

**PreK - 12 Education
Committee
Second Revised**

**Meeting
Tuesday, March 28, 2006
1:00 — 4:00 p.m.
Morris Hall**

1 A bill to be entitled
 2 An act relating to public school employment; amending s.
 3 121.091, F.S.; authorizing district school boards and the
 4 Board of Trustees of the Florida School for the Deaf and
 5 the Blind to reemploy retired members of the Florida
 6 Retirement System as administrative personnel; providing
 7 an effective date.

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

10
 11 Section 1. Paragraph (b) of subsection (9) of section
 12 121.091, Florida Statutes, is amended to read:
 13 121.091 Benefits payable under the system.--Benefits may
 14 not be paid under this section unless the member has terminated
 15 employment as provided in s. 121.021(39)(a) or begun
 16 participation in the Deferred Retirement Option Program as
 17 provided in subsection (13), and a proper application has been
 18 filed in the manner prescribed by the department. The department
 19 may cancel an application for retirement benefits when the
 20 member or beneficiary fails to timely provide the information
 21 and documents required by this chapter and the department's
 22 rules. The department shall adopt rules establishing procedures
 23 for application for retirement benefits and for the cancellation
 24 of such application when the required information or documents
 25 are not received.

26 (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.--
 27 (b)1. Any person who is retired under this chapter, except
 28 under the disability retirement provisions of subsection (4),

29 | may be reemployed by any private or public employer after
30 | retirement and receive retirement benefits and compensation from
31 | his or her employer without any limitations, except that a
32 | person may not receive both a salary from reemployment with any
33 | agency participating in the Florida Retirement System and
34 | retirement benefits under this chapter for a period of 12 months
35 | immediately subsequent to the date of retirement. However, a
36 | DROP participant shall continue employment and receive a salary
37 | during the period of participation in the Deferred Retirement
38 | Option Program, as provided in subsection (13).

39 | 2. Any person to whom the limitation in subparagraph 1.
40 | applies who violates such reemployment limitation and who is
41 | reemployed with any agency participating in the Florida
42 | Retirement System before completion of the 12-month limitation
43 | period shall give timely notice of this fact in writing to the
44 | employer and to the division and shall have his or her
45 | retirement benefits suspended for the balance of the 12-month
46 | limitation period. Any person employed in violation of this
47 | paragraph and any employing agency which knowingly employs or
48 | appoints such person without notifying the Division of
49 | Retirement to suspend retirement benefits shall be jointly and
50 | severally liable for reimbursement to the retirement trust fund
51 | of any benefits paid during the reemployment limitation period.
52 | To avoid liability, such employing agency shall have a written
53 | statement from the retiree that he or she is not retired from a
54 | state-administered retirement system. Any retirement benefits
55 | received while reemployed during this reemployment limitation
56 | period shall be repaid to the retirement trust fund, and

57 retirement benefits shall remain suspended until such repayment
 58 has been made. Benefits suspended beyond the reemployment
 59 limitation shall apply toward repayment of benefits received in
 60 violation of the reemployment limitation.

61 3. A district school board may reemploy a retired member
 62 as a substitute or hourly teacher, education paraprofessional,
 63 transportation assistant, bus driver, or food service worker on
 64 a noncontractual basis after he or she has been retired for 1
 65 calendar month, in accordance with s. 121.021(39). A district
 66 school board may reemploy a retired member as instructional
 67 personnel, as defined in s. 1012.01(2)(a), or as administrative
 68 personnel, as defined in s. 1012.01(3), on an annual contractual
 69 basis after he or she has been retired for 1 calendar month, in
 70 accordance with s. 121.021(39). Any other retired member who is
 71 reemployed within 1 calendar month after retirement shall void
 72 his or her application for retirement benefits. District school
 73 boards reemploying such teachers, education paraprofessionals,
 74 transportation assistants, bus drivers, or food service workers
 75 are subject to the retirement contribution required by
 76 subparagraph 7.

77 4. A community college board of trustees may reemploy a
 78 retired member as an adjunct instructor, that is, an instructor
 79 who is noncontractual and part-time, or as a participant in a
 80 phased retirement program within the Florida Community College
 81 System, after he or she has been retired for 1 calendar month,
 82 in accordance with s. 121.021(39). Any retired member who is
 83 reemployed within 1 calendar month after retirement shall void
 84 his or her application for retirement benefits. Boards of

85 trustees reemploying such instructors are subject to the
 86 retirement contribution required in subparagraph 7. A retired
 87 member may be reemployed as an adjunct instructor for no more
 88 than 780 hours during the first 12 months of retirement. Any
 89 retired member reemployed for more than 780 hours during the
 90 first 12 months of retirement shall give timely notice in
 91 writing to the employer and to the division of the date he or
 92 she will exceed the limitation. The division shall suspend his
 93 or her retirement benefits for the remainder of the first 12
 94 months of retirement. Any person employed in violation of this
 95 subparagraph and any employing agency which knowingly employs or
 96 appoints such person without notifying the Division of
 97 Retirement to suspend retirement benefits shall be jointly and
 98 severally liable for reimbursement to the retirement trust fund
 99 of any benefits paid during the reemployment limitation period.
 100 To avoid liability, such employing agency shall have a written
 101 statement from the retiree that he or she is not retired from a
 102 state-administered retirement system. Any retirement benefits
 103 received by a retired member while reemployed in excess of 780
 104 hours during the first 12 months of retirement shall be repaid
 105 to the Retirement System Trust Fund, and retirement benefits
 106 shall remain suspended until repayment is made. Benefits
 107 suspended beyond the end of the retired member's first 12 months
 108 of retirement shall apply toward repayment of benefits received
 109 in violation of the 780-hour reemployment limitation.

110 5. The State University System may reemploy a retired
 111 member as an adjunct faculty member or as a participant in a
 112 phased retirement program within the State University System

113 after the retired member has been retired for 1 calendar month,
 114 in accordance with s. 121.021(39). Any retired member who is
 115 reemployed within 1 calendar month after retirement shall void
 116 his or her application for retirement benefits. The State
 117 University System is subject to the retired contribution
 118 required in subparagraph 7., as appropriate. A retired member
 119 may be reemployed as an adjunct faculty member or a participant
 120 in a phased retirement program for no more than 780 hours during
 121 the first 12 months of his or her retirement. Any retired member
 122 reemployed for more than 780 hours during the first 12 months of
 123 retirement shall give timely notice in writing to the employer
 124 and to the division of the date he or she will exceed the
 125 limitation. The division shall suspend his or her retirement
 126 benefits for the remainder of the first 12 months of retirement.
 127 Any person employed in violation of this subparagraph and any
 128 employing agency which knowingly employs or appoints such person
 129 without notifying the Division of Retirement to suspend
 130 retirement benefits shall be jointly and severally liable for
 131 reimbursement to the retirement trust fund of any benefits paid
 132 during the reemployment limitation period. To avoid liability,
 133 such employing agency shall have a written statement from the
 134 retiree that he or she is not retired from a state-administered
 135 retirement system. Any retirement benefits received by a retired
 136 member while reemployed in excess of 780 hours during the first
 137 12 months of retirement shall be repaid to the Retirement System
 138 Trust Fund, and retirement benefits shall remain suspended until
 139 repayment is made. Benefits suspended beyond the end of the
 140 retired member's first 12 months of retirement shall apply

141 toward repayment of benefits received in violation of the 780-
 142 hour reemployment limitation.

143 6. The Board of Trustees of the Florida School for the
 144 Deaf and the Blind may reemploy a retired member as a substitute
 145 teacher, substitute residential instructor, or substitute nurse
 146 on a noncontractual basis after he or she has been retired for 1
 147 calendar month, in accordance with s. 121.021(39). The Board of
 148 Trustees of the Florida School for the Deaf and the Blind may
 149 reemploy a retired member as administrative personnel, as
 150 defined in s. 1012.01(3), on an annual contractual basis after
 151 he or she has been retired for 1 calendar month, in accordance
 152 with s. 121.021(39). Any retired member who is reemployed within
 153 1 calendar month after retirement shall void his or her
 154 application for retirement benefits. The Board of Trustees of
 155 the Florida School for the Deaf and the Blind reemploying such
 156 teachers, residential instructors, or nurses is subject to the
 157 retirement contribution required by subparagraph 7. Reemployment
 158 of a retired member as a substitute teacher, substitute
 159 residential instructor, or substitute nurse is limited to 780
 160 hours during the first 12 months of his or her retirement. Any
 161 retired member reemployed for more than 780 hours during the
 162 first 12 months of retirement shall give timely notice in
 163 writing to the employer and to the division of the date he or
 164 she will exceed the limitation. The division shall suspend his
 165 or her retirement benefits for the remainder of the first 12
 166 months of retirement. Any person employed in violation of this
 167 subparagraph and any employing agency which knowingly employs or
 168 appoints such person without notifying the Division of

169 Retirement to suspend retirement benefits shall be jointly and
 170 severally liable for reimbursement to the retirement trust fund
 171 of any benefits paid during the reemployment limitation period.
 172 To avoid liability, such employing agency shall have a written
 173 statement from the retiree that he or she is not retired from a
 174 state-administered retirement system. Any retirement benefits
 175 received by a retired member while reemployed in excess of 780
 176 hours during the first 12 months of retirement shall be repaid
 177 to the Retirement System Trust Fund, and his or her retirement
 178 benefits shall remain suspended until payment is made. Benefits
 179 suspended beyond the end of the retired member's first 12 months
 180 of retirement shall apply toward repayment of benefits received
 181 in violation of the 780-hour reemployment limitation.

182 7. The employment by an employer of any retiree or DROP
 183 participant of any state-administered retirement system shall
 184 have no effect on the average final compensation or years of
 185 creditable service of the retiree or DROP participant. Prior to
 186 July 1, 1991, upon employment of any person, other than an
 187 elected officer as provided in s. 121.053, who has been retired
 188 under any state-administered retirement program, the employer
 189 shall pay retirement contributions in an amount equal to the
 190 unfunded actuarial liability portion of the employer
 191 contribution which would be required for regular members of the
 192 Florida Retirement System. Effective July 1, 1991, contributions
 193 shall be made as provided in s. 121.122 for retirees with
 194 renewed membership or subsection (13) with respect to DROP
 195 participants.

196 8. Any person who has previously retired and who is

197 holding an elective public office or an appointment to an
 198 elective public office eligible for the Elected Officers' Class
 199 on or after July 1, 1990, shall be enrolled in the Florida
 200 Retirement System as provided in s. 121.053(1)(b) or, if holding
 201 an elective public office that does not qualify for the Elected
 202 Officers' Class on or after July 1, 1991, shall be enrolled in
 203 the Florida Retirement System as provided in s. 121.122, and
 204 shall continue to receive retirement benefits as well as
 205 compensation for the elected officer's service for as long as he
 206 or she remains in elective office. However, any retired member
 207 who served in an elective office prior to July 1, 1990,
 208 suspended his or her retirement benefit, and had his or her
 209 Florida Retirement System membership reinstated shall, upon
 210 retirement from such office, have his or her retirement benefit
 211 recalculated to include the additional service and compensation
 212 earned.

213 9. Any person who is holding an elective public office
 214 which is covered by the Florida Retirement System and who is
 215 concurrently employed in nonelected covered employment may elect
 216 to retire while continuing employment in the elective public
 217 office, provided that he or she shall be required to terminate
 218 his or her nonelected covered employment. Any person who
 219 exercises this election shall receive his or her retirement
 220 benefits in addition to the compensation of the elective office
 221 without regard to the time limitations otherwise provided in
 222 this subsection. No person who seeks to exercise the provisions
 223 of this subparagraph, as the same existed prior to May 3, 1984,
 224 shall be deemed to be retired under those provisions, unless

225 | such person is eligible to retire under the provisions of this
 226 | subparagraph, as amended by chapter 84-11, Laws of Florida.

227 | 10. The limitations of this paragraph apply to
 228 | reemployment in any capacity with an "employer" as defined in s.
 229 | 121.021(10), irrespective of the category of funds from which
 230 | the person is compensated.

231 | 11. An employing agency may reemploy a retired member as a
 232 | firefighter or paramedic after the retired member has been
 233 | retired for 1 calendar month, in accordance with s. 121.021(39).
 234 | Any retired member who is reemployed within 1 calendar month
 235 | after retirement shall void his or her application for
 236 | retirement benefits. The employing agency reemploying such
 237 | firefighter or paramedic is subject to the retired contribution
 238 | required in subparagraph 8. Reemployment of a retired
 239 | firefighter or paramedic is limited to no more than 780 hours
 240 | during the first 12 months of his or her retirement. Any retired
 241 | member reemployed for more than 780 hours during the first 12
 242 | months of retirement shall give timely notice in writing to the
 243 | employer and to the division of the date he or she will exceed
 244 | the limitation. The division shall suspend his or her retirement
 245 | benefits for the remainder of the first 12 months of retirement.
 246 | Any person employed in violation of this subparagraph and any
 247 | employing agency which knowingly employs or appoints such person
 248 | without notifying the Division of Retirement to suspend
 249 | retirement benefits shall be jointly and severally liable for
 250 | reimbursement to the Retirement System Trust Fund of any
 251 | benefits paid during the reemployment limitation period. To
 252 | avoid liability, such employing agency shall have a written

253 | statement from the retiree that he or she is not retired from a
 254 | state-administered retirement system. Any retirement benefits
 255 | received by a retired member while reemployed in excess of 780
 256 | hours during the first 12 months of retirement shall be repaid
 257 | to the Retirement System Trust Fund, and retirement benefits
 258 | shall remain suspended until repayment is made. Benefits
 259 | suspended beyond the end of the retired member's first 12 months
 260 | of retirement shall apply toward repayment of benefits received
 261 | in violation of the 780-hour reemployment limitation.

262 | Section 2. This act shall take effect upon becoming a law.

*Department of Management Services
2006 Substantive Bill Analysis*

Date: January 18, 2006

Revision

Date(s):

Bill #: HB 389

Relating To: Florida Retirement System-Reemployment Limitations

Sponsor(s): Representative Proctor

Companion Bills: SB 102 (C)

Reviewer Name & Division: Richard Clifford, Division of Retirement

Contact Number: (850) 488-5706

Legal Review by: Larry D. Scott, DMS

Coordinated With: Sarabeth Snuggs, State Retirement Director; Pat Connolly, Assistant Director;
Robert Dezube, consulting actuary with Milliman Inc.;
Rebecca McCarley, Legislative Affairs Director

I. SUMMARY:

HB 389 would further liberalize reemployment exceptions to the 12-month reemployment limitation period following the effective retirement date of a Florida Retirement System (FRS) member. As proposed, HB 389 would allow a FRS retiree to be reemployed by a district school board or the Florida School for the Deaf and the Blind on an annual contractual basis as administrative personnel, as defined in s. 1012.01(3), F.S., during the second through twelfth month of retirement without having to suspend his or her retirement benefits. This bill would take effect upon becoming law.

Note: An actuarial special study is required to determine the fiscal impact of HB 389.¹ This bill does not provide the required funding to meet the actuarially sound funding requirements of Article X, Section 14 of the Florida Constitution and Part VII of Chapter 112. Also, this bill does not provide a statement of important state interest.

¹ A special study was performed by Milliman, Inc. Consulting Actuaries, dated April 19, 2005. The Department of Education was contacted for new salary data and indicated the number of potentially affected positions was 13,233, 27.7% greater than the 10,361 provided for the original study. The consulting actuary has indicated that a revised special study is required.

II. EFFECT OF PROPOSED CHANGES:

HB 389 would allow FRS retirees to be reemployed on a contractual basis by district school boards or the Florida School for the Deaf and the Blind as administrative personnel as defined in s. 1012.01(3), F.S. The retiree must be off all FRS-covered employment for one calendar month following retirement or DROP participation to finalize termination and his/her first-career retirement in addition to being eligible for enrollment as a renewed member. The definition of administrative personnel in s. 1012.01(3) is:

1012.01 Definitions.--Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida K-20 Education Code, they shall be used as follows:

(3) ADMINISTRATIVE PERSONNEL.--"Administrative personnel" includes personnel who perform management activities such as developing broad policies for the school district and executing those policies through the direction of personnel at all levels within the district. Administrative personnel are generally high-level, responsible personnel who have been assigned the responsibilities of system wide or school wide functions, such as district school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, career center directors, and others who perform management activities. Broad classifications of administrative personnel are as follows:

(a) District-based instructional administrators.--Included in this classification are persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the instructional program. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major instructional areas, such as curriculum, federal programs such as Title I, specialized instructional program areas such as exceptional student education, career education, and similar areas.

(b) District-based noninstructional administrators.--Included in this classification are persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the noninstructional program. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major noninstructional areas, such as personnel, construction, facilities, transportation, data processing, and finance.

(c) School administrators.--Included in this classification are:

1. School principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors.

2. Assistant principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.

If enacted, this reemployment provision would not be limited to school-based administrators, but would apply to all administrative personnel employed by district school boards and the Florida School for the Deaf and the Blind (see above), ranging from district-based administrators including school superintendents to school-based administrators including assistant principals.

The change proposed by HB 389 would expand the current exceptions to reemployment restrictions during the first 12 calendar months of retirement or following DROP participation by

allowing district school boards to reemploy retired FRS members as administrative personnel on an annual contractual basis who have been retired for 1 calendar month. The reference to “annual contractual basis” has a more of a relationship to the employment of instructional personnel than administrative personnel covered by this bill. The potential impacts of this bill include:

- Encouraging “paper” terminations since retirees could return to contractual employment in these positions within the first 12 months of retirement without penalty. This could foster a willingness for members to retire earlier and to become reemployed to earn a second-career benefit while drawing their first career retirement benefit and earning a salary. This could result in a greater number of Florida Retirement System members deciding to retire sooner than they might have otherwise, thereby drawing their retirement benefits for a longer period of time based upon a shorter working career and investment period, which would increase the cost to the retirement system. This impact resulted in an employer contribution rate increase as recommended by the 2005 Special Study to meet the concurrent and actuarially sound funding requirement of Part VII, Chapter 112, F.S., and Article X, Section 14 of the Florida Constitution. Based upon data provided by the Department of Education, there are significantly more eligible administrator positions than were identified for the 2005 Special Study. The consulting actuary has indicated a revised study is required.
- The reemployment provision of this bill applies only to administrative personnel employed by district school boards and the Florida School for the Deaf and the Blind. Administrative personnel employed by other educational institutions that provide K-12 educations such as charter schools and developmental research schools would be excluded and these employers may seek similar treatment for their administrative personnel positions.
- As the reemployment limitations become more liberalized and only certain employee groups benefit from them, there will be increasing pressure to expand or remove all reemployment limitations. Other employer groups will seek reemployment exemptions so they may hire qualified experience retirees without affecting the retirees’ benefits during their first year of retirement. Excluded retirees will seek to be able to enjoy the same benefits as those retirees that are exempted from reemployment restrictions. If passage of this proposal results in other liberalizations of the reemployment restrictions, it will lead to increased cost for the Florida Retirement System because their retirement benefits will be funded over a shorter working career but will be paid for a longer period of time.
- This administrator employee group or the district school boards and the Florida School for the Deaf and the Blind that employ them do not represent a separate subclass of the Regular Class. Therefore all employers with Regular Class employees would pay the higher retirement contribution costs that would result from these proposed liberalized employment exceptions, not just the school boards or the Florida School for the Deaf and the Blind that would benefit from this proposal.

Additional Issues for consideration:

- The proposed amendments to s.121.091(9)(b)3, F.S., expanding reemployment exceptions for *school boards* does not include a reference to the administrative personnel with those positions for which retirement contributions are required upon reemployment. It is suggested that line 74-76 of page 3 of this bill be amended to read:

74 transportation assistants, bus drivers, ~~or~~ food service workers
75 or administrative personnel are subject to the retirement contribution required by
76 subparagraph 7.

Alternatively, rather than listing all of these positions the last sentence of s. 121.091(9)(b)3., F.S., could be struck and replaced with:

“District school boards reemploying retirees in positions specified in this sub-subparagraph are subject to the retirement contribution required by subparagraph 7.”

- The proposed amendments to s.121.091(9)(b)6, F.S., expanding reemployment exceptions for the *Board of Trustees for the Florida School for the Deaf and the Blind* does not include a reference to the administrative personnel with those positions for which retirement contributions are required upon reemployment. It is suggested that line 156-157 of page 6 of this bill be amended to read:

156 teachers, residential instructors, ~~or~~ nurses, or administrative personnel is subject to
157 the retirement contribution required by subparagraph 7. Reemployment

Alternatively, rather than listing all of these positions the sentence containing such listing in s. 121.091(9)(b)6., F.S., could be struck and replaced with:

“The Board of Trustees of the Florida School for the Deaf and the Blind reemploying retirees in positions specified in this sub-subparagraph are subject to the retirement contribution required by subparagraph 7.”

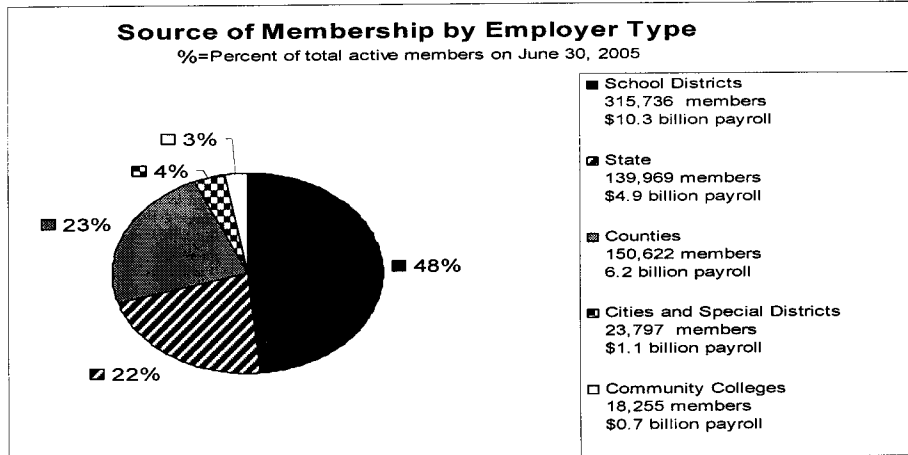
- HB 389 does not meet the concurrent funding in an actuarially sound manner as required by Article X, Section 14 of the Florida Constitution and Part VII, Chapter 112, F.S. Milliman, Inc., consulting actuary prepared a special study of the benefit improvement dated April 19, 2005. The results of this study indicated that the Regular Class rate must be increased by 0.02% to fund the fiscal impact of this benefit improvement for just the school boards as proposed by HB 389. This study did not include the benefit improvement for the Board of Trustees of the Florida School for the Deaf and the Blind as proposed by HB 389. The 58 affected positions of the School for the Deaf and the Blind do not significantly impact this study. However, the DOE has indicated that the number of affected positions is 27.7% higher than provided for the original study and the consulting actuary has indicated a revised special study is required due to this change.

To meet these actuarial funding requirements, it is recommended that this bill should be amended to reflect this rate increase for the Regular Class when determined by the revised special study; to specify that this rate increase is in addition to the rates established by s. 121.71, F.S., effective July 1, 2006; and the effective date of this bill become July 1, 2006, to be concurrent when the funding would be provided.

This bill also does not contain a declaration of important state interest so it is not exempt from the constitutional prohibition of unfunded local mandates (see article VII, Section 18, Florida Constitution, on page 7).

III. PRESENT SITUATION:

Florida Retirement System.—The FRS currently consists of five membership classes — the Regular Class, Special Risk Class, Special Risk Administrative Support Class, Elected State Officers' Class, and Senior Management Service Class. The FRS Regular Class includes all members who are not eligible for membership in any of the other membership classes (about



90 percent of all FRS members). The vast majority of district school board and Florida School for the Deaf and the Blind personnel are in the Regular Class.

FRS membership.— Membership is compulsory for all full-time and part-time employees working in a regularly established position for any state

agency, county government agency, district school board, state university, community college, or participating city or special district. District school board employees make up nearly half of the total membership of the FRS (in all classes).

According to the Department of Education, as of 06/30/2005 there were 13,233 district school board administrators (4.2% of the overall school board membership) whose total salaries are \$714,419,747 (6.9% of the overall school board salaries). These figures reflect an increase of 27.7% and 0.93% respectively in the figures previously provided by the DOE which were used in the actuarial special study. DOE advises that the increase results from the inclusion of part-time administrative personnel in state fiscal-year end reports which were not reflected in the prior figures provided.

The Florida School for the Deaf and the Blind reports that as of 11/16/2005, they had 58 administrative personnel positions (7.7% of the overall Florida School for the Deaf and the Blind membership), whose total salaries were \$3,419,796 (15.0% of the overall Florida School for the Deaf and the Blind salaries).

FRS plan structure.—Under the FRS, members within the same membership class are generally subject to the same plan requirements and benefit structure. To provide for fairness and equity in funding, any proposal that substantially enhances benefits for a subgroup of a membership class, by its nature, requires the establishment of a special membership classification for that subgroup. An example is the Elected Officers' Class (EOC), which is currently subdivided into subclasses for the following membership groups:

- Judges
- Governor, Lt. Governor, Cabinet, Legislators, State Attorneys and Public Defenders
- Elected County Officers and certain other local elected officials

Contribution rates are separately calculated for these subclasses (for example, effective July 1, 2005, the total contribution rates for these three groups are 18.65%, 12.49%, and 15.23%, respectively).

Currently, all vested FRS members (other than Special Risk Class members) may retire with full benefits when they either attain age 62 or complete 30 years of service. Vested Special Risk Class members may retire with full benefits when they reach age 55 or complete 25 years of Special Risk Class service, regardless of age.

Reemployment Restrictions.—After retiring under the FRS, a retiree can work for any private employer, for any public employer not participating in the FRS, or for any employer in another state, without affecting his or her FRS benefits. However, subject to the exceptions described below, if a retiree is reemployed in his or her first year of retirement by a **FRS employer**, the following limitations apply during the **first calendar month of retirement**:

- A retiree who did not participate in DROP must terminate all employment (be off payroll with all FRS employers for 1 calendar month) to meet the definition of termination and complete retirement from the FRS. If a retiree returns to work for a participating employer during the first calendar month of retirement, the retiree will **void** his or her retirement and the retiree's FRS membership will be reestablished. All retirement benefits must be repaid and the member must reapply for retirement, establishing a later effective date of retirement.
- A retiree who participated in DROP must meet the termination requirement noted above for the calendar month following the end of his or her DROP participation. If reemployment occurs within this first calendar month, the retiree's DROP participation and retirement are void. Any funds received, including his or her DROP accumulation, must be repaid to the FRS. The member must reapply to establish an effective retirement date and may no longer be eligible to participate in DROP².

During the 2nd – 12th months following retirement, as noted above, an FRS retiree cannot earn a salary from any FRS-participating employer while drawing retirement benefits from the system. If a retiree works for a participating employer during this period, the retiree must inform the Division. Except as otherwise noted below, if a retiree works during this limitation period, the Division will suspend his or her benefits and the retiree must repay any such benefits inappropriately received. After the first 12 months of retirement, there are no further reemployment limitations.

Exceptions to reemployment limitations:

- An FRS retiree who is elected or appointed to an elective office is exempt from reemployment limitations.
- A retired justice or judge on temporary assignment to active judicial service pursuant to Article V of the State Constitution is exempt from reemployment limitations after being retired for 1 calendar month. Such justices or judges are not eligible for renewed membership.

² An exception applies in the case of DROP participants whose positions are covered by the Elected Officers' Class.

- District School Boards.—An FRS or TRS retiree may be reemployed without limitation as a classroom teacher on an annual contractual basis or as a noncontractual substitute or hourly teacher without limitation. Additionally, noncontractual employment is allowed without further limitation for an FRS retiree only who is hired as an education paraprofessional, a transportation aide, a bus driver, or a food service worker.
- Florida School for the Deaf and the Blind.—An FRS or TRS retiree may be reemployed on an annual contractual basis as classroom teacher or as substitute or hourly teacher on a noncontractual basis, without limitation. (A substitute residential instructor and a substitute nurse are included in the category of noncontractual substitute or hourly teacher.)
- Charter Schools.—An FRS or TRS retiree may be reemployed as classroom teacher on an annual contractual basis or as substitute or hourly teacher on a noncontractual basis, without limitation.
- Developmental Research Schools (University Lab Schools).—An FRS or TRS retiree may be reemployed on an annual contractual basis as classroom teacher or as a substitute or hourly teacher on a noncontractual basis, without limitation.
- Community Colleges.—An FRS or TRS retiree may be reemployed as part-time, noncontractual adjunct instructor or an FRS retiree may be employed as a phased retirement program participant for up to 780 hours.
- Universities.—An FRS or TRS retiree may be reemployed as an adjunct faculty member or a phased retirement program participant with the State University System for up to 780 hours.
- Firefighters or paramedics.—An FRS retiree may be reemployed as a firefighter or paramedic serving in temporary or regularly established positions for up to 780 hours.

A member who retires on disability cannot work in gainful employment and continue to receive disability benefits.

Renewed Membership.—FRS retirees and retirees of other state-administered retirement programs who are reemployed in FRS-covered employment will renew their membership in the FRS and earn service credit toward a “second-career” retirement benefit for which they will qualify upon vesting again. Renewed members may elect to participate in either the FRS Investment Plan or FRS Pension Plan.

Renewed members who retire and receive a second-career retirement benefit, including former DROP participants, must meet the definition of termination and are once more subject to reemployment limitations, unless they are eligible for exceptions, as previously described. With rare exception, retirees who participate in DROP are eligible for renewed membership only after they have terminated employment upon completing their period of program participation.

Renewed members are ineligible to participate in DROP, ineligible for the Special Risk Class membership and are not eligible for disability benefits. However, the surviving spouse and/or dependent children of a renewed member may qualify for survivor benefits.

Local Government Mandates Provision.—Article VII, Section 18, of the Florida Constitution effectively invalidates any law that would require counties or municipalities to spend funds or

limit their ability to raise revenue or receive state tax revenue, unless certain conditions are met. First, the Legislature must have determined that the law fulfills an important state interest. The law must also meet one or more additional criteria, including that the “expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.”

Article X, Section 14, of the Florida Constitution.—Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Part VII of chapter 112, F.S.—Article X, Section 14, of the Florida Constitution is implemented by statute under part VII of chapter 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act,” which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to “ ... prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”

IV. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends 121.091(9)(b)3 and 121.091(9)(b)6 to create a reemployment exception for FRS retirees reemployed by district school boards or the Board of Trustees for the Florida School for the Deaf and the Blind as administrative personnel, as defined in s.1012.01(3), F.S.

Section 2. Provides an effective date of when this bill is enacted into law.

V. AFFECTED AGENCIES AND GROUPS:

District school boards and the Board of Trustees of the Florida School for the Deaf and the Blind as well as the FRS retirees they employ as administrative personnel would be affected. Also, all FRS employers would be impacted by a rate increase to the Regular Class resulting from the reemployment provisions of this bill once the bill is amended to meet the statutory and constitutional sound funding requirements as specified when a revised study is completed.

VI. FISCAL IMPACT: (Recurring, Non-recurring and Long-run Effects)

Note: On 1.-3, if “a.” is “None,” the remaining information is not necessary and can be deleted from this analysis.

An actuarial special study (2005 j) was conducted in 2005 based upon data from the 2004 FRS Valuation and information provided by the Department of Education (DOE) on January 26, 2005. This study indicated that the overall contribution rate for all employers with Regular Class members would have to be increased by 0.02% in order to fund the reemployment exceptions for just the school boards. The estimated expenditure impact based on this study for local governments and the state for fiscal year 2006/07 was \$3,144,000 and \$756,000 respectively.

Although the impact of the addition of the 58 Florida School for the Deaf and the Blind Administrative personnel as proposed by HB 389 was not included in this study, the impact of this change by itself would be minimal.

However, as the updated information provided by the DOE as of June 30, 2005 substantially changes the numbers provided for the study, a revised actuarial study is required. The updated figures from DOE changed the number of impacted personnel from 10,361 to 13,233 and changed the total salaries of impacted personnel from \$707,829,989 to \$714,419,747. Limiting the cost increase to just school boards and the Florida School for the Deaf and the Blind would require creating a subclass(es) for the affected employers or employees within the Regular Class and would also require a revised special study because this was not addressed by the 2005 actuarial special study.

1. LOCAL GOVERNMENTS

a. Revenue Impact:

Source, Amount and Description:

See introductory paragraph of Fiscal Impact section.

b. Expenditure Impact:

Amount and Description:

| | | | |
|--|-----------------|-----------------|-----------------|
| | Year 1 | Year 2 | Year 3 |
| | <u>FY 06/07</u> | <u>FY 07/08</u> | <u>FY 08/09</u> |

See introductory paragraph of Fiscal Impact section.

2. STATE:

a. Revenue Impact:

Source, Amount and Description:

See introductory paragraph of Fiscal Impact Section.

b. Expenditure Impact:

Amount and Description:

| | | | |
|--|-----------------|-----------------|-----------------|
| | Year 1 | Year 2 | Year 3 |
| | <u>FY 06/07</u> | <u>FY 07/08</u> | <u>FY 08/09</u> |

See introductory paragraph of Fiscal Impact section.

3. PRIVATE SECTOR:

a. Revenue Impact:

Source, Amount and Description:

N/A

- b. Expenditure Impact: N/A

Amount and Description:

N/A

4. ACTUARIAL STATEMENT OF FISCAL SOUNDNESS:

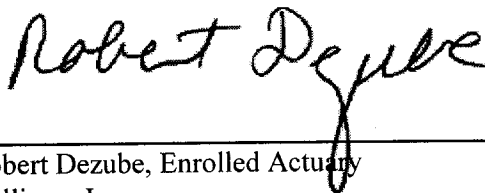
- a. This bill does not comply with the requirements of Article X, Section 14 of the Constitution.
- b. This bill does not comply with the provisions of Chapter 112, Part VII, Florida Statutes.
- c. Explanation:

HB 389 proposes to allow FRS retirees to be reemployed as administrative personnel on an annual contractual basis without limitation by district school boards and the School for the Deaf and the Blind after meeting the definition of termination. Expansion of reemployment exceptions to include these employees could encourage "paper" terminations which would result in FRS members retiring sooner than they would have otherwise, drawing retirement benefits for a longer period of time based upon a shorter working career. The changes proposed by this bill would increase the costs of the FRS as well as further establish the precedent for other employee groups and employers to seek similar exceptions to reemployment limitations.

- d. Fiscal Note:

In its current form, this bill does not provide the funding to meet the statutory and constitutional requirements for concurrent funding on an actuarially sound basis of the benefit improvements proposed by this bill. A revised actuarial special study is required to determine the cost due to additional information provided by the DOE.

The liberalization of reemployment exceptions continues a growing trend that creates an incentive for members to retire earlier than they otherwise would retire, encouraging a behavior change that is contrary to the current funding assumptions



Robert Dezube, Enrolled Actuary
Milliman Inc.

Date: <date>

VII. LIMITED GOVERNMENT CHECKLIST:

- 1. Reports and Studies Required: ___ Yes No
Bill Section Number(s):
Description:

2. Commission, Council, Task Force or Board Created or Revised: Yes No

Name of Commission, Council or Board:

Number of Members:

Number of Governor's Appointees:

Date by which Appointments Must Be Made:

Description:

3. Rule Authorization: Yes No

New Authority:

Does the bill require an agency to promulgate a rule?

Is a rule necessary to implement the act? No

Does the bill provide sufficient guidance to the agency to promulgate a rule that meets legislative intent? Yes

Description:

4. Rule Reductions:

Does the bill repeal an existing rule? Yes No

Does the bill reduce rulemaking authority? Yes No

Does the bill codify existing rules? Yes No

Description:

5. Does the bill reduce government? Yes No

Explain:

6. Does the bill increase fees or taxes? Yes No

Explain how and when was the last time of the increase?

7. Does the bill impose an additional burden on or restrict local government? Yes No

Explain:

8. Does the legislation link to the agencies strategic plan and to its budget? Yes No

Explain:

9. Does the bill create more regulation of an activity by a profession or business? Yes No

Explain:

10. Does the bill limit or expand commercial or individual freedom? Yes No

Explain:

VIII. LEGAL ISSUES:

1. Does the proposed legislation conflict with existing state laws or rules? If so, what laws and/or rules?

Yes- Article VII Section 18, Article X Section 14, of the Florida Constitution and Part VII Chapter 112 Florida Statutes.

2. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No

3. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts)?

Yes- Article VII Section 18, Article X Section 14, of the Florida Constitution

4. Is the proposed legislation likely to affect the interests of the Florida Bar, Judiciary or State Attorneys/Public Defenders?

No

5. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

Yes –from nonincluded members

A bill to be entitled

An act relating to school attendance; amending s. 1003.21, F.S.; authorizing district school board policy to raise the compulsory school attendance age; amending s. 1003.23, F.S.; requiring attendance records to include information relating to student tardiness; providing penalties; amending s. 1003.24, F.S.; providing that the parent is responsible for a student's accumulative record of tardiness; deleting parental exemption from responsibility for a student's nonattendance; providing penalties; amending s. 1003.26, F.S.; revising provisions relating to enforcement of school attendance; providing responsibility of superintendents, district school boards, schools, teachers, and parents with respect to accumulative tardinesses; revising provisions that specify absences for which intervention is initiated; authorizing a superintendent to file a truancy petition under certain circumstances; authorizing a home visit under certain circumstances; amending ss. 984.03, 985.03, 1002.20, and 1003.01, F.S.; conforming provisions relating to compulsory school attendance; providing an effective date.

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

Section 1. Paragraphs (a) and (c) of subsection (1) of section 1003.21, Florida Statutes, are amended to read:

1003.21 School attendance.--

28 (1)(a)1. All children who have attained the age of 6 years
 29 or who will have attained the age of 6 years by February 1 of
 30 any school year or who are older than 6 years of age but who
 31 have not attained the age of 16 years, except as otherwise
 32 provided, are required to attend school regularly during the
 33 entire school term. However, beginning with the 2006-2007 school
 34 year, a district school board may adopt a policy that raises the
 35 compulsory school attendance age from 16 years up to 18 years
 36 for students in the school district who have not graduated from
 37 high school.

38 2. Children who will have attained the age of 5 years on
 39 or before September 1 of the school year are eligible for
 40 admission to public kindergartens during that school year under
 41 rules adopted by the district school board.

42 (c) A student who attains the age of 16 years during the
 43 school year is not subject to compulsory school attendance
 44 beyond the date upon which he or she attains that age if the
 45 student files a formal declaration of intent to terminate school
 46 enrollment with the district school board. ~~The declaration must~~
 47 ~~acknowledge that terminating school enrollment is likely to~~
 48 ~~reduce the student's earning potential and must be signed by the~~
 49 ~~student and the student's parent.~~ The school district must
 50 notify the student's parent of receipt of the student's
 51 declaration of intent to terminate school enrollment. The
 52 declaration must acknowledge that terminating school enrollment
 53 is likely to reduce the student's earning potential and must be
 54 signed by the student and the student's parent.

55 Section 2. Section 1003.23, Florida Statutes, is amended
56 to read:

57 1003.23 Attendance records and reports.--

58 (1) The attendance of all public K-12 school students
59 shall be checked each school day in the manner prescribed by
60 rules of the State Board of Education and recorded in the
61 teacher's register or by some approved system of recording
62 attendance. Students may be counted in attendance only if they
63 are actually present at school or are away from school on a
64 school day and are engaged in an educational activity which
65 constitutes a part of the school-approved instructional program
66 for the student. Attendance records shall include time missed
67 during a school day due to a student's tardiness to any class to
68 which a student is assigned provided that exceptions to the
69 recording of tardiness may be established by a district school
70 board.

71 (2) All officials, teachers, and other employees in
72 public, parochial, religious, denominational, and private K-12
73 schools, including private tutors, shall keep all records and
74 shall prepare and submit promptly all reports that may be
75 required by law and by rules of the State Board of Education and
76 district school boards. Such records shall include a register of
77 enrollment and attendance and all persons described above shall
78 make these reports therefrom as may be required by the State
79 Board of Education. The enrollment register shall show the
80 absence or attendance of each student enrolled for each school
81 day of the year in a manner prescribed by the State Board of
82 Education. The register shall be open for the inspection by the

83 designated school representative or the district school
 84 superintendent of the district in which the school is located.

85 (3) Violation of the provisions of this section shall be a
 86 misdemeanor of the second degree, punishable as provided by law.

87 (4) This section shall not apply to home education
 88 programs provided in s. 1002.41.

89 Section 3. Section 1003.24, Florida Statutes, is amended
 90 to read:

91 1003.24 Parents responsible for attendance of children;
 92 attendance policy.--Each parent of a child within the compulsory
 93 attendance age is responsible for the child's school attendance
 94 as required by law. The absence of a student from school or an
 95 accumulative record of tardiness is prima facie evidence of a
 96 violation of this section; however, criminal prosecution under
 97 this chapter may not be brought against a parent until the
 98 provisions of s. 1003.26 have been complied with. A parent of a
 99 student is ~~not~~ responsible for the student's nonattendance at
 100 school under, but not limited to, any of the following
 101 conditions:

102 (1) WITH PERMISSION.--The absence was with permission of
 103 the head of the school;

104 (2) WITHOUT KNOWLEDGE.--The absence was without the
 105 parent's knowledge, consent, or connivance, in which case the
 106 student shall be dealt with as a dependent child;

107 (3) FINANCIAL INABILITY.--The parent was unable
 108 financially to provide necessary clothes for the student, which
 109 inability was reported in writing to the superintendent prior to
 110 the opening of school or immediately after the beginning of such

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111 | ~~inability, provided that the validity of any claim for exemption~~
112 | ~~under this subsection shall be determined by the district school~~
113 | ~~superintendent subject to appeal to the district school board;~~
114 | or

115 | (4) SICKNESS, INJURY, OR OTHER INSURMOUNTABLE
116 | CONDITION.--Attendance was impracticable or inadvisable on
117 | account of sickness or injury, attested to by a written
118 | statement of a licensed practicing physician, or was
119 | impracticable because of some other stated insurmountable
120 | condition as defined by rules of the State Board of Education.
121 | If a student is continually sick and repeatedly absent from
122 | school, he or she must be under the supervision of a physician
123 | in order to receive an excuse from attendance. Such excuse
124 | provides that a student's condition justifies absence for more
125 | than the number of days permitted by the district school board.

126 |
127 | Each district school board shall establish an attendance policy
128 | that includes, but is not limited to, the required number of
129 | days each school year that a student must be in attendance and
130 | the number of absences or and tardinesses after which a
131 | statement explaining such absences or and tardinesses must be on
132 | file at the school. Each school in the district must determine
133 | if an absence or tardiness is excused or unexcused according to
134 | criteria established by the district school board.

135 | Section 4. Section 1003.26, Florida Statutes, is amended
136 | to read:

137 | 1003.26 Enforcement of school attendance.--The Legislature
138 | finds that poor academic performance is associated with

139 nonattendance and that schools must take an active role in
 140 promoting regular school attendance and supporting law
 141 enforcement agencies in the enforcement of compulsory school
 142 ~~enforcing attendance as a means of improving the performance of~~
 143 ~~many students. It is the policy of the state that each district~~
 144 ~~school superintendent be responsible for enforcing school~~
 145 ~~attendance of all students subject to the compulsory school age~~
 146 ~~in the school district.~~ The responsibility of the district
 147 school superintendent includes recommending to the district
 148 school board policies and procedures to ensure that schools
 149 respond in a timely manner to every unexcused absence, every ~~or~~
 150 absence for which the reason is unknown, or accumulative
 151 tardinesses of students enrolled in the schools. District school
 152 board policies must require each parent of a student to justify
 153 each absence or the accumulative tardinesses of the student, and
 154 that justification will be evaluated based on adopted district
 155 school board policies that define excused and unexcused absences
 156 and tardinesses. The policies must provide that schools track
 157 excused and unexcused absences and unexcused tardinesses and
 158 contact the home in the case of an unexcused absence from
 159 school, ~~or~~ an absence from school for which the reason is
 160 unknown, or accumulative tardinesses to prevent the development
 161 of patterns of nonattendance. The Legislature finds that early
 162 intervention in school attendance matters is the most effective
 163 way of producing good attendance habits that will lead to
 164 improved student learning and achievement. Each public school
 165 shall implement the following steps to promote ~~enforce~~ regular
 166 school attendance:

167 (1) CONTACT, REFER, AND ENFORCE.--

168 (a) 1. Upon each unexcused absence, or absence for which
 169 the reason is unknown, the school principal or his or her
 170 designee shall contact the student's parent to determine the
 171 reason for the absence. If the absence is an excused absence, as
 172 defined by district school board policy, the school shall
 173 provide opportunities for the student to make up assigned work
 174 and not receive an academic penalty unless the work is not made
 175 up within a reasonable time.

176 2. According to district school board policy, a school
 177 must notify a student's parent in writing of accumulative
 178 tardinesses. If accumulative tardinesses are excused, as defined
 179 by district school board policy, the school shall provide
 180 opportunities for the student to make up assigned work and not
 181 receive an academic penalty unless the work is not made up
 182 within a reasonable time. A parent shall be required to
 183 participate in the development of an individual attendance plan
 184 to improve his or her child's ability to meet the tardiness
 185 policy of the district school board.

186 (b) If a student has an accumulative record of tardiness
 187 or has had at least five unexcused absences, or absences for
 188 which the reasons are unknown, or a fewer number of unexcused
 189 absences or absences for which the reasons are unknown as
 190 established in district school board policy ~~within a calendar~~
 191 ~~month or 10 unexcused absences, or absences for which the~~
 192 ~~reasons are unknown, within a 90 calendar day period,~~ the
 193 student's primary teacher shall report to the school principal
 194 or his or her designee that the student may be exhibiting a

195 pattern of nonattendance. The principal shall, unless there is
 196 clear evidence that the tardinesses or absences are not a
 197 pattern of nonattendance, refer the case to the school's child
 198 study team to determine if early patterns of truancy are
 199 developing. If the child study team finds that a pattern of
 200 nonattendance is developing, whether the tardinesses or absences
 201 are excused or not, a meeting with the parent must be scheduled
 202 to identify potential remedies, and the principal shall notify
 203 the district school superintendent and the school district
 204 contact for home education programs that the referred student is
 205 exhibiting a pattern of nonattendance.

206 (c) If an initial meeting does not resolve the problem,
 207 the child study team shall implement interventions that best
 208 address the problem. The interventions may include, but need not
 209 be limited to:

- 210 1. Frequent communication between the teacher and the
- 211 family;
- 212 2. Changes in the learning environment;
- 213 3. Mentoring;
- 214 4. Student counseling;
- 215 5. Tutoring, including peer tutoring;
- 216 6. Placement into different classes;
- 217 7. Evaluation for alternative education programs;
- 218 8. Attendance contracts;
- 219 9. Referral to other agencies for family services; or
- 220 10. Other interventions, including, but not limited to, a
- 221 truancy petition pursuant to s. 984.151.

222 (d) The child study team shall be diligent in facilitating
 223 intervention services and shall report the case to the district
 224 school superintendent only when all reasonable efforts to
 225 resolve the nonattendance behavior are exhausted.

226 (e) If the parent refuses to participate in the remedial
 227 strategies because he or she believes that those strategies are
 228 unnecessary or inappropriate, the parent may appeal to the
 229 district school board. The district school board may provide a
 230 hearing officer, and the hearing officer shall make a
 231 recommendation for final action to the district school board. If
 232 the district school board's final determination is that the
 233 strategies of the child study team are appropriate, and the
 234 parent still refuses to participate or cooperate, the district
 235 school superintendent may seek criminal prosecution for
 236 noncompliance with compulsory school attendance.

237 (f)1. If the parent of a child who has been identified as
 238 exhibiting a pattern of nonattendance enrolls the child in a
 239 home education program pursuant to chapter 1002, the district
 240 school superintendent shall provide the parent a copy of s.
 241 1002.41 and the accountability requirements of this paragraph.
 242 The district school superintendent shall also refer the parent
 243 to a home education review committee composed of the district
 244 contact for home education programs and at least two home
 245 educators selected by the parent from a district list of all
 246 home educators who have conducted a home education program for
 247 at least 3 years and who have indicated a willingness to serve
 248 on the committee. The home education review committee shall
 249 review the portfolio of the student, as defined by s. 1002.41,

250 every 30 days during the district's regular school terms until
 251 the committee is satisfied that the home education program is in
 252 compliance with s. 1002.41(1)(b). The first portfolio review
 253 must occur within the first 30 calendar days of the
 254 establishment of the program. The provisions of subparagraph 2.
 255 do not apply once the committee determines the home education
 256 program is in compliance with s. 1002.41(1)(b).

257 2. If the parent fails to provide a portfolio to the
 258 committee, the committee shall notify the district school
 259 superintendent. The district school superintendent shall then
 260 terminate the home education program and require the parent to
 261 enroll the child in an attendance option that meets the
 262 definition of "regular school attendance" under s.
 263 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon
 264 termination of a home education program pursuant to this
 265 subparagraph, the parent shall not be eligible to reenroll the
 266 child in a home education program for 180 calendar days. Failure
 267 of a parent to enroll the child in an attendance option as
 268 required by this subparagraph after termination of the home
 269 education program pursuant to this subparagraph shall constitute
 270 noncompliance with the compulsory attendance requirements of s.
 271 1003.21 and may result in criminal prosecution under s.
 272 1003.27(2). Nothing contained herein shall restrict the ability
 273 of the district school superintendent, or the ability of his or
 274 her designee, to review the portfolio pursuant to s.
 275 1002.41(1)(b).

276 (g) If a student subject to compulsory school attendance
 277 will not comply with attempts to enforce school attendance, the

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278 parent or the district school superintendent or his or her
 279 designee shall refer the case to the case staffing committee
 280 pursuant to s. 984.12. In the event that the implementation of a
 281 plan for services developed pursuant to s. 984.12 is
 282 unsuccessful in correcting a student's noncompliance with
 283 compulsory school attendance, and the district school
 284 superintendent or his or her designee may file a truancy
 285 petition pursuant to the procedures in s. 984.151.

286 (2) GIVE WRITTEN NOTICE.--

287 (a) Under the direction of the district school
 288 superintendent, a designated school representative shall give
 289 written notice that requires enrollment or attendance within 3
 290 days after the date of notice, in person or by return-receipt
 291 mail, to the parent when no valid reason is found for a
 292 student's nonenrollment in school. If the notice and requirement
 293 are ignored, the designated school representative shall report
 294 the case to the district school superintendent, and may refer
 295 the case to the case staffing committee, established pursuant to
 296 s. 984.12. The district school superintendent shall take such
 297 steps as are necessary to bring criminal prosecution against the
 298 parent.

299 (b) Subsequent to the activities required under subsection
 300 (1), the district school superintendent or his or her designee
 301 shall give written notice in person or by return-receipt mail to
 302 the parent that criminal prosecution is being sought for
 303 nonattendance. The district school superintendent may file a
 304 truancy petition, as defined in s. 984.03, following the
 305 procedures outlined in s. 984.151.

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306 (3) RETURN STUDENT TO PARENT.--A designated school
 307 representative may ~~shall~~ visit the home or place of residence of
 308 a student and any other place in which he or she is likely to
 309 find any student who is required to attend school when the
 310 student is not enrolled or is absent from school during school
 311 hours without an excuse, and, when the student is found, shall
 312 return the student to his or her parent or to the principal or
 313 teacher in charge of the school, or to the private tutor from
 314 whom absent, or to the juvenile assessment center or other
 315 location established by the district school board to receive
 316 students who are absent from school. Upon receipt of the
 317 student, the parent shall be immediately notified.

318 (4) REPORT TO APPROPRIATE AUTHORITY.--A designated school
 319 representative shall report to the appropriate authority
 320 designated by law to receive such notices, all violations of the
 321 Child Labor Law that may come to his or her knowledge.

322 (5) RIGHT TO INSPECT.--A designated school representative
 323 shall have the right of access to, and inspection of,
 324 establishments where minors may be employed or detained only for
 325 the purpose of ascertaining whether students of compulsory
 326 school age are actually employed there and are actually working
 327 there regularly. The designated school representative shall, if
 328 he or she finds unsatisfactory working conditions or violations
 329 of the Child Labor Law, report his or her findings to the
 330 appropriate authority.

331 Section 5. Paragraph (a) of subsection (27) of section
 332 984.03, Florida Statutes, is amended to read:

333 984.03 Definitions.--When used in this chapter, the term:

334 (27) "Habitually truant" means that:
 335 (a) The child has 15 unexcused absences within 90 calendar
 336 days with or without the knowledge or justifiable consent of the
 337 child's parent or legal guardian, is subject to compulsory
 338 school attendance under s. 1003.21(1) and (2)(a), and is not
 339 exempt under s. 1003.21(3), ~~s. 1003.24~~, or any other exemptions
 340 specified by law or the rules of the State Board of Education.

341
 342 If a child who is subject to compulsory school attendance is
 343 responsive to the interventions described in ss. 1003.26 and
 344 1003.27(3) and has completed the necessary requirements to pass
 345 the current grade as indicated in the district pupil progression
 346 plan, the child shall not be determined to be habitually truant
 347 and shall be passed. If a child within the compulsory school
 348 attendance age has 15 unexcused absences within 90 calendar days
 349 or fails to enroll in school, the State Attorney may, or the
 350 appropriate jurisdictional agency shall, file a child-in-need-
 351 of-services petition if recommended by the case staffing
 352 committee, unless it is determined that another alternative
 353 action is preferable. The failure or refusal of the parent or
 354 legal guardian or the child to participate, or make a good faith
 355 effort to participate, in the activities prescribed to remedy
 356 the truant behavior, or the failure or refusal of the child to
 357 return to school after participation in activities required by
 358 this subsection, or the failure of the child to stop the truant
 359 behavior after the school administration and the Department of
 360 Juvenile Justice have worked with the child as described in ss.

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361 1003.26 and 1003.27(3) shall be handled as prescribed in s.
 362 1003.27.

363 Section 6. Subsection (26) of section 985.03, Florida
 364 Statutes, is amended to read:

365 985.03 Definitions.--As used in this chapter, the term:

366 (26) "Habitually truant" means that:

367 (a)1. The child has 15 unexcused absences within 90
 368 calendar days with or without the knowledge or justifiable
 369 consent of the child's parent or legal guardian, is subject to
 370 compulsory school attendance under s. 1003.21(1) and (2)(a), and
 371 is not exempt under s. 1003.21(3), ~~s. 1003.24~~, or any other
 372 exemptions specified by law or the rules of the State Board of
 373 Education.

374 2. ~~(b)~~ Escalating activities to determine the cause, and to
 375 attempt the remediation, of the child's truant behavior under
 376 ss. 1003.26 and 1003.27 have been completed.

377
 378 If a child who is subject to compulsory school attendance is
 379 responsive to the interventions described in ss. 1003.26 and
 380 1003.27 and has completed the necessary requirements to pass the
 381 current grade as indicated in the district pupil progression
 382 plan, the child shall not be determined to be habitually truant
 383 and shall be passed. If a child within the compulsory school
 384 attendance age has 15 unexcused absences within 90 calendar days
 385 or fails to enroll in school, the state attorney may file a
 386 child-in-need-of-services petition. Before filing a petition,
 387 the child must be referred to the appropriate agency for
 388 evaluation. After consulting with the evaluating agency, the

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389 state attorney may elect to file a child-in-need-of-services
390 petition.

391 (b)~~(e)~~ A school representative, designated according to
392 school board policy, and a juvenile probation officer of the
393 department have jointly investigated the truancy problem or, if
394 that was not feasible, have performed separate investigations to
395 identify conditions that could be contributing to the truant
396 behavior; and if, after a joint staffing of the case to
397 determine the necessity for services, such services were
398 determined to be needed, the persons who performed the
399 investigations met jointly with the family and child to discuss
400 any referral to appropriate community agencies for economic
401 services, family or individual counseling, or other services
402 required to remedy the conditions that are contributing to the
403 truant behavior.

404 (c)~~(d)~~ The failure or refusal of the parent or legal
405 guardian or the child to participate, or make a good faith
406 effort to participate, in the activities prescribed to remedy
407 the truant behavior, or the failure or refusal of the child to
408 return to school after participation in activities required by
409 this subsection, or the failure of the child to stop the truant
410 behavior after the school administration and the department have
411 worked with the child as described in s. 1003.27(3) shall be
412 handled as prescribed in s. 1003.27.

413 Section 7. Paragraphs (a) and (b) of subsection (2) of
414 section 1002.20, Florida Statutes, are amended to read:

415 1002.20 K-12 student and parent rights.--Parents of public
416 school students must receive accurate and timely information

417 regarding their child's academic progress and must be informed
 418 of ways they can help their child to succeed in school. K-12
 419 students and their parents are afforded numerous statutory
 420 rights including, but not limited to, the following:

421 (2) ATTENDANCE.--

422 (a) Compulsory school attendance.--The compulsory school
 423 attendance laws apply to all children between the ages ~~of 6 and~~
 424 ~~16 years,~~ as provided in s. 1003.21(1) and (2) (a), and, in
 425 accordance with the provisions of s. 1003.21(1) and (2) (a):

426 1. A student who attains the age of 16 years during the
 427 school year has the right to file a formal declaration of intent
 428 to terminate school enrollment if the declaration is signed by
 429 the parent. The parent has the right to be notified by the
 430 school district of the district's receipt of the student's
 431 declaration of intent to terminate school enrollment.

432 2. Students who become or have become married or who are
 433 pregnant and parenting have the right to attend school and
 434 receive the same or equivalent educational instruction as other
 435 students.

436 (b) Regular school attendance.--Parents of students who
 437 have attained the age of 6 years by February 1 of any school
 438 year but who have not attained the age of 16 years, or the age
 439 adopted by district school board policy pursuant to s.
 440 1003.21(1), must comply with the compulsory school attendance
 441 laws. Parents have the option to comply with the school
 442 attendance laws by attendance of the student in a public school;
 443 a parochial, religious, or denominational school; a private

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444 school; a home education program; or a private tutoring program,
 445 in accordance with the provisions of s. 1003.01(13).

446 Section 8. Subsection (8) of section 1003.01, Florida
 447 Statutes, is amended to read:

448 1003.01 Definitions.--As used in this chapter, the term:

449 (8) "Habitual truant" means a student who has 15 unexcused
 450 absences within 90 calendar days with or without the knowledge
 451 or consent of the student's parent, is subject to compulsory
 452 school attendance under s. 1003.21(1) and (2)(a), and is not
 453 exempt under s. 1003.21(3) ~~or s. 1003.24~~, or by meeting the
 454 criteria for any other exemption specified by law or rules of
 455 the State Board of Education. Such a student must have been the
 456 subject of the activities specified in ss. 1003.26 and
 457 1003.27(3), without resultant successful remediation of the
 458 truancy problem before being dealt with as a child in need of
 459 services according to the provisions of chapter 984.

460 Section 9. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 403
SPONSOR(S): McInvale
TIED BILLS:

School Attendance

IDEN./SIM. BILLS: CS/SB 772

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|--|--------|------------------|---------------------|
| 1) <u>PreK-12 Committee</u> | _____ | Beagle <i>GB</i> | Mizereck <i>KCM</i> |
| 2) <u>Juvenile Justice Committee</u> | _____ | _____ | _____ |
| 3) <u>Education Appropriations Committee</u> | _____ | _____ | _____ |
| 4) <u>Education Council</u> | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

Florida law enables a student to terminate school enrollment prior to high school graduation at age 16. Current law and State Board of Education rule provide extensive procedures for the recording and enforcement of school attendance.

House bill 403 authorizes local district school boards to raise the compulsory school attendance age from sixteen to eighteen years of age. The bill implements several provisions regarding attendance and tardies.

The bill revises the powers of district school board superintendents to enforce school attendance.

The bill has an effective date of July 1, 2006.

This bill will have a fiscal impact. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill allows school districts to raise the age of compulsory attendance from 16 to 18.

Promotes Personal Responsibility-- The bill requires parents to assume greater responsibility for their child's school attendance.

B. EFFECT OF PROPOSED CHANGES:

COMPULSORY SCHOOL ATTENDANCE:

Background Information:

Compulsory school attendance refers to the minimum and maximum ages in which students must attend school. Current Florida Law provides that the compulsory school attendance minimum age includes all children who are either six years of age, who will be six years old by February 1 of any school year, or who are older than six years of age but who have not attained the age of 16 years.¹ In Florida, a student may terminate school enrollment at age 16. Such students must file a formal declaration of intent to terminate enrollment with the district school board. The district must notify the student's parent upon receipt of the student's declaration. The student and the student's parent must sign an acknowledgment that terminating school enrollment is likely to impact the student's future earning potential.²

Compulsory school attendance minimum and maximum ages vary across the United States and its territories:

Minimum Compulsory Ages in the United States and its Territories³

| Minimum Age | Number of States |
|--------------------|-------------------------|
| 5 | 11 |
| 6 | 24 |
| 7 | 17 |
| 8 | 2 |

¹ Section 1003.21(1)(a)1., F.S.

² Section 1003.21(1)(c), F.S.

³ Data obtained from Education Commission of the States, State Notes, Compulsory School Age Attendance Requirements (September 2005) available at <http://www.ecs.org/clearinghouse/64/07/6407.htm>.

Maximum Compulsory Ages in the United States and its Territories⁴

| Maximum Age | Number of States |
|-------------|------------------|
| 16 | 28 |
| 17 | 9 |
| 18 | 17 |

Arizona, Vermont, and Wyoming set a maximum compulsory age of sixteen, but also permit students to terminate school enrollment upon completion of the tenth grade.⁵

The Manatee County District School Board Compulsory Attendance Pilot Project:

The Manatee County School Board was required by the 1999 Legislature to implement a pilot project to raise the compulsory age of attendance from 16 to 18.⁶ The school board was required to evaluate the impact of the pilot project on the school district's attendance and dropout rate, as well as associated costs. The most recent report evaluating the pilot project was prepared by the Manatee County District School Board in March 2005. The report documented the following:⁷

- School attendance rates: Longitudinal district high school attendance rates decreased from 91.8% in 1998-99 to 91.07% in 2004-05. The 2004-2005 statewide attendance rate was 93.92%.
- Dropout rates: Dropout rates decreased from 7.4% in 1998-99 to 2.5% in 2004-05. The 2004-2005 statewide dropout rate was 2.8%.
- Graduation rates: The district high school graduation rate increased from 56.2% in 1998-99 to 81.5% in 2004-05. The 2004-2005 statewide graduation rate was 71.9%.
- Costs: Funds were expended to establish the following initiatives:
 1. Collaborative efforts between the school district, local law enforcement agencies, and the judiciary.
 2. Additional staff (attendance officer, support staff, school social worker, school resource officers).
 3. Truancy Intervention Programs Sweeps (TIPS).
 4. Dropout Prevention/Alternative Education Programs.

According to the Department of Education, the Manatee County School District budgeted over \$600,000 for continued implementation of the program in 2002-2003.

Many of the costs were covered through Supplemental Academic Instruction and Safe School Categorical funds for alternative education programs. Other costs were paid from federal grants. The district indicated that the pilot program created the need for additional truancy and retrieval activities, alternative education programs, and comprehensive truancy programs involving the court system and local law enforcement.

Bill's Effect:

House bill 403 authorizes individual district school boards to raise the compulsory school attendance age to from sixteen to eighteen years of age for students in the school district who have not graduated from high school.

4 Id.

5 Id.

6 Section 1003.61, F.S.

7 2006 Education Fact Sheets, School Age Attendance Requirements.

ATTENDANCE RECORDS, ABSENCES AND TARDINESS:

Background Information:

Section 1003.23(1) requires that attendance of all public K-12 students be recorded and reported. Public schools are required to record the daily presence, absence, or tardiness of each student and maintain attendance records during the 180 day school year.⁸ District school boards have authority to establish attendance policies that specify the required number of school days each school year that a student must be in attendance and the number of absences and tardinesses that a student may accrue before an explanation is required. District policies must specify the conditions for determining whether and absence or tardiness is excused or unexcused.

Bill's Effect:

The bill amends current statute to require that school district attendance records include the time students miss due to tardiness and provides that the district school boards may establish exceptions to the reporting of tardiness. However, the bill changes the requirement that district attendance policies address "absences **and** tardinesses" to require that they address "absences **or** tardinesses".

The bill also requires that district policies address "accumulative tardinesses" accrued by a student, including notification to the student's parent that the student has a record of accumulative tardinesses. Students whose accumulative tardinesses are excused must be provided reasonable opportunities to make-up coursework without academic penalty.

PARENTAL RESPONSIBILITY FOR SCHOOL ATTENDANCE:

Background Information:

Section 1003.24, F.S. provides that each parent is responsible for their child's school attendance as required by law. Florida law provides that the absence of a student from school is prima facie evidence of a violation, but contains several exceptions absolving a parent of responsibility for their child's nonattendance⁹:

- The absence was with the permission of the head of the school;
- The absence was without the parent's knowledge, consent, or connivance;
- Financial inability of the student's parent to provide necessary clothes for the student and the parent reported such inability to the district superintendent;
- Absence due to illness or injury attested to by the student's physician; or
- Absence due to an insurmountable condition.¹⁰

Parents that fail to comply with their obligation to see to their child's regular attendance in school are subject to criminal prosecution. See Enforcement of School Attendance.

Bill's Effect:

The bill adds a student's "accumulative record of tardiness" to "absences" as prima facie evidence of a violation of parent's responsibility to see that their child regularly attends school. The bill also provides that current statutory exceptions to parental responsibility for their child's attendance no longer operate to excuse the child's nonattendance.

⁸ State Board of Education Rule 6A-1.044, Pupil Attendance Records.

⁹ Id.

¹⁰ State Board of Education Rule 6A-1.09513 defines "insurmountable condition" as extreme weather conditions or other acts of God, communicable disease outbreaks, or other local conditions determined by the school district that render impracticable a student's attendance at school.

The bill further requires that parents participate in the development of an individual attendance plan to improve their child's ability to avoid tardiness. See Enforcement of School Attendance.

ENFORCEMENT OF SCHOOL ATTENDANCE:

Background information:

Florida law provides extensive measures for enforcing school attendance. Section 1003.26, F.S. grants district school superintendents the authority to enforce school attendance. Each superintendent is responsible for recommending attendance policies and procedures to the district school board. District attendance policies must include the following:¹¹

- Procedures for contacting parents regarding each student absence;
- Procedures for parents to justify each unexcused absence;
- Procedures for tracking student absences and identifying and preventing the development of patterns of nonattendance; and
- Procedures for referring a student's case to the school's child study team (CST) if the student is identified as having established a pattern of non-attendance (defined as five unexcused absences in a calendar month or ten unexcused absences in a ninety-day periods).

Upon referring the case to a CST, the team meets with the student's parent to identify potential remedies for the student's nonattendance in school. If this initial meeting does not resolve the problem the CST must determine and implement appropriate interventions. After all reasonable measures by the CST to resolve the problem have failed the CST must contact the district superintendent.

Parents who refuse to participate in remedial strategies recommended by the CST may appeal to the district school board. If the board determines that the strategies proposed by the CST are appropriate, and the parent still refuses to cooperate, the school superintendent may seek criminal prosecution against the parent for noncompliance with compulsory school attendance.¹²

Similarly, students who refuse to comply with attempts to enforce school attendance must be referred by the district superintendent or student's parent to a Department of Juvenile Justice case staffing committee. The school superintendent may also file a truancy petition under s. 984.151, F.S.

Section 1003.27, F.S. requires each school principal or designee to notify the district school board of each minor student accumulating 15 unexcused absences in a period of 90 calendar days or who drop out of school. The district school superintendent must provide the names and identifying information of these students to the Department of Highway Safety and Motor Vehicles (DHSMV). DHSMV may not issue a driver license or learner permit, or may suspend the driving privileges of any reported student until the student has satisfied regular school attendance requirements as outlined in s 322.091, F.S.¹³

Bill's Effect:

The bill removes the district school superintendent's statutory authority to enforce student attendance and limits the superintendent's role to making policy recommendations to district school boards. The bill provides Legislative findings that schools must actively support law enforcement agencies' enforcement of compulsory school attendance. The bill requires each public school to implement policies promoting school attendance, where current statute requires that these policies "enforce" school attendance.

¹¹ Section 1003.26(1)(a),(b) and (c), F.S.

¹² Section 1003.26(1)(e), F.S.

¹³ Florida Department of Education, Attendance and Enrollment, Frequently Asked Questions available at <http://www.fldoe.org/faq/faq.asp?Dept=107&Cat=54>.

The bill requires district school board attendance policies to contain specific procedures for notifying parents of their child's accumulative tardinesses and for parent participation in the development of an individual attendance plan to improve their child's ability to avoid tardiness.

The bill revises the requirement that a student accrue at least five absences in a calendar month or ten unexcused absences in a ninety-day period before referral to the school's CST. The bill requires that a student who has an accumulative record of tardiness or accrues five unexcused absences must be referred to a CST.

The bill further provides that, when a Department of Juvenile Justice case staffing committee plan for services is unsuccessful in correcting the student's nonattendance, the school superintendent or designee may file a truancy petition. Current law gives the superintendent the option of choosing one or both of these options.

C. SECTION DIRECTORY:

Section 1. Amends s. 1003.21, F.S.; providing that a school district may raise the compulsory school attendance age to eighteen.

Section 2. Amends s. 1003.23, F.S.; requiring that school attendance records document tardiness.

Section 3. Amends 1003.24, F.S.; adding a student's accumulative record of tardiness to prima facie case against a parent.

Section 4. Amends 1003.26, F.S.; revising district school superintendent responsibilities pertaining student attendance.

Section 5. Amends 984.03, F.S.; conforming cross reference to parent responsibilities.

Section 6. Amends 985.03, F.S.; conforming cross reference to parent responsibilities.

Section 7. Section 1002.20, F.S.; conforming reference to compulsory school age attendance requirements.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

According to the DOE, there were 9,989 students aged 16 and 17 who dropped out of school in Florida in 2004-05. If a 2.12 percent annual growth rate is assumed, approximately 10,417 students aged 16 and 17 will drop out of high school in 2006-07.

Per student district operational expenditures are projected to increase to \$8,543 for each student in 2006-07. If all 67 districts chose to increase the compulsory school age from 16 to 18, the projected number of student dropouts (10,417) would require additional funding through the FEFP at a total annual cost of approximately \$89 million dollars.

$$10,417 \text{ students} \times \$8,543 \text{ per student expenditure} = \$88,992,431$$

This increase in the number of high school students will also result in increased need for facilities assuming that regular enrollment growth will utilize existing capacity. The estimated cost of each high school student station for the 2006-07 school year is \$21,324.

$$10,417 \text{ students} \times \$21,324 \text{ per student station} = \$222,132,138$$

The initial operating and capital costs for increasing the compulsory school age from 16 to 18 is estimated to be \$311.1 million including district operational and student station costs. After facilities requirements have been met, there would be a recurring annual operating cost of approximately \$89 million. Cost estimates will vary based on the number of districts that choose to raise the compulsory school age.

In addition to the current FTE allocation and student station costs above, information gained from a pilot program in Manatee County indicates that costs related to this particular population of students would include the funding to support additional truancy and retrieval activities, alternative education programs to address the special needs of these students, and a comprehensive truancy program involving the court system and local law enforcement.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

Section 1 of Article IX of the State Constitution requires that students be provided a free uniform public education. The bill enables individual school districts to raise the compulsory school attendance age to 18, resulting in a lack of uniformity in the age requirements for school attendance.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill changes the requirement that district attendance policies address "absences **and** tardinesses" to require that they include "absences **or** tardinesses." This appears to weaken current language in statute.

The bill nullifies several exceptions that absolve a parent's responsibility for their child's nonattendance from school. It appears that the bill imposes absolute liability on parent for their child's nonattendance, despite the possibility that circumstances could arise that are beyond the parent's control.

According to the DOE, this bill may increase paperwork as it requires the development of a student individual attendance plan, under certain circumstances, to improve the student's ability to meet the required tardiness policy of the district school board. Additionally, the expanded requirement to track and respond in a timely manner to accumulative tardinesses could result in increased paperwork for schools and school districts.¹⁴

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

¹⁴ Florida Department of Education, 2006 Legislative Bill Analysis for House Bill 403.

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A bill to be entitled

An act relating to health-related education in the public schools; creating s. 1003.453, F.S.; requiring each school district to submit to the Department of Education, by a specified deadline, copies of the district's school wellness policy and physical education policy; requiring the school district to review those policies annually; requiring the department and the school districts to post those policies on their websites; requiring the department to provide a model school wellness policy and nutrition guidelines and prescribing minimum contents thereof; amending s. 1003.455, F.S.; requiring school district physical education programs and lesson plans to be approved; encouraging school districts to provide physical education for a specified amount of time; deleting obsolete language; amending s. 381.0056, F.S., the "School Health Services Act"; requiring schools to provide certain information to students' parents or guardians; providing requirements relating to the membership of school health advisory committees; encouraging the committees to address specified matters; providing an effective date.

WHEREAS, Governor Jeb Bush convened the Governor's Task Force on the Obesity Epidemic in fall 2003, and

WHEREAS, the Governor's Task Force on the Obesity Epidemic recommended that families and other caregivers coordinate with schools, community organizations, and policymakers to support and sustain healthy lifestyles among youth, and

29 WHEREAS, the Governor's task force recommended that every
 30 school district be required to maintain independent nutrition,
 31 physical activity, and physical fitness advisory panels, which
 32 would be charged with meeting at least annually to review and
 33 determine strong school district policies with respect to all
 34 nutritional, physical activity, and physical fitness offerings
 35 at schools and to report on compliance to the Department of
 36 Education and district school boards, and

37 WHEREAS, the Secretary of Health hosted obesity summits in
 38 2004-2005, including one on Solutions in the School Setting, and

39 WHEREAS, the Governor's task force and the obesity summits
 40 showed that schools are logical partners in preventing and
 41 reducing childhood obesity, and

42 WHEREAS, the majority of our children are enrolled in
 43 school, and

44 WHEREAS, school health programs can improve knowledge,
 45 attitudes, behaviors, and outcomes, and

46 WHEREAS, the percentage of children and adolescents in the
 47 United States who are overweight has tripled to 15 percent
 48 during the last 30 years, and

49 WHEREAS, 25 percent of children ages 5 to 10 have high
 50 cholesterol, high blood pressure, or other early warning signs
 51 of heart disease, and

52 WHEREAS, newly completed research shows a significant
 53 relationship between academic achievement and physical fitness
 54 and healthful nutrition, and

55 WHEREAS, the majority of food and beverage choices at
 56 schools are high-fat, high-sodium snacks and high-fat, high-

57 | sugar baked goods, and

58 | WHEREAS, approximately one-third of high school students
59 | are not getting enough physical activity, and

60 | WHEREAS, many of the youth ages 9-12 have no physical
61 | activity outside of the school day, and

62 | WHEREAS, healthy eating and physical activity lead to
63 | improved academics, improved behavior, improved short-term and
64 | long-term health, and reduced health care costs, and

65 | WHEREAS, the Centers for Disease Control and Prevention
66 | (CDC) recommends that schools offer nutritious food and
67 | beverages in all venues, and

68 | WHEREAS, the CDC encourages schools to adopt comprehensive
69 | nutrition and physical activity policies, and

70 | WHEREAS, the CDC says that standards for physical education
71 | and activity should be set to promote healthy lifestyles and
72 | healthy behaviors, and

73 | WHEREAS, schools should inform parents and the community of
74 | activities which promote healthy eating and physical activity,
75 | and

76 | WHEREAS, parents should be solicited for involvement in
77 | promoting healthy eating and physically active living, and

78 | WHEREAS, promoting healthy lifestyles at the elementary,
79 | middle, and high school levels will reduce the rate of childhood
80 | obesity, improve patient outcomes, and save lives, NOW,

81 | THEREFORE,

82 |

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

84 |

85 Section 1. Section 1003.453, Florida Statutes, is created
 86 to read:

87 1003.453 School wellness and physical education policies;
 88 nutrition guidelines.--

89 (1) By September 1, 2006, each school district shall
 90 submit to the Department of Education a copy of its school
 91 wellness policy as required by the Child Nutrition and WIC
 92 Reauthorization Act of 2004 and a copy of its physical education
 93 policy required under s. 1003.455. Each school district shall
 94 annually review its school wellness policy and physical
 95 education policy and provide a procedure for public input and
 96 revisions. In addition, each school district shall send an
 97 updated copy of its wellness policy and physical education
 98 policy to the department when a change or revision is made.

99 (2) By December 1, 2006, the department shall post each
 100 school district's school wellness policy and physical education
 101 policy on its website so that the policies can be accessed and
 102 reviewed by the public. Each school district shall provide the
 103 most current versions of its school wellness policy and physical
 104 education policy on the district's website.

105 (3) The department must provide on its website a model
 106 school wellness policy that may be accessed and reviewed by
 107 school districts and the public. The model school wellness
 108 policy must at a minimum:

109 (a) Require that all students receive classroom
 110 instruction on the benefits of exercise and healthful eating.

111 (b) Require that all students receive classroom
 112 instruction on the health hazards of using tobacco and being

113 exposed to tobacco smoke.

114 (c) Address at least four of the eight components of a
 115 coordinated school health program, including health education,
 116 physical education, health services, and nutrition services.

117 (d) Establish core measures for school health and
 118 wellness, such as the School Health Index.

119 (e) Require that, starting in grade 6, all students
 120 receive basic training in first aid, including cardiopulmonary
 121 resuscitation, at least every 2 years.

122 (4) By December 1, 2006, the department must provide
 123 nutrition guidelines for school districts in a rubric format
 124 which must at a minimum:

125 (a) Provide nutrition guidelines for all food and
 126 beverages sold on campus throughout the school day through
 127 vending machines, as a la carte items, through fund raisers, or
 128 through other means.

129 (b) Ensure that each student has access to healthful food
 130 choices in accordance with dietary guidelines of the United
 131 States Department of Agriculture.

132 (c) Ensure that each student and his or her parents have
 133 access to information concerning the nutritional content of food
 134 and beverages sold by or available from the school's food
 135 service department at breakfast, at lunch, and after school.

136 (d) Direct the school nutrition department to support
 137 staff wellness classes that provide nutrition education for
 138 teachers and school support staff. Schools are encouraged to
 139 provide classes that are taught by a licensed nutrition
 140 professional from the school nutrition department.

141 Section 2. Section 1003.455, Florida Statutes, is amended
 142 to read:

143 1003.455 Physical education; assessment.--

144 (1) It is the responsibility of each district school board
 145 to develop a physical education program that stresses physical
 146 fitness and encourages healthy, active lifestyles and to
 147 encourage all students in prekindergarten through grade 12 to
 148 participate in physical education. Physical education shall
 149 consist of physical activities of at least a moderate intensity
 150 level and for a duration sufficient to provide a significant
 151 health benefit to students, subject to the differing
 152 capabilities of students. All physical education programs and
 153 related lesson plans must be reviewed and approved by a
 154 certified physical education instructor.

155 (2) Each district school board shall, ~~no later than~~
 156 ~~December 1, 2004,~~ adopt a written physical education policy that
 157 details the school district's physical education program and
 158 expected program outcomes. ~~Each district school board shall~~
 159 ~~provide a copy of its written policy to the Department of~~
 160 ~~Education by December 15, 2004.~~

161 (3) Each district school board is encouraged to provide
 162 150 minutes of physical education each week for students in
 163 kindergarten through grade 5 and 225 minutes each week for
 164 students in grades 6 through 8. ~~Any district that does not adopt~~
 165 ~~a physical education policy by December 1, 2004, shall, at a~~
 166 ~~minimum, implement a mandatory physical education program for~~
 167 ~~kindergarten through grade 5 which provides students with 30~~
 168 ~~minutes of physical education each day, 3 days a week.~~

169 Section 3. Subsections (2) and (5) of section 381.0056,
 170 Florida Statutes, are amended to read:

171 381.0056 School health services program.--

172 (2) The Legislature finds that health services conducted
 173 as a part of the total school health program should be carried
 174 out to appraise, protect, and promote the health of students.
 175 School health services supplement, rather than replace, parental
 176 responsibility and are designed to encourage parents to devote
 177 attention to child health, to discover health problems, and to
 178 encourage use of the services of their physicians, dentists, and
 179 community health agencies. Each school shall annually provide to
 180 the parents or guardians of each of its students information on
 181 ways that they can help their children to be physically active
 182 and to eat healthful foods.

183 (5) (a) Each county health department shall develop,
 184 jointly with the district school board and the local school
 185 health advisory committee, a school health services plan; and
 186 the plan must ~~shall~~ include, at a minimum, provisions for:

- 187 1. ~~(a)~~ Health appraisal;
- 188 2. ~~(b)~~ Records review;
- 189 3. ~~(c)~~ Nurse assessment;
- 190 4. ~~(d)~~ Nutrition assessment;
- 191 5. ~~(e)~~ A preventive dental program;
- 192 6. ~~(f)~~ Vision screening;
- 193 7. ~~(g)~~ Hearing screening;
- 194 8. ~~(h)~~ Scoliosis screening;
- 195 9. ~~(i)~~ Growth and development screening;
- 196 10. ~~(j)~~ Health counseling;

197 11.~~(k)~~ Referral and followup of suspected or confirmed
 198 health problems by the local county health department;
 199 12.~~(l)~~ Meeting emergency health needs in each school;
 200 13.~~(m)~~ County health department personnel to assist school
 201 personnel in health education curriculum development;
 202 14.~~(n)~~ Referral of students to appropriate health
 203 treatment, in cooperation with the private health community
 204 whenever possible;
 205 15.~~(o)~~ Consultation with a student's parent or guardian
 206 regarding the need for health attention by the family physician,
 207 dentist, or other specialist when definitive diagnosis or
 208 treatment is indicated;
 209 16.~~(p)~~ Maintenance of records on incidents of health
 210 problems, corrective measures taken, and such other information
 211 as may be needed to plan and evaluate health programs; except,
 212 however, that provisions in the plan for maintenance of health
 213 records of individual students must be in accordance with s.
 214 1002.22;
 215 17.~~(q)~~ Health information which will be provided by the
 216 school health nurses, when necessary, regarding the placement of
 217 students in exceptional student programs and the reevaluation at
 218 periodic intervals of students placed in such programs; and
 219 18.~~(r)~~ Notification to the local nonpublic schools of the
 220 school health services program and the opportunity for
 221 representatives of the local nonpublic schools to participate in
 222 the development of the cooperative health services plan.
 223 (b) Each school health advisory committee must, at a
 224 minimum, include members who represent the eight component areas

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225 of the coordinated school health model as defined by the Centers
226 for Disease Control and Prevention. School health advisory
227 committees are encouraged to address the eight components of the
228 coordinated school health model in the school district's school
229 wellness policy pursuant to s. 1003.453.

230 Section 4. This act shall take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- The bill increases the responsibilities of the Department of Education to post online a model wellness policy and to provide school districts with the following nutrition guidelines. The bill also requires the district's school nutrition department to support staff wellness classes and provide nutrition education to teachers and school support staff.

B. EFFECT OF PROPOSED CHANGES:

Background

Presently, section 1003.42, Florida Statutes, provides that each school board shall provide appropriate instruction that meets State Board of Education standards, also known as the Sunshine State Standards, in specific subject areas including health and physical education.

In 2004 the Legislature enacted CS/CS/SB 354 which included several requirements regarding physical education. The 2004 bill directed the Department of Education (DOE) to conduct a study to determine the status of physical education instruction in the public schools and to develop recommendations for changes. The study was due February 1, 2005 to the Governor and the Legislature. It was received on March 24, 2005. The study did not recommend any Legislative action.

In 2004, the Legislature enacted s.1003.455, F.S., which required district school boards to adopt written physical education policies by December 1, 2004, that detailed the district's physical education program and expected program outcomes. Districts that did not adopt physical education policies by the deadline were required to implement a program requiring, at a minimum, 30 minutes of physical education for kindergarten through fifth-graders for three days a week.

The federal Child Nutrition and WIC Reauthorization Act (PL 108-265-June 30, 2004) requires each local education agency participating in the National School Lunch Act or the Child Nutrition Act of 1966 to establish a local school wellness policy, which must include nutritional education, physical activity, and other school based efforts to promote wellness.

Effects of Proposed Changes

The bill requires each school district to submit a copy of the wellness policy and its physical education policy to the Florida Department of Education. The bill requires each district to annually review its policies, provide a procedure for public input and revisions, and send any updated policies to the Department. By December 1, 2006, the Department is required to provide public electronic access to the district policies.

The bill requires the Department to post on its website a model school wellness policy that must address the following:

- Require classroom instruction on the benefits of exercise and healthy eating.
- Require classroom instruction on health hazards related to tobacco.
- Address 4 of the 8 components of a coordinated school health program.¹
- Establish core measures for school health and wellness.

¹ <http://www.cdc.gov/healthyyouth/CSHP/>. The eight components of a coordinated school health model include healthy school environment, counseling, psychological and social services, nutrition services, health services, health promotion for staff, family/community involvement, health education, and physical education.

- Requiring students beginning in grade 6 to receive basic first aid training, including CPR, at least every 2 years.

The bill requires the Department to provide school districts with the following nutrition guidelines in rubric format:

- All food and beverages some on campus throughout the day.
- Ensure access to healthy food choices.
- Ensure access to nutritional information on food and beverages sold or available from the school's food service department.
- Direct school nutrition department to support staff wellness classes and provide nutrition education to teachers and school support staff.

The bill requires a certified physical education instructor to review all physical education programs and related lesson plans. Also, the bill encourages districts to provide 150 minutes of physical education a week for students in K-5 and 225 minutes each week for students in grades 6-8.

The bill requires that districts provide parents with information on ways to help their children be physically active and eat healthy foods. Lastly, it revises the school health advisory committee so that members represent the eight component areas of the coordinated school health model as defined by the Centers for Disease Control and Prevention.² It also encourages the committees to address the school health model in the school district's school wellness policy.

C. SECTION DIRECTORY:

Section 1. Creates s. 1003.453, F.S., requiring each school district to submit copies of the school district's wellness policy and physical education policy; requiring the department to provide a model school wellness policy and nutrition guidelines.

Section 2. Amends s. 1003.455, F.S., requiring approval of physical education programs and lesson plans; encouraging districts to provide physical education for a specified amount of time; deleting obsolete language.

Section 3. Amends s. 381.0056, F.S., revising the composition of the school health advisory council.

Section 4. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The Department of Education bill analysis states that the agency would require three additional Program Specialists to develop model policies and fulfill the requirements of monitoring of the wellness policy requirements outlined in this bill and as required by the Child Nutrition and WIC Reauthorization Act of 2004, being implemented in September 2006. This staff would be needed in order to meet federal regulation requirements. Dollars for additional staff would not come from state funds but from federal funds. However, the state would have to allocate these positions. The classifications and costs associated with the additional staffing requirements are:

² Id.

Program Specialist III (3)

| | |
|-------------------------|---------------------------------|
| Base Salary & Benefits | \$51,714 |
| Expenses | 9,746 |
| OCO | 1,900 |
| Human Resource Services | <u>393</u> |
| TOTAL | \$63,753 x 3 = \$191,259 |

Travel costs associated with the positions description and other tasks are estimated at \$38,880 annually. The itemization of travel costs is:

Three staff traveling an average of 2 times per month for 4 days.

| | |
|--------------------------|--|
| 4 days (3 nights) hotel: | \$300 |
| Per diem (4 days): | \$113 |
| Auto (3 days): | <u>\$127</u> |
| Total | \$540 each trip X 2 per month X 3 staff members = \$3,240 monthly costs |

ANNUAL TOTAL \$3,240 x 12 = \$38,880

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

The fiscal impact of the bill to school districts is indeterminate. Wellness and physical education policies are already required; however, school districts may incur costs related to annual review and revisions as well as review of physical education programs and lesson plans.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
 2 An act relating to school improvement and education
 3 accountability; amending s. 1008.345, F.S.; requiring
 4 certain schools with a school grade of "F" to implement a
 5 policy for single-gender classes; providing requirements
 6 for uniform policies, including procedures for enrolling a
 7 student in coeducational classes and periodic review of
 8 policy implementation; requiring such schools to implement
 9 a school uniform policy; requiring maintenance of policies
 10 until certain conditions are met; amending s. 1004.68,
 11 F.S.; correcting a cross-reference; providing an effective
 12 date.

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

15
 16 Section 1. Subsection (8) of section 1008.345, Florida
 17 Statutes, is renumbered as subsection (9) and a new subsection
 18 (8) is added to that section to read:

19 1008.345 Implementation of state system of school
 20 improvement and education accountability.--

21 (8) In order to meet the educational needs of students in
 22 low-performing schools, nonvocational elementary and secondary
 23 schools receiving a school grade of "F" shall implement:

24 (a) A single-gender education policy that divides students
 25 into classes by gender. The admissions requirements, educational
 26 benefits, qualifications of faculty and staff, and quality and
 27 accessibility of facilities and resources for female and male
 28 students enrolled in single-gender classes must be substantially

29 equal and administered in an even-handed manner. Additionally, a
 30 single-gender education policy implemented pursuant to this
 31 subsection must contain the following:

32 1. A procedure for providing notice to parents of the
 33 school's conversion to single-gender classes.

34 2. A procedure for allowing parents to opt out of the
 35 school's single-gender education program and enroll their child
 36 in coeducational classes.

37 3. A procedure for periodic review of the single-gender
 38 education policy by the district school superintendent to assess
 39 whether the policy has been implemented in a nondiscriminatory
 40 manner and in a way that most effectively ensures the success of
 41 the program.

42 (b) A schoolwide policy for school uniforms for students.

43
 44 Policies required by this subsection must remain in force until
 45 the school achieves a school grade of "A."

46 Section 2. Subsection (2) of section 1004.68, Florida
 47 Statutes, is amended to read:

48 1004.68 Community college; degrees and certificates; tests
 49 for certain skills.--

50 (2) Each community college board of trustees shall require
 51 the use of scores on tests for college-level communication and
 52 computation skills provided in s. 1008.345(9)~~(8)~~ as a condition
 53 for graduation with an associate in arts degree.

54 Section 3. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 745 School Improvement and Education Accountability
SPONSOR(S): Simmons and others
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|------------------|---------------------|
| 1) PreK-12 Committee | | Beagle <i>GB</i> | Mizereck <i>KKM</i> |
| 2) Education Appropriations Committee | | | |
| 3) Education Council | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

Current federal and state laws prohibit assignment of female and male students into single gender classes. Nonetheless, single gender education programs have emerged in several states. Florida law provides certain duties to the Commissioner, the Department of Education, and the State Board of Education pertaining to improving low performing schools.

House bill 745 requires schools graded "F" to implement programs that assign female and male students to single gender classes. The bill further requires that these schools implement school-wide policies for school uniforms for students. Parents must be given notice and an opportunity to opt out of the single gender classes.

The bill will have an indeterminate fiscal impact. See FISCAL COMMENTS.

The bill will take effect on July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides Limited Government-- The bill requires schools graded "F" to implement single gender classes and adopt school uniform policies.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Single Gender Education

Current federal law (Title IX) generally prohibits coeducational elementary and secondary schools receiving federal education funding from segregating classes by gender.¹ Title IX contains several exceptions to this prohibition that allow single sex groupings in certain situations:

- Physical education classes that result from the application of objective standards of physical ability.²
- Physical education classes during participation in contact sports.³
- Classes in elementary and secondary schools dealing exclusively with human sexuality.⁴
- Choruses based on vocal range or quality, which may result in a single-sex or predominantly single-sex grouping.⁵

Florida law prohibits public K-20 educational institutions that receive state or federal funds from restricting access or establishing criteria for admission to a program or course based on gender.⁶

The No Child Left Behind Act of 2001 provides that federal funds may be made available to local educational agencies for implementing innovative assistance programs, which may include programs to provide same gender schools and classrooms.⁷ In March of 2004, the U.S. Department of Education (USDOE) announced its intent to adopt revised Title IX regulations that would provide greater flexibility to local education authorities in offering single gender educational opportunities.⁸ According to the USDOE, the proposed regulations are currently under review and existing laws governing single gender classes remain in effect.⁹

The recent emergence of single gender education programs is rooted in research indicating that girls and boys learn differently, and that instruction that is tailored to reach these differing learning styles is more effective for some students than traditional coeducational instruction.¹⁰ Approximately 170 public coeducational schools in the United States offer some configuration of single sex classes, including

¹ 34 C.F.R. § 106.34(a).

² 34 C.F.R. § 106.34(b).

³ 34 C.F.R. § 106.34(c).

⁴ 34 C.F.R. § 106.34(e).

⁵ 34 C.F.R. § 106.34(f).

⁶ Section 1000.05(a) and (b), F.S.

⁷ 20 U.S.C. § 7215 (a) (23).

⁸ Federal Register , Vol. 69, No. 46 available at <http://www.ed.gov/legislation/FedRegister/proprule/2004-1/030904a.pdf> (March 9, 2004).

⁹ Correspondence with Ms. Doris Chriswell, Attorney, U.S. DOE, Office of Civil Rights, Atlanta GA (December 2005).

¹⁰ The Gurian Institute available at <http://www.gurianinstitute.com/> (Accessed Mar. 15, 2006). See also National Association for Single Sex Public Education available at <http://www.singlesexschools.org/schools-classrooms.htm>

several public schools in Florida.¹¹ California, District of Columbia, Virginia, and Wisconsin currently have laws permitting the institution of single gender classes.¹²

Intervention Measures for "F" Schools

Section 1008.345, F.S. provides that the Commissioner of Education (Commissioner) is responsible for implementing and maintaining the state system of school improvement and education accountability. Florida law authorizes the Department of Education (DOE) to provide technical assistance to schools graded "D" or "F." Similarly, the DOE is required to assign a community assessment team to each school district with a school grade "D" or "F." Section 1008.33, F.S. authorizes the State Board of Education to make recommendations to district school boards to improve the performance of the district's "F" schools.

Effect of Proposed Changes:

House bill 745 requires schools graded "F" to assign students to single gender classes. Affected schools must also adopt school uniform policies. The bill specifies that the admission requirements, educational benefits, qualifications of faculty and staff, and quality of facilities and resources for female and male students must be substantially equal and implemented in an evenhanded manner. School districts must conduct periodic reviews to assess whether programs have been implemented in a nondiscriminatory manner and to monitor program success.

The bill also provides that parents be given notice of the school's conversion to single gender classes and the ability to opt out of such program and enroll their child in a coeducational class.

The bill provides and effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1. Amends s. 1008.345, F.S.; requiring schools graded "F" to implement single gender classes and uniform policies.

Section 2. Amends s. 1004.68, F.S.; conforming a cross reference.

Section 3. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

¹¹ National Association for Single Sex Public Education available at <http://www.singlesexschools.org/schools-classrooms.htm> (Accessed Mar. 15, 2006).

¹² Correspondence with Jennifer Dounay, Policy Analyst, Education Commission of the States (December 2005).

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

The bill has an indeterminate fiscal impact. School districts may incur costs associated with offering both single gender and coeducational classes. According to proponents of single gender education, such programs are most effective when teachers are trained in the learning differences between girls and boys. Schools that choose to train teachers in this manner will incur the costs of this training.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 967

2006

1 A bill to be entitled
 2 An act relating to public K-12 educational instruction;
 3 amending s. 1003.42, F.S.; revising provisions relating to
 4 required instruction and courses of study in the public
 5 schools; including study of the history of the United
 6 States and free enterprise; requiring standards and
 7 assessments adopted by the State Board of Education to
 8 conform to requirements for instruction; providing
 9 requirements for teaching the history of the United States
 10 at certain grade levels; amending s. 1003.43, F.S.,
 11 relating to general requirements for high school
 12 graduation; including study of the Declaration of
 13 Independence in the credit requirement for American
 14 government; amending s. 1002.20, F.S.; correcting a cross-
 15 reference; providing an effective date.

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

18
 19 Section 1. Section 1003.42, Florida Statutes, is amended
 20 to read:

- 21 1003.42 Required instruction.--
- 22 (1) Each district school board shall provide all courses
 23 required for high school graduation and appropriate instruction
 24 designed to ensure that students meet State Board of Education
 25 adopted standards in the following subject areas: reading and
 26 other language arts, mathematics, science, social studies,
 27 foreign languages, health and physical education, and the arts.
- 28 (2) All members of the instructional staff of the public

29 schools, subject to the rules of the State Board of Education
 30 and the district school board, shall teach efficiently and
 31 faithfully, using the books and materials required that meet the
 32 highest standards for professionalism and historic accuracy,
 33 following the prescribed courses of study, and employing
 34 approved methods of instruction, the following:

35 (a) The history and content of the Declaration of
 36 Independence as written, including national sovereignty, natural
 37 law, self-evident truth, equality of all persons, limited
 38 government, popular sovereignty, and God-given, inalienable
 39 rights of life, liberty, and property, and how it forms the
 40 philosophical foundation of our government.

41 (b) The history, meaning, significance, and effect of the
 42 provisions of the Constitution of the United States and
 43 amendments thereto with emphasis on each of the 10 amendments
 44 that make up the Bill of Rights and how the constitution
 45 provides the structure of our government.

46 (c) The history of the state and the State Constitution.

47 (d)~~(b)~~ The most important arguments in support of adopting
 48 our republican form of government, as they are embodied in the
 49 most important of the Federalist Papers.

50 ~~(e) The essentials of the United States Constitution and~~
 51 ~~how it provides the structure of our government.~~

52 (e)~~(d)~~ Flag education, including proper flag display and
 53 flag salute.

54 (f)~~(e)~~ The elements of United States civil government,
 55 including the primary functions of and interrelationships
 56 between the Federal Government, the state, and its counties,

57 municipalities, school districts, and special districts.

58 (g) The history of the United States, including the period
 59 of discovery, the early colonies, the War for Independence, the
 60 Civil War, the expansion of the United States to its present
 61 boundaries, the world wars, and the civil rights movement to the
 62 present. The history of the United States shall be taught in a
 63 factual manner based on genuine history.

64 (h)-(f) The history of the Holocaust (1933-1945), the
 65 systematic, planned annihilation of European Jews and other
 66 groups by Nazi Germany, a watershed event in the history of
 67 humanity, to be taught in a manner that leads to an
 68 investigation of human behavior, an understanding of the
 69 ramifications of prejudice, racism, and stereotyping, and an
 70 examination of what it means to be a responsible and respectful
 71 person, for the purposes of encouraging tolerance of diversity
 72 in a pluralistic society and for nurturing and protecting
 73 democratic values and institutions.

74 (i)-(g) The history of African Americans, including the
 75 history of African peoples before the political conflicts that
 76 led to the development of slavery, the passage to America, the
 77 enslavement experience, abolition, and the contributions of
 78 African Americans to society.

79 (j)-(h) The elementary principles of agriculture.

80 (k)-(i) The true effects of all alcoholic and intoxicating
 81 liquors and beverages and narcotics upon the human body and
 82 mind.

83 (l)-(j) Kindness to animals.

84 ~~(k) The history of the state.~~

85 (m)~~(l)~~ The conservation of natural resources.

86 (n)~~(m)~~ Comprehensive health education that addresses
 87 concepts of community health; consumer health; environmental
 88 health; family life, including an awareness of the benefits of
 89 sexual abstinence as the expected standard and the consequences
 90 of teenage pregnancy; ~~mental and emotional health;~~ injury
 91 prevention and safety; nutrition; personal health; prevention
 92 and control of disease; and substance use and abuse.

93 (o)~~(n)~~ Such additional materials, subjects, courses, or
 94 fields in such grades as are prescribed by law or by rules of
 95 the State Board of Education and the district school board in
 96 fulfilling the requirements of law.

97 (p)~~(o)~~ The study of Hispanic contributions to the United
 98 States.

99 (q)~~(p)~~ The study of women's contributions to the United
 100 States.

101 (r) The nature and importance of free enterprise to the
 102 United States economy.

103 (s)~~(q)~~ A character-development program in the elementary
 104 schools, similar to Character First or Character Counts, which
 105 is secular in nature ~~and stresses such character qualities as~~
 106 ~~attentiveness, patience, and initiative.~~ Beginning in school
 107 year 2004-2005, the character-development program shall be
 108 required in kindergarten through grade 12. Each district school
 109 board shall develop or adopt a curriculum for the character-
 110 development program that shall be submitted to the department
 111 for approval. The character-development curriculum shall stress
 112 the qualities of patriotism; responsibility; citizenship; the

113 Golden Rule; ~~;~~ kindness; ~~;~~ respect for authority, human life,
 114 liberty, and personal property; ~~;~~ honesty; charity; ~~;~~ self-
 115 control; ~~;~~ racial, ethnic, and religious tolerance; ~~;~~ and
 116 cooperation.

117 ~~(t)~~ ~~(r)~~ In order to encourage patriotism, the sacrifices
 118 that veterans have made in serving our country and protecting
 119 democratic values worldwide. Such instruction must occur on or
 120 before Veterans' Day and Memorial Day. Members of the
 121 instructional staff are encouraged to use the assistance of
 122 local veterans when practicable.

123
 124 Standards and assessments adopted by the State Board of
 125 Education shall be based on, and conform to, the requirements of
 126 this subsection.

127 (3) Each district school board shall require that United
 128 States history, including the provisions of paragraphs (2) (a)-
 129 (g), be taught in at least two grade levels in elementary
 130 school, two grade levels in middle school, and two grade levels
 131 in high school.

132 ~~(4)~~ ~~(3)~~ Any student whose parent makes written request to
 133 the school principal shall be exempted from the teaching of
 134 reproductive health or any disease, including HIV/AIDS, its
 135 symptoms, development, and treatment. A student so exempted may
 136 not be penalized by reason of that exemption. Course
 137 descriptions for comprehensive health education shall not
 138 interfere with the local determination of appropriate curriculum
 139 which reflects local values and concerns.

140 Section 2. Paragraph (g) of subsection (1) of section

141 1003.43, Florida Statutes, is amended to read:

142 1003.43 General requirements for high school graduation.--

143 (1) Graduation requires successful completion of either a
 144 minimum of 24 academic credits in grades 9 through 12 or an
 145 International Baccalaureate curriculum. The 24 credits shall be
 146 distributed as follows:

147 (g) One-half credit in American government, including
 148 study of the Declaration of Independence and the Constitution of
 149 the United States. For students entering the 9th grade in the
 150 1997-1998 school year and thereafter, the study of Florida
 151 government, including study of the State Constitution, the three
 152 branches of state government, and municipal and county
 153 government, shall be included as part of the required study of
 154 American government.

155

156 District school boards may award a maximum of one-half credit in
 157 social studies and one-half elective credit for student
 158 completion of nonpaid voluntary community or school service
 159 work. Students choosing this option must complete a minimum of
 160 75 hours of service in order to earn the one-half credit in
 161 either category of instruction. Credit may not be earned for
 162 service provided as a result of court action. District school
 163 boards that approve the award of credit for student volunteer
 164 service shall develop guidelines regarding the award of the
 165 credit, and school principals are responsible for approving
 166 specific volunteer activities. A course designated in the Course
 167 Code Directory as grade 9 through grade 12 that is taken below
 168 the 9th grade may be used to satisfy high school graduation

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169 requirements or Florida Academic Scholars award requirements as
 170 specified in a district school board's student progression plan.
 171 A student shall be granted credit toward meeting the
 172 requirements of this subsection for equivalent courses, as
 173 identified pursuant to s. 1007.271(6), taken through dual
 174 enrollment.

175 Section 3. Paragraph (d) of subsection (3) of section
 176 1002.20, Florida Statutes, is amended to read:

177 1002.20 K-12 student and parent rights.--Parents of public
 178 school students must receive accurate and timely information
 179 regarding their child's academic progress and must be informed
 180 of ways they can help their child to succeed in school. K-12
 181 students and their parents are afforded numerous statutory
 182 rights including, but not limited to, the following:

183 (3) HEALTH ISSUES.--

184 (d) Reproductive health and disease education.--A public
 185 school student whose parent makes written request to the school
 186 principal shall be exempted from the teaching of reproductive
 187 health or any disease, including HIV/AIDS, in accordance with
 188 the provisions of s. 1003.42 (4) ~~(3)~~.

189 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 967
SPONSOR(S): Glorioso
TIED BILLS:

Public K-12 Educational Instruction

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|-------------------|---------------------|
| 1) PreK-12 Committee | | Hassell <i>JH</i> | Mizereck <i>KCM</i> |
| 2) Choice & Innovation Committee | | | |
| 3) Education Appropriations Committee | | | |
| 4) Education Council | | | |
| 5) _____ | | | |

SUMMARY ANALYSIS

School districts are currently required by law to provide instruction on a number of specific topics. House Bill 967 specifies in greater detail additional requirements for the instruction in certain U.S. history topics and specifies how often they must be taught. The bill also adds a requirement for instruction in the importance of free enterprise and amends requirements related to required instruction in comprehensive health education and character-development programs. The bill includes requirements for instructional materials, and requires that SBE adopted standards and assessments conform to the instruction as described in the bill.

The fiscal impact of the bill is indeterminate. See Fiscal Comments.

The bill sets an effective date of July 1, 2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill places a detailed mandate on local school districts to include specific topics in their instruction on U.S. history.

Safeguard individual liberty – The bill is intended to inculcate in public school students a better understanding of the history and foundations of individual liberty.

B. EFFECT OF PROPOSED CHANGES:

Required Instruction in U.S. History

Section 1003.43(1)(d) requires successful completion of one credit in American history for high school graduation. In addition, school districts are required by law to provide appropriate instruction designed to ensure students meet the SBE adopted standards in specified subjects, including social studies. The current standards cover American history topics and requirements.

Section 1003.42, F.S. requires school districts to provide instruction in a number of specified topics, including:

- The Declaration of Independence,
- The United States Constitution, and
- The history of the state.

The bill specifies in greater detail the following additional requirements for the instruction in certain U.S. history topics:

- Instruction on the Declaration of Independence must address its history and must include the ideas of national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and God-given, inalienable rights of life, liberty, and property.
- Instruction in the U.S. Constitution must include the history, meaning, significance and effect of its provisions, with emphasis on the Bill of Rights.
- Instruction in the history of the state must also include the history of the State Constitution.

The bill adds a requirement for instruction in U.S. history which must:

- Include the period of discovery, early colonies, the War for Independence, Reconstruction, the Civil War, the expansion of the U.S., the world wars, and the civil rights movement;
- Be taught in a factual manner based on genuine history.

Other Required Instruction

The bill requires that the materials used for required instruction meet the highest standards for professionalism and historic accuracy.

Comprehensive health education is currently required to address mental and emotional health. The bill removes the requirement for instruction in mental and emotional health.

The bill adds a new requirement of instruction in the nature and importance of free enterprise to the U.S. economy.

Character-development programs are currently required. The bill amends the requirements for the content of such programs. The bill deletes the requirement that such programs stress attentiveness, patience and initiative. The bill adds requirements that the programs stress:

- The Golden Rule,
- Respect specifically for authority, human life, liberty, and personal property, and
- Specifically racial, ethnic, and religious tolerance.

C. SECTION DIRECTORY:

Section 1. Amends s.1003.42, F.S., revising several provisions related to required instruction in public schools and to provide requirements for the teaching and assessment of the history of the United States.

Section 2. Amends s. 1003.43, F.S., requiring the study of the Declaration of Independence for high school graduation.

Section 3. Amends s. 1002.20, F.S., correcting a cross reference.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

There could be a fiscal impact related to the requirement that standards and assessments adopted by the State Board of Education comport with the bill's specific content requirements.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds.

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The requirement that high schools provide instruction in specific U.S. history topics in two grade levels conflicts with current requirements for one credit in U.S. history. Currently, United States history in middle school is designed as a one-year course. There are no current state time requirements for instruction in United States history at the elementary level.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to high school athletics; amending s.
3 1006.20, F.S.; requiring the Florida High School Athletic
4 Association to facilitate a 3-year drug testing program to
5 randomly test for anabolic steroids in students in grades
6 9 through 12 who participate in interscholastic athletics
7 in its member schools; requiring schools to consent to the
8 provisions of the program as a prerequisite for membership
9 in the organization; requiring the organization to
10 establish procedures for the conduct of the program,
11 including contracting with a testing agency to administer
12 the program; providing that the finding of a drug test
13 shall be separate from a student's educational records;
14 providing for disclosure; requiring students and their
15 parents to consent to the provisions of the program as a
16 prerequisite for eligibility to participate in
17 interscholastic athletics; providing penalties for
18 students selected for testing who fail to provide a
19 specimen; requiring the administration of a school to meet
20 with a student who tests positive and his or her parent to
21 review the finding, penalties, and procedure for challenge
22 and appeal; providing penalties for first, second, and
23 third positive findings; providing due process procedures
24 for challenge and appeal; requiring the organization to
25 provide an annual report to the Legislature on the results
26 of the program; providing an exemption from civil
27 liability resulting from implementation of the program;
28 requiring the Department of Legal Affairs to provide

29 defense in claims of civil liability; requiring program
 30 expenses to be paid through legislative appropriation;
 31 providing for expiration of the program; providing an
 32 appropriation; providing an effective date.

33

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

35

36 Section 1. Subsection (10) is added to section 1006.20,
 37 Florida Statutes, to read:

38 1006.20 Athletics in public K-12 schools.--

39 (10) RANDOM DRUG TESTING PROGRAM.--

40 (a) The organization shall facilitate a 3-year program
 41 during the 2006-2007, 2007-2008, and 2008-2009 academic years in
 42 which students in grades 9 through 12 in its member schools who
 43 participate in interscholastic athletics governed by the
 44 organization shall be subject to random testing for the use of
 45 anabolic steroids as defined in s. 893.03(3)(d). All schools,
 46 both public and private, shall consent to the provisions of this
 47 subsection as a prerequisite for membership in the organization
 48 for the duration of the program.

49 (b) The organization's board of directors shall establish
 50 procedures for the conduct of the program that, at a minimum,
 51 shall provide for the following:

52 1. The organization shall select and enter into a contract
 53 with a testing agency that will administer the testing program.
 54 The laboratory utilized by the testing agency to analyze
 55 specimens shall be accredited by the World Anti-Doping Agency.

56 2. A minimum of 1 percent of the total students who
57 participate in each interscholastic sport, based on
58 participation numbers reported to the organization during the
59 preceding academic year, shall be randomly selected to undergo a
60 test in each year of the program.

61 3. Each member school shall report to the organization
62 each year the names of students who will represent the school in
63 interscholastic athletics during that year. A student shall not
64 be eligible to participate in interscholastic athletics in a
65 member school until the student's name has been reported to the
66 organization by the school in the year in which such
67 participation is to occur.

68 4. Each year, the organization shall provide to the
69 testing agency all names of students that are submitted by its
70 member schools. The testing agency shall make its random
71 selections for testing from these names.

72 5. The testing agency shall notify not fewer than 7 days
73 in advance both the administration of a school and the
74 organization of the date on which its representatives will be
75 present at the school to collect a specimen from a randomly
76 selected student. However, the name of the student from which a
77 specimen is to be collected shall not be disclosed.

78 6. The finding of a drug test shall be separate from a
79 student's educational records and shall be disclosed by the
80 testing agency only to the organization, the student, the
81 student's parent, the administration of the student's school,
82 and the administration of any school to which the student may

83 transfer during a suspension from participation in
84 interscholastic athletics resulting from a positive finding.

85 (c) In each year of the program, each student who wishes
86 to participate in interscholastic athletics and his or her
87 parent must consent to the provisions of this subsection as a
88 prerequisite for athletic eligibility. This consent shall be in
89 writing on a form prescribed by the organization and provided to
90 the student by his or her school. Failure to complete and sign
91 the consent form shall result in the student's ineligibility to
92 participate in all interscholastic athletics. The consent form
93 shall include the following information:

- 94 1. A brief description of the drug testing program.
- 95 2. The penalties for a first, second, and third positive
96 finding.
- 97 3. The procedure for challenging a positive finding.
- 98 4. The procedure for appealing a prescribed penalty.

99 (d) A student who is selected for testing and fails to
100 provide a specimen shall be immediately suspended from
101 interscholastic athletic practice and competition until such
102 time as a specimen is provided.

103 (e) If a student tests positive in a test administered
104 under this subsection, the administration of the school the
105 student attends shall immediately:

- 106 1. Suspend the student from participation in all
107 interscholastic athletic practice and competition.
- 108 2. Notify and schedule a meeting with the student and his
109 or her parent during which the principal or his or her designee
110 shall review with them the positive finding, the procedure for

111 challenging the positive finding, the prescribed penalties, and
112 the procedure for appealing the prescribed penalties.

113 (f) The following penalties are prescribed for positive
114 findings resulting from tests administered under this
115 subsection:

116 1. For a first positive finding, the student shall be
117 suspended from all interscholastic athletic practice and
118 competition for a period of 90 school days and shall be subject
119 to a mandatory exit test for restoration of eligibility no
120 sooner than the 60th school day of the suspension. If the exit
121 test is negative, the organization shall restore the eligibility
122 of the student at the conclusion of the 90-school-day period of
123 suspension. If the exit test is positive, the student shall
124 remain suspended from all interscholastic athletic practice and
125 competition until such time as a subsequent retest of the
126 student results in a negative finding. The student shall be
127 subject to repeated tests for the duration of his or her high
128 school athletic eligibility.

129 2. For a second positive finding, the student shall be
130 suspended from all interscholastic athletic practice and
131 competition for a period of 1 calendar year and shall be subject
132 to a mandatory exit test for restoration of eligibility no
133 sooner than the 11th month of the suspension. If the exit test
134 is negative, the organization shall restore the eligibility of
135 the student at the conclusion of the 1-calendar-year period of
136 suspension. If the exit test is positive, the student shall
137 remain suspended from all interscholastic athletic practice and
138 competition until such time as a subsequent retest of the

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139 student results in a negative finding. The student shall be
140 subject to repeated tests for the duration of his or her high
141 school athletic eligibility.

142 3. For a third positive finding, the student shall be
143 permanently suspended from all interscholastic athletic practice
144 and competition.

145 (g) In addition to the penalties prescribed in paragraph
146 (f), a student who tests positive in a test administered under
147 this subsection shall attend and complete an appropriate
148 mandatory drug education program conducted by the student's
149 school, the student's school district, or a third-party
150 organization contracted by the school or school district to
151 conduct such an education program.

152 (h) The following due process shall be afforded each
153 student who tests positive in a test administered under this
154 subsection:

155 1. The member school may challenge a positive finding and
156 must challenge a positive finding at the request of the student.
157 A sample of the original specimen provided by the student and
158 retained by the testing agency shall be analyzed. The member
159 school or the student's parent shall pay the cost of the
160 analysis. If the analysis results in a positive finding, the
161 student shall remain ineligible until the prescribed penalty is
162 fulfilled. If the analysis results in a negative finding, the
163 organization shall immediately restore the eligibility of the
164 student and shall refund to the member school or student's
165 parent the cost of the analysis. The student shall remain

166 suspended from interscholastic athletic practice and competition
167 during the challenge.

168 2.a. A member school may appeal to the organization's
169 commissioner the period of ineligibility imposed on a student as
170 a result of a positive finding and must appeal at the request of
171 the student. The commissioner may require the student to
172 complete the prescribed penalty, reduce the prescribed penalty
173 by one-half, or provide complete relief from the prescribed
174 penalty. Regardless of the decision of the commissioner, the
175 student shall remain ineligible until the student tests negative
176 on the mandatory exit test and the student's eligibility is
177 restored by the organization.

178 b. Should the school or student be dissatisfied with the
179 decision of the commissioner, the school may pursue the appeal
180 before the organization's board of directors and must do so at
181 the request of the student. The board of directors may require
182 the student to complete the prescribed penalty, reduce the
183 prescribed penalty by one-half, or provide complete relief from
184 the prescribed penalty. Regardless of the decision of the board
185 of directors, the student shall remain ineligible until the
186 student tests negative on the mandatory exit test and the
187 student's eligibility is restored by the organization. The
188 decision of the board of directors on each appeal shall be
189 final.

190 c. Technical experts may serve as consultants to both the
191 organization's commissioner and its board of directors in
192 connection with such appeals.

193 (i) No later than October 1 following each year of the
194 program, the organization shall submit to the President of the
195 Senate and the Speaker of the House of Representatives a report
196 on the results of the program for that year, as well as the
197 aggregate results of the program to date. The report shall
198 include statistics on the number of students tested; the number
199 of first, second, and third violations; the number of challenges
200 and their results; the number of appeals and their dispositions;
201 and the costs incurred by the organization in the administration
202 of the program, including attorney's fees and other expenses of
203 litigation.

204 (j) The organization, members of its board of directors,
205 and its employees and member schools and their employees are
206 exempt from civil liability arising from any act or omission in
207 connection with the program conducted under this subsection. The
208 Department of Legal Affairs shall defend the organization,
209 members of its board of directors, and its employees and member
210 schools and their employees in any action against such parties
211 arising from any such act or omission. In providing such
212 defense, the Department of Legal Affairs may employ or utilize
213 the legal services of outside counsel.

214 (k) All expenses of the program shall be paid with funds
215 appropriated by the Legislature. Such expenses shall include,
216 but not be limited to, all fees and expenses charged by the
217 testing agency for administrative services, specimen collection
218 services, and specimen analysis; all administrative expenses
219 incurred by the organization in the facilitation of the program;

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220 and all attorney's fees and other expenses of litigation
 221 resulting from legal challenges related to the program.

222 (1) The provisions of this subsection shall expire on June
 223 30, 2009, or at such earlier date as appropriated funds are
 224 exhausted.

225 Section 2. There is hereby appropriated from the General
 226 Revenue Fund to the Florida High School Athletic Association the
 227 sum of \$3 million for the purpose of administering the
 228 provisions of s. 1006.20(10), Florida Statutes, as created by
 229 this act. Any unexpended or unencumbered balance remaining at
 230 the end of fiscal year 2008-2009 shall revert to the General
 231 Revenue Fund.

232 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1003 High School Athletics
SPONSOR(S): Llorente and others
TIED BILLS: HB 1005 **IDEN./SIM. BILLS:** SB 1928

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|------------------|--------------------|
| 1) PreK-12 Committee | | Beagle <i>GB</i> | Mizereck <i>MM</i> |
| 2) Civil Justice Committee | | | |
| 3) Education Appropriations Committee | | | |
| 4) Education Council | | | |
| 5) _____ | | | |

SUMMARY ANALYSIS

Currently, there is no statewide requirement that high school student athletes be tested for anabolic steroids.

House bill 1003 establishes a three-year random anabolic steroids testing program for student athletes in grades 9 through 12 to be administered by the Florida High School Athletic Association (FHSAA) during the 2006-2007, 2007-2008, and 2008-2009 school years. Public and private schools must participate in the program as a prerequisite to FHSAA membership. The bill provides program requirements, penalties, and challenge and appeal procedures.

The bill requires FHSAA to submit an annual report of program results to the Legislature.

This bill provides an appropriation of \$3 million dollars for program implementation.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides Limited Government: The bill requires FHSAA member schools and student athletes to participate in a mandatory random steroid testing program as a prerequisite to athletic participation.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

A 2004 Information Brief by the Office of Program Policy Analysis and Government Accountability (OPPAGA) indicates that steroid use among high school students is relatively low (about 2% of students report use), but has increased over time. Although survey data indicate that steroid use in Florida is slightly below the national rate, steroid use remains a concern, particularly for young athletes. Steroid use has been linked to more than 70 physical and psychological side effects, many of which are irreversible.¹

Eleven Florida school districts have implemented drug testing programs for students; however, none of these programs specifically test for steroid use. Current law does not explicitly authorize school boards to require students to submit to drug testing.²

Quest Diagnostics and Lab Corporation of America, two companies that perform steroid testing, report that steroid screens or panels can test for at least 20 different steroid drugs or their metabolites. OPPAGA reports that testing for steroids ranges from \$50.00 to \$250.00 per test and that testing facilities are limited. Steroid testing is done in the form of a urinalysis test, but it is a more extensive test that requires sophisticated equipment that many labs do not have. Therefore, the test must be sent to the few labs in the United States that do this type of testing. Additional costs include specimen collection and processing, as well as staff time, specimen collection equipment, and mailing costs.³

The constitutionality of random drug testing programs is governed by the provisions of Section 12 of Article I, Florida Constitution and the Fourth Amendment of the Federal Constitution which protect individuals from unreasonable government searches and seizures. Generally, reasonable school district policies requiring random drug testing of student athletes have been upheld by federal courts.⁴

Section 1006.20, F.S., sets forth the organizational structure and governing authority of the FHSAA. Statutes provide that FHSAA is not a state agency and grant FHSAA authority to adopt bylaws governing participation of member schools and individual student athletes unless specifically provided for in statute. Student athletes are required to pass a medical examination and cardiovascular screening and provide medical history information prior to participating in interscholastic athletics. Currently, there is no statewide requirement that high school student athletes be tested for anabolic steroids.

Effect of Proposed Changes:

House bill 1003 establishes a three-year random anabolic steroids testing program for student athletes to be administered by the FHSAA during the 2006-2007, 2007-2008, and 2008-2009 school years. The bill provides that public and private schools must participate in the program as a prerequisite to FHSAA

¹ OPPAGA Information Brief, Report No. 04-72, *Though the Option is Available, School Districts Do Not Test Students for Steroids*. October, 2004.

² *Id.*

³ *Id.*

⁴ *Vernonia School District v. Acton*, 515 U.S. 646 (1995), *Earls v. Board of Education*, 242 F.3d. 984 (7th Cir. 1998), and *Schall by Kross v. Tippecanoe County School Corp.*, 864 F.2d. 1309 (7th Cir. 1988).

membership. All student athletes in grades 9 through 12 are subject to random testing as a prerequisite to participation in interscholastic athletics.

The bill requires the FHSAA to contract with a testing agency accredited by the World Anti-Doping Agency to administer required steroid tests. The testing agency must randomly select a minimum of one percent of total student athletes for testing in each year. In addition, the bill specifies several program requirements:

- Member schools must report the name of each student athlete participating in the school's athletic programs to FHSAA. The FHSAA must then report the names of all student athletes submitted by member schools to the testing agency.
- The testing agency must provide member school administrations seven days' notice of its intent to test selected student athletes.
- Test results are excluded from the student's educational records.
- Student athletes and their parents must provide written consent to testing as a prerequisite to eligibility to participate in interscholastic athletics.
- School administrators must immediately suspend the eligibility of a student selected for testing who refuses to provide a testing sample or who tests positive for anabolic steroids. School officials must notify the student athlete and his or her parents of the positive test result and schedule a meeting to discuss penalties and appeal procedures.

The bill provides penalties for first, second, and third positive test results. Generally, the bill provides that student athletes who test positive for anabolic steroids are subject to immediate suspension of their eligibility to participate in athletics. Prior to the end of the suspension, the student is subject to a mandatory exit test. If the result of this test is negative, the school must reinstate the student athlete's eligibility at the end of the original suspension period. Student athletes who test positive on the exit test remain suspended until they register a negative result on a subsequent retest and must submit to regular testing for the duration of their remaining high school athletic eligibility. Students registering a third positive test result are permanently suspended from participation in athletics. All student athletes registering a positive test result must complete a mandatory drug education program.

The bill provides a detailed procedure for challenging positive test results and appealing prescribed penalties.

The bill states that all FHSAA and member school officials and employees are exempt from civil liability arising from administration of the steroid testing program.

The bill requires FHSAA to submit an annual report of program results to the Legislature.

The provisions of the bill expire on June 30, 2009 or when appropriated funds are exhausted.

C. SECTION DIRECTORY:

Section 1. Amending s. 1006.20, F.S.; establishing a random steroid testing program to be administered by FHSAA; providing program requirements; providing penalties; providing appeal and challenge procedures; providing conditions for use of appropriated funds; providing an expiration date for the testing program.

Section 2. Providing an appropriation.

Section 3. Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The bill provides an appropriation of \$3 million from the General Revenue Fund. All expenses of the testing program are required to be paid out of this appropriation and unspent funds revert upon expiration of the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

A bill to be entitled

An act relating to public records and public meetings exemptions; amending s. 1006.20, F.S.; exempting from public records requirements the finding of a drug test administered to a student by a testing agency with which the Florida High School Athletic Association has contracted; exempting from public meetings requirements a meeting at which a challenge or an appeal is made; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Paragraphs (b) and (h) of subsection (10) of section 1006.20, Florida Statutes, as created by HB 1003, 2006 Regular Session, are amended to read:

1006.20 Athletics in public K-12 schools.--

(10) RANDOM DRUG TESTING PROGRAM.--

(b) The organization's board of directors shall establish procedures for the conduct of the program that, at a minimum, shall provide for the following:

1. The organization shall select and enter into a contract with a testing agency that will administer the testing program. The laboratory utilized by the testing agency to analyze specimens shall be accredited by the World Anti-Doping Agency.

2. A minimum of 1 percent of the total students who participate in each interscholastic sport, based on

29 participation numbers reported to the organization during the
30 preceding academic year, shall be randomly selected to undergo a
31 test in each year of the program.

32 3. Each member school shall report to the organization
33 each year the names of students who will represent the school in
34 interscholastic athletics during that year. A student shall not
35 be eligible to participate in interscholastic athletics in a
36 member school until the student's name has been reported to the
37 organization by the school in the year in which such
38 participation is to occur.

39 4. Each year, the organization shall provide to the
40 testing agency all names of students that are submitted by its
41 member schools. The testing agency shall make its random
42 selections for testing from these names.

43 5. The testing agency shall notify not fewer than 7 days
44 in advance both the administration of a school and the
45 organization of the date on which its representatives will be
46 present at the school to collect a specimen from a randomly
47 selected student. However, the name of the student from which a
48 specimen is to be collected shall not be disclosed.

49 6. The finding of a drug test shall be separate from a
50 student's educational records and shall be disclosed by the
51 testing agency only to the organization, the student, the
52 student's parent, the administration of the student's school,
53 and the administration of any school to which the student may
54 transfer during a suspension from participation in
55 interscholastic athletics resulting from a positive finding. The
56 finding of each drug test held by a school or the organization

57 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
 58 I of the State Constitution. This subparagraph is subject to the
 59 Open Government Sunset Review Act in accordance with s. 119.15
 60 and shall stand repealed on October 2, 2011, unless reviewed and
 61 saved from repeal through reenactment by the Legislature.

62 (h) The following due process shall be afforded each
 63 student who tests positive in a test administered under this
 64 subsection:

65 1. The member school may challenge a positive finding and
 66 must challenge a positive finding at the request of the student.
 67 A sample of the original specimen provided by the student and
 68 retained by the testing agency shall be analyzed. The member
 69 school or the student's parent shall pay the cost of the
 70 analysis. If the analysis results in a positive finding, the
 71 student shall remain ineligible until the prescribed penalty is
 72 fulfilled. If the analysis results in a negative finding, the
 73 organization shall immediately restore the eligibility of the
 74 student and shall refund to the member school or student's
 75 parent the cost of the analysis. The student shall remain
 76 suspended from interscholastic athletic practice and competition
 77 during the challenge.

78 2.a. A member school may appeal to the organization's
 79 commissioner the period of ineligibility imposed on a student as
 80 a result of a positive finding and must appeal at the request of
 81 the student. The commissioner may require the student to
 82 complete the prescribed penalty, reduce the prescribed penalty
 83 by one-half, or provide complete relief from the prescribed
 84 penalty. Regardless of the decision of the commissioner, the

85 student shall remain ineligible until the student tests negative
86 on the mandatory exit test and the student's eligibility is
87 restored by the organization.

88 b. Should the school or student be dissatisfied with the
89 decision of the commissioner, the school may pursue the appeal
90 before the organization's board of directors and must do so at
91 the request of the student. The board of directors may require
92 the student to complete the prescribed penalty, reduce the
93 prescribed penalty by one-half, or provide complete relief from
94 the prescribed penalty. Regardless of the decision of the board
95 of directors, the student shall remain ineligible until the
96 student tests negative on the mandatory exit test and the
97 student's eligibility is restored by the organization. The
98 decision of the board of directors on each appeal shall be
99 final.

100 c. Technical experts may serve as consultants to both the
101 organization's commissioner and its board of directors in
102 connection with such appeals.

103 3. The challenge and appeal procedures described in this
104 paragraph are exempt from s. 286.011 and s. 24(b), Art. I of the
105 State Constitution. This subparagraph is subject to the Open
106 Government Sunset Review Act in accordance with s. 119.15 and
107 shall stand repealed on October 2, 2011, unless reviewed and
108 saved from repeal through reenactment by the Legislature.

109 Section 2. The Legislature finds that it is a public
110 necessity that the finding of a drug test administered by a
111 testing agency with which the Florida High School Athletic
112 Association has contracted that has been disclosed to the

113 association or the administration of a school, pursuant to s.
 114 1006.20(10), Florida Statutes, be made confidential and exempt
 115 from public records requirements. The Legislature finds that
 116 harm caused by releasing such information outweighs any public
 117 benefit that might be derived from releasing the information.
 118 Such information is of a sensitive and personal nature, could be
 119 used to discriminate against a student, and could cause harm to
 120 a student's reputation. The Legislature further finds that it is
 121 a public necessity that a meeting at which a challenge to a
 122 positive finding is made or an appeal is made to the Florida
 123 High School Athletic Association's commissioner or board of
 124 directors regarding the period of student ineligibility,
 125 pursuant to s. 1006.20(10), Florida Statutes, be made exempt
 126 from public meetings requirements. The Legislature finds that
 127 the exemption of these proceedings from public meetings
 128 requirements minimizes the possibility of unnecessary scrutiny
 129 by the public or media of sensitive, personal information
 130 concerning a student. Furthermore, without such exemption,
 131 release of confidential and exempt information via a public
 132 meeting defeats the purpose of the public records exemption.

133 Section 3. This act shall take effect on the same date
 134 that HB 1003 or similar legislation takes effect, if such
 135 legislation is adopted in the same legislative session or an
 136 extension thereof and becomes law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill decreases public access to records and meetings concerning the Florida High School Athletic Association (FHSAA) anabolic steroid testing program for high school athletes.

Safeguard individual liberty – The bill prevents the release of sensitive, personal information regarding the anabolic steroid testing of student athletes.

B. EFFECT OF PROPOSED CHANGES:

Background:

As part of administering the random anabolic steroids testing program for high school athletes established in House bill 1003, the FHSAA and its member schools must collect a variety of personal data from student athletes subject to the testing program including:

- Personally identifying data on each student athlete; and
- Test results for required steroids testing procedures.

FHSAA is also required to hold challenge and appeal proceedings that enable student athletes or member schools to contest positive test results and penalties levied against student athletes.

Effect of Bill:

This bill creates a public records exemption for individual records of student athlete steroid test results. Records of the results of each steroid test are made confidential and exempt.

Proceedings held for the purposes of challenging or appealing test results and penalties against student athletes are exempt from the requirement for open meetings provided in Florida law.

C. SECTION DIRECTORY:

Section 1. Amends s. 1006.20, F.S.; creating public records exemption for test results; providing that challenge and appeal proceedings are not open meetings.

Section 2. Provides a statement of public necessity.

Section 3. Provides that this act shall take effect upon the passage of House bill 1003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

Section 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for passage of a newly created public records or public meetings exemption. Thus, this bill requires a two-thirds vote for passage.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Public Records Law

Section 24(a) of Article I, Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may, however, provide by general law for the exemption of records from the requirements of Section 24(a) of Article I of the Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose. Public policy regarding access to government records is also addressed section 119.07(1), Florida Statutes.

Open Meetings

Section 24(b) of Article I, Florida Constitution provides that all meetings held by a government body for the purposes of conducting official acts or public business must be open and noticed to the public, unless exempt. Public policy regarding access to government meetings is also addressed in section 286.011, Florida Statutes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to education personnel; amending s. 1012.985, F.S.; authorizing a regional professional development academy to receive funds from certain sources for the purpose of developing programs and services; providing that a regional professional development academy is not a component of any school district or governmental unit to which it provides services; providing an effective date.

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

Section 1. Section 1012.985, Florida Statutes, is amended to read:

1012.985 Statewide system for inservice professional development.--

(1) The intent of this section is to establish a statewide system of professional development that provides a wide range of targeted inservice training to teachers, managers, and administrative personnel designed to upgrade skills and knowledge needed to reach world class standards in education. The system shall consist of a network of professional development academies in each region of the state which ~~that~~ are operated in partnership with area business partners to develop and deliver high-quality training programs purchased by school districts. The academies shall be established to meet the human resource development needs of professional educators, schools, and school districts. Funds appropriated for the initiation of

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29 professional development academies shall be allocated by the
 30 Commissioner of Education, unless otherwise provided in an
 31 appropriations act. To be eligible for startup funds, the
 32 academy must:

33 (a)~~(1)~~ Be established by the collaborative efforts of one
 34 or more district school boards, members of the business
 35 community, and the postsecondary educational institutions which
 36 may award college credits for courses taught at the academy.

37 (b)~~(2)~~ Demonstrate the capacity to provide effective
 38 training to improve teaching skills in the areas of elementary
 39 reading and mathematics, the use of instructional technology,
 40 high school algebra, and classroom management, and to deliver
 41 such training using face-to-face, distance learning, and
 42 individualized computer-based delivery systems.

43 (c)~~(3)~~ Propose a plan for responding in an effective and
 44 timely manner to the professional development needs of teachers,
 45 managers, administrative personnel, schools, and school
 46 districts relating to improving student achievement and meeting
 47 state and local education goals.

48 (d)~~(4)~~ Demonstrate the ability to provide high-quality
 49 trainers and training, appropriate followup and coaching for all
 50 participants, and support school personnel in positively
 51 impacting student performance.

52 (e)~~(5)~~ Be operated under contract with its public partners
 53 and governed by an independent board of directors, which should
 54 include at least one district school superintendent and one
 55 district school board chair from the participating school
 56 districts, the president of the collective bargaining unit that

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57 represents the majority of the region's teachers, and at least
 58 three individuals who are not employees or elected or appointed
 59 officials of the participating school districts. Regional
 60 educational consortia as defined in s. 1001.451 satisfy the
 61 requirements of this paragraph subsection.

62 (f)~~(6)~~ Be financed during the first year of operation by
 63 an equal or greater match from private funding sources and
 64 demonstrate the ability to be self-supporting within 1 year
 65 after opening through fees for services, grants, or private
 66 contributions. Regional educational consortia as defined in s.
 67 1001.451 which serve rural areas of critical economic concern
 68 are exempt from the funding match required by this paragraph
 69 subsection.

70 (g)~~(7)~~ Own or lease a facility that can be used to deliver
 71 training onsite and through distance learning and other
 72 technology-based delivery systems. The participating district
 73 school boards may lease a site or facility to the academy for a
 74 nominal fee and may pay all or part of the costs of renovating a
 75 facility to accommodate the academy. The academy is responsible
 76 for all operational, maintenance, and repair costs.

77 (h)~~(8)~~ Provide professional development services for the
 78 participating school districts as specified in the contract and
 79 may provide professional development services to other school
 80 districts, private schools, and individuals on a fee-for-
 81 services basis.

82 (2) Upon compliance with the requirements for the first
 83 year of operation in paragraph (1) (f), a regional professional
 84 development academy:

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85 (a) May receive funds from the Department of Education or
86 as provided in the General Appropriations Act for the purpose of
87 developing programs, expanding services, assessing inservice
88 training and professional development, or other programs that
89 are consistent with the mission of the academy and the needs of
90 the state and region; and

91 (b) Is not, by virtue of providing services to one or more
92 school districts, a component of any school district or any
93 governmental unit to which the regional professional development
94 academy provides services.

95 Section 2. This act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides Limited Government: The bill enables regional professional development academies to receive state funding after their first year of operation.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Current Florida law provides for a coordinated system of professional development for teachers, managers, and administrators to enable the education community to meet state and local student achievement standards and state education goals.¹ Each school district must develop a professional development system and master plan for inservice activities. The DOE must develop model plans, including use of student achievement data to align professional development programs with identified student needs.² School district plans must be approved by the DOE.

Similarly, s. 1012.985, F.S., establishes a system of inservice training designed to upgrade the skills of teachers, managers, and administrative personnel. RPDAs are the delivery mechanism in this system. RPDAs collaborate with local business partners to develop training programs, and in turn market those programs to schools in the region.³ The Schultz Center for Teaching and Leadership is the only RPDA established to date.

Initial funding for RPDAs may be provided through start-up funds from the DOE or as otherwise provided in the General Appropriations Act. To be eligible for start-up funds, the RPDA must meet the following criteria:

- Demonstrate collaboration with local business, district school boards, and postsecondary education institutions which may award college credit for courses offered by RPDA programs;
- Demonstrate capacity to improve teaching skills, provide ongoing follow-up and coaching, and meet professional development needs relating to improving student achievement;
- Be operated under contract with its public partners and governed by an independent board;
- Match start-up funds with an equal or greater amount of funding from private sources during its first year of operation, unless the RPDA is operated by a regional educational consortia;
- Demonstrate the ability to be self-supporting within one-year after opening through fees for service, grants, or private funds; and
- Own or lease a facility for providing programs.

The RPDA must contract with participating school districts to provide professional development services and may also market services to other school districts, private schools, or individuals not under contract.

Effect of Proposed Changes:

Currently, a RPDA must be self-sufficient after its first year of operation. House bill 1243 enables RPDAs to receive funding from DOE or as otherwise provided in the General Appropriations Act after its first year of operation. Subsequent funding may be used for the purposes of developing or

¹ Section 1012.98, F.S.

² Id.

³ Section 1012.985, F.S.

expanding existing programs, assessing inservice training or professional development, or to create additional programs.

The bill stipulates that a RPDA is not a component of any school district or governmental unit to which it provides service. However, this will not inhibit the Auditor General's authority⁴ to review agreements between school districts and RPDAs, nor will it exempt RPDAs from public records⁵ laws.

C. SECTION DIRECTORY:

Section 1. Amends s. 1012.985, F.S.; providing that a RPDA may receive public funding subsequent to its first year of operation; providing that a RPDA is not part of a school district or governmental entity to which it provides services.

Section 2. Provides that the bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

The fiscal impact of the bill on state expenditures depends on the extent additional public funds are provided in the General Appropriations Act. The House proposed budget for fiscal year 2006-2007 (PCB FC 06-01) includes \$350,000 for the Schultz Center.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Increased public funding may allow RPDAs to expand programs and services, thus generating additional revenues for these public-private partnerships.

D. FISCAL COMMENTS:

Current law requires that RPDAs be self-sufficient after year one of operation. The bill enables RPDAs to receive additional public funding after year one of operation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁴ Senate Bill Analysis on Senate Bill 1148.

⁵ Florida Department of Education, Legislative Bill Analysis on Senate Bill 1148.

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
 2 An act relating to education; amending s. 1002.20, F.S.;
 3 providing that academy programs shall be an additional
 4 public school choice option; amending s. 1002.31, F.S.;
 5 requiring district school boards to offer controlled open
 6 enrollment within the public schools and revising
 7 components of the controlled open enrollment plan;
 8 creating s. 1002.391, F.S.; requiring the Department of
 9 Education to develop a plan for school districts to
 10 establish academy programs in the public schools;
 11 authorizing parents to transfer their children to
 12 different academy programs and schools; providing funding
 13 for student transportation; amending s. 1008.22, F.S.;
 14 requiring the Commissioner of Education to adopt
 15 performance standards, set goals, and provide resources to
 16 meet constitutional requirements; requiring development
 17 and implementation of the FCAT Pretest as a diagnostic
 18 tool; amending s. 1008.33, F.S.; revising requirements
 19 relating to State Board of Education enforcement of public
 20 school improvement; specifying academy program and school
 21 performance categories; amending s. 1008.34, F.S.;
 22 revising provisions relating to the school and school
 23 district performance grading system; providing performance
 24 categories for academy programs and schools; providing the
 25 basis for performance category designations; providing
 26 school district tools for maintenance of high performance
 27 standards; amending s. 1008.36, F.S.; renaming the Florida
 28 School Recognition Program as the Every Child Matters

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29 Program; revising program intent, purpose, participation,
 30 and use of funds; requiring the department to provide
 31 training and resources for certain student testing by
 32 educators; requiring department policies and procedures
 33 for the development of student individual education plans;
 34 providing an effective date.

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Paragraph (a) of subsection (6) of section
 39 1002.20, Florida Statutes, is amended to read:

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

46 (6) EDUCATIONAL CHOICE.--

47 (a) Public school choices.--Parents of public school
 48 students may seek whatever public school choice options that are
 49 ~~applicable to their students and are~~ available to students in
 50 their school districts. These options may include controlled
 51 open enrollment, lab schools, charter schools, charter technical
 52 career centers, magnet schools, alternative schools, special
 53 programs, academy programs, advanced placement, dual enrollment,
 54 International Baccalaureate, International General Certificate
 55 of Secondary Education (pre-AICE), Advanced International
 56 Certificate of Education, early admissions, credit by

57 examination or demonstration of competency, the New World School
 58 of the Arts, the Florida School for the Deaf and the Blind, and
 59 the Florida Virtual School. These options may also include the
 60 public school choice options of the Opportunity Scholarship
 61 Program and the McKay Scholarships for Students with
 62 Disabilities Program.

63 Section 2. Subsections (1), (2), and (5) of section
 64 1002.31, Florida Statutes, are amended to read:

65 1002.31 Public school parental choice.--

66 (1) As used in this section, "controlled open enrollment"
 67 means a public education delivery system that allows school
 68 districts to make student school assignments using parents'
 69 indicated preferential school choice ~~as a significant factor~~.

70 (2) Each district school board shall ~~may~~ offer controlled
 71 open enrollment within the public schools. The controlled open
 72 enrollment program shall be offered in addition to the existing
 73 choice programs such as magnet schools, alternative schools,
 74 special programs, academy programs, advanced placement, and dual
 75 enrollment.

76 (5) Each school district shall develop a system of
 77 priorities for its plan that includes ~~consideration of~~ the
 78 following:

79 (a) An application process required to participate in the
 80 controlled open enrollment program.

81 (b) A process that allows parents to declare school
 82 preferences.

83 (c) A process that allows ~~encourages~~ placement of siblings
 84 within the same school.

85 (d) A lottery procedure used by the school district to
 86 determine student assignment.

87 (e) An appeals process for hardship cases.

88 (f) The procedures to maintain socioeconomic, demographic,
 89 and racial balance.

90 ~~(g) The availability of transportation.~~

91 (g)(h) A process that promotes strong parental
 92 involvement, including the designation of a parent liaison.

93 (h)(i) A strategy that establishes a clearinghouse of
 94 information designed to assist parents in making informed
 95 choices.

96 Section 3. Section 1002.391, Florida Statutes, is created
 97 to read:

98 1002.391 Public school academy programs; public schools.--

99 (1) The Department of Education shall develop by January
 100 1, 2007, a plan for school districts to establish academy
 101 programs in every public school where feasible. Based on the
 102 school-within-a-school concept, academy programs shall be
 103 multiple programs within one school facility that allow students
 104 to concentrate on unique and specialized tracks of study of
 105 their choosing. The department's plan shall be based on the
 106 following:

107 (a) Students in each academy program shall be required to
 108 take a base of core-curricula courses in addition to specialized
 109 courses unique to each program.

110 (b) The plan shall include a waiver provision for school
 111 districts to continue offering traditional single-track programs
 112 if, because of unique circumstances, it is not feasible for them

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113 to offer multi-track academy programs within individual schools.

114 (c) Parents shall be empowered to switch their child to a
 115 different academy program if they are unhappy with the program
 116 in which their child is enrolled. Except as provided in
 117 paragraph (d), once a child begins an academic year in an
 118 academy, he or she is required to attend that academy for the
 119 remainder of the academic year.

120 (d) Parents may apply to move their child to another
 121 academy program before the end of the academic year if special
 122 circumstances warrant such action, according to a process
 123 developed by the department.

124 (2) Parents shall be empowered to switch their child to
 125 another public school within the school district if they are
 126 unhappy with the school in which their child is enrolled. Once a
 127 child begins an academic year in a school, he or she is required
 128 to attend that school for the remainder of the academic year.
 129 However, if special circumstances warrant such action, parents
 130 may apply to move their child to another school before the end
 131 of the academic year, according to a process developed by the
 132 department.

133 (3) School districts shall provide transportation for
 134 students to attend academy programs or schools outside of their
 135 school zone. The department shall use Every Child Matters
 136 Program funds, pursuant to s. 1008.36, to reimburse school
 137 districts for reasonable costs to provide transportation for
 138 students who attend academy programs or schools outside of their
 139 school zone.

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140 Section 4. Subsection (2) of section 1008.22, Florida
 141 Statutes, is amended, paragraphs (d), (e), and (f) of subsection
 142 (3) are redesignated as paragraphs (e), (f), and (g),
 143 respectively, and a new paragraph (d) is added to that
 144 subsection, to read:

145 1008.22 Student assessment program for public schools.--

146 (2) NATIONAL EDUCATION COMPARISONS.--

147 (a) It is Florida's intent to participate in the
 148 measurement of national educational goals. The Commissioner of
 149 Education shall direct Florida school districts to participate
 150 in the administration of the National Assessment of Educational
 151 Progress, or a similar national assessment program, both for the
 152 national sample and for any state-by-state comparison programs
 153 which may be initiated. Such assessments must be conducted using
 154 the data collection procedures, the student surveys, the
 155 educator surveys, and other instruments included in the National
 156 Assessment of Educational Progress or similar program being
 157 administered in Florida. The results of these assessments shall
 158 be included in the annual report of the Commissioner of
 159 Education specified in this section. The administration of the
 160 National Assessment of Educational Progress or similar program
 161 shall be in addition to and separate from the administration of
 162 the statewide assessment program.

163 (b) In order to ensure that Florida provides "a uniform,
 164 efficient, safe, secure, and high quality system of free public
 165 schools that allows students to obtain a high quality education"
 166 as required in s. 1, Art. IX of the State Constitution, the
 167 Commissioner of Education shall:

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168 1. Adopt performance standards, set goals, and provide the
 169 resources necessary to ensure that Florida ranks in the top half
 170 of state-by-state education performance comparisons compiled by
 171 the United States Department of Education.

172 2. Set goals so that in no instance will Florida rank in
 173 the bottom quartile of any state-by-state education performance
 174 comparison compiled by the United States Department of
 175 Education.

176 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
 177 design and implement a statewide program of educational
 178 assessment that provides information for the improvement of the
 179 operation and management of the public schools, including
 180 schools operating for the purpose of providing educational
 181 services to youth in Department of Juvenile Justice programs.
 182 The commissioner may enter into contracts for the continued
 183 administration of the assessment, testing, and evaluation
 184 programs authorized and funded by the Legislature. Contracts may
 185 be initiated in 1 fiscal year and continue into the next and may
 186 be paid from the appropriations of either or both fiscal years.
 187 The commissioner is authorized to negotiate for the sale or
 188 lease of tests, scoring protocols, test scoring services, and
 189 related materials developed pursuant to law. Pursuant to the
 190 statewide assessment program, the commissioner shall:

191 (d) Develop and implement a student achievement testing
 192 program known as the Florida Comprehensive Assessment Test
 193 (FCAT) Pretest as part of a statewide diagnostic tool for public
 194 school students. The FCAT Pretest shall be given during the
 195 first week of the academic year to assess the academic strengths

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196 and weaknesses of each student so that teachers can accurately
 197 develop curricula that promote advancement of all students. The
 198 FCAT Pretest shall be used for diagnostic purposes only and
 199 shall not be used to determine performance categories for
 200 academy programs or public schools.

201 Section 5. Section 1008.33, Florida Statutes, is amended
 202 to read:

203 1008.33 Authority to enforce public school
 204 improvement.--It is the intent of the Legislature that all
 205 public schools be held accountable for students performing at
 206 acceptable levels. A system of school improvement and
 207 accountability that assesses student performance by school,
 208 identifies schools in which students are not making adequate
 209 progress toward state standards, institutes appropriate measures
 210 for enforcing improvement, and provides rewards and sanctions
 211 based on performance shall be the responsibility of the State
 212 Board of Education.

213 (1) Pursuant to Art. IX of the State Constitution
 214 prescribing the duty of the State Board of Education to
 215 supervise Florida's public school system and notwithstanding any
 216 other statutory provisions to the contrary, the State Board of
 217 Education shall intervene in the operation of a district school
 218 system when one or more schools in the school district have
 219 failed to make adequate progress for 2 school years in a 3-year
 220 ~~4-year~~ period. For purposes of determining when an academy
 221 program or a school is eligible for state board action and
 222 ~~opportunity scholarships~~ for its students, the terms "2 years in
 223 any 3-year ~~4-year~~ period" and "2 years in a 3-year ~~4-year~~

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224 period" mean that in any year that a school has a performance
 225 category of "Inadequate Progress," ~~grade of "F,"~~ the school is
 226 eligible for state board action and ~~opportunity scholarships~~ for
 227 its students if it also has had a performance category of
 228 "Inadequate Progress" ~~grade of "F"~~ in any of the previous 2 ~~3~~
 229 school years. The State Board of Education may determine that
 230 the school district or school has not taken steps sufficient for
 231 students in the school to be academically well served.
 232 Considering recommendations of the Commissioner of Education,
 233 the State Board of Education shall recommend action to a
 234 district school board intended to improve educational services
 235 to students in each school that is designated as performance
 236 ~~grade~~ category "Inadequate Progress." ~~"F."~~ Recommendations for
 237 actions to be taken in the school district shall be made only
 238 after thorough consideration of the unique characteristics of an
 239 academy program or a school, which shall include student
 240 mobility rates, the number and type of exceptional students
 241 enrolled ~~in the school,~~ and the availability of options for
 242 improved educational services. The state board shall adopt by
 243 rule steps to follow in this process. Such steps shall provide
 244 school districts sufficient time to improve student performance
 245 in schools and the opportunity to present evidence of assistance
 246 and interventions that the district school board has
 247 implemented.

248 (a) An academy program or school shall not receive a
 249 performance category of "Inadequate Progress" if it has an
 250 overall increase in student achievement of 10 percent over the
 251 previous year.

252 (b) An academy program or school shall not receive a
 253 performance category of "Inadequate Progress" if it falls below
 254 its previous year's score but maintains adequate performance
 255 standards compared to other programs or schools in the state.

256 (c) The State Board of Education shall determine by rule
 257 what constitutes "Adequate Progress" and "Inadequate Progress"
 258 for the purposes of the state education performance
 259 accountability system.

260 (2) The State Board of Education may recommend one or more
 261 of the following actions to district school boards to enable
 262 students in academy programs and schools designated as
 263 performance ~~grade~~ category "Inadequate Progress" ~~"F"~~ to be
 264 academically well served by the public school system:

265 (a) Provide additional resources, change certain
 266 practices, and provide additional assistance if the state board
 267 determines the causes of inadequate progress to be related to
 268 school district policy or practice;

269 (b) Implement a plan that satisfactorily resolves the
 270 education equity problems in the academy program or school;

271 (c) Contract for the educational services of the academy
 272 program or school, or reorganize the academy program or school
 273 at the end of the school year under a new school principal who
 274 is authorized to hire new staff and implement a plan that
 275 addresses the causes of inadequate progress;

276 ~~(d) Allow parents of students in the school to send their~~
 277 ~~children to another district school of their choice; or~~

278 (d)-(e) Other action appropriate to improve the school's
 279 performance.

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280 (3) In recommending actions to district school boards, the
 281 State Board of Education shall specify the length of time
 282 available to implement the recommended action. The State Board
 283 of Education may adopt rules to further specify how it may
 284 respond in specific circumstances. No action taken by the State
 285 Board of Education shall relieve an academy program or a school
 286 from state accountability requirements.

287 (4) The State Board of Education may require the
 288 Department of Education or Chief Financial Officer to withhold
 289 any transfer of state funds to the school district if, within
 290 the timeframe specified in state board action, the school
 291 district has failed to comply with the action ordered to improve
 292 the district's low-performing academy programs or schools.
 293 Withholding the transfer of funds shall occur only after all
 294 other recommended actions for school improvement have failed to
 295 improve performance. The State Board of Education may impose the
 296 same penalty on any district school board that fails to develop
 297 and implement a plan for assistance and intervention for low-
 298 performing schools as specified in s. 1001.42(16)(c).

299 Section 6. Section 1008.34, Florida Statutes, is amended
 300 to read:

301 1008.34 School grading system; district performance
 302 category ~~grade~~.--

303 (1) ANNUAL REPORTS.--The Commissioner of Education shall
 304 prepare annual reports of the results of the statewide
 305 assessment program which describe student achievement in the
 306 state, each district, and each school. The commissioner shall
 307 prescribe the design and content of these reports, which must

308 include, without limitation, descriptions of the performance of
 309 all schools participating in the assessment program and all of
 310 their major student populations as determined by the
 311 Commissioner of Education, and must also include the median
 312 scores of all eligible students who scored at or in the lowest
 313 25th percentile of the state in the previous school year;
 314 provided, however, that the provisions of s. 1002.22 pertaining
 315 to student records apply to this section.

316 (2) ACADEMY PROGRAM AND SCHOOL PERFORMANCE GRADE
 317 CATEGORIES.--The annual report shall identify academy programs
 318 and schools as being in one of the following performance grade
 319 categories defined according to rules of the State Board of
 320 Education:

321 (a) "Adequate progress." ~~"A," schools making excellent~~
 322 ~~progress.~~

323 (b) "Inadequate progress." ~~"B," schools making above~~
 324 ~~average progress.~~

325 ~~(c) "C," schools making satisfactory progress.~~

326 ~~(d) "D," schools making less than satisfactory progress.~~

327 ~~(e) "F," schools failing to make adequate progress.~~

328
 329 Beginning in the 2007-2008 school year, a school that has been
 330 designated as performance category "F" in a prior school year
 331 shall not be designated as performance category "Inadequate
 332 Progress" using the current year's data if that school has shown
 333 at least a 10-percent increase in student performance in each
 334 subject area. Each school designated in performance grade
 335 category "A," making excellent progress, or having improved at

336 | ~~least two performance grade categories, shall have greater~~
 337 | ~~authority over the allocation of the school's total budget~~
 338 | ~~generated from the FEFP, state categoricals, lottery funds,~~
 339 | ~~grants, and local funds, as specified in state board rule. The~~
 340 | ~~rule must provide that the increased budget authority shall~~
 341 | ~~remain in effect until the school's performance grade declines.~~

342 | (3) DESIGNATION OF SCHOOL PERFORMANCE ~~GRADE~~

343 | CATEGORIES.--For purposes of determining academy program or
 344 | school performance, student performance should be based on all
 345 | students' annual learning gains compared to the previous year.

346 | School performance ~~grade~~ category designations itemized in
 347 | subsection (2) shall be based on the following:

348 | (a) Timeframes.--

349 | 1. Academy program or school performance ~~grade~~ category
 350 | designations shall be based on the ~~school's~~ current year
 351 | performance of the academy program or school and ~~its~~ the
 352 | ~~school's~~ annual learning gains.

353 | 2. Beginning in school year 2007-2008, the performance
 354 | category designation of an academy program or a school shall be
 355 | determined based upon the following weighted factors, according
 356 | to rules adopted by the State Board of Education:

357 | a. Fifty percent of the performance category shall be
 358 | based on students' FCAT scores.

359 | b. Fifty percent of the performance category shall be
 360 | based on measures, where appropriate, that include performance
 361 | in non-FCAT courses; NAEP scores; dropout rate; retention;
 362 | expulsions; attendance; delinquencies; school crime rate;
 363 | effectiveness of Advanced Placement courses; Florida Bright

364 Futures Scholarship Program awards; college acceptance rates;
 365 and rate of placement of vocational students in the workforce.

366 ~~2. A school's performance grade category designation shall~~
 367 ~~be based on a combination of student achievement scores, student~~
 368 ~~learning gains as measured by annual FCAT assessments in grades~~
 369 ~~3 through 10, and improvement of the lowest 25th percentile of~~
 370 ~~students in the school in reading, math, or writing on the FCAT,~~
 371 ~~unless these students are performing above satisfactory~~
 372 ~~performance.~~

373 (b) Student assessment data.--Student assessment data used
 374 in determining academy program and school performance grade
 375 categories shall include:

376 1. The aggregate scores of all eligible students enrolled
 377 in the academy program or school who have been assessed on the
 378 FCAT.

379 2. The aggregate scores of all eligible students enrolled
 380 in the academy program or school who have been assessed on the
 381 FCAT, including Florida Writes, ~~and who have scored at or in the~~
 382 ~~lowest 25th percentile of students in the school in reading,~~
 383 ~~math, or writing, unless these students are performing above~~
 384 ~~satisfactory performance.~~

385
 386 The Department of Education shall study the effects of mobility
 387 on the performance of highly mobile students and recommend
 388 programs to improve the performance of such students. The State
 389 Board of Education shall adopt appropriate criteria for each
 390 ~~school~~ performance grade category. The criteria must also give
 391 added weight to student achievement in reading. ~~Schools~~

392 ~~designated as performance grade category "C," making~~
 393 ~~satisfactory progress, shall be required to demonstrate that~~
 394 ~~adequate progress has been made by students in the school who~~
 395 ~~are in the lowest 25th percentile in reading, math, or writing~~
 396 ~~on the FCAT, including Florida Writes, unless these students are~~
 397 ~~performing above satisfactory performance.~~

398 (4) SCHOOL IMPROVEMENT RATINGS.--The annual report shall
 399 identify each school's performance as having improved, remained
 400 the same, or declined. This school improvement rating shall be
 401 based on a comparison of the current year's and previous year's
 402 student and academy program or school performance data. ~~Schools~~
 403 ~~that improve at least one performance grade category are~~
 404 ~~eligible for school recognition awards pursuant to s. 1008.36.~~

405 (5) SCHOOL PERFORMANCE GRADE CATEGORY AND IMPROVEMENT
 406 RATING REPORTS.--School performance ~~grade~~ category designations
 407 and improvement ratings shall apply to the each school's
 408 performance of each academy program or school for the year in
 409 which performance is measured. Each ~~school's~~ designation and
 410 rating shall be published annually by the Department of
 411 Education and the school district. Parents shall be entitled to
 412 an easy-to-read report card about the designation and rating of
 413 the academy program or school in which their child is enrolled.

414 (6) RULES.--The State Board of Education shall adopt rules
 415 pursuant to ss. 120.536(1) and 120.54 to implement the
 416 provisions of this section.

417 (7) PERFORMANCE-BASED FUNDING.--The Legislature may factor
 418 in the performance of academy programs and schools in

419 calculating any performance-based funding policy that is
 420 provided for annually in the General Appropriations Act.

421 (8) DISTRICT PERFORMANCE ~~GRADE~~.--The annual report
 422 required by subsection (1) shall include district performance
 423 categories ~~grades~~, which shall consist of weighted district
 424 average performance categories ~~grades~~, by level, for all
 425 elementary schools, middle schools, and high schools in the
 426 district. A district's weighted average performance category
 427 ~~grade~~ shall be calculated by weighting individual academy
 428 program and school performance category designations ~~grades~~
 429 determined pursuant to subsection (2) by school enrollment.
 430 School districts shall have a variety of tools at their disposal
 431 to maintain high performance standards. These tools shall
 432 include, but not be limited to:

433 (a) Giving academy programs and schools that make
 434 "Adequate Progress" greater spending flexibility in their annual
 435 budgets.

436 (b) Allowing academy programs and schools that make
 437 "Adequate Progress" to operate free of many state categoricals
 438 and rules.

439 Section 7. Section 1008.36, Florida Statutes, is amended
 440 to read:

441 1008.36 Every Child Matters ~~Florida School Recognition~~
 442 ~~Program~~--

443 (1) The Legislature finds that in order to provide every
 444 student enrolled in K-12 public schools with the opportunity to
 445 achieve a successful public education, academic problems must be
 446 identified early and remediation and intervention services must

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447 be provided. It is the intent of this section that no child
 448 shall be left behind ~~there is a need for a performance incentive~~
 449 ~~program for outstanding faculty and staff in highly productive~~
 450 ~~schools. The Legislature further finds that performance based~~
 451 ~~incentives are commonplace in the private sector and should be~~
 452 ~~infused into the public sector as a reward for productivity.~~

453 (2) The Every Child Matters Florida School Recognition
 454 Program is created to provide financial awards to public schools
 455 that:

456 (a) A curriculum-based, year-round measurement of learning
 457 gains for all kindergarten students enrolled in public schools.
 458 ~~Sustain high performance by receiving a school grade of "A,"~~
 459 ~~making excellent progress; or~~

460 (b) Remediation and intervention services to all
 461 kindergarten through grade 12 students enrolled in public
 462 schools who are not meeting grade-appropriate performance
 463 expectations, including FCAT scores. ~~Demonstrate exemplary~~
 464 ~~improvement due to innovation and effort by improving a letter~~
 465 ~~grade.~~

466 (3) All public schools, including charter schools, ~~that~~
 467 ~~receive a school grade pursuant to s. 1008.34~~ are eligible to
 468 participate in the program.

469 (4) All academy programs and selected schools shall
 470 receive financial assistance ~~awards~~ depending on the
 471 availability of funds appropriated ~~and the number and size of~~
 472 ~~schools selected to receive an award.~~ Funds must be distributed
 473 to the school's fiscal agent and placed in the school's account
 474 and must be used for purposes listed in subsection (5) as

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475 | determined jointly by the school's staff and school advisory
 476 | council. ~~If school staff and the school advisory council cannot~~
 477 | ~~reach agreement by November 1, the awards must be equally~~
 478 | ~~distributed to all classroom teachers currently teaching in the~~
 479 | ~~school.~~

480 | (5) Every Child Matters Program funds School recognition
 481 | ~~awards~~ must be used for the following:

482 | (a) Administration of the Dynamic Indicators of Basic
 483 | Early Literacy Skills (DIBELS) to all kindergarten students
 484 | enrolled in public schools ~~Nonrecurring bonuses to the faculty~~
 485 | ~~and staff;~~

486 | (b) Nonrecurring expenditures for remediation of low-
 487 | performing students, including remediation programs and
 488 | intervention services adopted and administered by the Department
 489 | of Education;

490 | (c) ~~(b)~~ Nonrecurring expenditures for educational equipment
 491 | or materials to assist in the remediation of low-performing
 492 | students; maintaining and improving student performance; or

493 | (d) ~~(e)~~ Temporary personnel for the school to assist in the
 494 | remediation of low-performing students; maintaining and
 495 | improving student performance.

496 | (e) Contracts with private sector participants to provide
 497 | remediation services provided that 90 percent of the personnel
 498 | providing services reside in the state; or

499 | (f) Transportation of students pursuant to s. 1002.391.

500 |

501 | ~~Notwithstanding statutory provisions to the contrary, incentive~~
 502 | ~~awards are not subject to collective bargaining.~~

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503 Section 8. (1) The Department of Education shall provide
 504 training and informational resources for educators to administer
 505 the Dynamic Indicators of Basic Early Literacy Skills (DIBELS)
 506 and shall be responsible for creating and implementing
 507 provisions for the collection and analysis of the testing data.

508 (2) The Department of Education shall establish policies
 509 and procedures for the development of individual education plans
 510 for low-performing students who need remediation and
 511 intervention services.

512 Section 9. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1427 Education
SPONSOR(S): Bendross-Mindingall and others
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|---------|----------------|
| 1) PreK-12 Committee | | Hassell | Mizereck |
| 2) Education Appropriations Committee | | | |
| 3) Education Council | | | |
| 4) | | | |
| 5) | | | |

SUMMARY ANALYSIS

The bill makes controlled open enrollment mandatory for every school district in the state, and creates a new public school choice option of academy programs. The bill requires school districts to transport students to academies and schools outside their district and to students in controlled open enrollment programs. Mandating school districts to provide transportation will cause school district expenditures for transportation to increase significantly.

This bill removes the Opportunity Scholarship Program's public school choice option for a student attending failing school, thus eliminating 1688 students from participating in this public school choice option.

The bill creates "academy programs" which are multiple programs within one school facility that allow students to concentrate on unique and specialized tracks of study of their choosing. The bill does not identify examples of "unique and specialized tracks" of studies nor does it differentiate these programs from existing programs such as magnet schools, charter schools, charter technical career centers and other public school choice options.

The bill requires the DOE to develop and implement an FCAT pretest. If all students (approx. 1.8 million) were required to take a pre-test, the cost would be over \$30 million annually. See FISCAL COMMENT under STATE EXPENDITURES.

The bill removes the current school grading system and replaces it with two undefined categories of "Inadequate" and "Adequate." Under this system, parents will only know whether the school is passing or failing, not how well their child's school is doing. Schools could potentially escape the "inadequate" designation even though they have failed to improve the student learning gains of their students attending their school. These schools would not be held accountable for their failure to educate their students.

The bill removes the School Recognition Program and replaces it with the Every Child Matters Program. The Every Child Matters program is created to provide a curriculum-based year-round measurement for all public school kindergarten students and for remediation and intervention services for K-12 students not meeting performance expectations. However, since 2003, all public school kindergarten students have been required to participate in the statewide kindergarten screening tests administered by each school district within the first 30 school days of each school year.

The bill may involve some constitutional issues. See CONSTITUTIONAL ISSUES section of this analysis.

The bill provides for an effective date of July 1, 2006.

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

STORAGE NAME: h1427.PKT.doc
DATE: 3/17/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government- The bill eliminates each public school district's authority to choose to offer a controlled open enrollment program. The bill increases the district's responsibility to provide transportation to students in controlled open enrollment programs and to students attending academies or schools within or outside the district's school zone.

Promote Personal Responsibility- The bill eliminates the Opportunity Scholarship Program's public school choice option for a student attending failing school, which eliminates 1688 students from participating in this public school choice option.

B. EFFECT OF PROPOSED CHANGES:

PUBLIC SCHOOL CHOICE

Background

Florida law provides that parents of public school students may seek whatever public school choice options applicable to their students and available to students in their school districts. Controlled open enrollment is a public education delivery system that allows school districts to make student school assignments using parents' indicated preferential public school choice as a significant factor. School districts are not required to offer the controlled open enrollment program but may offer it in addition to any existing choice programs. Each school board is required to develop a plan describing the controlled open enrollment program within their public school system based on a system of priorities that includes the consideration of several factors, including but not limited to, application process, lottery procedure, availability of transportation, and procedures to maintain socioeconomic, demographic, and racial balance.¹

According to the 2004-2005 Survey 3, 45 school districts reported through the state automated student information system implementation of a controlled open enrollment plan for one or more students: Alachua, Baker, Bay, Brevard, Charlotte, Citrus, Collier, Miami-Dade, Desoto, Escambia, Franklin, Hamilton, Hardee, Hendry, Hillsborough, Holmes, Indian River, Jackson, Lake, Lee, Leon, Madison, Manatee, Marion, Martin, Monroe, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Santa Rosa, Sarasota, Seminole, Suwannee, Taylor, Volusia, Wakulla, Walton, and Washington.

