

Committee on K-12

Meeting

Tuesday, March 27, 2007

8:30 a.m. — 10:00 a.m.

4:15 p.m.—5:15 p.m. (if needed)

212 Knott Building



Florida House of Representatives

Marco Rubio

Speaker

Committee on K-12

Anitere Flores, Chair

Representative Gary Aubuchon

Representative Dorothy Bendross-Mindingall

Representative Will Kendrick

Marti Coley, Vice Chair

Representative Curtis Richardson

Representative Garrett Richter

Representative Shelley Vana

AGENDA

March 27, 2007

- I. Call to Order**
- II. Roll Call**
- III. Comments, Chair Flores**
- IV. Consideration of the following bills:**
 - **HB 187 School Bus Safety by Vana**
 - **HB 403 Education by Reed**
 - **HB 643 Safety at School Bus Stops by H. Gibson**
 - **HB 1219 Public School Educator Certification by Carroll**
 - **HB 1499 Public School Utilization by Jordan**
 - **HB 1569 Education by McKeel**
- V. Workshop on HB 883 Literacy Education for Blind Persons by Baxley**
- VI. Adjournment**

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. **187**

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WITHDRAWN	___	(Y/N)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: K-12

2 Representative(s) Vana offered the following:

3

4 **Amendment**

5 Remove line(s) 63 - 65.

6

7

8

3-22-07 10:14 am

Page 1 of 1

Amendment 1 by Vana to HB 187.doc

A bill to be entitled

An act relating to school bus safety; creating the "Diana Kautz Student Safety Sponsors Act"; creating s. 1006.273, F.S.; providing for district school boards to adopt policies for private sponsorship of described seat belt assemblies on school buses; providing for a sponsorship fee; providing for use of moneys collected; providing for signage on the exterior of the school bus acknowledging sponsorship; providing for design and size of the signage by local school board policy; limiting the liability of sponsors; amending s. 1006.25, F.S.; requiring sponsor signs to be covered when school buses are transporting passengers who are not school students; revising the requirement that students use the crash protection system on a school bus; amending s. 1006.261, F.S.; requiring sponsor signs to be covered when school buses are used for nonschool purposes; providing an effective date.

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

Section 1. This act may be cited as the "Diana Kautz Student Safety Sponsors Act."

Section 2. Section 1006.273, Florida Statutes, is created to read:

1006.273 Crash protection systems; sponsorship.--A district school board may adopt policies providing for private sponsorship of the installation of crash protection equipment on school buses pursuant to the provisions of this section.

29 (1) (a) Any person or business entity may sponsor the
30 installation of seat belt assemblies as described in subsection
31 (3) on a school bus by paying a sponsorship fee as prescribed by
32 local school board policy. Proceeds from the collection of the
33 fee shall be distributed as follows:

34 1. Up to 5 percent may be used to pay the cost of an
35 advertising agent involved with the transaction.

36 2. Up to 45 percent shall be used to pay for the cost of
37 the seat belt assemblies and the cost of installation.

38 3. The remaining funds shall be remitted to the state for
39 deposit into the General Revenue Fund to be used for
40 transportation purposes.

41 (b) There may be up to four business entity sponsors per
42 school bus. Sponsorships or cosponsorships by individuals shall
43 be as provided by district school board policy.

44 (2) (a) Upon request by the sponsor, the district school
45 board shall place signage on the exterior rear, lower-quarter
46 panels of the school bus acknowledging the sponsor and, if the
47 sponsor is a business entity, bearing the logo of the business
48 entity. However, no sponsor shall be required to have his or her
49 name or the name of the business entity placed on the school
50 bus.

51 (b) The acknowledgment shall bear the wording "Safety
52 belts sponsored by" followed by the name of the sponsor.

53 (c) The design and size of the signage shall be as
54 prescribed by local school board policy.

55 (3) The school bus must be equipped with a seat belt
56 assembly that meets the requirements for type 2 seat belt

57 assemblies established under Federal Motor Vehicle Safety
 58 Standard No. 209, 49 C.F.R. s. 571.209, or with any other pelvic
 59 and upper torso restraint system approved by the Federal
 60 Government in a number sufficient to allow each student who is
 61 being transported to use a separate pelvic and upper torso
 62 restraint system.

63 (4) District school board policy under this section shall
 64 provide for sponsorship of seat belt assembly installation on
 65 new purchases of school buses.

66 (5) Sponsorship under this section shall not impose or
 67 imply any duty or responsibility on the sponsor for installation
 68 or use of any seat belt assembly on any school bus, and, in any
 69 action relating to the installation, use, disuse, or misuse of
 70 any seat belt assembly on a school bus, no liability shall
 71 accrue to any person or business entity because that person or
 72 entity is a sponsor of seat belt assemblies under this section.

73 Section 3. Subsections (3) and (4) of section 1006.25,
 74 Florida Statutes, are amended to read:

75 1006.25 School buses.--School buses shall be defined and
 76 meet specifications as follows:

77 (3) STANDARDS FOR LEASED VEHICLES.--A motor vehicle owned
 78 and operated by a county or municipal transit authority that is
 79 leased by the district school board for transportation of public
 80 school students must meet such standards as the State Board of
 81 Education establishes by rule. A school bus authorized by a
 82 district school board to carry passengers other than school
 83 students must have the words "School Bus" and any other signs
 84 and insignia that mark or designate it as a school bus and any

85 sign of sponsorship under s. 1006.273 covered, removed, or
 86 otherwise concealed while such passengers are being transported.

87 (4) OCCUPANT PROTECTION SYSTEMS.--Students may be
 88 transported only in designated seating positions, except as
 89 provided in s. 1006.22(12), and must use the occupant crash
 90 protection system installed in the vehicle ~~provided by the~~
 91 ~~manufacturer~~, which system must comply with the requirements of
 92 49 C.F.R. part 571 or with specifications of the State Board of
 93 Education.

94 Section 4. Subsection (3) of section 1006.261, Florida
 95 Statutes, is amended to read:

96 1006.261 Use of school buses for public purposes.--

97 (3) When the buses are used for nonschool purposes other
 98 than the transportation of the transportation disadvantaged, the
 99 flashing red lights and white strobe lights shall not be used,
 100 and the "School Bus" inscriptions on the front and rear of the
 101 buses and any sign of sponsorship under s. 1006.273 shall be
 102 covered or concealed.

103 Section 5. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 187
SPONSOR(S): Vana and others
TIED BILLS:

School Bus Safety

IDEN./SIM. BILLS: SB 2088

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on K-12		Barnhill JB	Ahearn AR
2) Schools & Learning Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill creates the Diana Kautz Student Safety Sponsors Act. This bill allows district school boards to adopt policies regarding "private sponsorship of school buses for the installation of crash protection equipment".

Any person or business entity, as determined by the school board, may sponsor the installation of seat belt assemblies by paying a sponsorship fee. The fee is determined by the school board. The money collected must be distributed as follows:

- Up to five percent to an advertisement agent
- Up to 45 percent to pay for the cost of installation of safety belts
- The remaining funds to be deposited in the General Revenue Fund, to be used for transportation purposes.

In exchange for the sponsorship, the district school board places signage on the exterior rear, lower-quarter panels of the school bus to acknowledge the sponsor, if such signage is requested by the sponsor. This acknowledgement will say, "Safety belts sponsored by" followed by the name of the sponsor. This acknowledgement is *optional*.

If the district opts to participate in this sponsorship program, seat belts that are installed on school buses must meet the requirements established under Federal Motor Vehicle Safety Standards. This bill limits the liability of sponsors of school buses and requires the sponsorship signage to be covered, in addition to any other signs or insignia that designate the bus as a school bus, when the school bus is being used for nonschool purposes.

The bill requires the school districts to provide for sponsorship of seat belt assembly installation on new school buses. However, the sponsor has filed an amendment that removes this requirement.

Please see FISCAL COMMENTS, section II(d).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Current Florida law requires school buses to meet the applicable Federal Motor Vehicle Safety Standards and other specifications as prescribed by rules of the State Board of Education.¹ The current Federal Motor Vehicle Safety Standards, applicable to all school buses sold in the United States, only require buses to be equipped with a passive passenger protection system known as "compartmentalization." Compartmentalization is a term used to describe the existing passenger seating system on school buses. The seating system consists of high backed seats which are spaced closely together that are designed to absorb impact from children without injury in the event of a crash. Belt-type restraints, requiring active intervention by the passenger, are not federally required on large school buses.²

Compartmentalization has been used on school buses since April 1977 and has been effective in protecting children traveling to and from school. Children in school buses equipped with compartmentalization, without belt type restraints, are over eight times safer than they would be in other school transportation modes, e.g. walking, biking, riding in their parent's car.³

In addition, Florida law requires that all buses purchased new after December 31, 2000, must be equipped with safety belts⁴ or with any other restraint system approved by the Federal Government in a number sufficient to allow each student who is being transported to use a separate safety belt or restraint system.⁵ This requirement of safety belts increases the cost of a bus by an estimated \$1,884.

The Florida School Bus Specifications and the 2005 National School Transportation Specifications and Procedures require uniformity of school bus appearance. These specifications require school buses to be "National School Bus Yellow". This standard color ensures high visibility and instant recognition by motorists.

Current Florida law requires "School Bus" inscriptions to be covered when the school bus is used for nonschool purposes, (the bus is either leased by the district school board⁶, or used for a public purpose⁷). When a school bus is not being used to transport school students, any signs or insignia that mark or designate it as a school bus must be covered, removed, or otherwise concealed.

Effects of Proposed Changes

This bill creates a new section of law that allows district school boards to adopt policies to allow private sponsorship of school buses for the installation of crash protection equipment. This bill allows any person, or business entity, to sponsor such installation by paying a sponsorship fee. Sponsorship fees

¹ s. 1006.25(2), F.S.

² Defined as over 10,000 pounds gross vehicle weight rating.

³ National Highway Traffic Safety Administration, Report to Congress, School Bus Safety: Crashworthiness Research, April 2002.

⁴ The safety belts required on new school buses in Florida are lap belts. The safety belts to be installed on sponsored school buses are a shoulder and lap belt combination (type two safety belts).

⁵ s. 316.6145, F.S.

⁶ s. 1006.25, F.S.

⁷ s. 1006.261, F.S.

will be determined by policies adopted by district school boards. The monies collected through sponsorship fees will be distributed up to five percent to pay the cost of an advertising agent involved with the transaction; up to 45 percent to pay for the cost of the seat belt assemblies and the cost of installation; and the remaining funds will be deposited in the General Revenue Fund to be used for transportation purposes.

This bill limits the number of business sponsors per bus to four business entities. Individual sponsorships or cosponsorships are to be provided for by district school board policy.

In exchange for the sponsorship fee, the district school board will place signage on the exterior rear, lower-quarter panels of the school bus to acknowledge the sponsor, if such signage is requested by the sponsor. If the sponsor is a business entity, the signage may include the logo of the business entity. The acknowledgement on the bus will say "Safety belts sponsored by" followed by the name of the sponsor. District school board policies will stipulate the design and size of the signage. This recognition is optional and at the request of the sponsor, no sponsor will be forced to be recognized with their name on the school bus.

The sponsored school bus must be equipped with a seat belt assembly that meets the requirements for type two seat belt assemblies, consisting of a shoulder and lap belt combination.⁸ A different pelvic and upper torso restraint system may be used if approved by the Federal Government. There must also be enough seat belts to allow each student being transported to use a separate pelvic and upper torso restraint system.

The optional installation of type two safety belts on school buses will reduce the seating capacity, based on data from bus manufacturers. For example, a typical 65 passenger bus would hold 47 passengers when equipped with type two safety belts. Districts that choose to allow the sponsorship of school buses will need to be cognizant of and address such ramifications. The bill provides no additional funding for the purchase of school buses or additional bus driver needs that may result if districts participate in this program.

The bill requires that policies adopted by district school boards must provide for sponsorship of seat belt assembly installation on new purchases of school buses. However, the sponsor has filed an amendment that removes this requirement

No liability, duty, or responsibility will be imposed on business entities or individuals who sponsor a school bus. The sponsors will not be held liable for any action relating to the installation, use, disuse, or misuse of any seat belt assembly on a school bus.

This bill amends section 1006.25(3), F.S., which requires "School Bus", and any other signs and insignia that mark or designate the bus a school bus, to be covered when a school bus, authorized by the district school board, is carrying passengers other than school students. This bill amends this section to require the sign of sponsorship⁹ to be covered in addition to "School Bus" inscriptions and any other signs and insignia designating the bus a school bus.

This bill amends section 1006.25(4), F.S., which requires the use of the occupant crash protection system provided by the manufacturer.¹⁰ This bill amends this section to require the use of occupant crash protection system *installed in the vehicle*, thus, not limiting the requirement of use to installation by the manufacturer.

This bill also amends section 1006.261, F.S., which requires "School Bus" inscriptions to be covered when a school bus is being used for nonschool purposes, other than the transportation of the

⁸ Established under Federal Motor Vehicle Safety Standard No. 209, 49 C.F.R. s. 571.209.

⁹ As provided in s. 1006.273.

¹⁰ In compliance with 49 C.F.R. part 571.

transportation disadvantaged. This bill amends this section to require, in addition, that the sign of sponsorship¹¹ be covered when the bus is being used for nonschool purposes.

There is some concern that allowing advertisements on buses may distract drivers, thus posing a safety concern. However, there is no available data confirming that sponsorship signage on school buses would compromise safety. Additionally, school districts in Arizona, Colorado, Massachusetts, Michigan, and Texas allow advertisements on school buses. School districts in California, and New York are considering selling advertisement space on school buses.

C. SECTION DIRECTORY:

- Section 1.** Creates the "Diana Kautz Student Safety Sponsors Act".
- Section 2.** Creates s. 1006.273; providing for district school boards to adopt policies for private sponsorship of described seat belt assemblies on school buses; providing for a sponsorship fee; providing for use of moneys collected; providing for signage on the exterior of the school bus acknowledging sponsorship; providing for design and size of the signage by local school board policy; limiting the liability of sponsors.
- Section 3.** Amends s. 1006.25, F.S.; requiring sponsor signs to be covered when school buses are transporting passengers who are not school students; revising the requirement that students use the crash protection system on a school bus.
- Section 4.** Amends s. 1006.261, F.S., requiring sponsor signs to be covered when school buses are used for nonschool purposes.
- Section 5.** Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill appears to increase state government revenues due to the provision that at least 50 percent of the moneys collected for each bus sponsorship would be deposited into the General Revenue Fund. It is unknown how much money will be accrued from the allowance of sponsorships for seat belts on school buses.

2. Expenditures:

This bill does not appear to impact 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:

Business entities that choose to sponsor safety belts on school buses will incur the cost of the voluntary sponsorship, but they will also most likely benefit economically from the sponsorship signage on the exterior of school buses. These benefits cannot be estimated at this time.

¹¹ As provided in s. 1006.273.

Advertising agents selected to provide the signage on school buses to recognize the sponsor of the seat belts on the bus will also benefit from this bill. The agent chosen will receive up to 5 percent of moneys obtained by the local school board for the sponsorship of the bus.

D. FISCAL COMMENTS:

This bill may increase revenues to district school boards that adopt policies for sponsorship of safety belts for school buses. School districts will receive an increase in revenues from the sponsorship fees. The monies collected through the sponsorship fees will be distributed up to five percent to pay the cost of an advertising agent involved with the transaction; up to 45 percent to pay for the cost of the seat belt assemblies and the cost of installation; and the remaining funds will be deposited in the General Revenue Fund to be used for transportation purposes.

Districts that choose to allow the sponsorship of school buses will need to be cognizant of and address such ramifications of decreased seating capacity due to the installation of type two seat belts. The bill provides no additional funding for the purchase of school buses or additional bus driver needs that may result if districts participate in this program.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

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

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 403

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:

2 Representative Reed offered the following: K-12

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6
7 Section 1. Subsections (6) of section 1007.35, Florida
8 Statutes, is amended to read:

9
10 (6) The partnership shall:

11 (a) Provide teacher training and professional development
12 to enable teachers of AP or other advanced courses to have the
13 necessary content knowledge and instructional skills to prepare
14 students for success on AP or other advanced course examinations
15 and mastery of postsecondary course content.

16 (b) Provide to middle school teachers and administrators
17 professional development that will enable them to educate middle
18 school students at the level necessary to prepare the students
19 to enter high school ready to participate in advanced courses.

20 (c) Provide teacher training and materials that are
21 aligned with the Sunshine State Standards and are consistent

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22 with best theory and practice regarding multiple learning styles
23 and research on learning, instructional strategies,
24 instructional design, and classroom assessment. Curriculum
25 materials must be based on current, accepted, and essential
26 academic knowledge. Materials for prerequisite courses should,
27 at a minimum, address the skills assessed on the Florida
28 Comprehensive Assessment Test (FCAT).

29 (d) Provide assessment of individual strengths and
30 weaknesses as related to potential success in AP or other
31 advanced courses and readiness for college.

32 (e) Provide college entrance exam preparation through a
33 variety of means that may include, but are not limited to,
34 training teachers to provide courses at schools; training
35 community organizations to provide courses at community centers,
36 faith-based organizations, and businesses; and providing on-line
37 courses.

38 (f) Consider ways to incorporate community colleges in the
39 mission of preparing all students for postsecondary success.

40 (g) Provide a plan for communication and coordination of
41 efforts with the Florida Virtual School's provision of on-line
42 AP or other advanced courses.

43 (h) Work with school districts to identify minority and
44 underrepresented students for participation in AP or other
45 advanced courses.

46 (i) Work with school districts and provide information to
47 students and parents that explains available opportunities for
48 the student to take AP and other advanced courses and that
49 explains enrollment procedures that the student must follow to
50 enroll in such courses. Such information must also explain the
51 value of such courses as related to:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

- 52 1. Preparing the student for postsecondary level
53 coursework;
- 54 2. Enabling the student to gain access to postsecondary
55 education opportunities; and
- 56 3. Qualifying for scholarships and other financial aid
57 opportunities.
- 58 (j) Provide information to students, parents, teachers,
59 counselors, administrators, districts, community colleges, and
60 state universities regarding PSAT/NMSQT or PLAN administration,
61 including but not limited to:
- 62 1. Test administration dates and times;
63 2. That participation in the PSAT/NMSQT or PLAN is open to
64 all tenth grade students.
- 65 3. The value of such tests in providing diagnostic
66 feedback on student skills;
- 67 4. The value of student scores in predicting the
68 probability of success on AP or other advanced course
69 examinations.
- 70 (k) Cooperate with the department to provide information
71 about partnership activities, opportunities and priorities to
72 administrators, teachers, and counselors whenever possible.
- 73 ~~(h) Provide a plan of communication which includes, but~~
74 ~~need not be limited to, disseminating to parents materials that~~
75 ~~emphasize the importance of AP or other advanced courses to a~~
76 ~~student's ability to gain access to and to succeed in~~
77 ~~postsecondary education and materials that emphasize the~~
78 ~~importance of the PSAT/NMSQT or PLAN, which provide diagnostic~~
79 ~~feedback on skills and relate student scores to the probability~~
80 ~~of success on AP or other advanced course examinations, and also~~
81 ~~the dissemination of such information to students, teachers,~~

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

82 ~~counselors, administrators, districts, community colleges, and~~
83 ~~state universities. The department shall assist the partnership~~
84 ~~in communicating opportunities and priorities to administrators,~~
85 ~~teachers, and counselors whenever possible.~~

86 (7) By May 31 of each year, the Department of Education
87 shall approve a plan of delivery of services for the subsequent
88 academic year.

89 (8)(a) By September 30 of each year, the partnership shall
90 submit to the department a report that contains an evaluation of
91 the effectiveness of the delivered services and activities.
92 Activities and services must be evaluated on their effectiveness
93 at raising student achievement and increasing the number of AP
94 or other advanced course examinations in low-performing middle
95 and high schools. Other indicators that must be addressed in the
96 evaluation report include the number of middle and high school
97 teachers trained; the effectiveness of the training; measures of
98 postsecondary readiness of the students affected by the program;
99 levels of participation in 10th grade PSAT/NMSQT or PLAN
100 testing; and measures of student, parent, and teacher awareness
101 of and satisfaction with the services of the partnership.

102 (b) The department shall contribute to the evaluation
103 process by providing access, consistent with s. 119.071(5)(a),
104 to student and teacher information necessary to match against
105 databases containing teacher professional development data and
106 databases containing assessment data for the PSAT/NMSQT, SAT,
107 AP, and other appropriate measures. The department shall also
108 provide student-level data on student progress from middle
109 school through high school and into college and the workforce,
110 if available, in order to support longitudinal studies. The
111 partnership shall analyze and report student performance data in

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

112 a manner that protects the rights of students and parents as
113 required in 20 U.S.C. s. 1232g and s. 1002.22.

114 (9) (a) Funding for the partnership shall be contingent
115 upon annual funding in the General Appropriations Act.

116 (b) The participating partner, if one is chosen, is
117 required to match at least one-third of the allocation provided
118 to the partnership in the General Appropriations Act in
119 materials and services to the program.

120 (10) The State Board of Education may adopt rules to
121 administer this section.

122 (11) Nothing in this section shall prohibit any
123 organization from partnering with the state to improve the
124 college readiness of students.

125
126 ===== T I T L E A M E N D M E N T =====

127 Remove the entire title and insert:
128 An act relating to the Florida Partnership for Minority and
129 Underrepresented Student Achievement; amending s. 1007.35, F.S.;
130 specifying that the partnership must cooperate with school
131 districts to identify minority and underrepresented students for
132 participation in AP courses; specifying that the partnership
133 must cooperate with school districts to provide information to
134 parents regarding AP and other advanced courses; specifying that
135 the partnership must provide information Preliminary
136 SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), or
137 Preliminary ACT (PLAN) administration; providing an effective
138 date.

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7:57 a.m.

1 A bill to be entitled
 2 An act relating to education; creating the Minority or
 3 Underrepresented Student Achievement Council; providing
 4 for the appointment and qualification of members;
 5 providing requirements for meetings; providing for
 6 reimbursement for per diem and travel expenses; providing
 7 the duties of the council; requiring the Commissioner of
 8 Education to organize the initial meeting of the council;
 9 requiring the council to submit an annual report to the
 10 Governor and Legislature; requiring the Department of
 11 Education to provide administrative support; requiring
 12 each school board to discuss the number of high school
 13 students taking advanced placement courses; providing an
 14 appropriation; providing an effective date.

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

17
 18 Section 1. Minority or Underrepresented Student
 19 Achievement Council.--

20 (1) There is created the Minority or Underrepresented
 21 Student Achievement Council for the purpose of identifying and
 22 recruiting minority or underrepresented high school students who
 23 are eligible to participate in advanced placement courses.

- 24 (a) The council shall consist of the following members:
 25 1. The Commissioner of Education or his or her designee.
 26 2. One public high school teacher.
 27 3. One community-based representative.
 28 4. One representative from a school district.

29 5. One representative from a community college.

30 6. One representative from a college or university.

31 7. A parent.

32 (b) The President of the Senate and the Speaker of the
 33 House of Representatives shall jointly appoint the members of
 34 the council described in subparagraphs (a)2.-7. by July 15,
 35 2007. Four of the seven members must be persons of African-
 36 American or Hispanic origin.

37 (c) The council shall hold its first meeting by August 1,
 38 2007, at which time the members shall select by majority vote a
 39 chairperson from among the council members.

40 (d) All recommendations of the council shall be by
 41 majority vote.

42 (e) The council shall meet quarterly and additional
 43 meetings may be held at the call of the chairperson and at other
 44 times as determined by a majority of members of the council.

45 (f) Members of the council shall serve without
 46 compensation, but are entitled to reimbursement for per diem and
 47 travel expenses in accordance with s. 112.061, Florida Statutes.

48 (2) The members of the council shall:

49 (a) Work to recruit minority or underrepresented high
 50 school students who are eligible to participate in advanced
 51 placement courses by identifying students who perform above
 52 average academically according to their grades or SAT or ACT
 53 scores and whose assessments indicate the potential to earn a
 54 bachelor's degree in 4 years or less.

55 (b) Identify each minority or underrepresented student who
 56 receives the grade of "A" or "B" in the majority of his or her

57 core courses during the first semester of the student's freshman
 58 year and notify his or her parents in writing that the student
 59 is eligible to take advanced placement courses beginning in the
 60 second semester of the student's freshman year.

61 (c) Examine best practices from high-performing public
 62 high schools across the United States to learn how to close the
 63 achievement gap between minority or underrepresented students
 64 and nonminority students.

65 (3) The Commissioner of Education or his or her designee
 66 shall:

67 (a) Notify each member of the council of the time, date,
 68 and place where the initial meeting will be held;

69 (b) Make any other arrangements concerning the initial
 70 meeting of the council; and

71 (c) Serve as the presiding officer at the initial meeting
 72 of the council until a chairperson is elected.

73 (4) The council shall issue its initial annual report by
 74 December 15, 2008, and by December 15th of each following year,
 75 stating the findings, conclusions, and recommendations of the
 76 council. This report shall be submitted to the Governor, the
 77 President of the Senate, and the Speaker of the House of
 78 Representatives and placed on the Department of Education's
 79 website.

80 (5) The Department of Education shall provide staff and
 81 administrative support to the council.

82 Section 2. Each school board in this state shall annually
 83 discuss during a meeting of the school board the number of
 84 students, by ethnicity, gender, and zip code, who have taken two

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85 or more advanced placement courses by their junior year in high
86 school.

87 Section 3. The sum of \$50,000 is appropriated from the
88 General Revenue Fund for the Minority or Underrepresented
89 Student Achievement Council.

90 Section 4. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 403 Education
SPONSOR(S): Reed and others
TIED BILLS: IDEN./SIM. BILLS: SB 108

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Committee on K-12, Beagle, Ahearn.

SUMMARY ANALYSIS

The Department of Education (DOE) administers several programs aimed at promoting all students access to postsecondary education. Because participation in Advanced Placement (AP) courses is a major predictor of student's likelihood of completing a bachelor's degree in four years, promoting student participation in AP is a key component of these programs.

The College Reach Out Program (CROP) is established to increase the number of educationally disadvantaged students who successfully complete postsecondary education. Postsecondary institutions participating in the CROP are required to select eligible minority and underrepresented students and maintain continuous contact with these students until they enroll in a postsecondary institution.

The Florida Partnership for Minority and Underrepresented Student Achievement (Partnership) is established "to prepare, inspire, and connect students to postsecondary success and opportunity, with a particular focus on minority and underrepresented students."

Current law requires each school district to make participation in the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) or the Preliminary ACT (PLAN) available to all tenth grade students. School districts are required to maintain a database of student test results.

House Bill 403 establishes the Minority and Underrepresented Student Achievement Council (Council) for the purpose of identifying and recruiting minority and underrepresented high school students for participation in AP courses. The Council is required to recruit students for AP courses, identify each minority or underrepresented student who is eligible to take AP courses, and examine existing practices related to narrowing the achievement gap between minority and underrepresented students and nonminority students.

The bill has a fiscal impact of \$50,000. See Fiscal Comments, IID., Drafting Issues or Other Comments, IIIC.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill requires each district school board to annually discuss, at a board meeting, the number of students who have taken two or more AP courses by their eleventh grade year.

Safeguard Individual Liberty-- The bill creates a council to identify and recruit qualified minority and underrepresented students for participation in AP courses.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Minority Participation in Advanced Placement

Participation in Advanced Placement (AP) courses is a major predictor of student's likelihood of completing a bachelor's degree in four years. Overall participation in AP courses by Florida public school students has steadily increased since 2000, including increases in AP participation by minority and underrepresented students. The number of students completing high school having successfully completed at least one AP course has increased from 13.5% in 2000 to 19.6% in 2006.¹ AP participation by African-American students has increased by 20.9% between 2005 and 2006.² Approximately 21% of Florida public school students are Hispanic. This group comprises 24% percent of AP exam takers.³

	1999	2000	2001	2002	2003	2004	2005	2006
African American	2595	3124	3648	4468	5613	6038	7270	8788
Hispanic	6181	6998	7952	9889	12,466	14,710	17,233	20,421

The College Reach Out Program

The CROP is designed to prepare educationally disadvantaged and low-income students for success in postsecondary education. The CROP serves students who otherwise would be unlikely to seek admission to a postsecondary institution without special support and recruitment efforts. Students are selected for participation in the CROP based on a variety of factors, including the student's family income, family's receipt of public assistance, cumulative grade point average, state assessment scores, enrollment in math and science courses, and participation in a dropout prevention program.⁵

The CROP served eight thousand ninety-five students in 2004-2005. Approximately 72% of these students were African-American, 12% were white, and 12% were Hispanic. Sixty-two percent of students served were female. Thirty-eight percent were males.⁶

¹ The College Board, Florida Partnership, Advanced Placement Report to the Nation, Florida Public Schools *available at* http://www.collegeboard.com/prod_downloads/floridapartnership/FloridaStateReport.pdf.

² Florida Department of Education, Information on Advanced Placement Program: Florida and the Nation, August 2006, *available at* http://www.firn.edu/doe/evaluation/pdf/ap_2006.pdf.

³ Florida Department of Education, 2007 Bill Analysis for House Bill 403.

⁴ Florida Department of Education, Rising Participation and Performance: AP, PSAT/NMSQT, SAT, September 2006, *available at* http://www.firn.edu/doe/evaluation/pdf/ap_psat_sat_2006.pdf.

⁵ Section 1007.34, F.S.

⁶ Data provided by the Florida Department of Education, Office of Equity and Access.

Postsecondary institutions seeking to participate in the CROP must submit a proposal to the DOE. The State Board of Education reviews each proposal and determines which proposals to implement. Participating postsecondary institutions select eligible students for participation and maintain continuous contact with selected students until they enroll in a postsecondary institution.⁷ In 2004-2005, nine state universities, twenty-five community colleges, and four independent postsecondary institutions participated in the CROP.⁸

The 2006 Legislature appropriated \$3,399,990 to fund the CROP for 2006-2007.⁹

The Florida Partnership for Minority and Underrepresented Student Achievement Act

The Partnership is established in law "to prepare, inspire, and connect students to postsecondary success and opportunity, with a particular focus on minority and underrepresented students."¹⁰ The Partnership is required to:

- Provide training to enable AP teachers to prepare students for success in AP or other advanced courses;
- Provide training to middle school teacher and administrators that enables them to groom middle school students so that they are prepared for participation in advanced courses by the time they enter high school;
- Provide training and materials that are aligned to the Sunshine State Standards and the FCAT;
- Assess student strengths and weaknesses as related to potential success in AP courses and readiness for postsecondary education;
- Provide college entrance examination preparation through schools, community centers, businesses, faith-based organizations, or on-line means; and
- Develop plans for disseminating information regarding postsecondary readiness and opportunities to take advanced courses to parents.¹¹

The Partnership must submit an annual report to the DOE. The report must include an evaluation of the effectiveness of Partnership activities. In addition, the report must include the number of teachers and administrators trained and the effectiveness of such training, measurement of postsecondary readiness for students served by the program, student participation levels for the PSAT/NMSQT and PLAN, and teacher awareness and satisfaction with partnership services. Florida law grants the Partnership access to DOE data on professional development, PSAT/NMSQT, PLAN, AP and other data necessary to support longitudinal studies.¹²

Florida law requires each school district to make participation in the PSAT/NMSQT or the PLAN available to all tenth grade students. School districts are required to maintain a database of student test results. School guidance counselors can then use test results to identify students who are prepared for AP courses.¹³

The 2006 Legislature appropriated \$7,125,480 to fund the Partnership for 2006-2007.¹⁴

Effect of Proposed Changes

House Bill 403 establishes the Minority and Underrepresented Student Achievement Council (Council) for the purpose of identifying and recruiting minority and underrepresented high school students for participation in AP courses. The bill provides that the Council will consist of the following members:

⁷ Section 1007.34, F.S.

⁸ Data provided by the Florida Department of Education, Office of Equity and Access.

⁹ Specific Appropriation 107 of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

¹⁰ Section 1007.35, F.S.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Specific Appropriation 105 of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

- The Commissioner of Education (Commissioner);
- One public high school teacher;
- One community-based representative;
- One representative from a school district, community college, and university; and
- One parent.

The bill requires the President of the Senate and the Speaker of the House of Representatives to jointly appoint Council members. The bill requires that four of the seven Council members be of African-American or Hispanic origin. Council members will serve without compensation. The bill requires the Council to meet quarterly, and provides that the initial meeting must be held by August 1, 2007.

The bill designates the Commissioner as presiding officer of the Council. The Commissioner is required to notify each member of the Council of the time, date, and location of the initial meeting. The DOE is required to provide staff and administrative support to the Council.

Council Duties

The bill requires the Council to perform the following duties:

- Recruit students for AP courses based on their potential to earn a bachelor's degree as demonstrated by grades, SAT or ACT scores, or performance on assessments;
- Identify each minority or underrepresented student who earns a grade of "A" or "B" in the majority of their first semester ninth grade courses and notify their parents of the student's eligibility to take AP courses; and
- Examine the best practices of high performing public high schools as they relate to narrowing the achievement gap between minority and underrepresented students and nonminority students.

The Council must submit an annual report on its activities to the Governor, the President of the Senate, and the Speaker of the Florida House of Representatives. This report must be placed on the DOE website.

The bill also requires each district school board to annually discuss at a board meeting, the number of students who have taken two or more AP courses by their eleventh grade year. Such discussion must identify student participation in AP by ethnicity, gender, and zip code.

The bill requests an appropriation of \$50,000 from general revenues.

C. SECTION DIRECTORY:

- Section 1.:** Creates an unnumbered section of law; establishes the Minority and Underrepresented Student Achievement Council; provides for appointment and composition of Council members; prescribes Council duties; provides DOE duties.
- Section 2.:** Creates an unnumbered section of law; requires district school boards to discuss AP participation by minority and underrepresented students annually at a board meeting.
- Section 3.:** Provides for an appropriation.
- Section 4.:** Provides 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 revenues.

2. Expenditures:

The bill requests an appropriation of \$50,000 from general revenues.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

This bill does not appear to have a fiscal impact on local 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 requests an appropriation of \$50,000 from general revenues to fund the Council. The 2006 Legislature appropriated \$3,399,990 to fund the CROP¹⁵ and \$7,125,480 to fund the Partnership¹⁶ for 2006-2007.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority. According to the DOE, rules governing the Council will have to be promulgated.¹⁷

C. DRAFTING ISSUES OR OTHER COMMENTS:

The CROP and the Partnership are two initiatives administered by the DOE for the purpose of promoting student's access to postsecondary education. Postsecondary institutions participating in the

¹⁵ Specific Appropriation 107 of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

¹⁶ Specific Appropriation 105 of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

¹⁷ *Id.*

CROP are required to select eligible minority and underrepresented students and maintain continuous contact with these students until they enroll in a postsecondary institution.¹⁸

The Partnership is required to conduct teacher training activities to assist teachers in preparing students for participation in AP and other advanced courses. The Partnership is also required to assess student strengths and weaknesses as they relate to potential success in AP courses and readiness for postsecondary education. Additional Partnership duties include providing college entrance examination preparation and developing plans for disseminating information regarding postsecondary readiness and AP opportunities to parents.¹⁹

Some of the duties of the proposed Council may overlap with those conducted by existing programs.²⁰ However, the bill specifically requires the Council to recruit "minority and underrepresented students" for AP courses, identify each "minority or underrepresented student" who is eligible to take AP courses, and to examine existing practices related to narrowing the achievement gap between minority and underrepresented students and nonminority students. There are no express provisions in current law that require existing programs such as CROP or the Partnership to perform this function.

Current Florida law requires each school district to use PSAT/NMSQT or PLAN test results to identify students who are prepared for AP courses.²¹ In contrast, the bill states that the Council must use student grades, SAT scores, ACT scores, or assessment scores to identify students who are prepared for AP courses. It does not specifically mention the PSAT/NMSQT or PLAN.

Consideration might be given to conforming the bill to current law requiring school districts to administer the PSAT/NMSQT or PLAN for the purpose of identifying students for AP courses by allowing the Council to consider these scores as well. This would broaden the list of measures that could be used to identify students for AP courses. Because students generally take the SAT or ACT later in their high school careers, the Council will not be able to use these scores to identify younger high school students for AP courses. Allowing the Council to use the PSAT/NMSQT or PLAN may facilitate earlier identification of students because these tests are generally administered to students earlier in their high school careers.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

¹⁸ Section 1007.34, F.S.

¹⁹ Section 1007.35, F.S.

²⁰ Florida Department of Education, 2007 Bill Analysis on House Bill 403.

²¹ Section 1007.35, F.S.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 643

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: K-12
Representative H. Gibson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Each school district shall have a plan to improve safety at school bus stops in the district.

Section 2. This act shall take effect July 1, 2007.

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

Remove the entire title and insert:

An act relating to safety at school bus stops; requiring each school district to have a plan to improve safety at school bus stops; providing an effective date.

3-22-07
4:52 pm

1 A bill to be entitled
 2 An act relating to safety at school bus stops; requiring
 3 the Department of Education to annually assess safety at
 4 school bus stops; requiring each school district to submit
 5 an annual report to the department which includes a plan
 6 to improve safety at school bus stops; requiring the
 7 department to adopt rules; providing an effective date.

8

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

10

11 Section 1. The Department of Education shall annually
 12 assess safety at school bus stops in this state. Each school
 13 district shall submit an annual report to the department which
 14 includes a plan to improve safety at school bus stops in the
 15 district. The department shall adopt rules pursuant to ss.
 16 120.536(1) and 120.54, Florida Statutes, prescribing the style
 17 and requirements of such report.

18 Section 2. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 643
SPONSOR(S): Gibson
TIED BILLS:

Safety at School Bus Stops

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on K-12</u>	_____	Barnhill <i>W</i>	Ahearn <i>A</i>
2) <u>Schools & Learning Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill addresses the issue of safety at school bus stops. It requires the Department of Education to assess the safety at all school bus stops in the state. The bill also requires district school boards to submit annual reports that include a plan to improve the safety at school bus stops.

This bill could have a substantial impact on state government expenditures if the Department of Education is required to inspect all school bus stops in Florida.

The member has filed a strike-all amendment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the Department of Education (DOE) and district school boards' responsibilities and increases DOE's rulemaking authority.

Maintain public security – The bill increases the safety of school bus stops.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Current Florida law requires district school boards to establish school bus stops in the most reasonably safe locations available. If the district school board determines an unusual traffic hazard exists on a road outside of the municipality, then the school board can request school bus stop warning signs be placed on the road by the Department of Transportation.¹ Currently, there is no safety inspection of school bus stops required for district school boards.

Effects of Proposed Changes

This bill requires DOE to annually evaluate school bus stop safety. This bill requires each district school board to submit a report to DOE that establishes a plan to improve safety at school bus stops. This bill also provides DOE with the authority to create rules regarding the requirements for the reports from the district school boards.

C. SECTION DIRECTORY:

Section 1. Creates an undesignated section of Florida law requiring school bus stop safety assessment.

Section 2. Provides 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 bill could be interpreted to require the Department of Education (DOE) to inspect the safety of every school bus stop in the state. The cost of these inspections is undetermined, but could be substantial.

