 705 board of directors, representative assembly, and appeals
 706 committees.

707 (4) BOARD OF DIRECTORS.—

708 (a) The executive authority of the FHSAA shall be vested
 709 in its board of directors. Any entity that appoints members to
 710 the board of directors shall examine the ethnic and demographic
 711 composition of the board when selecting candidates for
 712 appointment and shall, to the greatest extent possible, make
 713 appointments that reflect state demographic and population
 714 trends. Effective October 1, 2013, the board of directors shall
 715 be composed of 19 ~~16~~ persons, as follows:

716 1. Four public member school representatives, one elected
 717 from among its public school representative members within each
 718 of the four administrative regions.

719 2. Four nonpublic member school representatives, one
 720 elected from among its nonpublic school representative members
 721 within each of the four administrative regions.

722 3. Four ~~Three~~ representatives appointed by the
 723 commissioner, one appointed from each of the four administrative
 724 regions ~~one appointed from the two northernmost administrative~~
 725 ~~regions and one appointed from the two southernmost~~
 726 ~~administrative regions. The third representative shall be~~
 727 ~~appointed to balance the board for diversity or state population~~

728 ~~trends, or both.~~

729 4. Two district school superintendents, one elected from
730 the two northernmost administrative regions by the members in
731 those regions and one elected from the two southernmost
732 administrative regions by the members in those regions.

733 5. Two district school board members, one elected from the
734 two northernmost administrative regions by the members in those
735 regions and one elected from the two southernmost administrative
736 regions by the members in those regions.

737 6. The commissioner or his or her designee from the
738 department executive staff.

739 7. One representative who is the parent of a home
740 education student, appointed by the President of the Senate.

741 8. One representative who is the parent of a home
742 education student, appointed by the Speaker of the House of
743 Representatives.

744 (b) A quorum of the board of directors shall consist of
745 one more than half of its ~~nine~~ members.

746 (c) The board of directors shall elect a president and a
747 vice president from among its members. These officers shall also
748 serve as officers of the FHSAA.

749 (d) Members of the board of directors shall serve terms of
750 3 years and are not eligible to succeed themselves ~~only once~~. A
751 member of the board of directors, other than the commissioner or
752 his or her designee, may serve a maximum of 3 ~~6~~ consecutive
753 years. ~~The FHSAA's bylaws shall establish a rotation of terms to~~
754 ~~ensure that a majority of the members' terms do not expire~~
755 ~~concurrently.~~

756 (e) The authority and duties of the board of directors,
 757 acting as a body and in accordance with the FHSAA's bylaws, are
 758 as follows:

759 1. To act as the incorporated FHSAA's board of directors
 760 and to fulfill its obligations as required by the FHSAA's
 761 charter and articles of incorporation.

762 2. To establish such guidelines, regulations, policies,
 763 and procedures as are authorized by the bylaws.

764 3. To employ an FHSAA executive director, as approved by
 765 the Commissioner of Education. The executive director has ~~who~~
 766 ~~shall have~~ the authority to waive the bylaws of the FHSAA in
 767 order to comply with statutory changes. The executive director's
 768 salary shall be no greater than that set by law for the Governor
 769 of this state. The executive director may not receive a car
 770 allowance as a result of his or her employment. The executive
 771 director is not entitled to per diem and travel expenses in
 772 excess of the rate provided for state employees under s.
 773 112.061.

774 4. To levy annual dues and other fees and to set the
 775 percentage of contest receipts to be collected by the FHSAA
 776 except that, beginning in the 2013-2014 fiscal year, all dues,
 777 fees, and percentages of contest receipts shall be fixed at the
 778 amount established in the FHSAA bylaws for 2012-2013 as
 779 published on the FHSAA website as of February 26, 2013, and may
 780 not be increased. The aggregate of such dues, fees, and
 781 percentages of contest receipts shall be allocated as follows:

782 a. Up to 55 percent for the FHSAA to be used for
 783 organization operations as allowed by law.

784 b. At least 30 percent for the FHSAA to provide
 785 postsecondary scholarships to students who meet qualifications
 786 established by the FHSAA.

787 c. At least 15 percent for the FHSAA to coordinate with
 788 the National Center for Sports Safety and provide for the
 789 education of coaches, parks and recreation staff, parents, and
 790 other volunteers on the basics of sports safety and injury
 791 prevention, and the well-being and health, safety, and welfare
 792 of athletes.

793 5. To approve the budget of the FHSAA.

794 6. To organize and conduct statewide interscholastic
 795 competitions, which may or may not lead to state championships,
 796 and to establish the terms and conditions for these
 797 competitions.

798 7. To act as an administrative board in the interpretation
 799 of, and final decision on, all questions and appeals arising
 800 from the directing of interscholastic athletics of member
 801 schools.

802 8. To levy fines, penalties, and sanctions against schools
 803 and coaches found to be in violation of student eligibility
 804 requirements and recruiting practices pursuant to subsection
 805 (2). However, fines, penalties, and sanctions may not exceed the
 806 cost to investigate reported violations and the cost of
 807 associated appeals processes. The board of directors shall
 808 submit an annual report to the Department of Education by
 809 October 1 each year which reconciles the costs of investigations
 810 and appeals with the fines, penalties, and sanctions charged to
 811 member schools and coaches for each fiscal year.

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812 (6) PUBLIC LIAISON ADVISORY COMMITTEE.—

813 (f) Members of the public liaison advisory committee are
814 entitled to per diem and travel expenses at the same rate
815 provided for state employees under s. 112.061.

816 Section 5. The terms of the members of the 2012-2013
817 Florida High School Athletic Association board of directors
818 shall expire September 30, 2013, and such members are not
819 eligible for reappointment to the board of directors pursuant to
820 s. 1006.20(4), Florida Statutes, as amended by this act.

821 Section 6. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1279 High School Athletics
SPONSOR(S): Education Appropriations Subcommittee, Metz
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	12 Y, 0 N	Fudge	Fudge
2) Education Appropriations Subcommittee	12 Y, 0 N, As CS	Heflin	Heflin
3) Education Committee		Fudge <i>CF</i>	Mizereck <i>MM</i>

SUMMARY ANALYSIS

The bill revises the policies and procedures the Florida High School Athletic Association (FHSAA) and its investigators must follow when conducting investigations and eligibility determinations. The FHSAA must adopt bylaws regarding the eligibility status of students who are enrolled and assigned to that public school or who transfer from another public school or private school. The bylaws must ensure the student remains eligible as long as the student has complied with enrollment and transfer deadlines, and rule, eligibility, and recruiting violations by a teammate, coach, administrator, school, or adult representative may not be used against a student.

Bylaws must specify that a student is ineligible if the student or parent intentionally and knowingly falsifies an enrollment or eligibility document or accepts a significant benefit or promise of such benefit that is not available to other students or family members at the school. The bylaws must apply ineligibility requirements equally to transfer students, public school students, and private school students. The FHSAA must also adopt bylaws establishing the process and standards for determining sanctions or eligibility determinations against a coach or school.

The bill revises investigative procedures by:

- Requiring an investigation to be completed within 90 days of its onset and limiting contracts or payments to no more than 520 hours per investigation.
- Requiring FHSAA to provide specific notification to the affected student, parent, coach and school within two days of the assignment of an investigation and the results, including recommendations, within 5 business days upon completion of the investigation.
- Requiring investigators to maintain a valid class "C" license as established in Chapter 493.
- Requiring investigators to advise one or more of the parents that they are entitled to accompany the student during interviews.
- Prohibiting investigators from searching residences or other private areas during the investigation.

The bill increases the FHSAA's Board of Directors from 16 to 19 with specific assignments by the Commissioner of Education, Speaker of the House of Representatives, and the Senate President. It revises term limits, requires the Commissioner of Education to appoint the Executive Director, and limits the Executive Director's salary and compensation for travel.

