



Choice & Innovation Subcommittee

Wednesday, March 20, 2013

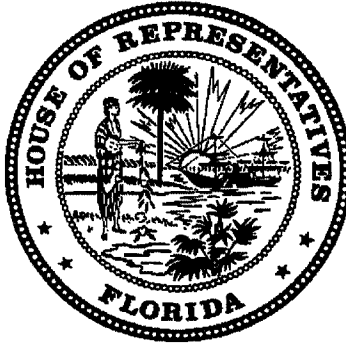
1:00 PM – 3:00 PM

306 HOB

Meeting Packet

**Will Weatherford
Speaker**

**Michael Bileca
Chair**



AGENDA

Choice & Innovation Subcommittee
Wednesday, March 20, 2013
1:00 p.m. – 3:00 p.m.
306 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bills:
 - HB 465 Exceptional Student Education by Brodeur, Diaz, M.
 - HB 803 Jump Start Literacy Pilot Project by Lee
 - HB 843 Education by Gaetz
 - HB 859 Extracurricular Activities by Hutson
 - HB 1279 High School Athletics by Metz
- IV. Closing Remarks and Adjournment

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Choice & Innovation Subcommittee

Start Date and Time: Wednesday, March 20, 2013 01:00 pm
End Date and Time: Wednesday, March 20, 2013 03:00 pm
Location: 306 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 465 Exceptional Student Education by Brodeur, Diaz, M.
HB 803 Jump Start Literacy Pilot Project by Lee
HB 843 Education by Gaetz
HB 859 Extracurricular Activities by Hutson
HB 1279 High School Athletics by Metz

Pursuant to rule 7.12, the deadline for amendments to bill(s) on the agenda by a member who is not a member of the subcommittee shall be 6:00 pm, Tuesday, March 19, 2013.

By request of the Chair, all subcommittee members are asked to have amendments to bill(s) on the agenda submitted by 6:00 pm, Tuesday, March 19, 2013.

NOTICE FINALIZED on 03/18/2013 16:24 by Wright.Kaley



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	___	(Y/N)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

1 Committee/Subcommittee hearing bill: Choice & Innovation
 2 Subcommittee
 3 Representative Brodeur offered the following:

Amendment (with title amendment)

Remove lines 82-123



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

Remove lines 7-9 and insert:
 services; amending s. 1002.41, F.S.; requiring



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	___	(Y/N)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

1 Committee/Subcommittee hearing bill: Choice & Innovation
2 Subcommittee
3 Representative Brodeur offered the following:

Amendment (with title amendment)

Remove lines 422-439

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

Remove lines 33-39 and insert:
conforming a cross-reference; amending s. 1012.585, F.S.;



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER

1 Committee/Subcommittee hearing bill: Choice & Innovation
2 Subcommittee
3 Representative Brodeur offered the following:

4
5 **Amendment**

6 Remove line 149 and insert:
7 peers do not have access.



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Choice & Innovation
2 Subcommittee
3 Representative Brodeur offered the following:

Amendment (with title amendment)

Remove line 195 and insert:

student, classified, and placed in the manner


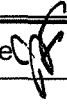
T I T L E A M E N D M E N T

Remove lines 19-20 and insert:

eligibility as an exceptional student; requiring certain
assessments to

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 465 Exceptional Student Education
SPONSOR(S): Brodeur and others
TIED BILLS: IDEN./SIM. BILLS: SB 1108

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee		Ammel 	Fudge 
2) Education Appropriations Subcommittee			
3) Education Committee			

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 Federal Code of 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.
- Districts to provide exceptional student education services to home education students.
- 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.
- Sponsors to reimburse charter schools on a monthly basis for expenditure of federal funds, unless another method of disbursing funds is mutually agreed to by the sponsor and the charter school.
- Exceptional Student Education centers to choose to receive a school grade pursuant to s. 1008.34 or a school improvement rating pursuant to 1008.341.

The bill may have fiscal impact on state and local governments. *See Fiscal Comments.*

The bill takes effect July 1, 2013.

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

STORAGE NAME: h0465.CIS.DOCX

DATE: 3/15/2013

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 to 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 is required to 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 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

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).

¹⁷ Rule 6A-6.03028(3)(c), F.A.C.

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 Best Practices in Inclusive Education (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 to proceed with reevaluation if a parent fails to respond to reasonable efforts made to obtain consent for reevaluation.²⁰

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>

²⁰ 34 C.F.R. s. 300.300 and Rule 6A-6.0331, F.A.C.

If the parent fails to respond or refuse 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 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 an 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 FAA, instruction in the state standard access points, or placement in an exceptional student education center, unless the district 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

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.

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.

Instructional Settings

Present Situation

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.

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 to 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 placements³⁰

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 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

An Exceptional Student Education Center is a facility to which nondisabled peers have access.

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.fldoe.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.

Provision of Services to Home Education Students

Present Situation

Districts are not required to provide exceptional student education-related services to home education students; however, districts may provide services if they so choose, and can report these students for funding through the FEFP.³⁵

Effect of Proposed Changes

The bill requires school districts to provide exceptional student education-related services to home education students who are eligible for such services. Districts must enroll the students for purposes of receiving those services and then report them for funding through the Florida Education Finance Program. SEE FISCAL COMMENTS.

Exceptional Student Education Centers and School Grades

Present Situation

As part of Florida's Elementary and Secondary Education Act Flexibility Waiver the department was required to include in Florida's school accountability system, schools that provide specialized services to students with disabilities who cannot be served in the general school setting. The department identified these schools as Exceptional Student Education Center Schools. On February 28, 2012, the department issued a Notice of Intent to classify schools serving students with disabilities exclusively as

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.

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.

alternative centers.³⁶ This action by the department would allow ESE Center Schools to either receive a school grade or school improvement rating. However, by choosing a school improvement rating the learning gains of the students at the ESE Center are reported to the homeschool and included in that school's grade.

Effect of Proposed Changes

The bill provides that each exceptional education center shall choose to receive a school grade pursuant to s. 1008.34 or a school improvement rating pursuant to 1008.341. The achievement scores and learning gains of students with disabilities, who have not enrolled in or attended a public school other than the exceptional student education center, shall not be included in the calculation of the home school's grade if the student is identified as an emergent student on the alternate assessment. The bill provides the State Board of Education with rulemaking authority to define exceptional student education center.

Charter Schools – Federal Funding Reimbursement

Present Situation

Charter schools, like traditional public schools, receive federal education funding through such programs as the IDEA,³⁷ Title I programs for disadvantaged students,³⁸ and Title II programs for improving teacher quality.³⁹ Typically, federal education programs are structured so that funding flows from the federal government to a state educational agency,⁴⁰ which then awards subgrants to local education agencies (LEA) within the state.⁴¹ School districts are the LEA for district public schools, including charter schools. Federal education funds are received by the school district, which then distributes to the charter school its proportionate share of funding.⁴²

Each federal education program has unique policy goals and expenditure, record keeping, and annual financial and performance accountability reporting requirements.⁴³ Federal regulations provide penalties for grantees and subgrantees that fail to comply with grant requirements.⁴⁴ These penalties include withholding, suspension, or termination of grant funds or designation as a "high risk" grantee.⁴⁵

Federal law requires school districts to ensure that charter schools receiving federal funds comply with federal grant requirements.⁴⁶ School districts typically address issues related to a charter school's compliance with federal grant requirements in the charter.⁴⁷ In addition, Florida law provides several

³⁶ See Notice of Intent – Classification of ESE Centers as Alternative Schools, *available at* <http://www.fldoe.org/esea/pdf/NoticeofIntent.pdf>.

³⁷ 20 U.S.C. s. 1411(e).

³⁸ 20 U.S.C. s. 6301 et. seq.

³⁹ 20 U.S.C. ss. 6601-6641; s. 1002.33(17)(c)-(d), F.S.

⁴⁰ The Florida Department of Education is Florida's state educational agency for federal funding purposes. See 20 U.S.C. s. 1412(a).

⁴¹ See 20 U.S.C. ss. 1412(a) and 1413(a).

⁴² Section 1002.33(17)(c), F.S.

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

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

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

⁴⁶ 34 C.F.R. s. 80.3; 34 C.F.R. s. 300.209(b).

⁴⁷ Telephone interview with Florida Department of Education, Charter Schools Director (Feb. 1, 2012).

mechanisms which enable school districts to provide financial oversight of charter schools. Charter schools must submit annual financial reports,⁴⁸ provide for an annual financial audit,⁴⁹ and submit to the district monthly financial statements.⁵⁰ Among other things, a charter school's annual financial audit must include violations of law, contract provisions, or grant agreements.⁵¹

According to the DOE, school districts distribute federal funds directly to charter schools, provide in-kind services in lieu of funds, or use a combination of both methods. School districts use a variety of methods to distribute federal funds directly to charter schools, including directly advancing funds, reimbursing expenditures, or making purchases on behalf of charter schools.⁵²

Effect of Proposed Changes

The bill requires a sponsor to monthly reimburse a charter school for expenditures of federal funds, unless another method of disbursing federal funds is mutually agreed to by the charter school and sponsor. The charter school must provide invoices evidencing expenditures to the sponsor at least 30 days before the monthly reimbursement date set by the sponsor. Charter schools that choose to receive federal funds on a reimbursement basis must comply with applicable state and federal requirements governing use of federal funds. In order to receive federal funds on a reimbursement basis, a charter school must submit to the sponsor for approval a plan outlining the charter school's use of federal funds. Allowing charter schools to receive federal funds on a reimbursement basis provides charter schools with greater autonomy regarding purchases made with federal funds, while enabling the sponsor to oversee the charter school's compliance with state and federal requirements governing use of such funds.

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. 1002.33, F.S.; providing requirements for the reimbursement of federal funds to charter schools.

Section 3. Amends s. 1002.41, F.S.; requiring a school district to provide exceptional student education-related services to certain home education program students; requiring reporting and funding through the Florida Education Finance Program.

Section 4. 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 with a disability; requiring certain assessments to facilitate inclusive educational practices for exceptional students.

Section 5. 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.

⁴⁸ Section 1002.33(9)(g), F.S.

⁴⁹ Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

⁵⁰ Section 1002.33(9)(g), F.S. High-performing charter schools may submit quarterly, rather than monthly, financial statements. Section 1002.331(2)(c), F.S.

⁵¹ Section 10.856(2)(b)2.c., Rules of the Auditor General.

⁵² *Funding Report*, *supra* note 1, at 21-22.

Section 6. Creates s. 1003.572, F.S.; defining the term "private instructional personnel"; encouraging the collaboration of public and private instructional personnel and providing requirements therefore.

Section 7. Amends s. 1003.58, F.S.; conforming a cross-reference.

Section 8. Creates s. 1008.3415, F.S.; requiring an exceptional student education center to choose to receive a school grade or school improvement rating; excluding student assessment data from the calculation of a home school's grade under certain circumstances; requiring the State Board of Education to adopt rules.

Section 9. 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 10. 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:

The bill requires school districts to provide exceptional student education-related services to students enrolled in home education, enroll the students in public school, and then report them in the Florida Education Finance Program (FEFP). Currently, at the district's discretion, a district may provide services to home education students and report them for funding, at their discretion. If this were to become mandatory, the demand for services may increase resulting in additional costs to the state. However, there is no way to determine how many students would avail themselves of these services, or what their level of services would require. The following numbers provide an estimate of students who would be eligible based on 2011-12 enrollment numbers:

13% of the students enrolled in PK-12 were identified as students with disabilities.⁵³

72,408 students registered with the districts as home education students.⁵⁴

13% of 72,408 students = 9,413 potential eligible for exceptional education services

According to the 2010-11 Financial Profiles of Florida School Districts, the state average expenditure for exceptional students was \$10,149.⁵⁵

$9,413 \times \$10,149 = \$95,532,537$

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Districts could incur additional expenditures related to the requirement to provide exceptional education services to home education students. Districts would have to evaluate each student to

⁵³ See "2012 SEA Profile" at <http://www.fldoe.org/ese/pdf/SEA.pdf>

⁵⁴ See "Home Education Fast Facts" at http://www.floridaschoolchoice.org/pdf/Home_Ed_Fast_Facts.pdf

⁵⁵ See "Profiles of Florida Districts" at <http://www.fldoe.org/fefp/pdf/10-11profiles.pdf>

determine what level of services to provide. The cost is indeterminate as there is no way to calculate how many students would request services, nor what level of services they would require. *See comments under Fiscal Impact on State Governments: Expenditures.*

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 time required. The FIN administrators are currently only working with a limited number of schools in five districts.

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.
- Defining exceptional student education center and requiring such schools to choose to receive a school grade or school improvement rating.
- 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:

Line 32 – The word “therefore” is missing an “e”.

Line 147 – The bill defines “Exceptional Student Education Center” as a separate public school to which nondisabled peers have access, however, nondisabled peers typically do not have access to Exception Student Education Centers.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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. 1002.33, F.S.; providing
 8 requirements for the reimbursement of federal funds to
 9 charter schools; amending s. 1002.41, F.S.; requiring
 10 a school district to provide exceptional student
 11 education-related services to certain home education
 12 program students; requiring reporting and funding
 13 through the Florida Education Finance Program;
 14 amending s. 1003.57, F.S.; requiring a school district
 15 to use specified terms to describe the instructional
 16 setting for certain exceptional students; defining the
 17 term "inclusion" for purposes of exceptional student
 18 instruction; providing for determination of
 19 eligibility as an exceptional student with a
 20 disability; requiring certain assessments to
 21 facilitate inclusive educational practices for
 22 exceptional students; creating s. 1003.5715, F.S.;
 23 requiring the use of parental consent forms for
 24 specified actions in a student's individual education
 25 plan; providing requirements for the consent forms;
 26 providing requirements for changes in a student's
 27 individual education plan; requiring the State Board
 28 of Education to adopt rules; creating s. 1003.572,

29 F.S.; defining the term "private instructional
 30 personnel"; encouraging the collaboration of public
 31 and private instructional personnel and providing
 32 requirements therefor; amending s. 1003.58, F.S.;
 33 conforming a cross-reference; creating s. 1008.3415,
 34 F.S.; requiring an exceptional student education
 35 center to choose to receive a school grade or school
 36 improvement rating; excluding student assessment data
 37 from the calculation of a home school's grade under
 38 certain circumstances; requiring the State Board of
 39 Education to adopt rules; amending s. 1012.585, F.S.;
 40 providing requirements for renewal of a professional
 41 certificate relating to teaching students with
 42 disabilities; authorizing the State Board of Education
 43 to adopt rules; providing an effective date.

44

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

46

47 Section 1. Paragraph (a) of subsection (21) of section
 48 1002.20, Florida Statutes, is amended to read:

49 1002.20 K-12 student and parent rights.—Parents of public
 50 school students must receive accurate and timely information
 51 regarding their child's academic progress and must be informed
 52 of ways they can help their child to succeed in school. K-12
 53 students and their parents are afforded numerous statutory
 54 rights including, but not limited to, the following:

55 (21) PARENTAL INPUT AND MEETINGS.—

56 (a) Meetings with school district personnel.—Parents of

57 public school students may be accompanied by another adult of
 58 their choice at any meeting with school district personnel.
 59 School district personnel may not object to the attendance of
 60 such adult or discourage or attempt to discourage, through any
 61 action, statement, or other means, parents from inviting another
 62 person of their choice to attend any meeting. Such prohibited
 63 actions include, but are not limited to, attempted or actual
 64 coercion or harassment of parents or students or retaliation or
 65 threats of consequences to parents or students.