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.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the Department of Education rulemaking authority pursuant to ss. 120.536(1) and 120.54, F.S., to adopt rules to establish the requirements for the district reports.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 1219**

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: K-12

Representative Carroll offered the following:

Amendment (with title amendment)

Remove lines 12-29 and insert:

1012.587 Educator certification in English for speakers of other languages.--

(1) The Department of Education or a school district may not require an educator with certification or endorsement in reading or intensive reading to earn more than 60 inservice hours for endorsement in English for speakers of other languages after credit is applied for duplicative competencies from certification or endorsement in reading or intensive reading.

(2) The Department of Education or a school district, when requiring an educator to obtain certification or endorsement in English for speakers of other languages upon assignment of a limited English proficient student to the educator, may not require the educator to begin meeting the certification or endorsement requirements less than 45 school days or one grading period after the student's assignment, whichever is less.

3-23-07
3:38 pm

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

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

23 Remove lines 3-5 and insert:
24 creating s. 1012.587, F.S.; prohibiting certain
25 requirements for certification or endorsement in English
26 for speakers of other languages; providing an

3-23-07
3:38 pm

1 A bill to be entitled
 2 An act relating to public school educator certification;
 3 creating s. 1012.587, F.S.; specifying inservice
 4 requirements for educators who provide English for
 5 Speakers of Other Languages instruction; providing an
 6 effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Section 1012.587, Florida Statutes, is created
 11 to read:

12 1012.587 Inservice requirements for English for Speakers
 13 of Other Languages (ESOL) educators.--To ensure the most
 14 conducive learning environment and the use of appropriate
 15 teaching strategies for students with limited English
 16 proficiency, inservice requirements for educators who provide
 17 English for Speakers of Other Languages (ESOL) instruction shall
 18 be as follows:

19 (1) For a primary English instructor who is an
 20 English/language arts teacher, 300 inservice hours or the
 21 equivalent.

22 (2) For an instructor teaching the core curriculum
 23 subjects of reading, intensive reading, mathematics, science,
 24 social studies, or computer literacy, 60 inservice hours or the
 25 equivalent.

26 (3) For an instructor teaching noncore curriculum
 27 subjects, 18 inservice hours or the equivalent.

HB 1219

2007

28 | (4) For a school administrator or guidance counselor, 60
29 | inservice hours or the equivalent.

30 | Section 2. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS



BILL #: HB 1219

Public School Educator Certification

SPONSOR(S): Carroll

TIED BILLS:

IDEN./SIM. BILLS: SB 2512

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on K-12		Gillespie 	Ahearn 
2) Schools & Learning Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

House Bill 1219 establishes inservice requirements for teachers of English for speakers of other languages (ESOL). The bill specifies that a teacher providing ESOL instruction must comply with the following inservice requirements:

- Primary teacher of English/language arts: 300 inservice hours or the equivalent;
- Teacher of core subjects of reading, intensive reading, mathematics, science, social studies, or computer literacy: 60 inservice hours or the equivalent;
- Teacher of noncore subjects: 18 inservice hours or the equivalent.
- School administrator or guidance counselor: 60 inservice hours or the equivalent.

The bill in effect reduces the ESOL inservice requirements for most reading teachers from 300 inservice hours to 60 inservice hours. The effect of the bill is unclear as to:

- Whether the bill allows the "reverse crosswalk" to reduce the inservice requirements for reading teachers below 60 inservice hours (the reverse crosswalk, which awards a teacher with a reading endorsement credit against ESOL endorsement requirements, is currently under development by the Department of Education);
- Whether the bill changes the inservice requirements for an English/language arts teacher who earns ESOL certification through (1) earning a bachelor's or higher degree in Teaching ESOL (TESOL) and passing the ESOL subject area examination, or (2) passing the ESOL subject area examination and earning 120 inservice points.
- What competencies are required for the inservice hours required by the bill.

The bill may also require the Department of Education to negotiate modifications to a Consent Order issued by a federal court that retains jurisdiction for oversight of the state's ESOL policies.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

In 1984, the Legislature required that English language instruction be provided for a student whose native language is other than English and specified that the instruction be designed to develop the student's mastery of four language skills: listening, speaking, reading, and writing.¹

In 1989, attorneys from Multicultural Education, Training, and Advocacy, Inc. (META) advised the Florida Department of Education (DOE) of META's intention to sue the State of Florida on behalf of eight minority rights advocacy groups in the state, including the League of United Latin American Citizens (LULAC). META claimed violations of federal and state provisions concerning the education of Florida's limited English proficient (LEP) students.²

In response, the 1990 Legislature required school districts, among other things, to:³

- Identify LEP students through assessment;
- Provide LEP students with instruction in English using strategies for teaching English for speakers of other languages (ESOL);
- Provide LEP students with ESOL instruction or home-language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy; and
- Provide qualified teachers.

Instead of pursuing litigation, META and DOE negotiated a settlement agreement, which on August 14, 1990, was approved by a Consent Order issued by a federal district court judge.⁴ Under the 1990 Consent Order, DOE agreed to the equal treatment of LEP students; proper identification and assessment of LEP students; and adequate placement and programming, certified staff, and supplemental services when needed, for LEP students.⁵ Section IV of the Consent Order,⁶ among other things, created four categories of school personnel and established separate ESOL training requirements for each of the four categories. In September 2003, DOE and META approved a joint stipulation modifying the 1990 Consent Order. The training requirements for the four categories of school personnel, as modified by the 2003 stipulation, are:

¹ Section 2, chapter 84-336, Laws of Florida; former section 233.058, Florida Statutes.

² Rosa Castro Feinberg

³ Section 41, chapter 90-288, Laws of Florida; former section 233.058, Florida Statutes.

⁴ *League of United Latin American Citizens (LULAC) et al. vs. Florida Board of Education et al.*, No. 90-1913 (S.D. Fla. Aug. 13, 1990).

⁵ National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, at <http://www.ncele.gwu.edu/expert/faq/07court.html> (last visited Mar. 21, 2007).

⁶ Office of Multicultural Student Language Education, Florida Department of Education, at <http://www.firn.edu/doe/aala/cdesec4.htm> (last visited Mar. 21, 2007).

- Category I. Teachers of English/language arts must have:
 - ESOL certification through earning a bachelor's or higher degree in Teaching ESOL (TESOL) and passing the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE);⁷
 - ESOL certification through passing the ESOL subject area examination and 120 inservice points within 3 years after certification; or
 - ESOL endorsement through completing 15 semester hours of college credit or 300 inservice points (3 semester hours or 60 inservice points within 2 years after assignment of an LEP student and 3 semester or 60 inservice points each subsequent year that the teacher is assigned an LEP student until completing 15 semester hours or 300 inservice points).⁸
- Category II. Teachers of mathematics, science, social studies, and computer literacy must have, within 1 year of assignment of an LEP student, ESOL endorsement through completing 3 semester hours of college credit or 60 inservice points.⁹
- Category III. Teachers of other subjects not listed in Category I or Category II must have, within 1 year of assignment of an LEP student, ESOL endorsement through completing 3 semester hours of college credit or 18 inservice points.¹⁰
- Category IV. School administrators and guidance counselors must have 3 semester hours of college credit or 60 inservice points.

The required competencies of the ESOL training (college credit or inservice points) include methods of teaching English for speakers of other languages, ESOL curriculum and materials development, cross-cultural communication and understanding, and testing and evaluation of ESOL.¹¹ The training competencies for Category I ESOL teachers also include applied linguistics.¹²

As a term of the Consent Order, the Miami Division of the United States District Court for the Southern District of Florida retains jurisdiction for purposes of overseeing implementation of the Consent Order. As occurred in 2003, changes to the state's ESOL policies which are inconsistent with the Consent Order require modification of the Consent Order by court order after DOE negotiates the change with META.

Requirements for Reading Teachers:

In 2002, following the establishment of the *Just Read, Florida!* initiative¹³ and passage of the federal *No Child Left Behind Act*,¹⁴ the State Board of Education established specialization requirements for a reading endorsement.¹⁵ The reading endorsement requires 15 semester hours of college credit or 300 inservice points in reading coursework based upon scientifically based reading research with a focus on both the prevention and remediation of reading difficulties.¹⁶

⁷ See Rule 6A-4.0245, Florida Administrative Code.

⁸ See Rule 6A-4.0244, Florida Administrative Code.

⁹ See Rule 6A-6.0907(1) and (2), Florida Administrative Code.

¹⁰ See Rule 6A-6.0907(3), Florida Administrative Code.

¹¹ See Rules 6A-4.0244(1)(b) and 6A-6.0907, Florida Administrative Code.

¹² Rule 6A-4.0244(1)(b)4., Florida Administrative Code.

¹³ On September 7, 2001, former Governor Jeb Bush approved Executive Order 01-260, which created the *Just Read, Florida!* initiative.

¹⁴ On January 8, 2002, President George W. Bush signed into law the federal *No Child Left Behind Act of 2001*. Public Law 107-110 (Jan. 1992). The act, among other things, requires states to ensure that all teachers teaching core academic subjects ("English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography," Title 20, United States Code, section 7801(11)) in public schools are highly qualified. Title 20, United States Code, section 6319(a)(2).

¹⁵ Rule 6A-4.0292, Florida Administrative Code.

¹⁶ *Id.*

The certification requirements for a teacher to teach a course are listed in *Course Code Directory and Instructional Personnel Assignments*, which DOE updates annually.¹⁷ By June 30, 2006, DOE required reading teachers to have a reading certification or endorsement.¹⁸ The 2007-2008 course code directory reflects that a teacher who teaches English, language arts, reading, or intensive reading must be certified in reading or have the reading endorsement.¹⁹

In 2004, DOE created a crosswalk that allows a teacher to receive 80 inservice points of credit for the reading endorsement based on earning the 300 inservice points required for the ESOL endorsement.²⁰ The crosswalk awards the 80 inservice points based on the competencies of the reading inservice training which are addressed by competencies covered in the ESOL inservice training. Thus, a teacher with the ESOL endorsement is required to earn 220 inservice points in reading to complete the reading endorsement.²¹

Intersection of ESOL and Reading Requirements:

According to DOE, reading courses reported for ESOL funding must be assigned a teacher that has ESOL Category I training (300 inservice points), and reading courses reported as non-ESOL may be assigned a teacher with ESOL Category III training (18 inservice points).²²

In 2001, as part of the *Just Read, Florida!* initiative, DOE was directed to recommend statewide standards for reading programs based on the latest scientific research, instructional strategies, and reading course requirements for middle school and high school students who are not reading at grade level.²³ In 2002, the Legislature added “reading” to the list of basic subject areas requiring ESOL instruction or home-language instruction.²⁴

Beginning with the 2005-2006 school year, DOE requires that all students in grades 6-12, scoring at the two lowest achievement levels (levels 1 and 2) on the reading portion of the Florida Comprehensive Assessment Test (FCAT), must enroll in an intensive reading course.²⁵ Before this requirement for intensive reading, according to DOE, most reading instruction for LEP students was provided by the students’ ESOL teacher, not a reading teacher. Since LEP students, by definition, score lower on the reading portion of the FCAT, LEP students are among the students required to enroll in the intensive reading courses.

Before the requirement of intensive reading for students with low FCAT reading scores, most reading teachers taught supplemental reading courses reported as non-ESOL, which consequently required the teacher to have ESOL Category III training (18 inservice points). As reading teachers are increasingly

¹⁷ Rule 6A-1.09441, Florida Administrative Code.

¹⁸ Florida Department of Education, Memorandum from Jim Warford and Mary Laura Openshaw to District School Superintendents, No. 2005-82 (June 23, 2005), available at http://info.fldoe.org/docushare/dsweb/Get/Document-3062/k12_05-82.pdf.

¹⁹ Florida Department of Education, *2007-2008 Course Code Directory and Instructional Personnel Assignments* (Feb. 1997), available at <http://www.firn.edu/doe/curriculum/ccd2.htm>.

²⁰ Florida Department of Education, *ESOL Endorsement to Reading Endorsement Crosswalk* (2004), available at <http://www.firn.edu/doe/aala/pdf/esolendorsement.pdf>.

²¹ *Id.*; see also Florida Department of Education, Memorandum from Jim Warford and Mary Laura Openshaw to District School Superintendents, No. 2005-26 (Mar. 4, 2005), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-2802/reesol.pdf>.

²² Florida Department of Education, *Timelines for Completion of the ESOL Training Requirements*, nn. 1 & 3 (July 2004), available at http://info.fldoe.org/docushare/dsweb/Get/Document-3063/k12_05-82a.pdf.

²³ Executive Order 01-260 (Sept. 7, 2001).

²⁴ At the 2002 Special Session “A,” the Legislature enacted a general revision to the Florida K-20 Education Code. Within the revision, current section 1003.56, Florida Statutes, was created and a substantially similar section 233.058, Florida Statutes, was repealed. Sections 150 and 1058, chapter 2002-387, Laws of Florida. As previously discussed, former section 233.058, Florida Statutes, required school districts to provide LEP students with ESOL instruction in English and ESOL or home-language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy. When creating section 1003.56, Florida Statutes, the education-code revision added “reading” to the list of basic subject areas requiring ESOL instruction or home-language instruction.

²⁵ Florida Department of Education, Memorandum of Jim Warford and Mary Laura Openshaw to District School Superintendents, No. 2005-82 (June 23, 2005), available at http://info.fldoe.org/docushare/dsweb/Get/Document-3062/k12_05-82.pdf.

assigned to teach intensive reading courses containing LEP students reported for ESOL funding, the teachers are required to meet Category I ESOL training requirements (300 inservice points).

The Department of Education is currently developing a “reverse crosswalk” that allows a teacher to receive nearly 120 inservice points of credit for the ESOL endorsement based on earning the 300 inservice points required for the reading endorsement.²⁶ The reverse crosswalk will award nearly 120 inservice points based on the competencies of the ESOL inservice training which are addressed by competencies covered in the reading inservice training. Thus, a teacher with a reading endorsement will be required to earn approximately 180 inservice points in ESOL to complete the ESOL endorsement.

According to DOE, there are approximately 49,085 teachers with an ESOL certification or endorsement, 7,837 teachers with a reading certification or endorsement, and 7,132 teachers who have certification or endorsement in both ESOL and reading.

Proposed Changes:

The bill establishes inservice requirements for ESOL teachers. The bill specifies that teachers providing ESOL instruction must comply with the following inservice requirements:

- Primary teacher of English/language arts: 300 inservice hours or the equivalent;
- Teacher of core subjects of reading, intensive reading, mathematics, science, social studies, or computer literacy: 60 inservice hours or the equivalent;
- Teacher of noncore subjects: 18 inservice hours or the equivalent.
- School administrator or guidance counselor: 60 inservice hours or the equivalent.

The bill in effect reduces the ESOL inservice requirements for most reading teachers from 300 inservice hours to 60 inservice hours.

The effect of the bill is unclear in three aspects. First, the bill does not specify whether the “reverse crosswalk” for awarding a teacher with a reading endorsement credit against the ESOL endorsement requirements continues to apply. Since the proposed reverse crosswalk awards credit for nearly 120 inservice points, the bill may eliminate the ESOL inservice requirement altogether for a teacher with a reading endorsement.

Second, the bill requires 300 inservice hours for a primary English instructor who is an English/language arts teacher. The bill does not specify, however, whether this inservice requirement applies to teachers with ESOL certification through:

- Earning a bachelor’s or higher degree in Teaching ESOL (TESOL) and passing the ESOL subject area examination of the Florida Teacher Certification Examinations (FTCE); or
- Passing the ESOL subject area examination and 120 inservice points within 3 years after certification.

Thus, the bill may increase the inservice hours required for these two groups of Category I ESOL teachers.

Finally, the bill establishes inservice requirements for ESOL teachers, but does not specify any requirements for the contents of the inservice training. Thus, the bill is unclear whether inservice hours earned in subjects other than ESOL would count toward the inservice requirements for ESOL teachers.

²⁶ Florida Department of Education, *Reading to English for Speakers of Other Languages (ESOL) – Reverse Crosswalk* (Feb. 2007) (current draft awards 118.5 inservice points).

Although the Consent Order does not specify whether reading is a Category I, II, or III subject area, the modifications of the inservice requirements proposed by the bill may require DOE to negotiate modification to the Consent Order with final approval in federal court.

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

C. SECTION DIRECTORY:

Section 1. Creates section 1012.587, Florida Statutes, which establishes ESOL inservice requirements.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Education estimates that the bill may create an appropriations impact of \$100,000. According to the department, the bill may require changes to current inservice programs, causing DOE to incur costs in contracting for changes to online programs training facilitators on the programs in each school district.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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 does not create new authority for rulemaking; however, the bill will in effect require the State Board of Education to amend several rules concerning specialization requirements for certification or endorsements in ESOL and reading.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 1499

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: K-12

Representative(s) Jordan offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (8) is added to section 1013.64, Florida Statutes, to read:

1013.64 Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.--Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(8) (a) Beginning with the 2007-2008 fiscal year, there is established the Increased Utilization Program which shall be funded as a part of the Public Education Capital Outlay and Debt Service Trust Fund in an amount each year not to exceed 15 percent of the total funds appropriated under paragraph (3) (a). These funds shall be allocated by the commissioner to any school district according to the following formula: Any eligible school that increases its FTE facility capacity by at least 20 percent as a result of using an alternative, nontraditional calendar

3-23-07
3:14 pm

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

22 shall receive up to a maximum of \$250 per each FTE generated
23 within the school.

24 (b) To be eligible, a district school board must submit a
25 resolution to the commissioner by August 1 of each fiscal year,
26 beginning August 1, 2007, of its intent to participate in the
27 Increased Utilization Program, listing each of the schools
28 eligible during the prior fiscal year. The information listed
29 for each school must include the maximum FTE capacity for the
30 year as contained in the Florida Inventory of School Houses in
31 the Office of Educational Facilities and the increase
32 attributable to the alternative, nontraditional calendar. To be
33 eligible, each individual school's FTE must exceed the maximum
34 facility capacity during the year by at least 20 percent.

35 (c) Each school district qualifying for funding under this
36 subsection may be paid up to \$250 per each FTE generated per
37 eligible school for a maximum of 5 years if funds are available.
38 If funds are insufficient during any fiscal year, the
39 commissioner shall determine the pro rata amount.

40 (d) Funds received by a school district through the
41 Increased Utilization Program shall be exempt from repayment of
42 any project outstanding pursuant to subsection (2).

43 (e) All funds accruing to a school district under this
44 subsection shall be allocated to the schools generating the
45 increased capacity and shall be expended on needed projects as
46 recommended in a survey under the rules of the state board.

47 (f) Overcrowding of a school or double session does not
48 apply. In addition, students may not be assigned to
49 instructional spaces contrary to the State Requirements for
50 Educational Facilities.

3-23-07
3:14 pm

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

51 Section 2. Paragraph (j) of subsection (3) of section
52 1003.03, Florida Statutes, is amended to read:

53 1003.03 Maximum class size.--

54 (3) IMPLEMENTATION OPTIONS.--District school boards must
55 consider, but are not limited to, implementing the following
56 items in order to meet the constitutional class size maximums
57 described in subsection (1) and the two-student-per-year
58 reduction required in subsection (2):

59 (j) Use alternative, ~~year-round schools and other~~
60 nontraditional calendars that do not adversely impact annual
61 assessment of student achievement.

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

63

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

65 Remove the entire title and insert:

66 An act relating to public school utilization; amending s.
67 1013.64, F.S.; establishing the Increased Utilization
68 Program as a part of the Public Education Capital Outlay
69 and Debt Service Trust Fund; providing a formula for
70 allocation of funds to a school district that increases
71 its FTE facility capacity; providing eligibility
72 requirements and restrictions; amending s. 1003.03, F.S.;
73 authorizing use of alternative, nontraditional school
74 calendars for purposes of meeting constitutional class
75 size maximums; providing an effective date.