The bill requires the FHSAA to conduct a compliance audit and include a report on financial statements presented in accordance with generally accepted accounting principles. The audits must also determine compliance with specific statutory eligibility and expenditure requirements and be submitted to the Auditor General, the Speaker of the House of Representatives, and the Senate President within 180 days after the end of each fiscal year.

The bill does not have a fiscal impact on state government.

The effective date of the bill is July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida High School Athletic Association

Present Situation

Founded in 1920, the Florida High School Athletic Association (FHSAA) is a non-profit organization that governs interscholastic athletics in Florida public schools serving grades 6 through 12. Private schools that wish to engage in interscholastic athletic competition are authorized to become FHSAA member schools. In 1997, the Florida Legislature codified FHSAA's organizational structure and governing authority in statute and designated the organization as the governing nonprofit organization of athletics in Florida public schools.¹

FHSAA's sixteen member Board of Directors (board) is the organization's executive governing body. Board membership is statutorily required to include representatives of public schools, nonpublic schools, school superintendents, school board members, and each administrative region. The Commissioner of Education (or designee) also sits on the board. Among other things, the board is responsible for organizing, establishing the rules for, and conducting statewide interscholastic athletic competitions, including those competitions that lead to state championships. The board is also required to appoint FHSAA's Executive Director.²

FHSAA has broad authority to adopt bylaws governing member school and student participation in interscholastic athletics, unless regulation of a particular matter is specifically provided by statute.³ The law specifically requires FHSAA to adopt bylaws regulating student eligibility, residency and transfer, and recruiting.⁴ The bylaws are developed and adopted by FHSAA's Representative Assembly.⁵

FHSAA bylaws "are to be the rules by which high school athletic programs, and the students who participate in them, are governed."⁶ Each member school must, as a condition of membership in FHSAA, annually adopt the bylaws as the rules governing its interscholastic athletic programs.⁷ The adoption of the bylaws acts as a contract between the FHSAA and the member school.⁸

Member schools that violate the bylaws are subject to any disciplinary action determined to be appropriate by FHSAA.⁹ In this context, FHSAA bylaws define a member school to include not just the institution, but also "its administration, faculty, athletic staff, students, student body, and any other individual or group engaged in activities representing, supporting or promoting the athletic interests of the school."¹⁰ FHSAA member schools

¹ Section 1006.20(1), F.S.; Florida High School Athletic Association, *About the FHSAA*, <http://www.fhsaa.org/about> (last visited Feb. 1, 2012).

² Section 1006.20(4), F.S.

³ Section 1006.20(1), F.S.; *see also* Florida High School Athletic Association, *About the FHSAA*, <http://www.fhsaa.org/about> (last visited Jan. 27, 2012).

⁴ Section 1006.20(2), F.S.

⁵ Section 1006.20(5), F.S.

⁶ Section 1006.20(1), F.S. Senior high schools, middle/junior high schools, combination schools, or home education cooperatives may be members of FHSAA. Section 3.1.1 of Bylaw 3.1, *FHSAA Handbook*. Member senior high schools, middle/junior high schools, and combination schools may include traditional public schools, charter schools, private schools, and university lab schools. Section 3.2.2 of Bylaw 3.2, *FHSAA Handbook*.

⁷ Section 3.3.1(d) of Bylaw 3.3, *FHSAA Handbook*.

⁸ *Sult v. Gilbert*, 148 Fla. 31, 35 (1941).

⁹ *Sult*, 148 Fla. at 35; Bylaw 2.6, *FHSAA Handbook*.

¹⁰ Section 3.2.1 of Bylaw 3.2, *FHSAA Handbook*.

may only compete against other member schools, non-member schools approved by the FHSAA's board, or out-of-state schools that are members of the state's high school athletic association.¹¹

Effect of Proposed Changes

The bill establishes an expiration date on which the designation of the FHSAA as the governing nonprofit organization of athletics in Florida public schools will expire. The date the designation will expire is July 1, 2017. If the Legislature does not designate a successor organization prior to the expiration date, the bill allows for the Commissioner of Education to designate a successor organization.