66 1. Such meetings include, but are not limited to,
 67 meetings related to: the eligibility for exceptional student
 68 education or related services; the development of an individual
 69 family support plan (IFSP); the development of an individual
 70 education plan (IEP); the development of a 504 accommodation
 71 plan issued under s. 504 of the Rehabilitation Act of 1973; the
 72 transition of a student from early intervention services to
 73 other services; the development of postsecondary goals for a
 74 student and the transition services needed to reach those goals;
 75 and other issues that may affect a student's educational
 76 environment, discipline, or placement.

77 2. The parents and school district personnel attending the
 78 meeting shall sign a document at the meeting's conclusion which
 79 states whether any school district personnel have prohibited,
 80 discouraged, or attempted to discourage the parents from
 81 inviting a person of their choice to the meeting.

82 Section 2. Paragraph (c) of subsection (17) of section
 83 1002.33, Florida Statutes, is amended to read:

84 1002.33 Charter schools.—

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

90 (c) If the district school board is providing programs or
 91 services to students funded by federal funds, any eligible
 92 students enrolled in charter schools in the school district
 93 shall be provided federal funds for the same level of service
 94 provided students in the schools operated by the district school
 95 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
 96 charter schools shall receive all federal funding for which the
 97 school is otherwise eligible, including Title I funding, not
 98 later than 5 months after the charter school first opens and
 99 within 5 months after any subsequent expansion of enrollment.
 100 Unless otherwise mutually agreed to by the charter school and
 101 its sponsor, and consistent with state and federal rules and
 102 regulations governing the use and disbursement of federal funds,
 103 the sponsor shall reimburse the charter school on a monthly
 104 basis for all invoices submitted by the charter school for
 105 federal funds available to the sponsor for the benefit of the
 106 charter school, the charter school's students, and the charter
 107 school's students as public school students in the school
 108 district. Such federal funds include, but are not limited to,
 109 Title I, Title II, and Individuals with Disabilities Education
 110 Act (IDEA) funds. To receive timely reimbursement for an
 111 invoice, the charter school must submit the invoice to the
 112 sponsor at least 30 days before the monthly date of

113 reimbursement set by the sponsor. In order to be reimbursed, any
 114 expenditures made by the charter school must comply with all
 115 applicable state and federal rules and regulations, including,
 116 but not limited to, the applicable federal Office of Management
 117 and Budget Circulars, the federal Education Department General
 118 Administrative Regulations, and program-specific statutes,
 119 rules, and regulations. Such funds may not be made available to
 120 the charter school until a plan is submitted to the sponsor for
 121 approval of the use of the funds in accordance with applicable
 122 federal requirements. The sponsor has 30 days to review and
 123 approve any plan submitted pursuant to this paragraph.

124 Section 3. Subsection (10) is added to section 1002.41,
 125 Florida Statutes, to read:

126 1002.41 Home education programs.—

127 (10) A school district shall provide exceptional student
 128 education-related services, as defined in State Board of
 129 Education rule, to a home education program student with a
 130 disability who is eligible for the services and who enrolls in a
 131 public school for the purpose of receiving those related
 132 services. The school district providing the services shall
 133 report each such student as a full-time equivalent student in a
 134 manner prescribed by the Department of Education, and funding
 135 shall be provided through the Florida Education Finance Program
 136 pursuant to s. 1011.62.

137 Section 4. Subsection (1) of section 1003.57, Florida
 138 Statutes, is amended to read:

139 1003.57 Exceptional students instruction.—

140 (1) (a) For purposes of providing exceptional student

141 instruction under this section:

142 1. A school district shall use the following terms to
 143 describe the instructional setting for a student with a
 144 disability, 6 through 21 years of age, who is not educated in a
 145 setting accessible to all children who are together at all
 146 times:

147 a. "Exceptional student education center" or "special day
 148 school" means a separate public school to which nondisabled
 149 peers have access.

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

152 c. "Regular class" means a class in which a student spends
 153 80 percent or more of the school week with nondisabled peers.

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

157 e. "Separate class" means a class in which a student
 158 spends less than 40 percent of the school week with nondisabled
 159 peers.

160 2. A school district shall use the term "inclusion" to
 161 mean that a student is receiving education in a general
 162 education regular class setting, reflecting natural proportions
 163 and age-appropriate heterogeneous groups in core academic and
 164 elective or special areas within the school community; a student
 165 with a disability is a valued member of the classroom and school
 166 community; the teachers and administrators support universal
 167 education and have knowledge and supports available to enable
 168 them to effectively teach all children; and a student is

169 provided access to technical assistance in best practices,
 170 instructional methods, and supports tailored to the student's
 171 needs based on current research.

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

176 1. The district school board provide the necessary
 177 professional services for diagnosis and evaluation of
 178 exceptional students.

179 2. The district school board provide the special
 180 instruction, classes, and services, either within the district
 181 school system, in cooperation with other district school
 182 systems, or through contractual arrangements with approved
 183 private schools or community facilities that meet standards
 184 established by the commissioner.

185 3. The district school board annually provide information
 186 describing the Florida School for the Deaf and the Blind and all
 187 other programs and methods of instruction available to the
 188 parent of a sensory-impaired student.

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

192 (c) (b) A student may not be given special instruction or
 193 services as an exceptional student until after he or she has
 194 been properly evaluated and found eligible as an exceptional
 195 student with a disability, classified, and placed in the manner
 196 prescribed by rules of the State Board of Education. The parent

197 of an exceptional student evaluated and found eligible or
 198 ineligible ~~placed or denied placement in a program of special~~
 199 ~~education~~ shall be notified of each such evaluation and
 200 determination ~~placement or denial~~. Such notice shall contain a
 201 statement informing the parent that he or she is entitled to a
 202 due process hearing on the identification, evaluation, and
 203 eligibility determination ~~placement~~, or lack thereof. Such
 204 hearings are exempt from ss. 120.569, 120.57, and 286.011,
 205 except to the extent that the State Board of Education adopts
 206 rules establishing other procedures. Any records created as a
 207 result of such hearings are confidential and exempt from s.
 208 119.07(1). The hearing must be conducted by an administrative
 209 law judge from the Division of Administrative Hearings pursuant
 210 to a contract between the Department of Education and the
 211 Division of Administrative Hearings. The decision of the
 212 administrative law judge is final, except that any party
 213 aggrieved by the finding and decision rendered by the
 214 administrative law judge has the right to bring a civil action
 215 in the state circuit court. In such an action, the court shall
 216 receive the records of the administrative hearing and shall hear
 217 additional evidence at the request of either party. In the
 218 alternative, in hearings conducted on behalf of a student who is
 219 identified as gifted, any party aggrieved by the finding and
 220 decision rendered by the administrative law judge has the right
 221 to request a review of the administrative law judge's order by
 222 the district court of appeal as provided in s. 120.68.

223 (d) ~~(e)~~ Notwithstanding any law to the contrary, during the
 224 pendency of any proceeding conducted pursuant to this section,

225 unless the district school board and the parents otherwise
 226 agree, the student shall remain in his or her then-current
 227 educational assignment or, if applying for initial admission to
 228 a public school, shall be assigned, with the consent of the
 229 parents, in the public school program until all such proceedings
 230 have been completed.

231 ~~(e)-(d)~~ In providing for the education of exceptional
 232 students, the district school superintendent, principals, and
 233 teachers shall utilize the regular school facilities and adapt
 234 them to the needs of exceptional students to the maximum extent
 235 appropriate. To the extent appropriate, students with
 236 disabilities, including those students in public or private
 237 institutions or other facilities, shall be educated with
 238 students who are not disabled. Segregation of exceptional
 239 students shall occur only if the nature or severity of the
 240 exceptionality is such that education in regular classes with
 241 the use of supplementary aids and services cannot be achieved
 242 satisfactorily.

243 (f) Once every 3 years, each school district and school
 244 shall complete a Best Practices in Inclusive Education (BPIE)
 245 assessment with a Florida Inclusion Network facilitator and
 246 include the results of the BPIE assessment and all planned
 247 short-term and long-term improvement efforts in the school
 248 district's exceptional student education policies and
 249 procedures. BPIE is an internal assessment process designed to
 250 facilitate the analysis, implementation, and improvement of
 251 inclusive educational practices at the district and school team
 252 levels.

253 (g)~~(e)~~ In addition to the services agreed to in a
 254 student's individual educational plan, the district school
 255 superintendent shall fully inform the parent of a student having
 256 a physical or developmental disability of all available services
 257 that are appropriate for the student's disability. The
 258 superintendent shall provide the student's parent with a summary
 259 of the student's rights.

260 (h)~~(f)~~ School personnel may consider any unique
 261 circumstances on a case-by-case basis when determining whether a
 262 change in placement is appropriate for a student who has a
 263 disability and violates a district school board's code of
 264 student conduct. School personnel may remove and place such
 265 student in an interim alternative educational setting for not
 266 more than 45 school days, without regard to whether the behavior
 267 is determined to be a manifestation of the student's disability,
 268 if the student:

269 1. Carries a weapon to or possesses a weapon at school, on
 270 school premises, or at a school function under the jurisdiction
 271 of the school district;

272 2. Knowingly possesses or uses illegal drugs, or sells or
 273 solicits the sale of a controlled substance, while at school, on
 274 school premises, or at a school function under the jurisdiction
 275 of the school district; or

276 3. Has inflicted serious bodily injury upon another person
 277 while at school, on school premises, or at a school function
 278 under the jurisdiction of the school district.

279 (i)~~(g)~~ For purposes of paragraph (h)~~(f)~~, the term:

280 1. "Controlled substance" means a drug or other substance

281 identified under Schedule I, Schedule II, Schedule III, Schedule
 282 IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s.
 283 812(c) and s. 893.02(4).

284 2. "Weapon" means a device, instrument, material, or
 285 substance, animate or inanimate, which is used for, or is
 286 readily capable of, causing death or serious bodily injury;
 287 however, this definition does not include a pocketknife having a
 288 blade that is less than 2 1/2 inches in length.

289 Section 5. Section 1003.5715, Florida Statutes, is created
 290 to read:

291 1003.5715 Parental consent; individual education plan.-

292 (1) The Department of Education shall adopt separate
 293 parental consent forms that school districts must use for each
 294 of the following actions in a student's individual education
 295 plan (IEP):

296 (a) Administer to the student an alternate assessment
 297 pursuant to s. 1008.22 and provide instruction in the state
 298 standards access points curriculum.

299 (b) Place the student in an exceptional student education
 300 center.

301 (2) In accordance with 34 C.F.R. s. 300.503, each form
 302 shall be provided to the parent in the parent's native language,
 303 as defined in 34 C.F.R. s. 300.29, and include the following:

304 (a) A statement that the parent is a participant of the
 305 individual education plan team (IEP Team) and has the right to
 306 consent or refuse consent to the actions described in subsection
 307 (1). The statement shall include information that the refusal of
 308 parental consent means that the school district may not proceed

309 with the actions described in subsection (1) without a school
 310 district due process hearing in accordance with 34 C.F.R. ss.
 311 300.507 and 300.508.

312 (b) A "does consent" box and a signature line.

313 (c) A "does not consent" box and a signature line.

314 (d) An informational statement of the benefits and
 315 consequences of giving parental consent to the actions described
 316 in subsection (1).

317 (3) A school district may not proceed with the actions
 318 described in subsection (1) without parental consent unless the
 319 school district documents reasonable efforts to obtain the
 320 parent's consent and the child's parent has failed to respond or
 321 the school district obtains approval through a due process
 322 hearing in accordance with 34 C.F.R. ss. 300.507 and 300.508 and
 323 resolution of appeals.

324 (4) Except for a change in placement described in s.
 325 1003.57(1)(h), if a school district determines that there is a
 326 need to change an exceptional student's IEP as it relates to
 327 actions described in subsection (1), the school must hold an IEP
 328 Team meeting that includes the parent to discuss the reason for
 329 the change. The school shall provide written notice of the
 330 meeting to the parent indicating the purpose, time, and location
 331 of the meeting and who, by title or position, will attend the
 332 meeting. The IEP Team meeting requirement may be waived by
 333 informed consent of the parent after the parent receives the
 334 written notice.

335 (5) For a change in actions described in subsection (1) in
 336 a student's IEP, the school district may not implement the

337 change without parental consent unless the school district
 338 documents reasonable efforts to obtain the parent's consent and
 339 the child's parent has failed to respond or the school district
 340 obtains approval through a due process hearing in accordance
 341 with 34 C.F.R. ss. 300.507 and 300.508 and resolution of
 342 appeals.

343 (6) Pursuant to 34 C.F.R. s. 300.518, during the pendency
 344 of a due process hearing or appellate proceeding regarding a due
 345 process complaint, the student shall remain in his or her
 346 current educational assignment while awaiting the decision of
 347 any impartial due process hearing or court proceeding, unless
 348 the parent and the district school board otherwise agree.

349 (7) This section does not abrogate any parental right
 350 identified in the Individuals with Disabilities Education Act
 351 (IDEA) and its implementing regulations.

352 (8) The State Board of Education shall adopt rules
 353 pursuant to ss. 120.536(1) and 120.54 to implement this section,
 354 including, but not limited to, developing parental consent
 355 forms.

356 Section 6. Section 1003.572, Florida Statutes, is created
 357 to read:

358 1003.572 Collaboration of public and private instructional
 359 personnel.—

360 (1) As used in this section, the term "private
 361 instructional personnel" means:

362 (a) Individuals certified under s. 393.17 or licensed
 363 under chapter 490 or chapter 491 for applied behavior analysis
 364 services as defined in ss. 627.6686 and 641.31098.

365 (b) Speech-language pathologists licensed under s.
 366 468.1185.

367 (c) Occupational therapists licensed under part III of
 368 chapter 468.

369 (d) Physical therapists licensed under chapter 486.

370 (e) Psychologists licensed under chapter 490.

371 (f) Clinical social workers licensed under chapter 491.

372 (2) The collaboration of public and private instructional
 373 personnel shall be designed to enhance but not supplant the
 374 school district's responsibilities under the Individuals with
 375 Disabilities Education Act (IDEA). The school as the local
 376 education agency shall provide therapy services to meet the
 377 expectations provided in federal law and regulations and state
 378 statutes and rules. Collaboration of public and private
 379 instructional personnel will work to promote educational
 380 progress and assist students in acquiring essential skills,
 381 including, but not limited to, readiness for pursuit of higher
 382 education goals or employment. Where applicable, public and
 383 private instructional personnel shall undertake collaborative
 384 programming. Coordination of services and plans between a public
 385 school and private instructional personnel is encouraged to
 386 avoid duplication or conflicting services or plans.

387 (3) Private instructional personnel who are hired or
 388 contracted by parents to collaborate with public instructional
 389 personnel must be permitted to observe the student in the
 390 educational setting, collaborate with instructional personnel in
 391 the educational setting, and provide services in the educational
 392 setting according to the following requirements:

393 | (a) The student's public instructional personnel and
 394 | principal consent to the time and place.