Each school district is required to provide transportation for students who meet one of the criteria established by statute and rule.² Florida's school districts operate approximately 15,200 school buses on a typical school day, transporting over 1,054,000 students to and from school and between schools. The 2004-05 Legislature appropriated \$440,240,965 million to school districts in order to fund transportation services. Each school district receives a portion of these funds for the transportation of eligible students. Each school district's allocation is calculated based on the membership of students to

¹ s. 1002.31, F.S.

² s. 1006.21, F.S., and Rule 6A-3.001 F.A.C provides transportation for the following: a student lives two miles or more from school; a student has a disability, regardless of distance from school; a student is pregnant or a student parent, including the child of a student parent, and is enrolled in a teenage parent program; a student is enrolled in a state pre-kindergarten disability program, regardless of distance from school; a student is transported from one school to another to participate in an instructional program or service for vocational students, dual enrollment students, or students with disabilities; a student is in elementary school not to exceed grade six and the student is subjected to hazardous walking conditions according to s. 1006.23, F.S.

be transported according to s. 1011.68, F.S.,³ multiplied by the transportation allocation per student. The actual expenditures by school districts for transportation in Fiscal Year 2004-05 were \$806,216,744.76. School districts were required to reprioritize their school budgets to pay for transportation costs that exceeded the appropriated amount.

Effects of Proposed Changes

The bill makes controlled open enrollment mandatory for every school district in the state. It also provides that parents of public school students may seek any public school choice options available in their school districts, and creates a new public school choice option of academy programs. Furthermore, school districts are no longer allowed to consider the availability of transportation in their controlled open enrollment programs. With the implementation of these two school choice options, school districts could potentially be responsible for transporting students all over the district since the school district is no longer allowed to use the availability of transportation as a factor in providing school choice options. Thus, mandating school districts to provide transportation for controlled open enrollment programs, to students in academy programs, and to schools and academies outside the district school zone could potentially cause school districts to spend exponentially more for transportation than they are currently spending. Further, transportation expenses will most likely increase due to the increasing cost of fuel.

The Opportunity Scholarship Program's (OSP) public school choice option for a student attending failing school is removed by this bill. In the October 2005 survey, 1688 students were reported by school districts as participating in the OSP public school choice option. By eliminating this program, the bill effectively eliminates 1688 students from participating in this public school choice option that was not deemed unconstitutional by the Florida Supreme Court in *Bush v. Holmes*.

Academy programs, as defined in this bill, are multiple programs within one school facility that allow students to concentrate on unique and specialized tracks of study of their choosing. The bill does not identify examples of "unique and specialized tracks" of studies nor does it differentiate these programs from existing programs such as magnet schools, charter schools, charter technical career centers and other public school choice options.

The Department of Education (DOE) is required to develop a plan for school districts to establish academy programs in every public school, elementary, middle, and high school, where feasible, by January 2007. The bill does not define feasible. Also, it does not specify the number of programs that each school must offer or the number of students that can be assigned to each academy. The bill requires the DOE plan to be based on three factors: the requirement that students take core-curricula classes; the requirement of a waiver provision to exempt individual schools from the academy requirement; and the requirement that parents be able to move their child if they are unhappy with the program.

The bill grants parents the authority to transfer their child to another academy program or public school program within their school district if they are unhappy with the program or academy. Under this provision, school districts are also required to provide the transportation of such students to attend a school or an academy outside of their school zone, and will be reimbursed, if funding permits, from the Every Child Matters Program funds.

ACCOUNTABILITY

Background

In 1999, the Legislature enacted the A+ Education Plan for Education based on high performance standards and expectations for student performance, clear measurement and accountability, and state

³ s. 1011.68, F.S., Funds for student transportation.

support and assistance, and rewards and consequences for results.⁴ The basic provisions of the A+ Education Plan included annual student testing in grade 3 through 10, annual school report cards based upon student performance and progress, school recognition in the form of rewards for schools that improved student learning and maintained high performance and assistance for struggling schools, and school choice for parents of students in failing schools.

Over the years, the Legislature and the State Board of Education have continued to revise accountability measures in the following ways:

- Providing remediation and eliminating social promotion in 3rd grade for students who did not have the reading skills to succeed in the 4th grade.
- Increasing the requirements for high school graduation from an 8th grade level exit exam to a 10th grade level exam.
- Revising the ways that schools are graded by increasing writing standards and including students with disabilities and limited English proficient student's scores.
- Making reading instruction a primary focus in elementary years, providing reading coaches, and utilizing the latest in research-based reading.

Florida Comprehensive Accountability Test (FCAT)

The FCAT was developed in the mid-1990's. Writing was first administered in 1995, math and reading were first tested in 1997 and the test was first used for accountability in 1998. The FCAT was developed by teachers based upon Sunshine State Standards (SSS). The SSS were developed by educators from throughout the state and approved by the State Board of Education (SBE) in 1996 to provide expectations for student achievement in Florida. The SSS were written in seven subject areas, each divided into four separate grade clusters (preK-2, 3-5, 6-8, and 9-12) so that school districts had the flexibility in the design of their curriculum.

Florida currently requires public school students in grades 3 through 10 to take the reading and math portions of the FCAT each year. Students in grades 4, 8, and 10 must also take the writing portions of the FCAT, and students in grades 5, 8, and 10 must take the science portion of the FCAT. For students who do not attain minimum performance expectations on the 10th grade FCAT, the FCAT must be administered for up to three times each year.

In 1998-99, 51% of all 4th grade students, 23% of African American 4th grade students, and 38% of Hispanic 4th grade students were reading on grade level. In 2004-05, 71% of all 4th grade students, 56% of African American 4th grade students, and 66% of Hispanic 4th grade students were reading on grade level.

Florida leads the nation in 4th grade reading improvement and is competitive in its writing ranking. According to the National Assessment of Educational Progress⁵, in 1998-99, the 4th grade reading median score was 206. The median score in 4th grade reading for African American students and Hispanic students was 196 and 198, respectively. In 2004-05, the 4th grade reading median score was 218. The median score for African American 4th grade students on reading was 198 and the median score for Hispanic 4th grade students was 21. In 2003, Florida ranked 8th in the nation on 4th grade writing.

Student Progression and Remediation

Current law requires school districts to report to DOE the number and percentage of all students in grades 3 through 10 performing at Level 1 or 2 on FCAT reading, by grade, the number and percentage

⁴ ch. 99-398, L.O.F.

⁵ NAEP, a nationally renowned source, that provides state-level comparisons in the subject areas of reading, writing, mathematics and science, at grades 4 and 8. The assessments are given periodically, in a sample of schools, so the subject areas on which data are available vary from year to year. For more information -- <http://nces.ed.gov/nationsreportcard/about/>

of all students retained in grade 3 through 10, by grade, and the total number of students who were promoted for good cause, by each category of good cause.⁶

The percentage of 4th grade students scoring at achievement level 1 in reading has declined since 1999. In 1999, 60% African American students, 45% Hispanic students, and 23% white students were scoring level 1 in reading. In 2005, 25% African American students, 19% Hispanic students, and 9% white students were scoring level 1 in reading.

A total of 155,000 more students are reading on grade level in 2005 than in 2001. More specifically, 36,000 more African American, 64,000 more Hispanic students are, and 27,000 more Students with Disabilities are reading on grade level.

School Grading

Schools are graded annually and are identified as being one of the following:

- "A" making excellent progress,
- "B" making above average progress,
- "C" making satisfactory progress,
- "D" making less that satisfactory progress,
- "F" failing to make adequate progress.

School performance grade categories are based on a combination of student achievement scores, student learning gains as measured by FCAT assessments in grades 3 through 10, and the improvement of the lowest 25th percentile of students in reading, math, or writing, unless those students were performing above satisfactory. School performance grades of every school in the state of Florida are available online for public review and accountability.

In 1998-99, there were 202 "A" schools, 313 "B" schools, 1230 "C" schools, 601 "D" schools, and 76 "F" schools. In 2001, school grading was revised and the measurement of school grades was made more difficult by increasing writing standards and including students with disabilities and limited English proficient student's scores. In 2004-05, there were 1255 "A" schools, 588 "B" schools, 619 "C" schools, 230 "D" schools, and 78 "F" schools.

High School Graduation Requirements

Florida has had graduation test requirements for over 25 years. Prior to the A+ Education Plan, the High School Competency Test (HSCT) was the test measurement used as the high school exit exam. The HSCT was an 8th grade level test and 10% of high school students did not receive a diploma solely because they could not pass the test. However, in 2002, the FCAT, a 10th grade level test, replaced the HSCT. In 2005, 7% of high school students did not receive a diploma because of nonpassage of the test.

Students may not graduate from high school with a standard diploma if they do not meet the required credits and grade point average(GPA) requirements, complete all district requirements, and pass the 10th grade FCAT in reading, writing, and mathematics, unless they are exempt or subject to a waiver of the assessment requirement. SBE rule designates the passing score for each part of the FCAT.

The graduation rates from 1998 to 2003-2004 have increased by 11.4% for all students, 8.6% for African Americans students, and 11.2% for Hispanic students. In 1998, the graduation rate for all students was 60.2%. The graduation rates for African American students and Hispanic students were

⁶ s. 1008.25(6)(b), F.S., provides for six good cause exemptions: 1) student with a disability that does not take the FCAT, 2) Limited English Proficient (LEP) student who has had less than 2 years of English for Speaker's of Other Languages (ESOL) instruction, 3) student with a disability who takes the FCAT and has previously been retained, 4) any student with a reading deficiency who has previously been retained twice, 5) student demonstrates proficiency on an alternate assessment, or 6) student demonstrates proficiency through a student portfolio.

48.7% and 52.8%, respectively. However, in 2004, the graduation rates of all students rose to 71.6%, and the graduation rates of African American and Hispanic students rose to 57.3% and 64%, respectively.

Florida School Recognition Program

The Florida School Recognition Program⁷ provides lottery-funded financial awards to public schools as a reward for performance. Schools that maintain a grade of "A" or improve one letter grade receive \$100 per student. In Fiscal Year 1998-1999, 319 schools shared \$27,603,881 million in School Recognition funds. In Fiscal Year 2004-05, 1425 schools shared \$117,190,888 million in School Recognition funds.

Funds may be used to reward faculty and staff, purchase educational equipment or materials, and hire temporary personnel. The school's staff and advisory council jointly determine the specific use of the funds. If no agreement is reached by November 1, the award is equally distributed to all classroom teachers currently teaching in the school.⁸

Funding

Public school funding, not adjusted for inflation, for Fiscal Year 1998-99 was \$4,836.73 per student. In Fiscal Year 2004-05, public school per student funding, not adjusted for inflation, increased to \$5,757.77. The total funds increased approximately \$3.96 billion from 1998-99 to 2004-05. Additionally, Supplemental Academic Instruction funds are provided for remediation of low-performing students. In 2005-06, \$670,341,490 was appropriated in SAI funds. SAI funds are designated to be used "in the most effective and efficient way to best help that student progress from grade to grade and to graduate."⁹

Effects of Proposed Changes

The bill requires that as part of the constitutional mandate to provide a "uniform, efficient, safe, secure, and high quality system of free public schools" the Commissioner of Education must adopt performance standards, set goals, and provide resources necessary to ensure that Florida ranks in the top half of the state-by-state education performance comparison compiled by the United States Department of Education.

Florida currently participates in the administration of the National Assessment of Education Progress (NAEP) test.¹⁰ Furthermore, current statutory law provides for a comprehensive student assessment program for public schools to improve public schools and to be accountable to public school parents. The student assessment program includes national education comparisons, a statewide assessment program, district testing programs, school testing programs, and required analyses by the Commissioner of Education.¹¹ The bill fails to identify the performance standards not already established in law, fails to articulate goals not already established in law, or identify resources different than those currently being utilized to carry out this mandate. This requirement could encourage the Commissioner of Education make student and school performance measures less stringent in order to meet such an obligation.

The bill also requires the DOE to develop and implement an FCAT pretest to be administered during the first week of the new school year to assess the strengths and weaknesses of each student. SEE FISCAL COMMENT under STATE EXPENDITURES.

⁷ s. 1008.22, F.S.

⁸ Id.

⁹ s. 1011.62(1)(f), F.S.

¹⁰ s.1008.22(2), F.S.

¹¹ s. 1008.22, F.S.

The bill revises the duties of the SBE so that they are required to intervene in the operation of a school district system when one or more of the schools in the school district have failed to make adequate progress for "2 school years in a 3 year period", rather than the current law requirement of a 4 year period. The bill also redefines "2 years in any 3-year period" and "2 years in a 3 year period" to mean that in any year a school has a performance grade category of "Inadequate progress." The bill removes the current school grading system of "A", "B", "C", "D", or "F" and replaces it with two undefined categories of "Inadequate" and "Adequate." The bill requires the SBE to define these terms.

Even though the bill does not define "Inadequate progress" it states that school cannot receive a performance category of "Inadequate" if the school or academy has an overall increase in student achievement of 10% in each subject area over the previous year or if it falls below its previous year's score but maintains "adequate" performance standards compared to other schools in the state. The failure of this bill to define certain terms leads to much uncertainty. For example, it is unclear as to whether a school needs to make a 10% improvement overall, or if it needs to be a 10% improvement in reading, math, writing, science, learning gains in reading, learning gains in math, and learning gains in the lowest 25th percentile. Whereas the DOE does collect and maintain data on reading, writing, mathematics, and science, the DOE does not maintain performance data on other subject areas such as history or music.

Although a system of labeling schools based on "adequate" or "inadequate" would be similar to the NCLB legislation, which states that a school is either making progress, or is not making progress, the current school grading system is understood. Parents understand what an "A", "B", "C", "D" and "F" mean. Equally important is that this bill allows for no gradation between schools; either schools will be passing or will not be passing. Currently, the school grading system gives parents information on their child's school. Under the "adequate" or "inadequate" system, parents will only know whether the school is passing or failing, not how well their child's school is doing. Under this proposed legislation, schools could potentially escape the "inadequate" designation even though they have failed to improve the student learning gains of their students attending their school. These schools would not be held accountable for their failure to educate their students.

The bill revises the designation of school performance categories so that an academy program or a school performance category designation of inadequate or adequate is based fifty-percent on the students' FCAT scores and fifty percent on other measures, where appropriate. The bill identifies the following measures: performance in non-FCAT courses; NAEP scores; dropout rates, retention; expulsions; attendance; delinquencies; school crime rate; effectiveness of Advanced Placement courses; Florida Bright Futures Scholarship Program awards; college acceptance rates; and rate of placement of vocational students in the workforce. However, the bill does not establish a method for a school district to use to measure this aggregate data.

Furthermore, the DOE cannot quantify graduation and retention rate data prior to the current year releases of school performance designations. NAEP data is not available at the student or school level because it is a random sample used as a state level measurement only. It is important to note that out-of-school suspensions, attendance (absent for more than 20 days), and drop out rates were all performance measures previously removed from the school grading system because the thresholds were so low that all schools met the criteria. Under this proposed legislation, it is possible that schools will be more likely to encourage less discipline and encourage more social promotion because their school performance designation depends on it.

The bill removes the School Recognition Program and replaces it with the Every Child Matters Program. By removing the school recognition fund program, school districts that make academic achievements and learning gains with their students will no longer get rewarded for their achievements.

The bill creates the Every Child Matters program, subject to Legislative appropriation, in order to provide a curriculum-based year-round measurement for all public school kindergarten students and for remediation and intervention services for K-12 students not meeting performance expectations. Under

current law, all public school kindergarten students are required to participate in the statewide kindergarten screening tests.¹²

The bill directs the funds to be used for the administration of the Dynamic Indicators of Basic Literacy Skills (DIBELS) to all public school kindergartners, for nonrecurring expenditures for remediation of low-performing students, for educational equipment or materials to assist low-performing students, temporary personnel to assist the school with low-performing students, contracts with private sector participants for remediation services, and transportation of students to academy programs.

It is unclear as to how these funds, if appropriated, will be disbursed among school districts and whether or not the assistance will be disbursed equally among each of the required categories. Thus, students may not be able to receive the much needed assistance in reading because the school district has to share the funds programs for student transportation.

The bill also requires the DOE to provide training and informational resources for educators to administer the DIBELS. As previously stated, since 2003, all public school kindergarten students have been required to participate in the statewide kindergarten screening tests administered by each school district within the first 30 school days of each school year.¹³

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.20, F.S., adding academy programs to public school choice options.

Section 2. Amends s. 1002.31, F.S., requiring districts to offer controlled open enrollment within the public schools; revising components of the programs.

Section 3. Creates s. 1002.391, F.S., creating the academy programs in public schools; requiring the Department of Education to develop a plan for the creation of the academy programs in public schools; authorizing the transfer of students to different academy programs; requiring school districts to provide transportation outside of their school zone; providing reimbursement for reasonable costs associated with student transportation.

Section 4. Amends s. 1008.22, F.S., requiring the Commissioner of Education to adopt performance standards, set goals, and provide resources so that Florida ranks in the top half of the state-by-state comparisons compiled by the United States Department of Education; requiring development and implementation of FCAT pretest.

Section 5. Amends s. 1008.33, F.S., revising requirements relating to State Board of Education enforcement of public school improvement; specifying academy and school performance categories.

Section 6. Amends s. 1008.34, F.S., revising provisions relating to the school and school district performance grading system; providing for performance grade categories for academy programs and schools; providing basis for category designations; providing school district tools for maintenance of high performing standards.

Section 7. Amends s. 1008.36, F.S., renaming School Recognition Program to Every Child Matters Program; revising intent, purpose, participation, and use of funds; requiring the department to provide training and resources for certain student testing by educators; requiring the department to establish policies and procedures for the development of individual education plans for low-performing students who need remediation and intervention services.

Section 8. Provides for an effective date.

¹² s. 1002.69; statewide kindergarten screening; kindergarten readiness rates.

¹³ s. 1002.69; statewide kindergarten screening; kindergarten readiness rates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

FCAT PRETEST

The costs would be very similar to the current costs for administering the FCAT program. The current estimated cost per K-12 student is \$16.67 per year. Therefore, for example, the cost for developing, administering, and grading a pretest for Florida's 3rd graders (approx. 203,000 students) would be close to \$3.4 million annually. If all students (approx. 1.8 million) were required to take a pre-test, the cost would be over \$30 million annually.

TRANSPORTATION

Requiring school districts to provide transportation to all students in controlled open enrollment programs and to students attending academy programs within and outside of their school district will increase the district's expenditures for transportation. It is indeterminate how many students will participate in the controlled open enrollment program, the academies within their school district, or the academies and schools outside of their school district. However, because the school districts will have this new responsibility, there will be a substantial increase in state and local expenditures for transportation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See FISCAL IMPACT ON STATE EXPENDITURES.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds.

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

It is unclear how funding of education from district-to-district under this bill would be uniform and equitable.

B. RULE-MAKING AUTHORITY:

The bill does not grant rule-making authority for the SBE for the development of the academy programs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 1619

2006

1 A bill to be entitled
 2 An act relating to supplemental powers and duties of
 3 district school boards; amending s. 1001.43, F.S.;
 4 authorizing district school boards to contract with
 5 photographers for the purpose of taking student yearbook
 6 photographs; permitting the inclusion of certain
 7 photographs; providing an effective date.

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

10
 11 Section 1. Subsection (8) of section 1001.43, Florida
 12 Statutes, is amended to read:

13 1001.43 Supplemental powers and duties of district school
 14 board.--The district school board may exercise the following
 15 supplemental powers and duties as authorized by this code or
 16 State Board of Education rule.

17 (8) STUDENT ASSESSMENT AND AFFAIRS.--

18 (a) The district school board may adopt policies and
 19 procedures governing attendance monitoring and checks; truancy;
 20 graduation requirements and graduation exercises; fees, fines,
 21 and charges imposed on students; evaluation of student records
 22 and transcripts; transfer of student records; grading and
 23 academic evaluation of students; tests and examinations,
 24 including early examinations; guidance and counseling; and
 25 student participation in competitions, student performances and
 26 exhibitions, contests for students, and social events.

27 (b) The district school board may enter into a contract
 28 with a photographer for the purpose of taking student yearbook

HB 1619

2006

29 photographs. However, if a student's senior photograph is taken
30 by a photographer other than the photographer with whom the
31 district school board has contracted, such photograph may appear
32 in the yearbook if it meets the reasonable specifications of the
33 yearbook staff for senior photographs.

34 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1619
SPONSOR(S): Murzin
TIED BILLS:

Supplemental Powers and Duties of District School Boards

IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|---------------------------------------|--------|-------------------|--------------------|
| 1) PreK-12 Committee | _____ | Hassell <i>AH</i> | Mizereck <i>KM</i> |
| 2) Education Appropriations Committee | _____ | _____ | _____ |
| 3) Education Council | _____ | _____ | _____ |
| 4) _____ | _____ | _____ | _____ |
| 5) _____ | _____ | _____ | _____ |

SUMMARY ANALYSIS

House bill 1619 allows a student's senior photograph to appear in the yearbook as long as the picture meets the reasonable specifications for senior pictures, even if the picture was taken by a photographer not under contract with the school district.

The bill may increase the number of students who choose to buy senior photographs from vendors not under contract with the district school board. See DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguards individual liberty- The bill increases the options of a student in their senior year to use a photograph for the yearbook not taken by the school district's contracted photographer.

B. EFFECT OF PROPOSED CHANGES:

Florida law grants local district school boards authority to control K-12 education operations in the district. Educational curricula, facilities operation and maintenance, student discipline and attendance policies, transportation, reporting and record keeping are among the duties prescribed to district school boards in statute.¹

House bill 1619 allows a student's senior photograph to appear in the yearbook as long as the picture meets the reasonable specifications for senior pictures, even if the picture was taken by a photographer not under contract with the school district.

C. SECTION DIRECTORY:

Section 1. Amends 1001.43, F.S., providing the inclusion of senior photographs from non-contracted photographers.

Section 2. Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

¹ Section 1003.02, F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may increase the number of students who choose to buy senior photographs from vendors not under contract with the district school board.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds.

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

None.

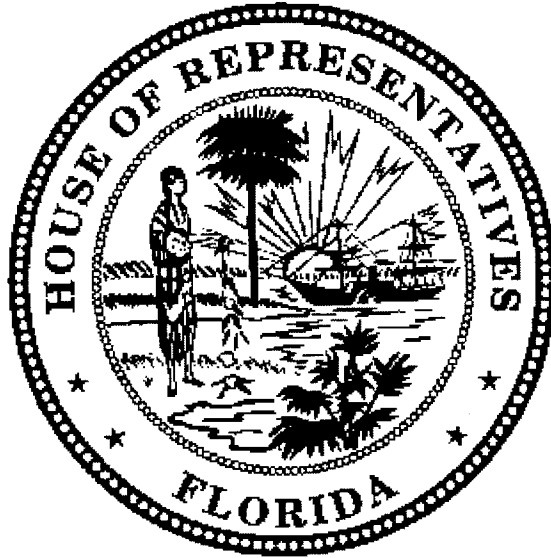
B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES



**PreK - 12 Education
Committee
ADDENDUM B**

**Meeting
Tuesday, March 28, 2006
1:00 — 4:00 p.m.
Morris Hall**

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 389

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: PreK-12

2 Representative Arza offered the following:

3
4 **Amendment**

5 On page 3, remove lines 72 through 76 and insert:
6 his or her application for retirement benefits. District school
7 boards reemploying retirees in positions specified in this
8 subparagraph are subject to the retirement contribution required
9 by subparagraph 7. ~~District school boards reemploying such~~
10 ~~teachers, education paraprofessionals, transportation~~
11 ~~assistants, bus drivers, or food service workers are subject to~~
12 ~~the retirement contribution required by subparagraph 7.~~

13
14
000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. 389

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: PreK-12
 2 Representative Arza offered the following:
 3

Amendment

4
 5 On page 6, remove lines 154 through 157 and insert:
 6 application for retirement benefits. The Board of Trustees of
 7 the Florida School for the Deaf and the Blind reemploying
 8 retirees in positions specified in this subparagraph is subject
 9 to the retirement contribution required by subparagraph 7.—The
 10 ~~Board of Trustees of the Florida School for the Deaf and the~~
 11 ~~Blind reemploying such teachers, residential instructors, or~~
 12 ~~nurses is subject to the retirement contribution required by~~
 13 ~~subparagraph 7.~~ Reemployment

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. 389

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: PreK-12 Committee
2 Representatives Pickens and Traviesa offered the following:

3

4 **Amendment**

5 Remove line 262 and insert:

6

7 Section 2. This act shall take effect July 1, 2006, if
8 House Joint Resolution 447 or similar legislation is adopted in
9 the same legislative session.

10

11

12

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

14 Remove line 7 and insert:

15

16 a contingent effective date.

17

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 679

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: PreK-12

2 Representative Arza offered the following:

3
4 **Amendment** Remove everything after the enacting clause and
5 insert:

6 Section 1. Section 1003.453, Florida Statutes, is created to
7 read:

8 1003.453 School wellness and physical education policies;
9 nutrition guidelines.--

10 (1) By September 1, 2006, each school district shall submit to
11 the Department of Education a copy of its school wellness policy as
12 required by the Child Nutrition and WIC Reauthorization Act of 2004
13 and a copy of its physical education policy required under s.
14 1003.455. Each school district shall annually review its school
15 wellness policy and physical education policy and provide a procedure
16 for public input and revisions. In addition, each school district
17 shall send an updated copy of its wellness policy and physical
18 education policy to the department when a change or revision is made.

19 (2) By December 1, 2006, the department shall post links to
20 each school district's school wellness policy and physical education
21 policy on its website so that the policies can be accessed and
22 reviewed by the public. Each school district shall provide the most
23 current versions of its school wellness policy and physical education
24 policy on the district's website.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

25 (3) By December 1, 2006 the department must provide on its
26 website links to resources that include information regarding:

27 (a) Classroom instruction on the benefits of exercise and
28 healthful eating.

29 (b) Classroom instruction on the health hazards of using
30 tobacco and being exposed to tobacco smoke.

31 (c) The eight components of a coordinated school health
32 program, including health education, physical education, health
33 services, and nutrition services.

34 (d) The core measures for school health and wellness, such as
35 the School Health Index.

36 (e) Access for each student to the nutritional content of
37 foods and beverages and to healthful food choices in accordance with
38 the dietary guidelines of the United States Department of Agriculture.

39 (f) Multiple examples of school wellness policies for school
40 districts.

41 (g) Examples of wellness classes that provide nutrition
42 education for teachers and school support staff, including
43 encouragement to provide classes that are taught by a licensed
44 nutrition professional from the school nutrition department.

45 (4) School districts are encouraged to provide basic training
46 in first aid, including cardiopulmonary resuscitation, for all
47 students, beginning in grade 6 and every 2 years thereafter. Private
48 and public partnerships for providing training or necessary funding
49 are encouraged.

50 Section 2. Section 1003.455, Florida Statutes, is amended to
51 read:

52 1003.455 Physical education; assessment.--

53 (1) It is the responsibility of each district school board to
54 develop a physical education program that stresses physical fitness
55 and encourages healthful healthy, active lifestyles and to encourage
56 all students in prekindergarten through grade 12 to participate in
57 physical education. Physical education shall consist of physical
58 activities of at least a moderate intensity level and for a duration

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

59 sufficient to provide a significant health benefit to students,
60 subject to the differing capabilities of students. All physical
61 education programs and curricula must be reviewed by a certified
62 physical education instructor.

63 (2) Each district school board shall, ~~no later than December~~
64 ~~1, 2004,~~ adopt a written physical education policy that details the
65 school district's physical education program and expected program
66 outcomes. ~~Each district school board shall provide a copy of its~~
67 ~~written policy to the Department of Education by December 15, 2004.~~

68 (3) Each district school board is encouraged to provide 150
69 minutes of physical education each week for students in kindergarten
70 through grade 5 and 225 minutes each week for students in grades 6
71 through 8. Any district that does not adopt a physical education
72 policy by December 1, 2004, shall, at a minimum, implement a mandatory
73 physical education program for kindergarten through grade 5 which
74 provides students with 30 minutes of physical education each day, 3
75 days a week.

76 Section 3. Subsections (2) and (5) of section
77 381.0056, Florida Statutes, are amended to read:

78 381.0056 School health services program.--

79 (2) The Legislature finds that health services conducted as a
80 part of the total school health program should be carried out to
81 appraise, protect, and promote the health of students. School health
82 services supplement, rather than replace, parental responsibility and
83 are designed to encourage parents to devote attention to child health,
84 to discover health problems, and to encourage use of the services of
85 their physicians, dentists, and community health agencies. Each school
86 shall annually provide parents with information on ways that they can
87 help their children to be physically active and to eat healthful
88 foods.

89 (5) (a) Each county health department shall develop, jointly
90 with the district school board and the local school health advisory
91 committee, a school health services plan; and the plan must shall
92 include, at a minimum, provisions for:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

- 93 1.~~(a)~~ Health appraisal;
- 94 2.~~(b)~~ Records review;
- 95 3.~~(c)~~ Nurse assessment;
- 96 4.~~(d)~~ Nutrition assessment;
- 97 5.~~(e)~~ A preventive dental program;
- 98 6.~~(f)~~ Vision screening;
- 99 7.~~(g)~~ Hearing screening;
- 100 8.~~(h)~~ Scoliosis screening;
- 101 9.~~(i)~~ Growth and development screening;
- 102 10.~~(j)~~ Health counseling;
- 103 11.~~(k)~~ Referral and followup of suspected or confirmed health
104 problems by the local county health department;
- 105 12.~~(l)~~ Meeting emergency health needs in each school;
- 106 13.~~(m)~~ County health department personnel to assist school
107 personnel in health education curriculum development;
- 108 14.~~(n)~~ Referral of students to appropriate health treatment,
109 in cooperation with the private health community whenever possible;
- 110 15.~~(o)~~ Consultation with a student's parent or guardian
111 regarding the need for health attention by the family physician,
112 dentist, or other specialist when definitive diagnosis or treatment is
113 indicated;
- 114 16.~~(p)~~ Maintenance of records on incidents of health problems,
115 corrective measures taken, and such other information as may be needed
116 to plan and evaluate health programs; except, however, that provisions
117 in the plan for maintenance of health records of individual students
118 must be in accordance with s. 1002.22;
- 119 17.~~(q)~~ Health information which will be provided by the school
120 health nurses, when necessary, regarding the placement of students in
121 exceptional student programs and the reevaluation at periodic
122 intervals of students placed in such programs; and
- 123 18.~~(r)~~ Notification to the local nonpublic schools of the
124 school health services program and the opportunity for representatives
125 of the local nonpublic schools to participate in the development of
126 the cooperative health services plan.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

127 (b) Each school health advisory committee must, at a minimum,
128 include members who represent the eight component areas of the
129 Coordinated School Health model as defined by the Centers for Disease
130 Control and Prevention. School health advisory committees are
131 encouraged to address the eight components of the Coordinated School
132 Health model in the school district's school wellness policy pursuant
133 to s.1003.453.

134 Section 4. This act shall take effect July 1, 2006.

135
136

137

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

139 Remove the entire title and insert:

140 A bill to be entitled
141 An act relating to health-related education in the public
142 schools; creating s. 1003.453, F.S.; requiring each school
143 district to submit to the Department of Education, by a
144 specified deadline, copies of the district's school wellness
145 policy and physical education policy; requiring the school
146 district to review those policies annually; requiring the
147 department and the school districts to post links to those
148 policies on their websites; requiring the department to provide
149 Internet links to resources for school districts and the public
150 and prescribing the types of information that those resources
151 must provide; encouraging school districts to provide training
152 in first aid; amending s. 1003.455, F.S.; requiring that school
153 district physical education programs and curricula be developed
154 with the involvement of and review by a certified physical
155 education instructor; encouraging school districts to provide
156 physical education for a specified amount of time; deleting
157 obsolete language; amending s. 381.0056, F.S., the "School
158 Health Services Act"; requiring schools to provide certain

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

159 information to students' parents or guardians; providing
160 requirements relating to committees; encouraging the committees
161 to address specified matters; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 967

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: PreK-12

2 Representative Glorioso offered the following:

3

4 **Amendment (with title amendment)**

5 Remove line 124 and insert:

6 Standards adopted by the State Board of Education

7

8

9

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

11 Remove lines 6 through 7 and insert:

12

13 States and free enterprise; requiring standards adopted by the

14 State Board of Education to

15

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. 967

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: PreK-12
2 Representative Glorioso offered the following:
3
4 **Amendment**
5
6 Remove lines 130 through 131 and insert:
7 school, one grade level in middle school, and one grade level in
8 high school.

9
10

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1243

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: PreK-12 Committee
 2 Representatives Pickens and Traviesa offered the following:
 3

Amendment

5 Remove line 95 and insert:

7 Section 2. This act shall take effect July 1, 2006, if
 8 House Joint Resolution 447 or similar legislation is adopted in
 9 the same legislative session.

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

14 Remove line(s) 8-9 and insert:

16 unit to which it provides service; providing a contingent
 17 effective date.

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1427

COUNCIL/COMMITTEE ACTION

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

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

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

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

9 Section 1. Paragraph (a) of subsection (6) of section
10 1002.20, Florida Statutes, is amended to 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 (6) EDUCATIONAL CHOICE.--

18 (a) Public school choices.--Parents of public school
19 students may seek whatever public school choice options that are
20 ~~applicable to their students and~~ are available to students in
21 their school districts. These options may include controlled
22 open enrollment, lab schools, charter schools, charter technical

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

23 career centers, magnet schools, alternative schools, special
24 programs, academy programs, advanced placement, dual enrollment,
25 International Baccalaureate, International General Certificate
26 of Secondary Education (pre-AICE), Advanced International
27 Certificate of Education, early admissions, credit by
28 examination or demonstration of competency, the New World School
29 of the Arts, the Florida School for the Deaf and the Blind, and
30 the Florida Virtual School. These options may also include the
31 public school choice options of the ~~Opportunity Scholarship~~
32 ~~Program and the McKay Scholarships for Students with~~
33 Disabilities Program.

34 Section 2. Subsections (1), (2), and (5) of section
35 1002.31, Florida Statutes, are amended to read:

36 1002.31 Public school parental choice.--

37 (1) As used in this section, "controlled open enrollment"
38 means a public education delivery system that allows school
39 districts to make student school assignments using parents'
40 indicated preferential school choice as a significant factor.

41 (2) Each district school board may offer controlled open
42 enrollment within the public schools. The controlled open
43 enrollment program shall be offered in addition to the existing
44 choice programs such as magnet schools, alternative schools,
45 special programs, academy programs, advanced placement, and dual
46 enrollment.

47 (5) Each school district shall develop a system of
48 priorities for its plan that includes consideration of the
49 following:

50 (a) An application process required to participate in the
51 controlled open enrollment program.

52 (b) A process that allows parents to declare school
53 preferences.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

54 (c) A process that allows ~~encourages~~ placement of siblings
55 within the same school.

56 (d) A lottery procedure used by the school district to
57 determine student assignment.

58 (e) An appeals process for hardship cases.

59 (f) The procedures to maintain socioeconomic, demographic,
60 and racial balance.

61 (g) The availability of transportation.

62 (h) A process that promotes strong parental involvement,
63 including the designation of a parent liaison.

64 (i) A strategy that establishes a clearinghouse of
65 information designed to assist parents in making informed
66 choices.

67 Section 3. Section 1002.391, Florida Statutes, is created
68 to read:

69 1002.391 Public school academy programs; public schools.--

70 (1) The Department of Education shall develop by January
71 1, 2007, a plan for school districts to establish academy
72 programs in every public school where feasible. Based on the
73 school-within-a-school concept, academy programs shall be
74 multiple programs within one school facility that allow students
75 to concentrate on unique and specialized tracks of study of
76 their choosing. The department's plan shall be based on the
77 following:

78 (a) Students in each academy program shall be required to
79 take a base of core-curricula courses in addition to specialized
80 courses unique to each program.

81 (b) The plan shall include a waiver provision for school
82 districts to continue offering traditional single-track programs
83 if it is not feasible for them to offer multi-track academy
84 programs within individual schools.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

85 (c) Parents shall be empowered to transfer their child to
86 a different academy program if the expectations of the parents
87 and/or the student are not met within the program in which the
88 child is enrolled. Except as provided in paragraph (d), once a
89 child begins an academic year in an academy, he or she is
90 required to attend that academy for the remainder of the
91 academic year.

92 (d) Parents may apply to move their child to another
93 academy program before the end of the academic year if special
94 circumstances warrant such action, according to a process
95 developed by the department.

96 (2) Parents shall be empowered to transfer their child to
97 a different public school within the school district if the
98 expectations of the parents and/or the student are not met in
99 the school in which the child is enrolled. Once a child begins
100 an academic year in a school, he or she is required to attend
101 that school for the remainder of the academic year. However, if
102 special circumstances warrant such action, parents may apply to
103 move their child to another school before the end of the
104 academic year, according to a process developed by the
105 department.

106 (3) The Department of Education shall use Every Child
107 Matters Program funds, pursuant to s. 1008.36, to reimburse
108 school districts for reasonable costs to provide transportation
109 for students who attend academy programs or schools outside of
110 their school zone.

111 Section 4. Subsection (2) of section 1008.22, Florida
112 Statutes, is amended, paragraphs (d), (e), and (f) of subsection
113 (3) are redesignated as paragraphs (e), (f), and (g),
114 respectively, and a new paragraph (d) is added to that
115 subsection, to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

116 1008.22 Student assessment program for public schools.--

117 (2) NATIONAL EDUCATION COMPARISONS.--

118 (a) It is Florida's intent to participate in the
119 measurement of national educational goals. The Commissioner of
120 Education shall direct Florida school districts to participate
121 in the administration of the National Assessment of Educational
122 Progress, or a similar national assessment program, both for the
123 national sample and for any state-by-state comparison programs
124 which may be initiated. Such assessments must be conducted using
125 the data collection procedures, the student surveys, the
126 educator surveys, and other instruments included in the National
127 Assessment of Educational Progress or similar program being
128 administered in Florida. The results of these assessments shall
129 be included in the annual report of the Commissioner of
130 Education specified in this section. The administration of the
131 National Assessment of Educational Progress or similar program
132 shall be in addition to and separate from the administration of
133 the statewide assessment program.

134 (b) In order to ensure that Florida provides "a uniform,
135 efficient, safe, secure, and high quality system of free public
136 schools that allows students to obtain a high quality education"
137 as required in s. 1, Art. IX of the State Constitution, the
138 Commissioner of Education shall adopt performance standards and
139 provide the resources necessary to ensure that Florida ranks in
140 the top half of state-by-state performance comparisons compiled
141 from United States Department of Education data. The comparisons
142 shall include, but not be limited to: National Assessment of
143 Education Progress (NAEP) fourth grade reading-scale score; NAEP
144 fourth grade math-scale score; NAEP eighth grade reading-scale
145 score, NAEP eighth grade math-scale score, high school
146 graduation rate, ACT scores among states with a comparable

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147 percentage of eligible population tested, SAT scores among
148 states with comparable percentage of eligible population tested,
149 students completing a bachelor's level degree within six years
150 of graduating high school, median pupil/teacher ratio in primary
151 grades, state expenditures per student, average teacher salary
152 adjusted for cost of living, average beginning teacher salary
153 adjusted for cost of living, and appropriations for higher
154 education per \$1,000 of personal income.

155 Section 5. Section 1008.33, Florida Statutes, is amended
156 to read:

157 1008.33 Authority to enforce public school
158 improvement.--It is the intent of the Legislature that all
159 public schools be held accountable for students performing at
160 acceptable levels. A system of school improvement and
161 accountability that assesses student performance by school,
162 identifies schools in which students are not making adequate
163 progress toward state standards, institutes appropriate measures
164 for enforcing improvement, and provides rewards and sanctions
165 based on performance shall be the responsibility of the State
166 Board of Education.

167 (1) Pursuant to Art. IX of the State Constitution
168 prescribing the duty of the State Board of Education to
169 supervise Florida's public school system and notwithstanding any
170 other statutory provisions to the contrary, the State Board of
171 Education shall intervene in the operation of a district school
172 system when one or more schools in the school district have
173 failed to make adequate progress for 2 school years in a 3-year
174 ~~4-year~~ period. For purposes of determining when an academy
175 program or a school is eligible for state board action and
176 ~~opportunity scholarships~~ for its students, the terms "2 years in
177 any 3-year ~~4-year~~ period" and "2 years in a 3-year ~~4-year~~

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178 period" mean that in any year that a school has a performance
179 category of "Declining," ~~grade of "F,"~~ the school is eligible
180 for state board action ~~and opportunity scholarships~~ for its
181 students if it also has had a performance category of
182 "Declining" ~~grade of "F"~~ in any of the previous 2 ~~3~~ school
183 years. The State Board of Education may determine that the
184 school district or school has not taken steps sufficient for
185 students in the school to be academically well served.
186 Considering recommendations of the Commissioner of Education,
187 the State Board of Education shall recommend action to a
188 district school board intended to improve educational services
189 to students in each school that is designated as performance
190 ~~grade~~ category "Declining." "F." Recommendations for actions to
191 be taken in the school district shall be made only after
192 thorough consideration of the unique characteristics of an
193 academy program or a school, which shall include student
194 mobility rates, the number and type of exceptional students
195 enrolled ~~in the school,~~ and the availability of options for
196 improved educational services. The state board shall adopt by
197 rule steps to follow in this process. Such steps shall provide
198 school districts sufficient time to improve student performance
199 in schools and the opportunity to present evidence of assistance
200 and interventions that the district school board has
201 implemented.

202 (a) An academy program or school shall not receive a
203 performance category of "Declining" if it has an overall
204 increase in student achievement. The safe-harbor threshold for
205 these schools shall be based on annualized, multi-year
206 improvements documented for the top 25 percent of Florida
207 schools for that grade level.

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208 (b) An academy program or school shall not receive a
209 performance category of "Declining" if it falls below its
210 previous year's score but maintains adequate performance
211 standards compared to other programs or schools in the state.

212 (c) The State Board of Education shall determine by rule
213 what constitutes "Improving," "Maintaining," and "Declining"
214 progress for the purposes of the state education performance
215 accountability system.

216 (2) The State Board of Education may recommend one or more
217 of the following actions to district school boards to enable
218 students in academy programs and schools designated as
219 performance grade category "Declining" "F" to be academically
220 well served by the public school system:

221 (a) Provide additional resources, change certain
222 practices, and provide additional assistance if the state board
223 determines the causes of inadequate progress to be related to
224 school district policy or practice;

225 (b) Implement a plan that satisfactorily resolves the
226 education equity problems in the academy program or school
227 related to factors that hamper increased student performance;

228 (c) Contract for the educational services of the academy
229 program or school, or reorganize the academy program or school
230 at the end of the school year under a new school principal who
231 is authorized to hire new staff and implement a plan that
232 addresses the causes of inadequate progress;

233 (d) Allow parents of students in the school to send their
234 children to another district school of their choice; or

235 (e) Other action appropriate to improve the school's
236 performance.

237 (3) In recommending actions to district school boards, the
238 State Board of Education shall specify the length of time

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239 available to implement the recommended action. The State Board
240 of Education may adopt rules to further specify how it may
241 respond in specific circumstances. No action taken by the State
242 Board of Education shall relieve an academy program or a school
243 from state accountability requirements.

244 (4) The State Board of Education may require the
245 Department of Education or Chief Financial Officer to withhold
246 any transfer of state funds to the school district if, within
247 the timeframe specified in state board action, the school
248 district has failed to comply with the action ordered to improve
249 the district's low-performing academy programs or schools.
250 Withholding the transfer of funds shall occur only after all
251 other recommended actions for school improvement have failed to
252 improve performance. The State Board of Education may impose the
253 same penalty on any district school board that fails to develop
254 and implement a plan for assistance and intervention for low-
255 performing schools as specified in s. 1001.42(16)(c).

256 Section 6. Section 1008.34, Florida Statutes, is amended
257 to read:

258 1008.34 School grading system; district performance
259 category grade.--

260 (1) ANNUAL REPORTS.--The Commissioner of Education shall
261 prepare annual reports of the results of the statewide
262 assessment program which describe student achievement in the
263 state, each district, and each school. The commissioner shall
264 prescribe the design and content of these reports, which must
265 include, without limitation, descriptions of the performance of
266 all schools participating in the assessment program and all of
267 their major student populations as determined by the
268 Commissioner of Education, and must also include the median
269 scores of all eligible students who scored at or in the lowest

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270 25th percentile of the state in the previous school year;
271 provided, however, that the provisions of s. 1002.22 pertaining
272 to student records apply to this section.

273 (2) ACADEMY PROGRAM AND SCHOOL PERFORMANCE GRADE
274 CATEGORIES.--The annual report shall identify academy programs
275 and schools as being in one of the following performance grade
276 categories defined according to rules of the State Board of
277 Education:

- 278 (a) "Improving," "A," schools making excellent progress.
279 (b) "Maintaining," "B," schools making satisfactory above
280 average progress.
281 (c) "Declining," "C," schools not making satisfactory
282 progress.
283 ~~(d) "D," schools making less than satisfactory progress.~~
284 ~~(e) "F," schools failing to make adequate progress.~~

285
286 Beginning in the 2007-2008 school year, a school that has been
287 designated as performance category "F" in a prior school year
288 shall not be designated as performance category "Declining"
289 using the current year's data if that school has met the safe-
290 harbor threshold established in 1008.33 (1)(a). Each school
291 designated in performance grade category "A," making excellent
292 progress, or having improved at least two performance grade
293 categories, shall have greater authority over the allocation of
294 the school's total budget generated from the FEFP, state
295 categoricals, lottery funds, grants, and local funds, as
296 specified in state board rule. The rule must provide that the
297 increased budget authority shall remain in effect until the
298 school's performance grade declines.

299 (3) DESIGNATION OF SCHOOL PERFORMANCE GRADE
300 CATEGORIES.--For purposes of determining academy program or

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301 school performance, student performance should be based on all
302 students' annual learning gains and increased student
303 performance compared to the previous year. School performance
304 ~~grade~~ category designations itemized in subsection (2) shall be
305 based on the following:

306 (a) Timeframes.--

307 1. Academy program or school performance ~~grade~~ category
308 designations shall be based on the ~~school's~~ current year
309 performance of the academy program or school and its the
310 ~~school's~~ annual learning gains.

311 2. Beginning in school year 2007-2008, the performance
312 category designation of an academy program or a school shall be
313 determined based upon the following weighted factors, according
314 to rules adopted by the State Board of Education:

315 a. Fifty percent of the performance category shall be
316 based on students' FCAT scores.

317 b. Fifty percent of the performance category for both
318 learning gains and increased student performance shall be based
319 on data that are not based on the FCAT as determined by the
320 Department of Education.

321 ~~2. A school's performance grade category designation shall~~
322 ~~be based on a combination of student achievement scores, student~~
323 ~~learning gains as measured by annual FCAT assessments in grades~~
324 ~~3 through 10, and improvement of the lowest 25th percentile of~~
325 ~~students in the school in reading, math, or writing on the FCAT,~~
326 ~~unless these students are performing above satisfactory~~
327 ~~performance.~~

328 (b) Student assessment data.--Student assessment data used
329 in determining academy program and school performance ~~grade~~
330 categories shall include:

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331 1. The aggregate scores of all eligible students enrolled
332 in the academy program or school who have been assessed on the
333 FCAT.

334 2. The aggregate scores of all eligible students enrolled
335 in the academy program or school who have been assessed on the
336 FCAT, including Florida Writes, and who have scored at or in the
337 lowest 25th percentile of students in the school in reading,
338 math, or writing, unless these students are performing above
339 satisfactory performance.

340
341 The Department of Education shall study the effects of mobility
342 on the performance of highly mobile students, teachers and
343 principals and recommend programs to improve the performance of
344 such students. The State Board of Education shall adopt
345 appropriate criteria for each ~~school~~ performance grade category.
346 The criteria must also give added weight to student achievement
347 in reading. Schools designated as performance ~~grade~~ category
348 "Maintaining" "C," ~~making satisfactory progress~~, shall be
349 required to demonstrate that adequate progress has been made by
350 students in the school who are in the lowest 25th percentile in
351 reading, math, or writing on the FCAT, including Florida Writes,
352 unless these students are performing above satisfactory
353 performance.

354 (4) SCHOOL IMPROVEMENT RATINGS.--The annual report shall
355 identify each school's performance as having improved, remained
356 the same, or declined. This school improvement rating shall be
357 based on a comparison of the current year's and previous year's
358 student and academy program or school performance data. ~~Schools~~
359 ~~that improve at least one performance grade category are~~
360 ~~eligible for school recognition awards pursuant to s. 1008.36.~~

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361 (5) SCHOOL PERFORMANCE ~~GRADE~~ CATEGORY AND IMPROVEMENT
362 RATING REPORTS.--School performance ~~grade~~ category designations
363 and improvement ratings shall apply to the each school's
364 performance of each academy program or school for the year in
365 which performance is measured. Each ~~school's~~ designation and
366 rating shall be published annually by the Department of
367 Education and the school district. Parents shall be entitled to
368 an easy-to-read report card about the designation and rating of
369 the academy program or school in which their child is enrolled.

370 (6) RULES.--The State Board of Education shall adopt rules
371 pursuant to ss. 120.536(1) and 120.54 to implement the
372 provisions of this section.

373 (7) PERFORMANCE-BASED FUNDING.--The Legislature may factor
374 in the performance of academy programs and schools in
375 calculating any performance-based funding policy that is
376 provided for annually in the General Appropriations Act.

377 (8) DISTRICT PERFORMANCE ~~GRADE~~.--The annual report
378 required by subsection (1) shall include district performance
379 categories ~~grades~~, which shall consist of weighted district
380 average performance categories ~~grades~~, by level, for all
381 elementary schools, middle schools, and high schools in the
382 district. A district's weighted average performance category
383 ~~grade~~ shall be calculated by weighting individual academy
384 program and school performance category designations ~~grades~~
385 determined pursuant to subsection (2) by school enrollment.
386 School districts shall have a variety of tools at their disposal
387 to maintain high performance standards. These tools shall
388 include, but not be limited to, giving academy programs and
389 schools that make performance category "Improving" greater
390 spending flexibility and operate free of many state categoricals
391 in their annual budgets.

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392 Section 7. Section 1008.36, Florida Statutes, is amended
393 to read:

394 1008.36 Every Child Matters Florida School Recognition
395 Program.--

396 (1) The Legislature finds that in order to provide every
397 student enrolled in K-12 public schools with the opportunity to
398 achieve a successful public education, academic problems must be
399 identified early and remediation and intervention services must
400 be provided. It is the intent of this section that no child
401 shall be left behind there is a need for a performance incentive
402 program for outstanding faculty and staff in highly productive
403 schools. The Legislature further finds that performance based
404 incentives are commonplace in the private sector and should be
405 infused into the public sector as a reward for productivity.

406 (2) The Every Child Matters Florida School Recognition
407 Program is created to provide financial awards to public schools
408 that:

409 (a) A curriculum-based, year-round measurement of learning
410 gains for all kindergarten through grade 12 students enrolled in
411 public schools. Sustain high performance by receiving a school
412 grade of "A," making excellent progress; or

413 (b) Remediation and intervention services to all
414 kindergarten through grade 12 students enrolled in public
415 schools who are not meeting grade-appropriate performance
416 expectations, including FCAT scores. Demonstrate exemplary
417 improvement due to innovation and effort by improving a letter
418 grade.

419 (3) All public schools, including charter schools, that
420 receive a school grade pursuant to s. 1008.34 are eligible to
421 participate in the program.

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422 (4) All academy programs and ~~selected~~ schools shall
423 receive financial assistance awards depending on the
424 availability of funds appropriated ~~and the number and size of~~
425 ~~schools selected to receive an award~~. Funds must be distributed
426 to the school's fiscal agent and placed in the school's account
427 and must be used for purposes listed in subsection (5) as
428 determined jointly by the school's staff and school advisory
429 council. ~~If school staff and the school advisory council cannot~~
430 ~~reach agreement by November 1, the awards must be equally~~
431 ~~distributed to all classroom teachers currently teaching in the~~
432 ~~school.~~

433 (5) Every Child Matters Program funds School recognition
434 ~~awards~~ must be used for the following:

435 (a) Administration of a regular formative assessment
436 approved by the State Board of Education ~~Nonrecurring bonuses to~~
437 ~~the faculty and staff;~~

438 (b) Nonrecurring expenditures for remediation of low-
439 performing students, including remediation programs and
440 intervention services adopted and administered by the Department
441 of Education;

442 (c) ~~(b)~~ Nonrecurring expenditures for educational equipment
443 or materials to assist in the remediation of low-performing
444 students; maintaining and improving student performance; or

445 (d) ~~(e)~~ Temporary personnel for the school to assist in the
446 remediation of low-performing students; maintaining and
447 improving student performance.

448 (e) Contracts with private sector participants to provide
449 remediation services provided that 90 percent of the personnel
450 providing services reside in the state and provided that the
451 contracts include requirements to ensure that the private sector
452 participants are accountable for performance;

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453 (f) Transportation of students pursuant to s. 1002.391.

454

455 ~~Notwithstanding statutory provisions to the contrary, incentive~~
456 ~~awards are not subject to collective bargaining.~~

457 Section 8. (1) The Department of Education shall provide
458 training and informational resources for educators to administer
459 the formative assessment program in 1008.36 (5)(a) and shall be
460 responsible for creating and implementing provisions for the
461 collection and analysis of the testing data.

462 (2) The Department of Education shall establish policies
463 and procedures for the development of individual education plans
464 for low-performing students who need remediation and
465 intervention services.

466 Section 9. This act shall take effect July 1, 2006.

467

468

469

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

471 Remove the entire title and insert:

472 A bill to be entitled

473 An act relating to education; amending s. 1002.20, F.S.;

474 providing that academy programs shall be an additional

475 public school choice option; amending s. 1002.31, F.S.;

476 revising components of the controlled open enrollment

477 plan; creating s. 1002.391, F.S.; requiring the Department

478 of Education to develop a plan for school districts to

479 establish academy programs in the public schools;

480 authorizing parents to transfer their children to

481 different academy programs and schools; providing funding

482 for student transportation; amending s. 1008.22, F.S.;

483 requiring the Commissioner of Education to adopt

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484 performance standards and provide resources to meet
485 constitutional requirements; amending s. 1008.33, F.S.;
486 revising requirements relating to State Board of
487 Education enforcement of public school improvement;
488 specifying academy program and school performance
489 categories; amending s. 1008.34, F.S.; revising provisions
490 relating to the school and school district performance
491 grading system; providing performance categories for
492 academy programs and schools; providing the basis for
493 performance category designations; providing school
494 district tools for maintenance of high performance
495 standards; amending s. 1008.36, F.S.; renaming the Florida
496 School Recognition Program as the Every Child Matters
497 Program; revising program intent, purpose, participation,
498 and use of funds; requiring the department to provide
499 training and resources for certain student testing by
500 educators; requiring department policies and procedures
501 for the development of student individual education plans;
502 providing an effective date.

503

Changes in the strike-all to HB 1427

* Lines 60 & 61: Strikes a reference to the Opportunity Scholarship program.

* Line 70: Keeps controlled open enrollment an optional program as currently in statute.

Line 77: Puts “consideration of” back into the bill to let school districts consider various components of their controlled open enrollment plans so as not to make these components a mandate.

Line 90: Puts back “availability of transportation” back as part of district’s controlled open enrollment plan.

Line 112: Remove the words “because of unique circumstances” to make waiver provision for offering traditional single-track public school programs less ambiguous.

Line 114: Replace the word “switch” with the word “transfer.”

Line 115: Replaces the word “unhappy” with the phrase “the expectations of the parents and/or the student are not met within the program.”

Line 124: Replace “switch” with “transfer.”

Line 126: Replace the word “unhappy” with the phrase “if the expectations of the parents and/or the student are not met in the school.”

Line 133: Removes the first line of (3), it seemed redundant.

* Lines 168 – 175: Combines sub-paragraphs 1 and 2 into the subsection (b); sets specific national measures on which the Commissioner of Education will adopt standards to keep Florida within the top half, and eliminates goals for Florida not to rank in the bottom quartile of any national measure.

* Lines 191-200: Deletes the FCAT Pre-test.

* Beginning on line 225 and appearing throughout sections 5 & 6: Changes the original performance categories of “Adequate progress” and “Inadequate progress” to a three tiered system of “Improving,” “Maintaining,” and “Declining.” This was adopted from the performance categories for alternative schools contained in the A Plus Plus plan.

* Lines 248 – 255: Replaces the safe-harbor threshold of a 10 percent increase in student achievement to avoid being declared “Declining” with a threshold based on the real improvement of other schools measured over time.

Line 270: Add to the end of that sentence the phrase “related to factors that hamper increased student performance” to be more specific about what may be required of schools or Academies in the “Declining” category to better serve students.

Lines 276 & 277: Reinserts existing language allowing parents to send their children to another district school of their choice.

* Lines 321 – 327: Replaces the “A” through “F” grading system with new performance categories of “Improving,” “Maintaining,” and “Declining,” which are adopted from the performance categories for alternative schools contained in the A++ plan.

Lines 333 – 334: Again, replaces the original 10 percent improvement with a safe harbor threshold based on the improvements of the top performing schools measured over multiple years.

Line 345: Adds the words “and increased student performance” tying our new assessment formula to learning gains and increased performance.

* Lines 360 – 365: Replaces the specific measures for the non-FCAT portion of the formula for determining the performance of Academies and schools with more general language that allows DOE to come up with workable measures.

* Lines 381 – 384: We keep existing language assessing the lowest 25th percentile of students in reading for determining schools and Academies performance categories.

Line 387: Includes the mobility of teachers and principals in the study on how student mobility affects improved performance.

* Lines 391 – 397: Keeps existing statutory language that requires progress of the lowest quartile of students in C schools (called “Maintaining” under this plan) be assessed on FCAT reading, writing and math.

Line 432 – 438: Tightens up the language on how school districts can reward “Improving” schools with budget flexibility and fewer categoricals.

Line 457: We only wrote kindergarten when we should have written “kindergarten through grade 12.”

* Lines 482 & 483: We remove from the bill the specific reference to the Dynamic Indicators of Basic Early Literacy Skills, or DIBELS, assessment to allow the State Board of Education to choose an assessment program without limiting the state to just one.

Line 498: Add language to require performance accountability by private sector tutors who provide remediation services to students.

Line 505: Removes another reference to the DIBELS assessment allowing the State Board of Education to select an assessment.

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Bill No. 1619

COUNCIL/COMMITTEE ACTION

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

Council/Committee hearing bill: PreK-12 Committee

Representative Murzin:

Amendment with title amendment

Remove everything after the enacting clause and insert:

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

Section 1. Paragraph (b) of subsection (1) of section 1001.43, Florida Statutes, is amended to read:

1001.43 Supplemental powers and duties of district school board.--The district school board may exercise the following supplemental powers and duties as authorized by this code or State Board of Education rule.

(1)(b) Require uniforms to be worn by the student body, or impose other dress-related requirements, if the district school board finds that those requirements are necessary for the safety or welfare of the student body or school personnel. However, students may wear sunglasses, hats and other sun-protective wear while outside during school hours, such as when students are at recess.

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24 Section 2. New subsections (5) and (6) are added to
25 section 1003.02, Florida Statutes, to read:

26
27 1003.02 District school board operation and control of
28 public K-12 education within the school district.--As provided
29 in part II of chapter 1001, district school boards are
30 constitutionally and statutorily charged with the operation and
31 control of public K-12 education within their school district.
32 The district school boards must establish, organize, and operate
33 their public K-12 schools and educational programs, employees,
34 and facilities. Their responsibilities include staff
35 development, public K-12 school student education including
36 education for exceptional students and students in juvenile
37 justice programs, special programs, adult education programs,
38 and career education programs. Additionally, district school
39 boards must:

40 (5) (a) If selecting a vendor to market class rings to
41 students, select at least two vendors. Vendors selected by the
42 school board must not intimidate students with respect to the
43 purchase of class rings or discriminate against a student who
44 purchases a class ring from another vendor by excluding the
45 student from participating in any ceremony or activity relating
46 to the receipt of a class ring.

47 (b) Notify in writing each student and his or her parent
48 that the student may purchase his or her class ring through any
49 vendor regardless of the fact that the district school board may
50 contract with a vendor for marketing class rings. The
51 notification must include an explanation of the right of each
52 student purchasing a class ring to participate in any ceremony
53 or activity relating to the receipt of a class ring.

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54 (6) If entering into a contract with a photographer for
55 the purpose of taking student yearbook photographs, select at
56 least two photographers. A student's senior photograph must be
57 allowed to appear in the yearbook when taken by a photographer
58 not under contract with the district school board if the
59 photograph meets the reasonable specifications of the yearbook
60 staff for senior photographs.

61
62 Section 3. Subsection (1) of section 1006.22, Florida
63 Statutes, is amended to read:

64 1006.22 Safety and health of students being
65 transported.--Maximum regard for safety and adequate protection
66 of health are primary requirements that must be observed by
67 district school boards in routing buses, appointing drivers, and
68 providing and operating equipment, in accordance with all
69 requirements of law and rules of the State Board of Education in
70 providing transportation pursuant to s. 1006.21:

71 (1) (a) District school boards shall use school buses, as
72 defined in s. 1006.25, for all regular transportation. Regular
73 transportation or regular use means transportation of students
74 to and from school or school-related activities that are part of
75 a scheduled series or sequence of events to the same location.
76 "Students" means, for the purposes of this section, students
77 enrolled in the public schools in prekindergarten disability
78 programs and in kindergarten through grade 12. District school
79 boards may regularly use motor vehicles other than school buses
80 only under the following conditions:

81 ~~1.(a)~~ When the transportation is for physically
82 handicapped or isolated students and the district school board
83 has elected to provide for the transportation of the student
84 through written or oral contracts or agreements.

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85 2.(b) When the transportation is a part of a comprehensive
86 contract for a specialized educational program between a
87 district school board and a service provider who provides
88 instruction, transportation, and other services.

89 3.(e) When the transportation is provided through a public
90 transit system.

91 4.(d) When the transportation is for mid-day trips to and
92 from school sites or agricultural education sites or for trips
93 to and from agricultural education-related events or
94 competitions. ~~When the transportation of students is necessary~~
95 ~~or practical in a motor vehicle owned or operated by a district~~
96 ~~school board other than a school bus, such transportation must~~
97 ~~be provided in designated seating positions in a passenger car~~
98 ~~not to exceed 8 students or in a multipurpose passenger vehicle~~
99 ~~designed to transport 10 or fewer persons which meets all~~
100 ~~applicable federal motor vehicle safety standards. Multipurpose~~
101 ~~passenger vehicles classified as utility vehicles with a~~
102 ~~wheelbase of 110 inches or less which are required by federal~~
103 ~~motor vehicle standards to display a rollover warning label may~~
104 ~~not be used.~~

105
106 ~~When students are transported in motor vehicles, the occupant~~
107 ~~crash protection system provided by the vehicle manufacturer~~
108 ~~must be used unless the student's physical condition prohibits~~
109 ~~such use.~~

110 (b) When the transportation of students is provided, as
111 authorized in this subsection, in a vehicle other than a school
112 bus that is owned, operated, rented, contracted, or leased by a
113 school district or charter school, the following provisions
114 shall apply:

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115 1. The vehicle must be a passenger car or multipurpose
116 passenger vehicle or truck, as defined in Title 49 C.F.R. part
117 571, designed to transport fewer than 10 students. Students must
118 be transported in designated seating positions and must use the
119 occupant crash protection system provided by the manufacturer
120 unless the student's physical condition prohibits such use.

121 2. An authorized vehicle may not be driven by a student on
122 a public right-of-way. An authorized vehicle may be driven by a
123 student on school or private property as part of the student's
124 educational curriculum if no other student is in the vehicle.

125 3. The driver of an authorized vehicle transporting
126 students must maintain a valid driver's license and must comply
127 with the requirements of the school district's locally adopted
128 safe driver plan which includes review of driving records for
129 disqualifying violations.

130 4. The district school board or charter school must adopt
131 a policy that addresses procedures and liability for trips under
132 this paragraph, including a provision that school buses are to
133 be used whenever practical and specifying consequences for
134 violation of the policy.

135

136 Section 4. This act shall take effect July 1, 2006.

137

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

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141 Remove the entire title and insert:

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A bill to be entitled
An act relating to district school boards; amending s.
1001.43, F.S; allowing students to wear sun-protective
items while outside during school hours; amending s.
1003.02, F.S.; requiring each district school board that
selects a vendor to market student class rings to select
at least two vendors that meet certain criteria; requiring

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

150 each district school board to notify students and parents
151 that the purchase of a class ring may be through any
152 vendor marketing class rings and that a student may
153 participate in related ceremonies or activities regardless
154 of the vendor through which the purchase was made;
155 authorizing district school boards to contract with
156 photographers for the purpose of taking student yearbook
157 photographs; requiring district school boards that
158 contract with photographers to select at least two
159 photographers; permitting the inclusion of certain
160 photographs; amending s. 1006.22, F.S.; revising
161 provisions for district school board transportation of
162 students in vehicles other than school buses; authorizing
163 use of such vehicles for mid-day trips and other trips to
164 and from certain sites and activities; revising criteria
165 for such vehicles and their use; requiring district school
166 boards and charter schools to adopt a policy that
167 addresses procedures and liability for trips using
168 vehicles other than school buses; providing an effective
169 date.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- The bill expands the Florida Retirement System benefit to Florida School for the Deaf and Blind and school district administrators who are rehired after 30 days.

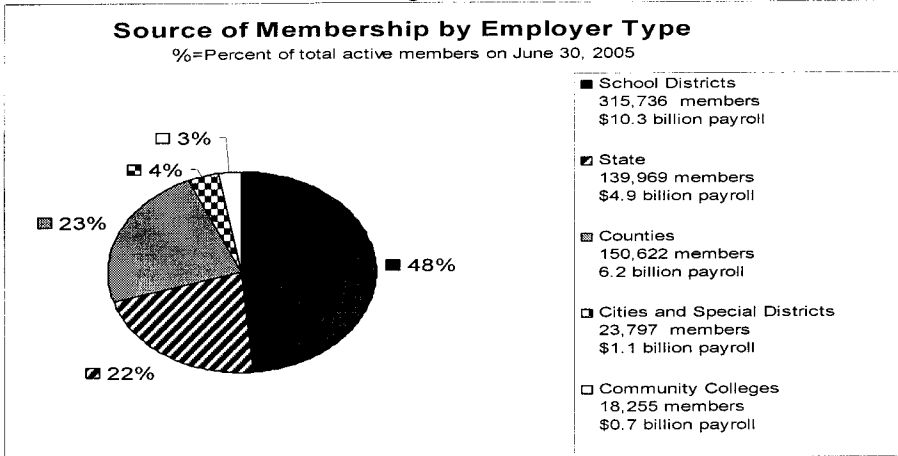
Ensure lower taxes-- The bill increases the Florida Retirement System contribution required by employers and the state.

Promote personal responsibility-- The bill expands Florida Retirement System benefits paid by the state and employers.

B. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION:

Florida Retirement System.—The FRS currently consists of five membership classes — the Regular Class, Special Risk Class, Special Risk Administrative Support Class, Elected State Officers' Class, and Senior Management Service Class. The FRS Regular Class includes all members who are not eligible for membership in any of the other membership classes (about



90 percent of all FRS members). The vast majority of district school board and Florida School for the Deaf and the Blind personnel are in the Regular Class.

FRS membership.—Membership is compulsory for all full-time and part-time employees working in a regularly established position for any state agency, county government agency, district school board, state

university, community college, or participating city or special district. District school board employees make up nearly half of the total membership of the FRS (in all classes).

According to the Department of Education, as of 06/30/2005 there were 13,233 district school board administrators (4.2% of the overall school board membership) whose total salaries are \$714,419,747 (6.9% of the overall school board salaries). These figures reflect an increase of 27.7% and 0.93% respectively in the figures previously provided by the DOE which were used in the actuarial special study. DOE advises that the increase results from the inclusion of part-time administrative personnel in state fiscal-year end reports which were not reflected in the prior figures provided.

The Florida School for the Deaf and the Blind reports that as of 11/16/2005, they had 58 administrative personnel positions (7.7% of the overall Florida School for the Deaf and the Blind membership), whose total salaries were \$3,419,796 (15.0% of the overall Florida School for the Deaf and the Blind salaries).

FRS plan structure.—Under the FRS, members within the same membership class are generally subject to the same plan requirements and benefit structure. To provide for fairness and equity in funding, any proposal that substantially enhances benefits for a subgroup of a membership class, by its nature, requires the establishment of a special membership classification for that subgroup. An example is the Elected Officers' Class (EOC), which is currently subdivided into subclasses for the following membership groups:

- Judges
- Governor, Lt. Governor, Cabinet, Legislators, State Attorneys and Public Defenders
- Elected County Officers and certain other local elected officials

Contribution rates are separately calculated for these subclasses (for example, effective July 1, 2005, the total contribution rates for these three groups are 18.65%, 12.49%, and 15.23%, respectively).

Currently, all vested FRS members (other than Special Risk Class members) may retire with full benefits when they either attain age 62 or complete 30 years of service. Vested Special Risk Class members may retire with full benefits when they reach age 55 or complete 25 years of Special Risk Class service, regardless of age.

Reemployment Restrictions.—After retiring under the FRS, a retiree can work for any private employer, for any public employer not participating in the FRS, or for any employer in another state, without affecting his or her FRS benefits. However, subject to the exceptions described below, if a retiree is reemployed in his or her first year of retirement by a **FRS employer**, the following limitations apply during the **first calendar month of retirement**:

- A retiree who did not participate in DROP must terminate all employment (be off payroll with all FRS employers for 1 calendar month) to meet the definition of termination and complete retirement from the FRS. If a retiree returns to work for a participating employer during the first calendar month of retirement, the retiree will **void** his or her retirement and the retiree's FRS membership will be reestablished. All retirement benefits must be repaid and the member must reapply for retirement, establishing a later effective date of retirement.
- A retiree who participated in DROP must meet the termination requirement noted above for the calendar month following the end of his or her DROP participation. If reemployment occurs within this first calendar month, the retiree's DROP participation and retirement are void. Any funds received, including his or her DROP accumulation, must be repaid to the FRS. The member must reapply to establish an effective retirement date and may no longer be eligible to participate in DROP².

During the 2nd – 12th months following retirement, as noted above, an FRS retiree cannot earn a salary from any FRS-participating employer while drawing retirement benefits from the

² An exception applies in the case of DROP participants whose positions are covered by the Elected Officers' Class.

system. If a retiree works for a participating employer during this period, the retiree must inform the Division. Except as otherwise noted below, if a retiree works during this limitation period, the Division will suspend his or her benefits and the retiree must repay any such benefits inappropriately received. After the first 12 months of retirement, there are no further reemployment limitations.

Exceptions to reemployment limitations:

- An FRS retiree who is elected or appointed to an elective office is exempt from reemployment limitations.
- A retired justice or judge on temporary assignment to active judicial service pursuant to Article V of the State Constitution is exempt from reemployment limitations after being retired for 1 calendar month. Such justices or judges are not eligible for renewed membership.
- District School Boards.—An FRS or TRS retiree may be reemployed without limitation as a classroom teacher on an annual contractual basis or as a noncontractual substitute or hourly teacher without limitation. Additionally, noncontractual employment is allowed without further limitation for an FRS retiree only who is hired as an education paraprofessional, a transportation aide, a bus driver, or a food service worker.
- Florida School for the Deaf and the Blind.—An FRS or TRS retiree may be reemployed on an annual contractual basis as classroom teacher or as substitute or hourly teacher on a noncontractual basis, without limitation. (A substitute residential instructor and a substitute nurse are included in the category of noncontractual substitute or hourly teacher.)
- Charter Schools.—An FRS or TRS retiree may be reemployed as classroom teacher on an annual contractual basis or as substitute or hourly teacher on a noncontractual basis, without limitation.
- Developmental Research Schools (University Lab Schools).—An FRS or TRS retiree may be reemployed on an annual contractual basis as classroom teacher or as a substitute or hourly teacher on a noncontractual basis, without limitation.
- Community Colleges.—An FRS or TRS retiree may be reemployed as part-time, noncontractual adjunct instructor or an FRS retiree may be employed as a phased retirement program participant for up to 780 hours.
- Universities.—An FRS or TRS retiree may be reemployed as an adjunct faculty member or a phased retirement program participant with the State University System for up to 780 hours.
- Firefighters or paramedics.—An FRS retiree may be reemployed as a firefighter or paramedic serving in temporary or regularly established positions for up to 780 hours.

A member who retires on disability cannot work in gainful employment and continue to receive disability benefits.

Renewed Membership.—FRS retirees and retirees of other state-administered retirement programs who are reemployed in FRS-covered employment will renew their membership in the FRS and earn service credit toward a “second-career” retirement benefit for which they will qualify upon vesting again. Renewed members may elect to participate in either the FRS Investment Plan or FRS Pension Plan.

Renewed members who retire and receive a second-career retirement benefit, including former DROP participants, must meet the definition of termination and are once more subject to reemployment limitations, unless they are eligible for exceptions, as previously described. With rare exception, retirees who participate in DROP are eligible for renewed membership only after they have terminated employment upon completing their period of program participation.

Renewed members are ineligible to participate in DROP, ineligible for the Special Risk Class membership and are not eligible for disability benefits. However, the surviving spouse and/or dependent children of a renewed member may qualify for survivor benefits.

Local Government Mandates Provision.—Article VII, Section 18, of the Florida Constitution effectively invalidates any law that would require counties or municipalities to spend funds or limit their ability to raise revenue or receive state tax revenue, unless certain conditions are met. First, the Legislature must have determined that the law fulfills an important state interest. The law must also meet one or more additional criteria, including that the “expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments.”

Article X, Section 14, of the Florida Constitution.—Since 1976, the Florida Constitution has required that benefit improvements under public pension plans in the State of Florida must be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.--A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Part VII of chapter 112, F.S.—Article X, Section 14, of the Florida Constitution is implemented by statute under part VII of chapter 112, F.S., the “Florida Protection of Public Employee Retirement Benefits Act,” which establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. The key provision of this act states the legislative intent to “... prohibit the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.”

EFFECT OF THE BILL:

HB 389 would allow FRS retirees to be reemployed on a contractual basis by district school boards or the Florida School for the Deaf and the Blind as administrative personnel as defined in s. 1012.01(3), F.S. The retiree must be off all FRS-covered employment for one calendar month following retirement or DROP participation to finalize termination and his/her first-career

retirement in addition to being eligible for enrollment as a renewed member. The definition of administrative personnel in s. 1012.01(3) is:

1012.01 Definitions.--Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida K-20 Education Code, they shall be used as follows:

(3) ADMINISTRATIVE PERSONNEL.--"Administrative personnel" includes personnel who perform management activities such as developing broad policies for the school district and executing those policies through the direction of personnel at all levels within the district. Administrative personnel are generally high-level, responsible personnel who have been assigned the responsibilities of system wide or school wide functions, such as district school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, career center directors, and others who perform management activities. Broad classifications of administrative personnel are as follows:

(a) District-based instructional administrators.--Included in this classification are persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the instructional program. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major instructional areas, such as curriculum, federal programs such as Title I, specialized instructional program areas such as exceptional student education, career education, and similar areas.

(b) District-based noninstructional administrators.--Included in this classification are persons with district-level administrative or policymaking duties who have broad authority for management policies and general school district operations related to the noninstructional program. Such personnel often report directly to the district school superintendent and supervise other administrative employees. This classification includes assistant, associate, or deputy superintendents and directors of major noninstructional areas, such as personnel, construction, facilities, transportation, data processing, and finance.

(c) School administrators.--Included in this classification are:

1. School principals or school directors who are staff members performing the assigned activities as the administrative head of a school and to whom have been delegated responsibility for the coordination and administrative direction of the instructional and noninstructional activities of the school. This classification also includes career center directors.

2. Assistant principals who are staff members assisting the administrative head of the school. This classification also includes assistant principals for curriculum and administration.

If enacted, this reemployment provision would not be limited to school-based administrators, but would apply to all administrative personnel employed by district school boards and the Florida School for the Deaf and the Blind (see above), ranging from district-based administrators including school superintendents to school-based administrators including assistant principals.

The change proposed by HB 389 would expand the current exceptions to reemployment restrictions during the first 12 calendar months of retirement or following DROP participation by allowing district school boards to reemploy retired FRS members as administrative personnel on an annual contractual basis who have been retired for 1 calendar month. The reference to "annual contractual basis" has a more of a relationship to the employment of instructional

personnel than administrative personnel covered by this bill. The potential impacts of this bill include:

- Encouraging “paper” terminations since retirees could return to contractual employment in these positions within the first 12 months of retirement without penalty. This could foster a willingness for members to retire earlier and to become reemployed to earn a second-career benefit while drawing their first career retirement benefit and earning a salary. This could result in a greater number of Florida Retirement System members deciding to retire sooner than they might have otherwise, thereby drawing their retirement benefits for a longer period of time based upon a shorter working career and investment period, which would increase the cost to the retirement system. This impact resulted in an employer contribution rate increase as recommended by the 2005 Special Study to meet the concurrent and actuarially sound funding requirement of Part VII, Chapter 112, F.S., and Article X, Section 14 of the Florida Constitution. Based upon data provided by the Department of Education, there are significantly more eligible administrator positions than were identified for the 2005 Special Study. The consulting actuary has indicated a revised study is required.
- The reemployment provision of this bill applies only to administrative personnel employed by district school boards and the Florida School for the Deaf and the Blind. Administrative personnel employed by other educational institutions that provide K-12 educations such as charter schools and developmental research schools would be excluded and these employers may seek similar treatment for their administrative personnel positions.
- As the reemployment limitations become more liberalized and only certain employee groups benefit from them, there will be increasing pressure to expand or remove all reemployment limitations. Other employer groups will seek reemployment exemptions so they may hire qualified experience retirees without affecting the retirees’ benefits during their first year of retirement. Excluded retirees will seek to be able to enjoy the same benefits as those retirees that are exempted from reemployment restrictions. If passage of this proposal results in other liberalizations of the reemployment restrictions, it will lead to increased cost for the Florida Retirement System because their retirement benefits will be funded over a shorter working career but will be paid for a longer period of time.
- This administrator employee group or the district school boards and the Florida School for the Deaf and the Blind that employ them do not represent a separate subclass of the Regular Class. Therefore all employers with Regular Class employees would pay the higher retirement contribution costs that would result from these proposed liberalized employment exceptions, not just the school boards or the Florida School for the Deaf and the Blind that would benefit from this proposal.

Additional Issues for consideration:

HB 389 does not meet the concurrent funding in an actuarially sound manner as required by Article X, Section 14 of the Florida Constitution and Part VII, Chapter 112, F.S. Milliman, Inc., consulting actuary prepared a special study of the benefit improvement dated April 19, 2005. The results of this study indicated that the Regular Class rate must be increased by 0.02% to fund the fiscal impact of this benefit improvement for just the school boards as proposed by HB 389. This study did not include the benefit improvement for the Board of Trustees of the Florida School for the Deaf and the Blind as proposed by HB 389. The 58 affected positions of the School for the

Deaf and the Blind do not significantly impact this study. However, the DOE has indicated that the number of affected positions is 27.7% higher than provided for the original study and the consulting actuary has indicated a revised special study is required due to this change.

To meet these actuarial funding requirements, it is recommended that this bill should be amended to reflect this rate increase for the Regular Class when determined by the revised special study; to specify that this rate increase is in addition to the rates established by s. 121.71, F.S., effective July 1, 2006; and the effective date of this bill become July 1, 2006, to be concurrent when the funding would be provided.

C. SECTION DIRECTORY:

Section 1. Amends s.121.091, F.S.; creating a reemployment exception for FRS retirees reemployed by district school boards or the Board of Trustees for the Florida School for the Deaf and the Blind as administrative personnel, as defined in s.1012.01(3), F.S.

Section 2. Provides an effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

An actuarial special study (2005 j) was conducted in 2005 based upon data from the 2004 FRS Valuation and information provided by the Department of Education (DOE) on January 26,

2005. This study indicated that the overall contribution rate for all employers with Regular Class members would have to be increased by 0.02% in order to fund the reemployment exceptions for just the school boards. The estimated expenditure impact based on this study for local governments and the state for fiscal year 2006/07 was \$3,144,000 and \$756,000 respectively. Although the impact of the addition of the 58 Florida School for the Deaf and the Blind Administrative personnel as proposed by HB 389 was not included in this study, the impact of this change by itself would be minimal.

However, as the updated information provided by the DOE as of June 30, 2005 substantially changes the numbers provided for the study, a revised actuarial study is required. The updated figures from DOE changed the number of impacted personnel from 10,361 to 13,233 and changed the total salaries of impacted personnel from \$707,829,989 to \$714,419,747. Limiting the cost increase to just school boards and the Florida School for the Deaf and the Blind would require creating a subclass(es) for the affected employers or employees within the Regular Class and would also require a revised special study because this was not addressed by the 2005 actuarial special study.

ACTUARIAL STATEMENT OF FISCAL SOUNDNESS:

- a. This bill does not comply with the requirements of Article X, Section 14 of the Constitution.
- b. This bill does not comply with the provisions of Chapter 112, Part VII, Florida Statutes.
- c. Explanation:

HB 389 proposes to allow FRS retirees to be reemployed as administrative personnel on an annual contractual basis without limitation by district school boards and the School for the Deaf and the Blind after meeting the definition of termination. Expansion of reemployment exceptions to include these employees could encourage "paper" terminations which would result in FRS members retiring sooner than they would have otherwise, drawing retirement benefits for a longer period of time based upon a shorter working career. The changes proposed by this bill would increase the costs of the FRS as well as further establish the precedent for other employee groups and employers to seek similar exceptions to reemployment limitations.

- d. Fiscal Note:

In its current form, this bill does not provide the funding to meet the statutory and constitutional requirements for concurrent funding on an actuarially sound basis of the benefit improvements proposed by this bill. A revised actuarial special study is required to determine the cost due to additional information provided by the DOE.

The liberalization of reemployment exceptions continues a growing trend that creates an incentive for members to retire earlier than they otherwise would retire, encouraging a behavior change that is contrary to the current funding assumptions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill also does not contain a declaration of important state interest that is necessary to comply with the constitutional prohibition of unfunded local mandates (see article VII, Section 18, Florida Constitution, on page 7).

2. Other:

This bill requires a revised actuarial study in order to comply with the requirements of Article X, Section 14 of the Constitution.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The proposed amendments to s.121.091(9)(b)3, F.S., expanding reemployment exceptions for *school boards* does not include a reference to the administrative personnel with those positions for which retirement contributions are required upon reemployment. It is suggested that line 74-76 of page 3 of this bill be amended to read:

74 transportation assistants, bus drivers, ~~or~~ food service workers
75 or administrative personnel are subject to the retirement contribution required by
76 subparagraph 7.

Alternatively, rather than listing all of these positions the last sentence of s. 121.091(9)(b)3., F.S., could be struck and replaced with:

“District school boards reemploying retirees in positions specified in this sub-subparagraph are subject to the retirement contribution required by subparagraph 7.”

The proposed amendments to s.121.091(9)(b)6, F.S., expanding reemployment exceptions for the *Board of Trustees for the Florida School for the Deaf and the Blind* does not include a reference to the administrative personnel with those positions for which retirement contributions are required upon reemployment. It is suggested that line 156-157 of page 6 of this bill be amended to read:

156 teachers, residential instructors, ~~or~~ nurses, or administrative personnel is subject to
157 the retirement contribution required by subparagraph 7. Reemployment

Alternatively, rather than listing all of these positions the sentence containing such listing in s. 121.091(9)(b)6., F.S., could be struck and replaced with:

“The Board of Trustees of the Florida School for the Deaf and the Blind reemploying retirees in positions specified in this sub-subparagraph are subject to the retirement contribution required by subparagraph 7.”

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES
Amendment to Amendment No. 1

Bill No. 1619

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: PreK-12

2 Representative Murzin offered the following:

3
4 **Amendment to Amendment (1) by Representative Murzin** On
5 page 3, line 59, remove that line and insert:

6
7 photograph meets the reasonable specifications of the principal
8 and yearbook staff for senior photographs.



DEPARTMENT OF MANAGEMENT
SERVICES

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serve Florida"

JEB BUSH
Governor

Tom Lewis, Jr.
Secretary

MyFlorida.com



**Division of Retirement
Research & Education**

Section

PO Box 9000
Tallahassee, Florida
32315-9000

Telephone Numbers:

Toll Free
877-FRS-1RES
(877-377-1737)

Local
850-488-5706

SUNCOM
278-5706

Fax:
850-921-0371

Internet:
<http://frs.myflorida.com>

March 27, 2006

TO: Kathy Mizereck
House PreK-12 Education Committee

FROM: Garry Green

RE: Additional Explanation of Fiscal Impact for HB 389

HB 389 would expand the exceptions to restrictions on reemployment with a Florida Retirement System (FRS) employer during the first 12 calendar months following termination of employment for retirement. This proposal would encourage some members of the FRS to retire sooner than they otherwise would have chosen to retire and the fiscal impact is a result of this shifting in retirement patterns, not from the occurrence of reemployment.

Based upon new data provided by the Department of Education (DOE), there are nearly 30% more eligible positions than were originally identified for the actuarial special study performed in 2005. Due to the increase in affected members, the consulting actuary indicated a new special study must be performed. The revised study could result in a higher cost than the most recent study.

The attached 2005 actuarial special study performed by Milliman, Inc., indicated that the employer contribution rate would have to be increased by 0.02% of payroll for the Regular Class. The unfunded actuarial liability portion of this cost would be funded over the next 30 years and the normal cost portion would become included in the normal cost funding for the Regular Class.

This percentage of payroll cost is also referred to as 2 basis points. A basis point (.0001) equals \$100 per \$1 million of payroll. While these reemployment exceptions would only apply to district school board employers and the Florida School for the Deaf and the Blind, all FRS employers would be paying the required cost increase to fund this benefit improvement.

Using the data from the 2005 FRS Actuarial Valuation and the cost determined by the most recent actuarial special study, the minimum projected costs over the next three fiscal years would be:

| Fiscal Year | 7/06 - 6/07 (12 Months) | 7/07 - 6/08 (12 Months) | 7/08 - 6/09 (12 Months) |
|--------------------|------------------------------------|------------------------------------|------------------------------------|
| State | \$807,000 | \$839,000 | \$873,000 |
| Local | \$3,384,000 | \$3,520,000 | \$3,660,000 |
| Total | \$4,191,000 | \$4,359,000 | \$4,533,000 |

Please let me know if you have any other questions

cc: Rebecca McCarley
Joanna Price
Sarabeth Snuggs



Milliman

Consultants and Actuaries

8000 Towers Crescent Drive, Suite 1000
Vienna, VA 22182-6209
Tel +1 703-917-0143
Fax +1 703-827-9266
www.milliman.com

April 19, 2005

Via Overnight Delivery

Ms. Sarabeth Snuggs
State Retirement Director
Division of Retirement
Cedars Executive Center, Building C
2639 North Monroe Street
Tallahassee, FL 32399-1560

Re: Reemployment for Administrative Personnel

Dear Sarabeth:

As you requested, we have studied the impact to the FRS of Senate Bill 788. The bill proposes offering retirees reemployed as school Administrative Personnel the same reemployment terms currently offered to retirees reemployed as retired educational personnel. Additionally, the bill would allow Administrative Personnel to participate in DROP beyond 60 months, to a maximum of 96 months.

Background

This proposed legislation would allow retired Administrative Personnel the option to return to active employment one month after their benefits commence without having to suspend their retirement benefits. The participants who become reemployed will not have their benefits increased by virtue of either accruing additional service or earning a higher average final compensation. However, they will be reenrolled in the FRS as renewed participants and if they accrue six or more years of service they would earn a second benefit based on their reemployment service and reemployment average final compensation. Reemployed participants are treated like new employees and therefore, may elect PEORP participation as well as the second election option. Under this proposal, Administrative Personnel currently participating in the Deferred Retirement Option Program (DROP) which defers receipt of retirement benefits while continuing employment with FRS, may elect to extend their participation in DROP for up to 96 months, 36 months more than the standard DROP participation.

Currently, FRS provisions require a retiree to void their retirement if they return to work (with a participating employer) during the first month of retirement and to repay all retirement benefits received. If they are reemployed between the second through the twelfth calendar month after retirement, a reemployed retiree cannot receive the FRS benefit while also



Ms. Sarabeth Snuggs
April 19, 2005
Page 2

receiving a salary from a participating employer. Thus, subject to certain exceptions, the retirement benefits are suspended.

Note: DROP participants are subject to reemployment limitations after their DROP participation ends.

Assumptions and Analysis

This proposal would reduce the average retirement age of Administrative Personnel. The current assumptions are based on the historical data that most FRS participants have not elected to retire at the earliest age unreduced benefits are available (i.e., the earlier of age 62 and completion of six years of service or completion of 30 years of service). Under this proposal, even though eligible participants could continue to work after those ages without retiring and continue to accrue additional benefits, we assumed that 50% of participants who are not already assumed to retire at first eligibility would not delay retirement after first becoming eligible. This is based on the premise that a participant would instead prefer to receive both their salary and the pension at the same time and possibly accrue a second pension if he or she is guaranteed reemployment. From the employer's contribution perspective, the contribution on behalf of the active individual accruing service credit is not impacted since the contribution to FRS is the same whether the participant continues working or becomes a reemployed retiree.

Additionally, DROP has affected retirement patterns, inducing participants to retire earlier. We have assumed 20% of Administrative Personnel who, absent this provision, would have elected DROP would instead elect the liberalized reemployment. To the extent that these participants who would have retired when first eligible and elect DROP, instead elect to become a reemployed retiree, the additional costs are, in reality, a shifting of costs from the DROP Class to the Regular Class. Thus, these participants are excluded from the additional cost.

To value this benefit, we modified the retirement assumptions used in the June 30, 2004 valuation. Based on information provided by the Department of Education, there are approximately 10,361 Administrative Personnel employed by School Boards participating in the FRS. We assumed that all participants would retire no later than the earliest age at which unreduced retirement benefits are payable. Starting with the 10,361 Administrative Personnel and applying the assumptions described above, we assumed approximately 3,275 Administrative Personnel (0.62% of the Regular Class) would benefit from this proposal. See Table I attached to this letter.

The Administrative Personnel were assumed to be spread proportionately across the pool of Regular Class Employees. If instead, the Administrative Personnel are disproportionately higher paid, have longer service, or different average age at hire, the results would be different, and would be reflected in future valuations.

Because of this assumption change, there is an additional cost as noted previously, even if the total payroll remains constant. This is because participants will be retiring sooner than the



current valuation assumes, meaning benefits will be paid for a longer period of time and they must be funded over each participant's shortened working career.

Results

The results for this study are shown in Table II as described below. The table details the results by class. The contribution rates are presented by class of membership and in aggregate, and reflect the additional contribution rate required for the change in the amortization rate (payable on future payrolls for up to 30 years). Table I shows the development of the percentage of affected Regular Class participants (0.62%).

Section A of Table II includes the normal cost as of July 1, 2004 and the impact of the reemployment opportunity. In addition, the change in liability attributable to the proposed changes was amortized over 30 years with the payments assumed to remain relatively stable when expressed as a percentage of payroll. Row B of the table shows the change in the unfunded actuarial liability, while Section C of the table translates the estimated change in contribution rates to additional dollars to be paid by employers. If this proposal is enacted, the higher cost of funding this improvement will be paid by all employers in the Regular Class, regardless of whether their employees are eligible for this benefit.

We did not analyze the impact of limiting the cost increase to school boards by creating subclass(es) for the affected employees within the Regular Class. We also did not study the potential cost impacts to the DROP contribution rates due to the proposed extended DROP participation offered to Administrative Personnel, since we have previously mentioned that extended DROP participation does not unfavorably impact the FRS.

Table II shows the increase in amortization rates and additional unfunded liabilities if reemployment is liberalized for Administrative Personnel as proposed in Senate Bill 788. The projected increase in actuarial liabilities is \$28.6 million. This benefit change results in an increase in the Normal Cost rate of 0.01% and an increase in the UAL rate of 0.01%, and therefore, an overall increase in contribution levels of 0.02%, for the Regular Class.

Please consider the RSM guidelines concerning utilization of the surplus, in which case this would be one of competing demands for the limited surplus available under RSM. If this proposal is adopted and funded through surplus outside of RSM guidelines, the surplus would be used up more quickly and the period of subsidized contribution rates the FRS currently enjoys would come to an end sooner than if funding follows the RSM guidelines.

The calculations are based on data and other information provided to us by the Division of Retirement for the July 1, 2004 actuarial valuation and supplemented for purposes of this study. We have not audited or verified this data and other information. If the underlying data or information is inaccurate or incomplete, the results of our analysis may likewise be inaccurate or incomplete. These calculations are based on the standard entry age actuarial cost method.



Ms. Sarabeth Snuggs
April 19, 2005
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We performed a limited review of the data used directly in our analysis for reasonableness and consistency and have not found material defects in the data. If there are material defects in the data, it is possible that they would be uncovered by a detailed, systematic review and comparison of the data to search for data values that are questionable or for relationships that are materially inconsistent. Such a review was beyond the scope of our assignment.

This analysis is based on the July 1, 2004 actuarial valuation methods and assumptions. The results of our study depend on future experience conforming to those actuarial assumptions discussed earlier in this letter. It is certain that actual experience will not conform exactly to the assumptions used in this analysis. To the extent future experience deviates from those assumptions, the results of this analysis could vary from the results presented here. In addition, the cost/(savings) of the proposed plan change will depend on the actual legislation.

This analysis is solely for the internal use of the FRS. Milliman does not intend to benefit any third party recipient of this analysis. We have not explored any legal issues with respect to the proposed plan changes. We are not attorneys and cannot give legal advice on such issues. We suggest that you review these proposals with counsel.

I, Robert Dezube, am a consulting actuary for Milliman, Inc. I am also a member of the American Academy of Actuaries, and meet their Qualification Standards to render the actuarial opinion contained herein.

Please call if you would like to further discuss this project.

Sincerely,

Milliman, Inc.

Kathryn M. Hunter
Actuarial Analyst

Robert S. Dezube, FSA
Consulting Actuary

Enclosures

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FLORIDA RETIREMENT SYSTEM

Immediate Reemployment for All Administrative Personnel

Determination of Percentage of Affected FRS Regular Class Participants

| | |
|--|---------|
| 1 Total Number of Active Participants in FRS | 597,376 |
| 2 Total Number of Active Participants in FRS Regular Class | 524,741 |
| 3 Administrative Personnel (estimated) | |
| a Count | 10,361 |
| b As a Percentage of total FRS | 1.73% |
| 4 Administrative Personnel as Percentage of Regular Class (all assumed to be in the Regular Class) | |
| a Count = (3a) | 10,361 |
| b Percentage = (4a) / (2) | 1.97% |
| 5 Percentage of Regular Class Active Members Currently Assumed to Retire at First Eligibility for Unreduced Benefits (per Valuation assumptions) | |
| a Percentage | 20.97% |
| b Count = (4a) x (5a) | 2,173 |
| 6 Remaining Participants (4a) - (5b) | 8,188 |
| 7 Percentage Assumed to Retire at First Eligibility due to Liberalized Reemployment Proposal (per study assumption) | |
| a Percentage | 50.00% |
| b Count = (6) x (7a) | 4,094 |
| 8 Percent of (7) Above Who Would Have Elected DROP, but Would Now Elect Reemployment (per study assumption) | |
| a Percentage | 20.00% |
| b Count = (7b) x (8a) | 819 |
| 9 Net Participants benefiting from proposal (7b) - (8b) | 3,275 |
| 10 Number of Participants Benefiting as Percentage of Regular Class (9) / (2) | 0.62% |

FLORIDA RETIREMENT SYSTEM
FISCAL IMPACT ANALYSIS

Reemployment for Administrative Personnel

| | FRS Regular | Special Risk Regular | Administration | Judicial | Elected Officers' Class Leg-Atty-Cab | County | Senior Management | Composite (excluding DROP) | DROP | Composite (including DROP) |
|--|----------------|-------------------------|----------------|----------|---|--------|----------------------|-------------------------------|--------|-------------------------------|
| A. Contribution Rates | | | | | | | | | | |
| 1. Present System Employer Costs (as reported the July 1, 2004 valuation - Table IV-3) | | | | | | | | | | |
| a. Normal Cost | 9.53% | 21.91% | 12.39% | 20.43% | 14.86% | 17.00% | 13.27% | 11.37% | 11.74% | NA |
| 2. Increase in Contribution Rate due to Liberalized Reemployment Effective FY 2006 if Paid by Employer | | | | | | | | | | |
| a. Additional Normal Cost | 0.01% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.01% | 0.00% | 0.01% |
| b. Additional Amortization | 0.01% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.01% | 0.00% | 0.01% |
| c. Total Additional Cost | 0.02% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.00% | 0.02% | 0.00% | 0.02% |
| 3. Normal Cost plus Additional Cost - FY 2006 | 9.55% | 21.91% | 12.39% | 20.43% | 14.86% | 17.00% | 13.27% | 11.39% | 11.74% | NA |
| B. Additional (Reduced) Unfunded Liability (000 omitted) | \$28,570 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$28,570 | \$0 | \$28,570 |
| C. Additional Dollars (Normal Cost and Unfunded Liability) to be paid by Employer for FY 2006 (000 omitted) | | | | | | | | | | |
| 1. State | \$568 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$568 | \$0 | \$568 |
| 2. School Boards | 1,972 | 0 | 0 | 0 | 0 | 0 | 0 | 1,972 | 0 | 1,972 |
| 3. State Universities | 158 | 0 | 0 | 0 | 0 | 0 | 0 | 158 | 0 | 158 |
| 4. Community Colleges | 120 | 0 | 0 | 0 | 0 | 0 | 0 | 120 | 0 | 120 |
| 5. Counties | 762 | 0 | 0 | 0 | 0 | 0 | 0 | 762 | 0 | 762 |
| 6. Other | 168 | 0 | 0 | 0 | 0 | 0 | 0 | 168 | 0 | 168 |
| 7. Total | \$3,748 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$3,748 | \$0 | \$3,748 |

DATA FROM THE FLORIDA DEPARTMENT OF EDUCATION REGARDING SHORTAGE OF SCHOOL ADMINISTRATORS

FLORIDA

- One-third of Florida's principals are age 55 or older
- Nearly 3,000 administrators have joined DROP during 1998-2003
- Both because of DROP and the age profile of administrators, the number of administrators retiring in 2002-03 was about 75% higher than the previous year

THE NATION

A national study conducted in 2003 by RAND Education for the Wallace Foundation reviewed and analyzed existing data and found:

- **Forty percent** of current school administrators nationally will be eligible to retire in the next six years
- **Average age of principals has increased** especially with a dramatic decline in number of principals age 40 or younger.
 - More than 37% of principals were over the age of 50 by the 1993-94 school year, and the continuing rise in average age leads to a rise in retirements. (Institute for Educational Leadership, 2000) www.iel.org)
 - The average age of school administrators currently is 50 and most have served in education for 25-30 years
- In the last ten years, there has been a **42% turnover in the principalship**. (ERIC, 1998) eric.uregon.edu
- The number of positions in educational administration is expected to increase by 10-20 percent through 2008 (NCSL, 2002)
- **Barriers to entry** that affect willingness of educators to become administrators
 - Forty-seven percent of teachers nationally hold master's degrees, many in administration; but are not interested or feel qualified to become administrators (NCSL, 2002)