In addition to the financial audit required by s. 1006.19, the bill requires the FHSAA to conduct a compliance audit. The audits must be conducted in compliance with generally accepted auditing standards and include a report on financial statements presented in accordance with generally accepted accounting principles. The audits must also determine compliance with statutory eligibility and expenditure requirements of s. 1006.20. These audits must be submitted to the Auditor General, the Speaker of the House of Representatives, and the Senate President within 180 days after the end of each fiscal year.

The bill revises the membership of the Board of Directors by increasing the number of members from 16 to 19. One additional member is appointed by the commissioner from each of the four administrative regions for a total of four. Two additional members are added who are parents of home education students; one representative appointed by the President of the Senate; one representative appointed by the Speaker of the House of Representatives.

Members may no longer serve successive terms and may only serve a maximum of three years. The executive director is no longer appointed by the board, but by the commissioner and the executive director's salary may be no greater than that set by law for the Governor. The executive director may not receive a car allowance as a result of his or her employment, nor may the executive director receive per diem and travel expenses in excess of the rate provided for state employees under s. 112.061.

Beginning with the 2013-14 fiscal year, all dues, fees and percentages¹ of contest receipts shall be established at the same level as in the FHSAA bylaws for 2012-13 and may not be increased. Furthermore, all revenues collected from dues, fees and percentages of contest receipts shall be used as follows:

- Up to 55 percent for the operations of the organization as provided in law;
- At least 30 percent to provide postsecondary scholarships to student athletes based on criteria established by the FHSAA; and
- At least 15 percent to coordinate with and provide for trainings and education of officials, coaches and volunteers.

Fines, sanctions, and penalties may not exceed the cost to investigate reported violations and the cost of associated appeals processes. The board must submit to the department, by October 1 each year, a report that reconciles the costs of investigations and appeals with the fines, penalties, and sanctions charged to member schools and coaches for each fiscal year.

Student Eligibility

Present Situation

To be eligible for participation in interscholastic extracurricular activities, a high school student must:

- Maintain either a 2.0 grade point average (GPA) or above on a 4.0 scale in the semester preceding participation; or a cumulative 2.0 GPA or above in the courses required for high school graduation;¹²

¹¹ Section 8.3.1 of Bylaw 8.3, *FHSAA Handbook*.

¹² Section 1006.15(3)(a)1., F.S.

- Execute and fulfill the requirements of an academic performance contract if the student's GPA falls below 2.0 in the courses required for graduation. An academic performance contract is an agreement between the student, the district school board, the appropriate governing association, and the student's parents, which at a minimum requires the student to attend summer school or its graded equivalent, between grades nine and 10 or grades 10 and 11, as necessary;¹³
- Have a cumulative GPA of 2.0 or above in the courses required for graduation in his or her junior or senior year;¹⁴ and
- Demonstrate satisfactory conduct to be eligible to participate in interscholastic extracurricular activities. The eligibility of a student who is convicted of, or found to have committed, a felony or delinquent act that would have been a felony if committed by an adult is governed by district school board policy.¹⁵

A school district may set additional eligibility requirements, but the requirements must not make participation less accessible to home education students than to other students.¹⁶ An eligible student may participate in high school athletics at the school in which he or she first enrolls each school year or, at the school in which the student becomes a candidate for an athletic team by engaging in a practice prior to enrolling in the school.¹⁷

A high school student may be eligible to participate in interscholastic extracurricular activities in the school to which the student has transferred during the school year if the transfer is made by a deadline established by the FHSAA,¹⁸ which may not be prior to the date authorized for the beginning of practice for the sport.¹⁹

A student who transfers from a charter school or a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year.²⁰

A public or private school student who has not maintained academic eligibility may not participate in interscholastic extracurricular activities as a charter school or a home education student until the student successfully demonstrates educational progress for one grading period.²¹

Charter School and Homeschool Student Participation

A charter school or home education student may participate in interscholastic extracurricular activities at the public school to which the student would be assigned, the public school that the student could choose to attend pursuant to the school district's open enrollment policy, or a private school that the student could choose to attend pursuant to a participation agreement.²² To be eligible for such participation, a charter school or home education student must:

- Demonstrate educational progress by an agreed upon method of evaluation;²³
- Meet the same residency requirements as other students in the school;²⁴
- Meet the same standards of acceptance, behavior, and performance required of other participating students;²⁵ and

¹³ Section 1006.15(3)(a)2., F.S.