395 | (b) The private instructional personnel satisfy the
 396 | requirements of s. 1012.32 or s. 1012.321.

397 | (4) The provision of private instructional personnel by a
 398 | parent does not constitute a waiver of the student's or parent's
 399 | right to a free and appropriate public education under IDEA.

400 | Section 7. Subsection (3) of section 1003.58, Florida
 401 | Statutes, is amended to read:

402 | 1003.58 Students in residential care facilities.—Each
 403 | district school board shall provide educational programs
 404 | according to rules of the State Board of Education to students
 405 | who reside in residential care facilities operated by the
 406 | Department of Children and Family Services or the Agency for
 407 | Persons with Disabilities.

408 | (3) The district school board shall have full and complete
 409 | authority in the matter of the assignment and placement of such
 410 | students in educational programs. The parent of an exceptional
 411 | student shall have the same due process rights as are provided
 412 | under s. 1003.57(1)(c) ~~1003.57(1)(b)~~.

413 |
 414 | Notwithstanding the provisions herein, the educational program
 415 | at the Marianna Sunland Center in Jackson County shall be
 416 | operated by the Department of Education, either directly or
 417 | through grants or contractual agreements with other public or
 418 | duly accredited educational agencies approved by the Department
 419 | of Education.

420 | Section 8. Section 1008.3415, Florida Statutes, is created

421 to read:

422 1008.3415 School grade or school improvement rating for
 423 exceptional student education centers.-

424 (1) Each exceptional student education center shall choose
 425 to receive a school grade pursuant s. 1008.34 or a school
 426 improvement rating pursuant s. 1008.341.

427 (2) Notwithstanding s. 1008.34(3)(c)3., the achievement
 428 scores and learning gains of a student with a disability who
 429 attends an exceptional student education center and has not been
 430 enrolled in or attended a public school other than an
 431 exceptional student education center for grades K-12 within the
 432 school district shall not be included in the calculation of the
 433 home school's grade if the student is identified as an emergent
 434 student on the alternate assessment tool described in s.
 435 1008.22(3)(c)13.

436 (3) The State Board of Education shall adopt rules under
 437 ss. 120.536(1) and 120.54 to implement this section, including,
 438 but not limited to, defining exceptional student education
 439 centers.

440 Section 9. Paragraph (e) is added to subsection (3) of
 441 section 1012.585, Florida Statutes, and subsection (6) is added
 442 to that section, to read:

443 1012.585 Process for renewal of professional
 444 certificates.-

445 (3) For the renewal of a professional certificate, the
 446 following requirements must be met:

447 (e) Beginning July 1, 2014, an applicant for renewal of a
 448 professional certificate must earn a minimum of 1 college credit

449 or the equivalent inservice points in the area of instruction
 450 for teaching students with disabilities. Educators who are
 451 certified in exceptional student education, who have passed the
 452 subject area test in exceptional student education, or who have
 453 successfully completed an exceptional student education course
 454 in a teacher preparation program are exempt from this
 455 requirement. The requirement in this paragraph may not add to
 456 the total hours required by the department for continuing
 457 education or inservice training.

458 (6) The State Board of Education may adopt rules under ss.
 459 120.536(1) and 120.54 to implement this section, including, but
 460 not limited to, applicant renewal requirements.

461 Section 10. This act shall take effect July 1, 2013.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Choice & Innovation
 2 Subcommittee
 3 Representative Lee offered the following:

Amendment (with title amendment)

6 Remove lines 16-18 and insert:
 7 Section 1. (1) The Office of Early Learning shall establish the
 8 5-year Literacy Jump Start Pilot Project in St. Lucie County to
 9 assist low-income,

13 -----
 14 **T I T L E A M E N D M E N T**

15 Remove lines 2-4 and insert:
 16 An act relating to the Literacy Jump Start Pilot Project;
 17 requiring the Office of Early Learning to establish the pilot
 18

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 803 Jump Start Literacy Pilot Project

SPONSOR(S): Lee, Jr.

TIED BILLS: IDEN./SIM. BILLS: SB 1034

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee		Ammel <i>JA</i>	Fudge <i>RF</i>
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill requires the Office of Early Learning (OEL) within the Department of Education to establish a 5-year Jump Start Literacy Pilot Project in St. Lucie County to assist low-income, at-risk children in developing emergent literacy skills. The OEL, in consultation with the Early Learning Coalition of St. Lucie County shall select one or more municipalities to participate in the project. The OEL 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 OEL 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 OEL.
- Requires the instruction to be conducted in a subsidized housing unit to provide easy access for participating children and families.

The bill requires the Office of Early Learning within the Department of Education to administer this program; however Florida's Office of Early Learning has statutory authority for the provision of early learning services through the Child Care and Development Block Grant. DOE's OEL has no funds or authority to allocate funds for such a program. Additionally, to avoid confusion with the national Jumpstart Program, the sponsor should consider changing the name of the program. See Fiscal Comments and Drafting Issues or Other Comments.

This bill may have a fiscal impact on the state. SEE FISCAL COMMENTS.

The bill takes effect July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 2004, the Legislature established the Voluntary Prekindergarten Education Program (VPK program), a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.¹ Florida's Office of Early Learning (Florida's OEL),² Florida Department of Education (DOE, through its Office of Early Learning, distinct from Florida's OEL), and Florida Department of Children and Family Services (DCF) each play a role in the state-level oversight of the VPK program.

DOE's Office of Early Learning oversees statewide kindergarten readiness screening, calculates kindergarten readiness rates, adopts kindergarten readiness standards, approves VPK program curricula for use by a public school or private prekindergarten provider that fails to meet the minimum kindergarten readiness rate, approves emergent literacy training courses and VPK program director credentials, and specifies CDA credentials³ and training in emergent literacy that qualify for articulation into college credit.⁴

Florida's (OEL) is the lead agency for administration of the federal Child Care and Development fund, 45 C.F.R. parts 98 and 99 in Florida and must comply with the lead agency responsibilities under those sections.⁵ 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.⁶

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.⁷ The coalition currently partners with local non-profits and private

¹Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; see also Art. IX, s. 1(b)-(c), Fla. Const. The VPK program originated from a ballot initiative proposing an amendment to the Florida Constitution in the November 2002 general election. The amendment required the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year. Voters approved the amendment by a total of 59 percent for to 41 percent against. Art. IX, s. 1(b)-(c), Fla. Const.; see also Florida Department of State, Division of Elections, *Voluntary Universal Prekindergarten Education*, <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=34708&seqnum=1> (last visited April 16, 2012).

²In 2011, the Legislature transferred the Office of Early Learning, currently called Florida's Office of Early Learning, from the Agency for Workforce Innovation to the DOE as a separate budget entity, 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. The office director is appointed by the Governor and confirmed by the Senate, must serve at the pleasure of the Governor, and must be the agency head of the office for all purposes. The office is subject to review and oversight by the Chief Inspector General or his or her designee. Section 12, ch. 2011-142, *codified at* s. 20.15(3)(h), F.S. Florida's OEL is distinct from DOE's Office of Early Learning, Florida Department of Education, *Early Learning/Prekindergarten*, <http://www.fldoe.org/earlyLearning/> (last visited May 3, 2012).

³The CDA credential is a child care credential issued by the Council for Professional Recognition. Council for Professional Recognition, *How to Earn a CDA*, <http://www.cdacouncil.org/the-cda-credential/how-to-earn-a-cda> (last visited April 19, 2012).

⁴Sections 1002.69(1) and (5), 1002.67(1)-(2) and (4), 1002.59, 1002.57(1), 1002.73(2), and 1007.23(6), F.S.

⁵Section 411.01(4)(c), F.S.

⁶Section 411.01(4)(a), F.S.

⁷Section 411.01(6), F.S.

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.⁸

Jumpstart is a nationwide program that trains college students and community volunteers to work with three-year-old Head Start participants in low-income neighborhoods to develop language and literacy skills. The national organization is funded with federal funds and private donations.⁹ The Jumpstart program is currently operating in Tallahassee at five of the six Head Start sites and one Child Development Center. The Jumpstart program at these Head Start facilities is coordinated through Florida State University, which handles background screening and student volunteer recruitment. Volunteers provide services at the Head Start facilities for two hours a day, two times weekly. Jumpstart volunteers at these Head Start facilities must meet the same background requirements as Head Start staff – interview, reference check, and state or national criminal record check. While the bill requires an emergent literacy training course for instructors, it is not clear that Jumpstart volunteers in the Tallahassee Head Start facilities are required to have emergent literacy training.¹⁰

Effect of Proposed Changes

The bill requires DOE's Office of Early Learning to:

- Establish the 5-year Jump Start Literacy 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 Office 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
- 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.

The bill appears to be establishing a new and separate program in St. Lucie County, not associated with the national Jumpstart Program.

⁸ Florida Department of Education 2013 Bill Analysis for HB 803

⁹ See Jumpstart at <http://www.jstart.org/>

¹⁰ Florida Department of Education 2013 Bill Analysis for HB 803

B. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law; requiring the Office of Early Learning within 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 office 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:

The bill requires the Office of Early Learning to allocate funds for the implementation of the Jump Start Pilot Project. It is unclear as to which specific existing agency funds could be allocated (and allowable) to operate this new program.

If the Jumpstart program proposed in the bill is organized similar to that of the Jumpstart programs in operation in Tallahassee, the program would operate two times a week for approximately two hours each session.

The bill requires the program be conducted in a subsidized housing unit. The costs for the pilot could vary greatly depending on the costs for the facility to house the program, the insurance needed for a program of this type, cost for advertising, cost for background checks of volunteers, salary of management personnel, and cost of Jumpstart training materials.

Based on the above, initial estimated costs could be \$400 to \$700 per month for housing the program, \$600 per week for a part-time manager, \$70 per person screening costs and \$8,400 per year cost for insurance. This equates to approximately \$58,000 per year for one facility.

\$40,560 for Personnel costs (\$30/hour part-time plus benefits)

\$8,400 for Housing

\$700 for Screening

\$8,400 for Insurance

\$58,060

If the program is expanded to serve children for a full day, the personnel cost would be increased by the cost of workers to teach the children.

\$40,500 for Personnel costs (\$10/hour full-time plus benefits based on 60 hours per week)¹¹

¹¹ Florida Department of Education 2013 Agency Legislative Bill Analysis for HB 803
STORAGE NAME: h0803.CIS.DOCX
DATE: 3/15/2013

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

The bill requires the Department of Education's Office of Early Learning to allocate funds for implementation of the pilot project; however, the department has no funds nor authority to allocate funds for such a program.

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:

To avoid confusion with the national Jumpstart Program, the sponsor should consider changing the name of the program.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Jump Start Literacy Pilot
 3 Project; requiring the Office of Early Learning within
 4 the Department of Education to establish the pilot
 5 project in St. Lucie County to assist low-income, at-
 6 risk children in developing emergent literacy skills;
 7 providing eligibility requirements for participation;
 8 requiring the office to establish performance
 9 standards and outcome measures for participating
 10 children; requiring emergent literacy training for
 11 instructors; requiring the office to allocate funds
 12 for the pilot project; providing an effective date.

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

15
 16 Section 1. (1) The Office of Early Learning within the
 17 Department of Education shall establish the 5-year Jump Start
 18 Literacy Pilot Project in St. Lucie County to assist low-income,
 19 at-risk children in developing emergent literacy skills. The
 20 pilot project shall be implemented in one or more municipalities
 21 in St. Lucie County, which are selected by the office in
 22 consultation with the Early Learning Coalition of St. Lucie
 23 County. A municipality within which locally or federally
 24 subsidized housing is located is eligible for participation in
 25 the pilot project. The office shall seek partnerships with local
 26 nonprofit organizations and the business community in
 27 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 Office of Early Learning 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 office.

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 Office of Early Learning 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 #: HB 843 Education
SPONSOR(S): Gaetz
TIED BILLS: IDEN./SIM. BILLS: CS/SB 904

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) Choice & Innovation Subcommittee, Ammel, Fudge. Row 2: 2) Education Appropriations Subcommittee. Row 3: 3) Education Committee.

SUMMARY ANALYSIS

The bill creates the Florida Flexible Option Initiative to expand student choice regarding courses and corresponding assessments which a student may take to satisfy various secondary and postsecondary education requirements. It provides that Florida-accredited charter courses may be created by an individual whose credentials and documented knowledge of a specific science, technology, engineering, or math field warrants consideration as a credible and legitimate source of course content. The assessments associated with the Florida-accredited courses must be developed by regionally accredited public institutions.

The Florida-accredited courses and corresponding assessments must be approved by:

- The Commissioner of Education for application in K-12 public schools and the Florida College System institutions in accordance with the rules of the State Board of Education.
The Chancellor of the State University System for application in state universities in accordance with the rules of the Board of Governors.

Approved Florida-accredited charter courses and corresponding assessments must be annually published in conjunction with the courses listed in the Statewide Course Numbering System and the Course Code Directory by the Articulation Coordinating Committee.

A Florida-accredited charter course or a corresponding assessment which is published in the Statewide Course Numbering System and the Course Code Directory may be applied as one whole unit course or as two or more discrete subunits which when combined are equivalent to the whole unit.

The bill authorizes school districts, Florida College System institutions, and state universities to execute contracts with qualified contractors for administering and proctoring the assessments associated with either the Florida-accredited charter courses or for the existing statewide, standardized assessments, as approved by the Florida Department of Education pursuant to State Board of Education rules. Additionally, the Florida Department of Education is authorized to execute contracts with qualified contractors on behalf of the state, a school district, a Florida College System institution, or a state university for administering and proctoring the assessments.

The bill does not describe the students that are eligible to participate, the courses that are available, how students will enroll in the courses, or the amount of credit students will earn. Likewise, the bill does not describe the process for approving courses or providers, how providers and courses will be evaluated and held accountable, and the amount of funding available to pay for such courses. See Drafting Issues or Other Comments.

The bill may have a fiscal impact on state and local governments. SEE FISCAL COMMENTS.

The effective date of the bill is July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Course Offerings

The Florida Department of Education (DOE) maintains two course repositories: the Statewide Course Numbering System for courses that are offered at the postsecondary education level and the Course Code Directory for courses that are offered at the secondary education level.

Statewide Course Numbering System

Current law requires the DOE, in conjunction with the Board of Governors of the State University System of Florida (BOG), to develop, coordinate, and maintain a statewide course numbering system (SCNS) to improve program planning, increase communication among all delivery systems, facilitate student acceleration, and transfer of students and credits between public school districts, public postsecondary educational institutions, and participating nonpublic postsecondary institutions.¹

Faculty committees representing school districts, public postsecondary educational institutions, and participating nonpublic postsecondary educational institutions assist in maintaining the SCNS. The faculty committees, appointed by the Commissioner of Education (commissioner) and the Chancellor of the State University System (SUS), recommend a single level for each course in the SCNS.² The commissioner recommends the level for each course to the State Board of Education (SBE). The SBE, with input from the BOG, approves the level for each course.³

Any student who transfers among postsecondary institutions that are fully accredited by a regional or national accrediting agency recognized by the United States Department of Education and that participate in the SCNS must be awarded credit by the institution at which the student enrolls (receiving institution) for courses that the student completes satisfactorily at the previous institutions. Credit must be awarded for a course if the appropriate SCNS faculty committee responsible for reviewing the course determines that the course, for which a student is seeking credit, is equivalent to a course offered at the receiving institution.⁴

The DOE must ensure that credits that are accepted by a receiving institution be generated in courses for which the faculty members possess credentials recommended by the accrediting association of the receiving institution. A receiving institution may limit the award of credit to courses that are entered in the SCNS and the credit that is awarded must equally satisfy institutional requirements for both native students and transfer students.⁵

¹ Section 1007.24(1), F.S. "Nonpublic colleges and schools that are fully accredited by a regional or national accrediting agency recognized by the United States Department of Education and are either eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant or have been issued a regular license by the [Commission for Independent Education], may participate in the statewide course numbering system." Participating colleges and schools must bear the costs associated with inclusion in the system and must meet the terms and conditions for participating in the SCNS. Section 1007.24(6), F.S.

² Sections 1007.24(1), (2), and (7), F.S.

³ Section 1007.24(3), F.S.

⁴ Section 1007.24(7), F.S.

⁵ Section 1007.24(7), F.S.

Course Code Directory

The Course Code Directory (CCD) is the listing of all public preK-12 courses available for use by school districts. Programs and courses which are funded through the Florida Education Finance Program (FEFP) and courses or programs for which students may earn credit toward high school graduation must be listed in the CCD. The CCD maintains course listings for administration and service assignments, K-12 education, exceptional student education, career and technical education, and adult education, with details regarding appropriate teacher certification levels. The CCD provides for course information to schools, districts, and the state.⁶

Massive Open Online Courses

A number of universities are offering “massive open online courses” (MOOCs) to broaden access to higher education. For example, Coursera⁷ founded by two Stanford University professors⁸ and edX⁹ founded by Harvard University and Massachusetts Institute of Technology, the two leading providers of MOOCs, announced expansions that will approximately double the number of university partners offering free online classes.¹⁰ Colleges also have put forward faculty to teach the free courses.¹¹

The American Council on Education, representing the presidents of U.S. accredited, degree-granting two- and four-year public and private universities, and nonprofit and not-for-profit entities¹², endorsed for credit, five MOOCs that are offered through Coursera.¹³

In 2012, the University of Wisconsin (UW) System announced its innovative UW Flexible Option program.¹⁴ The UW System is expected to be the first public university system in the nation to offer the competency-based, self-paced learning option. However, unlike the other competency-based models, under the UW Flexible Option, UW faculty members modify existing college programs into self-paced, competency-based formats. Students will be able to use this format by passing a series of assessments that demonstrate mastery of required knowledge and skills that the students may have

⁶ Rule 6A-1.09441, F.A.C.

⁷ 62 universities have partnered with Coursera. Coursera, *Universities*, <https://www.coursera.org/#universities> (last visited March 3, 2013). Coursera officially launched on April 18, 2012. The Stanford Daily, *Coursera launches humanities courses*, <http://www.stanforddaily.com/2012/04/18/coursera-launches-humanities-courses/> (last visited March 3, 2013).

⁸ The New York Times, *Online Education Venture Lures Cash Infusion and Deals with 5 Top Universities* (Apr. 18, 2012), <http://www.nytimes.com/2012/04/18/technology/coursera-plans-to-announce-university-partners-for-online-classes.html> (last visited March 2, 2013).

⁹ “EdX currently offers HarvardX, MITx, and BerkeleyX classes online for free. Beginning Fall 2013, edX will offer WellesleyX and GeorgetownX classes online for free.” EdX, *Organization*, <https://www.edx.org/faq> (last visited March 3, 2013). Harvard University and the Massachusetts Institute of Technology announced the launch of edX on May 2, 2012. Harvard University, *MIT and Harvard Announce edX*, <http://news.harvard.edu/gazette/story/2012/05/mit-and-harvard-announce-edx/> (last visited March 3, 2013).

¹⁰ Education Week, *More Top Universities to Offer Free Online Courses* (Feb. 21, 2013), http://www.edweek.org/ew/articles/2013/02/20/595132usmassiveonlinecourses_ap.html (last visited March 2, 2013).

¹¹ The Wall Street Journal, *Online-Education Provider Coursera Signs 29 More Schools* (Feb. 21, 2013), <http://online.wsj.com/article/SB10001424127887323864304578316530544924000.html> (last visited March 2, 2013).

¹² American Council on Education, *About The American Council on Education*, <http://www.acenet.edu/about-ace/Pages/default.aspx> (last visited March 2, 2013).

¹³ The American Council on Education operates a credit-recommendation service that evaluates individual courses and advises its 1,800 member colleges regarding conferring credit on students who pass such courses. The Chronicle of Higher Education, *American Council on Education Recommends 5 MOOCs for Credit* (Feb. 7, 2013), <http://chronicle.com/article/American-Council-on-Education/137155/> (last visited March 2, 2013).

¹⁴ Under the UW Flexible Option, UW-Milwaukee will offer four degree programs and one certificate program starting in Fall 2013: two Nursing degrees (R.N.-to-B.S.N. and R.N.-to-M.N.) for Registered Nurses who need additional college education to qualify for higher professional credentials, a bachelor’s degree-completion program in Diagnostic Imaging, targeted toward certified diagnostic imaging professionals, a B.S. in Information Science & Technology, preparing students for jobs in tomorrow’s digital culture and economy, and a certificate in Professional and Technical Communication, providing students with the essential written and oral communication skills needed in today’s workplace. University of Wisconsin System, *UW System Unveils First Flexible Option Degree Programs* (Nov. 28, 2012), <http://www.wisconsin.edu/news/2012/r121128.htm> (last visited March 2, 2013).

acquired through coursework, military training, on-the-job-training, and other learning experiences.¹⁵ Assessments are critical to the competency-based format because the assessments validate students' comprehension of the subject matter as the students make progress towards a degree.

Articulation ensures that students receive credit for comparable coursework without unnecessary repetition when transferring from one institution to another.¹⁶ Unlike other states which rely on institutions to forge institutional-level partnerships for the transfer of quality instruction and credits, Florida, on a statewide level, guarantees transferability of credits¹⁷ through a number of mechanisms including the statewide course numbering system and statewide articulation agreements. These mechanisms serve as the foundation of Florida's articulation system that affords students the ability to take courses and assessments and to earn credit across a variety of institutions.

Assessments

Statewide Assessment Program for Public Schools

The purpose of the student assessment program is to provide information regarding the learning gains of all students. By assessing how well students have mastered the standards, parents and educators are able to determine whether the student needs remediation, is ready for the next grade level, or is equipped to pursue college or career study.¹⁸

Current law requires the commissioner to design and implement a statewide program of educational assessment to improve the operation and management of the public schools. The commissioner may enter into contracts for the continued administration of the assessment program authorized and funded by the Legislature. Contracts may be initiated in one fiscal year and continue into the next fiscal year. The commissioner may negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials under law.¹⁹

Credit by Examination

Credit by examination is a program through which secondary and postsecondary students generate postsecondary credits based on the receipt of a specified minimum score on nationally standardized general or subject-area examinations. For the purposes of statewide application, such examinations and the corresponding minimum scores required for an award of credit must be delineated by the SBE and the BOG in the statewide articulation agreement. Additionally, the Florida College System (FCS) institutions and state universities may also award credit by exam based on student performance on examinations developed within and recognized by the individual postsecondary institutions.²⁰

Articulation

Current law encourages the university boards of trustees, the FCS institution boards of trustees, and the district school boards to establish intrainstitutional and interinstitutional programs to maximize articulation. Such programs may include upper-division-level courses offered at the FCS institution, distance learning, transfer agreements to facilitate transfer of credits between public and nonpublic postsecondary institutions, and the concurrent enrollment of students at a FCS institution and a state university to enable students to take any level of baccalaureate degree coursework.²¹

¹⁵ University of Wisconsin System, *UW System Unveils First Flexible Option Degree Programs* (Nov. 28, 2012), <http://www.wisconsin.edu/news/2012/r121128.htm> (last visited March 2, 2013).

¹⁶ Florida Department of Education, *Postsecondary Articulation*, <http://www.fldoe.org/fcs/postsecart.asp> (last visited March 4, 2013).

¹⁷ Florida Department of Education, *Postsecondary Articulation*, <http://www.fldoe.org/fcs/postsecart.asp> (last visited March 4, 2013).

¹⁸ Section 1008.22, F.S.

¹⁹ Section 1008.22(3), F.S.

²⁰ Section 1007.27(6), F.S.

²¹ Section 1007.22(1), F.S.

Acceleration

The postsecondary education sectors must collaborate to develop and provide articulated programs that allow acceleration opportunities to students so that the students are able to achieve their educational objectives quickly.²² In addition to shortening the time for a student to complete the requirements associated with a high school diploma or a postsecondary degree, acceleration opportunities are also intended to increase the depth of study available in different subject areas.²³

High school and postsecondary education acceleration opportunities must include, but not be limited to, dual enrollment, early admission, advanced placement (AP), the International Baccalaureate Program (IB), Advanced International Certificate of Education Program (AICE), and credit by examination or demonstration of competency.²⁴ The DOE must:²⁵

- Annually identify and publish the minimum scores, maximum credit, course or courses for which credit must be awarded for each College Level Examination Program (CLEP) subject examination, College Board AP examination, and IB examination, and AICE examination.
- Use student performance data in subsequent postsecondary courses to determine the appropriate examination scores and courses for which credit must be granted. Minimum scores may vary by subject area based on student performance data.
- Identify courses in the general education core curriculum of each state university and FCS institution.

Articulation Coordinating Committee

The Articulation Coordinating Committee (ACC) serves as an advisory board to the SBE and the BOG on postsecondary transition issues. The committee provides a unique K-20 forum for cross-sector collaboration that informs the policy decisions of the SBE and the BOG regarding the implementation of the statewide articulation agreement. The ACC reports to the commissioner and is comprised of the following members: two members each representing the State University System (SUS), the FCS, public career and technical education, public K-12 education, and non-public education, and one member representing students.²⁶

The ACC is responsible for reviewing and monitoring the different components of Florida's articulation system and making policy recommendations to facilitate seamless articulation between and among public schools, career and technical education centers, FCS institutions, state universities, and nonpublic postsecondary institutions. The ACC annually reviews statewide articulation agreements as well as the SCNS, the levels of courses, and the application of transfer credit requirements among public and non-public institutions participating in the statewide course numbering system.²⁷

The ACC must establish passing scores and course and credit equivalents for AP, IB, AICE, and College-Level Examination Program (CLEP) exams.²⁸ The DOE maintains a Credit-by-Exam Equivalency List based on the annual recommendations by the ACC. The Credit-by-Exam Equivalency List also includes the Defense Activity of Non-Traditional Education Support (DANTES) Subject

²² Section 1007.22(2), F.S.

²³ Section 1007.27(1), F.S.

²⁴ Sections 1007.22(2) and 1007.27(1), F.S.

²⁵ Section 1007.27(2), F.S.

²⁶ Section 1007.01(2)-(3), F.S. The ACC was initially codified at 229.551, F.S., but was repealed January 7, 2003, by s. 3(7), ch. 2000-321. In 2011, the ACC was again codified in law by amending s. 1007.01, F.S. Section 7, ch. 2011-177, L.O.F.

²⁷ Section 1007.01(3), F.S.

²⁸ Section 1007.27(2), F.S.

Standardized Tests (DSSTs) and Excelsior College exam equivalents which are adopted by the SBE rule.²⁹

Statewide Articulation Agreement

The SBE and the BOG must enter into a statewide articulation agreement to preserve Florida's "2+2" system of articulation, facilitate the seamless articulation of student credit across and among Florida's educational entities, and reinforce articulation between secondary and postsecondary education; general education requirements and statewide course numbers; and the use of acceleration mechanisms, including nationally standardized examinations through which students may earn credit.³⁰

Effect of Proposed Changes

Course Offerings

The bill creates the Florida Flexible Option Initiative to expand student choice regarding courses that a student may take to meet the requirements for promotion, graduation, and degree attainment at the secondary or postsecondary education level.

The bill introduces a new set of courses called "Florida-accredited charter courses" that can be created by individuals whose credentials and documented knowledge of a specific science, technology, engineering, or math field warrants consideration as a credible and legitimate source of course content to create a Florida-accredited charter course. However, the bill does not include any provisions for verification of the individual's credibility or legitimacy. The bill also provides that a massive, open online course and a course associated with rigorous industry certification are eligible for consideration and approval as a Florida-accredited charter course.

Currently, education stakeholders (e.g., states, policymakers, parents, and students) rely primarily on the accreditation of an institution as an indication of the institution's ability to provide quality education. Historically and operationally, "accreditation" standards have been associated with institutions rather than courses. For instance, all public colleges and universities in Florida are accredited by the Southern Association of Colleges and Schools (SACS) Commission on Colleges which is the regional body for accreditation of degree-granting higher education institutions in the southern states.³¹ The accreditation process involves a comprehensive review of institutional mission, governance and administration, programs, faculty, and resources to determine whether an institution is in compliance with accrediting standards.³²

The bill allows students to take Florida-accredited charter courses, courses identified on the course code directory, or postsecondary courses identified on the statewide course numbering system and apply them as whole units or two or more discrete subunits that when combined, equal a whole unit. Course completions can be applied toward requirements for promotion, graduation, and degree attainment at the secondary or postsecondary education level, provided the student passes approved assessments that indicate competency in the course content. Assessments may also be applied as one whole assessment or as two or more discrete subassessments that, when combined, equal one

²⁹ Rule 6A-10.024, F.A.C.

³⁰ Section 1007.23(1), F.S.

³¹ Southern Association of Colleges and Schools, *The Principles of Accreditation: Foundations for Quality Enhancement* (Revised 2011), at 1, available at <http://www.sacscoc.org/pdf/2012principlesofaccreditation.pdf>.

³² At least 25 percent of credit hours required for the degree must be earned through instruction offered by the institution awarding the degree and at least 25 percent of the course hours in each major at the baccalaureate level must be taught by faculty members holding an appropriate terminal degree usually the earned doctorate or equivalent of the terminal degree. Southern Association of Colleges and Schools, *The Principles of Accreditation: Foundations for Quality Enhancement* (Revised 2011), available at <http://www.sacscoc.org/pdf/2012principlesofaccreditation.pdf>; see also Florida Board of Governors, *2013 Agency Legislative Bill Analysis for SB 904* (Feb. 27, 2013) at 2.

whole assessment. Students cannot be required to repeat course subunits or subassessments that have been satisfactorily completed.

Assessments

The bill requires that the assessments associated with the Florida-accredited charter courses be:

- established by regionally accredited public institutions. The bill is not restricted to Florida-only institutions.
- approved by the commissioner for application in K-12 public schools and FCS institutions in accordance with the SBE rules and by the SUS Chancellor for application in state universities in accordance with the BOG rules.
- administered or proctored by qualified contractors at sites that meet specified requirements of the SBE rules³³.

