

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SLC 08-09 K-8 Virtual Education

SPONSOR(S): Schools & Learning Council

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council		White	Cobb
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Proposed Council Bill 08-09 amends provisions governing the K-8 Virtual Schools Program. Under the bill, the program’s statewide enrollment capacity will be substantially expanded from 1,881 students currently to approximately more than 4,500 students by the 2009-2010 school year. Additionally, school districts will be afforded the authority to operate or contract for their own K-8 Virtual School Programs, rather than current law’s provisions which only authorize state-contracted K-8 virtual schools. Students currently in a state-contracted K-8 virtual school will have the opportunity to remain in their current school until they reach the ninth grade.

Specifically, the bill provides for the following:

- *District K-8 Virtual School Program* -- Each school district will be authorized in the 2008-2009 school year, and required in the 2009-2010 school year and thereafter, to offer a K-8 Virtual School Program for students residing within the district. Each district program may consist of district-operated and/or contracted K-8 virtual schools. Districts may administer their programs individually or through a regional consortium or multi-district contract. The minimum annual enrollment capacity required for each district program will be the *greater* of: (a) ¼ of one percent of the number of K-8 public school students in the district (currently a total of 4,515 students statewide); or (b) the number of students in the district who were enrolled in a K-8 virtual school during the previous school year. Funding for students in a district program will be through the Florida Education Finance Program.
- *State-Contracted K-8 Virtual Schools:* Students currently enrolled in one of the two Department of Education contracted K-8 virtual schools will have the choice of remaining in their current provider’s school in the 2008-2009 school year and thereafter if that provider does not offer a K-8 virtual school in their parents’ district of residence. Funding for this program will be an amount per full-time equivalent student as established in the General Appropriations Act.

The bill may have a positive fiscal impact on state government and school districts. Please see “**FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT.**”

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families-- The bill expands access to an existing school choice option by increasing the statewide enrollment capacity for K-8 virtual schools and by expanding enrollment eligibility to children of military families who are relocated to this state.

Safeguard Individual Liberty-- The bill expands access to an existing school choice option by increasing the statewide enrollment capacity for K-8 virtual schools and by expanding enrollment eligibility to children of military families who are relocated to this state.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Background: The K-8 Virtual School Program is an educational choice program established within the DOE. The program delivers academic instruction via on-line and distance learning technology to full-time students in kindergarten through eighth grade.¹ Participation is free to the student. Students are instructed by Florida-certified teachers. Learning coaches, usually a parent or other adult living in the student's home, supervise the student's in-home learning activities. The virtual school curriculum is aligned to the Sunshine State Standards and students enrolled in the program must participate in the statewide assessment program required under s.1008.22, F.S.

Providers of virtual schools must apply and be approved by the DOE to participate in the K-8 Virtual School Program. A K-8 virtual school may be a non-profit or for profit entity. Participating schools must provide each enrolled student with all necessary instructional materials, computer equipment, and a stipend for internet access. K-8 virtual schools are subject to the Florida school grading system² and adequate yearly progress (AYP) provisions under Title I of the No Child Left Behind Act of 2001. At present, the Florida Connections Academy and Florida Virtual Academy have been approved by the DOE to deliver program instruction.

Currently, the K-8 Virtual School Program is funded by specific appropriation in the General Appropriations Act. In 2007, the Legislature appropriated \$9,500,000 in general revenues for the program. Students are funded based on a maximum grant amount of \$5,050 per student.³ Thus, enrollment capacity is limited to approximately 1,881 students. According to the DOE, there is a large waiting list of students wishing to participate in the program.⁴

Student Eligibility: The K-8 Virtual School Program is available to full-time students in kindergarten through eighth grade. Eligibility for the program is limited to:

- Students who spent the previous school year in attendance at a Florida public school and who were reported by the school district for funding through the Florida Education Finance Program;
- Students who were enrolled during the previous school year in a K-8 virtual school and their siblings; or

¹ Section 1002.415, F.S.

² Section 1008.34, F.S.