¹⁴ Section 1006.15(3)(a)3., F.S.

¹⁵ Section 1006.15(3)(a)4., F.S.

¹⁶ Section 1006.15(4), F.S.

¹⁷ Section 1006.20(2)(a), F.S.

¹⁸ The FHSAA is the designated governing nonprofit organization of athletics in Florida public schools. Section 1006.20(1), F.S.

¹⁹ Section 1006.20(2)(a), F.S.

²⁰ Sections 1006.15(3)(c)6. and 1006.15(3)(d)6., F.S.

²¹ Sections 1006.15(3)(c)7. and 1006.15(3)(d)7., F.S.

²² Sections 1002.41(4) and 1006.15(3)(c), F.S.

²³ Section 1006.15(3)(c)2., F.S.

²⁴ Section 1006.15(3)(c)3., F.S.

- Register his or her intent to participate in interscholastic extracurricular activities with the school before the beginning date of the season for the activity for which he or she wishes to participate. The student must be able to participate in curricular activities if such participation is a requirement for an extracurricular activity.²⁶

In addition, a home education student must be in a home education program²⁷ that meets the requirements of Florida law,²⁸ while a charter school student must meet all of the charter school education program requirements established by the charter school governing board.²⁹

Private School Student Participation

A student attending a private middle school or high school may participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school where the student is enrolled is not a member of the FHSAA (non-FHSAA member) and does not offer an interscholastic or intrascholastic athletic program.³⁰ Only students attending a non-FHSAA member private school with enrollment of 125 or fewer students may participate in a public school athletic program.³¹ A private school that has a student who wishes to participate in a public school athletic program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request by the FHSAA.³²

The FHSAA and district school board must adopt guidelines that establish:

- Registration deadlines and procedures for each sport,³³ and
- Student participation requirements that include, but are not limited to, the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to students attending FHSAA member public and private schools.³⁴

A private school student may only participate at the public school in which the student first registers or is a candidate for participation by engaging in a practice.³⁵

The parents of a private school student who participates in athletics at a public school are responsible for transporting the student to and from the public school. The student's private school, the public school where the student participates in athletics, the district school board, and the FHSAA are exempt from liability arising from any injury that occurs during such transportation.³⁶

Effect of Proposed Changes

The bill allows a student who attends a public school that does not offer a particular extracurricular activity to participate at any public school that offers the extracurricular activity that the student could choose to attend through district or interdistrict controlled open enrollment. The student may also develop an agreement to

²⁵ Section 1006.15(3)(c)4., F.S.

²⁶ Section 1006.15(3)(c)5., F.S.

²⁷ Sections 1002.01(1) and 1002.41, F.S.

²⁸ Section 1006.15(3)(c)1., F.S.

²⁹ Section 1006.15(3)(d)1., F.S.

³⁰ Section 1006.15(8)(a), F.S.

³¹ Section 1006.15(8)(a)1., F.S.

³² Section 1006.15(8)(e), F.S.

³³ Section 1006.15(8)(a)2.a., F.S.

³⁴ Section 1006.15(8)(a)2.b., F.S.

³⁵ Section 1006.15(8)(c), F.S.

³⁶ Section 1006.15(8)(b), F.S.

participate at a private school. The student must meet requirements for participation identified above, demonstrate education progress, and meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities and pay any fee required of other students participating in the extracurricular activity. The student must also register with his or her intent to participate in the activity at the school before the beginning date of the season for the activity. A public school student must be able to participate in the curricular activity if it is a requirement for an extracurricular activity. The public school student may choose to participate in the required activity at the school he or she attends or at the school in which he or she participates in the extracurricular activity.