76

3-23-07
3:14 pm

1 A bill to be entitled
 2 An act relating to public school utilization; amending s.
 3 1013.64, F.S.; requiring the Department of Education to
 4 establish the Increased Utilization Account as part of the
 5 Public Education Capital Outlay and Debt Service Trust
 6 Fund; providing a formula for allocation of funds to a
 7 school district that increases its FTE facility capacity;
 8 providing eligibility requirements and restrictions;
 9 amending s. 1003.03, F.S.; authorizing use of alternative,
 10 nontraditional school calendars for purposes of meeting
 11 constitutional class size maximums; providing an effective
 12 date.

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

15
 16 Section 1. Subsection (8) is added to section 1013.64,
 17 Florida Statutes, to read:

18 1013.64 Funds for comprehensive educational plant needs;
 19 construction cost maximums for school district capital
 20 projects.--Allocations from the Public Education Capital Outlay
 21 and Debt Service Trust Fund to the various boards for capital
 22 outlay projects shall be determined as follows:

23 (8) (a) Beginning with the 2007-2008 fiscal year, the
 24 department shall establish as a part of the Public Education
 25 Capital Outlay and Debt Service Trust Fund a separate account to
 26 be known as the Increased Utilization Account in an amount each
 27 year not to exceed 15 percent of the total funds appropriated
 28 under paragraph (3) (a). These funds shall be allocated by the

29 commissioner to any school district according to the following
 30 formula: Any eligible school that increases its FTE facility
 31 capacity by at least 20 percent as a result of using an
 32 alternative, nontraditional calendar shall receive up to a
 33 maximum of \$250 per each FTE generated within the school.

34 (b) To be eligible, a district school board must submit a
 35 resolution to the commissioner by August 1 of each fiscal year,
 36 beginning August 1, 2007, of its intent to participate in the
 37 Increased Utilization Account, listing each of the schools
 38 eligible during the prior fiscal year. The information listed
 39 for each school must include the maximum FTE capacity for the
 40 year as contained in the Florida Inventory of School Houses in
 41 the Office of Educational Facilities and the increase
 42 attributable to the alternative, nontraditional calendar. To be
 43 eligible, each individual school's FTE must exceed the maximum
 44 facility capacity during the year by at least 20 percent.

45 (c) Each school district qualifying for funding under this
 46 subsection may be paid up to \$250 per each FTE generated per
 47 eligible school for a maximum of 5 years if funds are available.
 48 If funds are insufficient during any fiscal year, the
 49 commissioner shall determine the pro rata amount.

50 (d) Funds received by a school district from the Increased
 51 Utilization Account shall be exempt from repayment of any
 52 project outstanding pursuant to subsection (2).

53 (e) All funds accruing to a school district under this
 54 subsection shall be allocated to the schools generating the
 55 increased capacity and shall be expended on needed projects as
 56 recommended in a survey under the rules of the state board.

57 (f) Overcrowding of a school or double session does not
 58 apply. In addition, students may not be assigned to
 59 instructional spaces contrary to the State Requirements for
 60 Educational Facilities.

61 Section 2. Paragraph (j) of subsection (3) of section
 62 1003.03, Florida Statutes, is amended to read:

63 1003.03 Maximum class size.--

64 (3) IMPLEMENTATION OPTIONS.--District school boards must
 65 consider, but are not limited to, implementing the following
 66 items in order to meet the constitutional class size maximums
 67 described in subsection (1) and the two-student-per-year
 68 reduction required in subsection (2):

69 (j) Use alternative, ~~year round schools and other~~
 70 nontraditional calendars that do not adversely impact annual
 71 assessment of student achievement.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1499

Public School Utilization

SPONSOR(S): Jordan

TIED BILLS:

IDEN./SIM. BILLS: SB 2070

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on K-12		Beagle <i>GB</i>	Ahearn <i>[Signature]</i>
2) Schools & Learning Council			
3) Policy & Budget Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

Florida law grants authority to district school boards to adopt a school calendar for the instruction of students that consists of at least one hundred and eighty instructional days each school year. District school boards are specifically authorized to implement year-round or other nontraditional calendars as a method of meeting constitutional class-size requirements. There are thirteen schools in five school districts currently operating on a nontraditional calendar.

Each district school board is required to provide adequate educational facilities for the district's students. Each district school board must provide funding for the operation of district schools from state and local funding sources.

The Public Education Capital Outlay and Debt Service Trust Fund (PECO) is a state program that provides funds to school districts for renovation, repairs, and other improvements to existing educational facilities and new construction projects.

House Bill 1499 establishes the Increased Utilization Account (IUA) as a separate account within the PECO to provide monetary incentives to school districts that maximize facility capacity using nontraditional school calendars. The bill provides that the IUA is to be funded in an amount not to exceed fifteen percent of total funds appropriated to the PECO. School districts that receive IUA funds are required to allocate them to any district school that increases its FTE facility capacity by at least twenty percent by operating on a nontraditional calendar. Such schools are eligible to receive IUA funds up to a maximum of \$250 per each FTE generated within the school.

The bill sets forth requirements for school district participation in the IUA. The bill provides that school district assignment of students to instructional areas must comply with the State Requirements for Educational Facilities. School districts that utilize double sessions or overcrowd students in inadequate instructional areas are not eligible to participate in the IUA.

The bill appears to have a positive fiscal impact. (See Fiscal Comments).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill provides monetary incentives to school districts that maximize facility capacity through use of a nontraditional calendar.

B. EFFECT OF PROPOSED CHANGES:

School District Calendars

Florida law grants authority to district school boards to adopt a school calendar for the instruction of students and operation of the district's schools.¹ District schools must be in operation for at least one hundred and eighty instructional days each school year.² In addition, district school boards may designate school holidays and vacation periods to be observed by the district.³ Beginning in 2007-2008 and thereafter, a district's school start date must not be earlier than fourteen days before Labor Day each year.⁴

District school boards are specifically authorized to implement year-round or other nontraditional calendars as a method of meeting constitutional class-size requirements. Such calendars must not adversely impact annual assessments of student achievement.⁵ There are thirteen schools in five school districts currently operating on a nontraditional calendar:

Schools Operating on a Nontraditional School Calendar for the 2006-2007 School Year⁶	
District	School Name
Brevard	Challenger 7 Elementary
	Gardendale Elementary
Broward	Colbert Elementary
	Gulfstream Middle
	Hallandale Elementary
	Lake Forest Elementary
	McNichol Middle
	Watkins Elementary
Charlotte	East Elementary
	Sallie Jones Elementary
Hillsborough	Boyette Springs Elementary
Polk	Doris Springs Elementary
	Valleyview Elementary

Many schools that operate on a nontraditional calendar utilize a track system for student schedules. A track includes a group of students assigned to the same schedule. To maximize facilities utilization, tracks are staggered so that certain tracks of students are attending school while others are on break.⁷

¹ Section 1001.42(4)(f), F.S.

² Section 1001.42(10)(a), F.S.

³ Section 1001.42(4)(g), F.S.

⁴ Section 1001.42(4)(f), F.S.

⁵ Section 1003.03(3)(j), F.S.

⁶ Florida Department of Education, Bureau of Education Information and Accountability Services, Statistical Brief, School District Calendars 2006-07 (July 2006) available at <http://www.firn.edu/doe/eias/eiaspubs/pdf/calendar.pdf>.

⁷ *Id.*

Education Facilities

Each district school board is required to provide adequate educational facilities for the district's students. Each district school board must provide funding for the operation of district schools from state and local funding sources.⁸

The Public Education Capital Outlay and Debt Service Trust Fund (PECO)⁹ is a state program that provides funds to school districts from revenue derived from:

- Proceeds, premiums, and accrued interest from the sale of public education bonds and revenues accruing from the tax collected on the gross receipts from the sale of utility services;
- General revenue funds appropriated by the Legislature;
- Previously appropriated capital outlay funds; and
- Funds paid pursuant to s. 201.15(1)(d), F.S.¹⁰

There are two types of PECO funds for school districts, PECO maintenance funds and PECO new construction funds. Districts may use PECO maintenance funds for renovation, repairs, and other improvements to existing educational facilities. Such funds are distributed to school districts using a formula that is based on the square footage and age of "satisfactory" school facilities within the district.¹¹ School districts can declare facilities "unsatisfactory," however, when this is done, these facilities are not used in the calculation for PECO maintenance dollars.¹²

PECO new construction dollars are distributed to school districts using a formula that considers historical student enrollments and growth in student membership. Forty percent of PECO new construction dollars are distributed based upon the average student population in the district over the last four years. Sixty percent of PECO new construction dollars are distributed based upon the district's growth over the last four years. The capital outlay FTE membership by grade-level organization for the prior year must be used to compute growth over the highest of the three years preceding the prior year's enrollment.¹³

Effect of Proposed Changes

House Bill 1499 establishes the Increased Utilization Account (IUA) as a separate account within the PECO to provide monetary incentives to school districts that maximize facility capacity using nontraditional school calendars. The bill provides that the IUA is to be funded in an amount not to exceed fifteen percent of total funds appropriated to the PECO. The bill authorizes the Commissioner of Education (Commissioner) to disburse IUA funds to eligible school districts.

Under the bill, school districts that receive IUA funds are required to allocate them to any district school that increases its FTE facility capacity by at least twenty percent by operating on a nontraditional calendar. Such schools are eligible to receive IUA funds up to a maximum of \$250 per each FTE generated within the school. IUA funds may be received for a maximum of five years if such funds are available. If funds are insufficient during any fiscal year, the Commissioner must determine the pro rata amount to be disbursed to participating school districts. The bill provides that a school district may not be compelled to pay for outstanding school construction projects funded through the Special Facilities Construction Account using funds received through the IUA.

To be eligible for IUA funds, the district school board must submit a resolution to the Commissioner that states the district's intent to participate in the IUA. The resolution must list each school that will operate on a nontraditional calendar. It must also list the maximum FTE capacity for each school as stated in

⁸ Section 1001.42(10)(a), F.S.

⁹ Fla. Const. art. XII, § 9(a)(2) and s. 1013.65, F.S.

¹⁰ Section 1013.65, F.S.

¹¹ Section 1013.64(1)(a), F.S.

¹² Section 1013.64(1)(g), F.S.

¹³ Section 1013.64(3)(a), F.S.

the Florida Inventory of School Houses in the Office of Educational Facilities as well as the increased FTE capacity of each school that will operate on a nontraditional calendar. The bill provides that school district assignment of students to instructional areas must comply with the State Requirements for Educational Facilities. The bill provides that school districts that utilize double sessions or overcrowd students in inadequate instructional areas are not eligible to participate in the IUA.

The bill also amends s. 1003.03(3)(j), F.S., to state that school districts may use "alternative," nontraditional calendars to meet constitutional class size requirements.

C. SECTION DIRECTORY:

Section 1.: Amending s. 1013.64, F.S.; establishing the Increased Utilization Account; providing funding requirements; providing school district eligibility requirements.

Section 2.: Amending s. 1003.03, F.S.; providing that school districts may use alternative, nontraditional calendars to comply with constitutional class size requirements.

Section 3.: Providing 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 revenues.

2. Expenditures:

The bill creates a separate account within the PECO that is to be funded in an amount not to exceed fifteen percent of total funds appropriated to the PECO. Only school districts that meet program criteria may receive funding from the account.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

This bill does not appear to have a fiscal impact on local 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 IUA was previously provided for in law as s. 235.435, F.S. The IUA program operated from 1992-1996. Section 235.435, F.S. was repealed by the Legislature in 2002.¹⁴ The provisions governing the IUA were very similar to those in House Bill 1499. One notable difference is that previously the IUA was funded at an amount not to exceed five percent of the total PECO funds appropriated, not the fifteen percent provided for in the bill. Also, schools were eligible to receive up to a maximum of \$100 per total FTE generated within the school.¹⁵ The bill provides for such schools to receive a maximum \$250. Six school districts participated in the IUA when it previously existed:

¹⁴ Enrolled Chapter 2002-387, Laws of Florida.

¹⁵ Section 235.435(7)(a), F.S. (Repealed 2002).

Participation in the Increased Utilization Account 1992-1996¹⁶		
School Year	Participating School Districts	Total Amount of Funding
1992-1993	Martin, Seminole, and Volusia	\$344,700
1993-1994	Orange, Seminole, and Volusia	\$808,800
1994-1995	No Data Available	No Data Available
1995-1996	Broward, Duval, Orange, Seminole, and Volusia	\$1,500,000

The 2006 Legislature appropriated \$186,394,756 to the PECO for facilities renovation and maintenance¹⁷ and \$242,210,258 for new construction.¹⁸ The bill provides that the IUA be funded by up to fifteen percent of new construction funds appropriated to the PECO.

Appropriation to IUA	
FY 2007-2008 PECO funds for New School Construction	\$285,994,731
Transfer of 15% to IUA	X 15%
Total IUA Funds	\$42,899,210

Assumptions	
IUA Per Pupil Funding	\$250
Total Number of Eligible Students (Total IUA Funds <i>divided by</i> \$250)	171,597 students
Size of Elementary School (For Example)	800 students
Number of Schools (Eligible Students <i>divided by</i> 800)	214 schools
Percent of Increased Utilization Required Under HB 1499	20%

Projected Number of New School Construction Projects Avoided	
Total Number of Eligible Students (Total IUA Funds <i>divided by</i> \$250)	171,597 students
Percent of Increased Utilization Required Under HB 1499	20%
Students Who Would Not Be Required to Relocate to a New Facility (Total Number of Eligible Students <i>multiplied by</i> 20%)	34,319 students
Size of Elementary School	800 students
Number of New School Construction Projects Avoided	43 schools

Projected New Construction Cost Savings¹⁹	
July 2007 Cost Per Student Station (Elementary Schools) ²⁰	\$18,676
Student Station Cost Factor (\$18,676 <i>multiplied by</i> 34,319 eligible students)	\$640,948,512
Minus the 15% IUA Appropriation	\$42,899,210
Cost Savings to Avoid Building New Elementary Schools	\$598,049,302

¹⁶ Data provided by the Department of Education.

¹⁷ Specific Appropriation 28 of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

¹⁸ Specific Appropriation 29 of the Conference Committee Report on HB 5001, Enrolled Chapter 2006-25, Laws of Florida.

¹⁹ Additional costs due to wear and tear, utility costs, and increased staffing costs are not included in the savings analysis.

²⁰ Florida Department of Education, Office of Education Facilities, Cost Per Student Station *available at*

<http://www.firn.edu/doe/oef/cocps.htm>.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

House Bill 1499 is filed as a **SOLUTION/OPTION** to meet the constitutional class size requirements. I refer to it as the "Instructional Design Educational Alternative" (I.D.E.A.). It is an optional alternative for local districts. It **DOES** however, offer incentives to those school districts that see the value of increased utilization of existing facilities. Schools that increase their traditional capacity by 20% will be eligible for a \$250.00 per student incentive for using an alternative calendar.

There is a continuing expectation of more efficiency and less expenditure for all facets of government. It is apparent that creative, futuristic and pragmatic solutions must be explored and utilized if we are to comply with the class size mandate.

There is no question that every cost aspect of building new schools is increasing and will continue to do so. The resources our students need to be competitive in the marketplace of the new millennium are a significant challenge. To respond to this challenge, we must find new ways to cut the costs while increasing the quality of our service. Building new schools that are committed to an under-utilization formula is not affordable or cost-effective. Many school districts must also compete with residential and business growth for the remaining usable land. In many cases acreage that is available is becoming more expensive and environmentally complex. House Bill 1499, I.D.E.A., takes advantage of the opportunity to utilize our existing school facilities in a way that maximizes their potential.

Example: Four schools utilizing a nontraditional calendar and increasing their capacity by 20% to 25% will serve the same student body as five schools operating under the traditional calendar.

House Bill 1499 as recommended will have the equivalency of saving the need for **FORTY-THREE** new schools which is worth over **SIX HUNDRED MILLION DOLLARS**.

The \$250.00 per student incentive could be used in areas such as:

- Improving existing facilities
- Timely remedial instruction to students in need
- Increasing classroom/instructional support
- Maintenance and other operational requirements

Invest \$42,899,210 in House Bill 1499 and receive \$640,948,512 in construction savings: This is common sense.

If anyone has a more cost-effective, futuristic solution, I would certainly like to hear it.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. 1569

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: Committee on K-12
 2 Representative(s) McKeel offered the following:

3

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraphs (a) and (b) of subsection (13) of
 7 section 121.091, Florida Statutes, are amended to read:

8 121.091 Benefits payable under the system.--Benefits may
 9 not be paid under this section unless the member has terminated
 10 employment as provided in s. 121.021(39)(a) or begun
 11 participation in the Deferred Retirement Option Program as
 12 provided in subsection (13), and a proper application has been
 13 filed in the manner prescribed by the department. The department
 14 may cancel an application for retirement benefits when the
 15 member or beneficiary fails to timely provide the information
 16 and documents required by this chapter and the department's
 17 rules. The department shall adopt rules establishing procedures
 18 for application for retirement benefits and for the cancellation
 19 of such application when the required information or documents
 20 are not received.

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21 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
22 subject to the provisions of this section, the Deferred
23 Retirement Option Program, hereinafter referred to as the DROP,
24 is a program under which an eligible member of the Florida
25 Retirement System may elect to participate, deferring receipt of
26 retirement benefits while continuing employment with his or her
27 Florida Retirement System employer. The deferred monthly
28 benefits shall accrue in the System Trust Fund on behalf of the
29 participant, plus interest compounded monthly, for the specified
30 period of the DROP participation, as provided in paragraph (c).
31 Upon termination of employment, the participant shall receive
32 the total DROP benefits and begin to receive the previously
33 determined normal retirement benefits. Participation in the DROP
34 does not guarantee employment for the specified period of DROP.
35 Participation in the DROP by an eligible member beyond the
36 initial 60-month period as authorized in this subsection shall
37 be on an annual contractual basis for all participants.

38 (a) Eligibility of member to participate in the DROP.--All
39 active Florida Retirement System members in a regularly
40 established position, and all active members of either the
41 Teachers' Retirement System established in chapter 238 or the
42 State and County Officers' and Employees' Retirement System
43 established in chapter 122 which systems are consolidated within
44 the Florida Retirement System under s. 121.011, are eligible to
45 elect participation in the DROP provided that:

46 1. The member is not a renewed member of the Florida
47 Retirement System under s. 121.122, or a member of the State
48 Community College System Optional Retirement Program under s.
49 121.051, the Senior Management Service Optional Annuity Program

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50 under s. 121.055, or the optional retirement program for the
51 State University System under s. 121.35.

