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# **Education Policy Council**

**Wednesday, February 17, 2010  
09:45 AM  
Morris Hall (17 HOB)**

**Larry Cretul  
Speaker**

**Will W. Weatherford  
Chair**



# The Florida House of Representatives

## Education Policy Council

Larry Cretul  
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### Agenda

Wednesday, February 17, 2010

17 HOB (Morris Hall)

9:45 – 11:15 AM

I. Roll Call

II. Consideration of the following bill(s):

CS/HB 105 Civics Education by PreK-12 Policy Committee, McBurney, Hudson,  
Kelly

HB 245 Community Colleges by Bernard

III. Consideration of the following proposed council bill(s):

PCB EPC 10-02 -- Education

PCB EPC 10-03 -- Class Size

IV. Adjourn



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 105                                  Civics Education

**SPONSOR(S):** McBurney and others

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

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	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	13 Y, 0 N, As CS	Duncan	Ahearn
2)	Education Policy Council		White <sup>TW</sup>	Lowell <sup>PL</sup>
3)				
4)				
5)				

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**SUMMARY ANALYSIS**

Current law requires middle school students to successfully complete, among other courses, three middle school or higher courses in social studies in order to be promoted. One semester of the three social studies courses must include the study of state and federal government and civics education.

The Committee Substitute (CS) for House Bill 105 creates the "Justice Sandra Day O'Connor Civics Education Act" and adds the following requirements for civics education:

- For all grade levels beginning with the 2011-2012 school year, the CS requires the reading portion of the language arts curriculum within the Sunshine State Standards to include civics education content.
- For students entering grade 6 beginning with the 2012-2013 school year, the CS requires the successful completion of a one-semester civics education course in order to be promoted from a school composed of grades 6, 7, and 8. The one-semester civics education course is to be designated as one of the three middle school social studies courses currently required for promotion.

The middle school civics education course must address the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, Declaration of Independence, and Constitution of the United States.

During the 2012-2013 school year, a statewide, standardized end-of-course assessment in civics education must be administered as a field test at the middle school level. During the 2013-2014 school year, each student's performance on the end-of-course assessment in civics education must constitute 30 percent of the student's final course grade. Beginning with the 2014-2015 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and receive course credit.

The CS includes the end-of-course assessment in civics education at the middle school level as a factor in designating a school's grade beginning in the 2013-2014 school year.

The CS does not appear to create a fiscal impact on school districts or local governments. However, the CS does have a fiscal impact on the Department of Education. See FISCAL COMMENTS section of this analysis.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### *Middle School Social Studies Requirements*

Current law requires middle school students to successfully complete, among other courses, three middle school or higher courses in social studies in order to be promoted. One semester of the three social studies courses must include the study of state and federal government and civics education.<sup>1</sup>

##### *Sunshine State Standards*

The Sunshine State Standards establish core curricula and benchmarks for student achievement in eight subject areas: language arts,<sup>2</sup> science, mathematics, social studies, visual and performing arts, foreign languages, health, and physical education.<sup>3</sup>

The State Board of Education is reviewing the Sunshine State Standards and replacing them with Next Generation Sunshine State Standards that specify the core content knowledge and skills that K-12 public school students are expected to acquire.<sup>4</sup> In December 2008, the State Board of Education adopted the Next Generation Sunshine Standards for Social Studies.<sup>5</sup> Below are the social studies content areas required at each grade level:

- 6<sup>th</sup> Grade: geography, economics, world history, and civics and government.
- 7<sup>th</sup> Grade: geography, economics, and civics and government.
- 8<sup>th</sup> Grade: American history, geography, economics, and civics and government.<sup>6</sup>

##### *Student Assessment*

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<sup>1</sup> Middle school students are required to successfully complete three middle school or higher courses in English, mathematics, social studies, and science in order to be promoted. Section 1003.4156, F.S.

<sup>2</sup> Language arts standards must establish, at minimum, specific curricular content for the reading process, literary analysis, the writing process, writing applications, communication, and information and media literacy. These standards must also identify significant literary genres and authors that encompass a comprehensive range of historical periods. Section 1003.41(1)(a)1., F.S.

<sup>3</sup> Section 1003.41,(1)(a) and (b), F.S.

<sup>4</sup> Section 1003.41, F.S.

<sup>5</sup> <http://www.floridastandards.org/Standards/FLStandardSearch.aspx>.

<sup>6</sup> *Id.*

The Florida Comprehensive Assessment Test (FCAT) measures student achievement in grades 3 through 11 using benchmarks from the Sunshine State Standards.<sup>7</sup> The FCAT consists of criterion-referenced tests in reading, writing, mathematics, and science.<sup>8</sup> Reading and mathematics are tested annually in grades 3 through 10. Writing and science are tested once at the elementary, middle, and high school levels.<sup>9</sup> Students take the FCAT Science test in grades 5, 8, and 11 and the FCAT Writing test in grades 4, 8, and 10.<sup>10</sup>

End-of-course assessments for subject areas also may be administered in addition to the comprehensive assessments. An end-of-course assessment must be rigorous, statewide, standardized, and developed or approved by the Department of Education (DOE).<sup>11</sup>

Currently, a civics assessment is administered in the state periodically in grades 4, 8, and 12 to randomly selected schools across the state as part of the National Assessment of Educational Progress (NAEP).<sup>12</sup> The NAEP is an assessment administered in grades 4, 8, and 12 and provides a basis for comparing knowledge and skills of Florida students with students in other states, and with the nation as a whole. The two major goals of NAEP are to measure student achievement and to report changes in performance over time. NAEP does not provide scores at the school or individual student levels.<sup>13</sup> The civics framework developed by the National Assessment Governing Board recommends the civics assessment be organized in three main components: civic knowledge, intellectual skills, and civic dispositions. The civic knowledge component is based upon the National Standards for Civics and Government developed by the Center for Civic Education to form the basis of civic understanding. The component is organized into five main questions:

- What are civic life, politics, and government?
- What are the foundations of the American political system?
- How does the government established by the Constitution embody the purpose, values, and principles of American democracy?
- What is the relationship of the United States to other nations and world affairs?
- What are the roles of citizens in American democracy?<sup>14</sup>

### *School Grades*

All public schools, including charter schools, which have at least 30 students with valid FCAT scores in reading and mathematics for the current and prior years are assigned a school grade.<sup>15</sup> Student achievement data from the FCAT are used to establish both proficiency levels and annual progress for individual students, schools, districts, and the state.<sup>16</sup>

Currently, an elementary or middle school's grade is based upon a combination of:

- Student achievement scores, including achievement scores for students seeking a special diploma.

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<sup>7</sup> Section 1008.22(3), F.S.

<sup>8</sup> Section 1008.22(3)(c)2., F.S. A criterion-referenced test (CRT) is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. CRTs show how well students performed on specific goals or standards rather than just telling how their performance compares to a norm group of students nationally or locally. The FCAT is based on the *Sunshine State Standards* and measures student progress toward meeting these standards. Florida Department of Education, *FCAT Handbook: A Resource for Educators*, 5 (2005), available at <http://fcat.fldoe.org/handbk/complete.pdf>.

<sup>9</sup> Section 1008.22(3)(c), F.S.

<sup>10</sup> Rule 6A-1.09422(3)(a), F.A.C.

<sup>11</sup> Section 1008.22(3)(c), F.S.

<sup>12</sup> Department of Education, Analysis of HB 105, October 20, 2009.

<sup>13</sup> <http://www.fldoe.org/asp/naep/flparticipation.asp>, Florida Department of Education, Assessment and School Performance, National Assessment of Educational Progress.

<sup>14</sup> <http://nces.ed.gov/nationsreportcard/civics/whatmeasure.asp>

<sup>15</sup> Section 1008.34(3)(a)1., F.S. and Rule 6A-1.09981(4), F.A.C.

<sup>16</sup> Section 1008.34, F.S.

- Student learning gains as measured by annual FCAT assessments in grades 3 through 10; learning gains for students seeking a special diploma, as measured by an alternate assessment tool, must be included no later than the 2009-2010 school year.
- Improvement of the lowest 25<sup>th</sup> percentile of students in the school in reading, mathematics, or writing on the FCAT, unless these students are exhibiting satisfactory performance.<sup>17</sup>

### **Effect of Proposed Changes**

#### *Sunshine State Standards*

The CS requires the reading portion of the language arts curriculum within the Sunshine State Standards to include civics education content for all grade levels beginning with the 2011-2012 school year.

#### *Middle School Social Studies Requirements*

The CS provides that, beginning with students entering grade 6 in the 2012-2013 school year, promotion from a school composed of grades 6, 7, and 8 requires the successful completion of a one-semester civics education course. The one-semester civics education course is to be designated as one of the three middle school social studies courses currently required for promotion.

The civics education course must include the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, Declaration of Independence, and Constitution of the United States.

#### *End-of-Course Assessment*

The CS provides that during the 2012-2013 school year a statewide, standardized end-of-course assessment in civics education must be administered as a field test<sup>18</sup> at the middle school level. During the 2013-2014 school year, each student's performance on the end-of-course assessment in civics education must constitute 30 percent of the student's final course grade. Beginning with the 2014-2015 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and receive course credit.

#### *School Grades*

The CS includes the end-of-course assessment in civics education at the middle school level as a factor in designating a school's grade beginning in the 2013-2014 school year.

Currently, the school grading criteria for middle schools and elementary schools are the same.<sup>19</sup> The addition of an end-of-course assessment to the school grading process for middle schools will require the State Board of Education, through its existing rulemaking authority, to establish a new point scale for grading middle schools. Combination schools in which middle school grades are taught will also be graded on a separate scale adapted for middle school grading.

<sup>17</sup> Section 1008.34(3)(b)1., F.S.

<sup>18</sup> Field-test questions are newly-developed questions that must be tested at least one year prior to being included in a student's score. If the data on the field-test questions are acceptable, the questions may be used on an actual exam and count toward a student's score. <http://www.fldoe.org/faq/default.asp?Dept=202&ID=656>.

<sup>19</sup> Section 1008.34(3), F.S.

**B. SECTION DIRECTORY:**

**Section 1:** Provides that the act may be cited as the "Justice Sandra Day O'Connor Civics Education Act."

**Section 2:** Amends s. 1003.41, F.S., relating to Sunshine State Standards.

**Section 3:** Amends s. 1003.4156, F.S., relating to the general requirements for middle school promotion.

**Section 4:** Amends s. 1008.22, F.S., relating to the student assessment program for public schools.

**Section 5:** Amends s. 1008.34, F.S., relating to the school grading system; school report cards; and district grade.

**Section 6:** Provides an effective date of July 1, 2010.

**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:**

See FISCAL COMMENTS section.

**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:**

DOE Comment:

To meet the requirements of this bill, the Department would be required to either develop a new civics end-of-course assessment or purchase an existing civics end-of-course assessment. Based on previous experience, statewide end-of-course assessments developed by the Department are more cost efficient.

The costs to develop an end-of-course assessment would be staggered across several years. Generally, the estimated fiscal impact at the state-level for adding one examination, in one grade and subject, administered to all students, is approximately \$1,500,000 each year once fully implemented.

Given the timeline provided in the bill, start-up activities could be phased in at a lower cost during the 2010-2011 and 2011-2012 fiscal years. The cost for computer-based field testing, to occur during the 2012-2013 fiscal year, would depend on the



actual number of students to be tested. The cost for full implementation during the 2013-2014 [fiscal year] would also depend on the actual number of students to be tested. The cost shown in the following chart is based on the approximate cost for the annual ongoing administration of a statewide examination to all students in a single grade and subject. The approximate cost assumes computer-based test administration.<sup>20</sup>

<b>FISCAL YEAR</b>	<b>APPROXIMATE COST</b>	<b>ACTIVITIES<sup>21</sup></b>
<b>2010-2011</b>	<b>\$350,000</b>	Activities would include amending the current contract, convening educators and experts to assist in developing test and item specifications, and other start-up activities.
<b>2011-2012</b>	<b>\$500,000</b>	Activities would include developing test items, preparing field test forms, and developing administration and reporting procedures.
<b>2012-2013</b>	<b>\$500,000 - \$1,000,000</b>	Activities would include field-testing and analyzing the results of the civics end-of-course assessment. Since this would be the first year of the civics requirement, it is assumed that the field-test sample would be much smaller than the number of students to be tested in subsequent years. The actual cost would depend on the number of students to be tested, assuming computer-based administration.
<b>2013-2014</b>	<b>\$1,500,000</b>	Activities would include both development and administration tasks for full implementation. The actual cost would depend on the number of middle school students to be tested, assuming computer-based administration.
<b>Ongoing</b>	<b>\$1,500,000</b>	Projected ongoing cost for annual computer-based administration of middle school civics education assessment and reporting.

Thirty (30) states include civics, citizenship education, or social studies in state assessments<sup>22</sup> and seven of these states use end-of-course assessments<sup>23</sup> to evaluate student performance.

<sup>20</sup> Department of Education, Analysis of HB 105, October 20, 2009.

<sup>21</sup> *Id.*

<sup>22</sup> Alabama, Arkansas, California, Delaware, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, and Wisconsin. See <http://mb2.ecs.org/reports/Report.aspx?id=107>, Education Commission of the States, State Notes – Citizenship Education in Assessment and Accountability Systems, September 2008.

<sup>23</sup> Georgia, Indiana, Maryland, Mississippi, North Carolina, Oklahoma, and Virginia. See <http://mb2.ecs.org/reports/Report.aspx?id=107>, Education Commission of the States, State Notes – Citizenship Education in Assessment and Accountability Systems, September 2008. In spring 2009, Texas began administering an end-of-course assessment in

Considering that statewide assessments, including end-of-course assessments, in civics, citizen education, or social studies are available, some of the costs associated with development of test items, the preparation of field tests, and administrative and reporting procedures may be mitigated.

### 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:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On January 13, 2010, the PreK-12 Policy Committee adopted one amendment to HB 105 and reported the bill favorably as a CS. The CS changes the House Bill by adding a requirement that the reading portion of the language arts curriculum within the Sunshine State Standards include civics education content for all grade levels beginning with the 2011-2012 school year. This analysis is drafted to the CS.

1                                   A bill to be entitled  
 2           An act relating to civics education; providing a short  
 3           title; amending s. 1003.41, F.S., relating to the Next  
 4           Generation Sunshine State Standards; providing a  
 5           requirement that the reading portion of the language arts  
 6           curriculum include civics education content for all grade  
 7           levels; amending s. 1003.4156, F.S.; providing  
 8           requirements for a civics education course that a student  
 9           must successfully complete for middle grades promotion  
 10          beginning with students entering grade 6 in the 2012-2013  
 11          school year; amending s. 1008.22, F.S.; requiring the  
 12          administration of an end-of-course assessment in civics  
 13          education as a field test at the middle school level  
 14          during the 2012-2013 school year; providing requirements  
 15          for course grade and course credit for subsequent school  
 16          years; amending s. 1008.34, F.S.; requiring the inclusion  
 17          of civics education end-of-course assessment data in  
 18          determining school grades beginning with the 2013-2014  
 19          school year; providing an effective date.

20  
 21   Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. This act may be cited as the "Justice Sandra  
 24           Day O'Connor Civics Education Act."

25           Section 2. Paragraph (a) of subsection (1) of section  
 26           1003.41, Florida Statutes, is amended to read:

27           1003.41 Sunshine State Standards.—

28           (1) Public K-12 educational instruction in Florida is

29 based on the "Sunshine State Standards." The State Board of  
 30 Education shall review the Sunshine State Standards and replace  
 31 them with the Next Generation Sunshine State Standards that  
 32 establish the core content of the curricula to be taught in this  
 33 state and that specify the core content knowledge and skills  
 34 that K-12 public school students are expected to acquire. The  
 35 Next Generation Sunshine State Standards must, at a minimum:  
 36 (a) Establish the core curricular content for language  
 37 arts, science, mathematics, and social studies, as follows:  
 38 1. Language arts standards must establish specific  
 39 curricular content for, at a minimum, the reading process,  
 40 literary analysis, the writing process, writing applications,  
 41 communication, and information and media literacy. The standards  
 42 must include distinct grade level expectations for the core  
 43 content knowledge and skills that a student is expected to have  
 44 acquired by each individual grade level from kindergarten  
 45 through grade 8. The language arts standards for grades 9  
 46 through 12 may be organized by grade clusters of more than one  
 47 grade level. The language arts standards must also identify  
 48 significant literary genres and authors that encompass a  
 49 comprehensive range of historical periods. Beginning with the  
 50 2011-2012 school year, the reading portion of the language arts  
 51 curriculum shall include civics education content for all grade  
 52 levels. The State Board of Education shall, in accordance with  
 53 the expedited schedule established under subsection (2), review  
 54 and replace the language arts standards adopted by the state  
 55 board in 2007 with Next Generation Sunshine State Standards that  
 56 comply with this subparagraph.

57           2. Science standards must establish specific curricular  
 58 content for, at a minimum, the nature of science, earth and  
 59 space science, physical science, and life science. The standards  
 60 must include distinct grade level expectations for the core  
 61 content knowledge and skills that a student is expected to have  
 62 acquired by each individual grade level from kindergarten  
 63 through grade 8. The science standards for grades 9 through 12  
 64 may be organized by grade clusters of more than one grade level.

65           3. Mathematics standards must establish specific  
 66 curricular content for, at a minimum, algebra, geometry,  
 67 probability, statistics, calculus, discrete mathematics,  
 68 financial literacy, and trigonometry. The standards must include  
 69 distinct grade level expectations for the core content knowledge  
 70 and skills that a student is expected to have acquired by each  
 71 individual grade level from kindergarten through grade 8. The  
 72 mathematics standards for grades 9 through 12 may be organized  
 73 by grade clusters of more than one grade level.

74           4. Social studies standards must establish specific  
 75 curricular content for, at a minimum, geography, United States  
 76 and world history, government, civics, economics, and  
 77 humanities. The standards must include distinct grade level  
 78 expectations for the core content knowledge and skills that a  
 79 student is expected to have acquired by each individual grade  
 80 level from kindergarten through grade 8. The social studies  
 81 standards for grades 9 through 12 may be organized by grade  
 82 clusters of more than one grade level.

83           Section 3. Paragraph (a) of subsection (1) of section  
 84 1003.4156, Florida Statutes, is amended to read:

85 1003.4156 General requirements for middle grades  
 86 promotion.-

87 (1) Beginning with students entering grade 6 in the 2006-  
 88 2007 school year, promotion from a school composed of middle  
 89 grades 6, 7, and 8 requires that:

90 (a) The student must successfully complete academic  
 91 courses as follows:

92 1. Three middle school or higher courses in English. These  
 93 courses shall emphasize literature, composition, and technical  
 94 text.

95 2. Three middle school or higher courses in mathematics.  
 96 Each middle school must offer at least one high school level  
 97 mathematics course for which students may earn high school  
 98 credit.

99 3. Three middle school or higher courses in social  
 100 studies, one semester of which must include the study of state  
 101 and federal government and civics education. Beginning with  
 102 students entering grade 6 in the 2012-2013 school year, one of  
 103 these courses must be at least a one-semester civics education  
 104 course that a student successfully completes in accordance with  
 105 s. 1008.22(3)(c) and that includes the roles and  
 106 responsibilities of federal, state, and local governments; the  
 107 structures and functions of the legislative, executive, and  
 108 judicial branches of government; and the meaning and  
 109 significance of historic documents, such as the Articles of  
 110 Confederation, the Declaration of Independence, and the  
 111 Constitution of the United States.

112 4. Three middle school or higher courses in science.

113           5. One course in career and education planning to be  
 114 completed in 7th or 8th grade. The course may be taught by any  
 115 member of the instructional staff; must include career  
 116 exploration using CHOICES for the 21st Century or a comparable  
 117 cost-effective program; must include educational planning using  
 118 the online student advising system known as Florida Academic  
 119 Counseling and Tracking for Students at the Internet website  
 120 FACTS.org; and shall result in the completion of a personalized  
 121 academic and career plan.

122  
 123 Each school must hold a parent meeting either in the evening or  
 124 on a weekend to inform parents about the course curriculum and  
 125 activities. Each student shall complete an electronic personal  
 126 education plan that must be signed by the student; the student's  
 127 instructor, guidance counselor, or academic advisor; and the  
 128 student's parent. By January 1, 2007, the Department of  
 129 Education shall develop course frameworks and professional  
 130 development materials for the career exploration and education  
 131 planning course. The course may be implemented as a stand-alone  
 132 course or integrated into another course or courses. The  
 133 Commissioner of Education shall collect longitudinal high school  
 134 course enrollment data by student ethnicity in order to analyze  
 135 course-taking patterns.

136           Section 4. Paragraph (c) of subsection (3) of section  
 137 1008.22, Florida Statutes, is amended to read:

138           1008.22 Student assessment program for public schools.—

139           (3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall  
 140 design and implement a statewide program of educational

141 | assessment that provides information for the improvement of the  
 142 | operation and management of the public schools, including  
 143 | schools operating for the purpose of providing educational  
 144 | services to youth in Department of Juvenile Justice programs.  
 145 | The commissioner may enter into contracts for the continued  
 146 | administration of the assessment, testing, and evaluation  
 147 | programs authorized and funded by the Legislature. Contracts may  
 148 | be initiated in 1 fiscal year and continue into the next and may  
 149 | be paid from the appropriations of either or both fiscal years.  
 150 | The commissioner is authorized to negotiate for the sale or  
 151 | lease of tests, scoring protocols, test scoring services, and  
 152 | related materials developed pursuant to law. Pursuant to the  
 153 | statewide assessment program, the commissioner shall:  
 154 |       (c) Develop and implement a student achievement testing  
 155 | program known as the Florida Comprehensive Assessment Test  
 156 | (FCAT) as part of the statewide assessment program to measure a  
 157 | student's content knowledge and skills in reading, writing,  
 158 | science, and mathematics. Other content areas may be included as  
 159 | directed by the commissioner. Comprehensive assessments of  
 160 | reading and mathematics shall be administered annually in grades  
 161 | 3 through 10. Comprehensive assessments of writing and science  
 162 | shall be administered at least once at the elementary, middle,  
 163 | and high school levels. End-of-course assessments for a subject  
 164 | may be administered in addition to the comprehensive assessments  
 165 | required for that subject under this paragraph. An end-of-course  
 166 | assessment must be rigorous, statewide, standardized, and  
 167 | developed or approved by the department. The content knowledge  
 168 | and skills assessed by comprehensive and end-of-course



169 assessments must be aligned to the core curricular content  
170 established in the Sunshine State Standards. During the 2012-  
171 2013 school year, an end-of-course assessment in civics  
172 education shall be administered as a field test at the middle  
173 school level. During the 2013-2014 school year, each student's  
174 performance on the statewide, standardized end-of-course  
175 assessment in civics education shall constitute 30 percent of  
176 the student's final course grade. Beginning with the 2014-2015  
177 school year, a student must earn a passing score on the end-of-  
178 course assessment in civics education in order to pass the  
179 course and receive course credit. The commissioner may select  
180 one or more nationally developed comprehensive examinations,  
181 which may include, but need not be limited to, examinations for  
182 a College Board Advanced Placement course, International  
183 Baccalaureate course, or Advanced International Certificate of  
184 Education course or industry-approved examinations to earn  
185 national industry certifications as defined in s. 1003.492, for  
186 use as end-of-course assessments under this paragraph, if the  
187 commissioner determines that the content knowledge and skills  
188 assessed by the examinations meet or exceed the grade level  
189 expectations for the core curricular content established for the  
190 course in the Next Generation Sunshine State Standards. The  
191 commissioner may collaborate with the American Diploma Project  
192 in the adoption or development of rigorous end-of-course  
193 assessments that are aligned to the Next Generation Sunshine  
194 State Standards. The testing program must be designed as  
195 follows:

196           1. The tests shall measure student skills and competencies  
 197 adopted by the State Board of Education as specified in  
 198 paragraph (a). The tests must measure and report student  
 199 proficiency levels of all students assessed in reading, writing,  
 200 mathematics, and science. The commissioner shall provide for the  
 201 tests to be developed or obtained, as appropriate, through  
 202 contracts and project agreements with private vendors, public  
 203 vendors, public agencies, postsecondary educational  
 204 institutions, or school districts. The commissioner shall obtain  
 205 input with respect to the design and implementation of the  
 206 testing program from state educators, assistive technology  
 207 experts, and the public.

208           2. The testing program shall be composed of criterion-  
 209 referenced tests that shall, to the extent determined by the  
 210 commissioner, include test items that require the student to  
 211 produce information or perform tasks in such a way that the core  
 212 content knowledge and skills he or she uses can be measured.

213           3. Beginning with the 2008-2009 school year, the  
 214 commissioner shall discontinue administration of the selected-  
 215 response test items on the comprehensive assessments of writing.  
 216 Beginning with the 2012-2013 school year, the comprehensive  
 217 assessments of writing shall be composed of a combination of  
 218 selected-response test items, short-response performance tasks,  
 219 and extended-response performance tasks, which shall measure a  
 220 student's content knowledge of writing, including, but not  
 221 limited to, paragraph and sentence structure, sentence  
 222 construction, grammar and usage, punctuation, capitalization,

223 spelling, parts of speech, verb tense, irregular verbs, subject-  
 224 verb agreement, and noun-pronoun agreement.

225 4. A score shall be designated for each subject area  
 226 tested, below which score a student's performance is deemed  
 227 inadequate. The school districts shall provide appropriate  
 228 remedial instruction to students who score below these levels.

229 5. Except as provided in s. 1003.428(8)(b) or s.  
 230 1003.43(11)(b), students must earn a passing score on the grade  
 231 10 assessment test described in this paragraph or attain  
 232 concordant scores as described in subsection (10) in reading,  
 233 writing, and mathematics to qualify for a standard high school  
 234 diploma. The State Board of Education shall designate a passing  
 235 score for each part of the grade 10 assessment test. In  
 236 establishing passing scores, the state board shall consider any  
 237 possible negative impact of the test on minority students. The  
 238 State Board of Education shall adopt rules which specify the  
 239 passing scores for the grade 10 FCAT. Any such rules, which have  
 240 the effect of raising the required passing scores, shall apply  
 241 only to students taking the grade 10 FCAT for the first time  
 242 after such rules are adopted by the State Board of Education.

243 6. Participation in the testing program is mandatory for  
 244 all students attending public school, including students served  
 245 in Department of Juvenile Justice programs, except as otherwise  
 246 prescribed by the commissioner. If a student does not  
 247 participate in the statewide assessment, the district must  
 248 notify the student's parent and provide the parent with  
 249 information regarding the implications of such nonparticipation.  
 250 A parent must provide signed consent for a student to receive

251 | classroom instructional accommodations that would not be  
 252 | available or permitted on the statewide assessments and must  
 253 | acknowledge in writing that he or she understands the  
 254 | implications of such instructional accommodations. The State  
 255 | Board of Education shall adopt rules, based upon recommendations  
 256 | of the commissioner, for the provision of test accommodations  
 257 | for students in exceptional education programs and for students  
 258 | who have limited English proficiency. Accommodations that negate  
 259 | the validity of a statewide assessment are not allowable in the  
 260 | administration of the FCAT. However, instructional  
 261 | accommodations are allowable in the classroom if included in a  
 262 | student's individual education plan. Students using  
 263 | instructional accommodations in the classroom that are not  
 264 | allowable as accommodations on the FCAT may have the FCAT  
 265 | requirement waived pursuant to the requirements of s.  
 266 | 1003.428(8)(b) or s. 1003.43(11)(b).

267 |         7. A student seeking an adult high school diploma must  
 268 | meet the same testing requirements that a regular high school  
 269 | student must meet.

270 |         8. District school boards must provide instruction to  
 271 | prepare students to demonstrate proficiency in the core  
 272 | curricular content established in the Next Generation Sunshine  
 273 | State Standards adopted under s. 1003.41, including the core  
 274 | content knowledge and skills necessary for successful grade-to-  
 275 | grade progression and high school graduation. If a student is  
 276 | provided with instructional accommodations in the classroom that  
 277 | are not allowable as accommodations in the statewide assessment  
 278 | program, as described in the test manuals, the district must

279 | inform the parent in writing and must provide the parent with  
 280 | information regarding the impact on the student's ability to  
 281 | meet expected proficiency levels in reading, writing, and  
 282 | mathematics. The commissioner shall conduct studies as necessary  
 283 | to verify that the required core curricular content is part of  
 284 | the district instructional programs.

285 |         9. District school boards must provide opportunities for  
 286 | students to demonstrate an acceptable level of performance on an  
 287 | alternative standardized assessment approved by the State Board  
 288 | of Education following enrollment in summer academies.

289 |         10. The Department of Education must develop, or select,  
 290 | and implement a common battery of assessment tools that will be  
 291 | used in all juvenile justice programs in the state. These tools  
 292 | must accurately measure the core curricular content established  
 293 | in the Sunshine State Standards.

294 |         11. For students seeking a special diploma pursuant to s.  
 295 | 1003.438, the Department of Education must develop or select and  
 296 | implement an alternate assessment tool that accurately measures  
 297 | the core curricular content established in the Sunshine State  
 298 | Standards for students with disabilities under s. 1003.438.

299 |         12. The Commissioner of Education shall establish  
 300 | schedules for the administration of statewide assessments and  
 301 | the reporting of student test results. The commissioner shall,  
 302 | by August 1 of each year, notify each school district in writing  
 303 | and publish on the department's Internet website the testing and  
 304 | reporting schedules for, at a minimum, the school year following  
 305 | the upcoming school year. The testing and reporting schedules  
 306 | shall require that:

307 a. There is the latest possible administration of  
 308 statewide assessments and the earliest possible reporting to the  
 309 school districts of student test results which is feasible  
 310 within available technology and specific appropriations;  
 311 however, test results must be made available no later than the  
 312 final day of the regular school year for students.

313 b. Beginning with the 2010-2011 school year, a  
 314 comprehensive statewide assessment of writing is not  
 315 administered earlier than the week of March 1 and a  
 316 comprehensive statewide assessment of any other subject is not  
 317 administered earlier than the week of April 15.

318 c. A statewide standardized end-of-course assessment is  
 319 administered within the last 2 weeks of the course.

320  
 321 The commissioner may, based on collaboration and input from  
 322 school districts, design and implement student testing programs,  
 323 for any grade level and subject area, necessary to effectively  
 324 monitor educational achievement in the state, including the  
 325 measurement of educational achievement of the Sunshine State  
 326 Standards for students with disabilities. Development and  
 327 refinement of assessments shall include universal design  
 328 principles and accessibility standards that will prevent any  
 329 unintended obstacles for students with disabilities while  
 330 ensuring the validity and reliability of the test. These  
 331 principles should be applicable to all technology platforms and  
 332 assistive devices available for the assessments. The field  
 333 testing process and psychometric analyses for the statewide  
 334 assessment program must include an appropriate percentage of

335 students with disabilities and an evaluation or determination of  
 336 the effect of test items on such students.

337 Section 5. Paragraph (c) of subsection (3) of section  
 338 1008.34, Florida Statutes, is amended to read:

339 1008.34 School grading system; school report cards;  
 340 district grade.—

341 (3) DESIGNATION OF SCHOOL GRADES.—

342 (c) Student assessment data used in determining school  
 343 grades shall include:

344 1. The aggregate scores of all eligible students enrolled  
 345 in the school who have been assessed on the FCAT and, beginning  
 346 with the 2013-2014 school year, on the statewide, standardized  
 347 end-of-course assessment in civics education at the middle  
 348 school level.

349 2. The aggregate scores of all eligible students enrolled  
 350 in the school who have been assessed on the FCAT and who have  
 351 scored at or in the lowest 25th percentile of students in the  
 352 school in reading, mathematics, or writing, unless these  
 353 students are exhibiting satisfactory performance.

354 3. Effective with the 2005-2006 school year, the  
 355 achievement scores and learning gains of eligible students  
 356 attending alternative schools that provide dropout prevention  
 357 and academic intervention services pursuant to s. 1003.53. The  
 358 term "eligible students" in this subparagraph does not include  
 359 students attending an alternative school who are subject to  
 360 district school board policies for expulsion for repeated or  
 361 serious offenses, who are in dropout retrieval programs serving  
 362 students who have officially been designated as dropouts, or who

363 are in programs operated or contracted by the Department of  
 364 Juvenile Justice. The student performance data for eligible  
 365 students identified in this subparagraph shall be included in  
 366 the calculation of the home school's grade. As used in this  
 367 section and s. 1008.341, the term "home school" means the school  
 368 to which the student would be assigned if the student were not  
 369 assigned to an alternative school. If an alternative school  
 370 chooses to be graded under this section, student performance  
 371 data for eligible students identified in this subparagraph shall  
 372 not be included in the home school's grade but shall be included  
 373 only in the calculation of the alternative school's grade. A  
 374 school district that fails to assign the FCAT scores of each of  
 375 its students to his or her home school or to the alternative  
 376 school that receives a grade shall forfeit Florida School  
 377 Recognition Program funds for 1 fiscal year. School districts  
 378 must require collaboration between the home school and the  
 379 alternative school in order to promote student success. This  
 380 collaboration must include an annual discussion between the  
 381 principal of the alternative school and the principal of each  
 382 student's home school concerning the most appropriate school  
 383 assignment of the student.

384 4. Beginning with the 2009-2010 school year for schools  
 385 comprised of high school grades 9, 10, 11, and 12, or grades 10,  
 386 11, and 12, the data listed in subparagraphs 1.-3. and the  
 387 following data as the Department of Education determines such  
 388 data are valid and available:

389 a. The high school graduation rate of the school as  
 390 calculated by the Department of Education;



391           b. The participation rate of all eligible students  
 392 enrolled in the school and enrolled in College Board Advanced  
 393 Placement courses; International Baccalaureate courses; dual  
 394 enrollment courses; Advanced International Certificate of  
 395 Education courses; and courses or sequence of courses leading to  
 396 industry certification, as determined by the Agency for  
 397 Workforce Innovation under s. 1003.492(2) in a career and  
 398 professional academy, as described in s. 1003.493;

399           c. The aggregate scores of all eligible students enrolled  
 400 in the school in College Board Advanced Placement courses,  
 401 International Baccalaureate courses, and Advanced International  
 402 Certificate of Education courses;

403           d. Earning of college credit by all eligible students  
 404 enrolled in the school in dual enrollment programs under s.  
 405 1007.271;

406           e. Earning of an industry certification, as determined by  
 407 the Agency for Workforce Innovation under s. 1003.492(2) in a  
 408 career and professional academy, as described in s. 1003.493;

409           f. The aggregate scores of all eligible students enrolled  
 410 in the school in reading, mathematics, and other subjects as  
 411 measured by the SAT, the ACT, and the common placement test for  
 412 postsecondary readiness;

413           g. The high school graduation rate of all eligible at-risk  
 414 students enrolled in the school who scored at Level 2 or lower  
 415 on the grade 8 FCAT Reading and Mathematics examinations;

416           h. The performance of the school's students on statewide  
 417 standardized end-of-course assessments administered under s.  
 418 1008.22; and

419 i. The growth or decline in the data components listed in  
 420 sub-subparagraphs a.-h. from year to year.

421

422 The State Board of Education shall adopt appropriate criteria  
 423 for each school grade. The criteria must also give added weight  
 424 to student achievement in reading. Schools designated with a  
 425 grade of "C," making satisfactory progress, shall be required to  
 426 demonstrate that adequate progress has been made by students in  
 427 the school who are in the lowest 25th percentile in reading,  
 428 mathematics, or writing on the FCAT, unless these students are  
 429 exhibiting satisfactory performance. Beginning with the 2009-  
 430 2010 school year for schools comprised of high school grades 9,  
 431 10, 11, and 12, or grades 10, 11, and 12, the criteria for  
 432 school grades must also give added weight to the graduation rate  
 433 of all eligible at-risk students, as defined in this paragraph.  
 434 Beginning in the 2009-2010 school year, in order for a high  
 435 school to be designated as having a grade of "A," making  
 436 excellent progress, the school must demonstrate that at-risk  
 437 students, as defined in this paragraph, in the school are making  
 438 adequate progress.

439 Section 6. This act shall take effect July 1, 2010.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 245 Community Colleges

**SPONSOR(S):** Bernard and others

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	State Universities & Private Colleges Policy Committee	12 Y, 0 N	Thomas	Tilton
2)	Education Policy Council		White TW	Lowell <sup>A</sup>
3)				
4)				
5)				

**SUMMARY ANALYSIS**

Current law permits an institution in the Florida College System to change its name and use the designation "college" or "state college" if the name change has been approved by the institution's district board of trustees, the institution has been authorized to grant baccalaureate degrees, and the institution has been accredited as a baccalaureate-degree-granting institution by the Commission on Colleges of the Southern Association of Colleges and Schools. A district board of trustees that approves such a name change must seek statutory codification of the name change during the next regular legislative session.

House Bill 245 amends statute to replace references to "Palm Beach Community College" with "Palm Beach State College" and references to "Seminole Community College" with "Seminole State College of Florida." Each college has complied with the statutory requirements for its name change.

The fiscal impact of the bill is indeterminate. (See FISCAL COMMENTS)

The bill takes effect upon becoming a law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

As used in the Florida K-20 Education Code, the term "Florida college" includes the following institutions in the Florida College System: Brevard Community College; Broward College; Central Florida Community College; Chipola College; Daytona State College; Edison State College; Florida State College at Jacksonville; Florida Keys Community College; Gulf Coast Community College; Hillsborough Community College; Indian River State College; Lake City Community College; Lake-Sumter Community College; State College of Florida, Manatee-Sarasota; Miami Dade College; North Florida Community College; Northwest Florida State College; Palm Beach Community College; Pasco-Hernando Community College; Pensacola Junior College; Polk State College; St. Johns River Community College; St. Petersburg College; Santa Fe College; Seminole Community College; South Florida Community College; Tallahassee Community College; and Valencia Community College.<sup>1</sup>

With the approval of its district board of trustees, a Florida college may change the name of the institution as set forth in s. 1000.21(3), F.S., and use the designation "college" or "state college" if it has been authorized to grant baccalaureate degrees and has been accredited as a baccalaureate-degree-granting institution by the Commission on Colleges of the Southern Association of Colleges and Schools.<sup>2</sup>

A district board of trustees that approves a Florida college to use the designation "college" or "state college" must seek statutory codification of the name change during the next regular legislative session.<sup>3</sup>

##### **Palm Beach Community College**

The Palm Beach Community College (PBCC) District Board of Trustees approved the request to submit a proposal to offer the Bachelor of Applied Science degree in Supervision and Management with specializations in Health Administration, Public Safety Administration, and Business Administration in June 2007. The State Board of Education approved PBCC's proposal on February 19, 2008.<sup>4</sup> The Southern Association of Colleges and Schools (SACS) approved PBCC to offer baccalaureate degrees

<sup>1</sup> Section 1000.21(3), F.S.

<sup>2</sup> Section 1001.60(2)(b)1., F.S.

<sup>3</sup> Section 1001.60(2)(c), F.S.

<sup>4</sup> Department of Education Analysis of HB 245 (November 19, 2009).

on December 9, 2008.<sup>5</sup> The PBCC's District Board of Trustees approved the college's name change to Palm Beach State College on September 8, 2009, to become effective January 2010.<sup>6</sup>

Seminole Community College

The Seminole Community College (SCC) District Board of Trustees approved the request to submit a proposal to offer the Bachelor of Applied Science degree in Interior Design on May 13, 2008. The State Board of Education approved SCC's proposal on January 21, 2009.<sup>7</sup> The SACS approved the college to offer baccalaureate degrees on June 25, 2009.<sup>8</sup> The SCC District Board of Trustees approved the college's name change to Seminole State College of Florida on September 21, 2009.<sup>9</sup>

**Effect of Proposed Changes**

The bill amends s. 1000.21, F.S., to replace reference to "Palm Beach Community College" with "Palm Beach State College" and reference to "Seminole Community College" with "Seminole State College of Florida." Each college has complied with the statutory requirements for the name change. The bill makes conforming changes in s. 288.8175, F.S.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 1000.21, F.S., renaming specified community colleges.

Section 2. Amends s. 288.8175, F.S., conforming provisions.

Section 3. Provides that the bill takes effect upon becoming law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

According to the Department of Education, costs associated with institutional name changes include signage, publications, documentation, and other related items. Due to the variation among institutions,

<sup>5</sup> E-mail correspondence with the Governmental Relations Office of Seminole State College dated January 11, 2010.

<sup>6</sup> Department of Education Analysis of HB 245 (November 19, 2009).

<sup>7</sup> *Id.*

<sup>8</sup> E-mail correspondence with the Governmental Relations Office of Seminole State College dated January 11, 2010.

<sup>9</sup> Department of Education Analysis of HB 245 (November 19, 2009).

the cost associated with name changes for Palm Beach Community College and Seminole Community College is indeterminate at this time.<sup>10</sup>

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The joint resolution 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:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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<sup>10</sup> Department of Education Analysis of HB 245 (November 19, 2009).

1                                   A bill to be entitled  
 2           An act relating to community colleges; amending s.  
 3           1000.21, F.S.; renaming specified community colleges;  
 4           amending s. 288.8175, F.S.; conforming provisions;  
 5           providing an effective date.

6  
 7   Be It Enacted by the Legislature of the State of Florida:

8  
 9           Section 1. Paragraphs (r) and (y) of subsection (3) of  
 10          section 1000.21, Florida Statutes, are amended to read:

11           1000.21 Systemwide definitions.--As used in the Florida K-  
 12          20 Education Code:

13           (3) "Florida college" or "community college," except as  
 14          otherwise specifically provided, includes all of the following  
 15          public postsecondary educational institutions in the Florida  
 16          College System and any branch campuses, centers, or other  
 17          affiliates of the institution:

18           (r) Palm Beach State ~~Community~~ College, which serves Palm  
 19          Beach County.

20           (y) Seminole State ~~Community~~ College of Florida, which  
 21          serves Seminole County.

22           Section 2. Paragraph (d) of subsection (5) of section  
 23          288.8175, Florida Statutes, is amended to read:

24           288.8175 Linkage institutes between postsecondary  
 25          institutions in this state and foreign countries.--

26           (5) The institutes are:

27           (d) Florida-Canada Institute (University of Central  
 28          Florida and Palm Beach State ~~Community~~ College).



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29 |       Section 3.   This act shall take effect upon becoming a law. |



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB EPC 10-02 Education

**SPONSOR(S):** Education Policy Council

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Education Policy Council		White <i>TW</i>	Lowell <i>R</i>
1)				
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The bill amends law governing a variety of education-related topics for purposes of:

- Conforming statutes that address vocational rehabilitation programs to changes in controlling federal law and repealing provisions of law related to those programs that are duplicative or obsolete.
- Repealing statutory references to the SMART Schools Clearinghouse. The entity is no longer funded and its duties have been assumed by the Office of Educational Facilities within the Department of Education.
- Directing Statutory Revision to produce a reviser's bill for the 2011 Regular Session that will ensure the uniform use of terminology related to the Florida College System throughout the Florida K-20 Education Code.
- Repealing sections of law that: have been held unconstitutional; establish programs that have been superseded by more recent legislation; are duplicative of federal law requirements; or have not been funded or implemented.

The bill takes effect on July 1, 2010.

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

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The bill amends law governing a variety of education-related topics for purposes of: (a) conforming statutes that address vocational rehabilitation programs to changes in controlling federal law and repealing sections of those statutes that are duplicative or obsolete; (b) repealing statutory references to the SMART Schools Clearinghouse, which is no longer funded or operational; (c) directing Statutory Revision to produce a reviser's bill for the 2011 Regular Session that will ensure the uniform use of terminology related to the Florida College System throughout the Florida K-20 Education Code; and (d) repealing sections of law that: have been held unconstitutional; establish programs that have been superseded by more recent legislation; are duplicative of federal law requirements; or have not been funded or implemented.

The present situation and effect of the bill's proposed changes for each topic are discussed below.

#### **Vocational Rehabilitation**

Vocational rehabilitation (VR) consists of various programs designed to foster the independence and employability of eligible individuals with disabilities. VR services are authorized and funded under Title I of the Federal Rehabilitation Act of 1973.<sup>1</sup> Agency oversight for such programs is provided by the Department of Education's (DOE's) Division of Vocational Rehabilitation (DVR).<sup>2</sup> Federal law establishes minimum eligibility requirements for state VR programs. States that receive federal VR funding may only serve individuals with disabilities who meet the federal eligibility classification.<sup>3</sup>

Current Florida law contains numerous inconsistencies with federal law governing VR services. Most of the inconsistencies relate back to the 1998 congressional amendments to the Rehabilitation Act.<sup>4</sup> These amendments made changes to VR terminology and program requirements. Florida law has not since been amended to conform with the federal changes.

**Terminology:** Current federal law uses the term: (a) "Individualized Plan for Employment," while state law uses the term, "Individualized Written Rehabilitation Program;"<sup>5</sup> (b) "significant" disabilities, while

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<sup>1</sup> 29 U.S.C. § 701 et seq.

<sup>2</sup> Part II, ch. 413, F.S.

<sup>3</sup> 34 C.F.R. § 361.42(a).

<sup>4</sup> The Workforce Investment Act of 1998, Pub. L. No. 105-220, 112 Stat. 936.

<sup>5</sup> An Individualized Plan for Employment is a written plan that prescribes the VR services to be provided to, and employment outcome to be achieved by, the individual. 34 C.F.R. § 361.45; § 413.30(5), F.S.

state law refers to “severe” disabilities;<sup>6</sup> and (c) “eligible individual,” while state law sometimes refers to such individuals who are receiving VR services as “clients.”<sup>7</sup>

Further, both Florida and federal law substantively define the term “personal assistance services” to mean a range of services designed to assist a person with a disability to perform daily living activities on or off the job that the person would typically perform if the person did not have a disability.<sup>8</sup> The federal regulation adds, however, that, “The services must be necessary to the achievement of an employment outcome and may be provided only while the individual is receiving other vocational rehabilitation services. The services may include training in managing, supervising, and directing personal assistance services.”<sup>9</sup> This latter provision is not contained in the state’s definition.

Finally, s. 413.395, F.S., creates the “Florida Independent Living Council.” This term is not used consistently in several sections of law governing VR.<sup>10</sup>

*Effect of Bill: The bills amends:*

- Sections 413.20(27), 413.30(5) and (6), F.S., to replace the term “Individualized Written Rehabilitation Program” with the term “Individualized Plan for Employment.”
- Sections 413.20(12), (26), and (27), 413.30(2) and (8), 413.371, 413.393(1)(c), and 413.40, F.S., to replace the term “severe” disability with the term “significant” disability.
- Sections 413.30(7) and 413.341, F.S., to replace the term “client” with the term “eligible individual.”
- Section 413.20(18), F.S., which defines “personal assistance services,” to add the omitted provision contained in the federal definition.
- Sections 413.393(1), 413.405(1)(a) and (9)(f) and (g), and 413.407(1)(a), F.S., to consistently use the term “Florida Independent Living Council.”

Trial Work Experiences: Under Florida and federal law, individuals with disabilities are presumed eligible for VR services.<sup>11</sup> A state must initially assess an individual for service eligibility. If a state cannot determine that VR services will or will not benefit an individual after the initial assessment, federal law requires states to follow certain procedures before determining that the individual is ineligible for VR services.<sup>12</sup> Prior to the 1998 amendments to federal law, states were required to conduct an “extended evaluation” in these circumstances. The 1998 amendments established a new, alternate procedure referred to as, “trial work experiences.”<sup>13</sup>

Trial work experiences provided by the state must be of sufficient variety and duration to accurately assess service eligibility. Individuals may be placed in supported employment, on-the-job training, and other appropriate work experiences. A state must find clear and convincing evidence that VR services will not benefit the individual before denying them services.<sup>14</sup> The extended evaluation process may still be used if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before the state is able to make an eligibility determination.<sup>15</sup>

Florida law still reflects the “extended evaluation process” as the sole method for determining eligibility for services after the initial assessment. The DVR must conduct the evaluation for up to 18 months.<sup>16</sup>

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<sup>6</sup> 34 CFR 361.5(30) & (31); s. 413.20, F.S.

<sup>7</sup> 34 CFR 361.38; ss. 413.30 and 341, F.S.

<sup>8</sup> 34 C.F.R. § 361.5(b)(39); § 413.20(18), F.S.

<sup>9</sup> 34 C.F.R. § 361.5(b)(39).

<sup>10</sup> Sections 413.393, 413.405, and 413.407, F.S.

<sup>11</sup> 34 C.F.R. § 361.42(a)(2); § 413.30(4), F.S.

<sup>12</sup> 34 C.F.R. § 361.42(e) & (f).

<sup>13</sup> *Id.*

<sup>14</sup> 34 C.F.R. § 361.42(e); § 413.30(3), F.S.

<sup>15</sup> 34 C.F.R. § 361.42(f).

<sup>16</sup> Section 413.30(3), F.S.

*Effect of Change: The bill conforms s. 413.30(3), F.S., to federal law by amending the subsection to require the DVR to use trial work experiences before denying eligibility for VR services. Trial work experiences may include supported employment, on-the-job training, or other work experiences. The bill also authorizes the DVR to conduct an extended evaluation, under the following limited circumstances, before denying eligibility for VR services: (a) when the individual cannot take advantage of trial work experiences; or (b) when options for trial work experiences have been exhausted.*

**Required Referrals:** Federal law sets forth procedures that a state must follow when it determines that an individual is ineligible for VR services. Depending on the reason for denying service eligibility, a state must refer such individuals to: (a) programs that are part of the one-stop delivery system under the Workforce Investment Act,<sup>17</sup> which are for individuals who are determined to have less severe impediments to employment than those served by VR programs; or (b) local extended employment programs that serve individuals who are determined to be too severely disabled to benefit from VR services.<sup>18</sup> Florida law does not reflect this federally-required exit referral procedure.<sup>19</sup>

*Effect of Change: The bill amends s. 413.30(6), F.S., to require the DVR to refer individuals who have been determined ineligible for VR services to services that are part of the one-stop delivery system under s. 445.009, F.S., or local extended employment providers. The bill's provisions are identical to the federal requirement.*

**Client Records:** Under Florida and federal law, all public records related to VR clients or applicants are privileged, confidential, and exempt from public records disclosure requirements, except in specified situations. State law authorizes the disclosure of records that *do not identify* clients or applicants for research purposes and requires the director of DVR to approve such disclosure.<sup>20</sup> In contrast, federal law authorizes release of records that *contain personal information* for audit, program evaluation, and research purposes. States must require the recipient of the information to assure that the information will be used only for authorized purposes and will not reveal personally identifying information in a final product or report without informed written consent of the participant. It does not require that the state VR agency director approve such disclosure.<sup>21</sup>

*Effect of Change: The bill amends s. 413.341(1)(b), F.S., to authorize the disclosure of records that contain personally identifying information in the same manner as federal law, i.e., the bill authorizes such disclosure for the purposes of audit, program evaluation, and research. Further, the bill specifies that all personally identifying information released under the paragraph remains privileged, confidential, and exempt and may not be released to third parties.*

**Independent Living Program:** Section 413.371, F.S., requires the DVR to establish and maintain an Independent Living Program that will provide appropriate services to enhance the ability of persons who have severe disabilities to live independently. It also authorizes the DVR to contract with centers for independent living to provide independent living services.<sup>22</sup> Section 413.39, F.S., authorizes the DVR to administer the program to individuals with severe disabilities.

Section 413.40, F.S., provides that DVR, in carrying out the Independent Living Program, is authorized to engage in activities that include: (a) employing necessary personnel and consultants; (b) contracting with any entity, public or private, to provide independent living services; (c) providing diagnostic, medical, and psychological and other evaluation services; (d) providing training necessary for rehabilitation; (e) providing persons with financial need rehabilitation services such as personal care attendants and transportation; and (f) providing specified rehabilitation facilities. According to DVR representatives, the DVR only exercises its authority to employ necessary personnel and consultants and contract with public and private entities. The DVR is not a direct provider; rather, the DVR contracts

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<sup>17</sup> Section 445.009, F.S.

<sup>18</sup> 34 U.S.C. § 361.43(d).

<sup>19</sup> Section 413.30(6), F.S.

<sup>20</sup> Section 413.341(1)(b), F.S.

<sup>21</sup> 34 C.F.R. § 361.38(d).

<sup>22</sup> Centers for independent living are designated in the State Plan for Independent Living under s. 413.393, F.S.

with the centers for independent living centers for the provision of the services and facilities listed in (c) through (f).<sup>23</sup>

*Effect of Bill: The bill repeals s. 413.39, F.S., which authorizes the DVR to administer the Independent Living Program because it is substantively duplicative of s. 413.371, F.S. The bill amends s. 413.371, F.S., as discussed above, to replace the term, "severe" with the term "significant" and it deletes the text authorizing the DVR to contract with the centers for independent living. This deleted provision is moved to s. 413.40, F.S., which addresses the DVR's powers regarding employment and contracting for the program. The bill also amends that section to delete the DVR's authority to directly provide specified services and facilities for the Independent Living Program, but retains existing law that authorizes the DVR to employ consultants or personnel or contract for those services and facilities.*

**Florida Rehabilitation Council:** Section 413.405, F.S., establishes the Florida Rehabilitation Council. The council must be comprised of at least 15, but no more than 25 members. This section specifies the required membership on the council, provides that no member may serve more than two full terms, and specifies the council's duties. Currently, this section contains several outdated references to federal law and conflicts with governing federal law that addresses the requirements for each state's rehabilitation council.<sup>24</sup>

*Effect of Bill: The bill amends s. 413.405, F.S., establishing the Florida Rehabilitation Council, in order to correct outdated cross-references and conform its requirements to governing federal law. Specifically, the bill amends provisions relating to council membership to require, as in federal law, that: (a) at least one member be the director of the client assistance program; (b) one or more members be representatives of individuals with disabilities who have difficulty representing themselves due to their disabilities; and (c) at least one member be the director of a VR Services Project for American Indians with Disabilities, if this state participates in one or more such projects. The bill also specifies, in conformity with federal law, that: (a) DOE employees may only serve as nonvoting members; (b) only the representatives of the client assistance program and VR Services Project for American Indians with Disabilities may serve more than two full terms; and (c) an additional duty of the council is to review and analyze consumer satisfaction with employment outcomes of individuals receiving VR services.*

**State Vocational Rehabilitation Plan:** Legislation enacted in 2002 required the DVR to develop a five-year state plan to address improvements to, and privatization of, VR services. According to the DVR, issues arising from efforts to privatize its services caused it to be placed on "high-risk" status by the United States DOE and this one-time plan was required to resolve these issues. The plan was submitted to the Governor and presiding officers of the Legislature in 2002, and the DVR was removed from "high risk" status in October of 2003.<sup>25, 26</sup>

*Effect of Bill: The bill repeals s. 413.206, F.S., which required the DVR to submit a one-time, five-year plan in November 2002. Having fulfilled these requirements, this statute serves no purpose.*

**Limiting Disabilities Program:** In 1990, the Legislature established the Limiting Disabilities Program.<sup>27</sup> The purpose of the program is to provide rehabilitation services to persons who are not required to be served under federal law, but who have a limiting disability.<sup>28</sup> The program was to be state-funded as federal VR funding may only be used to serve individuals meet federal eligibility requirements for VR services. The program, however, was never funded by the Legislature nor implemented by the DVR.<sup>29</sup>

*Effect of Change: The bill repeals ss. 413.70, 413.72, and 413.73, F.S., relating to the Limiting Disabilities Program, as such program was never funded or implemented. The bill also amends s.*

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<sup>23</sup> Florida Department of Education, Division of Vocational Rehabilitation, Legislative Bill Analysis (2010).

<sup>24</sup> 29 U.S.C. s. 725 and 34 C.F.R. 361.16.

<sup>25</sup> Section 413.206, F.S.

<sup>26</sup> Email from the Florida Department of Education, Division of Vocational Rehabilitation staff re: VR Technical Bill (Mar. 19, 2009).

<sup>27</sup> Section 413.70, F.S.

<sup>28</sup> Sections 413.70 through 413.73, F.S.

<sup>29</sup> Florida Department of Education, Legislative Bill Analysis for SB 2274 (2009).

413.20, F.S., to delete the definitions of “limiting disability,” “program,” “rehabilitation,” “rehabilitation service,” and “transitional living facility” because these definitions relate only to the repealed program and, as such, are no longer necessary.

### **SMART Schools Clearinghouse**

In 1997, legislation, now codified as s. 1013.05, F.S., was enacted to establish the “SMART<sup>30</sup> Schools Clearinghouse” (SSC) in the Office of Educational Facilities (OEF) within the DOE.<sup>31</sup> This section of law requires the SSC to assist school districts in accessing: (a) School Infrastructure Thrift (SIT) Program awards that have been granted to districts for the new construction of educational facilities; and (b) effort index grants that have been awarded to districts for the construction, renovation, or maintenance of educational facilities or to pay debt service on specified capital outlay bonds.<sup>32</sup> The section further provides that OEF shall prioritize school district SIT Program awards based on a review of the district facilities work programs and proposed construction projects.<sup>33</sup>

Multiple other sections of law provide that the SSC and OEF are jointly responsible for: (a) reviewing interlocal agreements between counties or municipalities and school districts; (b) reviewing and monitoring district educational facilities work plans; (c) validating educational plant surveys and Florida Inventory of School Houses data; (d) assisting schools in building SMART schools; and (e) reviewing and making recommendations regarding SIT award requests.<sup>34</sup>

The SSC is no longer funded and, since 2005, its functions have been assumed by the OEF.<sup>35</sup>

*Effect of Bill: The bill amends statute to delete obsolete references to the SSC and clarify that the SSC’s duties have been assumed by the OEF. Specifically, the bill repeals s. 1013.05, F.S., which establishes the SSC and amends ss. 163.31777, 1001.20, 1013.04, 1013.21, 1013.33, 1013.35, 1013.41, 1013.42, 1013.72, and 1013.73, F.S., to delete references to the SSC in sections specifying the joint responsibilities of the OEF and SSC. The bill also: (a) transfers the statutory language specifying the manner in which the OEF is to prioritize SIT program awards from the now repealed s. 1013.05, F.S., to s. 1013.42, F.S., which governs the SIT Program Act; and (b) amends s. 1013.72 (2), F.S., to update the cost per student station information with the most recent data.<sup>36</sup>*

### **Florida College System**

In 2008, the Legislature established the Florida College System (FCS) for purposes of maximizing open access, responding to community needs for postsecondary education, and providing associate and baccalaureate degrees that meet the state’s employment needs. The FCS is comprised of Florida’s 28 public colleges that grant two-year and four-year academic degrees.<sup>37</sup> The 2008 legislation also, in relevant part, created the FCS Task Force, codified at s. 1004.87, F.S., to make recommendations relating to the transition of a community college to a baccalaureate degree granting institution.<sup>38</sup> The Task Force issued its report and recommendations in December 2008, and is scheduled to be dissolved on June 30, 2010.<sup>39</sup>

Prior to 2009, Florida’s 28 public colleges were referred to in statute as “junior colleges” and “community colleges.”<sup>40</sup> To conform with the creation of the FCS in 2008, legislation was adopted in 2009, that, among other things, renamed the “Division of Community Colleges” within the DOE as the

<sup>30</sup> SMART stands for “Soundly Made, Accountable, Reasonable, and Thrifty.”

<sup>31</sup> See Ch. 97-384, s. 10, L.O.F. (formerly s. 235.217, F.S., now codified as s. 1013.05, F.S.).

<sup>32</sup> SIT awards have not been funded since 2004 and effort index grants have not been funded since 1997.

<sup>33</sup> Section 1013.05(2), F.S.

<sup>34</sup> Sections 163.31777, 1001.20, 1013.04, 1013.21, 1013.33, 1013.35, 1013.41, and 1013.42, F.S.

<sup>35</sup> Information provided during telephone conference with Department of Education representatives.

<sup>36</sup> Florida Legislature, Office of Economic and Demographic Research, *Student Station Cost Factors*,

<http://edr.state.fl.us/conferences/peco/station.htm> (last visited February 10, 2010).

<sup>37</sup> See Section 2, ch. 2008-52, L.O.F.; Section 1001.60, F.S.

<sup>38</sup> Section 1004.87(3), F.S.

<sup>39</sup> Section 1004.87(8), F.S.; The Florida College System Task Force, *The Florida College System: Assuring Postsecondary Access That Supports Florida’s Future* (December 2008) available at <http://www.fldoe.org/CC/pdf/CollegeSystemFinalReport.pdf>.

<sup>40</sup> Section 1004.66, F.S., provides that the terms “community college” and “junior college” are interchangeable.



"Division of Florida Colleges" and provided that the term "Florida colleges," along with the existing terms "community colleges" and "junior colleges," refer to Florida's 28 public colleges when used in the Florida's K-20 Education Code.<sup>41</sup> As a result, statute currently uses three terms to refer to the 28 public colleges in the FCS.

*Effect of Bill: The bill repeals s. 1004.87, F.S., which establishes the FCS Task Force, as the Task Force's purposes have been completed. The bill also creates an undesignated section of law that recognizes the need to conform the Florida K-20 Education Code to changes in terminology relating to community colleges made by legislation adopted in 2008 and 2009. To address this need and ensure use of a term that clearly identifies Florida's 28 public colleges, the bill directs the Division of Statutory Revision within the Office of Legislative Services to prepare a reviser's bill that will replace the terms, "community college," "junior college," and "Florida college" with the term "Florida College System institution" throughout the Education Code.*

### **Florida Schools of Excellence Commission**

Section 1002.335, F.S., establishes the Florida Schools of Excellence (FSE) Commission as an independent, state-level charter school authorizing entity. The commission has the power to: authorize and act as a sponsor of charter schools; authorize municipalities, state universities, community colleges, and regional educational consortia to act as cosponsors of charter schools; approve or deny FSE charter school applications and renew or terminate charters of FSE charter schools; and conduct facility and curriculum reviews of charter schools approved by the commission or one of its cosponsors.

Section 1002.335, F.S., was held facially unconstitutional by the First District Court of Appeals in 2008. The Court held that the law was in direct conflict with Art. IX, s. 4 of the Florida Constitution, which empowers local school boards with the authority to "operate, control and supervise all free public schools within the school district."<sup>42</sup>

*Effect of Bill: The bill repeals s. 1002.335, F.S., establishing the FSE Commission, as this section of law has been held unconstitutional. The bill amends s. 1002.33, F.S., to make conforming changes for the repeal.*

### **Secondary School Improvement Award Program**

Section 1003.413(5), F.S., which was enacted in 2006, directs the Commissioner of Education to create and implement the Secondary School Improvement Award Program to reward public secondary schools that demonstrate continuous student academic improvement and show the greatest gains in student academic achievement in reading and mathematics. Representatives of the DOE have indicated that the program was never implemented due to a lack of funding.

*Effect of Bill: The bill repeals s. 1003.413(5), F.S., establishing the Secondary School Improvement Award Program, as the program was never funded or implemented.*

### **Academic Performance-Based Charter School Districts**

Section 1003.62, F.S., authorizes academic performance-based charter school districts, which are school districts that have entered into certain performance contracts with the State Board of Education (SBE). The contracts exempt the districts from rules and statutes specified by the SBE in exchange for the districts' agreement to comply with stated performance goals.<sup>43</sup> Such performance contracts were first authorized by legislation establishing the Charter School District Pilot Program in 1999. Under this authority, the SBE initially selected four school districts to participate in the program.<sup>44</sup>

The program's pilot status was removed in 2003 and the SBE was authorized, in its discretion, to designate any district in the state as an "academic performance-based charter school district" if at least 50 percent of the district's schools received an "A" or "B" grade and other eligibility standards were

<sup>41</sup> See ch. 2009-228, L.O.F.; ss. 20.15(3) and 1001.21(3), F.S.

<sup>42</sup> *Duval County School Board v. State Board of Education*, 998 So. 2d 641 (Fla. 1<sup>st</sup> DCA 2008).

<sup>43</sup> Section 1003.62, F.S.

<sup>44</sup> Staff of Senate Comm. on Education Pre-K - 12, Bill Analysis for CS/SB 2092 (2007).

satisfied.<sup>45</sup> The 2003 legislation and subsequent legislation in 2007 created a “grandfather clause” to continue the authority for the four pilot program charter districts until July 1, 2010.<sup>46</sup> After that date, the four districts must conform to the standards required for other districts.<sup>47</sup>

As of July 2009, the SBE has not designated any district as an academic performance-based charter school district under the standards of the 2003 statewide program.<sup>48</sup>

In 2007, the Legislature created s. 1003.621, F.S., to authorize academically high-performing school districts.<sup>49</sup> Like s. 1003.62, F.S., this section authorizes districts meeting specified eligibility standards to be exempt from certain statutes. Unlike s. 1003.62, F.S., this section: (a) specifies higher eligibility standards for designation as an academically high-performing school district, e.g., the district’s school grade average weighted by school enrollment must be an “A” for two consecutive years; (b) requires, rather than permits, the SBE to designate a district meeting the specified eligibility standards as an academically high-performing school district; and (c) specifies the statutes from which an academically high-performing school district is exempt, rather than leaving the determination of those exemptions to the discretion of the SBE.<sup>50</sup>

Twenty-one school districts have been designated as academically high-performing school districts for the 2009-2010 school year.<sup>51</sup>

*Effect of Bill: The bill repeals s. 1003.62, F.S., which authorizes academic performance-based charter school districts. This section will be rendered obsolete as of July 1, 2010, because: (a) the authority for the four existing pilot districts expires on July 1, 2010; (b) the statute is no longer being implemented, i.e., no district has been designated by the SBE as an academic performance-based charter school district since the authorization of such districts in 2003; and (c) the section has effectively been superseded by s. 1003.621, F.S., which was more recently enacted in 2007 and which also provides statutory flexibility to high-performing districts. The bill also amends ss. 1011.69 and 1013.64, F.S., to make conforming changes for the repeal.*

#### **Deregulated Public Schools Pilot Program**

Section 1003.63, F.S., which was originally enacted in 1998, authorized a deregulated public schools pilot program. The program provides that schools earning an “A” or improving at least two letter grades are eligible to have the same flexibility and accountability afforded charter schools; i.e., deregulated public schools may be exempted from all statutes of the K-20 Florida Education Code except those pertaining to civil rights; public records and meetings; student health, safety, and welfare; and certain budgetary and financial matters. To become a deregulated public school, the district school board must approve a proposal that is developed by the school principal and the school advisory council, that is supported by at least 50 percent of the teachers at the school, and that has demonstrated parental support.<sup>52</sup>

The following school districts were authorized to conduct pilot programs: Palm Beach, Pinellas, Seminole, Lee, Leon, Walton, and Citrus. The pilot program ended after the 2003-2004 school year and was not reauthorized by the Legislature.