The bill authorizes school districts, FCS institutions, and state universities to execute contracts with qualified contractors for administering and proctoring the assessments associated with either the Florida-accredited courses or for the existing statewide, standardized assessments that are required under law, as approved by the DOE pursuant to the SBE rules. Additionally, the bill authorizes the DOE to execute contracts with qualified contractors on behalf of the state, a school district, a FCS institution, or a state university³⁴. The bill conforms to current law regarding prohibiting individuals from knowingly and willfully violating test security rules in accordance with the SBE rules.³⁵

Articulation

The bill authorizes the application of Florida-accredited courses and corresponding assessments in whole, in subparts, or in a combination of whole and subparts toward requirements for promotion, graduation, or degree attainment. If a student completes a subunit of a Florida-accredited charter course satisfactorily as demonstrated by the student's performance on the corresponding assessment, the student must not be required to repeat that course subunit and the corresponding assessment.

B. SECTION DIRECTORY:

Section 1. Creates 1007.012, F.S.; establishing the Florida Flexible Option Initiative; defining the term "Florida –accredited charter course as it relates to the initiative; providing for application of certain courses and assessments toward promotion, graduation, and degree attainment; requiring that Florida-accredited charter courses and their assessments be annually identified, approved, published, and shared for consideration by certain students and entities; requiring the Commissioner of Education and the Chancellor of the State University System to approve each Florida-accredited charter course and its assessments; requiring the Articulation Coordinating Committee to annually publish and share a list of approved Florida-accredited charter courses, their assessments, and other courses.

Section 2: Amends s. 1008.24, F.S.; authorizing a school district, a Florida College System institution, and a state university to contract with qualified contractors to administer and proctor statewide standardized assessments or assessments associated with Florida-accredited charter courses; authorizing the Department of Education to contract for these services on behalf of the state or a school; district, Florida College System institution, or state university; providing that assessments may be administered or proctored by qualified contractors at sites that meet certain criteria.

Section 3. Provides an effective date of July 1, 2013.

³³ Sections 120.536(1) and 120.54, F.S.

³⁴ HB 843 does not expressly provide to the Board of Governors authority to execute contract with qualified contractors on behalf of the state universities. Florida Board of Governors, *2013 Agency Legislative Bill Analysis for SB 904* (Feb. 27, 2013) at 5.

³⁵ Section 1008.24(1), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Unknown. See DRAFTING ISSUES or OTHER COMMENTS.

2. Expenditures:

Unknown, potentially significant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Unknown. See DRAFTING ISSUES or OTHER COMMENTS.

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 provided.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not describe the students that are eligible to participate, the courses that are available, how students will enroll in the courses, or the amount of credit students will earn. Likewise, the bill does not describe the process for approving courses or providers, how providers and courses will be evaluated and held accountable, and the amount of funding available to pay for such courses.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to education; creating s. 1007.012,
3 F.S.; creating the Florida Flexible Option Initiative;
4 providing the purpose of the initiative; providing
5 legislative intent; providing that implementing the
6 initiative allows students to satisfy certain
7 requirements; defining the term "Florida-accredited
8 charter course" as it relates to the initiative;
9 providing for application of certain courses and
10 assessments toward promotion, graduation, and degree
11 attainment; requiring that Florida-accredited charter
12 courses and their assessments be annually identified,
13 approved, published, and shared for consideration by
14 certain students and entities; requiring the
15 Commissioner of Education and the Chancellor of the
16 State University System to approve each Florida-
17 accredited charter course and its assessments;
18 requiring the Articulation Coordinating Committee to
19 annually publish and share a list of approved Florida-
20 accredited charter courses, their assessments, and
21 other courses; amending s. 1008.24, F.S.; authorizing
22 a school district, a Florida College System
23 institution, and a state university to contract with
24 qualified contractors to administer and proctor
25 statewide standardized assessments or assessments
26 associated with Florida-accredited charter courses;
27 authorizing the Department of Education to contract
28 for these services on behalf of the state or a school

29 | district, Florida College System institution, or state
 30 | university; providing that assessments may be
 31 | administered or proctored by qualified contractors at
 32 | sites that meet certain criteria; providing an
 33 | effective date.

34 |
 35 | Be It Enacted by the Legislature of the State of Florida:

36 |
 37 | Section 1. Section 1007.012, Florida Statutes, is created
 38 | to read:

39 | 1007.012 Florida Flexible Option Initiative.—

40 | (1) The Florida Flexible Option Initiative is created to
 41 | expand student choices in selecting multiple, high-quality
 42 | public and nonpublic courses and assessments toward satisfying
 43 | course, assessment, or credit requirements for promotion,
 44 | graduation, or degree attainment. The purpose of the initiative
 45 | is to make available multiple options to suit unique student
 46 | interests, satisfy educational requirements, and accelerate
 47 | student accomplishment of goals in a productive and effective
 48 | manner.

49 | (2) The Legislature intends that state and local rules,
 50 | policies, and administrative decisions are flexible in
 51 | interpreting and implementing the requirements in this section
 52 | in order to encourage creative, innovative, resourceful, and
 53 | forward-thinking practices that can be modeled throughout this
 54 | state and the country. The Legislature intends that the Florida
 55 | Flexible Option Initiative generate sufficient options for
 56 | students to combine multiple instructional experiences and build

57 complete programs for attaining a standard high school diploma
 58 and a postsecondary education degree which are tailored to the
 59 unique interests of each student.

60 (3) The initiative allows students in this state to
 61 satisfy public K-12 education promotion or high school
 62 graduation course, assessment, or credit requirements, or to
 63 satisfy requirements for public postsecondary credit or degree
 64 attainment by successfully meeting the assessment requirements
 65 of this subsection.

66 (a) As used in this section, the term "Florida-accredited
 67 charter course" is a K-12 course or postsecondary education
 68 credit course that:

69 1. Is created by individuals whose credentials and
 70 documented knowledge of a specific science, technology,
 71 engineering, or math field warrants consideration as a credible
 72 and legitimate source of course content;

73 2. Is provided or distributed by individuals,
 74 institutions, entities, or organizations; and

75 3. Has fulfilled requirements under subsection (4) for
 76 purposes of satisfying requirements for promotion, graduation,
 77 or obtaining a degree. A massive, open online course and a
 78 course associated with rigorous industry certifications are
 79 eligible for consideration and approval as a Florida-accredited
 80 charter course.

81 (b) Courses and assessments may be applied toward
 82 requirements for promotion, graduation, or degree attainment in
 83 whole, in subparts, or in a combination of whole and subparts.

84 1. A Florida-accredited charter course, a public K-12

85 course identified on the course code directory, or a
 86 postsecondary education course identified on the statewide
 87 course numbering system, may be applied as one whole unit or as
 88 two or more discrete subunits such that when combined, they are
 89 equivalent to the whole unit. A student may not be required to
 90 repeat subunits that are satisfactorily completed.

91 2. Assessments associated with a course must be
 92 established by regionally accredited public institutions and
 93 must be approved in accordance with subsection (4). The
 94 assessments may be applied as one whole assessment or as two or
 95 more discrete subassessments such that when combined, they are
 96 equivalent to the whole assessment. A student may not be
 97 required to repeat subassessments that are satisfactorily
 98 completed. Assessments and subassessments shall be administered
 99 pursuant to s. 1008.24.

100 (4) A Florida-accredited charter course and its associated
 101 assessments must be annually identified, approved, published,
 102 and shared for consideration by interested students,
 103 institutions, school districts, colleges, and universities.

104 (a) Each Florida-accredited charter course and its
 105 associated assessments must be:

106 1. Approved by the Commissioner of Education for
 107 application in K-12 public schools and Florida College System
 108 institutions in accordance with rules of the State Board of
 109 Education.

110 2. Approved by the Chancellor of the State University
 111 System for application in state universities in accordance with
 112 rules of the Board of Governors.

113 (b) The Articulation Coordinating Committee established in
 114 s. 1007.01 shall annually publish and share a consolidated list
 115 of approved Florida-accredited charter courses and associated,
 116 approved assessments in conjunction with the courses listed in
 117 the course code directory and statewide course numbering system
 118 in a manner that facilitates student and institutional knowledge
 119 of the Florida-accredited charter courses as options available
 120 for credit.

121 Section 2. Section 1008.24, Florida Statutes, is amended
 122 to read:

123 1008.24 Test administration and security.—

124 (1) A person may not ~~It is unlawful for anyone~~ knowingly
 125 and willfully ~~to~~ violate test security rules adopted by the
 126 State Board of Education for mandatory tests administered by or
 127 through the State Board of Education or the Commissioner of
 128 Education to students, educators, or applicants for
 129 certification or administered by school districts pursuant to s.
 130 1008.22, or, with respect to any such test, knowingly and
 131 willfully to:

132 (a) Give examinees access to test questions prior to
 133 testing;

134 (b) Copy, reproduce, or use in any manner inconsistent
 135 with test security rules all or any portion of any secure test
 136 booklet;

137 (c) Coach examinees during testing or alter or interfere
 138 with examinees' responses in any way;

139 (d) Make answer keys available to examinees;

140 (e) Fail to follow security rules for distribution and

141 | return of secure test as directed, or fail to account for all
 142 | secure test materials before, during, and after testing;

143 | (f) Fail to follow test administration directions
 144 | specified in the test administration manuals; or

145 | (g) Participate in, direct, aid, counsel, assist in, or
 146 | encourage any of the acts prohibited in this section.

147 | (2) A ~~Any~~ person who violates this section commits a
 148 | misdemeanor of the first degree, punishable as provided in s.
 149 | 775.082 or s. 775.083.

150 | (3) A school district, a Florida College System
 151 | institution, and a state university may contract with qualified
 152 | contractors to administer and proctor statewide, standardized
 153 | assessments required under s. 1008.22 or assessments associated
 154 | with Florida-accredited charter courses under s. 1007.012, as
 155 | approved by the Department of Education in accordance with rules
 156 | of the State Board of Education. The Department of Education may
 157 | also contract for these services on behalf of the state or any
 158 | school district, Florida College System institution, or state
 159 | university. Assessments may be administered or proctored by
 160 | qualified contractors at sites that meet criteria established by
 161 | rules of the State Board of Education and adopted pursuant to
 162 | ss. 120.536(1) and 120.54 to implement the contracting
 163 | requirements of this subsection.

164 | ~~(4)~~-(3)(a) A district school superintendent, a president of
 165 | a public postsecondary educational institution, or a president
 166 | of a nonpublic postsecondary educational institution shall
 167 | cooperate with the Commissioner of Education in any
 168 | investigation concerning the administration of a test

169 administered pursuant to state statute or rule.

170 (b) The identity of a school or postsecondary educational
 171 institution, the personally identifiable information of any
 172 personnel of any school district or postsecondary educational
 173 institution, or any specific allegations of misconduct obtained
 174 or reported pursuant to an investigation conducted by the
 175 Department of Education of a testing impropriety are
 176 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and
 177 s. 24(a), Art. I of the State Constitution until the conclusion
 178 of the investigation or until such time as the investigation
 179 ceases to be active. For the purpose of this paragraph, an
 180 investigation shall be deemed concluded upon a finding that no
 181 impropriety has occurred, upon the conclusion of any resulting
 182 preliminary investigation pursuant to s. 1012.796, upon the
 183 completion of any resulting investigation by a law enforcement
 184 agency, or upon the referral of the matter to an employer who
 185 has the authority to take disciplinary action against an
 186 individual who is suspected of a testing impropriety. For the
 187 purpose of this paragraph, an investigation shall be considered
 188 active so long as it is ongoing and there is a reasonable, good
 189 faith anticipation that an administrative finding will be made
 190 in the foreseeable future. This paragraph is subject to the Open
 191 Government Sunset Review Act in accordance with s. 119.15 and
 192 shall stand repealed on October 2, 2014, unless reviewed and
 193 saved from repeal through reenactment by the Legislature.

194 Section 3. This act shall take effect July 1, 2013.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Choice & Innovation
 2 Subcommittee

3 Representative Hutson offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Present paragraph (e) of subsection (18) of
 8 section 1002.20, Florida Statutes, is redesignated as paragraph
 9 (f), and a new paragraph (e) is added to that subsection, to
 10 read:

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

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



Amendment No. 1

19 (e) Public school students.—Public school students who
20 meet specified academic and conduct requirements may participate
21 in extracurricular activities at any public school that the
22 student could choose to attend pursuant to district or
23 interdistrict controlled open enrollment provisions, or may
24 develop an agreement to participate at a private school.

25 Section 2. Paragraph (e) of subsection (3) and subsection
26 (8) of section 1006.15, Florida Statutes, are amended, and
27 paragraphs (h), (i), and (j) are added to subsection (3) of that
28 section, to read:

29 1006.15 Student standards for participation in
30 interscholastic and intrascholastic extracurricular student
31 activities; regulation.—

32 (3)

33 (e) A student ~~of the Florida Virtual School~~ enrolled full-
34 time in a full-time program virtual instruction program, virtual
35 charter school or the Florida Virtual School may participate in
36 any interscholastic extracurricular activity at the public
37 school to which the student would be assigned according to
38 district school board attendance area policies or which the
39 student could choose to attend, pursuant to district or
40 interdistrict controlled open enrollment policies, or may
41 develop an agreement to participate in that extracurricular
42 activity at a private school, if the student:

43 1. During the period of participation in the
44 interscholastic extracurricular activity, meets the requirements
45 in paragraph (a).

46 ~~2. Meets any additional requirements as determined by the~~



Amendment No. 1

47 ~~board of trustees of the Florida Virtual School.~~

48 2.3. Meets the same residency requirements as other
49 students in the school at which he or she participates.

50 3.4. Meets the same standards of acceptance, behavior, and
51 performance that are required of other students in
52 extracurricular activities.

53 4.5. Registers his or her intent to participate in
54 interscholastic extracurricular activities with the school
55 before the beginning date of the season for the activity in
56 which he or she wishes to participate. A Florida Virtual School
57 student must be able to participate in curricular activities if
58 that is a requirement for an extracurricular activity.

59 (h) A student who attends a public school that does not
60 offer a particular extracurricular activity may participate at
61 any public school that the student could choose to attend
62 pursuant to district or interdistrict controlled open enrollment
63 provisions, or may develop an agreement to participate in that
64 extracurricular activity at a private school, if the student:

65 1. Meets the requirements for eligibility to participate
66 in interscholastic extracurricular activities, as provided under
67 paragraph (a);

68 2. Demonstrates educational progress at the school he or
69 she attends as required in paragraph (b);

70 3. Meets the same standards of acceptance, behavior, and
71 performance that are required of other students in
72 extracurricular activities;

73 4. Pays any fees required of other students who
74 participate in the extracurricular activity; and



Amendment No. 1

75 5. Registers with the school that offers the
76 extracurricular activity his or her intent to participate in the
77 interscholastic extracurricular activity at that school before
78 the beginning date of the season for the activity in which he or
79 she wishes to participate. A public school student must be able
80 to participate in a curricular activity if it is a requirement
81 for an extracurricular activity. The student may choose to
82 participate in the required curricular activity at the school he
83 or she attends or at the school in which he or she participates
84 in the extracurricular activity.

85 (i) A student who has been unable to maintain academic
86 eligibility for participation in interscholastic extracurricular
87 activities is ineligible to participate in such activities under
88 paragraph (h) until the student has successfully completed one
89 grading period.

90 (j) The parents of a student who participates in an
91 extracurricular activity under paragraphs (e) and (h) are
92 responsible for transporting their child to and from the school
93 at which the student participates. The public school the student
94 attends, the school at which the student participates in the
95 extracurricular activity, the district school board, and the
96 Florida High School Athletic Association (FHSAA) are exempt from
97 civil liability arising from any injury that occurs to the
98 student during such transportation.