The parents of a student who participates in extracurricular activities pursuant to these new requirements must transport the student to and from the school at which the student participates. The public school, the district school board, and the FHSAA are exempt from civil liability arising from any injury that occurs due to such transportation.

Recruiting

Florida law requires the FHSAA to adopt bylaws prohibiting the recruitment of student athletes. Currently, the bylaws prohibit member schools from recruiting student athletes for athletic purposes. "Athletic recruiting" is "any effort by a school employee, athletic department staff member, or representative of a school's athletic interests to pressure, urge or entice a student to attend that school for the purpose of participating in interscholastic athletics."³⁷ The bylaws set forth specific behaviors that constitute recruiting, as well as identify persons who are considered to represent a school's athletic interests.³⁸

If it is determined that a school has recruited a student in violation of FHSAA bylaws, the FHSAA may require the school to participate in a higher classification for the sport in which the recruited student competes for a minimum of one classification cycle, in addition to any other appropriate fine and sanction imposed on the school, its coaches, or adult representative.³⁹ A student may be declared ineligible based upon violation of recruiting rules only if the student or parent has:

- Falsified any enrollment or eligibility document; or
- Accepted any benefit or any promise of benefit not generally available to the school's students or family members or is based in any way on athletic interest, potential, or performance.⁴⁰

The bylaws may not prospectively limit the competition of student athletes for rule violations of their adult representatives, their school or its coaches. A student athlete may not be unfairly punished for eligibility or recruiting violations perpetrated by a teammate, coach, or administrator. Contests may not be forfeited for inadvertent eligibility violations unless the coach or a school administrator should have known of the violation. Contests may not be forfeited for other eligibility violations or recruiting violations in excess of the number of contests that the coaches and adult representatives responsible for the violations are prospectively suspended.⁴¹

Effect of Proposed Changes

The bill declares that a student is presumed eligible to participate in interscholastic extracurricular activities and remains eligible if the student remains in compliance with the eligibility criteria. The FHSAA must adopt bylaws that ensure that a student remains eligible once enrolled in school so long as the student remains enrolled and complies with applicable requirements. Any rule, eligibility, and recruiting violations by a teammate, coach, administrator, school, or adult representative may not be used against a student.

³⁷ Section 36.2.1 of Policy 36 of the *FHSAA Handbook*.

³⁸ Policy 36 of the *FHSAA Handbook*.

³⁹ Section 1006.20(2)(b), F.S.

⁴⁰ *Id.*

⁴¹ Section 1006.20(2)(h), F.S.

A student may be declared ineligible if the student or parent has intentionally and knowingly:

- Falsified an enrollment or eligibility document; or
- Accepted any significant benefit or a promise of significant benefit not reasonably available to the school's students or family members and is provided based primarily on the student's athletic interest, potential, or performance.

Ineligibility requirements must be applied to public and private school students as well as to transfer and nontransfer students equally. Violations must be substantially related to specific, important objectives and must be limited to address only the minimal requirements necessary to accomplish the objectives.

A student may not be deemed ineligible solely on the participation in a non-school-sponsored extracurricular activity after the end of one school year and before the beginning of the next school year if the activity was coached by a person who the student knows from having participated in a different school-sponsored activity.

By October 1, 2013, the FHSAA must conduct a comprehensive review of its bylaws, policies, and administrative procedures to determine compliance with these requirements. The FHSAA must provide to the Commissioner, the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed report articulating how each violation or requirement in the bylaws, policies, and administrative procedures is substantially related to an identified, important objective and any necessary corrective action. Any bylaws, policies, or administrative procedures that are noncompliant are void as of July 1, 2013.

Process and Standards for Eligibility Determinations and Investigations

Present Situation

The FHSAA must adopt bylaws that regulate persons who conduct investigations on behalf of the FHSAA. The bylaws must require an investigator to:

- Undergo level 2 background screening under s. 435.04, F.S., establishing that the investigator has not committed any disqualifying offense listed in s. 435.04, F.S.;⁴²
- Be appointed as an investigator by the executive director;
- Carry a photo identification card that shows the FHSAA name, logo, and the investigator's official title; and
- Adhere to specified guidelines.