*Effect of Bill: The bill repeals s. 1003.63, F.S., because the Legislature has not reauthorized the pilot program, which ended after the 2003-2004 school year. Due to the repeal of the program, the bill also*

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<sup>45</sup> Section 24, ch. 2003-391, L.O.F.

<sup>46</sup> Section 24, ch. 2003-391, L.O.F. (continuing authority until July 1, 2007) and s. 8, ch. 2007-234, L.O.F. (continuing authority until July 1, 2010).

<sup>47</sup> Section 8, ch. 07-234, L.O.F., *codified as* §1003.62(7), F.S. (2007).

<sup>48</sup> Telephone interview with Florida Department of Education, Bureau of School Improvement staff.

<sup>49</sup> Section 1, ch. 2007-194, L.O.F.

<sup>50</sup> Section 1003.621(1) and (2), F.S.

<sup>51</sup> Florida Department of Education, Academically High-Performing School Districts 2009-2010 Eligibility Status *available at* [www.fldoe.org/board/meetings/2009\\_09\\_15/academ.pdf](http://www.fldoe.org/board/meetings/2009_09_15/academ.pdf).

<sup>52</sup> Section 1003.63(6), F.S.

repeals s. 1008.345(7), F.S., to make a conforming change and amends s. 1004.68(2), F.S., to conform a cross-reference.

### **Campus Crime Reporting**

Section 1006.67, F.S., requires each postsecondary institution to prepare an annual report of campus crime statistics for submission to the DOE. The data for these reports may be taken from the Florida Department of Law Enforcement Annual Report. Additionally, each postsecondary institution must prepare an annual report of campus crime statistics for the most recent three-year period for submission to the DOE. The institution must give notice that the report for the three-year period is available upon request. The Commissioner of Education must convey both annual reports to the presiding officers of the Legislature.

The federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act<sup>53</sup> requires all postsecondary institutions participating in Title IV student financial aid programs to disclose campus crime statistics and security information for the most recent three years. This act is enforced by the U.S. DOE. Each institution must submit the information to the Secretary of Education on an annual basis. The Secretary must make copies of the statistics available to the public.

*Effect of Bill: The bill repeals s. 1006.67, F.S., because the annual campus crime reporting requirements appear duplicative of information that must be reported under federal law. The bill also amends s. 1013.11, F.S., to make a conforming change for the repeal.*

### **Unfunded Financial Assistance Programs**

Section 1009.96, F.S., states that all new and existing financial assistance programs authorized under chapter 1009, F.S., which are not funded for three consecutive years after enactment, must stand repealed. The following program appears to meet the criteria:

- The *Certified Education Paraprofessional Welfare Transition Program*, codified at s. 1009.64, F.S., was established in 1995<sup>54</sup> to provide education and employment for recipients of public assistance who are certified to work in schools that, because of the high proportion of economically disadvantaged children enrolled, are at risk of poor performance on traditional measures of achievement. The program is administered by the DOE, Department of Children and Family Services, and Agency for Workforce Innovation. No record was found of the program ever receiving funds through the General Appropriations Act. Current laws provide that the program may be funded through local and federal funds. Staff has not been able to determine if any such funding has been provided to date.

Additionally, the DOE<sup>55</sup> identified the Occupational Therapist or Physical Therapist Critical Shortage (OT/PT-CS) Program, which is established in ss. 1009.63 through 1009.634, F.S., as having last received appropriated funds in the 2001-2002 General Appropriations Act.<sup>56</sup> The program consists of the following three loan forgiveness, scholarship loan, and tuition reimbursement programs.<sup>57</sup>

- The *Critical Occupational Therapist or Physical Therapist Shortage Loan Forgiveness Program*, codified at s. 1009.632, F.S., was established to provide repayment toward loans received by graduates of postsecondary occupational therapy or physical therapy programs who initiate employment in the public schools of this state.
- The *Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program*, codified at s. 1009.633, F.S., was established to provide a scholarship loan program for students who are in therapy assistant programs or an upper division or higher level occupational therapist or physical therapist educational program and who intend to be employed by Florida's public school

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<sup>53</sup> 20 U.S.C. § 1092(f).

<sup>54</sup> Ch. 95-392, L.O.F.

<sup>55</sup> Email from the Florida Department of Education, Governmental Relations staff (Oct. 15, 2009).

<sup>56</sup> Specific Appropriation 37B, § 2, ch. 2001-367, L.O.F.

<sup>57</sup> The Department of Education may still be receiving loan payments for some of these programs.

system for three years. Credit for repayment of the loan and interest is granted for each full year of employment by the public schools of this state.

- The *Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program*, codified at s. 1009.634, F.S., was established to provide tuition reimbursement for approved courses taken by therapists and therapy assistants employed by the public school system in order to improve their skills and knowledge.

*Effect of Bill: The bill repeals the financial assistance programs established in s. 1009.64, F.S., which appears to have never been funded since its creations in 1995. The bill also repeals the programs established in ss. 1009.63 through 1009.634, F.S., relating to the OT/PT-CS Programs, which have not been funded since Fiscal Year 2001-2002. These repeals are necessary to comply with the provisions of s. 1009.96, F.S., which provides that statutory financial aid programs that have not received funding for three consecutive years must stand repealed.*

## B. SECTION DIRECTORY:

**Section 1:** Amends s. 413.20, F.S., revising definitions for vocational rehabilitation programs.

**Section 2:** Amends s. 413.30, F.S., revising provisions related to eligibility for vocational rehabilitation services.

**Section 3:** Amends s. 413.341, F.S., revising provisions related to the confidentiality of applicant and client records.

**Section 4:** Amends s. 413.371, F.S., revising provisions related to the independent living program.

**Section 5:** Amends s. 413.393, F.S., revising provisions related to the state plan for independent living.

**Section 6:** Amends s. 413.40 F.S., revising provisions related to the independent living program.

**Section 7:** Amends s. 413.405, F.S., revising provisions related to the Florida Rehabilitation Council.

**Section 8:** Amends s. 413.407, F.S., revising provision related to the Assistive Technology Advisory Council.

**Section 9:** Repeals s. 413.206, F.S., relating to the State Vocational Rehabilitation Plan; repeals s. 413.39, F.S., relating to the Independent Living Program; and repeals ss. 413.70, 413.72, and 413.73 F.S., relating to the Limiting Disabilities Program.

**Section 10:** Repeals s. 1013.05, F.S., relating to the Office of Educational Facilities and SMART Schools Clearinghouse (SSC).

**Sections 11-17:** Amends s. 163.31777, 1001.20, 1013.04, 1013.21, 1013.33, 1013.35, and 1013.41, to delete obsolete references to the SSC.

**Section 18:** Amends s.1013.42, F.S., deleting obsolete references to the SSC and specifying the manner in which the OEF is required to prioritize School Infrastructure Thrift awards.

**Section 19:** Amends s. 1013.72, F.S., deleting obsolete references to the SSC and updating cost per student station data.

**Section 20:** Amends s. 1013.73, F.S., deleting obsolete references to the SSC.

**Section 21:** Creates an unnumbered section of law to require the Division of Statutory Revision to prepare a reviser's bill related to the Florida College System (FCS).

- Section 22:** Repeals s. 1004.87, F.S., establishing the FCS Task Force.
- Section 23:** Repeals s. 1002.335, F.S., establishing the Florida Schools of Excellence (FSE) Commission.
- Section 24:** Amends s. 1002.33, F.S., making conforming changes for the repeal of s. 1002.335, F.S.
- Section 25:** Repeals s. 1003.413(5), F.S., establishing the Secondary School Improvement Award Program.
- Section 26:** Repeals s. 1003.62, F.S., relating to academic performance-based charter school districts.
- Section 27:** Amends s. 1011.69, F.S., making conforming changes for the repeal of s. 1003.62, F.S.
- Section 28:** Amends s. 1013.64, F.S., making conforming changes for the repeal of s. 1003.62, F.S.
- Section 29:** Repeals ss. 1003.63 and 1008.345(7), F.S., relating to the Deregulated Public Schools Pilot Program.
- Section 30:** Amends s. 1004.68, F.S., making conforming changes for the repeal of s. 1008.345(7), F.S.
- Section 31:** Repeals s. 1006.67, F.S., relating to campus crime reporting.
- Section 32:** Amends s. 1013.11, F.S., making conforming changes for the repeal of s. 1006.67, F.S.
- Section 33:** Repeals ss. 1009.63, 1009.631, 1009.632, 1009.633, and 1009.634, F.S., relating to financial assistance programs for occupational therapists and physical therapists; and repeals s. 1009.64, F.S., relating to the Certified Education Paraprofessional Welfare Transition Program.
- Section 34:** Amends s. 1009.40, F.S., making conforming changes for the repeal of s. 1009.63, F.S.
- Section 35:** Amends s. 1009.94, F.S., making conforming changes for the repeal of s. 1009.63, F.S.
- Section 36:** Providing an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None.
2. Expenditures:  
None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The bill is not anticipated to have a fiscal impact on state or local governments as it only rewrites statutes for purposes of conforming with controlling federal law and repeals or amends sections that are obsolete, outdated, or otherwise ineffective.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
2       An act relating to education; amending s. 413.20, F.S.;  
3       redefining and deleting terms relating to vocational  
4       rehabilitation programs; replacing an obsolete term;  
5       amending s. 413.30, F.S.; revising provisions relating to  
6       eligibility for vocational rehabilitation services;  
7       providing for an individualized plan for employment;  
8       requiring the Division of Vocational Rehabilitation in the  
9       Department of Education to conduct trial work experiences  
10      before determining that an individual is incapable of  
11      benefiting from services; requiring the division to refer  
12      an individual to other services if the division determines  
13      that the individual is ineligible for vocational  
14      rehabilitation services; requiring the division to serve  
15      those having the most significant disabilities first under  
16      specified circumstances; conforming provisions to changes  
17      made by the act; amending s. 413.341, F.S.; allowing  
18      confidential records to be released for audit, program  
19      evaluation, or research purposes; amending s. 413.371,  
20      F.S.; requiring the division to administer an independent  
21      living program; conforming provisions to changes made by  
22      the act; repealing the division's authority to contract  
23      for specified services; amending s. 413.393, F.S.;  
24      correcting references and conforming provisions to changes  
25      made by the act; amending s. 413.40, F.S.; revising the  
26      division's powers to administer the independent living  
27      program; authorizing the division to employ specified  
28      jindividuals and to contract for services in accordance

29 with the state plan for independent living; conforming  
 30 provisions to changes made by the act; amending s.  
 31 413.405, F.S.; revising the membership of the Florida  
 32 Rehabilitation Council; providing that Department of  
 33 Education employees may serve only as nonvoting members;  
 34 revising provisions relating to terms of office; revising  
 35 council functions; correcting references and replacing  
 36 obsolete cross-references; amending s. 413.407, F.S.;  
 37 correcting a reference; repealing s. 413.206, F.S.,  
 38 relating to a 5-year plan for the division; repealing s.  
 39 413.39, F.S., relating to administration of the  
 40 independent living program; repealing ss. 413.70 and  
 41 413.72, F.S., relating to the limiting disabilities  
 42 program; repealing s. 413.73, F.S., relating to the  
 43 disability assistance program; repealing s. 1013.05, F.S.,  
 44 relating to the Office of Educational Facilities and SMART  
 45 Schools Clearinghouse; amending ss. 163.31777, 1001.20,  
 46 and 1013.04, F.S.; deleting obsolete references; amending  
 47 s. 1013.21, F.S.; deleting obsolete references; requiring  
 48 the Office of Educational Facilities in the Department of  
 49 Education to monitor district facilities work programs;  
 50 amending ss. 1013.33 and 1013.35, F.S.; deleting obsolete  
 51 references; amending s. 1013.41, F.S.; deleting obsolete  
 52 references; requiring the Office of Educational Facilities  
 53 to assist school districts in building SMART schools;  
 54 amending s. 1013.42, F.S.; deleting obsolete references;  
 55 specifying criteria for the prioritization of School  
 56 Infrastructure Thrift Program awards; amending s. 1013.72,



57 F.S.; revising the cost per student station for purposes  
 58 of School Infrastructure Thrift Program awards; deleting  
 59 obsolete references; amending s. 1013.73, F.S.; deleting  
 60 an obsolete reference; requiring the Division of Statutory  
 61 Revision of the Office of Legislative Services to prepare  
 62 a reviser's bill to make conforming changes to address  
 63 past legislation amending terminology relating to the  
 64 Florida College System; repealing s. 1004.87, F.S.,  
 65 relating to Florida College System Task Force; repealing  
 66 s. 1002.335, F.S., relating to the Florida Schools of  
 67 Excellence Commission; amending s. 1002.33, F.S.;  
 68 conforming provisions to changes made by the act;  
 69 repealing s. 1003.413(5), F.S., relating to the Secondary  
 70 School Improvement Award Program; repealing s. 1003.62,  
 71 F.S., relating to academic performance-based charter  
 72 school districts; amending ss. 1011.69 and 1013.64, F.S.;  
 73 conforming provisions to changes made by the act;  
 74 repealing ss. 1003.63 and 1008.345(7), F.S., relating to  
 75 the deregulated public schools pilot program; amending s.  
 76 1004.68, F.S.; conforming a cross-reference; repealing s.  
 77 1006.67, F.S., relating to the reporting of campus crime  
 78 statistics; amending s. 1013.11, F.S.; conforming  
 79 provisions to changes made by the act; repealing ss.  
 80 1009.63 and 1009.631, F.S., relating to the occupational  
 81 therapist or physical therapist critical shortage program;  
 82 repealing s. 1009.632, F.S., relating to the Critical  
 83 Occupational Therapist or Physical Therapist Shortage  
 84 Student Loan Forgiveness Program; repealing s. 1009.633,

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85 F.S., relating to the Critical Occupational Therapist or  
 86 Physical Therapist Shortage Scholarship Loan Program;  
 87 repealing s. 1009.634, F.S., relating to the Critical  
 88 Occupational Therapist or Physical Therapist Shortage  
 89 Tuition Reimbursement Program; repealing s. 1009.64, F.S.,  
 90 relating to the Certified Education Paraprofessional  
 91 Welfare Transition Program; amending ss. 1009.40 and  
 92 1009.94, F.S.; conforming provisions to changes made by  
 93 the act; providing an effective date.

94  
 95 Be It Enacted by the Legislature of the State of Florida:

96  
 97 Section 1. Subsections (12) through (33) of section  
 98 413.20, Florida Statutes, are amended to read:

99 413.20 Definitions.—As used in this part, the term:

100 (12) "Independent living services" means any appropriate  
 101 rehabilitation service that will enhance the ability of a person  
 102 who has a significant ~~severe~~ disability to live independently,  
 103 to function within her or his family and community and, if  
 104 appropriate, to secure and maintain employment. Services may  
 105 include, but are not limited to, psychological counseling and  
 106 psychotherapeutic counseling; independent living care services;  
 107 community education and related services; housing assistance;  
 108 physical and mental restoration; personal attendant care;  
 109 transportation; personal assistance services; interpretive  
 110 services for persons who are deaf; recreational activities;  
 111 services to family members of persons who have significant  
 112 ~~severe~~ disabilities; vocational and other training services;

113 telecommunications services; sensory and other technological  
 114 aids and devices; appropriate preventive services to decrease  
 115 the needs of persons assisted under the program; and other  
 116 rehabilitation services appropriate for the independent living  
 117 needs of a person who has a significant ~~severe~~ disability.

118 ~~(13) "Limiting disability" means a physical condition that~~  
 119 ~~constitutes, contributes to, or, if not corrected, will result~~  
 120 ~~in an impairment of one or more activities of daily living but~~  
 121 ~~does not result in an individual qualifying as a person who has~~  
 122 ~~a disability.~~

123 (13)~~(14)~~ "Occupational license" means any license, permit,  
 124 or other written authority required by any governmental unit to  
 125 be obtained in order to engage in an occupation.

126 (14)~~(15)~~ "Ongoing support services" means services  
 127 provided at a twice-monthly minimum to persons who have a most  
 128 significant disability, to:

129 (a) Make an assessment regarding the employment situation  
 130 at the worksite of each individual in supported employment or,  
 131 under special circumstances at the request of the individual,  
 132 offsite.

133 (b) Based upon the assessment, provide for the  
 134 coordination or provision of specific intensive services, at or  
 135 away from the worksite, that are needed to maintain the  
 136 individual's employment stability.

137  
 138 The ongoing support services may consist of, but are not limited  
 139 to, the provision of skilled job trainers who accompany the  
 140 individual for intensive job-skill training at the worksite, job

141 development and placement, social skills training, followup  
 142 services, and facilitation of natural supports at the worksite.

143 (15)~~(16)~~ "Person who has a disability" means an individual  
 144 who has a physical or mental impairment that, for the  
 145 individual, constitutes or results in a substantial impediment  
 146 to employment and who can ~~therefore~~ benefit in terms of an  
 147 employment outcome from vocational rehabilitation services. The  
 148 term encompasses the terms "person who has a significant  
 149 disability" and "person who has a most significant disability."

150 (16)~~(17)~~ "Person who has a significant disability" means  
 151 an individual who has a disability that is a severe physical or  
 152 mental impairment that seriously limits one or more functional  
 153 capacities, such as mobility, communication, self-care, self-  
 154 direction, interpersonal skills, work tolerance, or work skills,  
 155 in terms of an employment outcome; whose vocational  
 156 rehabilitation may be expected to require multiple vocational  
 157 rehabilitation services over an extended period of time; and who  
 158 has one or more physical or mental disabilities resulting from  
 159 amputation, arthritis, autism, blindness, burn injury, cancer,  
 160 cerebral palsy, cystic fibrosis, deafness, head injury, heart  
 161 disease, hemiplegia, hemophilia, respiratory or pulmonary  
 162 dysfunction, mental retardation, mental illness, multiple  
 163 sclerosis, muscular dystrophy, musculoskeletal disorder,  
 164 neurological disorder, including stroke and epilepsy,  
 165 paraplegia, quadriplegia, or other spinal cord condition,  
 166 sickle-cell anemia, specific learning disability, end-stage  
 167 renal disease, or another disability or a combination of  
 168 disabilities that is determined, after an assessment for

169 determining eligibility and vocational rehabilitation needs, to  
 170 cause comparable substantial functional limitation.

171 ~~(17)~~~~(18)~~ "Person who has a most significant disability"  
 172 means a person who has a significant disability who meets the  
 173 designated administrative unit's criteria for a person who has a  
 174 most significant disability.

175 ~~(18)~~~~(19)~~ "Personal assistance services" means a range of  
 176 services, provided by one or more individuals ~~persons~~, designed  
 177 to assist a person who has a disability to perform daily living  
 178 activities, on or off the job, that the person ~~individual~~ would  
 179 typically perform if the person ~~individual~~ did not have a  
 180 disability. Such services shall be designed to increase the  
 181 person's ~~individual's~~ control in life and ability to perform  
 182 everyday activities on or off the job. The services must be  
 183 necessary for achieving an employment outcome and may be  
 184 provided only if the person who has a disability is receiving  
 185 other vocational rehabilitation services. The services may  
 186 include training in managing, supervising, and directing  
 187 personal assistance services.

188 ~~(19)~~~~(20)~~ "Physical and mental restoration" means any  
 189 medical, surgical, or therapeutic treatment necessary to correct  
 190 or substantially modify a physical or mental condition that is  
 191 stable or slowly progressive and constitutes an impediment to  
 192 employment, but is of such nature that the treatment can  
 193 reasonably be expected to correct or modify such impediment to  
 194 employment within a reasonable length of time, including, but  
 195 not limited to, medical, psychiatric, dental, and surgical  
 196 treatment, nursing services, hospital care in connection with

197 surgery or treatment, convalescent home care, drugs, medical and  
 198 surgical supplies, and prosthetic and orthotic devices.

199 ~~(21) "Program" means an agency, organization, or~~  
 200 ~~institution, or a unit of an agency, organization, or~~  
 201 ~~institution, that provides directly or facilitates the provision~~  
 202 ~~of vocational rehabilitation services as one of its major~~  
 203 ~~functions.~~

204 ~~(22) "Rehabilitation" means those events and processes~~  
 205 ~~occurring after injury and progressing to ultimate stabilization~~  
 206 ~~and maximum possible recovery.~~

207 ~~(23) "Rehabilitation service" means any service, provided~~  
 208 ~~directly or indirectly through public or private agencies, found~~  
 209 ~~by the division to be necessary to enable a person who has a~~  
 210 ~~limiting disability to engage in competitive employment.~~

211 ~~(24) "Rules" means rules adopted by the department in the~~  
 212 ~~manner prescribed by law.~~

213 (20)~~(25)~~ "State plan" means the state plan approved by the  
 214 Federal Government as qualifying for federal funds under the  
 215 Rehabilitation Act of 1973, as amended. However, the term "state  
 216 plan," as used in ss. 413.393-413.401 ~~413.39-413.401~~, means the  
 217 state plan for independent living ~~Rehabilitative Services~~ under  
 218 Title VII(A) of the Rehabilitation Act of 1973, as amended.

219 (21)~~(26)~~ "Supported employment" means competitive work in  
 220 integrated working settings for persons who have most  
 221 significant ~~severe~~ disabilities and for whom competitive  
 222 employment has not traditionally occurred or for whom  
 223 competitive employment has been interrupted or is intermittent  
 224 as a result of such a ~~severe~~ disability. Persons who have most

225 | significant ~~severe~~ disabilities requiring supported employment  
 226 | need intensive supported employment services or extended  
 227 | services in order to perform such work.

228 |        ~~(22)-(27)~~ "Supported employment services" means ongoing  
 229 | support services and other appropriate services needed to  
 230 | support and maintain a person who has a most significant ~~severe~~  
 231 | disability in supported employment. Supported employment  
 232 | services are based upon a determination of the needs of the  
 233 | eligible individual as specified in the person's individualized  
 234 | plan for employment ~~written rehabilitation program~~. The services  
 235 | are provided singly or in combination and are organized and made  
 236 | available in such a way as to assist eligible individuals in  
 237 | entering or maintaining integrated, competitive employment. The  
 238 | services are provided for a period of time not to extend beyond  
 239 | 18 months, but can be extended under special circumstances with  
 240 | the consent of the individual in order to achieve the objectives  
 241 | of the rehabilitation plan.

242 |        ~~(23)-(28)~~ "Third-party coverage" means any claim for, right  
 243 | to receive payment for or any coverage for, the payment of any  
 244 | vocational rehabilitation and related services.

245 |        ~~(24)-(29)~~ "Third-party payment" means any and all payments  
 246 | received or due as a result of any third-party coverage.

247 |        ~~(25)-(30)~~ "Transition services" means a coordinated set of  
 248 | activities for a student, designed within an outcome-oriented  
 249 | process, that promote movement from school to postschool  
 250 | activities, including postsecondary education; vocational  
 251 | training; integrated employment; ~~including~~ supported employment;  
 252 | continuing and adult education; adult services; independent

253 living; or community participation. The coordinated set of  
 254 activities must be based upon the individual student's needs,  
 255 taking into account the student's preferences and interests, and  
 256 must include instruction, community experiences, the development  
 257 of employment and other postschool adult living objectives, and,  
 258 if ~~when~~ appropriate, acquisition of daily living skills and  
 259 functional vocational evaluation.

260 ~~(31) "Transitional living facility" means a state approved~~  
 261 ~~facility as defined and licensed pursuant to chapter 400 and~~  
 262 ~~division approved in accord with this part.~~

263 (26)~~(32)~~ "Vocational rehabilitation" and "vocational  
 264 rehabilitation services" mean any service, provided directly or  
 265 through public or private entities instrumentalities, to enable  
 266 an individual or group of individuals to achieve an employment  
 267 outcome, including, but not limited to, medical and vocational  
 268 diagnosis, an assessment for determining eligibility and  
 269 vocational rehabilitation needs by qualified personnel;  
 270 counseling, guidance, and work-related placement services;  
 271 vocational and other training services; physical and mental  
 272 restoration services; maintenance for additional costs incurred  
 273 while participating in rehabilitation; interpreter services for  
 274 individuals who are deaf; recruitment and training services to  
 275 provide new employment opportunities in the fields of  
 276 rehabilitation, health, welfare, public safety, law enforcement,  
 277 and other appropriate service employment; occupational licenses;  
 278 tools, equipment, and initial stocks and supplies;  
 279 transportation; telecommunications, sensory, and other  
 280 technological aids and devices; rehabilitation technology



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281 services; referral services designed to secure needed services  
 282 from other agencies; transition services; on-the-job or other  
 283 related personal assistance services; and supported employment  
 284 services.

285 ~~(33) "Vocational rehabilitation and related services"~~  
 286 ~~means any services that are provided or paid for by the~~  
 287 ~~division.~~

288 Section 2. Section 413.30, Florida Statutes, is amended to  
 289 read:

290 413.30 Eligibility for vocational rehabilitation  
 291 services.—

292 (1) A person is eligible for vocational rehabilitation  
 293 services if the person has a disability and requires vocational  
 294 rehabilitation services to prepare for, enter, engage in, or  
 295 retain gainful employment.

296 (2) Determinations by other state or federal agencies  
 297 regarding whether an individual satisfies one or more factors  
 298 relating to the determination that an individual has a  
 299 disability may be used. Individuals determined to have a  
 300 disability pursuant to Title II or Title XVI of the Social  
 301 Security Act shall be considered to have a physical or mental  
 302 impairment that constitutes or results in a substantial  
 303 impediment to employment and a significant disability ~~severe~~  
 304 ~~physical or mental impairment that seriously limits one or more~~  
 305 ~~functional capacities in terms of an employment outcome.~~

306 (3) An individual is ~~shall be~~ presumed to benefit in terms  
 307 of an employment outcome from vocational rehabilitation services  
 308 under this part unless the division can demonstrate by clear and

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309 | convincing evidence that the individual is incapable of  
 310 | benefiting from vocational rehabilitation services in terms of  
 311 | an employment outcome. Before making such a determination, the  
 312 | division must consider the individual's abilities, capabilities,  
 313 | and capacity to perform in a work situation through the use of  
 314 | trial work experiences. Trial work experiences include supported  
 315 | employment, on-the-job training, or other work experiences using  
 316 | realistic work settings. Under limited circumstances, if an  
 317 | individual cannot take advantage of trial work experiences or if  
 318 | options for trial work experiences have been exhausted ~~To~~  
 319 | ~~demonstrate that an individual cannot benefit from vocational~~  
 320 | ~~rehabilitation services due to the severity of the individual's~~  
 321 | ~~disability,~~ the division shall conduct an extended evaluation,  
 322 | not to exceed 18 months. The evaluation must determine the  
 323 | eligibility of the individual and the nature and scope of needed  
 324 | vocational rehabilitation services. The extended evaluation must  
 325 | be reviewed once every 90 days to determine whether the  
 326 | individual is eligible for vocational rehabilitation services.

327 |       (4) The division shall determine the eligibility of an  
 328 | individual for vocational rehabilitation services within a  
 329 | reasonable period of time, not to exceed 60 days after the  
 330 | individual has submitted an application to receive vocational  
 331 | rehabilitation services, ~~unless the division notifies the~~  
 332 | ~~individual that exceptional and unforeseen circumstances beyond~~  
 333 | ~~the control of the division prevent the division from completing~~  
 334 | ~~the determination within the prescribed time and the~~ division  
 335 | and the individual agree ~~agrees~~ that an extension of time is  
 336 | warranted ~~or that an extended evaluation is required.~~

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337 |       (5) When the division determines ~~As soon as a~~  
338 | ~~determination has been made~~ that an individual is eligible for  
339 | vocational rehabilitation services, the division must complete  
340 | an assessment for determining eligibility and vocational  
341 | rehabilitation needs and ensure that an individualized plan for  
342 | employment ~~written rehabilitation program~~ is prepared.

343 |       (a) Each ~~The~~ individualized plan for employment ~~written~~  
344 | ~~rehabilitation program~~ must be jointly developed, agreed upon,  
345 | and signed by the vocational rehabilitation counselor or  
346 | coordinator and the eligible individual or, in an appropriate  
347 | case, a parent, family member, guardian, advocate, or authorized  
348 | representative, of the ~~such~~ individual.

349 |       (b) The division must ensure that each individualized plan  
350 | for employment ~~written rehabilitation program~~ is designed to  
351 | achieve the specific employment outcome ~~objective~~ of the  
352 | individual, consistent with the unique strengths, resources,  
353 | priorities, concerns, abilities, and capabilities of the  
354 | individual, and otherwise meets the content requirements for an  
355 | individualized plan for employment ~~written rehabilitation~~  
356 | ~~programs~~ as set out in federal law or regulation.

357 |       (c) Each individualized plan for employment ~~written~~  
358 | ~~rehabilitation program~~ shall be reviewed annually, at which time  
359 | the individual, or the individual's parent, guardian, advocate,  
360 | or authorized representative, shall be afforded an opportunity  
361 | to review the plan ~~program~~ and jointly redevelop and agree to  
362 | its terms. Each plan ~~individualized written rehabilitation~~  
363 | ~~program~~ shall be revised as needed.

364 |       (6) The division must ensure that a determination of

365 | ineligibility made with respect to an individual before ~~prior to~~  
 366 | the initiation of an individualized plan for employment ~~written~~  
 367 | ~~rehabilitation program~~, based upon the review, and, to the  
 368 | extent necessary, upon the preliminary assessment, includes  
 369 | specification of the reasons for such a determination; the  
 370 | rights and remedies available to the individual, including, if  
 371 | appropriate, recourse to administrative remedies; and the  
 372 | availability of services provided by the client assistance  
 373 | program to the individual. If there is a determination of  
 374 | ineligibility, the division must refer the individual to other  
 375 | services that are part of the one-stop delivery system under s.  
 376 | 445.009 that address the individual's training or employment-  
 377 | related needs or to local extended employment providers if the  
 378 | determination is based on a finding that the individual is  
 379 | incapable of achieving an employment outcome.

380 |         (7) If the division provides an eligible individual ~~person~~  
 381 | with vocational rehabilitation services in the form of vehicle  
 382 | modifications, the division shall consider all options  
 383 | available, including the purchase of a new, original equipment  
 384 | manufacturer vehicle that complies with the Americans with  
 385 | Disabilities Act for transportation vehicles. The division shall  
 386 | make the decision on vocational rehabilitation services based on  
 387 | the best interest of the eligible individual ~~client~~ and cost-  
 388 | effectiveness.

389 |         (8) ~~If in the event~~ the division is unable to provide  
 390 | services to all eligible individuals, the division shall  
 391 | establish an order of selection and serve ~~first~~ those persons  
 392 | who have the most significant ~~severe~~ disabilities first.

393 Section 3. Subsection (1) of section 413.341, Florida  
 394 Statutes, is amended to read:

395 413.341 Applicant and eligible individual ~~client~~ records;  
 396 confidential and privileged.-

397 (1) All oral and written records, information, letters,  
 398 and reports received, made, or maintained by the division  
 399 relative to any ~~client or~~ applicant or eligible individual are  
 400 privileged, confidential, and exempt from the provisions of s.  
 401 119.07(1). Any person who discloses or releases such records,  
 402 information, or communications in violation of this section  
 403 commits a misdemeanor of the second degree, punishable as  
 404 provided in s. 775.082 or s. 775.083. Such records may not be  
 405 released except that:

406 (a) Records may be released to the ~~client or~~ applicant or  
 407 eligible individual or his or her representative upon receipt of  
 408 a written waiver from the ~~client or~~ applicant or eligible  
 409 individual. Medical, psychological, or other information that  
 410 the division believes may be harmful to an a ~~client or~~ applicant  
 411 or eligible individual may not be released directly to him or  
 412 her, but must be provided through his or her designated  
 413 representative.

414 (b) Records ~~that do not identify clients or applicants~~ may  
 415 be released to an entity or individual officially engaged in an  
 416 audit, a program evaluation, or for the purpose of research,  
 417 ~~when the research is approved by the division director.~~  
 418 Personally identifying information released under this paragraph  
 419 remains privileged, confidential, and exempt under this section  
 420 and may not be disclosed to third parties.

421 (c) Records used in administering the program may be  
 422 released as required to administer the program or as required by  
 423 an agency or political subdivision of the state in the  
 424 performance of its duties. Any agency or political subdivision  
 425 to which records are released under this paragraph may not  
 426 disclose the records to third parties.

427 (d) Records may be released upon the order of an  
 428 administrative law judge, a hearing officer, a judge of  
 429 compensation claims, an agency head exercising quasi-judicial  
 430 authority, or a judge of a court of competent jurisdiction  
 431 following a finding in an in camera proceeding that the records  
 432 are relevant to the inquiry before the court and should be  
 433 released. The in camera proceeding and all records relating  
 434 thereto are confidential and exempt from the provisions of s.  
 435 119.07(1).

436 (e) Whenever an applicant or eligible individual receiving  
 437 services has declared any intention to harm other persons or  
 438 property, such declaration may be disclosed.

439 (f) The division may also release personal information  
 440 about an applicant or eligible individual receiving services in  
 441 order to protect him or her or others when he or she poses a  
 442 threat to his or her own safety or to the safety of others and  
 443 shall, upon official request, release such information to law  
 444 enforcement agencies investigating the commission of a crime.

445 Section 4. Section 413.371, Florida Statutes, is amended  
 446 to read:

447 413.371 Independent living program; establishment and  
 448 administration ~~maintenance~~.—The division shall establish and

449 | administer ~~maintain~~ an independent living program that will  
 450 | provide any appropriate rehabilitation services or other  
 451 | services to enhance the ability of persons who have significant  
 452 | ~~severe~~ disabilities to live independently and function within  
 453 | their communities and, if appropriate, to secure and maintain  
 454 | employment. ~~The division, at its sole discretion and within the~~  
 455 | ~~constraints of its funding, may contract with centers for~~  
 456 | ~~independent living to provide such services.~~

457 | Section 5. Subsection (1) of section 413.393, Florida  
 458 | Statutes, is amended to read:

459 | 413.393 State plan for independent living.—

460 | (1) The state plan for independent living shall be jointly  
 461 | developed and submitted by the Florida Independent Living  
 462 | Council and the division, and the plan must:

463 | (a) Include the existence of appropriate planning,  
 464 | financial support and coordination, and other assistance to  
 465 | appropriately address, on a statewide and comprehensive basis,  
 466 | needs in the state for the provision of state independent living  
 467 | services; the development and support of a statewide network of  
 468 | centers for independent living; and working relationships  
 469 | between programs providing independent living services and  
 470 | independent living centers and the vocational rehabilitation  
 471 | program established to provide services for persons who have  
 472 | disabilities.

473 | (b) Specify the objectives to be achieved under the plan,  
 474 | establish time periods for the achievement of the objectives,  
 475 | and explain how such objectives are consistent with and further  
 476 | the purpose of this part.

477 (c) Specify that the state will provide independent living  
 478 services under this part to persons who have significant ~~severe~~  
 479 disabilities and will provide the services in accordance with an  
 480 independent living plan mutually agreed upon by an appropriate  
 481 staff member of the service provider and the individual, unless  
 482 the individual signs a waiver stating that such a plan is  
 483 unnecessary.

484 (d) Describe the extent and scope of independent living  
 485 services to be provided under this part to meet such objectives.  
 486 If the state makes arrangements, by grant or contract, for  
 487 providing such services, such arrangements shall be described in  
 488 the plan.

489 (e) Set forth a design for the establishment of a  
 490 statewide network of centers for independent living that comply  
 491 with the standards and assurances set forth in federal law.

492 (f) Set forth the steps that will be taken to maximize the  
 493 cooperation, coordination, and working relationships among the  
 494 independent living rehabilitation service program, the Florida  
 495 Independent Living Council, centers for independent living, the  
 496 division, other agencies represented on such council, other  
 497 councils that address the needs of specific disability  
 498 populations and issues, and other public and private entities  
 499 determined to be appropriate by the council.

500 (g) Describe how services funded under this part will be  
 501 coordinated with, and complement, other services in order to  
 502 avoid unnecessary duplication with other federal and state  
 503 funding for centers for independent living and independent  
 504 living services.



505 (h) Set forth steps to be taken regarding outreach to  
 506 populations that are not served or that are underserved by  
 507 programs under the act, including minority groups and urban and  
 508 rural populations.

509 (i) Provide satisfactory assurances that all entities  
 510 receiving financial assistance funds under this part will notify  
 511 all individuals seeking or receiving services under this part  
 512 about the availability of the client-assistance program, the  
 513 purposes of the services provided under such program, and how to  
 514 contact such program; take affirmative action to employ and  
 515 advance in employment qualified persons who have disabilities on  
 516 the same terms and conditions required with respect to the  
 517 employment of such persons; adopt such fiscal control and fund-  
 518 accounting procedures as may be necessary to ensure the proper  
 519 disbursement of and accounting for funds paid to the state under  
 520 this part and meet all the other requirements of federal law or  
 521 regulation.

522 (j) Establish a method for the periodic evaluation of the  
 523 effectiveness of the state plan in meeting the objectives of the  
 524 state plan, including evaluation of satisfaction by persons who  
 525 have disabilities.

526 Section 6. Section 413.40, Florida Statutes, is amended to  
 527 read:

528 413.40 Powers of division; independent living program.—The  
 529 division, in administering ~~carrying out~~ a program to provide ~~of~~  
 530 ~~providing~~ independent living ~~rehabilitation~~ services to persons  
 531 who have significant ~~severe~~ disabilities, shall be authorized,  
 532 contingent upon available funding, to:

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533 (1) Employ necessary personnel and-  
 534 ~~(2) Employ consultants.~~  
 535 ~~(3) Provide diagnostic, medical, and psychological and~~  
 536 ~~other evaluation services.~~  
 537 ~~(4) Provide training necessary for rehabilitation.~~  
 538 ~~(5) Provide for persons found to require financial~~  
 539 ~~assistance with respect thereto and provide maintenance,~~  
 540 ~~including:~~  
 541 ~~(a) Personal care attendant services while undergoing~~  
 542 ~~rehabilitation.~~  
 543 ~~(b) Transportation incident to necessary rehabilitation~~  
 544 ~~services.~~  
 545 ~~(c) Physical and mental restoration services, prosthetic~~  
 546 ~~appliances, and other equipment determined to be necessary for~~  
 547 ~~rehabilitation.~~  
 548 ~~(6) Provide rehabilitation facilities necessary for the~~  
 549 ~~rehabilitation of persons who have severe disabilities or~~  
 550 ~~contract with facilities such as centers for independent living~~  
 551 ~~for necessary services. The division shall not, however, assume~~  
 552 ~~responsibility for permanent custodial care of any individual~~  
 553 ~~and shall provide rehabilitation services only for a period long~~  
 554 ~~enough to accomplish the rehabilitation objective or to~~  
 555 ~~determine that rehabilitation is not feasible through the~~  
 556 ~~services available under this section.~~  
 557 (2)(7) Contract with any entity, public or private entity,  
 558 including centers for independent living, to provide independent  
 559 living services in accordance with the state plan for  
 560 independent living.

561 Section 7. Subsections (1), (2), (7), (9), (10), and (11)  
 562 of section 413.405, Florida Statutes, are amended to read:

563 413.405 Florida Rehabilitation Council.—There is created  
 564 the Florida Rehabilitation Council to assist the division in the  
 565 planning and development of statewide rehabilitation programs  
 566 and services, to recommend improvements to such programs and  
 567 services, and to perform the functions listed in this section.

568 (1) The council shall be composed of:

569 (a) At least one representative of the Florida Independent  
 570 Living Council, one of whom must ~~which representative may~~ be the  
 571 chairperson or other designee of the Florida Independent Living  
 572 Council.

573 (b) At least one representative of a parent training and  
 574 information center established pursuant to s. ~~671 631(e)(9)~~ of  
 575 the Individuals with Disabilities Education Act, 20 U.S.C. s.  
 576 ~~1471 1431(e)(9)~~.

577 (c) At least one representative of the client assistance  
 578 program established under s. 112 of the act, one of whom must be  
 579 the director of the program or other individual recommended by  
 580 the program.

581 (d) At least one qualified vocational rehabilitation  
 582 counselor who has knowledge of and experience in vocational  
 583 rehabilitation programs ~~services~~, who shall serve as an ex  
 584 officio, nonvoting member of the council if the counselor is an  
 585 employee of the department.

586 (e) At least one representative of community  
 587 rehabilitation program service providers.

588 (f) ~~At least~~ Four representatives of business, industry,

589 and labor.

590 (g) Representatives of disability ~~advocacy~~ groups that  
 591 include ~~representing~~ a cross-section of:

592 1. Individuals ~~Persons~~ who have physical, cognitive,  
 593 sensory, or mental disabilities.

594 2. ~~Parents, family members, guardians, advocates, or~~  
 595 ~~authorized~~ Representatives of individuals with ~~persons who have~~  
 596 ~~disabilities and who~~ have difficulty representing themselves  
 597 ~~find it difficult to~~ or are unable due to their disabilities to  
 598 represent themselves.

599 (h) Current or former applicants for, or recipients of,  
 600 vocational rehabilitation services.

601 (i) The director of the division, who shall be an ex  
 602 officio member of the council.

603 (j) At least one representative of the state educational  
 604 agency responsible for the public education of students with  
 605 disabilities ~~who have a disability and~~ who are eligible to  
 606 receive vocational rehabilitation services and services under  
 607 the Individuals with Disabilities Education Act.

608 (k) At least one representative of the board of directors  
 609 of Workforce Florida, Inc.

610 (1) At least one representative who is a director of a  
 611 Vocational Rehabilitation Services Project for American Indians  
 612 with Disabilities under s. 121 of the act, if this state  
 613 participates in one or more such projects.

614 (2) Employees of the department may serve only as  
 615 nonvoting members of the council. ~~Other persons who have~~  
 616 ~~disabilities, representatives of state and local government,~~

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617 ~~employers, community organizations, and members of the former~~  
 618 ~~Occupational Access and Opportunity Commission may be considered~~  
 619 ~~for council membership.~~

620 (7) (a) Each member of the council shall serve for a term  
 621 of not more than 3 years, except that:

622 ~~1.(a)~~ A member appointed to fill a vacancy occurring prior  
 623 to the expiration of the term for which a predecessor was  
 624 appointed shall be appointed for the remainder of such term.

625 ~~2.(b)~~ The terms of service of the members initially  
 626 appointed shall be, as specified by the Governor, for such fewer  
 627 number of years as will provide for the expiration of terms on a  
 628 staggered basis.

629 (b) A ~~Ne~~ member of the council may not serve more than two  
 630 consecutive full terms; however, this provision does not apply  
 631 to a member appointed under paragraph (1)(c) or paragraph  
 632 (1)(1).

633 (9) In addition to the other functions specified in this  
 634 section, the council shall, after consulting with the board of  
 635 directors of Workforce Florida, Inc.:

636 (a) Review, analyze, and advise the division regarding the  
 637 performance of the responsibilities of the division under Title  
 638 I of the act, particularly responsibilities relating to:

639 1. Eligibility, including order of selection.

640 2. The extent, scope, and effectiveness of services  
 641 provided.

642 3. Functions performed by state agencies that affect or  
 643 potentially affect the ability of individuals with ~~who have~~  
 644 disabilities in achieving employment outcomes ~~to achieve~~

645 ~~rehabilitation goals and objectives~~ under Title I.

646 (b) In partnership with the division:

647 1. Develop, agree to, and review state goals and  
648 priorities in accordance with 34 C.F.R. 361.29(c); and

649 2. Evaluate the effectiveness of the vocational  
650 rehabilitation program and submit reports of progress to the  
651 Governor, the President of the Senate, the Speaker of the House  
652 of Representatives, and the United States Secretary of Education  
653 in accordance with 34 C.F.R. 361.29(e).

654 (c) Advise the department and the division and assist in  
655 the preparation of the state plan and amendments to the plan,  
656 applications, reports, needs assessments, and evaluations  
657 required by Title I.

658 (d) To the extent feasible, conduct a review and analysis  
659 of the effectiveness of, and consumer satisfaction with:

660 1. The functions performed by state agencies and other  
661 public and private entities responsible for performing functions  
662 for individuals who have disabilities.

663 2. Vocational rehabilitation services:

664 a. Provided or paid for from funds made available under  
665 the act or through other public or private sources.

666 b. Provided by state agencies and other public and private  
667 entities responsible for providing vocational rehabilitation  
668 services to individuals who have disabilities.

669 3. The employment outcomes achieved by eligible  
670 individuals receiving services under this part, including the  
671 availability of health or other employment benefits in  
672 connection with those employment outcomes.

673 (e) Prepare and submit an annual report on the status of  
 674 vocational rehabilitation programs ~~services~~ in the state to the  
 675 Governor, the President of the Senate, the Speaker of the House  
 676 of Representatives, and the United States Secretary of Education  
 677 and make the report available to the public.

678 (f) Coordinate with other councils within Florida,  
 679 including the Florida Independent Living Council, the advisory  
 680 panel established under s. 612(a)(21) ~~613(a)(12)~~ of the  
 681 Individuals with Disabilities Education Act, 20 U.S.C. s.  
 682 1412(a)(21) ~~1413(a)(12)~~, the State Planning Council described in  
 683 s. 124 of the Developmental Disabilities Assistance and Bill of  
 684 Rights Act, 42 U.S.C. s. 15024 ~~6024~~, the state mental health  
 685 planning council established under s. 1914 ~~1916(e)~~ of the Public  
 686 Health Service Act, 42 U.S.C. s. 300x-3 ~~300x-4(e)~~, and the board  
 687 of directors of Workforce Florida, Inc.

688 (g) Advise the department and division and provide for  
 689 coordination and the establishment of working relationships  
 690 among the department, the division, the Florida Independent  
 691 Living Council, and centers for independent living in the state.

692 (h) Perform ~~such~~ other functions that are consistent with  
 693 the duties and responsibilities of as the council determines to  
 694 ~~be appropriate that are comparable to functions performed by the~~  
 695 council under this section.

696 (10)(a) The council shall prepare, in conjunction with the  
 697 division, a plan for the provision of such resources, including  
 698 at least four staff persons, as may be necessary to carry out  
 699 the functions of the council. The resource plan shall, to the  
 700 maximum extent possible, rely on the use of resources in

701 existence during the period of implementation of the plan.

702 (b) ~~If there is~~ A disagreement between the council and the  
 703 division regarding ~~in regard to~~ the amount of resources  
 704 necessary to carry out the functions of the council as set forth  
 705 in this section, ~~the disagreement~~ shall be resolved by the  
 706 Governor.

707 (c) The council shall, consistent with law, supervise and  
 708 evaluate such staff and other personnel as may be necessary to  
 709 carry out its functions.

710 (d) While assisting the council in carrying out its  
 711 duties, staff and other personnel may ~~shall~~ not be assigned  
 712 duties by the division or any other state agency or office that  
 713 would create a conflict of interest.

714 (11) The council shall convene at least four meetings each  
 715 year in locations determined by. ~~These meetings shall occur in~~  
 716 ~~such places as~~ the council to be ~~deems~~ necessary to conduct  
 717 council business. The council may conduct such forums or  
 718 hearings as the council considers appropriate. The meetings,  
 719 hearings, and forums shall be publicly announced. The meetings  
 720 shall be open and accessible to the public unless there is a  
 721 valid reason for an executive session. The council shall make a  
 722 report of each meeting which shall include a record of its  
 723 discussions and recommendations, all of which reports shall be  
 724 made available to the public.

725 Section 8. Paragraph (a) of subsection (1) of section  
 726 413.407, Florida Statutes, is amended to read:

727 413.407 Assistive Technology Advisory Council.—There is  
 728 created the Assistive Technology Advisory Council, responsible



729 | for ensuring consumer involvement in the creation, application,  
 730 | and distribution of technology-related assistance to and for  
 731 | persons who have disabilities. The council shall fulfill its  
 732 | responsibilities through statewide policy development, both  
 733 | state and federal legislative initiatives, advocacy at both the  
 734 | state and federal level, planning of statewide resource  
 735 | allocations, policy-level management, reviews of both consumer  
 736 | responsiveness and the adequacy of program service delivery, and  
 737 | by performing the functions listed in this section.

738 |         (1)(a) The council shall be composed of:

739 |             1. Individuals who have disabilities and who are assistive  
 740 | technology consumers or family members or guardians of those  
 741 | individuals.

742 |             2. Representatives of consumer organizations concerned  
 743 | with assistive technology.

744 |             3. Representatives of business and industry, including the  
 745 | insurance industry, concerned with assistive technology.

746 |             4. A representative of the Division of Vocational  
 747 | Rehabilitation.

748 |             5. A representative of the Division of Blind Services.

749 |             6. A representative of the Florida Independent Living  
 750 | Council.

751 |             7. A representative of Workforce Florida, Inc.

752 |             8. A representative of the Department of Education.

753 |             9. Representatives of other state agencies that provide or  
 754 | coordinate services for persons with disabilities.

755 |

756 | Total membership on the council shall not exceed 27 at any one

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757 | time. A majority of the members shall be appointed in accordance  
758 | with subparagraph 1.

759 |       Section 9. Sections 413.206, 413.39, 413.70, 413.72, and  
760 | 413.73, Florida Statutes, are repealed.

761 |       Section 10. Section 1013.05, Florida Statutes, is  
762 | repealed.

763 |       Section 11. Paragraph (a) of subsection (1) and paragraph  
764 | (a) of subsection (3) of section 163.31777, Florida Statutes,  
765 | are amended to read:

766 |       163.31777 Public schools interlocal agreement.—

767 |       (1) (a) The county and municipalities located within the  
768 | geographic area of a school district shall enter into an  
769 | interlocal agreement with the district school board which  
770 | jointly establishes the specific ways in which the plans and  
771 | processes of the district school board and the local governments  
772 | are to be coordinated. The interlocal agreements shall be  
773 | submitted to the state land planning agency and the Office of  
774 | Educational Facilities ~~and the SMART Schools Clearinghouse~~ in  
775 | accordance with a schedule published by the state land planning  
776 | agency.

777 |       (3) (a) The Office of Educational Facilities ~~and SMART~~  
778 | ~~Schools Clearinghouse~~ shall submit any comments or concerns  
779 | regarding the executed interlocal agreement to the state land  
780 | planning agency within 30 days after receipt of the executed  
781 | interlocal agreement. The state land planning agency shall  
782 | review the executed interlocal agreement to determine whether it  
783 | is consistent with the requirements of subsection (2), the  
784 | adopted local government comprehensive plan, and other

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785 requirements of law. Within 60 days after receipt of an executed  
 786 interlocal agreement, the state land planning agency shall  
 787 publish a notice of intent in the Florida Administrative Weekly  
 788 and shall post a copy of the notice on the agency's Internet  
 789 site. The notice of intent must state whether the interlocal  
 790 agreement is consistent or inconsistent with the requirements of  
 791 subsection (2) and this subsection, as appropriate.

792 Section 12. Paragraph (c) of subsection (4) of section  
 793 1001.20, Florida Statutes, is amended to read:

794 1001.20 Department under direction of state board.—

795 (4) The Department of Education shall establish the  
 796 following offices within the Office of the Commissioner of  
 797 Education which shall coordinate their activities with all other  
 798 divisions and offices:

799 (c) Office of Educational Facilities ~~and SMART Schools~~  
 800 ~~Clearinghouse~~.—Responsible for validating all educational plant  
 801 surveys and verifying Florida Inventory of School Houses (FISH)  
 802 data. The office shall provide technical assistance to public  
 803 school districts when requested.

804 Section 13. Subsection (1) of section 1013.04, Florida  
 805 Statutes, is amended to read:

806 1013.04 School district educational facilities plan  
 807 performance and productivity standards; development;  
 808 measurement; application.—

809 (1) The Office of Educational Facilities ~~and SMART Schools~~  
 810 ~~Clearinghouse~~ shall develop and adopt measures for evaluating  
 811 the performance and productivity of school district educational  
 812 facilities plans. The measures may be both quantitative and

813 qualitative and must, to the maximum extent practical, assess  
 814 those factors that are within the districts' control. The  
 815 measures must, at a minimum, assess performance in the following  
 816 areas:

- 817 (a) Frugal production of high-quality projects.
- 818 (b) Efficient finance and administration.
- 819 (c) Optimal school and classroom size and utilization  
 820 rate.
- 821 (d) Safety.
- 822 (e) Core facility space needs and cost-effective capacity  
 823 improvements that consider demographic projections.
- 824 (f) Level of district local effort.

825 Section 14. Paragraph (a) of subsection (1) of section  
 826 1013.21, Florida Statutes, is amended to read:

827 1013.21 Reduction of relocatable facilities in use.—

828 (1)(a) It is a goal of the Legislature that all school  
 829 districts shall provide a quality educational environment for  
 830 their students such that, by July 1, 2003, student stations in  
 831 relocatable facilities exceeding 20 years of age and in use by a  
 832 district during the 1998-1999 fiscal year shall be removed and  
 833 the number of all other relocatable student stations at over-  
 834 capacity schools during that fiscal year shall be decreased by  
 835 half. The Legislature finds, however, that necessary maintenance  
 836 of existing facilities and public school enrollment growth  
 837 impair the ability of some districts to achieve the goal of this  
 838 section within 5 years. Therefore, the Legislature is increasing  
 839 its commitment to school funding in this act, in part to help  
 840 districts reduce the number of temporary, relocatable student

841 stations at over-capacity schools. The Legislature intends that  
 842 local school districts also increase their investment toward  
 843 meeting this goal. Each district's progress toward meeting this  
 844 goal shall be measured annually by comparing district facilities  
 845 work programs for replacing relocatables with the state capital  
 846 outlay projections for education prepared by the Office of  
 847 Educational Facilities ~~and SMART Schools Clearinghouse~~. District  
 848 facilities work programs shall be monitored by the Office of  
 849 Educational Facilities ~~SMART Schools Clearinghouse~~ to measure  
 850 the commitment of local school districts toward this goal.

851 Section 15. Paragraph (a) of subsection (2), paragraph (a)  
 852 of subsection (4), and subsection (9) of section 1013.33,  
 853 Florida Statutes, are amended to read:

854 1013.33 Coordination of planning with local governing  
 855 bodies.-

856 (2)(a) The school board, county, and nonexempt  
 857 municipalities located within the geographic area of a school  
 858 district shall enter into an interlocal agreement that jointly  
 859 establishes the specific ways in which the plans and processes  
 860 of the district school board and the local governments are to be  
 861 coordinated. The interlocal agreements shall be submitted to the  
 862 state land planning agency and the Office of Educational  
 863 Facilities ~~and the SMART Schools Clearinghouse~~ in accordance  
 864 with a schedule published by the state land planning agency.

865 (4)(a) The Office of Educational Facilities ~~and SMART~~  
 866 ~~Schools Clearinghouse~~ shall submit any comments or concerns  
 867 regarding the executed interlocal agreement to the state land  
 868 planning agency within 30 days after receipt of the executed

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869 interlocal agreement. The state land planning agency shall  
 870 review the executed interlocal agreement to determine whether it  
 871 is consistent with the requirements of subsection (3), the  
 872 adopted local government comprehensive plan, and other  
 873 requirements of law. Within 60 days after receipt of an executed  
 874 interlocal agreement, the state land planning agency shall  
 875 publish a notice of intent in the Florida Administrative Weekly  
 876 and shall post a copy of the notice on the agency's Internet  
 877 site. The notice of intent must state that the interlocal  
 878 agreement is consistent or inconsistent with the requirements of  
 879 subsection (3) and this subsection as appropriate.

880 (9) A board and the local governing body must share and  
 881 coordinate information related to existing and planned school  
 882 facilities; proposals for development, redevelopment, or  
 883 additional development; and infrastructure required to support  
 884 the school facilities, concurrent with proposed development. A  
 885 school board shall use information produced by the demographic,  
 886 revenue, and education estimating conferences pursuant to s.  
 887 216.136 when preparing the district educational facilities plan  
 888 pursuant to s. 1013.35, as modified and agreed to by the local  
 889 governments, when provided by interlocal agreement, and the  
 890 Office of Educational Facilities and ~~SMART Schools~~  
 891 ~~Clearinghouse~~, in consideration of local governments' population  
 892 projections, to ensure that the district educational facilities  
 893 plan not only reflects enrollment projections but also considers  
 894 applicable municipal and county growth and development  
 895 projections. The projections must be apportioned geographically  
 896 with assistance from the local governments using local

897 government trend data and the school district student enrollment  
 898 data. A school board is precluded from siting a new school in a  
 899 jurisdiction where the school board has failed to provide the  
 900 annual educational facilities plan for the prior year required  
 901 pursuant to s. 1013.35 unless the failure is corrected.

902 Section 16. Paragraph (c) of subsection (1) and paragraph  
 903 (a) of subsection (2) of section 1013.35, Florida Statutes, are  
 904 amended to read:

905 1013.35 School district educational facilities plan;  
 906 definitions; preparation, adoption, and amendment; long-term  
 907 work programs.—

908 (1) DEFINITIONS.—As used in this section, the term:

909 (c) "Tentative educational facilities plan" means the  
 910 comprehensive planning document prepared annually by the  
 911 district school board and submitted to the Office of Educational  
 912 Facilities and ~~SMART Schools Clearinghouse~~ and the affected  
 913 general-purpose local governments.

914 (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL  
 915 FACILITIES PLAN.—

916 (a) Annually, prior to the adoption of the district school  
 917 budget, each district school board shall prepare a tentative  
 918 district educational facilities plan that includes long-range  
 919 planning for facilities needs over 5-year, 10-year, and 20-year  
 920 periods. The plan must be developed in coordination with the  
 921 general-purpose local governments and be consistent with the  
 922 local government comprehensive plans. The school board's plan  
 923 for provision of new schools must meet the needs of all growing  
 924 communities in the district, ranging from small rural

925 communities to large urban cities. The plan must include:

926 1. Projected student populations apportioned

927 geographically at the local level. The projections must be based

928 on information produced by the demographic, revenue, and

929 education estimating conferences pursuant to s. 216.136, where

930 available, as modified by the district based on development data

931 and agreement with the local governments and the Office of

932 Educational Facilities and ~~SMART Schools Clearinghouse~~. The

933 projections must be apportioned geographically with assistance

934 from the local governments using local development trend data

935 and the school district student enrollment data.

936 2. An inventory of existing school facilities. Any

937 anticipated expansions or closures of existing school sites over

938 the 5-year, 10-year, and 20-year periods must be identified. The

939 inventory must include an assessment of areas proximate to

940 existing schools and identification of the need for improvements

941 to infrastructure, safety, including safe access routes, and

942 conditions in the community. The plan must also provide a

943 listing of major repairs and renovation projects anticipated

944 over the period of the plan.

945 3. Projections of facilities space needs, which may not

946 exceed the norm space and occupant design criteria established

947 in the State Requirements for Educational Facilities.

948 4. Information on leased, loaned, and donated space and

949 relocatables used for conducting the district's instructional

950 programs.

951 5. The general location of public schools proposed to be

952 constructed over the 5-year, 10-year, and 20-year time periods,



953 including a listing of the proposed schools' site acreage needs  
 954 and anticipated capacity and maps showing the general locations.  
 955 The school board's identification of general locations of future  
 956 school sites must be based on the school siting requirements of  
 957 s. 163.3177(6)(a) and policies in the comprehensive plan which  
 958 provide guidance for appropriate locations for school sites.

959 6. The identification of options deemed reasonable and  
 960 approved by the school board which reduce the need for  
 961 additional permanent student stations. Such options may include,  
 962 but need not be limited to:

- 963 a. Acceptable capacity;
- 964 b. Redistricting;
- 965 c. Busing;
- 966 d. Year-round schools;
- 967 e. Charter schools;
- 968 f. Magnet schools; and
- 969 g. Public-private partnerships.

970 7. The criteria and method, jointly determined by the  
 971 local government and the school board, for determining the  
 972 impact of proposed development to public school capacity.

973 Section 17. Subsections (3) and (4) of section 1013.41,  
 974 Florida Statutes, are amended to read:

975 1013.41 SMART schools; Classrooms First; legislative  
 976 purpose.—

977 (3) SCHOOL DISTRICT EDUCATIONAL FACILITIES PLAN.—It is the  
 978 purpose of the Legislature to create s. 1013.35, requiring each  
 979 school district annually to adopt an educational facilities plan  
 980 that provides an integrated long-range facilities plan,

981 including the survey of projected needs and the 5-year work  
 982 program. The purpose of the educational facilities plan is to  
 983 keep the district school board, local governments, and the  
 984 public fully informed as to whether the district is using sound  
 985 policies and practices that meet the essential needs of students  
 986 and that warrant public confidence in district operations. The  
 987 educational facilities plan will be monitored by the Office of  
 988 Educational Facilities and ~~SMART Schools Clearinghouse~~, which  
 989 will also apply performance standards pursuant to s. 1013.04.

990 (4) OFFICE OF EDUCATIONAL FACILITIES AND ~~SMART SCHOOLS~~  
 991 ~~CLEARINGHOUSE~~.—It is the purpose of the Legislature to require  
 992 ~~create s. 1013.05, establishing~~ the Office of Educational  
 993 Facilities and ~~SMART Schools Clearinghouse~~ to assist the school  
 994 districts in building SMART schools utilizing functional and  
 995 frugal practices. The Office of Educational Facilities and ~~SMART~~  
 996 ~~Schools Clearinghouse~~ must review district facilities work  
 997 programs and projects and identify districts qualified for  
 998 incentive funding available through School Infrastructure Thrift  
 999 Program awards; identify opportunities to maximize design and  
 1000 construction savings; develop school district facilities work  
 1001 program performance standards; and provide for review and  
 1002 recommendations to the Governor, the Legislature, and the State  
 1003 Board of Education.

1004 Section 18. Paragraphs (a) and (b) of subsection (6) of  
 1005 section 1013.42, Florida Statutes, are amended to read:

1006 1013.42 School Infrastructure Thrift (SIT) Program Act.—

1007 (6)(a) Each school district may submit to the Office of  
 1008 Educational Facilities and ~~SMART Schools Clearinghouse~~, with

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1009 supporting data, its request, based on eligibility pursuant to  
 1010 s. 1013.72 for an award of SIT Program dollars.

1011 (b) The Office of Educational Facilities ~~and SMART Schools~~  
 1012 ~~Clearinghouse~~ shall examine the supporting data from each school  
 1013 district and shall report to the commissioner each district's  
 1014 eligibility pursuant to s. 1013.72. ~~Based on the office's report~~  
 1015 ~~and pursuant to ss. 1013.04 and 1013.05,~~ The office shall make  
 1016 recommendations, ranked in order of priority, for SIT Program  
 1017 awards to eligible districts. Priority shall be based on a  
 1018 review of the evaluations conducted under s. 1013.04, district  
 1019 facilities work programs, and proposed construction projects.

1020 Section 19. Section 1013.72, Florida Statutes, is amended  
 1021 to read:

1022 1013.72 SIT Program award eligibility; maximum cost per  
 1023 student station of educational facilities; frugality incentives;  
 1024 recognition awards.—

1025 (1) It is the intent of the Legislature that district  
 1026 school boards that seek awards of SIT Program funds use due  
 1027 diligence and sound business practices in the design,  
 1028 construction, and use of educational facilities.

1029 (2) A school district may seek an award from the SIT  
 1030 Program, pursuant to this section and s. 1013.42, based on the  
 1031 district's new construction of educational facilities if the  
 1032 cost per student station is less than:

- 1033 (a) \$17,952 ~~\$11,600~~ for an elementary school,
- 1034 (b) \$19,386 ~~\$13,300~~ for a middle school, or
- 1035 (c) \$25,181 ~~\$17,600~~ for a high school,

1036

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1037 | (January 2006) ~~(1997)~~ as adjusted annually by the Consumer Price  
 1038 | Index. The award shall be up to 50 percent of such savings, as  
 1039 | recommended by the Office of Educational Facilities and ~~SMART~~  
 1040 | ~~Schools Clearinghouse~~.

1041 | (3) A school district may seek a SMART school of the year  
 1042 | recognition award for building the highest quality functional,  
 1043 | frugal school. The commissioner may present a trophy or plaque  
 1044 | and a cash award to the school recommended by the Office of  
 1045 | Educational Facilities and ~~SMART Schools Clearinghouse~~ for a  
 1046 | SMART school of the year recognition award.

1047 | Section 20. Subsection (1) of section 1013.73, Florida  
 1048 | Statutes, is amended to read:

1049 | 1013.73 Effort index grants for school district  
 1050 | facilities.-

1051 | (1) The Legislature hereby allocates for effort index  
 1052 | grants the sum of \$300 million from the funds appropriated from  
 1053 | the Educational Enhancement Trust Fund by s. 46, chapter 97-384,  
 1054 | Laws of Florida, contingent upon the sale of school capital  
 1055 | outlay bonds. From these funds, the Commissioner of Education  
 1056 | shall allocate to the four school districts deemed eligible for  
 1057 | an effort index grant ~~by the SMART Schools Clearinghouse~~ the  
 1058 | sums of \$7,442,890 to the Clay County School District,  
 1059 | \$62,755,920 to the Miami-Dade County Public Schools, \$1,628,590  
 1060 | to the Hendry County School District, and \$414,950 to the  
 1061 | Madison County School District. The remaining funds shall be  
 1062 | allocated among the remaining district school boards that  
 1063 | qualify for an effort index grant by meeting the local capital  
 1064 | outlay effort criteria in paragraph (a) or paragraph (b).

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1065 (a) Between July 1, 1995, and June 30, 1999, the school  
 1066 district received direct proceeds from the one-half-cent sales  
 1067 surtax for public school capital outlay authorized by s.  
 1068 212.055(6) or from the local government infrastructure sales  
 1069 surtax authorized by s. 212.055(2).

1070 (b) The school district met two of the following criteria:

1071 1. Levied the full 2 mills of nonvoted discretionary  
 1072 capital outlay authorized by s. 1011.71(2) during 1995-1996,  
 1073 1996-1997, 1997-1998, and 1998-1999.

1074 2. Levied a cumulative voted millage for capital outlay  
 1075 and debt service equal to 2.5 mills for fiscal years 1995  
 1076 through 1999.

1077 3. Received proceeds of school impact fees greater than  
 1078 \$500 per dwelling unit which were in effect on July 1, 1998.

1079 4. Received direct proceeds from either the one-half-cent  
 1080 sales surtax for public school capital outlay authorized by s.  
 1081 212.055(6) or from the local government infrastructure sales  
 1082 surtax authorized by s. 212.055(2).

1083 Section 21. The Legislature recognizes that there is a  
 1084 need to conform the Florida K-20 Education Code to changes in  
 1085 terminology relating to community colleges that were enacted by  
 1086 chapter 2008-52, Laws of Florida, establishing the Florida  
 1087 College System, and chapter 2009-228, Laws of Florida, renaming  
 1088 the "Division of Community Colleges" as the "Division of Florida  
 1089 Colleges" and defining the term "Florida college." Therefore, in  
 1090 the interim between this act becoming a law and the 2011 Regular  
 1091 Session of the Legislature, the Division of Statutory Revision  
 1092 of the Office of Legislative Services shall prepare a reviser's

1093 bill to substitute the term "Florida College System institution"  
 1094 for the terms "Florida college," "community college," and  
 1095 "junior college" where those terms appear in the Florida K-20  
 1096 Education Code.

1097 Section 22. Section 1004.87, Florida Statutes, is  
 1098 repealed.

1099 Section 23. Section 1002.335, Florida Statutes, is  
 1100 repealed.

1101 Section 24. Paragraphs (a) and (d) through (i) of  
 1102 subsection (6) of section 1002.33, Florida Statutes, are amended  
 1103 to read:

1104 1002.33 Charter schools.—

1105 (6) APPLICATION PROCESS AND REVIEW.—Charter school  
 1106 applications are subject to the following requirements:

1107 (a) A person or entity wishing to open a charter school  
 1108 shall prepare and submit an application on a model application  
 1109 form prepared by the Department of Education which:

1110 1. Demonstrates how the school will use the guiding  
 1111 principles and meet the statutorily defined purpose of a charter  
 1112 school.

1113 2. Provides a detailed curriculum plan that illustrates  
 1114 how students will be provided services to attain the Sunshine  
 1115 State Standards.

1116 3. Contains goals and objectives for improving student  
 1117 learning and measuring that improvement. These goals and  
 1118 objectives must indicate how much academic improvement students  
 1119 are expected to show each year, how success will be evaluated,  
 1120 and the specific results to be attained through instruction.

1121 4. Describes the reading curriculum and differentiated  
 1122 strategies that will be used for students reading at grade level  
 1123 or higher and a separate curriculum and strategies for students  
 1124 who are reading below grade level. A sponsor shall deny a  
 1125 charter if the school does not propose a reading curriculum that  
 1126 is consistent with effective teaching strategies that are  
 1127 grounded in scientifically based reading research.

1128 5. Contains an annual financial plan for each year  
 1129 requested by the charter for operation of the school for up to 5  
 1130 years. This plan must contain anticipated fund balances based on  
 1131 revenue projections, a spending plan based on projected revenues  
 1132 and expenses, and a description of controls that will safeguard  
 1133 finances and projected enrollment trends.

1134 6. Documents that the applicant has participated in the  
 1135 training required in subparagraph (f)~~(g)~~2. A sponsor may require  
 1136 an applicant to provide additional information as an addendum to  
 1137 the charter school application described in this paragraph.

1138 ~~(d) For charter school applications in school districts~~  
 1139 ~~that have not been granted exclusive authority to sponsor~~  
 1140 ~~charter schools pursuant to s. 1002.335(5), the right to appeal~~  
 1141 ~~an application denial under paragraph (c) shall be contingent on~~  
 1142 ~~the applicant having submitted the same or a substantially~~  
 1143 ~~similar application to the Florida Schools of Excellence~~  
 1144 ~~Commission or one of its cosponsors. Any such applicant whose~~  
 1145 ~~application is denied by the commission or one of its cosponsors~~  
 1146 ~~subsequent to its denial by the district school board may~~  
 1147 ~~exercise its right to appeal the district school board's denial~~  
 1148 ~~under paragraph (c) within 30 days after receipt of the~~

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1149 ~~commission's or cosponsor's denial or failure to act on the~~  
 1150 ~~application. However, the applicant forfeits its right to appeal~~  
 1151 ~~under paragraph (c) if it fails to submit its application to the~~  
 1152 ~~commission or one of its cosponsors by August 1 of the school~~  
 1153 ~~year immediately following the district school board's denial of~~  
 1154 ~~the application.~~

1155 (d)~~(e)~~ The sponsor shall act upon the decision of the  
 1156 State Board of Education within 30 calendar days after it is  
 1157 received. The State Board of Education's decision is a final  
 1158 action subject to judicial review in the district court of  
 1159 appeal.

1160 (e)~~(f)~~1. A Charter School Appeal Commission is established  
 1161 to assist the commissioner and the State Board of Education with  
 1162 a fair and impartial review of appeals by applicants whose  
 1163 charter applications have been denied, whose charter contracts  
 1164 have not been renewed, or whose charter contracts have been  
 1165 terminated by their sponsors.

1166 2. The Charter School Appeal Commission may receive copies  
 1167 of the appeal documents forwarded to the State Board of  
 1168 Education, review the documents, gather other applicable  
 1169 information regarding the appeal, and make a written  
 1170 recommendation to the commissioner. The recommendation must  
 1171 state whether the appeal should be upheld or denied and include  
 1172 the reasons for the recommendation being offered. The  
 1173 commissioner shall forward the recommendation to the State Board  
 1174 of Education no later than 7 calendar days prior to the date on  
 1175 which the appeal is to be heard. The state board must consider  
 1176 the commission's recommendation in making its decision, but is



1177 | not bound by the recommendation. The decision of the Charter  
 1178 | School Appeal Commission is not subject to the provisions of the  
 1179 | Administrative Procedure Act, chapter 120.

1180 |         3. The commissioner shall appoint the members of the  
 1181 | Charter School Appeal Commission. Members shall serve without  
 1182 | compensation but may be reimbursed for travel and per diem  
 1183 | expenses in conjunction with their service. One-half of the  
 1184 | members must represent currently operating charter schools, and  
 1185 | one-half of the members must represent sponsors. The  
 1186 | commissioner or a named designee shall chair the Charter School  
 1187 | Appeal Commission.

1188 |         4. The chair shall convene meetings of the commission and  
 1189 | shall ensure that the written recommendations are completed and  
 1190 | forwarded in a timely manner. In cases where the commission  
 1191 | cannot reach a decision, the chair shall make the written  
 1192 | recommendation with justification, noting that the decision was  
 1193 | rendered by the chair.

1194 |         5. Commission members shall thoroughly review the  
 1195 | materials presented to them from the appellant and the sponsor.  
 1196 | The commission may request information to clarify the  
 1197 | documentation presented to it. In the course of its review, the  
 1198 | commission may facilitate the postponement of an appeal in those  
 1199 | cases where additional time and communication may negate the  
 1200 | need for a formal appeal and both parties agree, in writing, to  
 1201 | postpone the appeal to the State Board of Education. A new date  
 1202 | certain for the appeal shall then be set based upon the rules  
 1203 | and procedures of the State Board of Education. Commission  
 1204 | members shall provide a written recommendation to the state

1205 board as to whether the appeal should be upheld or denied. A  
 1206 fact-based justification for the recommendation must be  
 1207 included. The chair must ensure that the written recommendation  
 1208 is submitted to the State Board of Education members no later  
 1209 than 7 calendar days prior to the date on which the appeal is to  
 1210 be heard. Both parties in the case shall also be provided a copy  
 1211 of the recommendation.

1212 (f)~~(g)~~1. The Department of Education shall offer or  
 1213 arrange for training and technical assistance to charter school  
 1214 applicants in developing business plans and estimating costs and  
 1215 income. This assistance shall address estimating startup costs,  
 1216 projecting enrollment, and identifying the types and amounts of  
 1217 state and federal financial assistance the charter school may be  
 1218 eligible to receive. The department may provide other technical  
 1219 assistance to an applicant upon written request.

1220 2. A charter school applicant must participate in the  
 1221 training provided by the Department of Education before filing  
 1222 an application. However, a sponsor may require the charter  
 1223 school applicant to attend training provided by the sponsor in  
 1224 lieu of the department's training if the sponsor's training  
 1225 standards meet or exceed the standards developed by the  
 1226 Department of Education. The training shall include instruction  
 1227 in accurate financial planning and good business practices. If  
 1228 the applicant is a management company or other nonprofit  
 1229 organization, the charter school principal and the chief  
 1230 financial officer or his or her equivalent must also participate  
 1231 in the training.

1232 (g)~~(h)~~ In considering charter applications for a lab

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1233 school, a state university shall consult with the district  
 1234 school board of the county in which the lab school is located.  
 1235 The decision of a state university may be appealed pursuant to  
 1236 the procedure established in this subsection.

1237 (h)~~(i)~~ The terms and conditions for the operation of a  
 1238 charter school shall be set forth by the sponsor and the  
 1239 applicant in a written contractual agreement, called a charter.  
 1240 The sponsor shall not impose unreasonable rules or regulations  
 1241 that violate the intent of giving charter schools greater  
 1242 flexibility to meet educational goals. The sponsor shall have 60  
 1243 days to provide an initial proposed charter contract to the  
 1244 charter school. The applicant and the sponsor shall have 75 days  
 1245 thereafter to negotiate and notice the charter contract for  
 1246 final approval by the sponsor unless both parties agree to an  
 1247 extension. The proposed charter contract shall be provided to  
 1248 the charter school at least 7 calendar days prior to the date of  
 1249 the meeting at which the charter is scheduled to be voted upon  
 1250 by the sponsor. The Department of Education shall provide  
 1251 mediation services for any dispute regarding this section  
 1252 subsequent to the approval of a charter application and for any  
 1253 dispute relating to the approved charter, except disputes  
 1254 regarding charter school application denials. If the  
 1255 Commissioner of Education determines that the dispute cannot be  
 1256 settled through mediation, the dispute may be appealed to an  
 1257 administrative law judge appointed by the Division of  
 1258 Administrative Hearings. The administrative law judge may rule  
 1259 on issues of equitable treatment of the charter school as a  
 1260 public school, whether proposed provisions of the charter

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1261 violate the intended flexibility granted charter schools by  
 1262 statute, or on any other matter regarding this section except a  
 1263 charter school application denial, a charter termination, or a  
 1264 charter nonrenewal and shall award the prevailing party  
 1265 reasonable attorney's fees and costs incurred to be paid by the  
 1266 losing party. The costs of the administrative hearing shall be  
 1267 paid by the party whom the administrative law judge rules  
 1268 against.

1269 Section 25. Subsection (5) of section 1003.413, Florida  
 1270 Statutes, is repealed.

1271 Section 26. Section 1003.62, Florida Statutes, is  
 1272 repealed.

1273 Section 27. Subsection (2) of section 1011.69, Florida  
 1274 Statutes, is amended to read:

1275 1011.69 Equity in School-Level Funding Act.—

1276 (2) Beginning in the 2003-2004 fiscal year, district  
 1277 school boards shall allocate to schools within the district an  
 1278 average of 90 percent of the funds generated by all schools and  
 1279 guarantee that each school receives at least 80 percent of the  
 1280 funds generated by that school based upon the Florida Education  
 1281 Finance Program as provided in s. 1011.62 and the General  
 1282 Appropriations Act, including gross state and local funds,  
 1283 discretionary lottery funds, and funds from the school  
 1284 district's current operating discretionary millage levy. Total  
 1285 funding for each school shall be recalculated during the year to  
 1286 reflect the revised calculations under the Florida Education  
 1287 Finance Program by the state and the actual weighted full-time  
 1288 equivalent students reported by the school during the full-time

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1289 equivalent student survey periods designated by the Commissioner  
 1290 of Education. If the district school board is providing programs  
 1291 or services to students funded by federal funds, any eligible  
 1292 students enrolled in the schools in the district shall be  
 1293 provided federal funds. ~~Only academic performance-based charter~~  
 1294 ~~school districts, pursuant to s. 1003.62, are exempt from the~~  
 1295 ~~provisions of this section.~~

1296 Section 28. Paragraph (b) of subsection (6) of section  
 1297 1013.64, Florida Statutes, is amended to read:

1298 1013.64 Funds for comprehensive educational plant needs;  
 1299 construction cost maximums for school district capital  
 1300 projects.—Allocations from the Public Education Capital Outlay  
 1301 and Debt Service Trust Fund to the various boards for capital  
 1302 outlay projects shall be determined as follows:

1303 (6)

1304 (b)1. A district school board, ~~including a district school~~  
 1305 ~~board of an academic performance-based charter school district,~~  
 1306 must not use funds from the following sources: Public Education  
 1307 Capital Outlay and Debt Service Trust Fund; School District and  
 1308 Community College District Capital Outlay and Debt Service Trust  
 1309 Fund; Classrooms First Program funds provided in s. 1013.68;  
 1310 effort index grant funds provided in s. 1013.73; nonvoted 1.5-  
 1311 mill levy of ad valorem property taxes provided in s.  
 1312 1011.71(2); Classrooms for Kids Program funds provided in s.  
 1313 1013.735; District Effort Recognition Program funds provided in  
 1314 s. 1013.736; or High Growth District Capital Outlay Assistance  
 1315 Grant Program funds provided in s. 1013.738 for any new  
 1316 construction of educational plant space with a total cost per

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1317 student station, including change orders, that equals more than:  
 1318 a. \$17,952 for an elementary school,  
 1319 b. \$19,386 for a middle school, or  
 1320 c. \$25,181 for a high school,

1321  
 1322 (January 2006) as adjusted annually to reflect increases or  
 1323 decreases in the Consumer Price Index.

1324 2. A district school board must not use funds from the  
 1325 Public Education Capital Outlay and Debt Service Trust Fund or  
 1326 the School District and Community College District Capital  
 1327 Outlay and Debt Service Trust Fund for any new construction of  
 1328 an ancillary plant that exceeds 70 percent of the average cost  
 1329 per square foot of new construction for all schools.

1330 Section 29. Section 1003.63 and subsection (7) of section  
 1331 1008.345, Florida Statutes, are repealed.

1332 Section 30. Subsection (2) of section 1004.68, Florida  
 1333 Statutes, is amended to read:

1334 1004.68 Community college; degrees and certificates; tests  
 1335 for certain skills.—

1336 (2) Each community college board of trustees shall require  
 1337 the use of scores on tests for college-level communication and  
 1338 computation skills provided in s. 1008.345 (7) ~~(8)~~ as a condition  
 1339 for graduation with an associate in arts degree.

1340 Section 31. Section 1006.67, Florida Statutes, is  
 1341 repealed.

1342 Section 32. Section 1013.11, Florida Statutes, is amended  
 1343 to read:

1344 1013.11 Postsecondary institutions, assessment of physical

1345 | plant safety.—The president of each postsecondary institution  
 1346 | shall conduct or cause to be conducted an annual assessment of  
 1347 | physical plant safety. An annual report shall incorporate the  
 1348 | findings obtained through such assessment and recommendations  
 1349 | for the improvement of safety on each campus. The annual report  
 1350 | shall be submitted to the respective governing or licensing  
 1351 | board of jurisdiction no later than January 1 of each year. Each  
 1352 | board shall compile the individual institutional reports and  
 1353 | convey the aggregate institutional reports to the Commissioner  
 1354 | of Education or the Chancellor of the State University System,  
 1355 | as appropriate. The Commissioner of Education and the Chancellor  
 1356 | of the State University System shall convey these reports ~~and~~  
 1357 | ~~the reports required in s. 1006.67~~ to the President of the  
 1358 | Senate and the Speaker of the House of Representatives no later  
 1359 | than March 1 of each year.

1360 |       Section 33. Sections 1009.63, 1009.631, 1009.632,  
 1361 | 1009.633, 1009.634, and 1009.64, Florida Statutes, are repealed.

1362 |       Section 34. Paragraph (a) of subsection (1) of section  
 1363 | 1009.40, Florida Statutes, is amended to read:

1364 |       1009.40 General requirements for student eligibility for  
 1365 | state financial aid awards and tuition assistance grants.—

1366 |       (1)(a) The general requirements for eligibility of  
 1367 | students for state financial aid awards and tuition assistance  
 1368 | grants consist of the following:

- 1369 |       1. Achievement of the academic requirements of and  
 1370 | acceptance at a state university or community college; a nursing  
 1371 | diploma school approved by the Florida Board of Nursing; a  
 1372 | Florida college, university, or community college which is

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1373 accredited by an accrediting agency recognized by the State  
 1374 Board of Education; any Florida institution the credits of which  
 1375 are acceptable for transfer to state universities; any career  
 1376 center; or any private career institution accredited by an  
 1377 accrediting agency recognized by the State Board of Education.

1378 2. Residency in this state for no less than 1 year  
 1379 preceding the award of aid or a tuition assistance grant for a  
 1380 program established pursuant to s. 1009.50, s. 1009.505, s.  
 1381 1009.51, s. 1009.52, s. 1009.53, s. 1009.54, s. 1009.56, s.  
 1382 1009.57, s. 1009.60, s. 1009.62, ~~s. 1009.63~~, s. 1009.68, s.  
 1383 1009.72, s. 1009.73, s. 1009.77, s. 1009.89, or s. 1009.891.

1384 Residency in this state must be for purposes other than to  
 1385 obtain an education. Resident status for purposes of receiving  
 1386 state financial aid awards shall be determined in the same  
 1387 manner as resident status for tuition purposes pursuant to s.  
 1388 1009.21.

1389 3. Submission of certification attesting to the accuracy,  
 1390 completeness, and correctness of information provided to  
 1391 demonstrate a student's eligibility to receive state financial  
 1392 aid awards or tuition assistance grants. Falsification of such  
 1393 information shall result in the denial of any pending  
 1394 application and revocation of any award or grant currently held  
 1395 to the extent that no further payments shall be made.

1396 Additionally, students who knowingly make false statements in  
 1397 order to receive state financial aid awards or tuition  
 1398 assistance grants commit a misdemeanor of the second degree  
 1399 subject to the provisions of s. 837.06 and shall be required to  
 1400 return all state financial aid awards or tuition assistance



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1401 grants wrongfully obtained.  
 1402 Section 35. Paragraph (c) of subsection (2) of section  
 1403 1009.94, Florida Statutes, is amended to read:  
 1404 1009.94 Student financial assistance database.—  
 1405 (2) For purposes of this section, financial assistance  
 1406 includes:  
 1407 (c) Any financial assistance provided under s. 1009.50, s.  
 1408 1009.505, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54, s.  
 1409 1009.55, s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, ~~s.~~  
 1410 ~~1009.63,~~ s. 1009.68, s. 1009.70, s. 1009.701, s. 1009.72, s.  
 1411 1009.73, s. 1009.74, s. 1009.77, s. 1009.89, or s. 1009.891.  
 1412 Section 36. This act shall take effect July 1, 2010.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB EPC 10-03 Class Size

**SPONSOR(S):** Education Policy Council

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Education Policy Council		White TW	Lowell
1)				
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The proposed council bill presents a House Joint Resolution that would allow voters to amend Section 1, Article IX of the State Constitution, relating to class size. Currently, the State Constitution specifies that the maximum number of students who may be assigned to a teacher in public school classrooms, by the beginning of the 2010 school year, is: (a) 18 students in prekindergarten (PreK) through grade three; (b) 22 students in grades four through eight; and (c) 25 students in grades nine through 12.

The joint resolution proposes modifying the class size requirements so that compliance, beginning with the 2010-2011 school year, would be calculated as follows:

- PreK – Grade 3: The maximum number of students who may be assigned to each teacher in an individual classroom is raised from 18 to 21, *but the average number of students assigned per class to each teacher within each public school may not exceed 18 students.*
- Grades 4 – 8: The maximum number of students that may be assigned to each teacher in an individual classroom is raised from 22 to 27, *but the average number of students assigned per class to each teacher within each public school may not exceed 22 students.*
- Grades 9 – 12: The maximum number of students that may be assigned to each teacher in an individual classroom is raised from 25 to 30, *but the average number of students assigned per class to each teacher within each public school may not exceed 25 students.*

Additionally, the joint resolution:

- Clarifies that full compliance with class size is required by the “beginning of the 2010-2011 school year,” rather than “the beginning of the 2010 school year” as currently provided in the constitution.
- Clarifies that virtual schools are exempt from class size requirements.
- Requires the Legislature to provide sufficient funding to maintain the average number of students required by the amendment and deletes obsolete language requiring the Legislature, beginning 2003-2004, to fund class size reductions by at least two students annually.
- Contains a ballot summary that notifies voters of the contents of the proposed amendment.

The joint resolution must be adopted by a three-fifths vote of the membership of each house of the Legislature. If passed, the proposed amendments would be placed on the ballot at the November 2, 2010, general election. Sixty percent voter approval is required for adoption. If adopted by the voters, the amendment would take effect retroactively to the beginning of the 2010-2011 school year.

The joint resolution should have a positive, but indeterminate, fiscal impact on state and school district expenditures for education. The Department of State has projected a non-recurring fiscal impact of \$79,436 to comply with the constitutional publication requirements for the joint resolution. (See the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT section in this analysis.)

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

**STORAGE NAME:** pcb03.EPC.doc  
**DATE:** 2/8/2010

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Constitutional Requirement

In November 2002, voters approved the constitutional Class Size Reduction Amendment.<sup>1</sup> The amendment requires the Legislature to provide for: (1) a sufficient number of classrooms by the beginning of the 2010 school year so that no more than a specified maximum number of students may be assigned to each teacher; and (2) the reduction of the average number of students in each classroom by at least two students per year until the number of students per classroom does not exceed the maximum allowed.

The maximum number of students that may be assigned to each teacher is as follows:

- 18 students in PreK through grade three.
- 22 students in grades four through eight.
- 25 students in grades nine through 12.

The amendment does not apply to extracurricular classes.<sup>2</sup>

##### Implementation

In 2003, the Legislature enacted legislation to implement the class size amendment.<sup>3</sup> The law specifies that the class size requirements apply to students in core-curricula courses.<sup>4</sup> Core-curricula courses are defined as: mathematics, language arts/reading, science, social studies, foreign languages, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional self-contained elementary school classrooms. The definition further states that virtual instruction courses under ss. 1002.37, 1002.415, and 1002.45, F.S., are not included within the term "core-curricula courses."<sup>5</sup>

---

<sup>1</sup> Section 1, Article IX, Fla. Constitution.

<sup>2</sup> *Id.*

<sup>3</sup> Chapter 2003-391, s. 2, L.O.F.

<sup>4</sup> Section 1003.03, F. S.

<sup>5</sup> Section 1003.01(14), F.S.

The law sets forth an implementation schedule for the amendment. It provides that class size for purposes of determining district compliance with class size reduction goals and maximums for each of the three grade groupings shall be calculated:

- At the district level average for Fiscal Years (FYs) 2003-2004 through 2005-2006.
- At the school level average for FYs 2006-2007 through 2009-2010.<sup>6</sup>
- At the individual classroom level for FY 2010-2011 and thereafter.<sup>7</sup>

To meet class size requirements, school districts are authorized to implement options that include, but are not limited to, the following:

- Adopting policies to encourage qualified students to take dual enrollment and Florida Virtual School courses.
- Repealing district policies requiring more than 24 credits to graduate from high school.
- Maximizing use of instructional staff, e.g., modifying required teaching loads and planning periods and deploying district employees who have professional certification.
- Using innovative methods to reduce school construction costs.
- Utilizing joint-use facilities through partnerships with postsecondary institutions.
- Adopting alternative methods of class scheduling, such as block scheduling.
- Redrawing school attendance zones to maximize use of facilities.
- Operating schools beyond the normal operating hours and using year-round schools and other non-traditional calendars.
- Amending collective bargaining contracts that hinder the implementation of class size reduction.
- Using any other approach not prohibited by law.<sup>8</sup>

Since adoption of the class size reduction amendment, average class sizes have been reduced as follows:

District Average Class Size <sup>9</sup>								
	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Grades PK-3	23.07	20.54	18.98	18.16	17.01	16.28	15.95	16.39
Grades 4-8	24.16	22.43	21.30	20.48	19.45	18.76	18.60	18.91
Grades 9-12	24.10	24.06	23.65	22.96	22.22	21.39	21.49	21.94

### Funding

Statute establishes an operating categorical fund for class size reduction. This funding must be used by districts to reduce class size as required by s. 1003.03, F.S., or may be used for any lawful operating expenditure with priority to be given to increasing salaries of classroom teachers.<sup>10</sup> For FYs 2003-2004 through 2009-2010, the Legislature appropriated a total of \$13.3 billion in class size reduction operating funds with \$2.8 billion of that amount most recently appropriated for FY 2009-2010.<sup>11</sup>

Statute also establishes the Classrooms for Kids Program which authorizes appropriated fixed capital outlay funds to be distributed to districts based on a specified formula. In order to increase capacity to reduce class size, districts must spend these funds only on the construction, renovation, remodeling, or

<sup>6</sup> Section 1003.03(2)(b)4., F.S.

<sup>7</sup> Beginning with FY 2006-2007, each teacher assigned to any classroom is included in the compliance calculation. Section 1003.03(2)(b), F.S.

<sup>8</sup> Section 1003.03(3), F.S.

<sup>9</sup> Florida Department of Education, 2010 Legislative Information Request, December 2009.

<sup>10</sup> Section 1011.685, F.S.

<sup>11</sup> Florida Department of Education, 2010 Legislative Information Request, December 2009.

repair of educational facilities or the purchase or lease-purchase of specified relocatables.<sup>12</sup> For FYs 2003-2004 through 2007-2008, the Legislature appropriated a total of \$2.5 billion in fixed capital outlay funds to the program with \$650 million of that amount most recently appropriated for FY 2007-2008.<sup>13</sup> No fixed capital outlay funds have been appropriated to the program since FY 2007-2008.

The State Board of Education's (SBE's) Legislative Budget Request for FY 2010-2011 contains a \$3.2 billion appropriation request for the class size reduction operating categorical fund. It does not contain an appropriation request for fixed capital outlay funding for the Classrooms for Kids Program.<sup>14</sup>

### Compliance

*Compliance measures for FYs 2003-2004 through 2009-2010:* Since FY 2003-2004, the DOE has been required to review district compliance with the class size reduction requirements. When the DOE determines, at the time of the third Florida Education Finance Program (FEFP) calculation, that a district has not complied with the reduction requirements for that year, the DOE must calculate an amount from the district's class size reduction operating funds which is proportionate to the amount of class size reduction not accomplished. The amount is to be transferred by the Executive Office of the Governor to the district's fixed capital outlay appropriation and used for class size reduction requirements.<sup>15</sup>

A school district may appeal the DOE's finding that the district has not complied with the class size reduction requirements. If the Commissioner of Education and SBE determine that a district has been unable to meet the requirements despite appropriate efforts, the Commissioner may recommend a budget amendment, subject to the approval of the Legislative Budget Commission, to transfer an alternative amount of funds from class size operating to fixed capital outlay.<sup>16 17</sup> Factors that have been considered by the Commissioner and SBE when recommending such an amendment have included:

- Unexpected student enrollment growth.
- District reporting errors.
- Inability to hire teachers.
- Impact of budget cuts on ability to reduce class size.<sup>18</sup>

During the six FYs between 2003-2004 and 2008-2009, almost \$6.7 million has been transferred after appeals from the district class size reduction operating funds to district class size reduction fixed capital outlay for traditional public schools.<sup>19 20</sup>

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<sup>12</sup> Section 1013.735, F.S.

<sup>13</sup> Florida Department of Education, 2010 Legislative Information Request, December 2009.

<sup>14</sup> State Board of Education, Legislative Budget Request, October 2009.

<sup>15</sup> Section 1003.03(4)(a), F.S.

<sup>16</sup> Section 1003.03(4)(a)2., F.S.

<sup>17</sup> Additionally, beginning with FY 2007-2008 and thereafter, the Commissioner of Education may reduce the amount of class size reduction operating funds required to be transferred to fixed capital outlay by 50 percent if the amount of those operating funds as established in the General Appropriations Act for the relevant FY are reduced by a subsequent appropriation. Section 1003.03(4)(a)3., F.S.

<sup>18</sup> Florida Department of Education, 2010 Legislative Information Request, December 2009.

<sup>19</sup> Florida Department of Education, House PreK-12 Appropriations Committee Update on the Class Size Amendment PowerPoint, January 12, 2010.

<sup>20</sup> This amount reflects only the amount transferred for traditional public schools. The total amount transferred for charter and traditional public schools is approximately \$8.8 million. See Florida Department of Education, 2010 Legislative Information Request, December 2009. Prior to FY 2008-2009, the compliance requirements for class size reduction set forth in s. 1003.03, F.S., had been interpreted by the Legislature and DOE as applying to both traditional and charter schools; however, on December 17, 2008, the Division of Administrative Hearings (DOAH) issued an order holding that the DOE may not require charter schools to comply s. 1003.03, F.S., because: (1) charter schools are exempt from that section under s. 1002.33(17)(a), F.S., which states that charter schools are not subject to provisions of the School Code unless specifically required by statute; and (2) the DOE violated ch. 120, F.S., by failing to adopt its regulatory policy for traditional and charter school compliance with class size requirements as a rule. See *Renaissance Charter School, Inc., and the Lee Charter Foundation, Inc. v. Department of Education*, DOAH Case No. 08-1309RU (Final Order dated Dec. 17, 2008). As a result of the DOAH order, there is currently no means for enforcing charter school compliance with class size requirements.

For the 2009-2010 school year, 72 traditional public schools in 26 school districts were initially determined by the DOE to not be in compliance with the constitutional class size requirements when measured at the school level. The amount of class size reduction operating funds to be transferred based on that level of noncompliance totaled \$1,912,030. After appeals, the Commissioner recommended that only 16 traditional public schools in nine school districts be found noncompliant and that the amount to be transferred be reduced to \$267,263. The SBE is to consider the Commissioner's post-appeal recommendation at its February 15, 2010, meeting.<sup>21</sup>

*Compliance Measures for FY 2010-2011 and thereafter:* Legislation adopted during the 2009 Regular Session established new compliance measures that begin in FY 2010-2011 when class size must be calculated at the individual classroom level.<sup>22</sup> Beginning in that year, if the DOE determines, at the time of third FEFP calculation, that the number of students assigned to any individual classroom exceeds the permitted class size maximum, the district's class size reduction operating funds must be reduced by the lesser of: (a) the amount equaling the number full-time equivalent (FTE) students in excess of the maximum for each class multiplied by the district's per-FTE amount for class size reduction funds; or (b) the amount of the district's undistributed balance of class size reduction operation funds.<sup>23</sup> The Commissioner of Education, subject to approval by the Legislative Budget Commission, may recommend an alternate reduced amount.<sup>24</sup> The Executive Office of the Governor is required place funds from the reductions in reserve by March 1<sup>st</sup> of each year and the undistributed funds are to revert to the General Revenue Fund unallocated at the end of the FY.<sup>25</sup>

The 2009 legislation also required the DOE, at the time of the third FEFP calculation in 2009, to prepare a simulated calculation based on FY 2009-2010 using the new compliance measures applicable to the FY 2010-2011.<sup>26</sup> The simulation results are as follows:

- PreK – Grade 3: A total of 34,565.56 FTE would be in excess of the class size maximums in 100,440 classrooms (32.43 percent of classrooms in state).
- Grades 4 – 8: A total of 42,806.46 FTE would be in excess of the class size maximums in 77,607 classrooms (28.59 percent of classrooms in state).
- Grades 9 – 12: A total of 43,623.76 FTE would be in excess of the class size maximums in 56,564 classrooms (37.02 percent of classrooms in state).<sup>27</sup>

Based on the simulation, the DOE projected that the total reversion of class size reduction operating funds to the General Revenue Fund would be \$131,451,874 = \$50,305,492 (PreK – grade 3) + \$39,324,970 (grades 4 – 8) + \$41,821,412 (grades 9 – 12).<sup>28</sup>

### **Effect of Proposed Changes**

*Class Size Constitutional Requirements:* Beginning with the 2010-2011 school year, the amendment proposed by the joint resolution would modify class size requirements so that compliance would be calculated as follows:

- PreK – Grade 3: The maximum number of students who may be assigned to each teacher in an individual classroom would be raised from 18 to 21, *but the average number of students assigned per class to each teacher within each public school may not exceed 18 students.*

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<sup>21</sup> Florida Department of Education, House PreK-12 Appropriations Committee Update on the Class Size Amendment PowerPoint, January 12, 2010.

<sup>22</sup> Chapter 2009-59, s. 14, L.O.F.

<sup>23</sup> Section 1003.03(4)(b), F.S.

<sup>24</sup> Section 1003.03(4)(d), F.S.

<sup>25</sup> Section 1003.03(4) (c), F.S.

<sup>26</sup> Section 1003.03(4)(e), F.S.

<sup>27</sup> Florida Department of Education, House PreK-12 Appropriations Committee Update on the Class Size Amendment PowerPoint, January 12, 2010.

<sup>28</sup> *Id.*

- Grades 4 – 8: The maximum number of students who may be assigned to each teacher in an individual classroom would be raised from 22 to 27, *but the average number of students assigned per class to each teacher within each public school may not exceed 22 students.*
- Grades 9 – 12: The maximum number of students who may be assigned to each teacher in an individual classroom would be raised from 25 to 30, *but the average number of students assigned per class to each teacher within each public school may not exceed 25 students.*

Additionally, the joint resolution:

- Clarifies that full compliance with class size is required by the “beginning of the 2010-2011 school year,” rather than “the beginning of the 2010 school year” as currently provided in the constitution.
- Clarifies that virtual schools are exempt from class size requirements. Currently, statute specifies that virtual instruction courses are not included within the term “core-curricula courses” which are subject to the class size requirements.<sup>29</sup>
- Requires the Legislature to provide sufficient funds to maintain the average number of students required in each classroom and deletes obsolete language that required the Legislature, beginning 2003-2004, to fund class size reductions by at least two students per year in order to meet the class size limits. Such funding has already been appropriated.
- Contains a ballot summary that notifies voters of the contents of the proposed amendment.

*Implementation Schedule:* The joint resolution, if adopted by three-fifths vote of the membership of each house of the Legislature, would place the proposed amendments on the ballot of the next general election on November 2, 2010.<sup>30</sup> If approved by 60 percent of the voters, the amendments would take effect retroactively to the beginning of the 2010-2011 school year.

## B. SECTION DIRECTORY:

As this legislation is a joint resolution proposing a constitutional amendment, it does not contain bill sections. The joint resolution proposes to amend Section 1 of Article IX of the Florida Constitution, relating to class size.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The joint resolution does not appear to have a fiscal impact on state revenues.

#### 2. Expenditures:

The State Constitution requires the proposed amendment to be published, once in the tenth week and once in the sixth week immediately preceding the week of the election, in one newspaper of general circulation in each county where a newspaper is published.<sup>31</sup> The Department of State executes this requirement and has projected a non-recurring fiscal impact of \$79,436.52 for the publication.

The joint resolution should have a positive, but indeterminate, fiscal impact on state expenditures for education. See FISCAL COMMENTS section below.

<sup>29</sup> Section 1003.01(14), F.S.

<sup>30</sup> Florida Division of Elections, Calendar of Election Dates *available at* <http://election.dos.state.fl.us/calendar/elecdate.shtml>.

<sup>31</sup> Article XI, s. 5(d) of the State Constitution



B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The joint resolution does not appear to have a fiscal impact on local revenues.

2. Expenditures:

The joint resolution should have a positive, but indeterminate, fiscal impact on local expenditures for education. See FISCAL COMMENTS section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The joint resolution should have a positive, but indeterminate, fiscal impact on state and school district expenditures because the proposed constitutional amendment would allow some flexibility in meeting the class size requirements by calculating compliance at the average number of students assigned per class to each teacher within each public school, rather than calculating compliance at the number of students in each classroom.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The joint resolution 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:

Article XI, s.1, of the State Constitution provides for proposed changes to the Constitution by the Legislature:

**SECTION 1: Proposal by legislature.** – Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

If passed by the Legislature, the proposed amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the custodian of state records.<sup>32</sup> The proposed amendment must be published, once in the tenth week and once in the sixth week immediately preceding the week of the election, in one newspaper of general circulation in each county where a newspaper is published.<sup>33</sup> Submission of a proposed amendment at an earlier special election requires the affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.<sup>34</sup>

Article XI, s. 5(e) of the State Constitution requires 60 percent voter approval for a proposed constitutional amendment to pass.

<sup>32</sup> Article XI, s. 5(a) of the State Constitution.

<sup>33</sup> Article XI, s. 5(d) of the State Constitution

<sup>34</sup> Article XI, s. 5(a) of the State Constitution.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

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House Joint Resolution

A joint resolution proposing an amendment to Section 1 of Article IX and the creation of Section 31 of Article XII of the State Constitution to revise class size requirements for public schools and to provide an effective date.

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

That the following amendment to Section 1 of Article IX and the creation of Section 31 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IX  
EDUCATION

SECTION 1. Public education.-

(a) The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require. To assure that children

29 attending public schools obtain a high quality education, the  
 30 legislature shall make adequate provision to ensure that, by the  
 31 beginning of the 2010-2011 ~~2010~~ school year and for each school  
 32 year thereafter, there are a sufficient number of classrooms so  
 33 that:

34 (1) Within each public school, the average ~~maximum~~ number  
 35 of students ~~who are~~ assigned per class to each teacher who is  
 36 teaching ~~in public school classrooms for~~ prekindergarten through  
 37 grade 3 does not exceed 18 students and the maximum number of  
 38 students assigned to each teacher in an individual classroom  
 39 does not exceed 21 students;

40 (2) Within each public school, the average ~~maximum~~ number  
 41 of students ~~who are~~ assigned per class to each teacher who is  
 42 teaching ~~in public school classrooms for~~ grades 4 through 8 does  
 43 not exceed 22 students and the maximum number of students  
 44 assigned to each teacher in an individual classroom does not  
 45 exceed 27 students; and

46 (3) Within each public school, the average ~~maximum~~ number  
 47 of students ~~who are~~ assigned per class to each teacher who is  
 48 teaching ~~in public school classrooms for~~ grades 9 through 12  
 49 does not exceed 25 students and the maximum number of students  
 50 assigned to each teacher in an individual classroom does not  
 51 exceed 30 students.

52  
 53 The class size requirements of this subsection do not apply to  
 54 extracurricular or virtual classes. Payment of the costs  
 55 associated with meeting ~~reducing class size to meet~~ these  
 56 requirements is the responsibility of the state and not of local

57 school ~~schools~~ districts. ~~Beginning with the 2003-2004 fiscal~~  
 58 ~~year,~~ The legislature shall provide sufficient funds to maintain  
 59 ~~reduce~~ the average number of students required by ~~in each~~  
 60 ~~classroom by at least two students per year until the maximum~~  
 61 ~~number of students per classroom does not exceed the~~  
 62 ~~requirements of~~ this subsection.

63 (b) Every four-year old child in Florida shall be provided  
 64 by the State a high quality prekindergarten ~~pre-kindergarten~~  
 65 learning opportunity in the form of an early childhood  
 66 development and education program which shall be voluntary, high  
 67 quality, free, and delivered according to professionally  
 68 accepted standards. An early childhood development and education  
 69 program means an organized program designed to address and  
 70 enhance each child's ability to make age appropriate progress in  
 71 an appropriate range of settings in the development of language  
 72 and cognitive capabilities and emotional, social, regulatory,  
 73 and moral capacities through education in basic skills and such  
 74 other skills as the Legislature may determine to be appropriate.

75 (c) The early childhood education and development programs  
 76 provided by reason of subsection ~~subparagraph~~ (b) shall be  
 77 implemented no later than the beginning of the 2005 school year  
 78 through funds generated in addition to those used for existing  
 79 education, health, and development programs. Existing education,  
 80 health, and development programs are those funded by the State  
 81 as of January 1, 2002, that provided for child or adult  
 82 education, health care, or development.

83 ARTICLE XII

84 SCHEDULE

85        SECTION 31. Class size requirements for public schools.-  
 86        The amendment to Section 1 of Article IX, relating to class size  
 87        requirements for public schools, and this section shall take  
 88        effect upon approval by the electors and shall operate  
 89        retroactively to the beginning of the 2010-2011 school year.

90                BE IT FURTHER RESOLVED that the following statement be  
 91        placed on the ballot:

92                                CONSTITUTIONAL AMENDMENT

93                                        ARTICLE IX, SECTION 1

94                                        ARTICLE XII, SECTION 31

95                REVISION OF THE CLASS SIZE REQUIREMENTS FOR PUBLIC  
 96        SCHOOLS.-The Florida Constitution currently limits the maximum  
 97        number of students assigned to each teacher in public school  
 98        classrooms in the following grade groupings: for prekindergarten  
 99        through grade 3, 18 students; for grades 4 through 8, 22  
 100        students; and for grades 9 through 12, 25 students. Under this  
 101        amendment, the current limits on the maximum number of students  
 102        assigned to each teacher in public school classrooms would  
 103        become limits on the average number of students assigned per  
 104        class to each teacher, by specified grade grouping, in each  
 105        public school. This amendment also adopts new limits on the  
 106        maximum number of students assigned to each teacher in an  
 107        individual classroom as follows: for prekindergarten through  
 108        grade 3, 21 students; for grades 4 through 8, 27 students; and  
 109        for grades 9 through 12, 30 students. This amendment specifies  
 110        that class size limits do not apply to virtual classes, requires  
 111        the Legislature to provide sufficient funds to maintain the  
 112        average number of students required by this amendment, and

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113 | schedules these revisions to take effect upon approval by the  
114 | electors of this state and to operate retroactively to the  
115 | beginning of the 2010-2011 school year.