52 2. Except as provided in subparagraph 6., election to
53 participate is made within 12 months immediately following the
54 date on which the member first reaches normal retirement date,
55 or, for a member who reaches normal retirement date based on
56 service before he or she reaches age 62, or age 55 for Special
57 Risk Class members, election to participate may be deferred to
58 the 12 months immediately following the date the member attains
59 57, or age 52 for Special Risk Class members. For a member who
60 first reached normal retirement date or the deferred eligibility
61 date described above prior to the effective date of this
62 section, election to participate shall be made within 12 months
63 after the effective date of this section. A member who fails to
64 make an election within such 12-month limitation period shall
65 forfeit all rights to participate in the DROP. The member shall
66 advise his or her employer and the division in writing of the
67 date on which the DROP shall begin. Such beginning date may be
68 subsequent to the 12-month election period, but must be within
69 the 60-month or, with respect to members who are instructional
70 personnel employed by the Florida School for the Deaf and the
71 Blind and who have received authorization by the Board of
72 Trustees of the Florida School for the Deaf and the Blind to
73 participate in the DROP beyond 60 months, who are charter school
74 instructional personnel with students who are funded through the
75 Florida Education Finance Program and who have received
76 authorization from the governing board of the charter school to
77 participate in DROP beyond 60 months, or who are instructional
78 personnel as defined in s. 1012.01(2)(a)-(d) in grades K-12 or
79 prekindergarten classroom teachers with students who are funded

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80 through the Florida Education Finance Program and who have
81 received authorization by the district school superintendent to
82 participate in the DROP beyond 60 months, the 96-month
83 limitation period as provided in subparagraph (b)1. When
84 establishing eligibility of the member to participate in the
85 DROP for the 60-month or, with respect to members who are
86 instructional personnel employed by the Florida School for the
87 Deaf and the Blind and who have received authorization by the
88 Board of Trustees of the Florida School for the Deaf and the
89 Blind to participate in the DROP beyond 60 months, who are
90 charter school instructional personnel with students who are
91 funded through the Florida Education Finance Program and who
92 have received authorization from the governing board of the
93 charter school to participate in DROP beyond 60 months, or who
94 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
95 in grades K-12 or prekindergarten classroom teachers with
96 students who are funded through the Florida Education Finance
97 Program and who have received authorization by the district
98 school superintendent to participate in the DROP beyond 60
99 months, the 96-month maximum participation period, the member
100 may elect to include or exclude any optional service credit
101 purchased by the member from the total service used to establish
102 the normal retirement date. A member with dual normal retirement
103 dates shall be eligible to elect to participate in DROP within
104 12 months after attaining normal retirement date in either
105 class.

106 3. The employer of a member electing to participate in the
107 DROP, or employers if dually employed, shall acknowledge in
108 writing to the division the date the member's participation in

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109 the DROP begins and the date the member's employment and DROP
110 participation will terminate.

111 4. Simultaneous employment of a participant by additional
112 Florida Retirement System employers subsequent to the
113 commencement of participation in the DROP shall be permissible
114 provided such employers acknowledge in writing a DROP
115 termination date no later than the participant's existing
116 termination date or the 60-month limitation period as provided
117 in subparagraph (b)1.

118 5. A DROP participant may change employers while
119 participating in the DROP, subject to the following:

120 a. A change of employment must take place without a break
121 in service so that the member receives salary for each month of
122 continuous DROP participation. If a member receives no salary
123 during a month, DROP participation shall cease unless the
124 employer verifies a continuation of the employment relationship
125 for such participant pursuant to s. 121.021(39)(b).

126 b. Such participant and new employer shall notify the
127 division on forms required by the division as to the identity of
128 the new employer.

129 c. The new employer shall acknowledge, in writing, the
130 participant's DROP termination date, which may be extended but
131 not beyond the original 60-month or, with respect to members who
132 are instructional personnel employed by the Florida School for
133 the Deaf and the Blind and who have received authorization by
134 the Board of Trustees of the Florida School for the Deaf and the
135 Blind to participate in the DROP beyond 60 months, who are
136 charter school instructional personnel with students who are
137 funded through the Florida Education Finance Program and who
138 have received authorization from the governing board of the

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139 charter school to participate in DROP beyond 60 months, or who
140 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
141 in grades K-12 or prekindergarten classroom teachers with
142 students who are funded through the Florida Education Finance
143 Program and who have received authorization by the district
144 school superintendent to participate in the DROP beyond 60
145 months, the 96-month period provided in subparagraph (b)1.,
146 shall acknowledge liability for any additional retirement
147 contributions and interest required if the participant fails to
148 timely terminate employment, and shall be subject to the
149 adjustment required in sub-subparagraph (c)5.d.

150 6. Effective July 1, 2001, for instructional personnel as
151 defined in s. 1012.01(2), election to participate in the DROP
152 shall be made at any time following the date on which the member
153 first reaches normal retirement date. The member shall advise
154 his or her employer and the division in writing of the date on
155 which the Deferred Retirement Option Program shall begin. When
156 establishing eligibility of the member to participate in the
157 DROP for the 60-month or, with respect to members who are
158 instructional personnel employed by the Florida School for the
159 Deaf and the Blind and who have received authorization by the
160 Board of Trustees of the Florida School for the Deaf and the
161 Blind to participate in the DROP beyond 60 months, who are
162 charter school instructional personnel with students who are
163 funded through the Florida Education Finance Program and who
164 have received authorization from the governing board of the
165 charter school to participate in DROP beyond 60 months, or who
166 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
167 in grades K-12 or prekindergarten classroom teachers with
168 students who are funded through the Florida Education Finance

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169 Program and who have received authorization by the district
170 school superintendent to participate in the DROP beyond 60
171 months, the 96-month maximum participation period, as provided
172 in subparagraph (b)1., the member may elect to include or
173 exclude any optional service credit purchased by the member from
174 the total service used to establish the normal retirement date.
175 A member with dual normal retirement dates shall be eligible to
176 elect to participate in either class.

177 (b) Participation in the DROP.--

178 1. An eligible member may elect to participate in the DROP
179 for a period not to exceed a maximum of 60 calendar months or,
180 with respect to members who are instructional personnel employed
181 by the Florida School for the Deaf and the Blind and who have
182 received authorization by the Board of Trustees of the Florida
183 School for the Deaf and the Blind to participate in the DROP
184 beyond 60 months, who are charter school instructional personnel
185 with students who are funded through the Florida Education
186 Finance Program and who have received authorization from the
187 governing board of the charter school to participate in DROP
188 beyond 60 months, or who are instructional personnel as defined
189 in s. 1012.01(2)(a)-(d) in grades K-12 or prekindergarten
190 classroom teachers with students who are funded through the
191 Florida Education Finance Program and who have received
192 authorization by the district school superintendent to
193 participate in the DROP beyond 60 calendar months, 96 calendar
194 months immediately following the date on which the member first
195 reaches his or her normal retirement date or the date to which
196 he or she is eligible to defer his or her election to
197 participate as provided in subparagraph (a)2. However, a member
198 who has reached normal retirement date prior to the effective

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199 date of the DROP shall be eligible to participate in the DROP
200 for a period of time not to exceed 60 calendar months or, with
201 respect to members who are instructional personnel employed by
202 the Florida School for the Deaf and the Blind and who have
203 received authorization by the Board of Trustees of the Florida
204 School for the Deaf and the Blind to participate in the DROP
205 beyond 60 months, who are charter school instructional personnel
206 with students who are funded through the Florida Education
207 Finance Program and who have received authorization from the
208 governing board of the charter school to participate in DROP
209 beyond 60 months, or who are instructional personnel as defined
210 in s. 1012.01(2)(a)-(d) in grades K-12 or prekindergarten
211 classroom teachers with students who are funded through the
212 Florida Education Finance Program and who have received
213 authorization by the district school superintendent to
214 participate in the DROP beyond 60 calendar months, 96 calendar
215 months immediately following the effective date of the DROP,
216 except a member of the Special Risk Class who has reached normal
217 retirement date prior to the effective date of the DROP and
218 whose total accrued value exceeds 75 percent of average final
219 compensation as of his or her effective date of retirement shall
220 be eligible to participate in the DROP for no more than 36
221 calendar months immediately following the effective date of the
222 DROP.

- 223 2. Upon deciding to participate in the DROP, the member
224 shall submit, on forms required by the division:
- 225 a. A written election to participate in the DROP;
 - 226 b. Selection of the DROP participation and termination
227 dates, which satisfy the limitations stated in paragraph (a) and
228 subparagraph 1. Such termination date shall be in a binding

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229 letter of resignation with the employer, establishing a deferred
230 termination date. The member may change the termination date
231 within the limitations of subparagraph 1., but only with the
232 written approval of his or her employer;

233 c. A properly completed DROP application for service
234 retirement as provided in this section; and

235 d. Any other information required by the division.

236 3. The DROP participant shall be a retiree under the
237 Florida Retirement System for all purposes, except for paragraph
238 (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
239 and 121.122. However, participation in the DROP does not alter
240 the participant's employment status and such employee shall not
241 be deemed retired from employment until his or her deferred
242 resignation is effective and termination occurs as provided in
243 s. 121.021(39).

244 4. Elected officers shall be eligible to participate in
245 the DROP subject to the following:

246 a. An elected officer who reaches normal retirement date
247 during a term of office may defer the election to participate in
248 the DROP until the next succeeding term in that office. Such
249 elected officer who exercises this option may participate in the
250 DROP for up to 60 calendar months or a period of no longer than
251 such succeeding term of office, whichever is less.

252 b. An elected or a nonelected participant may run for a
253 term of office while participating in DROP and, if elected,
254 extend the DROP termination date accordingly, except, however,
255 if such additional term of office exceeds the 60-month
256 limitation established in subparagraph 1., and the officer does
257 not resign from office within such 60-month limitation, the

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258 retirement and the participant's DROP shall be null and void as
259 provided in sub-subparagraph (c)5.d.

260 c. An elected officer who is dually employed and elects to
261 participate in DROP shall be required to satisfy the definition
262 of termination within the 60-month or, with respect to members
263 who are instructional personnel employed by the Florida School
264 for the Deaf and the Blind and who have received authorization
265 by the Board of Trustees of the Florida School for the Deaf and
266 the Blind to participate in the DROP beyond 60 months, who are
267 charter school instructional personnel with students who are
268 funded through the Florida Education Finance Program and who
269 have received authorization from the governing board of the
270 charter school to participate in DROP beyond 60 months, or who
271 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
272 in grades K-12 or prekindergarten classroom teachers with
273 students who are funded through the Florida Education Finance
274 Program and who have received authorization by the district
275 school superintendent to participate in the DROP beyond 60
276 months, the 96-month limitation period as provided in
277 subparagraph 1. for the nonelected position and may continue
278 employment as an elected officer as provided in s. 121.053. The
279 elected officer will be enrolled as a renewed member in the
280 Elected Officers' Class or the Regular Class, as provided in ss.
281 121.053 and 121.122, on the first day of the month after
282 termination of employment in the nonelected position and
283 termination of DROP. Distribution of the DROP benefits shall be
284 made as provided in paragraph (c).

285 Section 2. Paragraph (b) of subsection (5), paragraphs
286 (b), (c), (e), and (f) of subsection (6), paragraph (b) of
287 subsection (7), paragraph (k) of subsection (9), and paragraph

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288 (d) of subsection (18) of section 1002.33, Florida Statutes, are
289 amended to read:

290 1002.33 Charter schools.--

291 (5) SPONSOR; DUTIES.--

292 (b) Sponsor duties.--

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

296 b. The sponsor shall monitor the revenues and expenditures
297 of the charter school.

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

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

305 e. The sponsor shall ensure that the charter is innovative
306 and consistent with the state education goals established by s.
307 1000.03(5).

308 f. The sponsor shall ensure that the charter school
309 participates in the state's education accountability system. If
310 a charter school falls short of performance measures included in
311 the approved charter, the sponsor shall report such shortcomings
312 to the Department of Education.

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

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

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

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

325 k. The sponsor shall provide a copy of all internal audit
326 findings and reports to the charter school in a fair and timely
327 manner. The charter school shall be given 14 days to respond in
328 writing to the sponsor before any action is taken by the
329 sponsor.

330 2. Immunity for the sponsor of a charter school under
331 subparagraph 1. applies only with respect to acts or omissions
332 not under the sponsor's direct authority as described in this
333 section.

334 3. Nothing contained in this paragraph shall be considered
335 a waiver of sovereign immunity by a district school board.

336 4. A community college may work with the school district
337 or school districts in its designated service area to develop
338 charter schools that offer secondary education. These charter
339 schools must include an option for students to receive an
340 associate degree upon high school graduation. District school
341 boards shall cooperate with and assist the community college on
342 the charter application. Community college applications for
343 charter schools are not subject to the time deadlines outlined
344 in subsection (6) and may be approved by the district school
345 board at any time during the year. Community colleges shall not

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346 report FTE for any students who receive FTE funding through the
347 Florida Education Finance Program.

348 (6) APPLICATION PROCESS AND REVIEW.--Charter school
349 applications are subject to the following requirements:

350 (b) A sponsor ~~district school board~~ shall receive and
351 review all applications for a charter school. Beginning with the
352 2007-2008 school year, a sponsor ~~district school board~~ shall
353 receive and consider charter school applications received on or
354 before August 1 of each calendar year for charter schools to be
355 opened at the beginning of the school district's next school
356 year, or to be opened at a time agreed to by the applicant and
357 the sponsor ~~district school board~~. A sponsor ~~district school~~
358 ~~board~~ may receive applications later than this date if it
359 chooses. A sponsor may not charge an applicant for a charter any
360 fee for the processing or consideration of an application, and a
361 sponsor may not base its consideration or approval of an
362 application upon the promise of future payment of any kind.

363 1. In order to facilitate an accurate budget projection
364 process, a sponsor ~~district school board~~ shall be held harmless
365 for FTE students who are not included in the FTE projection due
366 to approval of charter school applications after the FTE
367 projection deadline. In a further effort to facilitate an
368 accurate budget projection, within 15 calendar days after
369 receipt of a charter school application, a ~~district school board~~
370 ~~or other~~ sponsor shall report to the Department of Education the
371 name of the applicant entity, the proposed charter school
372 location, and its projected FTE.

373 2. In order to ensure fiscal responsibility, an
374 application for a charter school shall include a full accounting
375 of expected assets, a projection of expected sources and amounts

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376 of income, including income derived from projected student
377 enrollments and from community support, and an expense
378 projection that includes full accounting of the costs of
379 operation, including start-up costs.

380 3. A sponsor ~~district school board~~ shall by a majority
381 vote approve or deny an application no later than 60 calendar
382 days after the application is received, unless the sponsor
383 ~~district school board~~ and the applicant mutually agree in
384 writing to temporarily postpone the vote to a specific date, at
385 which time the sponsor ~~district school board~~ shall by a majority
386 vote approve or deny the application. If the sponsor ~~district~~
387 ~~school board~~ fails to act on the application, an applicant may
388 appeal to the State Board of Education as provided in paragraph
389 (c). If an application is denied, the sponsor ~~district school~~
390 ~~board~~ shall, within 10 calendar days, articulate in writing the
391 specific reasons for its denial of the charter application and
392 shall provide the letter of denial and supporting documentation
393 to the applicant and to the Department of Education supporting
394 those reasons.

395 4. For budget projection purposes, the ~~district school~~
396 ~~board or other~~ sponsor shall report to the Department of
397 Education the approval or denial of a charter application within
398 10 calendar days after such approval or denial. In the event of
399 approval, the report to the Department of Education shall
400 include the final projected FTE for the approved charter school.

401 5. Upon approval of a charter application, the initial
402 startup shall commence with the beginning of the public school
403 calendar for the district in which the charter is granted unless
404 the sponsor allows a waiver of this provision for good cause.

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405 (c) An applicant may appeal any denial of that applicant's
406 application or failure to act on an application to the State
407 Board of Education no later than 30 calendar days after receipt
408 of the sponsor's ~~district school board's~~ decision or failure to
409 act and shall notify the sponsor ~~district school board~~ of its
410 appeal. Any response of the sponsor ~~district school board~~ shall
411 be submitted to the State Board of Education within 30 calendar
412 days after notification of the appeal. Upon receipt of
413 notification from the State Board of Education that a charter
414 school applicant is filing an appeal, the Commissioner of
415 Education shall convene a meeting of the Charter School Appeal
416 Commission to study and make recommendations to the State Board
417 of Education regarding its pending decision about the appeal.
418 The commission shall forward its recommendation to the state
419 board no later than 7 calendar days prior to the date on which
420 the appeal is to be heard. The State Board of Education shall by
421 majority vote accept or reject the decision of the sponsor
422 ~~district school board~~ no later than 90 calendar days after an
423 appeal is filed in accordance with State Board of Education
424 rule. The Charter School Appeal Commission may reject an appeal
425 submission for failure to comply with procedural rules governing
426 the appeals process. The rejection shall describe the submission
427 errors. The appellant may have up to 15 calendar days from
428 notice of rejection to resubmit an appeal that meets
429 requirements of State Board of Education rule. An application
430 for appeal submitted subsequent to such rejection shall be
431 considered timely if the original appeal was filed within 30
432 calendar days after receipt of notice of the specific reasons
433 for the sponsor's ~~district school board's~~ denial of the charter
434 application. The State Board of Education shall remand the

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435 application to the sponsor ~~district school board~~ with its
436 written decision that the sponsor ~~district school board~~ approve
437 or deny the application. The sponsor ~~district school board~~ shall
438 implement the decision of the State Board of Education. The
439 decision of the State Board of Education is not subject to the
440 provisions of the Administrative Procedure Act, chapter 120.

441 (e) The sponsor ~~district school board~~ shall act upon the
442 decision of the State Board of Education within 30 calendar days
443 after it is received. The State Board of Education's decision is
444 a final action subject to judicial review in the district court
445 of appeal.

446 (f)1. A Charter School Appeal Commission is established to
447 assist the commissioner and the State Board of Education with a
448 fair and impartial review of appeals by applicants whose charter
449 applications have been denied, whose charter contracts have not
450 been renewed, or whose charter contracts have been terminated by
451 their sponsors.

452 2. The Charter School Appeal Commission may receive copies
453 of the appeal documents forwarded to the State Board of
454 Education, review the documents, gather other applicable
455 information regarding the appeal, and make a written
456 recommendation to the commissioner. The recommendation must
457 state whether the appeal should be upheld or denied and include
458 the reasons for the recommendation being offered. The
459 commissioner shall forward the recommendation to the State Board
460 of Education no later than 7 calendar days prior to the date on
461 which the appeal is to be heard. The state board must consider
462 the commission's recommendation in making its decision, but is
463 not bound by the recommendation. The decision of the Charter

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464 School Appeal Commission is not subject to the provisions of the
465 Administrative Procedure Act, chapter 120.

466 3. The commissioner shall appoint the members of the
467 Charter School Appeal Commission. Members shall serve without
468 compensation but may be reimbursed for travel and per diem
469 expenses in conjunction with their service. One-half of the
470 members must represent currently operating charter schools, and
471 one-half of the members must represent sponsors ~~school~~
472 ~~districts~~. The commissioner or a named designee shall chair the
473 Charter School Appeal Commission.

474 4. The chair shall convene meetings of the commission and
475 shall ensure that the written recommendations are completed and
476 forwarded in a timely manner. In cases where the commission
477 cannot reach a decision, the chair shall make the written
478 recommendation with justification, noting that the decision was
479 rendered by the chair.

480 5. Commission members shall thoroughly review the
481 materials presented to them from the appellant and the sponsor.
482 The commission may request information to clarify the
483 documentation presented to it. In the course of its review, the
484 commission may facilitate the postponement of an appeal in those
485 cases where additional time and communication may negate the
486 need for a formal appeal and both parties agree, in writing, to
487 postpone the appeal to the State Board of Education. A new date
488 certain for the appeal shall then be set based upon the rules
489 and procedures of the State Board of Education. Commission
490 members shall provide a written recommendation to the state
491 board as to whether the appeal should be upheld or denied. A
492 fact-based justification for the recommendation must be
493 included. The chair must ensure that the written recommendation

3-26-07
4:45 p.m.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

494 is submitted to the State Board of Education members no later
495 than 7 calendar days prior to the date on which the appeal is to
496 be heard. Both parties in the case shall also be provided a copy
497 of the recommendation.

498 (7) CHARTER.--The major issues involving the operation of
499 a charter school shall be considered in advance and written into
500 the charter. The charter shall be signed by the governing body
501 of the charter school and the sponsor, following a public
502 hearing to ensure community input.