³ Specific Appropriation 99B of the Conference Committee Report on SB 2800, Enrolled Chapter 2007-72, L.O.F., as amended by Chapter 2007-326, L.O.F.

⁴ Florida Department of Education, 2007 Bill Analysis for House Bill 799.

- Students who are eligible to enroll in kindergarten or the first grade.⁵

School Attendance: Students enrolled in the K-8 Virtual School Program are subject to the compulsory school attendance requirements of s. 1003.21, F.S. State Board of Education Rule 6A-6.0980(2)(b), F.A.C., requires each K-8 Virtual School to keep daily attendance for each enrolled student and to verify the continued attendance of each student to the DOE four times during the academic year.

Performance: According to the DOE website for the K-8 Virtual School Program, students in the Florida Connections Academy and Florida Virtual Academy are performing the same or better than their peers statewide on the Florida Comprehensive Assessment Test (FCAT) in most subjects and grade levels.⁶ Further, each school earned a school performance grade of “A” and met 90% of the criteria required for AYP in 2006-07.⁷

Effect of Proposed Changes

The bill amends s. 1002.415, F.S., to substantially revise provisions governing the K-8 Virtual Schools Program. Under the bill, the program’s statewide enrollment capacity will be substantially expanded from 1,881 students currently to approximately more than 4,500 students by the 2009-2010 school year. Additionally, school districts will be afforded the authority to operate or contract for their own K-8 Virtual School Programs, rather than current law’s provisions which only authorize state-contracted virtual schools. Students currently in a state-contracted K-8 virtual school will have the opportunity to remain in their current school until they reach the ninth grade.

The specific provisions of the bill are detailed below.

District K-8 Virtual School Program -- Each school district will be authorized in the 2008-2009 school year, and required in the 2009-2010 school year and thereafter, to offer a K-8 Virtual School Program for students residing within the district. Each district program:

- Must be approved by the DOE before it begins student enrollment.
- May consist of district-operated and/or contracted K-8 virtual schools. Districts may administer their programs individually or through a regional consortium or multi-district contract. Contracted providers must be approved by the DOE.
- Must comply with the requirements, discussed below, which are generally applicable to K-8 virtual schools and which govern: provider qualifications; staff qualifications, curriculum, materials, and equipment; and state assessments, accountability, and school grading.

The minimum enrollment capacity for each district program must be the *greater* of: (a) ¼ of one percent of the number of K-8 public school students in the district (currently a total of 4,515 students statewide); or (b) the number of students in the district who were enrolled in a K-8 virtual school during the previous school year. Additionally, each school within the district’s program must have a sufficient number of students to permit assignment of a school performance grade under s. 1008.34, F.S. and State Board of Education (SBE) rule.⁸ Beginning with the 2010-2011 school year, the enrollment in a K-8 virtual school may not be increased in excess of the prior year unless the school has received a grade of “C” or better.

Any student residing within the district’s attendance area is eligible to enroll in a district K-8 virtual school if, during the previous year, the student:

⁵ Section 1002.415(5), F.S.

⁶ Florida Department of Education, K-8 Program FAQs (Accessed March, 27, 2008) *available at* http://www.floridaschoolchoice.org/Information/virtual_schools/faqs_pilot.asp.

⁷ Florida Department of Education, Florida’s K-8 Virtual Schools Program (January 2008) *available at* http://www.floridaschoolchoice.org/Information/Virtual_Schools/files/K8_Virtual_Facts.pdf.

⁸ See Rule 6A-1.09981, F.A.C. (requiring for the assignment of a school performance grade at least 30 eligible students with valid FCAT scores for reading and math in the previous and current years).

- Was enrolled in a Florida public school and was reported for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys;
- Was enrolled in a K-8 virtual school under the section;
- Is the sibling of a current K-8 virtual school student who completed the previous year at a K-8 virtual school under the section; or
- Is a dependent child of a military family that was transferred within the past 12 months to this state pursuant to a parent's permanent change of station orders.

School districts must enroll eligible students until the program meets full capacity. Priority for enrollment must be granted to: (a) students who were enrolled during the prior school year and their siblings; (b) students who need a home environment to meet their educational needs; (c) children of relocated military families; and (d) students seeking to learn at an accelerated pace. If student applications exceed capacity, students are to be admitted through a random selection process.