99 (8) (a) The ~~FHSAA Florida High School Athletic Association~~
100 ~~(FHSAA)~~, in cooperation with each district school board, shall
101 facilitate a program in which a middle school or high school
102 student who attends a private school shall be eligible to



Amendment No. 1

103 participate in an interscholastic or intrascholastic sport at a
104 public high school, a public middle school, or a 6-12 public
105 school that is zoned for the physical address at which the
106 student resides if:

107 1. The private school in which the student is enrolled is
108 not a member of the FHSAA and does not offer an interscholastic
109 or intrascholastic athletic program.

110 2. The private school student meets the guidelines for the
111 conduct of the program established by the FHSAA's board of
112 directors and the district school board. At a minimum, such
113 guidelines shall provide:

114 a. A deadline for each sport by which the private school
115 student's parents must register with the public school in
116 writing their intent for their child to participate at that
117 school in the sport.

118 b. Requirements for a private school student to
119 participate, including, but not limited to, meeting the same
120 standards of eligibility, acceptance, behavior, educational
121 progress, and performance which apply to other students
122 participating in interscholastic or intrascholastic sports at a
123 public school or FHSAA member private school.

124 (b) The parents of a private school student participating
125 in a public school sport under this subsection are responsible
126 for transporting their child to and from the public school at
127 which the student participates. The private school the student
128 attends, the public school at which the student participates in
129 a sport, the district school board, and the FHSAA are exempt



Amendment No. 1

130 from civil liability arising from any injury that occurs to the
131 student during such transportation.

132 (c) For each academic year, a private school student may
133 only participate at the public school in which the student is
134 first registered under sub-subparagraph (a)2.a. or makes himself
135 or herself a candidate for an athletic team by engaging in a
136 practice.

137 (d) The athletic director of each participating FHSAA
138 member public school shall maintain the student records
139 necessary for eligibility, compliance, and participation in the
140 program.

141 (e) Any non-FHSAA member private school that has a student
142 who wishes to participate in this program must make all student
143 records, including, but not limited to, academic, financial,
144 disciplinary, and attendance records, available upon request of
145 the FHSAA.

146 (f) A student must apply to participate in this program
147 through the FHSAA program application process.

148 (g) ~~Only~~ Students who are enrolled in non-FHSAA member
149 private schools ~~consisting of 125 students or fewer~~ are eligible
150 to participate in the program in any given academic year.

151 Section 3. This act shall take effect July 1, 2013.
152

153

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

154
155
156

Remove everything before the enacting clause and insert:

A bill to be entitled



Amendment No. 1

157 An act relating to extracurricular activities;
158 amending s. 1002.20, F.S.; providing that K-12 public
159 school students who meet certain requirements have a
160 right to participate in extracurricular activities;
161 amending s. 1006.15, F.S.; authorizing a student in
162 the Florida Virtual School to participate in an
163 extracurricular activity at a private school if
164 certain requirements are met; authorizing public
165 school students attending a public school that does
166 not offer a particular extracurricular activity to
167 participate in that extracurricular activity at
168 another school, subject to certain requirements;
169 deleting a criterion for students who are enrolled in
70 non-FHSAA member private schools to participate in
171 interscholastic or intrascholastic sports; providing
172 an effective date

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 859 Extracurricular Activities
SPONSOR(S): Hutson and others
TIED BILLS: IDEN./SIM. BILLS: SB 956

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee		Fudge	Fudge
2) Education Appropriations Subcommittee			
3) Education Committee			

SUMMARY ANALYSIS

The bill increases opportunities for public school students to participate in extracurricular activities. Public school students who attend a public school that does not offer a particular extracurricular activity may participate at the closest public or private school that offers that extracurricular activity. The student may also participate at any public school the student could choose to attend through controlled open enrollment. The student must meet the same student eligibility and participation requirements as other students. 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 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

The FHSAA and district school board must adopt guidelines that establish:

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.

- 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 that does not offer a particular extracurricular activity to participate at the closest public or private school that offers that extracurricular activity. The student may also participate at any public school the student could choose to attend through controlled open enrollment. 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. 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 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 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 the closest public or private school.

Section 2: Amends s. 1006.15, F.S., authorizing public school students to participate in extracurricular activities at the closest public or private school or the public school the student could choose to attend, establishing criteria for participation, and rendering the public school, district school 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.

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.

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

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 public school
 7 students attending a public school that does not offer
 8 a particular extracurricular activity to participate
 9 in that extracurricular activity at a public or
 10 private school, subject to certain requirements;
 11 deleting a criterion for students who are enrolled in
 12 non-FHSAA member private schools to participate in
 13 interscholastic or interscholastic sports; providing
 14 an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Present paragraph (e) of subsection (18) of
 19 section 1002.20, Florida Statutes, is redesignated as paragraph
 20 (f), and a new paragraph (e) is added to that subsection, to
 21 read:

22 1002.20 K-12 student and parent rights.—Parents of public
 23 school students must receive accurate and timely information
 24 regarding their child's academic progress and must be informed
 25 of ways they can help their child to succeed in school. K-12
 26 students and their parents are afforded numerous statutory
 27 rights including, but not limited to, the following:

28 (18) EXTRACURRICULAR ACTIVITIES.—In accordance with the

29 provisions of s. 1006.15:

30 (e) Public school students.—Public school students who
 31 meet specified academic and conduct requirements are eligible to
 32 participate in extracurricular activities at the closest public
 33 or private school that offers the extracurricular activity or at
 34 a public school that the student could choose to attend pursuant
 35 to district school board policies.

36 Section 2. Paragraphs (h), (i), and (j) are added to
 37 subsection (3) of section 1006.15, Florida Statutes, and
 38 subsection (8) of that section is amended, to read:

39 1006.15 Student standards for participation in
 40 interscholastic and intrascholastic extracurricular student
 41 activities; regulation.—

42 (3)

43 (h) A student who attends a public school that does not
 44 offer a particular extracurricular activity is eligible to
 45 participate in that extracurricular activity at the closest
 46 public or private school that offers the extracurricular
 47 activity or at a public school that the student could choose to
 48 attend pursuant to district or interdistrict controlled open
 49 enrollment provisions if the student:

50 1. Meets the requirements for eligibility to participate
 51 in interscholastic extracurricular activities, as provided under
 52 paragraph (a);

53 2. Demonstrates educational progress at the school he or
 54 she attends as required in paragraph (b);

55 3. Meets the same standards of acceptance, behavior, and
 56 performance that are required of other students in

57 extracurricular activities; and

58 4. Registers with the school that offers the
 59 extracurricular activity his or her intent to participate in the
 60 interscholastic extracurricular activity at that school before
 61 the beginning date of the season for the activity in which he or
 62 she wishes to participate. A public school student must be able
 63 to participate in a curricular activity if it is a requirement
 64 for an extracurricular activity. The student may choose to
 65 participate in the required curricular activity at the school he
 66 or she attends or at the school in which he or she participates
 67 in the extracurricular activity.

68 (i) A student who has been unable to maintain academic
 69 eligibility for participation in interscholastic extracurricular
 70 activities is ineligible to participate in such activities under
 71 paragraph (h) until the student has successfully completed one
 72 grading period.

73 (j) The parents of a student who participates in an
 74 extracurricular activity under paragraph (h) are responsible for
 75 transporting their child to and from the school at which the
 76 student participates. The public school the student attends, the
 77 school at which the student participates in the extracurricular
 78 activity, the district school board, and the FHSAA are exempt
 79 from civil liability arising from any injury that occurs to the
 80 student during such transportation.

81 (8)(a) The Florida High School Athletic Association
 82 (FHSAA), in cooperation with each district school board, shall
 83 facilitate a program in which a middle school or high school
 84 student who attends a private school shall be eligible to

85 | participate in an interscholastic or intrascholastic sport at a
 86 | public high school, a public middle school, or a 6-12 public
 87 | school that is zoned for the physical address at which the
 88 | student resides if:

89 | 1. The private school in which the student is enrolled is
 90 | not a member of the FHSAA and does not offer an interscholastic
 91 | or intrascholastic athletic program.

92 | 2. The private school student meets the guidelines for the
 93 | conduct of the program established by the FHSAA's board of
 94 | directors and the district school board. At a minimum, such
 95 | guidelines shall provide:

96 | a. A deadline for each sport by which the private school
 97 | student's parents must register with the public school in
 98 | writing their intent for their child to participate at that
 99 | school in the sport.

100 | b. Requirements for a private school student to
 101 | participate, including, but not limited to, meeting the same
 102 | standards of eligibility, acceptance, behavior, educational
 103 | progress, and performance which apply to other students
 104 | participating in interscholastic or intrascholastic sports at a
 105 | public school or FHSAA member private school.

106 | (b) The parents of a private school student participating
 107 | in a public school sport under this subsection are responsible
 108 | for transporting their child to and from the public school at
 109 | which the student participates. The private school the student
 110 | attends, the public school at which the student participates in
 111 | a sport, the district school board, and the FHSAA are exempt
 112 | from civil liability arising from any injury that occurs to the

113 student during such transportation.

114 (c) For each academic year, a private school student may
 115 only participate at the public school in which the student is
 116 first registered under sub-subparagraph (a)2.a. or makes himself
 117 or herself a candidate for an athletic team by engaging in a
 118 practice.

119 (d) The athletic director of each participating FHSAA
 120 member public school shall maintain the student records
 121 necessary for eligibility, compliance, and participation in the
 122 program.

123 (e) Any non-FHSAA member private school that has a student
 124 who wishes to participate in this program must make all student
 125 records, including, but not limited to, academic, financial,
 126 disciplinary, and attendance records, available upon request of
 127 the FHSAA.

128 (f) A student must apply to participate in this program
 129 through the FHSAA program application process.

130 (g) ~~Only~~ Students who are enrolled in non-FHSAA member
 131 private schools ~~consisting of 125 students or fewer~~ are eligible
 132 to participate in the program in any given academic year.

133 Section 3. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1279 High School Athletics

SPONSOR(S): Metz

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee		Fudge	Fudge
2) Education Appropriations Subcommittee			
3) Education Committee			

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 25 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 will have a fiscal impact on state government. SEE FISCAL COMMENTS.

The effective date of the bill is July 1, 2013.

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

STORAGE NAME: h1279.CIS.DOCX

DATE: 3/14/2013

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.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

In addition to the financial audit required by s. 1006.19, the FHSAA must 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 25. One additional member is appointed by the commissioner from each of the four administrative regions for a total of four. Four representatives appointed by the President of the Senate, one appointed from each of the four administrative regions. Four representatives appointed by the Speaker of the House of Representatives, one appointed from each of the four administrative regions.

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 or cellular telephone 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 percentages of contest receipts shall be fifty percent of the amount established in the FHSAA bylaws for 2012-13 and may not be increased. 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.

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."¹² The bylaws set forth specific behaviors that constitute recruiting, as well as identify persons who are considered to represent a school's athletic interests.¹³

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.¹⁴ 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.¹⁵

¹¹ Section 8.3.1 of Bylaw 8.3, *FHSAA Handbook*.

¹² Section 36.2.1 of Policy 36 of the *FHSAA Handbook*.

¹³ Policy 36 of the *FHSAA Handbook*.

¹⁴ Section 1006.20(2)(b), F.S.

¹⁵ *Id.*

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.¹⁶

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.

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.

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

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.;¹⁷
- 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.

¹⁶ Section 1006.20(2)(h), F.S.

¹⁷ 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).

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;¹⁸
- 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;¹⁹
- Eligibility determinations must be made by the executive director or designee for an unbiased and objective determination of eligibility;²⁰ 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.^{21;22}

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.²³ 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.²⁴

Effect of Proposed Changes

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

¹⁸ Section 1006.20(2)(g)1., F.S.

¹⁹ Section 1006.20(2)(g)2., F.S.

²⁰ Section 1006.20(2)(g)3., F.S.

²¹ Section 1006.20(2)(g)4., F.S.

²² 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.

²³ Section 1006.20(7)(f), F.S.

²⁴ Section 1006.20(7)(g), F.S.

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.

The bill requires an 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. 1006.20, 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; providing for expiration of the terms of members of the 2012-2013 board of directors.

Section 4. 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:

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

29 an executive director; providing restrictions for the
 30 salary, benefits, per diem, and travel expenses of the
 31 association's executive director; providing that
 32 members of the association's public liaison advisory
 33 committee are entitled to reimbursement for per diem
 34 and travel expenses at the same rate as state
 35 employees; providing restrictions on the levy of dues
 36 and fees and the collection of contest receipts;
 37 providing authority to levy fines, penalties, and
 38 sanctions against schools and coaches; providing for
 39 expiration of the terms of members of the 2012-2013
 40 board of directors; providing an effective date.

41

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

43

44 Section 1. Subsection (17) of section 1002.20, Florida
 45 Statutes, is reenacted and amended to read:

46 1002.20 K-12 student and parent rights.—Parents of public
 47 school students must receive accurate and timely information
 48 regarding their child's academic progress and must be informed
 49 of ways they can help their child to succeed in school. K-12
 50 students and their parents are afforded numerous statutory
 51 rights including, but not limited to, the following:

52 (17) ATHLETICS; PUBLIC HIGH SCHOOL.—

53 (a) Eligibility.—Eligibility requirements for all students
 54 participating in a high school athletic competition must allow a
 55 student to be eligible in the school in which he or she first
 56 enrolls each school year, the school in which the student makes

57 himself or herself a candidate for an athletic team by engaging
 58 in practice before enrolling, or the school to which the student
 59 has transferred with approval of the district school board, in
 60 accordance with ~~the provisions of~~ s. 1006.20(2) (a).

61 (b) Medical evaluation.—Students must satisfactorily pass
 62 a medical evaluation each year before participating in
 63 athletics, unless the parent objects in writing based on
 64 religious tenets or practices, in accordance with ~~the provisions~~
 65 ~~of~~ s. 1006.20(2) (d).

66 Section 2. Paragraphs (a), (d), and (f) of subsection (3)
 67 and subsection (5) of section 1006.15, Florida Statutes, are
 68 amended to read:

69 1006.15 Student standards for participation in
 70 interscholastic and intrascholastic extracurricular student
 71 activities; regulation.—

72 (3) (a) A student attending a public school or a school
 73 identified in this section is presumed eligible to participate
 74 in interscholastic extracurricular student activities. For the
 75 purposes of this section, a charter school is considered a
 76 public school. A student remains eligible to participate in
 77 interscholastic extracurricular student activities if the
 78 student ~~To be eligible to participate in interscholastic~~
 79 ~~extracurricular student activities, a student must:~~

80 1. Maintains ~~Maintain~~ a grade point average of 2.0 or
 81 above on a 4.0 scale, or its equivalent, in the previous
 82 semester or a cumulative grade point average of 2.0 or above on
 83 a 4.0 scale, or its equivalent, in the courses required by s.
 84 1003.43(1).

85 2. Executes ~~Execute~~ and fulfills ~~fulfill~~ the requirements
 86 of an academic performance contract between the student, the
 87 district school board, the appropriate governing association,
 88 and the student's parents, if the student's cumulative grade
 89 point average falls below 2.0, or its equivalent, on a 4.0 scale
 90 in the courses required by s. 1003.43(1) or, for students who
 91 entered the 9th grade before ~~prior to~~ the 1997-1998 school year,
 92 if the student's cumulative grade point average falls below 2.0
 93 on a 4.0 scale, or its equivalent, in the courses required by s.
 94 1003.43(1) which are taken after July 1, 1997. At a minimum, the
 95 contract must require that the student attend summer school, or
 96 its graded equivalent, between grades 9 and 10 or grades 10 and
 97 11, as necessary.

98 3. Has ~~Have~~ a cumulative grade point average of 2.0 or
 99 above on a 4.0 scale, or its equivalent, in the courses required
 100 by s. 1003.43(1) during his or her junior or senior year.

101 4. Maintains ~~Maintain~~ satisfactory conduct, including
 102 adherence to appropriate dress and other codes of student
 103 conduct policies described in s. 1006.07(2). If a student is
 104 convicted of, or is found to have committed, a felony or a
 105 delinquent act that would have been a felony if committed by an
 106 adult, regardless of whether adjudication is withheld, the
 107 student's participation in interscholastic extracurricular
 108 activities is contingent upon established and published district
 109 school board policy.

110 (d) An individual public ~~charter~~ school student pursuant
 111 ~~to s. 1002.33~~ is eligible to participate at the public school to
 112 which the student would be assigned, including a charter school,

113 according to district school board attendance area policies or
 114 which the student could choose to attend, pursuant to district
 115 or interdistrict controlled open-enrollment policies ~~provisions~~,
 116 in any interscholastic extracurricular activity of that school,
 117 unless such activity is provided by the student's current
 118 ~~charter~~ school, if the following conditions are met:

119 1. The ~~charter school~~ student must meet the requirements
 120 of the student's current ~~charter~~ school education program ~~as~~
 121 ~~determined by the charter school governing board.~~

122 2. During the period of participation at a school, the
 123 ~~charter school~~ student must demonstrate educational progress as
 124 required in paragraph (b).

125 3. The ~~charter school~~ student must meet the same residency
 126 requirements as other students in the school at which he or she
 127 participates.

128 4. The ~~charter school~~ student must meet the same standards
 129 of acceptance, behavior, and performance which ~~that~~ are required
 130 of other students in extracurricular activities.

131 5. The ~~charter school~~ student must register with the
 132 school his or her intent to participate in interscholastic
 133 extracurricular activities as a representative of the school
 134 before the beginning date of the season for the activity in
 135 which he or she wishes to participate. A ~~charter school~~ student
 136 must be able to participate in curricular activities if there
 137 ~~that~~ is a requirement for an extracurricular activity.

138 6. A student who transfers from a public ~~charter~~ school
 139 ~~program~~ to a different ~~traditional~~ public school before or
 140 during the first grading period of the school year is

141 | academically eligible to participate in interscholastic
 142 | extracurricular activities during the first grading period if
 143 | the student has a successful evaluation from the previous school
 144 | year, pursuant to subparagraph 2.

145 | 7. A ~~Any~~ public school or private school student who has
 146 | been unable to maintain academic eligibility for participation
 147 | in interscholastic extracurricular activities is ineligible to
 148 | participate in such activities as a public ~~charter~~ school
 149 | student until the student has successfully completed one grading
 150 | period in a ~~charter~~ school pursuant to subparagraph 2. ~~to become~~
 151 | ~~eligible to participate as a charter school student.~~

152 | (f) A student who transfers from the Florida Virtual
 153 | School full-time program to a ~~traditional~~ public school before
 154 | or during the first grading period of the school year is
 155 | academically eligible to participate in interscholastic
 156 | extracurricular activities during the first grading period if
 157 | the student has a successful evaluation from the previous school
 158 | year pursuant to paragraph (a).

159 | (5) An ~~Any~~ organization or entity that regulates or
 160 | governs interscholastic extracurricular activities of public
 161 | schools:

162 | (a) Shall permit home education associations to join as
 163 | member schools.

164 | (b) May ~~Shall~~ not discriminate against any eligible
 165 | student based on an educational choice of public, private, or
 166 | home education.

167 | Section 3. Subsection (1) of section 1006.19, Florida
 168 | Statutes, is amended to read:

169 1006.19 Audit of records of nonprofit corporations and
 170 associations handling interscholastic activities.—

171 (1) Each nonprofit association or corporation that
 172 operates for the purpose of supervising and controlling
 173 interscholastic activities of public high schools and whose
 174 membership is composed of duly certified representatives of
 175 public high schools, and whose rules and regulations are
 176 established by members thereof, shall have an annual financial
 177 and compliance audit of its accounts and records by an
 178 independent certified public accountant retained by it and paid
 179 from its funds, in accordance with rules adopted by the Auditor
 180 General. The audit must be conducted in compliance with
 181 generally accepted auditing standards and include a report on
 182 financial statements presented in accordance with generally
 183 accepted accounting principles set forth by the American
 184 Institute of Certified Public Accountants for not-for-profit
 185 organizations and a determination of compliance with the
 186 statutory eligibility and expenditure requirements of s.

187 1006.20. Audits shall be submitted to the Auditor General, the
 188 Speaker of the House of Representatives, and the Senate
 189 President within 180 days after the end of each fiscal year. The
 190 ~~accountant shall furnish a copy of the audit report to the~~
 191 ~~Auditor General.~~

192 Section 4. Subsections (1) through (4) of section 1006.20,
 193 Florida Statutes, are amended, and paragraph (f) is added to
 194 subsection (6) of that section to read:

195 1006.20 Athletics in public K-12 schools.—

196 (1) GOVERNING NONPROFIT ORGANIZATION.—The Florida High

197 School Athletic Association (FHSAA) is designated as the
 198 governing nonprofit organization of athletics in Florida public
 199 schools. If the FHSAA fails to meet the provisions of this
 200 section, the commissioner shall designate a nonprofit
 201 organization to govern athletics with the approval of the State
 202 Board of Education. The FHSAA is not a state agency as defined
 203 in s. 120.52. The FHSAA shall be subject to ~~the provisions of s.~~
 204 1006.19. A private school that wishes to engage in high school
 205 athletic competition with a public high school may become a
 206 member of the FHSAA. Any high school in the state, including
 207 charter schools, virtual schools, and home education
 208 cooperatives, may become a member of the FHSAA and participate
 209 in the activities of the FHSAA. However, membership in the FHSAA
 210 is not mandatory for any school. The FHSAA may not deny or
 211 discourage interscholastic competition between its member
 212 schools and non-FHSAA member Florida schools, including members
 213 of another athletic governing organization, and may not take any
 214 retributory or discriminatory action against any of its member
 215 schools that participate in interscholastic competition with
 216 non-FHSAA member Florida schools. The FHSAA may not unreasonably
 217 withhold its approval of an application to become an affiliate
 218 member of the National Federation of State High School
 219 Associations submitted by any other organization that governs
 220 interscholastic athletic competition in this state. The bylaws
 221 of the FHSAA are the rules by which high school athletic
 222 programs in its member schools, and the students who participate
 223 in them, are governed, unless otherwise specifically provided by
 224 statute. For the purposes of this section, "high school"

225 | includes grades 6 through 12.

226 | (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

227 | (a) The FHSAA shall adopt bylaws that, unless otherwise
 228 | provided by statute, establish limited violations that result in
 229 | ineligibility for students who participate in high school
 230 | athletic competition in its member schools. The bylaws must
 231 | ensure that:

232 | 1. A student remains eligible in the school in which he or
 233 | she first enrolls each school year or the school in which the
 234 | student makes himself or herself a candidate for an athletic
 235 | team by engaging in a practice before enrolling in the school.

236 | 2. A student remains eligible in the school to which the
 237 | student has transferred during the school year if the transfer
 238 | is made by a deadline established by the FHSAA, which may not be
 239 | before the date authorized for the beginning of practice for the
 240 | sport.

241 | 3. Once a student residence or transfer is approved by the
 242 | district school board or private school, as applicable, the
 243 | student remains eligible in the school if he or she remains
 244 | enrolled in the school and complies with applicable
 245 | requirements.

246 | 4. Rule, eligibility, and recruiting violations by a
 247 | teammate, coach, administrator, school, or adult representative
 248 | may not be used against a student.

249 | 5. A student is ineligible if the student or parent
 250 | intentionally and knowingly falsifies an enrollment or
 251 | eligibility document or intentionally and knowingly accepts a
 252 | significant benefit or a promise of significant benefit that is

253 not reasonably available to the school's students or family
 254 members and that is provided based primarily on the student's
 255 athletic interest, potential, or performance.

256 6. Ineligibility requirements shall be applied to public
 257 school students on an equal basis with private school students.

258 7. Ineligibility requirements shall be applied to transfer
 259 students on an equal basis with nontransfer students.

260 8. Prescribed violations must be substantially related to
 261 specific, important objectives and must be limited to address
 262 only the minimal requirements necessary to accomplish the
 263 objectives.

264
 265 The FHSAA shall complete a comprehensive review and analysis of
 266 all existing bylaws, policies, and administrative procedures to
 267 determine compliance with this paragraph by October 1, 2013. The
 268 FHSAA shall provide a detailed report originating from its
 269 review and analysis, which must include, but need not be limited
 270 to, specifically articulating how each violation or requirement
 271 in the bylaws, policies, and administrative procedures is
 272 substantially related to an identified, important objective and
 273 any necessary corrective action. The FHSAA shall provide a copy
 274 of the report to the Commissioner of Education, the Governor,
 275 the President of the Senate, and the Speaker of the House of
 276 Representatives by October 15, 2013. Bylaws, policies, or
 277 administrative procedures that are noncompliant with this
 278 paragraph are void as of July 1, 2013 ~~The FHSAA shall adopt~~
 279 ~~bylaws that, unless specifically provided by statute, establish~~
 280 ~~eligibility requirements for all students who participate in~~

281 ~~high school athletic competition in its member schools. The~~
 282 ~~bylaws governing residence and transfer shall allow the student~~
 283 ~~to be eligible in the school in which he or she first enrolls~~
 284 ~~each school year or the school in which the student makes~~
 285 ~~himself or herself a candidate for an athletic team by engaging~~
 286 ~~in a practice prior to enrolling in the school. The bylaws shall~~
 287 ~~also allow the student to be eligible in the school to which the~~
 288 ~~student has transferred during the school year if the transfer~~
 289 ~~is made by a deadline established by the FHSAA, which may not be~~
 290 ~~prior to the date authorized for the beginning of practice for~~
 291 ~~the sport. These transfers shall be allowed pursuant to the~~
 292 ~~district school board policies in the case of transfer to a~~
 293 ~~public school or pursuant to the private school policies in the~~
 294 ~~case of transfer to a private school. The student shall be~~
 295 ~~eligible in that school so long as he or she remains enrolled in~~
 296 ~~that school. Subsequent eligibility shall be determined and~~
 297 ~~enforced through the FHSAA's bylaws. Requirements governing~~
 298 ~~eligibility and transfer between member schools shall be applied~~
 299 ~~similarly to public school students and private school students.~~

300 (b) The FHSAA shall adopt bylaws that specifically
 301 prohibit the recruiting of students for athletic purposes. The
 302 bylaws must ~~shall~~ prescribe penalties and an appeals process for
 303 athletic recruiting violations. If it is determined that a
 304 school has recruited a student in violation of FHSAA bylaws, the
 305 FHSAA may require the school to participate in a higher
 306 classification for the sport in which the recruited student
 307 competes for a minimum of one classification cycle, in addition
 308 to any other appropriate fine and sanction imposed on the

309 school, its coaches, or adult representatives who violate
 310 recruiting rules. ~~A student may not be declared ineligible based~~
 311 ~~on violation of recruiting rules unless the student or parent~~
 312 ~~has falsified any enrollment or eligibility document or accepted~~
 313 ~~any benefit or any promise of benefit if such benefit is not~~
 314 ~~generally available to the school's students or family members~~
 315 ~~or is based in any way on athletic interest, potential, or~~
 316 ~~performance.~~

317 (c) The FHSAA shall adopt bylaws that require all students
 318 participating in interscholastic athletic competition or who are
 319 candidates for an interscholastic athletic team to
 320 satisfactorily pass a medical evaluation each year before ~~prior~~
 321 ~~to~~ participating in interscholastic athletic competition or
 322 engaging in any practice, tryout, workout, or other physical
 323 activity associated with the student's candidacy for an
 324 interscholastic athletic team. Such medical evaluation may be
 325 administered only by a practitioner licensed under chapter 458,
 326 chapter 459, chapter 460, or s. 464.012, and in good standing
 327 with the practitioner's regulatory board. The bylaws must ~~shall~~
 328 establish requirements for eliciting a student's medical history
 329 and performing the medical evaluation required under this
 330 paragraph, which must ~~shall~~ include a physical assessment of the
 331 student's physical capabilities to participate in
 332 interscholastic athletic competition as contained in a uniform
 333 preparticipation physical evaluation and history form. The
 334 evaluation form must ~~shall~~ incorporate the recommendations of
 335 the American Heart Association for participation cardiovascular
 336 screening and must ~~shall~~ provide a place for the signature of

337 the practitioner performing the evaluation with an attestation
 338 that each examination procedure listed on the form was performed
 339 by the practitioner or by someone under the direct supervision
 340 of the practitioner. The form must ~~shall~~ also contain a place
 341 for the practitioner to indicate if a referral to another
 342 practitioner was made in lieu of completion of a certain
 343 examination procedure. The form must ~~shall~~ provide a place for
 344 the practitioner to whom the student was referred to complete
 345 the remaining sections and attest to that portion of the
 346 examination. The preparticipation physical evaluation form must
 347 ~~shall~~ advise students to complete a cardiovascular assessment
 348 and must ~~shall~~ include information concerning alternative
 349 cardiovascular evaluation and diagnostic tests. Results of such
 350 medical evaluation must be provided to the school. No student
 351 shall be eligible to participate in any interscholastic athletic
 352 competition or engage in any practice, tryout, workout, or other
 353 physical activity associated with the student's candidacy for an
 354 interscholastic athletic team until the results of the medical
 355 evaluation have been received and approved by the school.

356 (d) Notwithstanding ~~the provisions of~~ paragraph (c), a
 357 student may participate in interscholastic athletic competition
 358 or be a candidate for an interscholastic athletic team if the
 359 parent of the student objects in writing to the student
 360 undergoing a medical evaluation because such evaluation is
 361 contrary to his or her religious tenets or practices. However,
 362 in such case, there shall be no liability on the part of any
 363 person or entity in a position to otherwise rely on the results
 364 of such medical evaluation for any damages resulting from the

365 student's injury or death arising directly from the student's
 366 participation in interscholastic athletics where an undisclosed
 367 medical condition that would have been revealed in the medical
 368 evaluation is a proximate cause of the injury or death.

369 (e) The FHSAA shall adopt bylaws that regulate persons who
 370 conduct investigations on behalf of the FHSAA. An investigation
 371 must be completed within 90 days after the onset of the
 372 investigation, and the FHSAA may not contract or in any way pay
 373 for more than 520 hours of work for any investigation. The
 374 bylaws must ~~shall~~ include provisions that require an
 375 investigator to:

376 1. Undergo level 2 background screening under s. 435.04,
 377 establishing that the investigator has not committed any
 378 disqualifying offense listed in s. 435.04, unless the
 379 investigator can provide proof of compliance with level 2
 380 screening standards submitted within the previous 5 years to
 381 meet any professional licensure requirements, provided:

382 a. The investigator has not had a break in service from a
 383 position that requires level 2 screening for more than 90 days;
 384 and

385 b. The investigator submits, under penalty of perjury, an
 386 affidavit verifying that the investigator has not committed any
 387 disqualifying offense listed in s. 435.04 and is in full
 388 compliance with this paragraph.

389 2. Be appointed as an investigator by the executive
 390 director.

391 3. Carry a photo identification card that shows the FHSAA
 392 name, logo, and the investigator's official title.

393 4. Notwithstanding s. 493.6102, maintain a valid class "C"
 394 license as established in chapter 493.

395 5.4. Adhere to the following guidelines:

396 a. Investigate only those alleged violations assigned by
 397 the executive director or the board of directors.

398 b. Conduct interviews on Monday through Friday between the
 399 hours of 9 a.m. and 7 p.m. only, unless previously agreed to by
 400 the interviewee.

401 c. Advise at least one ~~Allow the~~ parent of any student
 402 being interviewed that one or more parents are entitled to be
 403 present during the interview.

404 ~~d. Search residences or other private areas only with the~~
 405 ~~permission of the executive director and the written consent of~~
 406 ~~the student's parent and only with a parent or a representative~~
 407 ~~of the parent present.~~

408 6. Provide notice to the affected student, parent, coach,
 409 and school within 2 business days after the assignment of an
 410 investigation into ineligibility or other violation of law or
 411 rule. If the executive director certifies in writing that a
 412 compelling need to withhold notice exists, identifying with
 413 specificity why notice must not be provided, the notice is not
 414 required until the investigator concludes the investigation. The
 415 executive director shall provide a copy of the certification to
 416 the Commissioner of Education within 1 business day after
 417 signing the certification.

418 7. Provide the affected student, parent, coach, and school
 419 within 5 business days after completion of the investigation a
 420 copy of the investigation, report, and any recommendation made

421 by the investigator, executive director, or board of directors.

422

423 An investigator or other employee of the FHSAA may not conduct
 424 searches of residences or other private areas during the course
 425 of an investigation.

426 (f) The FHSAA shall adopt bylaws that establish sanctions
 427 for coaches who have committed major violations of the FHSAA's
 428 bylaws and policies.

429 1. Major violations include, but are not limited to,
 430 knowingly allowing an ineligible student to participate in a
 431 contest representing a member school in an interscholastic
 432 contest or committing a violation of the FHSAA's recruiting or
 433 sportsmanship policies.

434 2. Sanctions placed upon an individual coach may include,
 435 but are not limited to, prohibiting or suspending the coach from
 436 coaching, participating in, or attending any athletic activity
 437 sponsored, recognized, or sanctioned by the FHSAA and the member
 438 school for which the coach committed the violation. If a coach
 439 is sanctioned by the FHSAA and the coach transfers to another
 440 member school, those sanctions remain in full force and effect
 441 during the term of the sanction.

442 3. If a member school is assessed a financial penalty as a
 443 result of a coach committing a major violation, the coach shall
 444 reimburse the member school before being allowed to coach,
 445 participate in, or attend any athletic activity sponsored,
 446 recognized, or sanctioned by the FHSAA and a member school.

447 4. The FHSAA shall establish a due process procedure for
 448 coaches sanctioned under this paragraph, consistent with the

449 | appeals procedures set forth in subsection (7).

450 | (g) The FHSAA shall adopt bylaws establishing the process
 451 | and standards by which FHSAA determinations of sanctions or
 452 | eligibility determinations against a coach or school ~~eligibility~~
 453 | are made. Such bylaws must ~~shall~~ provide that:

454 | 1. Ineligibility must be established by clear and
 455 | convincing evidence;

456 | 2. The investigator and individual making the
 457 | determination shall receive and consider, from students,
 458 | parents, coaches, and schools, all evidence of a type commonly
 459 | relied upon by reasonably prudent persons in the conduct of
 460 | their affairs. Such evidence shall be admissible in the
 461 | proceeding, whether or not such evidence would be admissible in
 462 | a trial court in this state ~~Student athletes, parents, and~~
 463 | ~~schools must have notice of the initiation of any investigation~~
 464 | ~~or other inquiry into eligibility and may present, to the~~
 465 | ~~investigator and to the individual making the eligibility~~
 466 | ~~determination, any information or evidence that is credible,~~
 467 | ~~persuasive, and of a kind reasonably prudent persons rely upon~~
 468 | ~~in the conduct of serious affairs;~~

469 | 3. An investigator may not determine matters of
 470 | eligibility but must submit information and evidence to the
 471 | executive director or a person designated by the executive
 472 | director or by the board of directors for an unbiased and
 473 | objective determination of eligibility; and

474 | 4. A determination of ineligibility must be made in
 475 | writing, setting forth the findings of fact and specific
 476 | violation upon which the decision is based.

477 (h) In lieu of bylaws adopted under paragraph (g), the
 478 FHSAA may adopt bylaws providing as a minimum the procedural
 479 safeguards of ss. 120.569 and 120.57, making appropriate
 480 provision for appointment of unbiased and qualified hearing
 481 officers.

482 (i) ~~The FHSAA bylaws may not limit the competition of~~
 483 ~~student athletes prospectively for rule violations of their~~
 484 ~~school or its coaches or their adult representatives. The FHSAA~~
 485 ~~bylaws may not unfairly punish student athletes for eligibility~~
 486 ~~or recruiting violations perpetrated by a teammate, coach, or~~
 487 ~~administrator.~~ Contests may not be forfeited for inadvertent
 488 eligibility violations unless the coach or a school
 489 administrator should have known of the violation. Contests may
 490 not be forfeited for other eligibility violations or recruiting
 491 violations in excess of the number of contests that the coaches
 492 and adult representatives responsible for the violations are
 493 prospectively suspended.

494 (j) The FHSAA ~~organization~~ shall adopt guidelines to
 495 educate athletic coaches, officials, administrators, and student
 496 athletes and their parents of the nature and risk of concussion
 497 and head injury.

498 (k) The FHSAA ~~organization~~ shall adopt bylaws or policies
 499 that require the parent of a student who is participating in
 500 interscholastic athletic competition or who is a candidate for
 501 an interscholastic athletic team to sign and return an informed
 502 consent that explains the nature and risk of concussion and head
 503 injury, including the risk of continuing to play after
 504 concussion or head injury, each year before participating in

505 interscholastic athletic competition or engaging in any
 506 practice, tryout, workout, or other physical activity associated
 507 with the student's candidacy for an interscholastic athletic
 508 team.

509 (l) The FHSAA ~~organization~~ shall adopt bylaws or policies
 510 that require each student athlete who is suspected of sustaining
 511 a concussion or head injury in a practice or competition to be
 512 immediately removed from the activity. A student athlete who has
 513 been removed from an activity may not return to practice or
 514 competition until the student submits to the school a written
 515 medical clearance to return stating that the student athlete no
 516 longer exhibits signs, symptoms, or behaviors consistent with a
 517 concussion or other head injury. Medical clearance must be
 518 authorized by the appropriate health care practitioner trained
 519 in the diagnosis, evaluation, and management of concussions as
 520 defined by the Sports Medicine Advisory Committee of the Florida
 521 High School Athletic Association.

522 (m) The FHSAA ~~organization~~ shall adopt bylaws for the
 523 establishment and duties of a sports medicine advisory committee
 524 composed of the following members:

- 525 1. Eight physicians licensed under chapter 458 or chapter
 526 459 with at least one member licensed under chapter 459.
- 527 2. One chiropractor licensed under chapter 460.
- 528 3. One podiatrist licensed under chapter 461.
- 529 4. One dentist licensed under chapter 466.
- 530 5. Three athletic trainers licensed under part XIII of
 531 chapter 468.
- 532 6. One member who is a current or retired head coach of a

533 high school in the state.

534 (n) Student residence and transfer approvals shall be
 535 determined by the district school board in the case of a public
 536 school student, and by the private school in the case of a
 537 private school student. If the school district or private school
 538 approves the student residence or transfer, the student remains
 539 eligible to participate in high school athletic competition
 540 under the FHSAA jurisdiction.

541 1. The FHSAA may challenge the student's eligibility to
 542 participate in a high school athletic competition under its
 543 jurisdiction by filing a petition for a hearing with the
 544 Division of Administrative Hearings pursuant to s. 120.569, with
 545 a copy of the petition contemporaneously provided to the
 546 student, parent, coach, and school. The student remains eligible
 547 unless a final order finding the student's ineligibility is
 548 rendered.

549 2. The burden is on the FHSAA to demonstrate by clear and
 550 convincing evidence that the student is ineligible. The
 551 administrative law judge shall issue a final order pursuant to
 552 s. 120.68. If the administrative law judge finds that the
 553 student remains eligible, the final order shall award all
 554 reasonable costs and attorney fees to be paid to all respondents
 555 by the FHSAA. The FHSAA may not seek to recoup these costs and
 556 expenses from any other person, entity, or party.

557 (3) GOVERNING STRUCTURE OF THE FLORIDA HIGH SCHOOL
 558 ATHLETIC ASSOCIATION ORGANIZATION.-

559 (a) The FHSAA shall operate as a representative democracy
 560 in which the sovereign authority is within its member schools.

561 Except as provided in this section, the FHSAA shall govern its
 562 affairs through its bylaws.

563 (b) Each member school, on its annual application for
 564 membership, shall name its official representative to the FHSAA.
 565 This representative must be either the school principal or his
 566 or her designee. That designee must either be an assistant
 567 principal or athletic director housed within that same school.

568 (c) The FHSAA's membership shall be divided along existing
 569 county lines into four contiguous and compact administrative
 570 regions, each containing an equal or nearly equal number of
 571 member schools to ensure equitable representation on the FHSAA's
 572 board of directors, representative assembly, and appeals
 573 committees.

574 (4) BOARD OF DIRECTORS.—

575 (a) The executive authority of the FHSAA shall be vested
 576 in its board of directors. Any entity that appoints members to
 577 the board of directors shall examine the ethnic and demographic
 578 composition of the board when selecting candidates for
 579 appointment and shall, to the greatest extent possible, make
 580 appointments that reflect state demographic and population
 581 trends. Effective October 1, 2013, the board of directors shall
 582 be composed of 25 ~~16~~ persons, as follows:

583 1. Four public member school representatives, one elected
 584 from among its public school representative members within each
 585 of the four administrative regions.

586 2. Four nonpublic member school representatives, one
 587 elected from among its nonpublic school representative members
 588 within each of the four administrative regions.

589 3. Four ~~Three~~ representatives appointed by the
 590 commissioner, one appointed from each of the four administrative
 591 regions ~~one appointed from the two northernmost administrative~~
 592 ~~regions and one appointed from the two southernmost~~
 593 ~~administrative regions. The third representative shall be~~
 594 ~~appointed to balance the board for diversity or state population~~
 595 ~~trends, or both.~~

596 4. Two district school superintendents, one elected from
 597 the two northernmost administrative regions by the members in
 598 those regions and one elected from the two southernmost
 599 administrative regions by the members in those regions.

600 5. Two district school board members, one elected from the
 601 two northernmost administrative regions by the members in those
 602 regions and one elected from the two southernmost administrative
 603 regions by the members in those regions.

604 6. The commissioner or his or her designee from the
 605 department executive staff.

606 7. Four representatives appointed by the President of the
 607 Senate, one appointed from each of the four administrative
 608 regions.

609 8. Four representatives appointed by the Speaker of the
 610 House of Representatives, one appointed from each of the four
 611 administrative regions.

612 (b) A quorum of the board of directors shall consist of
 613 one more than half of its ~~nine~~ members.

614 (c) The board of directors shall elect a president and a
 615 vice president from among its members. These officers shall also
 616 serve as officers of the FHSAA.

617 (d) Members of the board of directors shall serve terms of
 618 3 years and are not eligible to succeed themselves ~~only once~~. A
 619 member of the board of directors, other than the commissioner or
 620 his or her designee, may serve a maximum of 3 ~~6~~ consecutive
 621 years. ~~The FHSAA's bylaws shall establish a rotation of terms to~~
 622 ~~ensure that a majority of the members' terms do not expire~~
 623 ~~concurrently.~~

624 (e) The authority and duties of the board of directors,
 625 acting as a body and in accordance with the FHSAA's bylaws, are
 626 as follows:

627 1. To act as the incorporated FHSAA's board of directors
 628 and to fulfill its obligations as required by the FHSAA's
 629 charter and articles of incorporation.

630 2. To establish such guidelines, regulations, policies,
 631 and procedures as are authorized by the bylaws.

632 3. To employ an FHSAA executive director, as appointed by
 633 the Commissioner of Education, who ~~has~~ ~~shall~~ ~~have~~ the authority
 634 to waive the bylaws of the FHSAA in order to comply with
 635 statutory changes. ~~The executive director's salary shall be no~~
 636 greater than that set by law for the Governor of this state. The
 637 executive director may not receive a car allowance or cellular
 638 telephone as a result of his or her employment. The executive
 639 director is not entitled to per diem and travel expenses in
 640 excess of the rate provided for state employees under s.
 641 112.061.

642 4. To levy annual dues and other fees and to set the
 643 percentage of contest receipts to be collected by the FHSAA,
 644 except that beginning in the 2013-2014 fiscal year, all dues,

645 fees, and percentages of contest receipts shall be 50 percent of
 646 the amount established in the FHSAA bylaws for 2012-2013 as
 647 published on the FHSAA website as of February 26, 2013, and may
 648 not be increased.

649 5. To approve the budget of the FHSAA.

650 6. To organize and conduct statewide interscholastic
 651 competitions, which may or may not lead to state championships,
 652 and to establish the terms and conditions for these
 653 competitions.

654 7. To act as an administrative board in the interpretation
 655 of, and final decision on, all questions and appeals arising
 656 from the directing of interscholastic athletics of member
 657 schools.

658 8. To levy fines, penalties, and sanctions against schools
 659 and coaches found to be in violation of student eligibility
 660 requirements and recruiting practices pursuant to subsection
 661 (2). However, fines, penalties, and sanctions may not exceed the
 662 cost to investigate reported violations and the cost of
 663 associated appeals processes. The board of directors shall
 664 submit an annual report to the Department of Education by
 665 October 1 each year which reconciles the costs of investigations
 666 and appeals with the fines, penalties, and sanctions charged to
 667 member schools and coaches for each fiscal year.

668 (6) PUBLIC LIAISON ADVISORY COMMITTEE.—

669 (f) Members of the public liaison advisory committee are
 670 entitled to per diem and travel expenses at the same rate
 671 provided for state employees under s. 112.061.

672 Section 5. The terms of the members of the 2012-2013

HB 1279

2013

673 Florida High School Athletic Association board of directors
674 shall expire September 30, 2013, and such members are not
675 eligible for reappointment to the board of directors pursuant to
676 s. 1006.20(4), Florida Statutes, as amended by this act.

677 Section 6. This act shall take effect July 1, 2013.