503 (b)1. A charter may be renewed provided that a program
504 review demonstrates that the criteria in paragraph (a) have been
505 successfully accomplished and that none of the grounds for
506 nonrenewal established by paragraph (8) (a) has been documented.
507 In order to facilitate long-term financing for charter school
508 construction, charter schools operating for a minimum of 2 years
509 and demonstrating exemplary academic programming and fiscal
510 management shall receive ~~are eligible for~~ a 15-year charter
511 renewal. Such long-term charter is subject to annual review and
512 may be terminated during the term of the charter.

513 2. The 15-year charter renewal ~~that may be granted~~
514 pursuant to subparagraph 1. shall be granted to a charter school
515 that has received a school grade of "A" or "B" pursuant to s.
516 1008.34 in 3 of the past 4 years and is not in a state of
517 financial emergency or deficit position as defined by this
518 section. Such long-term charter is subject to annual review and
519 may be terminated during the term of the charter pursuant to
520 subsection (8).

521 (9) CHARTER SCHOOL REQUIREMENTS.--

522 (k) The governing body of the charter school shall be
523 responsible for:

3-26-07
4:45 p.m.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

524 1. Ensuring that the charter school has retained the
525 services of a certified public accountant or auditor for the
526 annual financial audit, pursuant to paragraph (g), who shall
527 submit the report to the governing body.

528 2. Reviewing and approving the audit report, including
529 audit findings and recommendations for the financial recovery
530 plan.

531 3. Monitoring a financial recovery plan in order to ensure
532 compliance.

533 4. Participating in board governance training, including
534 government in the sunshine, conflicts of interest, ethics, and
535 financial responsibility.

536 (18) FACILITIES.--

537 (d) Charter school facilities are exempt from assessments
538 of fees for building permits, except as provided in s. 553.80,
539 fees for building and occupational licenses, ~~and~~ impact fees, ~~or~~
540 service availability fees, and assessments for special benefits.

541 Section 3. The Legislature finds that a proper and
542 legitimate state purpose is served when employees and retirees
543 of the state and its political subdivisions, as well as the
544 dependents, survivors, and beneficiaries of such employees and
545 retirees, are extended the basic protections afforded by
546 governmental retirement systems that provide fair and adequate
547 benefits and that are managed, administered, and funded in an
548 actuarially sound manner as required by s. 14, Art. X of the
549 State Constitution and part VII of chapter 112, Florida
550 Statutes. Therefore, the Legislature determines and declares
551 that the amendment of s. 121.091, Florida Statutes, by this act
552 fulfills an important state interest.

3-26-07
4:45 p.m.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

553 Section 4. This act shall take effect upon becoming a law
554 except that the amendment to s. 1002.33(18)(d), Florida
555 Statutes, by this act shall apply retroactively to January 7,
556 2003.

557
558 ===== T I T L E A M E N D M E N T =====

559 Remove the entire title and insert:

560 A bill to be entitled

561 An act relating to education; amending s. 121.091, F.S.;
562 increasing the period of time during which certain charter
563 school instructional personnel may participate in the
564 Florida Retirement System Deferred Retirement Option
565 Program; extending such participation to certain school
566 district prekindergarten instructional personnel; amending
567 s. 1002.33, F.S., relating to charter schools; providing
568 duty of a sponsor with respect to audits of a charter
569 school; revising provisions relating to charter school
570 renewal terms; requiring the governing body to participate
571 in certain governance training; clarifying charter school
572 facility fee exemptions; providing a declaration of
573 important state interest; providing for retroactive
574 application; providing an effective date.

3-26-07
4:45 p.m.

A bill to be entitled

An act relating to education; amending s. 121.091, F.S.; increasing the period of time during which certain charter school instructional personnel may participate in the Florida Retirement System Deferred Retirement Option Program; extending such participation to certain school district prekindergarten instructional personnel; amending s. 1002.33, F.S., relating to charter schools; prohibiting unlawful reprisal against a charter school by the school's sponsor; providing for relief of a charter school; providing duties of a sponsor relating to the charter school application process and review; revising provisions relating to charter school renewal terms; providing for monthly distribution of funds to charter schools; revising charter school facility fee exemptions; providing for availability to charter schools of public school property and facilities; providing a declaration of important state interest; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (13) of section 121.091, Florida Statutes, are amended to read:

121.091 Benefits payable under the system.--Benefits may not be paid under this section unless the member has terminated employment as provided in s. 121.021(39)(a) or begun participation in the Deferred Retirement Option Program as provided in subsection (13), and a proper application has been

29 | filed in the manner prescribed by the department. The department
 30 | may cancel an application for retirement benefits when the
 31 | member or beneficiary fails to timely provide the information
 32 | and documents required by this chapter and the department's
 33 | rules. The department shall adopt rules establishing procedures
 34 | for application for retirement benefits and for the cancellation
 35 | of such application when the required information or documents
 36 | are not received.

37 | (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general, and
 38 | subject to the provisions of this section, the Deferred
 39 | Retirement Option Program, hereinafter referred to as the DROP,
 40 | is a program under which an eligible member of the Florida
 41 | Retirement System may elect to participate, deferring receipt of
 42 | retirement benefits while continuing employment with his or her
 43 | Florida Retirement System employer. The deferred monthly
 44 | benefits shall accrue in the System Trust Fund on behalf of the
 45 | participant, plus interest compounded monthly, for the specified
 46 | period of the DROP participation, as provided in paragraph (c).
 47 | Upon termination of employment, the participant shall receive
 48 | the total DROP benefits and begin to receive the previously
 49 | determined normal retirement benefits. Participation in the DROP
 50 | does not guarantee employment for the specified period of DROP.
 51 | Participation in the DROP by an eligible member beyond the
 52 | initial 60-month period as authorized in this subsection shall
 53 | be on an annual contractual basis for all participants.

54 | (a) Eligibility of member to participate in the DROP.--All
 55 | active Florida Retirement System members in a regularly
 56 | established position, and all active members of either the

57 Teachers' Retirement System established in chapter 238 or the
 58 State and County Officers' and Employees' Retirement System
 59 established in chapter 122 which systems are consolidated within
 60 the Florida Retirement System under s. 121.011, are eligible to
 61 elect participation in the DROP provided that:

62 1. The member is not a renewed member of the Florida
 63 Retirement System under s. 121.122, or a member of the State
 64 Community College System Optional Retirement Program under s.
 65 121.051, the Senior Management Service Optional Annuity Program
 66 under s. 121.055, or the optional retirement program for the
 67 State University System under s. 121.35.

68 2. Except as provided in subparagraph 6., election to
 69 participate is made within 12 months immediately following the
 70 date on which the member first reaches normal retirement date,
 71 or, for a member who reaches normal retirement date based on
 72 service before he or she reaches age 62, or age 55 for Special
 73 Risk Class members, election to participate may be deferred to
 74 the 12 months immediately following the date the member attains
 75 57, or age 52 for Special Risk Class members. For a member who
 76 first reached normal retirement date or the deferred eligibility
 77 date described above prior to the effective date of this
 78 section, election to participate shall be made within 12 months
 79 after the effective date of this section. A member who fails to
 80 make an election within such 12-month limitation period shall
 81 forfeit all rights to participate in the DROP. The member shall
 82 advise his or her employer and the division in writing of the
 83 date on which the DROP shall begin. Such beginning date may be
 84 subsequent to the 12-month election period, but must be within

85 the 60-month or, with respect to members who are instructional
 86 personnel as defined in s. 1012.01(2)(a)-(d) in prekindergarten
 87 through grade 12 in the public school system who are funded
 88 through the Florida Education Finance Program and employed by a
 89 charter school and who have received authorization from the
 90 governing board of the charter school to participate in DROP
 91 beyond 60 months, or who are instructional personnel employed by
 92 the Florida School for the Deaf and the Blind and who have
 93 received authorization by the Board of Trustees of the Florida
 94 School for the Deaf and the Blind to participate in the DROP
 95 beyond 60 months, or who are instructional personnel as defined
 96 in s. 1012.01(2)(a)-(d) in prekindergarten through grade 12 in
 97 the public school system who are funded through the Florida
 98 Education Finance Program ~~grades K-12~~ and who have received
 99 authorization by the district school superintendent to
 100 participate in the DROP beyond 60 months, the 96-month
 101 limitation period as provided in subparagraph (b)1. When
 102 establishing eligibility of the member to participate in the
 103 DROP for the 60-month or, with respect to members who are
 104 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
 105 prekindergarten through grade 12 in the public school system who
 106 are funded through the Florida Education Finance Program and
 107 employed by a charter school and who have received authorization
 108 from the governing board of the charter school to participate in
 109 DROP beyond 60 months, or who are instructional personnel
 110 employed by the Florida School for the Deaf and the Blind and
 111 who have received authorization by the Board of Trustees of the
 112 Florida School for the Deaf and the Blind to participate in the

113 DROP beyond 60 months, or who are instructional personnel as
 114 defined in s. 1012.01(2)(a)-(d) in prekindergarten through grade
 115 12 in the public school system who are funded through the
 116 Florida Education Finance Program ~~grades K-12~~ and who have
 117 received authorization by the district school superintendent to
 118 participate in the DROP beyond 60 months, the 96-month maximum
 119 participation period, the member may elect to include or exclude
 120 any optional service credit purchased by the member from the
 121 total service used to establish the normal retirement date. A
 122 member with dual normal retirement dates shall be eligible to
 123 elect to participate in DROP within 12 months after attaining
 124 normal retirement date in either class.

125 3. The employer of a member electing to participate in the
 126 DROP, or employers if dually employed, shall acknowledge in
 127 writing to the division the date the member's participation in
 128 the DROP begins and the date the member's employment and DROP
 129 participation will terminate.

130 4. Simultaneous employment of a participant by additional
 131 Florida Retirement System employers subsequent to the
 132 commencement of participation in the DROP shall be permissible
 133 provided such employers acknowledge in writing a DROP
 134 termination date no later than the participant's existing
 135 termination date or the 60-month limitation period as provided
 136 in subparagraph (b)1.

137 5. A DROP participant may change employers while
 138 participating in the DROP, subject to the following:

139 a. A change of employment must take place without a break
 140 in service so that the member receives salary for each month of

141 continuous DROP participation. If a member receives no salary
 142 during a month, DROP participation shall cease unless the
 143 employer verifies a continuation of the employment relationship
 144 for such participant pursuant to s. 121.021(39)(b).

145 b. Such participant and new employer shall notify the
 146 division on forms required by the division as to the identity of
 147 the new employer.

148 c. The new employer shall acknowledge, in writing, the
 149 participant's DROP termination date, which may be extended but
 150 not beyond the original 60-month or, with respect to members who
 151 are instructional personnel as defined in s. 1012.01(2)(a)-(d)
 152 in prekindergarten through grade 12 in the public school system
 153 who are funded through the Florida Education Finance Program and
 154 employed by a charter school and who have received authorization
 155 from the governing board of the charter school to participate in
 156 DROP beyond 60 months, or who are instructional personnel
 157 employed by the Florida School for the Deaf and the Blind and
 158 who have received authorization by the Board of Trustees of the
 159 Florida School for the Deaf and the Blind to participate in the
 160 DROP beyond 60 months, or who are instructional personnel as
 161 defined in s. 1012.01(2)(a)-(d) in prekindergarten through grade
 162 12 in the public school system who are funded through the
 163 Florida Education Finance Program ~~grades K-12~~ and who have
 164 received authorization by the district school superintendent to
 165 participate in the DROP beyond 60 months, the 96-month period
 166 provided in subparagraph (b)1., shall acknowledge liability for
 167 any additional retirement contributions and interest required if
 168 the participant fails to timely terminate employment, and shall

169 | be subject to the adjustment required in sub-subparagraph
 170 | (c)5.d.
 171 | 6. Effective July 1, 2001, for instructional personnel as
 172 | defined in s. 1012.01(2), election to participate in the DROP
 173 | shall be made at any time following the date on which the member
 174 | first reaches normal retirement date. The member shall advise
 175 | his or her employer and the division in writing of the date on
 176 | which the Deferred Retirement Option Program shall begin. When
 177 | establishing eligibility of the member to participate in the
 178 | DROP for the 60-month or, with respect to members who are
 179 | instructional personnel as defined in s. 1012.01(2)(a)-(d) in
 180 | prekindergarten through grade 12 in the public school system who
 181 | are funded through the Florida Education Finance Program and
 182 | employed by a charter school and who have received authorization
 183 | from the governing board of the charter school to participate in
 184 | DROP beyond 60 months, or who are instructional personnel
 185 | employed by the Florida School for the Deaf and the Blind and
 186 | who have received authorization by the Board of Trustees of the
 187 | Florida School for the Deaf and the Blind to participate in the
 188 | DROP beyond 60 months, or who are instructional personnel as
 189 | defined in s. 1012.01(2)(a)-(d) in prekindergarten through grade
 190 | 12 in the public school system who are funded through the
 191 | Florida Education Finance Program ~~grades K-12~~ and who have
 192 | received authorization by the district school superintendent to
 193 | participate in the DROP beyond 60 months, the 96-month maximum
 194 | participation period, as provided in subparagraph (b)1., the
 195 | member may elect to include or exclude any optional service
 196 | credit purchased by the member from the total service used to

197 establish the normal retirement date. A member with dual normal
 198 retirement dates shall be eligible to elect to participate in
 199 either class.

200 (b) Participation in the DROP.--

201 1. An eligible member may elect to participate in the DROP
 202 for a period not to exceed a maximum of 60 calendar months or,
 203 with respect to members who are instructional personnel as
 204 defined in s. 1012.01(2)(a)-(d) in prekindergarten through grade
 205 12 in the public school system who are funded through the
 206 Florida Education Finance Program and employed by a charter
 207 school and who have received authorization from the governing
 208 board of the charter school to participate in DROP beyond 60
 209 months, or who are instructional personnel employed by the
 210 Florida School for the Deaf and the Blind and who have received
 211 authorization by the Board of Trustees of the Florida School for
 212 the Deaf and the Blind to participate in the DROP beyond 60
 213 months, or who are instructional personnel as defined in s.
 214 1012.01(2)(a)-(d) in prekindergarten through grade 12 in the
 215 public school system who are funded through the Florida
 216 Education Finance Program grades K-12 and who have received
 217 authorization by the district school superintendent to
 218 participate in the DROP beyond 60 calendar months, 96 calendar
 219 months immediately following the date on which the member first
 220 reaches his or her normal retirement date or the date to which
 221 he or she is eligible to defer his or her election to
 222 participate as provided in subparagraph (a)2. However, a member
 223 who has reached normal retirement date prior to the effective
 224 date of the DROP shall be eligible to participate in the DROP

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225 for a period of time not to exceed 60 calendar months or, with
 226 respect to members who are instructional personnel as defined in
 227 s. 1012.01(2)(a)-(d) in prekindergarten through grade 12 in the
 228 public school system who are funded through the Florida
 229 Education Finance Program and employed by a charter school and
 230 who have received authorization from the governing board of the
 231 charter school to participate in DROP beyond 60 months, or who
 232 are instructional personnel employed by the Florida School for
 233 the Deaf and the Blind and who have received authorization by
 234 the Board of Trustees of the Florida School for the Deaf and the
 235 Blind to participate in the DROP beyond 60 months, or who are
 236 instructional personnel as defined in s. 1012.01(2)(a)-(d) in
 237 prekindergarten through grade 12 in the public school system who
 238 are funded through the Florida Education Finance Program grades
 239 ~~K-12~~ and who have received authorization by the district school
 240 superintendent to participate in the DROP beyond 60 calendar
 241 months, 96 calendar months immediately following the effective
 242 date of the DROP, except a member of the Special Risk Class who
 243 has reached normal retirement date prior to the effective date
 244 of the DROP and whose total accrued value exceeds 75 percent of
 245 average final compensation as of his or her effective date of
 246 retirement shall be eligible to participate in the DROP for no
 247 more than 36 calendar months immediately following the effective
 248 date of the DROP.

249 2. Upon deciding to participate in the DROP, the member
 250 shall submit, on forms required by the division:

251 a. A written election to participate in the DROP;

252 b. Selection of the DROP participation and termination
 253 dates, which satisfy the limitations stated in paragraph (a) and
 254 subparagraph 1. Such termination date shall be in a binding
 255 letter of resignation with the employer, establishing a deferred
 256 termination date. The member may change the termination date
 257 within the limitations of subparagraph 1., but only with the
 258 written approval of his or her employer;

259 c. A properly completed DROP application for service
 260 retirement as provided in this section; and

261 d. Any other information required by the division.

262 3. The DROP participant shall be a retiree under the
 263 Florida Retirement System for all purposes, except for paragraph
 264 (5)(f) and subsection (9) and ss. 112.3173, 112.363, 121.053,
 265 and 121.122. However, participation in the DROP does not alter
 266 the participant's employment status and such employee shall not
 267 be deemed retired from employment until his or her deferred
 268 resignation is effective and termination occurs as provided in
 269 s. 121.021(39).

270 4. Elected officers shall be eligible to participate in
 271 the DROP subject to the following:

272 a. An elected officer who reaches normal retirement date
 273 during a term of office may defer the election to participate in
 274 the DROP until the next succeeding term in that office. Such
 275 elected officer who exercises this option may participate in the
 276 DROP for up to 60 calendar months or a period of no longer than
 277 such succeeding term of office, whichever is less.

278 b. An elected or a nonelected participant may run for a
 279 term of office while participating in DROP and, if elected,

280 | extend the DROP termination date accordingly, except, however,
 281 | if such additional term of office exceeds the 60-month
 282 | limitation established in subparagraph 1., and the officer does
 283 | not resign from office within such 60-month limitation, the
 284 | retirement and the participant's DROP shall be null and void as
 285 | provided in sub-subparagraph (c)5.d.

286 | c. An elected officer who is dually employed and elects to
 287 | participate in DROP shall be required to satisfy the definition
 288 | of termination within the 60-month or, with respect to members
 289 | who are instructional personnel as defined in s. 1012.01(2)(a)-
 290 | (d) in prekindergarten through grade 12 in the public school
 291 | system who are funded through the Florida Education Finance
 292 | Program and employed by a charter school and who have received
 293 | authorization from the governing board of the charter school to
 294 | participate in DROP beyond 60 months, or who are instructional
 295 | personnel employed by the Florida School for the Deaf and the
 296 | Blind and who have received authorization by the Board of
 297 | Trustees of the Florida School for the Deaf and the Blind to
 298 | participate in the DROP beyond 60 months, or who are
 299 | instructional personnel as defined in s. 1012.01(2)(a)-(d) in
 300 | prekindergarten through grade 12 in the public school system who
 301 | are funded through the Florida Education Finance Program ~~grades~~
 302 | ~~K-12~~ and who have received authorization by the district school
 303 | superintendent to participate in the DROP beyond 60 months, the
 304 | 96-month limitation period as provided in subparagraph 1. for
 305 | the nonelected position and may continue employment as an
 306 | elected officer as provided in s. 121.053. The elected officer
 307 | will be enrolled as a renewed member in the Elected Officers'

308 Class or the Regular Class, as provided in ss. 121.053 and
 309 121.122, on the first day of the month after termination of
 310 employment in the nonelected position and termination of DROP.
 311 Distribution of the DROP benefits shall be made as provided in
 312 paragraph (c).

313 Section 2. Subsections (1) and (4), paragraphs (b), (c),
 314 (e), and (f) of subsection (6), paragraphs (b) and (c) of
 315 subsection (7), paragraph (1) of subsection (9), paragraphs (b)
 316 and (c) of subsection (17), and paragraphs (d) and (e) of
 317 subsection (18) of section 1002.33, Florida Statutes, are
 318 amended to read:

319 1002.33 Charter schools.--

320 (1) AUTHORIZATION.--Charter schools shall be part of the
 321 state's program of public education. All charter schools in
 322 Florida are public schools. Charter schools are established to
 323 provide a flexible, innovative, and accountable public education
 324 to students in the state. A charter school may be formed by
 325 creating a new school or converting an existing public school to
 326 charter status. A public school may not use the term charter in
 327 its name unless it has been approved under this section.