Funding for a district program will be through the FEFP. Each district will be required to report the number of full-time equivalent (FTE) students in its K-8 Virtual School Program to the DOE. Section 1011.61(1)(c), F.S., is amended by the bill to provide that a K-8 virtual school FTE student is a student who has successfully completed a basic program and who is promoted to a higher grade level. Districts are also permitted to receive grants and donations for their programs.

State-Contracted K-8 Virtual Schools: The bill provides, subject to appropriation, that the two providers of K-8 virtual schools during the 2007-2008 school year may continue operation under contract with the DOE during the 2008-2009 school year and thereafter. Enrollment in each of these two virtual schools is limited to students who attended that school in the 2007-2008 school year and who live in a district that does not offer a K-8 virtual school operated by the same provider.

The two providers and their schools must continue to comply with the requirements, discussed below, which are generally applicable to K-8 virtual schools and which govern: provider qualifications; staff qualifications, curriculum, materials, and equipment; and state assessments, accountability, and school grading.

Funding for the two DOE-contracted K-8 virtual schools will be based on total program enrollment and an amount per FTE student to be established annually in the General Appropriations Act. Payments are to be made quarterly during the school year as specified in the bill.

Provider Qualifications: The bill requires the DOE on or before March 1, 2009, and annually thereafter, to provide school districts with a list of K-8 virtual school providers that are approved to contract with one or more districts or regional consortia. To be approved, each provider must annually document that it: (a) is nonsectarian; (b) complies with s. 1000.05, prohibiting discrimination; (c) locates its administrative office in this state and requires its staff to be state residents; (d) possesses prior experience offering elementary or secondary online courses; (e) is accredited by specified entities;⁹ and (f) is capable of complying with all requirements under s. 1002.415, F.S., for a K-8 virtual school.

K-8 Virtual School Requirements: Each K-8 virtual school operated by a school district or a provider must: (a) require all instructional personnel to be Florida certified educators; (b) require all school employees to undergo background screening under s. 1012.32, F.S.; (c) offer a full-time, 180-day program of instruction that is aligned to the Sunshine State Standards that is 180 days in duration; and (d) provide each student with all instructional materials, equipment, and internet services necessary to participate in the program. Students may not be charged tuition or registration fees.

⁹ The specified accrediting entities are: the Commission on Colleges of the Southern Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the North Central Association of Colleges and Schools, the New England Association of Colleges and Schools, or the Commission on International and Trans-Regional Accreditation.

Student Requirements: All K-8 virtual school students must: (a) satisfy the compulsory attendance requirements of s. 1008.22, F.S., which must be verified by his or her school district; and (b) take the Florida Comprehensive Assessment Test (FCAT).

Assessment and Accountability: All K-8 virtual schools are required to participate in the statewide assessment program under s. 1008.22, F.S., i.e., the FCAT, and in the state's school accountability system under s. 1008.31, F.S. Each school must receive a school grade under s. 1008.34, F.S. If the school receives a grade of "D" or "F", it is required to file a school improvement plan with the DOE. The DOE must work in consultation with such a school to identify the causes of the school's poor performance and develop a plan for correcting it.

If a K-8 virtual school receives a "D" or "F" for two years during any consecutive four-year period, the bill requires: (a) a district or regional consortium to terminate the contract for a provider-operated school; and (b) a district to terminate operation of a district-operated school and to contract for a provider-operated school during the next school year.

The DOE is required to annually review each school district's program, and submit a report to the SBE, Governor, and presiding officers of the Legislature that compares the performance of each district's K-8 Virtual School Program with the performance of: (a) the district's K-8 students in traditional public schools; and (b) other school district K-8 Virtual School Programs. The report must also analyze and aggregate the overall performance of such students by contracted provider.

A school district or regional consortium is authorized under the bill to terminate or not renew a provider's contract if the provider:

- Fails to participate in the state assessment program;
- Fails to obtain DOE approval in any year;
- Fails to meet generally accepted standards of fiscal management;
- Violates the law;
- Is not funded by the Legislature; or
- Meets any other ground listed in the contract.