The guidelines require investigators to: investigate only those alleged violations assigned by the executive director or the board of directors, conduct interviews on Monday through Friday between the hours of 9 a.m. and 7 p.m. only, unless previously agreed to by the interviewee, allow the parent of any student being interviewed to be present during the interview, and search residences or other private areas only with the consent of the student's parent and only with a parent or a representative of the parent present.

The FHSAA must adopt bylaws for the process and standards for FHSAA eligibility determinations. The bylaws must provide that:

- Ineligibility must be established by clear and convincing evidence;⁴³

⁴² The investigator may provide proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any professional licensure requirements so long as the investigator has not had a break in service from a position that requires level 2 screening for more than 90 days, and the investigator submits, under penalty of perjury, an affidavit verifying that the investigator has not committed any disqualifying offense listed in s. 435.04 and is in full compliance with s. 1006.20(2)(e).

⁴³ Section 1006.20(2)(g)1., F.S.

- Student athletes, parents, and schools must have notice of the initiation of any investigation or other eligibility inquiry and may present information or evidence to the investigator and to the individual making the eligibility determination;⁴⁴
- Eligibility determinations must be made by the executive director or designee for an unbiased and objective determination of eligibility;⁴⁵ and
- A determination of ineligibility must be made in writing, setting forth the findings of fact and specific violation upon which the decision is based.^{46;47}

Appeals of ineligibility determinations must be expedited so that disposition of the appeal can be made before the end of the applicable sports season, if possible.⁴⁸ A school or student filing the appeal may present information and evidence that was not available at the time of the initial determination or if the determination was not made by an unbiased, objective individual using a process allowing full due process rights to be heard and to present evidence. If such evidence is presented, a de novo decision must be made by the committee on appeals or board hearing the appeal; or the determination may be suspended and remanded for a new determination based on all the evidence. A de novo decision made on appeal must set forth, in writing, the findings of fact and specific violation upon which the decision is based. If a de novo decision is not required, the decision appealed must be set aside if the ineligibility determination was not based on clear and convincing evidence. Any further appeal must be considered on a record that includes all evidence presented.⁴⁹

Effect of Proposed Changes

The bill requires that initial investigations into allegations of ineligibility may only be initiated if supported by credible information from an identified source or an anonymous source with credible corroboration. Initial investigations are limited to determining whether there is a sufficient evidentiary basis to initiate a formal investigation. Formal investigations may not be initiated unless supported by sworn testimony or affidavits which would reasonably demonstrate ineligibility by clear and convincing evidence.

In addition to the requirements stated above, investigators retained by the FHSAA must maintain a valid class "C" license as established in chapter 493. The investigator must advise at least one parent of any student being interviewed that one or more parents are entitled to be present during the interview. The bill prohibits an investigator or other employee of the FHSAA to conduct searches of residences or other private areas during the course of an investigation.

The student, parent, coach, and school must be provided notice of the assignment of an investigation within two business days unless the executive director certifies in writing that a compelling need to withhold notice exists. The executive director must provide a copy of the certification to the commissioner within one business day after signing the certification.

During the investigation, the investigator and the individual making the determination must receive and consider all evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs and such evidence shall be admissible in the proceeding even if it would not be admissible in a trial court. The student, parent, coach, and school must be provided a copy of the investigation, report, and any recommendation made by the investigator, executive director, or board, within five business days after completion of the investigation.

⁴⁴ Section 1006.20(2)(g)2., F.S.

⁴⁵ Section 1006.20(2)(g)3., F.S.

⁴⁶ Section 1006.20(2)(g)4., F.S.

⁴⁷ In lieu of the bylaws the FHSAA may adopt bylaws providing as a minimum the procedural safeguards of ss. 120.569 and 120.57, making appropriate provision for appointment of unbiased and qualified hearing officers. Section 1006.20(2)(h), F.S.

⁴⁸ Section 1006.20(7)(f), F.S.

⁴⁹ Section 1006.20(7)(g), F.S.

The bill requires a formal investigation conducted by the FHSAA to be completed within 90 days after the onset of the investigation, and prohibits the FHSAA from contracting or paying for more than 520 hours of work for any investigation.

Student residence and transfer approvals must be determined by the school district in the case of a public school student or by the private school in the case of a private school student. Once the student residence or transfer is approved, the student remains eligible to participate in competitions under the jurisdiction of the FHSAA. The FHSAA may challenge eligibility determinations by filing a petition for a hearing with the Division of Administrative Hearings, with a copy provided to the student, parent, coach, and school. The FHSAA must demonstrate by clear and convincing evidence that the student is ineligible. The student remains eligible unless a final order finding the student ineligible is rendered. If the student remains eligible, the final order shall award all reasonable costs and attorney fees to be paid to all respondents by the FHSAA. The FHSAA may not seek to recoup these costs from any other person, entity, or party.

B. SECTION DIRECTORY:

Section 1. Reenacts and amends s. 1002.20(17), F.S.; making technical changes.

Section 2. Amends s. 1006.15, F.S.; revising criteria for student eligibility for participation in extracurricular activities to include students in charter schools.

Section 3. Amends s. 1006.19, F.S.; revising the requirements for audits of nonprofit corporations and associations handling interscholastic activities.

Section 4. Amends s. 1006.20, F.S.; revising the criteria for bylaws, policies, or guidelines adopted by the Florida High School Athletic Association; requiring the association to complete a review by a specified date; requiring that the association submit a report to the Commissioner of Education, the Governor, and the Legislature; providing requirements for investigations and investigators; establishing notice requirements to specified parties; providing procedures for student residence and transfer approvals; providing that the burden is on the FHSAA to demonstrate by clear and convincing evidence that a student is ineligible to participate in a high school athletic competition; requiring that the FHSAA pay costs and attorney fees in certain circumstances; revising the composition of the board of directors of the association and terms of office; revising what constitutes a quorum of the board of directors; providing for the appointment of an executive director; providing restrictions for the salary, benefits, per diem, and travel expenses of the association's executive director; providing that members of the association's public liaison advisory committee are entitled to reimbursement for per diem and travel expenses at the same rate as state employees; providing restrictions on the levy of dues and fees and the collection of contest receipts; providing authority to levy fines, penalties, and sanctions against schools and coaches.

Section 5. Establishes an expiration date of September 30, 2013, for the terms of the current Board of Directors of the FHSAA and prohibits the current members from being reappointed.

Section 6. Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill limits the ability of the FHSAA to increase the levy of dues and fees and the collection of contest receipts and defines the use of revenues collected by the organization which will result in decreased revenue available for the organization's operations.

2. Expenditures:

The bill provides restrictions on the levy of dues and fees and the collection of contest receipts which should reduce expenditures for local school districts.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 4, 2013, the Education Appropriations Subcommittee adopted a strike-all amendment, which was amended by two amendments to the strike-all, and reported CS/HB 1279 favorably as a committee substitute. Specifically the strike-all amendment, as amended:

- Establishes an expiration date on which the designation of the FHSAA as the governing nonprofit organization of athletics in Florida public schools will expire;
- Clarifies the limitation on the levy of fees, dues, and the collection of gate receipts and provides expenditure requirements for the organizations revenues;
- Modifies the makeup of the board of directors to increase the size of the board from 16 to 19; adding a member from one of the four administrative regions, and two parents of home education students, one each to be appointed by the Speaker of the House of Representatives and by the President of the Senate;

- Allows a public school student who attends a public school that does not offer a particular extracurricular activity to participate at any public school that offers the extracurricular activity that the student would be allowed to attend through district or inter-district controlled open enrollment;
- Provides guidelines for initial investigations and formal investigations into determinations of eligibility; and
- Restricts a student from being deemed ineligible solely on the participation in a non-school-sponsored extracurricular activity after the end of one school year and before the beginning of the next school year if the activity was coached by a person who the student knows from having participated in a different school-sponsored activity.

The analysis is drafted to the committee substitute as passed by the Education Appropriations Subcommittee.