328 (4) UNLAWFUL REPRISAL.--

329 (a) No district school board, or district school board
 330 employee who has control over personnel actions, shall take
 331 unlawful reprisal against another district school board employee
 332 because that employee is either directly or indirectly involved
 333 with an application to establish a charter school. As used in
 334 this subsection, with respect to a district school board or a
 335 district school board employee, the term "unlawful reprisal"

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336 means an action taken by a district school board or a school
 337 system employee against an employee who is directly or
 338 indirectly involved in a lawful application to establish a
 339 charter school, which occurs as a direct result of that
 340 involvement, and which results in one or more of the following:
 341 disciplinary or corrective action; adverse transfer or
 342 reassignment, whether temporary or permanent; suspension,
 343 demotion, or dismissal; an unfavorable performance evaluation; a
 344 reduction in pay, benefits, or rewards; elimination of the
 345 employee's position absent of a reduction in workforce as a
 346 result of lack of moneys or work; or other adverse significant
 347 changes in duties or responsibilities that are inconsistent with
 348 the employee's salary or employment classification. No sponsor
 349 or sponsor's staff shall take unlawful reprisal against a
 350 charter school that is operating under a charter with the
 351 sponsor. As used in this subsection, with respect to a sponsor
 352 or a sponsor's staff, the term "unlawful reprisal" means an
 353 action taken by a sponsor or a sponsor's employee that directly
 354 or indirectly impacts the operations and funding of the charter
 355 school, submission of required reports, or the school's
 356 compliance with the charter. The following procedures shall
 357 apply to an alleged unlawful reprisal that occurs as a
 358 consequence of an employee's direct or indirect involvement with
 359 an application to establish a charter school or a charter
 360 school's operation:

361 1. Within 60 days after the date upon which a reprisal
 362 prohibited by this subsection is alleged to have occurred, an
 363 employee or school may file a complaint with the Department of

364 Education.

365 2. Within 3 working days after receiving a complaint under
 366 this section, the Department of Education shall acknowledge
 367 receipt of the complaint and provide copies of the complaint and
 368 any other relevant preliminary information available to each of
 369 the other parties named in the complaint, which parties shall
 370 each acknowledge receipt of such copies to the complainant.

371 3. If the Department of Education determines that the
 372 complaint demonstrates reasonable cause to suspect that an
 373 unlawful reprisal has occurred, the Department of Education
 374 shall conduct an investigation to produce a fact-finding report.

375 4. Within 90 days after receiving the complaint, the
 376 Department of Education shall provide the district school
 377 superintendent of the complainant's district and the complainant
 378 with a fact-finding report that may include recommendations to
 379 the parties or a proposed resolution of the complaint. The fact-
 380 finding report shall be presumed admissible in any subsequent or
 381 related administrative or judicial review.

382 5. If the Department of Education determines that
 383 reasonable grounds exist to believe that an unlawful reprisal
 384 has occurred, is occurring, or is to be taken, and is unable to
 385 conciliate a complaint within 60 days after receipt of the fact-
 386 finding report, the Department of Education shall terminate the
 387 investigation. Upon termination of any investigation, the
 388 Department of Education shall notify the complainant and the
 389 district school superintendent of the termination of the
 390 investigation, providing a summary of relevant facts found
 391 during the investigation and the reasons for terminating the

392 investigation. A written statement under this paragraph is
 393 presumed admissible as evidence in any judicial or
 394 administrative proceeding.

395 6. The Department of Education shall either contract with
 396 the Division of Administrative Hearings under s. 120.65, or
 397 otherwise provide for a complaint for which the Department of
 398 Education determines reasonable grounds exist to believe that an
 399 unlawful reprisal has occurred, is occurring, or is to be taken,
 400 and is unable to conciliate, to be heard by a panel of impartial
 401 persons. Upon hearing the complaint, the panel shall make
 402 findings of fact and conclusions of law for a final decision by
 403 the Department of Education.

404

405 It shall be an affirmative defense to any action brought
 406 pursuant to this section that the adverse action was predicated
 407 upon grounds other than, and would have been taken absent, the
 408 employee's or school's exercise of rights protected by this
 409 section.

410 (b) In any action brought under this section for which it
 411 is determined reasonable grounds exist to believe that an
 412 unlawful reprisal against an employee has occurred, is
 413 occurring, or is to be taken, the relief shall include the
 414 following:

415 1. Reinstatement of the employee to the same position held
 416 before the unlawful reprisal was commenced, or to an equivalent
 417 position, or payment of reasonable front pay as alternative
 418 relief.

419 2. Reinstatement of the employee's full fringe benefits

420 and seniority rights, as appropriate.

421 3. Compensation, if appropriate, for lost wages, benefits,
422 or other lost remuneration caused by the unlawful reprisal.

423 4. Payment of reasonable costs, including attorney's fees,
424 to a substantially prevailing employee, or to the prevailing
425 employer if the employee filed a frivolous action in bad faith.

426 5. Issuance of an injunction, if appropriate, by a court
427 of competent jurisdiction.

428 6. Temporary reinstatement to the employee's former
429 position or to an equivalent position, pending the final outcome
430 of the complaint, if it is determined that the action was not
431 made in bad faith or for a wrongful purpose, and did not occur
432 after a district school board's initiation of a personnel action
433 against the employee that includes documentation of the
434 employee's violation of a disciplinary standard or performance
435 deficiency.

436 (c) In any action brought under this section for which it
437 is determined reasonable grounds exist to believe that an
438 unlawful reprisal against a charter school has occurred, is
439 occurring, or is to be taken, the relief shall include the
440 following:

441 1. Immediate cease and desist of the sponsor's policies
442 and practices impairing the school's operations.

443 2. Compensation, if appropriate, for lost funding to the
444 school caused by the unlawful reprisal.

445 3. Payment of reasonable costs, including attorney's fees,
446 to a substantially prevailing school.

447 4. Issuance of an injunction, if appropriate, by a court

448 of competent jurisdiction.

449 5. Issuance of an order granting immediate transfer of the
 450 charter to an alternate charter school sponsor willing to accept
 451 the transfer of the charter sponsorship duties.

452 (6) APPLICATION PROCESS AND REVIEW.--Charter school
 453 applications are subject to the following requirements:

454 (b) A sponsor ~~district school board~~ shall receive and
 455 review all applications for a charter school. Beginning with the
 456 2007-2008 school year, a sponsor ~~district school board~~ shall
 457 receive and consider charter school applications received on or
 458 before August 1 of each calendar year for charter schools to be
 459 opened at the beginning of the school district's next school
 460 year, or to be opened at a time agreed to by the applicant and
 461 the sponsor. A charter school is exempt from the requirements of
 462 s. 1001.42(4)(f) and shall mutually agree with its sponsor on
 463 the school's calendar year ~~district school board~~. A sponsor
 464 ~~district school board~~ may receive applications later than this
 465 date if it chooses. A sponsor may not charge an applicant for a
 466 charter any fee for the processing or consideration of an
 467 application, and a sponsor may not base its consideration or
 468 approval of an application upon the promise of future payment of
 469 any kind.

470 1. In order to facilitate an accurate budget projection
 471 process, a sponsor ~~district school board~~ shall be held harmless
 472 for FTE students who are not included in the FTE projection due
 473 to approval of charter school applications after the FTE
 474 projection deadline. In a further effort to facilitate an
 475 accurate budget projection, within 15 calendar days after

476 receipt of a charter school application, a ~~district school board~~
 477 ~~or other~~ sponsor shall report to the Department of Education the
 478 name of the applicant entity, the proposed charter school
 479 location, and its projected FTE.

480 2. In order to ensure fiscal responsibility, an
 481 application for a charter school shall include a full accounting
 482 of expected assets, a projection of expected sources and amounts
 483 of income, including income derived from projected student
 484 enrollments and from community support, and an expense
 485 projection that includes full accounting of the costs of
 486 operation, including start-up costs.

487 3. A sponsor ~~district school board~~ shall by a majority
 488 vote approve or deny an application no later than 60 calendar
 489 days after the application is received, unless the sponsor
 490 ~~district school board~~ and the applicant mutually agree in
 491 writing to temporarily postpone the vote to a specific date, at
 492 which time the sponsor ~~district school board~~ shall by a majority
 493 vote approve or deny the application. If the sponsor ~~district~~
 494 ~~school board~~ fails to act on the application, an applicant may
 495 appeal to the State Board of Education as provided in paragraph
 496 (c). If an application is denied, the sponsor ~~district school~~
 497 ~~board~~ shall, within 10 calendar days, articulate in writing the
 498 specific reasons for its denial of the charter application and
 499 shall provide the letter of denial and supporting documentation
 500 to the applicant and to the Department of Education supporting
 501 those reasons.

502 4. For budget projection purposes, the ~~district school~~
 503 ~~board or other~~ sponsor shall report to the Department of

504 Education the approval or denial of a charter application within
 505 10 calendar days after such approval or denial. In the event of
 506 approval, the report to the Department of Education shall
 507 include the final projected FTE for the approved charter school.

508 5. Upon approval of a charter application, the initial
 509 startup shall commence with the beginning of the public school
 510 calendar for the district in which the charter is granted unless
 511 the sponsor allows a waiver of this provision for good cause.

512 (c) An applicant may appeal any denial of that applicant's
 513 application or failure to act on an application to the State
 514 Board of Education no later than 30 calendar days after receipt
 515 of the sponsor's ~~district school board's~~ decision or failure to
 516 act and shall notify the sponsor ~~district school board~~ of its
 517 appeal. Any response of the sponsor ~~district school board~~ shall
 518 be submitted to the State Board of Education within 30 calendar
 519 days after notification of the appeal. Upon receipt of
 520 notification from the State Board of Education that a charter
 521 school applicant is filing an appeal, the Commissioner of
 522 Education shall convene a meeting of the Charter School Appeal
 523 Commission to study and make recommendations to the State Board
 524 of Education regarding its pending decision about the appeal.
 525 The commission shall forward its recommendation to the state
 526 board no later than 7 calendar days prior to the date on which
 527 the appeal is to be heard. The State Board of Education shall by
 528 majority vote accept or reject the decision of the sponsor
 529 ~~district school board~~ no later than 90 calendar days after an
 530 appeal is filed in accordance with State Board of Education
 531 rule. The Charter School Appeal Commission may reject an appeal

532 submission for failure to comply with procedural rules governing
 533 the appeals process. The rejection shall describe the submission
 534 errors. The appellant may have up to 15 calendar days from
 535 notice of rejection to resubmit an appeal that meets
 536 requirements of State Board of Education rule. An application
 537 for appeal submitted subsequent to such rejection shall be
 538 considered timely if the original appeal was filed within 30
 539 calendar days after receipt of notice of the specific reasons
 540 for the sponsor's ~~district school board's~~ denial of the charter
 541 application. The State Board of Education shall remand the
 542 application to the sponsor ~~district school board~~ with its
 543 written decision that the sponsor ~~district school board~~ approve
 544 or deny the application. The sponsor ~~district school board~~ shall
 545 implement the decision of the State Board of Education. The
 546 decision of the State Board of Education is not subject to the
 547 provisions of the Administrative Procedure Act, chapter 120.

548 (e) The sponsor ~~district school board~~ shall act upon the
 549 decision of the State Board of Education within 30 calendar days
 550 after it is received. The State Board of Education's decision is
 551 a final action subject to judicial review in the district court
 552 of appeal.

553 (f)1. A Charter School Appeal Commission is established to
 554 assist the commissioner and the State Board of Education with a
 555 fair and impartial review of appeals by applicants whose charter
 556 applications have been denied, whose charter contracts have not
 557 been renewed, or whose charter contracts have been terminated by
 558 their sponsors.

559 2. The Charter School Appeal Commission may receive copies

560 of the appeal documents forwarded to the State Board of
 561 Education, review the documents, gather other applicable
 562 information regarding the appeal, and make a written
 563 recommendation to the commissioner. The recommendation must
 564 state whether the appeal should be upheld or denied and include
 565 the reasons for the recommendation being offered. The
 566 commissioner shall forward the recommendation to the State Board
 567 of Education no later than 7 calendar days prior to the date on
 568 which the appeal is to be heard. The state board must consider
 569 the commission's recommendation in making its decision, but is
 570 not bound by the recommendation. The decision of the Charter
 571 School Appeal Commission is not subject to the provisions of the
 572 Administrative Procedure Act, chapter 120.

573 3. The commissioner shall appoint the members of the
 574 Charter School Appeal Commission. Members shall serve without
 575 compensation but may be reimbursed for travel and per diem
 576 expenses in conjunction with their service. One-half of the
 577 members must represent currently operating charter schools, and
 578 one-half of the members must represent sponsors ~~school~~
 579 ~~districts~~. The commissioner or a named designee shall chair the
 580 Charter School Appeal Commission.

581 4. The chair shall convene meetings of the commission and
 582 shall ensure that the written recommendations are completed and
 583 forwarded in a timely manner. In cases where the commission
 584 cannot reach a decision, the chair shall make the written
 585 recommendation with justification, noting that the decision was
 586 rendered by the chair.

587 5. Commission members shall thoroughly review the

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588 materials presented to them from the appellant and the sponsor.
589 The commission may request information to clarify the
590 documentation presented to it. In the course of its review, the
591 commission may facilitate the postponement of an appeal in those
592 cases where additional time and communication may negate the
593 need for a formal appeal and both parties agree, in writing, to
594 postpone the appeal to the State Board of Education. A new date
595 certain for the appeal shall then be set based upon the rules
596 and procedures of the State Board of Education. Commission
597 members shall provide a written recommendation to the state
598 board as to whether the appeal should be upheld or denied. A
599 fact-based justification for the recommendation must be
600 included. The chair must ensure that the written recommendation
601 is submitted to the State Board of Education members no later
602 than 7 calendar days prior to the date on which the appeal is to
603 be heard. Both parties in the case shall also be provided a copy
604 of the recommendation.

605 (7) CHARTER.--The major issues involving the operation of
606 a charter school shall be considered in advance and written into
607 the charter. The charter shall be signed by the governing body
608 of the charter school and the sponsor, following a public
609 hearing to ensure community input.

610 (b)1. A charter may be renewed provided that a program
611 review demonstrates that the criteria in paragraph (a) have been
612 successfully accomplished and that none of the grounds for
613 nonrenewal established by paragraph (8)(a) has been documented.
614 In order to facilitate long-term financing for charter school
615 construction, charter schools operating for a minimum of 2 years

616 and demonstrating exemplary academic programming and fiscal
 617 management shall receive ~~are eligible for~~ a 15-year charter
 618 renewal. Such long-term charter is subject to annual review and
 619 may be terminated during the term of the charter.

620 2. The 15-year charter renewal ~~that may be granted~~
 621 pursuant to subparagraph 1. shall be granted to a charter school
 622 that has received a school grade of "A" or "B" pursuant to s.
 623 1008.34 in 3 of the past 4 years and is not in a state of
 624 financial emergency or deficit position as defined by this
 625 section. Such long-term charter is subject to annual review and
 626 may be terminated during the term of the charter pursuant to
 627 subsection (8).

628 (c) A charter may be modified during its initial term or
 629 any renewal term upon the recommendation of the sponsor or the
 630 charter school governing board and the approval of both parties
 631 to the agreement. The terms of the charter, as agreed upon by
 632 both parties, shall be in effect for the duration of the
 633 contract.

634 (9) CHARTER SCHOOL REQUIREMENTS.--

635 (1) The governing body of the charter school shall report
 636 its progress annually to its sponsor, which shall forward the
 637 report to the Commissioner of Education at the same time as
 638 other annual school accountability reports. The Department of
 639 Education shall develop a uniform, on-line annual accountability
 640 report to be completed by charter schools. This report shall be
 641 easy to utilize and contain demographic information, student
 642 performance data, and financial accountability information. A
 643 charter school shall be allowed to directly correct school data

644 and information in the on-line accountability report. The
 645 sponsor shall review the report before final submission to the
 646 department ~~not be required to provide information and data that~~
 647 ~~is duplicative and already in the possession of the department.~~
 648 The Department of Education shall include in its compilation a
 649 notation if a school failed to file its report by the deadline
 650 established by the department. The report shall include at least
 651 the following components:

- 652 1. Student achievement performance data, including the
 653 information required for the annual school report and the
 654 education accountability system governed by ss. 1008.31 and
 655 1008.345. Charter schools are subject to the same accountability
 656 requirements as other public schools, including reports of
 657 student achievement information that links baseline student data
 658 to the school's performance projections identified in the
 659 charter. The charter school shall identify reasons for any
 660 difference between projected and actual student performance.
- 661 2. Financial status of the charter school which must
 662 include revenues and expenditures at a level of detail that
 663 allows for analysis of the ability to meet financial obligations
 664 and timely repayment of debt.
- 665 3. Documentation of the facilities in current use and any
 666 planned facilities for use by the charter school for instruction
 667 of students, administrative functions, or investment purposes.
- 668 4. Descriptive information about the charter school's
 669 personnel, including salary and benefit levels of charter school
 670 employees, the proportion of instructional personnel who hold
 671 professional or temporary certificates, and the proportion of

672 instructional personnel teaching in-field or out-of-field.

673 (17) FUNDING.--Students enrolled in a charter school,
 674 regardless of the sponsorship, shall be funded as if they are in
 675 a basic program or a special program, the same as students
 676 enrolled in other public schools in the school district. Funding
 677 for a charter lab school shall be as provided in s. 1002.32.

678 (b) The basis for the agreement for funding students
 679 enrolled in a charter school shall be the sum of the school
 680 district's operating funds from the Florida Education Finance
 681 Program as provided in s. 1011.62 and the General Appropriations
 682 Act, including gross state and local funds, discretionary
 683 lottery funds, and funds from the school district's current
 684 operating discretionary millage levy; divided by total funded
 685 weighted full-time equivalent students in the school district;
 686 multiplied by the weighted full-time equivalent students for the
 687 charter school. Charter schools whose students or programs meet
 688 the eligibility criteria in law shall be entitled to their
 689 proportionate share of categorical program funds included in the
 690 total funds available in the Florida Education Finance Program
 691 by the Legislature, including transportation. Total funding for
 692 each charter school shall be recalculated during the year to
 693 reflect the revised calculations under the Florida Education
 694 Finance Program by the state and the actual weighted full-time
 695 equivalent students reported by the charter school during the
 696 full-time equivalent student survey periods designated by the
 697 Commissioner of Education. Florida Education Finance Program
 698 funds for a charter school shall be distributed monthly to the
 699 charter school by the sponsor within 10 days after receipt from

700 the state.

701 (c) If the sponsor ~~district school board~~ is providing
 702 programs or services to students funded by federal funds, any
 703 eligible students enrolled in charter schools in the school
 704 district shall be provided federal funds for the same level of
 705 service provided students in the schools operated by the
 706 district school board. Pursuant to provisions of 20 U.S.C. 8061
 707 s. 10306, all charter schools shall receive all federal funding
 708 for which the school is otherwise eligible, including, but not
 709 limited to, Title I funding, Individuals with Disabilities
 710 Education Act funding, and all other federal funds, not later
 711 than 5 months after the charter school first opens and within 5
 712 months after any subsequent expansion of enrollment.

713 (18) FACILITIES.--

714 (d) As a public school, a charter school is exempt from
 715 all fees and assessments, including, but not limited to, fees
 716 and assessments for building permits except as provided in s.
 717 553.80, building and occupational licenses, fire inspections,
 718 and health inspections and impact fees, service availability
 719 fees, and assessments for special benefits. ~~Charter school~~
 720 ~~facilities are exempt from assessments of fees for building~~
 721 ~~permits, except as provided in s. 553.80, fees for building and~~
 722 ~~occupational licenses, and impact fees or service availability~~
 723 ~~fees.~~

724 (e) If a district school board facility or property is
 725 available because it is surplus, marked for disposal, or
 726 otherwise unused, it shall be provided for a charter school's
 727 use on the same basis as it is made available to other public

728 schools in the district. When a school district closes a public
 729 school, the property and facilities shall first be made
 730 available within 60 days, for lease or purchase, to charter
 731 schools within the district to be used for educational purposes.
 732 A charter school receiving property from the school district may
 733 not sell or dispose of such property without written permission
 734 of the school district. Similarly, for an existing public school
 735 converting to charter status, no rental or leasing fee for the
 736 existing facility or for the property normally inventoried to
 737 the conversion school may be charged by the district school
 738 board to the parents and teachers organizing the charter school.
 739 The charter school shall agree to reasonable maintenance
 740 provisions in order to maintain the facility in a manner similar
 741 to district school board standards. The Public Education Capital
 742 Outlay maintenance funds or any other maintenance funds
 743 generated by the facility operated as a conversion school shall
 744 remain with the conversion school.

745 Section 3. The Legislature finds that a proper and
 746 legitimate state purpose is served when employees and retirees
 747 of the state and its political subdivisions, as well as the
 748 dependents, survivors, and beneficiaries of such employees and
 749 retirees, are extended the basic protections afforded by
 750 governmental retirement systems that provide fair and adequate
 751 benefits and that are managed, administered, and funded in an
 752 actuarially sound manner as required by s. 14, Art. X of the
 753 State Constitution and part VII of chapter 112, Florida
 754 Statutes. Therefore, the Legislature determines and declares
 755 that the amendment of s. 121.091, Florida Statutes, by this act

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756 | fulfills an important state interest.

757 | Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1569

Education

SPONSOR(S): McKeel

TIED BILLS:

IDEN./SIM. BILLS: SB 2878

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on K-12</u>	_____	Kooi <i>MK</i>	Ahearn <i>JA</i>
2) <u>Schools & Learning Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill allows charter school instructional personnel that are in FRS and are ESE prekindergarten instructional personnel to participate in the extended DROP program.

The bill inserts provisions prohibiting unlawful reprisal against charter schools by the school's sponsor, defines what constitutes an unlawful reprisal against a charter school, and provides various remedies for a successful action against the sponsor on such grounds. The bill also clarifies that charter schools are exempt from the school start date requirements.

The bill provides for the duration of the effectiveness of the terms of a charter and allows charter schools to have access to online accountability reports to correct them prior to final submission to the Department of Education.

The bill requires that charter school FEFP funds be distributed on a monthly basis to the charter schools and that such funds must be submitted within 10 days of their receipt by the district.

The bill clarifies that, as a public school, charter schools are exempt from certain building permit fees, fire and health inspection fees, service availability fees and fees for special benefits. It further provides that facilities and property from a closed public school must be made available first to charter schools within 60 days of the closure.

The bill provides legislative findings that the expansion of the extended DROP program to include certain charter school teachers and prekindergarten ESE teachers is a legitimate state purpose.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- State Board rule making authority

The bill increases the State Board of Education's rulemaking authority. It also increases the responsibilities of the Auditor General by requiring monitoring of the compliance of district performance-based pay plans. The Department of Education is also required to assist in such monitoring.

B. EFFECT OF PROPOSED CHANGES:

Background

Background on the Florida Retirement System

Chapter 121, Florida Statutes, is the Florida Retirement System Act and it governs the Florida Retirement System (FRS). The FRS is administered by the secretary of the Department of Management Services through the Division of Retirement.¹

The FRS is the primary retirement plan for employees of state and county government agencies, district school boards, and community colleges and universities.² The FRS also has participating employees of 151 cities and 186 independent special districts who have elected to join the system.³

The FRS offers both an investment plan and a defined benefit plan which provides retirement, disability, and death benefits for nearly 600,000 active members and over 270,000 retirees, surviving beneficiaries, and Deferred Retirement Option Program participants.⁴ Members of the FRS belong to one of five membership classes:

Regular Class ⁵	570,888 members	88.00%
Special Risk Class ⁶	68,466 members	10.59%
Special Risk Administrative Support Class ⁷	80 members	0.01%
Senior Management Service Class ⁸	6,823 members	1.10%
Elected Officers Class ⁹	2,122 members	0.30%

Each class is separately funded through an employer contribution of a percentage of the gross compensation of the member based on the costs attributable to members of that class and as provided in chapter 121, Florida Statutes.¹⁰

To receive benefits under the FRS, a member must reach his or her "normal retirement date."¹¹ The normal retirement date depends on the membership class of the member and is based on a minimum number of years of credible service and age (e.g., six or more years and age 62 for a Regular Class

¹ FLA. STAT. § 121.025 (2005).

² Fla. Dep't of Mgmt. Serv., *Fla. Div. of Ret. Main Page* (visited Jan. 11, 2006) < <http://www.frs.state.fl.us/>>.

³ *Id.*

⁴ *Id.*

⁵ FLA. STAT. § 121.021(12) (2005).

⁶ FLA. STAT. § 121.0515 (2005).

⁷ FLA. STAT. § 121.0515(7) (2005).

⁸ FLA. STAT. § 121.055 (2005).

⁹ FLA. STAT. § 121.052 (2005).

¹⁰ See, e.g., FLA. STAT. 121.055(3)(a)1. (2005).

¹¹ FLA. STAT. § 121.021(29) (2005).

member) or specified amount of credible service regardless of age (e.g., 30 years for a Regular Class member).¹²

Deferred Retirement Option Program

In 1997, the Florida Legislature created another retirement option for members of the Florida Retirement System: the Deferred Retirement Option Program or "DROP."¹³ The DROP allows a member of the Florida Retirement System, who has reached his or her normal retirement date, to defer the receipt of retirement benefits while continuing employment with his or her Florida Retirement System employer.¹⁴ The deferred monthly benefits accrue on behalf of the member, plus interest compounded monthly, for the period of the DROP participation.¹⁵ After completing the DROP period and terminating employment, the member not only receives the total of the DROP benefits, but also the previously determined normal retirement benefits.¹⁶

Changes in DROP for Educational Personnel

There have been several changes to the DROP which benefit educational personnel, certain "instructional personnel" in particular. Instructional personnel are K-12 staff members who provide direct instructional services to students or direct support in the learning process of students.¹⁷ Classroom teachers,¹⁸ student personnel services,¹⁹ librarians/media specialists,²⁰ and other instructional staff²¹ are specifically included as instructional personnel.²²

- Instructional personnel may elect to participate in DROP at any time following the date on which the member reaches his or her normal retirement date;²³
- Instructional personnel who have received authorization by the district superintendent may participate in the DROP up to 96 months,²⁴ more than the 60 months normally allowed;²⁵
- Instructional personnel employed by a developmental research school and authorized by the school's director or principal may participate in the DROP up to 96 months;²⁶
- Instructional personnel employed by the Florida School for the Deaf and the Blind and who have received authorization by the Board of Trustees of the Florida School for the Deaf and the Blind may participate in the DROP up to 96 months.²⁷

¹² *Id.*

¹³ Ch. 97-180, Laws of Fla., § 8.

¹⁴ FLA. STAT. 121.091(13) (2005) (For most members of the Florida Retirement System, the election to participate in DROP must be made within 12 months immediately following the date on which the member first reaches his or her normal retirement date.)

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ FLA. STAT. 1012.01(2) (2005).

¹⁸ FLA. STAT. 1012.01(2)(a) (2005) (staff members who are assigned the professional activity of instructing students in courses in classroom situations, including basic instruction, exceptional student education, career education, and adult education, including substitute teachers).

¹⁹ FLA. STAT. 1012.01(2)(b) (2005) (staff members, including guidance counselors, social workers, career specialists, and school psychologists, who are responsible for: advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments; providing placement services; performing educational evaluations; and similar functions.)

²⁰ FLA. STAT. 1012.01(2)(c) (2005) (staff members who are responsible for providing school library media services).

²¹ FLA. STAT. 1012.01(2)(d) (2005) (other staff members including primary specialists, learning resource specialists, instructional trainers, adjunct educators, and similar positions).

²² *But see* FLA. STAT. 1012.01(2)(e) (2005) (Education paraprofessionals are also included in the definition of instructional personnel, but educational paraprofessionals have not been provided additional participation in the DROP).

²³ Ch. 2001-47, Laws of Fla., § 2; FLA. STAT. § 121.091(13)(a)6. (2005).

²⁴ Ch. 2003-260, Laws of Fla., §2; FLA. STAT. § 121.091(13)(a)2. (2005).

²⁵ FLA. STAT. § 121.091(13)(b)1. (2005).

²⁶ Ch. 2004-355, Laws of Fla., § 3 (2005).

²⁷ *See, e.g.*, FLA. STAT. § 121.091(13)(b)1. (2005).

Under current law, charter school employees are not eligible to participate in extended DROP. This bill allows charter school employees that are in FRS to participate in the DROP beyond 60 months, up to the 96-month maximum participation period.

Charter Schools

The Florida Legislature authorized charter schools in 1996. Since their introduction in 1996, the number of charter schools operating in Florida has grown from 5 to 333.²⁸ In 1996, the 5 schools served 574 students and in 2005-06 the 333 schools currently serve approximately 92,158 students.²⁹ The legislative principles guiding Florida charter schools are to meet high standards of student achievement while increasing parental choice within the public school system, align responsibility with accountability, and provide parents with sufficient information relating to their child's reading level and learning gains.³⁰

As provided in s. 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under current law, district school boards, the Florida Schools of Excellence and its approved cosponsors can sponsor charters. Additionally, four state universities are currently authorized to grant charters and sponsor development research (laboratory) schools created under s. 1002.32, F.S.³¹ Pursuant to s. 1002.335, F.S., districts may apply to the State Board of Education to be the exclusive sponsors of charter schools within their districts.

Application to become a charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of the state.³² Under current law, district school board employees who are involved in an application for a charter school are protected from retribution by the school district by a process that prohibits unlawful reprisals against that employee. Any complaints of such reprisals are made to the Department of Education which must conduct an investigation and issue findings which may be used as evidence in any legal proceedings related to the matter.

Applications for charters are reviewed by the public sponsors referenced above. Approved applications require that the school and the sponsor enter into a charter which is an agreement signed by the governing body of the school and the sponsor that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Charter schools are held accountable to the sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

Pursuant to s. 1002.33(16), F.S., charter schools are exempt from the requirements of the school code (Chapters 1000-1013, F.S.), with the exception of statutes:

1. specifically applicable to charter schools;
2. relating to student assessment and school grading;
3. relating to provision of services to students with disabilities;
4. relating to civil rights and discrimination;
5. relating to student health, safety, and welfare.

²⁸ www.floridaschoolchoice.org

²⁹ *Id.*

³⁰ FLA. STAT. ch. 1002.33(2)

³¹ FLA. STAT., S. 1002.32(2), provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.

³² FLA. STAT. s. 1002.33(3)(a)

Charter schools are funded through the Florida Education Finance Program (FEFP) as provided in s. 1011.62, F.S. The funds are distributed by the Department of Education to the districts who may take up to 5% in administrative costs before forwarding the funding to the charter schools. Charter schools are eligible to receive federal Title I funding and any other federal funds to which they are otherwise eligible.

Charter school facilities must comply with the Florida Building Code or may choose to comply with the State Requirements for Educational Facilities. These facilities must comply with the Florida Fire Prevention Code and are exempt from assessments of fees for building permits, building and occupational licenses, and impact fees or service availability fees. A school district is also required to make any surplus property or facility available to charter schools for use on the same basis as it is available for use by other public schools within the district.

Effects of Proposed Changes

The bill revises section of Ch. 121, F.S. and includes provisions to allow charter school instructional personnel that are in FRS to participate in the extended DROP program. It also attempts to include prekindergarten teachers at public schools for eligibility in DROP as well.³³

The bill also clarifies the purpose of charter schools and it revises provisions relating to unlawful reprisal against public school employees involved in a charter school application to include protection for charter schools against “an action taken by a sponsor or sponsor’s employee that directly or indirectly impacts the operations and funding of the charter school, submission of reports, or the school’s compliance with the charter.” The bill sets forth a new provision for relief provided in a successful legal action against a sponsor for unlawful reprisal against a charter school as follows:

1. immediate cease and desist
2. compensation for lost funding as a result of the reprisal
3. costs and attorney’s fees
4. issuance of an injunction
5. issuance of an order granting immediate transfer of the charter to an alternate sponsor.

The bill specifically provides that charter schools are exempt from the new requirements relating to school start date. There are also numerous conforming changes to clarify that applications may be made for charter schools to the Florida Schools of Excellence Commission and its cosponsors as well as to school districts.

The bill requires that charter schools be allowed to correct data and information in the online accountability report provided that the district be able to review the report prior to submission to the department. It also provides that FEFP funds for a charter school must be forwarded by the district each month within 10 days of the district’s receipt of such funds. Further, the bill clarifies that charter schools must receive their proper federal funding for all federal programs they are otherwise eligible for, including IDEA funding.

The bill provides facilities fee exemptions for charter schools that are available for all public schools, including, fees and assessments for building permits other than those provided in s. 553.80, F.S., building and occupational licenses, fees for fire and health inspections, impact fees, service availability fees, and assessments for special benefits.

The bill clarifies that when a public school is closed down, the district must make the property and facility available for lease or purchase by a charter school for educational purposes within the first 60 days of closure.

³³ FLA. STAT. s. 1012.01 only includes K-12 employees. This section of law would need to be revised to prevent conflict within the provision that is amended by the bill.

The bill sets forth legislative findings that a proper and legitimate state purpose is served by including charter school employees as eligible for participation in DROP.

C. SECTION DIRECTORY:

Section 1. The bill revises section of Ch. 121, F.S. and includes provisions to allow charter school instructional personnel that are in FRS and ESE prekindergarten teachers to participate in the extended DROP program for instructional personnel.

Section 2. The bill amends s. 1002.33, F.S., relating to charter schools; prohibiting unlawful reprisal against a charter school by the sponsor and providing and for relief; provides duties of a sponsor relating to charter school applications; revises provisions relating to charter school renewal term; provides for monthly distribution of funds to charter schools by the school district; clarifies charter school fee exemptions; provides for availability of unused public school property and facilities for charter schools.

Section 3. The bill provides a declaration of important state interest.

Section 4. Provides that it shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Florida Retirement System will receive longer, and likely increased, DROP contributions for certain charter school teachers and for ESE prekindergarten teachers.

2. Expenditures:

This bill may have a fiscal impact on state government expenditures if this bill adversely affects future valuations of the Florida Retirement System.³⁴

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 will require the K-12 district school boards and the Florida School for the Deaf and Blind to fund the DROP contribution rate for any extended period for school administrators.³⁵ This bill also may have two additional fiscal impacts: differentials between the DROP contribution rates and the Florida Retirement System contribution rates and salary differentials between the DROP employees and the employees who could replace the DROP employee.³⁶

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

³⁴ Fla. Dep't of Mgmt. Serv., HB 659 (2006) Substantive Bill Analysis (Feb. 3, 2006) (on file with dep't) at pg. 5.

³⁵ *Id.*

³⁶ *Id.*

D. FISCAL COMMENTS:

The Department of Management Services provided the following fiscal note from the enrolled actuary regarding this bill:

Expansion of the members eligible for extended DROP participation would have a nominal fiscal impact and depend upon how liberally the district school boards permit this to happen. This impact would be determined in future valuations and incorporated into the rates recommended at that time.³⁷

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 to take an action requiring the expenditure of funds. This bill does not appear to reduce the percentage of a state tax shared with counties or municipalities. This bill does not appear to reduce the authority that municipalities have to raise revenue.

2. Other:

Constitutional Requirements for Retirement or Pension System Increases

Article X, section 14 of the Florida Constitution provides that a governmental unit responsible for any retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide any increase in benefits to members or beneficiaries unless concurrent provisions for funding the increase in benefits are made on a sound actuarial basis.³⁸ According to the Department of Management Services, the actuarial impact of extending the DROP is properly funded as long as employers pay the required contribution rate.³⁹ As such, this bill appears to satisfy this constitutional requirement.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The conflict in definitions of "instructional personnel" as raised in footnote 33 should be amended to clarify that prekindergarten ESE teachers and charter school instructional personnel are both added to those eligible for the extended DROP program.

The section in lines 348-356 is overbroad with respect to what constitutes "unlawful reprisal" by the sponsor.

The bill section regarding the relief available to charter school's that are prevailing party in an "unlawful reprisal" action includes provision requiring the offending party to cease and desist while also requiring an injunction. These remedies appear to be repetitive and requiring both is unnecessary.

The language stating that the terms of a charter shall be in effect for the duration of the agreement is unnecessary.

³⁷ *Id.* at pg. 6.

³⁸ Part VII of chapter 112, Florida Statutes, the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of article X, section 14 of the Florida Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. This part is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees which is funded in whole or in part by public funds.

³⁹ Fla. Dep't of Mgmt. Serv., HB 659 (2006) Substantive Bill Analysis (Feb. 3, 2006) (on file with dep't) at pg. 5.

D. STATEMENT OF THE SPONSOR

No statement submitted

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

A bill to be entitled

An act relating to literacy education for blind persons; amending s. 1003.55, F.S.; requiring that instruction in braille be part of the individualized education program for a child who is blind or visually impaired; providing exceptions and conditions to that requirement; providing standards for such instruction and specifying contents of the individualized education program; providing an effective date.

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

Section 1. Subsection (4) of section 1003.55, Florida Statutes, is amended to read:

1003.55 Instructional programs for blind or visually impaired students and deaf or hard-of-hearing students.--

(4) (a) In developing an individualized written education program for each blind student, the presumption shall be that blind students can communicate effectively and efficiently with the same level of proficiency expected of the students' peers of comparable ability and grade level. Accordingly, in developing the individualized education program for a child who is blind or visually impaired, provision must be made for instruction in braille and the use of braille unless the team developing the individualized education program unanimously agrees, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media, including, but not limited to, an evaluation of the child's future needs for

29 instruction in braille or the use of braille, that such
 30 instruction or use is not appropriate for the child proficiency
 31 ~~in reading and writing braille shall be considered during the~~
 32 ~~individualized planning and assessment processes in this~~
 33 ~~context.~~ This section does not require the exclusive use of
 34 braille if other special education services are appropriate to
 35 the child's educational needs. The provision of appropriate
 36 services must not preclude braille use or instruction.

37 (b) Instruction in braille reading and writing must be
 38 sufficient to enable each blind or visually impaired child to
 39 communicate effectively and efficiently with the same level of
 40 proficiency expected of the child's peers of comparable ability
 41 and grade level. The child's individualized education program
 42 must specify:

- 43 1. The results obtained from the evaluations required
 44 under paragraph (a);
- 45 2. How braille will be implemented as the primary mode for
 46 learning through integration with other classroom activities;
- 47 3. The date on which braille instruction will commence;
- 48 4. The length of the period of instruction and the
 49 frequency and duration of each instructional session;
- 50 5. The level of competency in braille reading and writing
 51 to be achieved by the end of the period and the objective
 52 assessment measures to be used; and
- 53 6. If a decision has been made under paragraph (a) that
 54 braille instruction or use is not required for the child:
 - 55 a. That the decision was reached after a review of
 56 pertinent literature describing the educational benefits of

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57 braille instruction and use; and

58 b. The evidence used to determine that the child's ability
59 to read and write effectively without special education services
60 is not impaired.

61 Section 2. This act shall take effect July 1, 2007.