If a contract is terminated or not renewed, the contracted provider of the K-8 virtual school is responsible for all debts of the school. Students who are enrolled in such schools must be allowed to enroll in another K-8 virtual school in the district; the public school to which the student would be assigned under the district's attendance area policies; or a public school that the student could choose under district or interdistrict controlled open enrollment provisions.

Class Size Reduction: The bill amends the definition of "core-curricula courses" in s. 1003.01, F.S., to provide that the term does not include a course by the Florida Virtual School, a School District K-8 Virtual School Program, or a state-contracted K-8 virtual school, under ss. 1002.37 and 1002.415, F.S., respectively; thereby, clarifying that the class size reduction requirements of s. 1, Art. IX of the State Constitution and s. 1003.03, F.S., do not apply to virtual schools.

Conforming Provisions: Effective July 1, 2009, the bill amends ss. 1000.04, 1002.20, and 1002.31, F.S., to cross-reference K-8 virtual schools as public school choice options.

Effective Date: The bill provides an effective date of July 1, 2008, except as otherwise provided in the act.

C. SECTION DIRECTORY:

Section 1.: Amending s. 1000.04, F.S.; providing that K-8 virtual schools are public K-12 schools.

Section 2.: Amending s. 1002.20, F.S.; requiring school districts to provide information to parents on public school choices, including K-8 virtual schools.

Section 3.: Amending s. 1002.31, F.S.; providing that K-8 virtual schools are a public school choice.

Section 4.: Amending s. 1002.415, F.S.; establishing the K-8 Virtual School Program; authorizing school districts for the 2008-2009 school year to offer a K-8 Virtual School Program; requiring school districts to offer such program beginning with the 2009-2010 school year; specifying qualifications for and requiring DOE approval of contracted providers; requiring DOE approval for a district-operated school; specifying requirements for a K-8 virtual school relating to employees, curriculum, student equipment, and fees; requiring specified capacity and limiting future enrollment increases; providing student eligibility and enrollment requirements; requiring student compliance with specified attendance provisions; requiring students to take state assessment tests; providing funding through the FEFP for district K-8 virtual schools; requiring K-8 virtual schools to participate in the state accountability system and receive grades; requiring school improvement plans for specified grades; requiring annual DOE review and reporting of student performance; specifying reasons for non-renewal or termination of provider contracts; providing for continuation of existing K-8 virtual schools for specified students; providing funding requirements; and requiring rules.

Section 5.: Amending s. 1003.01, F.S.; revising the definition of “core-curricula courses” to exclude Florida Virtual School and K-8 virtual school courses from class size requirements.

Section 6.: Amending s. 1011.61, F.S.; defining a K-8 virtual school FTE student.

Section 7.: Providing an 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 expanded capacity for student enrollment required by the bill may generate an indeterminate savings in future state capital outlay expenditures as these students will receive services in their homes and will not require a classroom.

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. Please see "Fiscal Comments" below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private providers of K-8 virtual schools may have expanded opportunities to contract in this state due to the bill's required increase in statewide enrollment capacity.

D. FISCAL COMMENTS:

The bill authorizes school districts to contract with K-8 virtual school providers and report FTE through the FEFP for students who are promoted to a higher grade level. The per-student amount that will be agreed upon by a district and a K-8 provider is unknown. For the 2008-09 school year, funding models project that the statewide average funding for a basic student will be approximately \$5,800 per FTE. The appropriation in ch. 2007-72, L.O.F., as adjusted by chs. 2007-326 and 2008-1, L.O.F., authorizes the DOE to spend up to \$4,848 per student for K-8 virtual education services, which would be a district savings of \$952 per student. However, the per-student amount agreed to in a district contract may be higher than \$4,848, because providers will only be paid for students who are promoted to a higher grade. The percentage of students who enroll in a K-8 virtual program and who are not promoted to the next grade is unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules to administer s. 1002.415, F.S., establishing the School District K-8 Virtual School Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES