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# **Education Committee**

**Tuesday, April 5, 2011**

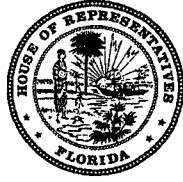
**8:00 AM – 11:00 AM**

**Reed Hall – 102 HOB**

**Meeting Packet**

**Dean Cannon  
Speaker**

**William Proctor  
Chair**



# The Florida House of Representatives

## Education Committee

Dean Cannon  
Speaker

William L. "Bill" Proctor  
Chair

### AGENDA

Education Committee

April 5, 2011

8:00 am – 11:00 am

Reed Hall - 102 HOB

I. Call to Order/Roll Call

II. Opening Remarks

III. Consideration of the following bills:

- CS/HB 35 Florida College System Institutions  
by K-20 Competitiveness Subcommittee, Ford
- HB 61 Code of Student Conduct by Rogers
- CS/CS/HB 307 District School Board Membership by Government Operations  
Subcommittee, K-20 Innovation Subcommittee, Logan
- CS/HB 579 Pub. Rec./Regional Autism Centers  
by Government Operations Subcommittee, Coley
- HB 797 Interscholastic and Intrасhoolastic Sports by Perry
- CS/HB 1255 Education Accountability  
by K-20 Competitiveness Subcommittee, Adkins
- HB 4153 Florida Business and Education Collaborative by Stargel
- HB 4155 College-Level Academic Skills Test by Stargel
- HB 4177 Public Postsecondary Education by Metz

IV. Consideration of the following proposed committee substitute:

- PCS for CS/HB 395 University of Florida J. Hillis Miller Health Center  
by K-20 Competitiveness Subcommittee, O'Toole

V. Closing Remarks and Adjournment



1                   A bill to be entitled  
 2           An act relating to Florida College System institutions;  
 3           amending s. 1000.21, F.S.; renaming Gulf Coast Community  
 4           College as "Gulf Coast State College"; renaming Pensacola  
 5           Junior College as "Pensacola State College"; renaming St.  
 6           Johns River Community College as "St. Johns River State  
 7           College"; renaming Valencia Community College as "Valencia  
 8           College"; amending ss. 288.8175, 1004.74, and 1004.75,  
 9           F.S.; conforming provisions; providing an effective date.

10

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

12

13           Section 1. Paragraphs (i), (t), (v), and (bb) of  
 14           subsection (3) of section 1000.21, Florida Statutes, are amended  
 15           to read:

16           1000.21 Systemwide definitions.—As used in the Florida K-  
 17           20 Education Code:

18           (3) "Florida college" or "community college," except as  
 19           otherwise specifically provided, includes all of the following  
 20           public postsecondary educational institutions in the Florida  
 21           College System and any branch campuses, centers, or other  
 22           affiliates of the institution:

23           (i) Gulf Coast State ~~Community~~ College, which serves Bay,  
 24           Franklin, and Gulf Counties.

25           (t) Pensacola State ~~Junior~~ College, which serves Escambia  
 26           and Santa Rosa Counties.

27           (v) St. Johns River State ~~Community~~ College, which serves  
 28           Clay, Putnam, and St. Johns Counties.

29 (bb) Valencia ~~Community~~ College, which serves Orange and  
 30 Osceola Counties.

31 Section 2. Paragraph (b) of subsection (5) of section  
 32 288.8175, Florida Statutes, is amended to read:

33 288.8175 Linkage institutes between postsecondary  
 34 institutions in this state and foreign countries.—

35 (5) The institutes are:

36 (b) Florida-Costa Rica Institute (Florida State University  
 37 and Valencia ~~Community~~ College).

38 Section 3. Subsection (3) of section 1004.74, Florida  
 39 Statutes, is amended to read:

40 1004.74 Florida School of the Arts.—

41 (3) The Florida School of the Arts is assigned to the  
 42 District Board of Trustees of the St. Johns River State  
 43 ~~Community~~ College for purposes of administration and governance;  
 44 but the Florida School of the Arts, within appropriations and  
 45 limitations established annually by the Legislature, shall serve  
 46 as a professional school on a statewide basis for all qualified  
 47 students.

48 Section 4. Paragraph (b) of subsection (1) of section  
 49 1004.75, Florida Statutes, is amended to read:

50 1004.75 Training school consolidation pilot projects.—

51 (1) ESTABLISHMENT.—To consolidate and more efficiently use  
 52 state and taxpayer resources by combining training programs,  
 53 pilot training centers are established to provide public  
 54 criminal justice training in Leon and St. Johns Counties. The  
 55 following pilot training centers are established:

56 (b) The Criminal Justice Academy at St. Johns River State

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57 | ~~Community~~ College.

58 |       Section 5. This act shall take effect July 1, 2011.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 35 Florida College System Institutions  
**SPONSOR(S):** K-12 Competitiveness Subcommittee, Ford and others  
**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 84

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	12 Y, 0 N, As CS	Thomas	Ahearn
2) Education Committee		Thomas <i>NOT</i>	Klebacha <i>TK</i>

### SUMMARY ANALYSIS

The bill amends current law to change the name of "Gulf Coast Community College" to "Gulf Coast State College," "Pensacola Junior College" to "Pensacola State College," "St. Johns River Community College" to "St. Johns River State College," and "Valencia Community College" to "Valencia College." Each college has complied with the statutory requirements for its name change.

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.

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

The bill provides and effective date July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

With the approval of its district board of trustees, a Florida college may change the name of the institution as listed 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>1</sup> A district board of trustees that approves the use of the designation "college" or "state college" must seek statutory codification of the name change during the next regular legislative session.<sup>2</sup>

##### Gulf Coast Community College

The Gulf Coast Community College (GCCC) District Board of Trustees approved the request to submit a proposal to offer the Baccalaureate of Science in Technology Management on October 8, 2009. The State Board of Education approved GCCC's proposal to offer a Baccalaureate of Science in Technology Management on March 26, 2010. The Southern Association of Colleges and Schools (SACS) approved the college to offer baccalaureate degrees on December 6, 2010. GCCC's District Board of Trustees (DBOT) approved the college's name change to Gulf Coast State College on January 13, 2011.<sup>3</sup>

##### Pensacola Junior College

The Pensacola Junior College (PJC) District Board of Trustees approved the request to submit a proposal to offer the Bachelor of Science degree in Nursing and the Bachelor of Applied Science degree in Supervision and Administration on November 10, 2008. The State Board of Education approved PJC's proposal to offer both baccalaureate degrees on March 26, 2010. SACS approved the college to offer baccalaureate degrees on June 24, 2010. PJC's DBOT approved the college's name change to Pensacola State College on July 20, 2010.<sup>4</sup>

##### St. Johns River Community College

The St. Johns River Community College (SJRCC) District Board of Trustees approved the request to submit a proposal to offer the Bachelor of Applied Science degree in Organizational Management and the Bachelor of Science degree in Early Childhood Education on June 16, 2009. The State Board of Education approved SJRCC's proposal to offer both baccalaureate degrees on March 26, 2010. SACS approved the college to offer baccalaureate degrees on June 24, 2010. SJRCC's DBOT approved the college's name change to St. Johns River State College on September 15, 2010.<sup>5</sup>

##### Valencia Community College

The Valencia Community College (VCC) District Board of Trustees approved the request to submit a proposal to offer the Bachelor of Science in Electrical and Computer Engineering Technology and Bachelor of Science in Radiologic and Imaging Sciences on December 15, 2009. The State Board of Education approved VCC's proposal to offer both baccalaureate degrees on September 21, 2010. The SACS approved the college to offer baccalaureate degrees on December 7, 2010. VCC's DBOT approved the college's name change to Valencia College on December 14, 2010.<sup>6</sup>

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

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

<sup>3</sup> E-mail, Department of Education Staff (Feb. 14, 2011) and Gulf Coast Community College, Board of Trustees, [http://www.gulfcoast.edu/about\\_us/minutes/default.aspx](http://www.gulfcoast.edu/about_us/minutes/default.aspx) (last visited March 17, 2011).

<sup>4</sup> Department of Education Analysis of HB 35 (Feb. 14, 2011).

<sup>5</sup> *Id.*

<sup>6</sup> E-mail, Department of Education Staff (Feb. 14, 2011) and telephone conversation with community college (March 17, 2011).



## **Effect of Proposed Changes**

The bill amends s. 1000.21, F.S., to change the name of "Gulf Coast Community College" to "Gulf Coast State College," "Pensacola Junior College" to "Pensacola State College," "St. Johns River Community College" to "St. Johns River State College," and "Valencia Community College" to "Valencia College." Each college has complied with the statutory requirements for its name change. The bill makes conforming changes in ss. 288.8175, 1004.74, and 1004.75, F.S.

The bill provides an effective date July 1, 2011.

### **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.** Amends s. 1004.74, F.S., conforming provisions.

**Section 4.** Amends s. 1004.75, F.S., conforming provisions.

**Section 5.** Provides an effective date.

## **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:**

According to the Department of Education, there will be related costs associated with institutional name changes in a variety of areas such as signage, publications, and documentation. Due to the unique need of each institution, the costs associated with name changes are indeterminate at this time.<sup>7</sup>

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<sup>7</sup>Department of Education Analysis of HB 35 (Feb. 14, 2011).

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

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

Not Applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 17, 2011, the K-20 Competitiveness Subcommittee adopted one amendment to HB 35 and reported the bill favorably as a Committee Substitute. The amendment changes the name of two additional community colleges from "Gulf Coast Community College" to "Gulf Coast College" and "Valencia Community College" to "Valencia College." The amendment also makes conforming changes in s. 288.8175, F.S., and provides a new effective date of July 1, 2011.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 61 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee  
2 Representative(s) Brandes offered the following:

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

5 Remove lines 59-78 and insert:  
6 the orderly learning environment. The inadvertent exposure of  
7 underwear or body parts does not violate this subparagraph.

8 2. Any student who violates the dress code policy  
9 described in subparagraph 1. is subject to the disciplinary  
10 actions set forth in the Code of Student Conduct.

11  
12  
13 -----  
14 **T I T L E A M E N D M E N T**

15 Remove lines 14-15 and insert:  
16 orderly learning environment; authorizing disciplinary actions  
17 for students who violate the dress code; amending

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 61 (2011)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Education Committee  
2 Representative Bullard offered the following:

3  
4 **Amendment**

5 Remove lines 60-71 and insert:

6 2. Any student who violates the dress policy described in  
7 subparagraph 1. may be subject to the following disciplinary  
8 actions as determined by instructional personnel or school  
9 administrators:

10 a. For a first offense, a student will be given a verbal  
11 warning by any instructional personnel or a school  
12 administrator, and the school principal shall call the student's  
13 parent or guardian.

14 b. For a second offense, the student will be ineligible to  
15 participate in any extracurricular activity for a period of time  
16 not to exceed 5 days, and the school principal shall meet with  
17 the student's parent or guardian.

18 c. For a third offense, or any subsequent offense as  
19 determined by any instructional personnel or a school

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 61 (2011)

Amendment No. 2

20 administrator, a student may receive an in-school suspension

21 pursuant to s.

1                                   A bill to be entitled  
 2           An act relating to the code of student conduct; amending  
 3           s. 1006.07, F.S.; requiring the district school board to  
 4           include in the code of student conduct adopted by the  
 5           board an explanation of the responsibilities of each  
 6           student with regard to appropriate dress and respect for  
 7           self and others, and the role that appropriate dress and  
 8           respect for self and others has on an orderly learning  
 9           environment; requiring each district school board to adopt  
 10          a dress code policy that prohibits a student, while on the  
 11          grounds of a public school during the regular school day,  
 12          from wearing clothing that exposes underwear or body parts  
 13          in an indecent or vulgar manner or that disrupts the  
 14          orderly learning environment; providing disciplinary  
 15          actions for students who violate the dress code; amending  
 16          s. 1006.15, F.S.; providing that adherence to appropriate  
 17          dress and other codes of student conduct is a prerequisite  
 18          for a student to be eligible to participate in  
 19          interscholastic extracurricular student activities;  
 20          reenacting s. 1002.23(7), F.S., relating to a parent guide  
 21          to successful student achievement to be adopted by each  
 22          school district board, to incorporate the amendment made  
 23          to s. 1006.07, F.S., in a reference thereto; providing an  
 24          effective date.

25  
 26   Be It Enacted by the Legislature of the State of Florida:

27  
 28          Section 1. Present paragraphs (d) through (l) of

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29 subsection (2) of section 1006.07, Florida Statutes, are  
 30 redesignated as paragraphs (e) through (m), respectively, and a  
 31 new paragraph (d) is added to that subsection to read:

32 1006.07 District school board duties relating to student  
 33 discipline and school safety.—The district school board shall  
 34 provide for the proper accounting for all students, for the  
 35 attendance and control of students at school, and for proper  
 36 attention to health, safety, and other matters relating to the  
 37 welfare of students, including:

38 (2) CODE OF STUDENT CONDUCT.—Adopt a code of student  
 39 conduct for elementary schools and a code of student conduct for  
 40 middle and high schools and distribute the appropriate code to  
 41 all teachers, school personnel, students, and parents, at the  
 42 beginning of every school year. Each code shall be organized and  
 43 written in language that is understandable to students and  
 44 parents and shall be discussed at the beginning of every school  
 45 year in student classes, school advisory council meetings, and  
 46 parent and teacher association or organization meetings. Each  
 47 code shall be based on the rules governing student conduct and  
 48 discipline adopted by the district school board and shall be  
 49 made available in the student handbook or similar publication.  
 50 Each code shall include, but is not limited to:

51 (d)1. An explanation of the responsibilities of each  
 52 student with regard to appropriate dress, respect for self and  
 53 others, and the role that appropriate dress and respect for self  
 54 and others has on an orderly learning environment. Each district  
 55 school board shall adopt a dress code policy that prohibits a  
 56 student, while on the grounds of a public school during the



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57 regular school day, from wearing clothing that exposes underwear  
 58 or body parts in an indecent or vulgar manner or that disrupts  
 59 the orderly learning environment.

60 2. Any student who violates the dress policy described in  
 61 subparagraph 1. is subject to the following disciplinary  
 62 actions:

63 a. For a first offense, a student will be given a verbal  
 64 warning and the school principal shall call the student's parent  
 65 or guardian.

66 b. For a second offense, the student will be ineligible to  
 67 participate in any extracurricular activity for a period of time  
 68 not to exceed 5 days and the school principal shall meet with  
 69 the student's parent or guardian.

70 c. For a third offense or subsequent offense, a student  
 71 will receive an in-school suspension pursuant to s.  
 72 1003.01(5)(b) for a period of time not to exceed 3 days, the  
 73 student will be ineligible to participate in any extracurricular  
 74 activity for a period of time not to exceed 30 days, and the  
 75 school principal shall call the student's parent or guardian and  
 76 send the parent or guardian a written letter regarding the  
 77 student's in-school suspension and ineligibility to participate  
 78 in extracurricular activities.

79 Section 2. Paragraph (a) of subsection (3) of section  
 80 1006.15, Florida Statutes, is amended to read:

81 1006.15 Student standards for participation in  
 82 interscholastic and intrascholastic extracurricular student  
 83 activities; regulation.—

84 (3) (a) To be eligible to participate in interscholastic

85 extracurricular student activities, a student must:

86 1. Maintain a grade point average of 2.0 or above on a 4.0  
87 scale, or its equivalent, in the previous semester or a  
88 cumulative grade point average of 2.0 or above on a 4.0 scale,  
89 or its equivalent, in the courses required by s. 1003.43(1).

90 2. Execute and fulfill the requirements of an academic  
91 performance contract between the student, the district school  
92 board, the appropriate governing association, and the student's  
93 parents, if the student's cumulative grade point average falls  
94 below 2.0, or its equivalent, on a 4.0 scale in the courses  
95 required by s. 1003.43(1) or, for students who entered the 9th  
96 grade prior to the 1997-1998 school year, if the student's  
97 cumulative grade point average falls below 2.0 on a 4.0 scale,  
98 or its equivalent, in the courses required by s. 1003.43(1)  
99 which ~~that~~ are taken after July 1, 1997. At a minimum, the  
100 contract must require that the student attend summer school, or  
101 its graded equivalent, between grades 9 and 10 or grades 10 and  
102 11, as necessary.

103 3. Have a cumulative grade point average of 2.0 or above  
104 on a 4.0 scale, or its equivalent, in the courses required by s.  
105 1003.43(1) during his or her junior or senior year.

106 4. Maintain satisfactory conduct, including adherence to  
107 appropriate dress and other codes of student conduct policies  
108 described in s. 1006.07(2). ~~and,~~ If a student is convicted of,  
109 or is found to have committed, a felony or a delinquent act that  
110 ~~which~~ would have been a felony if committed by an adult,  
111 regardless of whether adjudication is withheld, the student's  
112 participation in interscholastic extracurricular activities is

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113 contingent upon established and published district school board  
 114 policy.

115 Section 3. For the purpose of incorporating the amendment  
 116 made by this act to section 1006.07, Florida Statutes, in a  
 117 reference thereto, subsection (7) of section 1002.23, Florida  
 118 Statutes, is reenacted to read:

119 1002.23 Family and School Partnership for Student  
 120 Achievement Act.—

121 (7) Each school district shall develop and disseminate a  
 122 parent guide to successful student achievement, consistent with  
 123 the guidelines of the Department of Education, which addresses  
 124 what parents need to know about their child's educational  
 125 progress and how parents can help their child to succeed in  
 126 school. The guide must:

127 (a) Be understandable to students and parents;

128 (b) Be distributed to all parents, students, and school  
 129 personnel at the beginning of each school year;

130 (c) Be discussed at the beginning of each school year in  
 131 meetings of students, parents, and teachers;

132 (d) Include information concerning services,  
 133 opportunities, choices, academic standards, and student  
 134 assessment; and

135 (e) Provide information on the importance of student  
 136 health and available immunizations and vaccinations, including,  
 137 but not limited to:

138 1. A recommended immunization schedule in accordance with  
 139 United States Centers for Disease Control and Prevention  
 140 recommendations.

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141           2. Detailed information regarding the causes, symptoms,  
 142 and transmission of meningococcal disease and the availability,  
 143 effectiveness, known contraindications, and appropriate age for  
 144 the administration of any required or recommended vaccine  
 145 against meningococcal disease, in accordance with the  
 146 recommendations of the Advisory Committee on Immunization  
 147 Practices of the United States Centers for Disease Control and  
 148 Prevention.

149

150 The parent guide may be included as a part of the code of  
 151 student conduct that is required in s. 1006.07(2).

152           Section 4. This act shall take effect July 1, 2011.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 61 Code of Student Conduct  
**SPONSOR(S):** Rogers and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 228

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	14 Y, 0 N	Ourand	Sherry
2) PreK-12 Appropriations Subcommittee	13 Y, 0 N	Keith	Heflin
3) Education Committee		Ourand <i>WCO</i>	Klebacha <i>HK</i>

### SUMMARY ANALYSIS

The bill requires school boards to include an explanation of the responsibilities of each student regarding appropriate dress within their code of student conduct. Additionally, each school board must adopt a dress code policy which forbids wearing clothing in such a way as to expose underwear or body parts in an indecent or vulgar manner or in a manner that disrupts the orderly learning environment. The bill also provides both an escalating series of disciplinary actions for students who violate the dress code, as well as a requirement for adherence to appropriate dress and other student conduct codes as a prerequisite for participation in interscholastic extracurricular activities.

This bill amends ss. 1006.07 and 1006.15, F.S. The bill reenacts s. 1002.23, F.S.

The bill has an effective date of July 1, 2011.

For a discussion of the applicable First Amendment precedent, see the Part entitled "Constitutional Issues."

See Fiscal Comments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

###### *Student Dress and the School Environment*

There is a long tradition of schools providing restrictions on student dress.<sup>1</sup> Modern proponents argue that dress codes can serve as part of an overarching strategy to improve the school environment.<sup>2</sup> Moreover, modern proponents cite various benefits of student dress restrictions, including increasing school safety, creating a better learning environment, improving student self-esteem, and reducing stress on students' families.<sup>3</sup>

Some recent examples of student dress restrictions include: prohibiting male students from wearing earrings, banning t-shirts which advertise alcohol, and not allowing individuals dressed as members of the opposite gender to attend school functions.<sup>4</sup>

###### *The "Sagging" Phenomenon*

Several Florida school districts have begun to confront the issue of "sagging." The term "sagging" is used to describe wearing one's clothes in a manner that exposes underwear. Although no rigidly academic analysis of the history of "sagging" has yet been conducted, it is commonly thought that "sagging" originated in prisons where belts are not issued because they may be used to commit suicide or used as weapons.<sup>5</sup> The lack of belts combined with loose, ill-fitting pants result in pants falling below the waist. "Sagging" has been banned in several cities, with anti-sagging advocates going so far as to call for statewide bans.<sup>6</sup> The town of Opa-locka recently enacted a ban on "saggy pants in city parks, city hall and other city properties."<sup>7</sup>

The Duval County School Board's Code of Student Conduct states: "The waistband of shorts, slacks, skirts, and similar garments shall not be worn below the hips. Underwear, midriff and backs should not be exposed."<sup>8</sup> The Orange County School Board's student code specifies that: "[c]lothes shall be worn as they are designed-suspenders over the shoulders, pants secured at the waist, belts buckled, no

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<sup>1</sup> Wendell Anderson, *School Dress Codes and Uniform Policies*, Clearinghouse on Educational Policy and Management, University of Oregon College of Education, available at: <http://cepm.uoregon.edu/publications/action.lasso?database=products&-Response=detail.fmt&-token.start=&ProductID=EPR004>, Fall 2002 (last visited March 31, 2011).

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

<sup>3</sup> *Id.* at 5.

<sup>4</sup> Todd A. DeMitchell, Richard Fossey, and Casey Cobb, *Dress Codes in the Public Schools: Principals, Policies, and Precepts*, 29 J.L. & EDUC. 31, 33 (2000).

<sup>5</sup> Niko Koppel, *Are Your Pants Sagging? Go Directly to Jail.*, THE NEW YORK TIMES (Aug. 30, 2007), available at: <http://www.nytimes.com/2007/08/30/fashion/30baggy.html> (last accessed Jan. 20, 2011).

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

<sup>7</sup> Art Levy, *Can State Legally Outlaw Saggy Pants?*, FLORIDA TREND (Apr. 1, 2008), available at [http://www.floridatrend.com/print\\_article.asp?aID=48655](http://www.floridatrend.com/print_article.asp?aID=48655) (last visited Jan. 19, 2011).

<sup>8</sup> Duval County Public Schools, *Code of Appearance*, available at <http://www.duvalschools.org/static/students/codeofconduct/codeofappearance.asp> (last visited Jan. 19, 2011).

underwear as outerwear, no underwear exposed.”<sup>9</sup> The Santa Rosa County School Board’s Code of Student Conduct specifies that undergarments shall not be shown.<sup>10</sup>

### *Current Student Code of Conduct Statutory Requirements*

District school boards are required to “[a]dopt a code of student conduct for elementary schools and a code of student conduct for middle and high schools and distribute the appropriate code to all teachers, school personnel, students, and parents, at the beginning of every school year.”<sup>11</sup> Currently, a district school board’s code of student conduct must include such items as:

- Consistent policies and specific grounds for disciplinary action, including in-school suspension, out-of-school suspension, expulsion, and any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function or for the illegal use, sale, or possession of controlled substances;<sup>12</sup>
- Procedures to be followed for acts requiring discipline, including corporal punishment;<sup>13</sup> and
- An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.”<sup>14</sup>

District school boards may also impose dress code restrictions, including the requirement of school uniforms, where “those requirements are necessary for the safety or welfare of the student body or school personnel.”<sup>15</sup> Section 1006.07, F.S., does not specifically address the issue of dress code requirements, but it does state that “[t]he district school board shall provide . . . for proper attention to health, safety, and other matters relating to the welfare of students.”<sup>16</sup> There are no specific statutory prohibitions on exposing undergarments by students at public schools.

### *Student Requirements to Participate in Extracurricular Activities*

Section 1006.15, F.S, establishes that in order to participate in interscholastic and intrascholastic extracurricular activities, a public school student must:

- Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the previous semester or a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1003.43(1), F.S.;<sup>17</sup>
- Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student’s parents, if the student’s cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required by s. 1003.43(1), F.S.;<sup>18</sup>

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<sup>9</sup> Orange County Public Schools, *Code of Student Conduct*, 5 (2010-11), available at <https://www.ocps.net/SiteCollectionDocuments/Docs%20Continually%20Updated/Code%20of%20Conduct.pdf> (last visited Jan. 19, 2011).

<sup>10</sup> Santa Rosa County School District, *Code of Student Conduct* (Aug. 23, 2010), available at <http://www.santarosa.k12.fl.us/files/csc.pdf> (last visited Jan. 19, 2011).

<sup>11</sup> Section 1006.07(2), F.S.

<sup>12</sup> Section 1006.07(2)(a), F.S.

<sup>13</sup> Section 1006.07(2)(b), F.S.

<sup>14</sup> Section 1006.07(2)(c), F.S.

<sup>15</sup> Section 1001.43(1)(b), F.S.

<sup>16</sup> Section 1006.07, F.S.

<sup>17</sup> Section 1006.15(3)(a)1., F.S.

<sup>18</sup> Section 1006.15(3)(a)2., F.S.

- Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1003.43(1), F.S., during his or her junior or senior year;<sup>19</sup> and
- Maintain satisfactory conduct.<sup>20</sup>

The school board may also implement additional requirements for participation.<sup>21</sup>

### **Proposed Changes**

This bill amends section 1006.07, F.S., to require school districts to include within their student conduct codes provisions relating to appropriate dress. Additionally, school boards must adopt a dress code policy prohibiting students from wearing clothing which exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment during the school day while on school grounds.

Moreover, the bill requires the code of conduct to prescribe the following punishments for violations of the dress code policy:

- First offense: verbal warning and the school principal shall call the student's parent or guardian;
- Second offense: ineligibility to participate in any extracurricular activity for at most five days and a meeting between the student's parent or guardian and the principal;
- Third offense: in-school suspension pursuant to section 1003.01(5)(b), F.S.,<sup>22</sup> for a maximum of 3 days; ineligibility to participate in extracurricular activities for a maximum of 30 days; and the principal shall call the student's parent or guardian and send the parent or guardian a written letter regarding the student's in-school suspension and ineligibility to participate in extracurricular activities.

The bill also amends section 1006.15, F.S., to make adherence to the dress code requirements described above a prerequisite for participation in interscholastic extracurricular activities.

The bill has an effective date of July 1, 2011.

### **B. SECTION DIRECTORY:**

**Section 1:** Amends section 1006.07, F.S., requiring school boards to include within their dress codes provisions relating to appropriate dress and specifying escalating punishments based upon the number of violations of these provisions.

**Section 2:** Amends section 1006.15, F.S., providing that adherence to appropriate dress and other codes of student conduct is a prerequisite for a student to be eligible to participate in interscholastic extracurricular student activities.

**Section 3:** Reenacts section 1002.23(7), F.S., relating to a parent guide to successful student achievement to be adopted by each school district board, to incorporate the amendment made to section 1006.07.

**Section 4:** Provides an effective date of July 1, 2011.

<sup>19</sup> Section 1006.15(3)(b)3., F.S.

<sup>20</sup> Section 1006.15(3)(b)4., F.S.

<sup>21</sup> Section 1006.15(4), F.S.

<sup>22</sup> Section 1003.01(5)(b), F.S., provides that "[i]n-school suspension means the temporary removal of a student from the student's regular school program and placement in an alternative program, such as that provided in s. 1003.53, under the supervision of district school board personnel, for a period not to exceed 10 school days."



## 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:

This bill would have a minimal fiscal impact to district school boards. District school boards may incur costs for adding student dress policy to the existing codes on student conduct. The bill would also require monitoring and enforcement of the student dress component of the conduct code.

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

None.

### D. FISCAL COMMENTS:

This bill has indeterminate cost impacts for adding student dress policy to existing codes on student conduct as well as monitoring and enforcing the conduct code.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

The First Amendment of the United States Constitution states that "Congress shall make no law . . . abridging the freedom of speech."<sup>23</sup> The Supreme Court has extended the protection afforded by this provision to include expressive conduct as well as actual spoken words.<sup>24</sup> Moreover, the Court has stated that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."<sup>25</sup>

However, the Court has also recognized the authority of states and schools "to prescribe and control conduct in the schools,"<sup>26</sup> and has stated that "the constitutional rights of students in public school

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<sup>23</sup> U.S. Const., Amend. 1.

<sup>24</sup> *Texas v. Johnson*, 491 U.S. 397, 404 (1989).

<sup>25</sup> *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503, 506 (1969).

<sup>26</sup> *Id.* at 507.

are not automatically coextensive with the rights of adults in other settings.”<sup>27</sup> Additionally, the Court has drawn a distinction between political speech and lewd and obscene speech, providing greater protection to political speech.<sup>28</sup>

There have been numerous examples of dress restrictions which have been found constitutional in that they did not limit expressive conduct, including a ban on wearing “clothing that is too tight, revealing or baggy as well as tops and bottoms that do not ‘overlap,’”<sup>29</sup> and preventing a group of students from wearing their own class t-shirt exclaiming their “gifted” status.<sup>30</sup>

A United States District Court found that wearing “sagging” pants was not shown to be expressive conduct.<sup>31</sup> There, the court applied the following test for determining expressive conduct: “First, the actor must intend to convey a particularized message, and, second, there must be a great likelihood that the message would be understood by those who observe the conduct.”<sup>32</sup> The Defendant presented evidence that the “Plaintiff’s subjective message supposedly conveyed by wearing sagging pants is by no means apparent to those who view it.”<sup>33</sup> Specifically, the evidence showed that while “sagging is understood by some as associated with street gang activity and as a sign of gang affiliation . . . it is also understood by some as would-be gang affiliation, because it is often adopted by ‘wannabes,’ those who are seeking to become affiliated with a gang.”<sup>34</sup> The Defendant also presented evidence that “[s]agging is not necessarily associated with a single racial or cultural group, and sagging is seen by some merely as a fashion trend followed by many adolescents all over the United States.”<sup>35</sup> The court held that the Plaintiff’s mere statement that “there is a great likelihood that those who observe this expressive conduct will understand the message” was insufficient “to demonstrate a genuine issue for trial as to whether his wearing of sagging pants is constitutionally protected speech under the First Amendment.”<sup>36</sup>

Moreover, even where a Plaintiff is able to show that the conduct at issue is “sufficiently ‘imbued with elements of communication’” to engender some First Amendment protection, the regulation may still be found to be constitutional under intermediate scrutiny where it is “content-neutral on its face and as applied.”<sup>37</sup> For instance, the Eleventh Circuit, in an unreported decision, stated that even if a restriction on wearing non-otic pierced jewelry were to place an “incidental restriction . . . on expressive conduct [that] is viewpoint and content-neutral on its face and as applied,” the Plaintiff still failed to show an unconstitutional abridgement of her rights.<sup>38</sup> The court reasoned that “the content and viewpoint neutral Dress Code was promulgated in furtherance of legitimate educational objectives,” which were “avoid[ing] extreme dress or appearance which might create a school

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<sup>27</sup> *Bethel School Dist. No. 403 v. Fraser*, 478 U.S. 675, 682 (1986).

<sup>28</sup> *Id.* at 682.

<sup>29</sup> *Blau v. Fort Thomas Public School Dist.*, 401 F.3d 381, 385 (6th Cir. 2005).

<sup>30</sup> *Brandt v. Board of Educ. of City of Chicago*, 480 F.3d 460, 468 (7th Cir. 2007).

<sup>31</sup> *Bivens By and Through Green v. Albuquerque Public Schools*, 899 F.Supp. 556, 561 (U.S.D.C. N.M.,1995).

<sup>32</sup> *Id.* at 560, citing *Johnson*, 491 U.S. at 404.

<sup>33</sup> *Bivens*, 899 F. Supp. at 561.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* But see *Canady v. Bossier Parish School Bd.*, 240 F.3d 437, 440-41 (5th Cir. 2001) (discussing, but not deciding, the possibility of student dress being expressive conduct, stating that: “[S]tudents in particular often choose their attire with the intent to signify the social group to which they belong, their participation in different activities, and their general attitudes toward society and the school environment. While the message students intend to communicate about their identity and interests may be of little value to some adults, it has a considerable affect, whether positive or negative, on a young person’s social development. Although this sort of expression may not convey a particularized message to warrant First Amendment protection in every instance, we cannot declare that expression of one’s identity and affiliation to unique social groups through choice of clothing will never amount to protected speech.”)

<sup>37</sup> *Bar-Navon v. Brevard County School Bd.*, 290 Fed. Appx. 273, 277 (11th Cir. 2008), quoting *Spence v. State of Wash.*, 418 U.S. 405, 409 (1974).

<sup>38</sup> *Bar-Navon*, 290 Fed. Appx. at 277 (citations omitted). Non-otic pierced jewelry refers to jewelry worn in piercings that are not located in the ear. *Id.* at 274.

disturbance, or which could be hazardous to the student or to others.”<sup>39</sup> In addition, “the jewelry limitation was narrowly tailored,” and there remained “ample communicative alternatives.”<sup>40</sup>

**B. RULE-MAKING AUTHORITY:**

None.

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

The bill does not include a definition for either “indecent” or “vulgar,” and as such the school boards would have to define these terms. The school boards would have to ensure that the definitions they craft are not overly broad or vague in order to avoid First Amendment concerns.<sup>41</sup> This could also result in differentiated enactment between school boards. Additionally, the previously discussed student conduct codes which prevent the display of undergarments may lose effect depending upon how the terms “indecent” and “vulgar” are defined within those codes. However, the bill’s reference to the “disruption of the orderly learning environment” may be able to remedy this unintended effect.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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<sup>39</sup> *Id.* at 277.

<sup>40</sup> *Id.*

<sup>41</sup> See *Board of Airport Com'rs of City of Los Angeles v. Jews for Jesus, Inc.*, 482 U.S. 569, 570 (1987) (finding “a resolution banning all ‘First Amendment activities’ at Los Angeles International Airport” unconstitutional under the overbreadth doctrine).



1                                   A bill to be entitled  
 2           An act relating to district school board membership;  
 3           creating s. 1001.3615, F.S.; requiring that district  
 4           school boards consist of nine members in counties where  
 5           the population exceeds a certain number; providing for  
 6           single-member and at-large districts; requiring  
 7           nonpartisan elections; providing for the election of a  
 8           chair and vice chair of the school board; providing for 4-  
 9           year terms of office and staggered terms of members;  
 10          permitting changes in the boundaries of school board  
 11          member residence areas and providing the procedure for  
 12          publication of those changes; providing an effective date.

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

15  
 16           Section 1. Section 1001.3615, Florida Statutes, is created  
 17 to read:

18           1001.3615 Election of district school board members in  
 19 counties in which the population exceeds 2 million.--

20           (1) Notwithstanding ss. 1001.36, 1001.361, and 1001.362,  
 21 in a county in which the population exceeds 2 million people,  
 22 the district school board shall consist of nine members. Seven  
 23 of the nine members shall reside one in each of seven residence  
 24 areas, the areas together covering the entire district and as  
 25 nearly equal in population as practicable, according to the most  
 26 recent decennial census, and each shall be elected only by the  
 27 qualified electors who reside in the same residence area as the  
 28 member. Two of the nine members shall be elected from the county

29 at large. Members shall be elected in a nonpartisan election as  
30 provided in chapter 105.

31 (2) Notwithstanding s. 1001.371, the school board members  
32 elected at large shall serve as the chair and vice chair of the  
33 school board. The ballot for the office of chair shall state:  
34 "Chair of the School Board" followed by a list of candidates who  
35 have qualified for that office. The ballot for the office of  
36 vice chair shall state: "Vice Chair of the School Board"  
37 followed by a list of candidates who have qualified for that  
38 office. The candidate who receives the highest number of votes  
39 in the general election shall be elected to the office for which  
40 the candidate has qualified.

41 (3) All members shall be elected for 4-year terms, but the  
42 terms shall be staggered so that, alternately, one more or one  
43 less than half of the members elected from residence areas and,  
44 if applicable, one of the members elected at large from the  
45 entire district are elected every 2 years. Any member may be  
46 elected to an initial term of less than 4 years if necessary to  
47 achieve or maintain such system of staggered terms.

48 (4) In odd-numbered years, the district school board may  
49 change the boundaries of the residence areas at any meeting of  
50 the district school board.

51 (a) The changes in boundaries shall be shown by resolution  
52 spread upon the minutes of the district school board, shall be  
53 recorded in the office of the clerk of the circuit court, and  
54 shall be published at least once in a newspaper published in the  
55 district within 30 days after the adoption of the resolution,  
56 or, if there is no newspaper published in the district, shall be

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57 | posted at the county courthouse door for 4 weeks after the  
58 | adoption of the resolution. A certified copy of the resolution  
59 | shall be transmitted to the Department of State.

60 |       (b) A change in a residence area that affects the  
61 | residence qualifications of an incumbent member does not  
62 | disqualify the incumbent member during the term for which he or  
63 | she is elected.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 307 District School Board Membership  
SPONSOR(S): Government Operations Subcommittee; K-20 Innovation Subcommittee; Logan  
TIED BILLS: IDEN./SIM. BILLS: SB 778

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	9 Y, 4 N, As CS	Fudge	Sherry
2) Government Operations Subcommittee	8 Y, 4 N, As CS	Thompson	Williamson
3) Education Committee		Fudge <i>df</i>	Klebacha <i>TK</i>

SUMMARY ANALYSIS

The bill requires school districts, in counties with a population that exceeds 2 million people, to consist of nine members. Seven of the members must be elected from single-member residence areas, which must be as nearly equal in population as practicable, according to the most recent decennial census. Two school board members must be elected from the district at large as chair and vice chair. The bill also requires staggering of the terms of the members.

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

The bill is effective upon becoming a law.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Law

Article IX, section 4 of the Florida Constitution, provides that a school board shall be composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law. Current law requires that school districts be divided into at least five district school board member residence areas.<sup>1</sup> District school board members are elected in the November general election for terms of four years.<sup>2</sup> However, the "terms shall be staggered, so that alternately, one more or one less than half of the members elected from residence areas and, if applicable, one of the members elected at large from the entire district are elected every 2 years."<sup>3</sup>

For those school districts with seven district school board members, the district may be divided into five residence areas, with two district school board members elected at large; or the district may be divided into seven residence areas. Residence areas must be determined by resolution passed by a majority vote of the school board.<sup>4</sup> However, any changes to residence areas shall only occur in "odd-numbered years and no change that would affect the residence qualifications of any incumbent member shall disqualify such incumbent during the term for which he or she is elected."<sup>5</sup>

The chair of the school board is selected by the members on the third Tuesday after the first Monday in November of each year. The board may also elect a vice chair.<sup>6</sup>

##### Dade County Consent Decree

In 1991, two separate and distinct classes filed a vote dilution case. The first class consisted of all of the Black registered voters in Dade County. The second class consisted of all the Hispanic registered voters in Dade County. Each Plaintiff class alleged that the existing at large electoral system for electing members of the school board resulted in an impermissible dilution of the voting strength of both Black and Hispanic Dade County voters. The Plaintiffs sought:

"(1) a declaration that the use of at-large elections for nominating and electing members of the school board violated the Voting Rights Act; (2) a preliminary injunction enjoining Defendants from conducting or implementing the results of any further at-large elections to the school board; (3) an order directing the school board to implement a method of nominating and electing members of the school board which enables the fair opportunity to elect representatives of their choosing and which does not dilute minority strengths; and (4) an award of attorney's fees."<sup>7</sup>

On April 27, 1994, the school board adopted a redistricting plan that increased the number of school board members from seven to nine, and provided for the election of all members from single member districts beginning in 1996. On November 18, 1994, the United States District Court for the Southern District of Florida approved of the consent decree entered into between the parties.<sup>8</sup>

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<sup>1</sup> Section 1001.34, F.S.

<sup>2</sup> Section 1001.35, F.S.

<sup>3</sup> Section 1001.362(2)(c), F.S.

<sup>4</sup> Section 1001.36(1)(b), F.S.

<sup>5</sup> Section 1001.36(2), F.S.

<sup>6</sup> Section 1001.371, F.S.

<sup>7</sup> *Memorandum Opinion and Order Approving Class Action Settlement and Granting Motion to Adopt Consent Decree*, p. 2, November 18, 1994. *Suarez v. School Bd. of Dade County*, Case No. 91-0457-CIV-NESBITT

<sup>8</sup> *Id.*

## Effect of Proposed Changes

To prevent inconsistencies with current law, the bill notwithstanding specified provisions of law<sup>9</sup> that primarily govern election of school boards with five or seven members. However, to the extent that those provisions also should apply to the election of school board members governed by the bill, those provisions were incorporated into the bill.

The bill provides that school districts in counties with a population that exceeds 2 million people shall consist of nine members. Currently, only Miami-Dade County exceeds 2 million people at a population of approximately 2.4 million people.<sup>10</sup>

Members must be elected in a nonpartisan election as provided in Chapter 105, F.S. The candidate who receives the highest number of votes in the general election is elected to the office for which the candidate has qualified. Seven of the members must be elected from single-member residence areas, which must be as nearly equal in population as practicable, according to the most recent decennial census. Two school board members must be elected from the district at large to serve as chair and vice chair, as determined by vote of the electors. The ballot for the office of chair must state: "Chair of the School Board" followed by a list of candidates who have qualified for that office. The ballot for the office of vice chair must state: "Vice Chair of the School Board" followed by a list of candidates who have qualified for that office.

Currently, the Miami-Dade County school board consists of nine single-member residence areas. Reducing the number of residence areas from nine to seven may affect residence area boundaries. The bill authorizes the district school board to make any changes it deems necessary to the boundaries of any district school board residence area in odd-numbered years. Any change to residence areas that would affect the residence qualifications of any incumbent member must not disqualify that member during the term for which they were elected. Changes to residence area boundaries must be shown by resolution in the minutes of the district school board; recorded in the office of the clerk of the circuit court; published at least once in a newspaper in the district within 30 days after the adoption of the resolution or, if there is no newspaper, published in the district, posted at the county courthouse door for 4 weeks after the adoption of the resolution; with a certified copy of the resolution transmitted to the Department of State.

The bill also provides that the terms of the members must be staggered so that one more or one less than half of members elected from residence areas and one of the members elected at large are elected every 2 years. Initial terms of less than 4 years are authorized if necessary to achieve or maintain the staggered term system.

### B. SECTION DIRECTORY:

**Section 1:** creates 1001.3615, F.S., to require that certain school districts consist of nine members, with seven elected by single-member residence areas, and two elected at-large; to require nonpartisan elections; to provide for the election of a chair and vice chair of the school board; to provide for 4-year terms of office and staggered terms; and to authorize changes in district school board residence area boundaries.

**Section 2:** provides an effective date of upon becoming a law.

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<sup>9</sup> The bill notwithstanding s. 1001.36, F.S., governing district school board member residence areas, s. 1001.361, F.S., governing election of board by district wide vote, and s. 1001.362, F.S., governing alternate procedures for the election of district school board members to provide for single-member representation.

<sup>10</sup> The counties with the next highest population are: Broward County - 1.7 million, Palm Beach County - 1.3 million, Hillsborough County - 1.2 million, and Orange County - 1 million.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 15, 2011, the K-20 Innovation Subcommittee amended HB 307 and reported it favorably as a committee substitute (CS). The CS identifies the ballot language for the "Chair of the School Board" and "Vice Chair of the School Board", and describes procedures for staggering the terms of members of the school board, as well as the procedures for changing the boundaries of residence areas. The CS also provides that a change in residence area that affects the residence qualifications of an incumbent member does not disqualify the incumbent member during the term for which he or she is elected.

On March 23, 2011, the Government Operations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The committee substitute clarifies the ballot language for the election of the Chair and Vice Chair of the School Board, stating each requirement separately.



1                                   A bill to be entitled  
 2           An act relating to the University of Florida J. Hillis  
 3           Miller Health Center; amending s. 1004.41, F.S.;  
 4           correcting the name of one of the health center's  
 5           colleges; specifying that the University of Florida Board  
 6           of Trustees shall lease Shands Teaching Hospital and  
 7           Clinics on the Gainesville campus to Shands Teaching  
 8           Hospital and Clinics, Inc.; specifying the primary purpose  
 9           of Shands Teaching Hospital and Clinics, Inc.; providing  
 10          requirements for lease, contract, or agreement between the  
 11          University of Florida Board of Trustees and Shands  
 12          Teaching Hospital and Clinics, Inc.; authorizing the  
 13          creation of corporate subsidiaries and affiliates;  
 14          providing the right of control; providing for sovereign  
 15          immunity; providing that Shands Jacksonville Medical  
 16          Center, Inc., and its parent, Shands Jacksonville  
 17          HealthCare, Inc., are private not-for-profit corporations  
 18          organized primarily to support the health affairs mission  
 19          of the University of Florida Board of Trustees;  
 20          authorizing the creation of corporate subsidiaries and  
 21          affiliates; providing requirements for lease, contract, or  
 22          agreement between the University of Florida Board of  
 23          Trustees and the corporations; providing the right of  
 24          control; providing for sovereign immunity; providing an  
 25          effective date.

26  
 27   Be It Enacted by the Legislature of the State of Florida:  
 28

29 Section 1. Section 1004.41, Florida Statutes, is amended  
 30 to read:

31 1004.41 University of Florida; J. Hillis Miller Health  
 32 Center.—

33 (1) There is established the J. Hillis Miller Health  
 34 Center at the University of Florida, including campuses at  
 35 Gainesville and Jacksonville and affiliated teaching hospitals,  
 36 which shall include the following colleges:

- 37 (a) College of Dentistry.
- 38 (b) College of Public Health and Health Professions.
- 39 (c) College of Medicine.
- 40 (d) College of Nursing.
- 41 (e) College of Pharmacy.
- 42 (f) College of Veterinary Medicine and related teaching  
 43 hospitals.

44 (2) Each college of the health center shall be so  
 45 maintained and operated as to comply with the standards approved  
 46 by a nationally recognized association for accreditation.

47 (3) (a) The University of Florida Health Center Operations  
 48 and Maintenance Trust Fund shall be administered by the  
 49 University of Florida Board of Trustees. Funds shall be credited  
 50 to the trust fund from the sale of goods and services performed  
 51 by the University of Florida Veterinary Medicine Teaching  
 52 Hospital. The purpose of the trust fund is to support the  
 53 instruction, research, and service missions of the University of  
 54 Florida College of Veterinary Medicine.

55 (b) Notwithstanding the provisions of s. 216.301, and  
 56 pursuant to s. 216.351, any balance in the trust fund at the end

57 | of any fiscal year shall remain in the trust fund and shall be  
 58 | available for carrying out the purposes of the trust fund.

59 |       (4) (a) The University of Florida Board of Trustees shall  
 60 | lease the hospital facilities of the health center known as ~~the~~  
 61 | Shands Teaching Hospital and Clinics on the Gainesville campus  
 62 | of the University of Florida and all furnishings, equipment, and  
 63 | other chattels or choses in action used in the operation of  
 64 | Shands Teaching Hospital and Clinics ~~the hospital,~~ to Shands  
 65 | Teaching Hospital and Clinics, Inc., a private not-for-profit  
 66 | corporation organized ~~solely~~ for the primary purpose of  
 67 | supporting the University of Florida Board of Trustees' health  
 68 | affairs mission of community service and patient care, education  
 69 | and training of health professionals, and clinical research. In  
 70 | furtherance of that primary purpose, Shands Teaching Hospital  
 71 | and Clinics, Inc., shall operate ~~operating~~ the hospital and  
 72 | ancillary health care facilities as deemed ~~of the health center~~  
 73 | ~~and other health care facilities and programs determined to be~~  
 74 | necessary by the board of Shands Teaching Hospital and Clinics,  
 75 | Inc. ~~the nonprofit corporation.~~ The rental for the hospital  
 76 | facilities shall be an amount equal to the debt service on bonds  
 77 | or revenue certificates issued solely for capital improvements  
 78 | to the hospital facilities or as otherwise provided by law.

79 |       (b) The University of Florida Board of Trustees shall  
 80 | provide in the lease or by separate contract or agreement with  
 81 | Shands Teaching Hospital and Clinics, Inc., ~~the not-for-profit~~  
 82 | ~~corporation~~ for the following:



83 1. Approval of the articles of incorporation of Shands  
 84 Teaching Hospital and Clinics, Inc., ~~the not-for-profit~~  
 85 ~~corporation~~ by the University of Florida Board of Trustees.

86 2. ~~and the~~ Governance of Shands Teaching Hospital and  
 87 Clinics, Inc., ~~the not-for-profit corporation~~ by a board of  
 88 directors appointed, subject to removal, and chaired by the  
 89 President of the University of Florida, or his or her designee,  
 90 and vice chaired by the Vice President for Health Affairs of the  
 91 University of Florida or his or her designee.

92 3.2. ~~The~~ Use of hospital facilities and personnel in  
 93 support of community service and patient care, ~~the~~ research  
 94 programs, ~~and of~~ the teaching roles ~~role~~ of the health center.

95 4.3. ~~The~~ Continued recognition of the collective  
 96 bargaining units and collective bargaining agreements as  
 97 currently composed and recognition of the certified labor  
 98 organizations representing those units and agreements.

99 5.4. ~~The~~ Use of hospital facilities and personnel in  
 100 connection with research programs conducted by the health  
 101 center.

102 6.5. Reimbursement to Shands Teaching Hospital and  
 103 Clinics, Inc., ~~the hospital~~ for indigent patients, state-  
 104 mandated programs, underfunded state programs, and costs to  
 105 Shands Teaching Hospital and Clinics, Inc., ~~the hospital~~ for  
 106 support of the teaching and research programs of the health  
 107 center. Such reimbursement shall be appropriated to either the  
 108 health center or Shands Teaching Hospital and Clinics, Inc., ~~the~~  
 109 ~~hospital~~ each year by the Legislature after review and approval  
 110 of the request for funds.

111 |       7. Audit of the financial statements of Shands Teaching  
 112 | Hospital and Clinics, Inc., in accordance with generally  
 113 | accepted accounting principles as prescribed by the Governmental  
 114 | Accounting Standards Board for a separate corporation affiliated  
 115 | with a government entity that holds a voting majority interest  
 116 | of the affiliated corporation's governing board. The financial  
 117 | statements shall be provided to the University of Florida Board  
 118 | of Trustees for attachment to its audited financial statement  
 119 | which is provided to the Auditor General. The University of  
 120 | Florida may obtain additional financial information from Shands  
 121 | Teaching Hospital and Clinics, Inc., upon request by the Auditor  
 122 | General. This subparagraph applies equally to any not-for-profit  
 123 | subsidiary of Shands Teaching Hospitals and Clinics, Inc., which  
 124 | directly delivers health care services and also qualifies as an  
 125 | instrumentality of the state under the governance control and  
 126 | the primary purpose standards specified in this section.

127 |       (c) The University of Florida Board of Trustees may, with  
 128 | the approval of the Legislature, increase the hospital  
 129 | facilities or remodel or renovate them ~~if, provided that~~ the  
 130 | rental paid by Shands Teaching Hospital and Clinics, Inc., the  
 131 | ~~hospital~~ for such new, remodeled, or renovated facilities is  
 132 | sufficient to amortize the costs thereof over a reasonable  
 133 | period of time or fund the debt service for any bonds or revenue  
 134 | certificates issued to finance such improvements.

135 |       (d) The University of Florida Board of Trustees ~~may is~~  
 136 | ~~authorized to~~ provide to Shands Teaching Hospital and Clinics,  
 137 | Inc., the not-for-profit corporation leasing the hospital  
 138 | ~~facilities~~ and its not-for-profit subsidiaries and affiliates,

139 and any successor corporation that acts in support of the board  
 140 of trustees, comprehensive general liability insurance,  
 141 including professional liability, from a self-insurance trust  
 142 program established pursuant to s. 1004.24.

143 (e) Shands Teaching Hospital and Clinics, Inc., in support  
 144 of the health affairs mission of the University of Florida Board  
 145 of Trustees and with the board's prior approval, may create or  
 146 have created either for-profit or not-for-profit subsidiaries  
 147 and affiliates, or both. The University of Florida Board of  
 148 Trustees, which may act through the president of the university  
 149 or his or her designee, may control Shands Teaching Hospital and  
 150 Clinics, Inc. For purposes of sovereign immunity pursuant to s.  
 151 768.28(2), Shands Teaching Hospital and Clinics, Inc., and any  
 152 not-for-profit subsidiary which directly delivers health care  
 153 services and whose governing board is chaired by the president  
 154 of the university or his or her designee and is controlled by  
 155 the University of Florida Board of Trustees, which may act  
 156 through the president of the university or his or her designee  
 157 and whose primary purpose is the support of the University of  
 158 Florida Board of Trustees' health affairs mission, shall be  
 159 conclusively deemed a corporation primarily acting as an  
 160 instrumentality of the state.

161 (f)(e) In the event that the lease of Shands Teaching  
 162 Hospital and Clinics the hospital facilities to Shands Teaching  
 163 Hospital and Clinics, Inc., the not-for-profit corporation is  
 164 terminated for any reason, the University of Florida Board of  
 165 Trustees shall resume management and operation of Shands  
 166 Teaching Hospital and Clinics the hospital facilities. In such

167 | event, the University of Florida Board of Trustees may use ~~is~~  
 168 | ~~authorized to utilize~~ revenues generated from the operation of  
 169 | Shands Teaching Hospital and Clinics ~~the hospital facilities~~ to  
 170 | pay the costs and expenses of operating the hospital facility  
 171 | for the remainder of the fiscal year in which such termination  
 172 | occurs.

173 |       (5) (a) Shands Jacksonville Medical Center, Inc., and its  
 174 | parent, Shands Jacksonville HealthCare, Inc., are private not-  
 175 | for-profit corporations organized primarily to support the  
 176 | health affairs mission of the University of Florida Board of  
 177 | Trustees in community service and patient care, education and  
 178 | training of health affairs professionals, and clinical research.  
 179 | Shands Jacksonville Medical Center, Inc., is a teaching hospital  
 180 | affiliated with the University of Florida Board of Trustees and  
 181 | is located, in part, on the Jacksonville Campus of the  
 182 | University of Florida. Shands Jacksonville Medical Center, Inc.,  
 183 | and Shands Jacksonville HealthCare, Inc., in support of the  
 184 | health affairs mission of the University of Florida Board of  
 185 | Trustees and with its prior approval, may create or have created  
 186 | either for-profit or not-for-profit subsidiaries or affiliates,  
 187 | or both.

188 |       (b) The University of Florida Board of Trustees shall  
 189 | provide in the lease or by separate contract or agreement with  
 190 | Shands Jacksonville Medical Center, Inc., and Shands  
 191 | Jacksonville HealthCare, Inc., for the following:

192 |           1. Approval of the articles of incorporation of Shands  
 193 | Jacksonville Medical Center, Inc., and of Shands Jacksonville  
 194 | HealthCare, Inc., by the University of Florida Board of

195 Trustees, which may act through the president of the university  
 196 or his or her designee. In approving the articles of  
 197 incorporation of Shands Jacksonville Medical Center, Inc., and  
 198 of Shands Jacksonville HealthCare, Inc., the president of the  
 199 university, or his or her designee, may act as the chair of the  
 200 board of directors, or the president of the university or his or  
 201 her designee or members of the University of Florida Board of  
 202 Trustees may act as the approving body of Shands Jacksonville  
 203 Medical Center, Inc., or Shands Jacksonville HealthCare, Inc.

204 2. Governance of Shands Jacksonville Medical Center, Inc.,  
 205 and of Shands Jacksonville HealthCare, Inc., by boards of  
 206 directors appointed, subject to removal, and chaired by the  
 207 President of the University of Florida, or his or her designee.  
 208 One director of each board may be so appointed after being  
 209 nominated by the mayor of the City of Jacksonville subject to  
 210 the applicable standards for directors of such board. If there  
 211 is a vice chair of the board of directors of Shands Jacksonville  
 212 Medical Center, Inc., or Shands Jacksonville HealthCare, Inc.,  
 213 the Vice President for Health Affairs of the University of  
 214 Florida, or his or her designee or the designee of the president  
 215 of the university, shall hold that position.

216 3. Use of the Shands Jacksonville Medical Center, Inc.,  
 217 hospital facilities and personnel in support of community  
 218 service and patient care, research programs, and the teaching  
 219 roles of the health center of the University of Florida Board of  
 220 Trustees.

221 4. Reimbursement to Shands Jacksonville Medical Center,  
 222 Inc., for indigent patients, state-mandated programs,

223 underfunded state programs, and costs to the not-for-profit  
 224 corporation for support of the teaching and research programs of  
 225 the health center. Such reimbursement shall be appropriated to  
 226 either the health center or the not-for-profit corporation each  
 227 year by the Legislature after review and approval of the request  
 228 for funds.

229 5. Audit of the financial statements of Shands  
 230 Jacksonville Medical Center, Inc., and Shands Jacksonville  
 231 HealthCare, Inc., in accordance with generally accepted  
 232 accounting principles as prescribed by the Governmental  
 233 Accounting Standards Board for a separate corporation affiliated  
 234 with a government entity that holds a voting majority interest  
 235 of the affiliated corporation's governing board. The financial  
 236 statements shall be provided to the University of Florida Board  
 237 of Trustees for attachment to its audited financial statement  
 238 which is provided to the Auditor General. The University of  
 239 Florida may obtain additional financial information from Shands  
 240 Jacksonville Medical Center, Inc., and Shands Jacksonville  
 241 HealthCare, Inc., upon request by the Auditor General. This  
 242 subparagraph applies equally to any not-for-profit subsidiary  
 243 which directly delivers health care services and also qualifies  
 244 as an instrumentality of the state under the governance control  
 245 and primary purpose standards specified in this section.

246 (c) The University of Florida Board of Trustees, which may  
 247 act through the president of the university or his or her  
 248 designee, may control Shands Jacksonville Medical Center, Inc.,  
 249 and Shands Jacksonville HealthCare, Inc.

250           (d) For purposes of sovereign immunity pursuant to s.  
 251           768.28(2), Shands Jacksonville Medical Center, Inc., Shands  
 252           Jacksonville HealthCare, Inc., and any not-for-profit subsidiary  
 253           which directly delivers health care services and whose governing  
 254           board is chaired by the President of the University of Florida  
 255           or his or her designee and is controlled by the University of  
 256           Florida Board of Trustees, which may act through the president  
 257           of the university or his or designee and whose primary purpose  
 258           is the support of the University of Florida Board of Trustees'  
 259           health affairs mission, shall be conclusively deemed  
 260           corporations primarily acting as instrumentalities of the state.

261           (e)~~(f)~~ The University of Florida Board of Trustees may ~~is~~  
 262           ~~authorized to~~ provide to Shands Jacksonville HealthCare, Inc.,  
 263           and Shands Jacksonville Medical Center, Inc., and any of their  
 264           ~~its~~ not-for-profit subsidiaries and affiliates and any successor  
 265           corporation that acts in support of the board of trustees,  
 266           comprehensive general liability coverage, including professional  
 267           liability, from the self-insurance programs established pursuant  
 268           to s. 1004.24.

269           Section 2. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 395 University of Florida J. Hillis Miller Health Center  
SPONSOR(S): Education Committee  
TIED BILLS: IDEN./SIM. BILLS: SB 626

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Fudge <i>FF</i>	Klebacha <i>JK</i>

SUMMARY ANALYSIS

The bill provides that Shands Teaching Hospital and Clinics, Inc.; Shands Medical Center, Inc.; and Shands Jacksonville HealthCare, Inc.; and any not-for-profit subsidiary which directly delivers health care services "shall be conclusively deemed corporations primarily acting as instrumentalities of the state" for purposes of sovereign immunity.

The bill authorizes the University of Florida (UF) Board of Trustees, acting through the President of the University or his or her designee, to control Shands Jacksonville Medical Center, Inc.; Shands Jacksonville HealthCare, Inc.; Shands Teaching Hospital and Clinics, Inc.; and those not-for-profit subsidiaries that qualify sovereign immunity. These entities are also required to audit their financial statements and provide those financial statements to the University of Florida Board of Trustees (UFBOT) which then submits those statements to the Auditor General. Shands Jacksonville Medical Center, Inc., and Shands Jacksonville HealthCare, Inc., must comply with the same provisions that apply to Shands Teaching Hospital and Clinics, Inc., such as approval of the articles of incorporation and the appointment of board members. The purpose of these provisions is to establish the degree of control the state has over the corporation. When the corporation is significantly controlled by the state, it is considered an instrumentality of the state, but when the corporation acts with significant autonomy, it is not.

The bill also identifies the not-for-profit corporations that operate the teaching hospitals at Gainesville and Jacksonville: Shands Teaching Hospital and Clinics, Inc.; Shands Jacksonville Medical Center, Inc.; and Shands Jacksonville HealthCare, Inc., and establishes that the primary purpose of these entities is to support the University of Florida Board of Trustees' health affairs mission. The UFBOT is authorized to provide general and professional liability insurance to affiliates of Shands Teaching Hospital and Clinics, Inc.; any successor corporation that acts in support of the UFBOT; Shands Jacksonville Medical Center, Inc.; and to any of the not-for-profit subsidiaries and affiliates of Shands Jacksonville Medical Center, Inc.

Shands UF and Shands Jacksonville Medical Center, Inc., are the established University of Florida teaching hospitals and are affiliated with the University's colleges in the J. Hillis Miller Health Science Center. Shands Jacksonville HealthCare, Inc., is the not-for-profit parent corporation of Shands Jacksonville Medical Center, Inc. The UFBOT is authorized to lease the hospital facilities of the health center known as the Shands Teaching Hospital and Clinics on the campus of the University of Florida to a private not-for-profit corporation.

See the Fiscal Comments section of this bill analysis.

The bill is effective July 1, 2011.

See DRAFTING ISSUES OR OTHER COMMENTS section of this bill analysis.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **History of Shands Teaching Hospital and Clinics**

Shands Teaching Hospital was opened in 1958 in Gainesville to serve the needs of the University of Florida's School of Medicine. Over the next 21 years, the hospital operated as part of the university.<sup>1</sup>

In 1978, a study was conducted to determine how to make Shands Teaching Hospital more self-sufficient and fiscally independent. The study recommended that by leasing Shands Teaching Hospital to a not-for-profit corporation Shands Teaching Hospital would receive "local autonomy, and flexibility in responding to dynamic changes in the health care industry."<sup>2</sup>

In 1979, the Legislature expressly required the State Board of Education<sup>3</sup> to lease Shands Teaching Hospital and ancillary health care facilities, which are known as Shands Teaching Hospital and Clinics, to a private not-for-profit corporation organized solely for the purpose of operating the hospital and ancillary health care facilities and other health care facilities and programs determined to be necessary by the board of the not-for-profit.<sup>4</sup> The agreement between the University of Florida Board of Trustees (UFBOT) and the not-for-profit corporation was to provide for:

- Approval of the articles of incorporation by the UFBOT.
- Governance of the not-for-profit corporation by a board of directors appointed and chaired by the President of UFBOT and vice chaired by the Vice President for Health Affairs of the University of Florida.
- Use of the hospital and facilities and personnel.
- Continued recognition of the collective bargaining units and agreements.
- Use of hospital facilities and personnel in connection with research programs.
- Reimbursement to the hospital for care of indigent patients and implementation of state-mandated programs and "underfunded state programs" subject to appropriations by the Legislature.<sup>5</sup>

Shands Teaching Hospital and Clinics, Inc., was created in 1980 as the not-for-profit corporation responsible for operating, maintaining, and insuring Shands Teaching Hospital and Clinics. Shands Teaching Hospital and Clinics, Inc., entered into an agreement with the UFBOT. The agreement transferred all assets and liabilities of the hospital facilities to Shands Teaching Hospital and Clinics, Inc.; provided reversion of the net assets at termination of the contractual agreement; provided that the legal title to all buildings and improvements remained with the State of Florida; and provided that the State Board of Education could only terminate the agreement if Shands Teaching Hospital and Clinics, Inc., declared bankruptcy.<sup>6</sup>

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<sup>1</sup> History of Shands HealthCare, available at, <http://www.shands.org/about/history.asp> (last visited March 17, 2011).

<sup>2</sup> *Shands Teaching Hospital & Clinics, Inc. v. Lee*, 478 So. 2d 77, 79 (Fla. 1st DCA 1985), citing *Recommendations of a Feasibility Study for a Change of Governance of Shands Teaching Hospital*, A Report to the Florida Legislature, 12 (Jan. 1979).

<sup>3</sup> Chapter 79-248, s. 1, *Laws of Florida*. The University of Florida Board of Trustees is the successor in interest to the State Board of Education. Chapter 2002-387, s. 186, *Laws of Florida*, codified at s. 1004.41, F.S. (2002).

<sup>4</sup> Chapter 79-248, s. 1, *Laws of Florida*.

<sup>5</sup> Section 1004.41(4)(b)5., F.S.

<sup>6</sup> Section 1004.41(4)(e), F.S.

### Recent Litigation

In 1985, a medical malpractice action was brought against the Board of Regents<sup>7</sup> and Shands Teaching Hospital & Clinics, Inc.<sup>8</sup> Based on the legislative history discussed above, the court found that "the intent of the legislature was to treat Shands as an autonomous and self-sufficient entity, one not primarily acting as an instrumentality on behalf of the state."<sup>9</sup> The court also noted that "[t]he plain meaning of section [1004.41] reflects that Shands' day-to-day operations are not under direct state control."<sup>10</sup>

In 1987, a newspaper alleged that Shands Teaching Hospital and Clinics, Inc., was in violation of the sunshine law and the public records law.<sup>11</sup> The court, in *Campus Communications, Inc. v. Shands Teaching Hospital and Clinics, Inc.*,<sup>12</sup> stated that the Sunshine Law only applies to a "state agency or authority"<sup>13</sup> and that the public records law only applies to a "unit of government" or private entity "acting on behalf of any public agency."<sup>14</sup> The court concluded, based on the rationale in *Shands Teaching Hospital & Clinics, Inc. v. Lee*,<sup>15</sup> that "Shands is not a state agency or authority for purposes of the Sunshine Law and that Shands is not a unit of government or private entity acting on behalf of any public agency for purposes of the Public Records Law."<sup>16</sup>

### Sovereign Immunity

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the government or its political subdivisions for the torts<sup>17</sup> of officers or agents of such governments unless such immunity is expressly waived. "The legislative purpose in enacting sovereign immunity statutes is to protect the public from 'profligate encroachments on the public treasury.'"<sup>18</sup> However, one of the concerns regarding sovereign immunity is that it allows the governmental entity to avoid accountability for its actions.

Article X, s. 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the right to waive the state's immunity in part or in full by general law. The Legislature did in fact establish a limited waiver of sovereign immunity for liability for tort. More particularly, the law provides:

Actions at law against the state or any of its agencies or subdivisions to recover damages in tort for money damages against the state or its agencies or subdivisions for injury or loss of property, personal injury, or death caused by the negligent or wrongful

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<sup>7</sup> The Board of Regents was created in 1965, as the governing body of the State University System. Chs. 63-204 and 65-138, Laws of Florida. The Board of Regents was abolished in 2001. Section 229.003(5)(a), F.S. (2001).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Campus Communications, Inc. v. Shands Teaching Hospital and Clinics, Inc.*, 512 So.2d 999 (Fla. 1st DCA 1987).

<sup>12</sup> *Id.*

<sup>13</sup> Section 286.011(1), F.S.

<sup>14</sup> Section 119.011(2), F.S.

<sup>15</sup> *See Lee*, 478 So.2d at 79.

<sup>16</sup> *Campus Communications*, 512 So.2d at 1000.

<sup>17</sup> "A 'tort' is a civil wrong for which a remedy may be obtained, usually in the form of damages, the commission or omission of an act by one, without right, whereby another receives some injury, directly or indirectly, to his or her person, property, or reputation. A tort is a wrong that the law redresses, and not a mere infraction of good morals." 55 Fla. Jur 2d Torts § 1.

<sup>18</sup> *Jaar v. University of Miami*, 474 So.2d 239, 246 (Fla. 3rd DCA 1985)(holding that because the University of Miami is a private educational institution any liability it incurs for the negligence of its agents has no effect on the public treasury).

act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant, in accordance with the general laws of this state, may be prosecuted subject to the limitations specified in this act.<sup>19</sup>

The waiver of sovereign immunity limits the recovery of any one person in a tort action against the state to \$100,000 for any one person for one incident and limits all recovery related to one incident to a total of \$200,000.<sup>20</sup> When the state's sovereign immunity applies, the officers, employees, and agents of the state that were involved in the commission of the tort are not personally liable to an injured party.<sup>21</sup>

The term "state" means "state agencies or subdivisions" which includes the executive departments, the Legislature, the judicial branch, and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities.<sup>22</sup>

### Instrumentalities of the State

The Legislature has created corporations and authorized subsidiary corporations.<sup>23</sup> Whether those corporations enjoy sovereign immunity is based upon whether those corporations are considered "instrumentalities of the state." Determining whether such corporations are instrumentalities of the state is dependent upon the degree of control the state has over the corporation. When the corporation is significantly controlled by the state, it is considered an instrumentality of the state,<sup>24</sup> but when the corporation acts with significant autonomy, it is not.<sup>25</sup>

In *Prison Rehabilitative Industries & Diversified Enterprises v. Betterson*,<sup>26</sup> the court examined whether Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE) was an instrumentality of the state. The court noted, that while "the actual extent of control is ordinarily a question of fact to be proved by the evidence, here the proof of control rests entirely on statutory provisions, which leaves the issue to be decided as a matter of law."<sup>27</sup> Even though "PRIDE was accorded substantial independence in the running of the work programs, its essential operations nevertheless remained subject to a number of legislatively mandated constraints over its day-to-day operations."<sup>28</sup> For example, PRIDE is only permitted to sell its goods to private entities upon approval of the Governor, required to annually provide the Governor and the Legislature with an independently audited financial statement and an in-depth status report concerning the operation of the correctional work programs, subjected to both financial and performance audits by the Auditor General, restricted to nonprofit status, and required to have the articles of incorporation approved by the Governor. "These statutory constraints cumulatively constitute sufficient governmental control over PRIDE's daily operations to require the conclusion as a matter of law that PRIDE has, from its inception, acted primarily as an instrumentality of the state."<sup>29</sup>

<sup>19</sup> Section 768.28(1), F.S.

<sup>20</sup> Section 768.28(5), F.S. Effective October 1, 2011, the limits change from \$100,000 to \$200,000 and \$200,000 to \$300,000.

<sup>21</sup> Section 768.28(9), F.S.

<sup>22</sup> Section 768.28(2), F.S.

<sup>23</sup> See e.g., s. 1004.43, F.S., creating the H. Lee Moffitt Center and Research Institute and establishing sovereign immunity; s. 1004.447, F.S., creating the Florida Institute for Human and Machine Cognition, Inc., and establishing sovereign immunity.

<sup>24</sup> *Pagan v. Sarasota County Hospital Board*, 884 So.2d 257 (Fla. 2nd DCA 2004); *Prison Rehabilitative Industries & Diversified Enterprises v. Betterson*, 648 So.2d 778 (Fla. 1st DCA 1994).

<sup>25</sup> See *Lee*, 478 So.2d at 79, (holding that the nonprofit corporation to which the State Board of Education leased the Shands Teaching Hospital was not entitled to the benefit of sovereign immunity because the corporate entity was determined to be "an autonomous and self-sufficient entity, one not primarily acting as an instrumentality on behalf of the state").

<sup>26</sup> 648 So.2d 778, 781 (Fla. 1st DCA 1995).

<sup>27</sup> *Id.* at 781 n. 3.

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

<sup>29</sup> *Betterson*, 648 So.2d at 780.

### ***Moffitt Cancer Center***

The Legislature created the H. Lee Moffitt Cancer Center and Research Institute (Moffitt), and expressly provided, that Moffitt and its not-for-profit subsidiaries are “conclusively deemed instrumentalities of the state” for purposes of sovereign immunity. To support its designation as an instrumentality of the state the Legislature enacted provisions to demonstrate sufficient governmental control over Moffitt and its not-for-profit subsidiaries by identifying the composition of the board of the not-for-profit corporation;<sup>30</sup> requiring the agreement between Moffitt and the Board of Governors to provide for an annual financial audit;<sup>31</sup> authorizing the Board of Governors, the Auditor General, and the Office of Program Policy Analysis and Government Accountability to require and receive any detail or supplemental data relative to the operation of Moffitt;<sup>32</sup> clarifying that Moffitt is not an “agency” within the executive branch;<sup>33</sup> clearly stating that the records of Moffitt and its subsidiaries are public records unless made confidential or exempt by law;<sup>34</sup> identifying the documents that are exempted from public disclosure law;<sup>35</sup> and providing that meetings of Moffitt and its subsidiaries at which the expenditure of appropriated dollars are discussed remain open to the public unless made confidential or exempt by law.<sup>36</sup>

### ***Florida Institute for Human and Machine Cognition, Inc.***

The Legislature created the Florida Institute for Human and Machine Cognition, Inc., (Institute), a not-for-profit corporation established at the University of West Florida, and designated the Institute as an instrumentality of the state for purposes of sovereign immunity. To support the Institute’s designation as an instrumentality of the state, the Legislature enacted provisions to demonstrate state control over the Institute and approved subsidiaries by making the officers, directors, and employees of the Institute and any not-for-profit corporate subsidiary subject to the code of ethics for public officers and employees;<sup>37</sup> clearly stating that the Institute and any authorized and approved subsidiary are subject to the public records and meetings requirement;<sup>38</sup> and requiring that the Institute’s articles of incorporation be approved by the Board of Governors; and providing that the members of the board of directors of the Institute are responsible for the prudent use of all public and private funds and that they will ensure that the use of the funds is in accordance with all applicable law, bylaws, and contractual requirements.<sup>39</sup>

### **Effect of Proposed Changes**

The bill provides that Shands Teaching Hospital and Clinics, Inc.; Shands Jacksonville Medical Center, Inc.; Shands Jacksonville HealthCare, Inc.; and any not-for-profit subsidiary which directly delivers health care services, “shall be conclusively deemed corporations primarily acting as instrumentalities of the state” for purposes of sovereign immunity.

The bill amends current law to identify the not-for-profit corporations that operate the teaching hospitals at Gainesville and Jacksonville: Shands Teaching Hospital and Clinics, Inc.; Shands Jacksonville Medical Center, Inc.; and Shands Jacksonville HealthCare, Inc. The bill also recognizes that the primary role of Shands Teaching Hospital and Clinics, Inc., is to support the UFBOT health affairs

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<sup>30</sup> Section 1004.43(1), F.S.

<sup>31</sup> Section 1004.43(2)(d), F.S.

<sup>32</sup> *Id.*

<sup>33</sup> Section 1004.43(7), F.S., citing s. 20.03(11), F.S., defining “agency.”

<sup>34</sup> Section 1004.43(8)(a), F.S.

<sup>35</sup> Section 1004.43(8)(b), F.S.

<sup>36</sup> Section 1004.43(9), F.S.

<sup>37</sup> Section 1004.447(3), F.S.

<sup>38</sup> Section 1004.447(4)(b), F.S.

<sup>39</sup> Section 1004.447(4)(c), F.S.

mission and authorizes the corporation to operate the hospital and ancillary health care facilities as deemed necessary by the board of the corporation.

The bill also states that Shands Jacksonville Medical Center, Inc., and its parent Shands Jacksonville HealthCare, Inc., are private not-for-profit corporations organized primarily to support the health affairs and mission of the UFBOT. In addition to the oversight provided by current law,<sup>40</sup> the bill provides that the UFBOT acting through the President of UF or his or her designee has the right to control Shands Jacksonville Medical Center, Inc.; Shands Jacksonville HealthCare, Inc.; Shands Teaching Hospital and Clinics, Inc.; and those not-for-profit subsidiaries that qualify sovereign immunity. These entities are also required to audit their financial statements and provide those financial statements to the UFBOT which then submits those statements to the Auditor General. Shands Jacksonville Medical Center, Inc., and Shands Jacksonville HealthCare, Inc., must comply with the same provisions that apply to Shands Teaching Hospital and Clinics, Inc., such as approval of the articles of incorporation and the appointment of board members.

Proponents of the bill contend that without sovereign immunity it costs UF, Shands Teaching Hospitals and Clinics, Inc., and Shands Jacksonville HealthCare, Inc., approximately \$12 million each year for liability insurance. It is undisputed that “[i]t is [] more economic to run any business or profession if one has limited liability. It is easier to compete with other businesses or professionals if one can avoid the costs and liabilities that the competitor cannot avoid.”<sup>41</sup>

Reducing liability insurance costs may help defray the cost of care provided to indigent and Medicaid patients. For example, in fiscal year 2010, eight percent of the patients discharged by Shands at the University of Florida and 14 percent of the patients discharged by Shands Jacksonville Medical Center, Inc., were uninsured patients. That year, Shands at the University of Florida wrote off \$49.5 million and Shands Jacksonville Medical Center, Inc., wrote off \$57.1 million. In addition, 27 percent of the patients discharged by Shands at the University of Florida and 35 percent of the patients discharged by Shands Jacksonville Medical Center, Inc., were Medicaid patients.<sup>42</sup> However, the bill authorizes the UFBOT to provide general and professional liability insurance from a self-insurance program to affiliates of Shands Teaching Hospital and Clinics, Inc.; any successor corporation that acts in support of the UFBOT; and to Shands Jacksonville Medical Center, Inc., and to any of its not-for-profit subsidiaries and affiliates. It is unclear what effect this may have on any potential costs savings.

### **Sunshine Law and Public Records Law**

As stated above, *Campus Communications* held that Shands Teaching Hospital and Clinics, Inc., was not a “state agency or authority” or a private entity “acting on behalf of any public agency” within the meaning of the Public Records Law or Sunshine Law, because of an earlier determination that Shands was not a state agency or corporation primarily acting as an instrumentality or agency of the state.<sup>43</sup>

The bill, by designating certain not-for-profit corporations and subsidiaries as instrumentalities of the state,<sup>44</sup> will subject those entities to the Public Records Law and the Sunshine Law. Proponents of the bill suggest that the affected corporations are already covered by an existing public records and

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<sup>40</sup> See *supra* text accompanying note 4. But see *Lee*, 478 So.2d at 79 (holding that “[t]he plain meaning of section [1004.41] reflects that Shands’ day-to-day operations are not under direct state control.”).

<sup>41</sup> *University of Florida Board of Trustees v. Morris*, 975 So.2d 493, (Fla. 2d DCA 2007)(Altenbernd, J., concurring)(stating that “the idea that government can now enter into favorable leases and contracts based at least in part on the government’s ability to expand its umbrella of sovereign immunity to favor some private enterprises over others is an idea that warrants very close scrutiny.”).

<sup>42</sup> Correspondence with representatives of Shands Teaching Hospitals and Clinics, Inc., on file with staff of the House Education Committee.

<sup>43</sup> *Campus Communications*, 512 So.2d at 1000.

<sup>44</sup> Shands Teaching Hospital and Clinics, Inc., Shands Jacksonville Medical Center, Inc., and Shands Jacksonville HealthCare, Inc., as well as any not-for-profit subsidiaries of Shands Teaching Hospital and Clinics, Inc., and Shands Jacksonville Medical Center, Inc.

meetings exemption created in s. 395.3036, F.S. It is unclear whether the not-for-profit corporations would qualify for these exemptions.<sup>45</sup>

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 1004.41, F.S., to clarify the purpose of Shands Teaching Hospital and Clinics, Inc.; Shands Jacksonville Medical Center, Inc.; and Shands Jacksonville HealthCare, Inc.; and requires that those entities, as well as any not-for-profit subsidiary which directly delivers health care services, be considered corporations primarily acting as instrumentalities of the state for purposes of sovereign immunity.

**Section 2:** Provides an effective date of July 1, 2011

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

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

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

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

1. Revenues:

None.

2. Expenditures:

None.

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

D. A recovery in a tort action by an injured plaintiff against any of the entities granted sovereign immunity by this bill will be limited to \$100,000 for any one person for one incident and all recovery related to one incident is limited to a total of \$200,000. (Effective October 1, 2011, the limits change from \$100,000 to \$200,000 and \$200,000 to \$300,000.) Section 768.28(5), F.S.; see also note 1 to s. 768.28, F.S.

**E. FISCAL COMMENTS:**

F. Currently, if an entity has sovereign immunity and a plaintiff succeeds in adjudicating the matter in court, and the court determines that the damages exceed \$200,000, then the plaintiff may ask members of the Legislature to file a "claim bill" on the plaintiff's behalf. The Speaker of the House of Representatives may appoint a Special Master to review a claim bill or conduct a hearing, if

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<sup>45</sup> Section 395.3036, F.S., creates a public records and public meetings exemption for all records and all meetings of a private corporation that leases a public hospital or other public health care facility. The private lessee must meet specified criteria, including the finance an accountability provisions of s. 155.40(5), F.S., which provides that if a hospital operator [which would include a private lessee] receives more than \$100,000 annually from the county, district, or municipality that owns the hospital, then the revenues must either be made subject to annual appropriations or, if there is a contract which provides for revenues longer than 12 months, the public owner must be able to modify the contract upon 12 months notice.

necessary.<sup>46</sup> If a (non-local) claim bill is passed, then the funds used to pay the claim will either come from that entity's budget or additional General Revenue Funds may be appropriated to that entity to cover some or all of the claim.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

Not Applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None

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

The bill, by designating certain not-for-profit corporations as instrumentalities of the state, will subject those entities to the Public Records Law and the Sunshine Law. It is unclear whether those corporations would qualify for the public records and meetings exemptions provided under s. 395.3036, F.S.

The bill designates certain not-for-profit corporations and subsidiaries as instrumentalities of the state. Whether such corporations are instrumentalities of the state is dependent upon the degree of control over the corporation. While interpreting PRIDE's statutory requirements, the court noted that "the actual extent of control is ordinarily a question of fact to be proved by the evidence, here the proof of control rests entirely on statutory provisions, which leaves the issue to be decided as a matter of law."<sup>47</sup> The extent of control provided in the bill is not as comprehensive as other statutes.<sup>48</sup>

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 23, 2011, the K-20 Subcommittee on Competitiveness adopted an amendment and reported the bill out favorable as a committee substitute. The amendment:

- Replaced use of the generic terms "hospital" and "hospital facilities" with the specific term "Shands Teaching Hospital and Clinics;"
- Required that those entities granted sovereign immunity audit their financial statements and provide those financial statements to the University of Florida Board of Trustees (UFBOT) which then submits those statements to the Auditor General;

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<sup>46</sup> Rule 5.6 – Claim Bills, The Rules, Florida House of Representatives, 2010-2012. Most recently an \$18.2 million claim bill was signed into law; the defendant was the Florida Department of Children and Family Services.  
[http://www.southfloridainjurylawyerblog.com/2008/05/florida\\_claims\\_bill\\_grants\\_9ye.html](http://www.southfloridainjurylawyerblog.com/2008/05/florida_claims_bill_grants_9ye.html).

<sup>47</sup> *Betterson*, 648 So.2d at 781 n.3.

<sup>48</sup> See e.g., s. 1004.43, F.S., (governing the H. Lee Moffitt Cancer Center); s. 1004.447, F.S., (governing the Florida Institute for Human and Machine Cognition).

- Required Shands Jacksonville Medical Center, Inc., and Shands Jacksonville HealthCare, Inc., to comply with the same provisions that apply to Shands Teaching Hospital and Clinics, Inc., such as approval of the articles of incorporation and the appointment of board members;
- Clarified that the board of directors of those entities granted sovereign immunity are appointed by, subject to removal by, and chaired by the President of UF, and vice chaired by the VP for Health Affairs.
- Allowed the UFBOT to provide Shands Jacksonville Medical Center, Inc., and any of its not-for-profit subsidiaries and affiliates with general and professional liability insurance.

Unlike the bill, the strike-all amendment did not grant sovereign immunity to the subsidiaries. The strike-all only granted sovereign immunity to Shands Teaching Hospital and Clinics, Inc.; Shands Medical Center, Inc.; and Shands Jacksonville HealthCare, Inc.





1                   A bill to be entitled  
 2           An act relating to public records; amending s. 1004.55,  
 3           F.S.; providing an exemption from public records  
 4           requirements for all records that relate to a client of a  
 5           regional autism center who receives the services of a  
 6           center or participates in center activities and the  
 7           client's family; providing for release of specified  
 8           confidential and exempt information by a center under  
 9           certain circumstances; providing an exemption from public  
 10          records requirements for personal identifying information  
 11          of a donor or prospective donor to a regional autism  
 12          center if such donor or prospective donor wishes to remain  
 13          anonymous; providing for review and repeal of the  
 14          exemptions; providing a statement of public necessity;  
 15          providing an effective date.

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

18  
 19           Section 1. Subsection (6) is added to section 1004.55,  
 20 Florida Statutes, to read:

21           1004.55 Regional autism centers; public record  
 22 exemptions.-

23           (6) (a) CLIENT RECORDS.-

24           1. All records that relate to a client of a regional  
 25 autism center who receives the services of a center or  
 26 participates in center activities, and all records that relate  
 27 to the client's family, are confidential and exempt from s.  
 28 119.07(1) and s. 24(a), Art. I of the State Constitution.

29        2. A client who receives the services of a center, if  
 30 competent, or the client's parent or legal guardian if the  
 31 client is incompetent, shall be provided with a copy of the  
 32 client's individual record upon request.

33        3. A regional autism center may release the confidential  
 34 and exempt records as follows:

35        a. To physicians, attorneys, or governmental entities  
 36 having need of the confidential and exempt information to aid a  
 37 client, as authorized by the client, if competent, or the  
 38 client's parent or legal guardian if the client is incompetent.

39        b. In response to a subpoena or to persons authorized by  
 40 order of court.

41        c. To the State Board of Education or the Board of  
 42 Governors of the State University System when the director of  
 43 the center deems it necessary for the treatment of the client,  
 44 maintenance of adequate records, compilation of treatment data,  
 45 or evaluation of programs.

46        4. Provided that personal identifying information of a  
 47 client or the client's family has been removed, a regional  
 48 autism center may release information contained in the  
 49 confidential and exempt records as follows:

50        a. To a person engaged in bona fide research if that  
 51 person agrees to sign a confidentiality agreement with the  
 52 regional autism center, agrees to maintain the confidentiality  
 53 of the information received, and, to the extent permitted by law  
 54 and after the research has concluded, destroy any confidential  
 55 information obtained.

56        b. For statistical and research purposes by the director

57 of the center or designee, provided that any confidential and  
 58 exempt information is removed in the reporting of such  
 59 statistical or research data.

60 (b) DONOR INFORMATION.—Personal identifying information of  
 61 a donor or prospective donor to a regional autism center who  
 62 desires to remain anonymous is confidential and exempt from s.  
 63 119.07(1) and s. 24(a), Art. I of the State Constitution.

64 (c) REVIEW AND REPEAL.—This subsection is subject to the  
 65 Open Government Sunset Review Act in accordance with s. 119.15  
 66 and shall stand repealed on October 2, 2016, unless reviewed and  
 67 saved from repeal through reenactment by the Legislature.

68 Section 2. (1) The Legislature finds that it is a public  
 69 necessity that all records that relate to a client of a regional  
 70 autism center who receives the services of a center or  
 71 participates in center activities, and all records that relate  
 72 to the client's family, be made confidential and exempt from  
 73 public records requirements. Matters of personal health are  
 74 traditionally private and confidential concerns between the  
 75 patient and the health care provider. The private and  
 76 confidential nature of personal health matters pervades both the  
 77 public and private health care sectors. For these reasons, the  
 78 individual's expectation of and right to privacy in all matters  
 79 regarding his or her personal health necessitates this  
 80 exemption. The Legislature further finds that it is a public  
 81 necessity to protect records regarding clients of a regional  
 82 autism center or the client's family, because the release of  
 83 such records could be defamatory to the client or could cause  
 84 unwarranted damage to the name or reputation of that client or

85 the client's family. Information contained in records and  
 86 communications of a regional autism center relating to the  
 87 condition of autism or related disorders contain sensitive  
 88 personal information that, if released, could cause harm to a  
 89 client of the center or his or her family. Protecting such  
 90 records ensures an environment in which the discussion of the  
 91 condition of autism or related disorders can be conducted in a  
 92 free and open manner, thus enabling individuals with autism and  
 93 their families to receive appropriate diagnostic and treatment  
 94 information and cope more effectively with the enormous  
 95 challenges posed by neurodevelopmental disorders and sensory  
 96 impairments.

97 (2) The Legislature also finds that it is a public  
 98 necessity that personal identifying information of a donor or  
 99 prospective donor to a regional autism center be made  
 100 confidential and exempt from public records requirements if such  
 101 donor or prospective donor desires to remain anonymous. If the  
 102 identity of a prospective or actual donor who desires to remain  
 103 anonymous is subject to disclosure, there is a chilling effect  
 104 on donations because donors are concerned about disclosure of  
 105 personal information leading to theft and, in particular,  
 106 identity theft, including personal safety and security.  
 107 Therefore, the Legislature finds that it is a public necessity  
 108 to make confidential and exempt from public records requirements  
 109 information that would identify a donor or prospective donor to  
 110 a regional autism center if such donor or prospective donor  
 111 wishes to remain anonymous.

112 Section 3. This act shall take effect July 1, 2011.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 579 Pub. Rec./Regional Autism Centers  
**SPONSOR(S):** Government Operations Subcommittee; Coley and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1192

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	10 Y, 0 N, As CS	Williamson	Williamson
2) Education Committee		Valenstein <i>JB</i>	Klebacha <i>JK</i>
3) State Affairs Committee			

**SUMMARY ANALYSIS**

The bill creates a public record exemption for all records relating to a client of a regional autism center who receives the services of a center or participates in center activities, and all records relating to the client's family. The bill authorizes the release of the confidential and exempt records under certain circumstances.

The bill also creates a public record exemption for personal identifying information of a donor or prospective donor to the center who desires to remain anonymous.

The bill provides for repeal of the exemptions on October 2, 2016, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Current law designates seven regional autism centers (center) throughout the state to provide nonresidential resource and training services for persons of all ages and all levels of intellectual functioning who have autism, a pervasive developmental disorder that is not otherwise specified, an autistic-like disability, a dual sensory impairment, or a sensory impairment with other handicapping conditions. Each center must be operationally and fiscally independent, provide services within its geographical region of the state, and coordinate services within and between state and local agencies provided by those agencies or school districts.

**Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates new public record exemptions; thus, it requires a two-thirds vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Public Records Law

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

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>2</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

##### Regional Autism Centers

Current law designates seven regional autism centers (center) throughout the state to provide nonresidential resource and training services for persons of all ages and all levels of intellectual functioning who have autism, a pervasive developmental disorder that is not otherwise specified, an autistic-like disability, a dual sensory impairment, or a sensory impairment with other handicapping conditions. Each center must be operationally and fiscally independent, provide services within its geographical region of the state, and coordinate services within and between state and local agencies provided by those agencies or school districts.<sup>3</sup> The seven centers are located at the:

- College of Medicine at Florida State University;<sup>4</sup>
- College of Medicine at the University of Florida;<sup>5</sup>
- University of Florida Health Science Center at Jacksonville;<sup>6</sup>
- Louis de la Parte Florida Mental Health Institute at the University of South Florida;<sup>7</sup>
- Mailman Center for Child Development and the Department of Psychology at the University of Miami;<sup>8</sup>

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<sup>1</sup> Section 24(c), Art. I of the State Constitution.

<sup>2</sup> Section 119.15, F.S.

<sup>3</sup> Section 1004.55(1), F.S.

<sup>4</sup> The College of Medicine at Florida State University serves Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties. Section 1004.55(1)(a), F.S.

<sup>5</sup> The College of Medicine at the University of Florida serves Alachua, Bradford, Citrus, Columbia, Dixie, Gilchrist, Hamilton, Hernando, Lafayette, Levy, Marion, Putnam, Suwannee, and Union Counties. Section 1004.55(1)(b), F.S.

<sup>6</sup> The University of Florida Health Science Center at Jacksonville serves Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties. Section 1004.55(1)(c), F.S.

<sup>7</sup> The Louis de la Parte Florida Mental Health Institute at the University of South Florida serves Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. Section 1004.55(1)(d), F.S.

- College of Health and Public Affairs at the University of Central Florida,<sup>9</sup> and
- Department of Exceptional Student Education at Florida Atlantic University.<sup>10</sup>

Each center must provide expertise in autism, autistic-like behaviors, and sensory impairments; individual and direct family assistance; technical assistance and consultation services; professional training programs; public education programs; coordination and dissemination of local and regional information regarding available resources; and support to state agencies in the development of training for early child care providers and educators with respect to developmental disabilities.<sup>11</sup>

### Effect of Bill

The bill creates a public record exemption for all records relating to a client of a regional autism center who receives the services of a center or participates in center activities, and all records relating to the client's family. Such records are made confidential and exempt<sup>12</sup> from public records requirements.

Upon request, a client who receives services from the center, if competent, or the client's parent or legal guardian, if the client is incompetent, must be provided with a copy of the client's individual record.

The confidential and exempt records may be released to physicians, attorneys, and governmental entities having need of the record in order to aid a client, as authorized by the client if competent, or as authorized by the client's parent or legal guardian if the client is incompetent. The center must produce the confidential and exempt records in response to a subpoena or as authorized by court order. In addition, the State Board of Education or the Board of Governors of the State University System may have access to such records when the director of the center deems it necessary for the treatment of the client, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

Provided that personal identifying information of a client or the client's family has been removed, the bill authorizes a center to release information as follows:

- To a person engaged in bona fide research if that person agrees to sign a confidentiality agreement with the center, agrees to maintain the confidentiality of the information received, and, to the extent permitted by law and after the research has concluded, destroy any confidential information obtained.
- For statistical and research purposes by the director of the center or designee, provided that any confidential and exempt information is removed in the reporting of such statistical or research data.

Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. This exemption provides patients and their families the privacy expected for matters of personal health. The exemption may also prevent damage to their reputations by the release of records which may contain defamatory content. Additionally, the exemption allows the discussion of the condition of autism or related disorders to be conducted in a free and open manor,

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<sup>8</sup> The Mailman Center for Child Development and the Department of Psychology at the University of Miami serves Broward, Miami-Dade, and Monroe Counties. Section 1004.55(1)(e), F.S.

<sup>9</sup> The College of Health and Public Affairs at the University of Central Florida serves Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia Counties. Section 1004.55(1)(f), F.S.

<sup>10</sup> The Department of Exceptional Student Education at Florida Atlantic University serves Palm Beach, Martin, St. Lucie, Okeechobee, and Indian River Counties. Section 1004.55(1)(g), F.S.

<sup>11</sup> Section 1004.55(4), F.S.

<sup>12</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (*See Attorney General Opinion 85-62*, August 1, 1985).



providing both patients and their families the opportunity to receive appropriate diagnostic and treatment information.

The bill also provides a public record exemption for personal identifying information of a donor or prospective donor to the center who desires to remain anonymous. Without the ability to remain anonymous, there is a chilling effect on donations because donors are concerned about the disclosure of personal information, which may lead to identity theft.

The bill provides for repeal of the exemptions on October 2, 2016, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.<sup>13</sup>

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 1004.55, F.S., to create a public record exemption for regional autism centers.

**Section 2:** Provides a public necessity statement.

**Section 3:** Provides an effective date of July 1, 2011.

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

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

1. Revenues: None.

2. Expenditures: None.

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

1. Revenues: None.

2. Expenditures: None.

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

None.

**D. FISCAL COMMENTS:**

None.

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<sup>13</sup> Section 24(c), Art. I of the State Constitution.  
STORAGE NAME: h0579b.EDC.DOCX  
DATE: 3/31/2011

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

Not applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

###### Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates new public record exemptions; thus, it requires a two-thirds vote for final passage.

###### Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates new public record exemptions; thus, it includes a public necessity statement.

#### B. RULE-MAKING AUTHORITY:

None.

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

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 23, 2011, the Government Operations Subcommittee adopted a strike-all amendment and reported HB 579 favorably with committee substitute.

The committee substitute maintains the protection for records of clients of a regional autism center and for records of the client's family. It removes the public record exemption for records of teachers and other professionals who might receive training at the center. The committee substitute also creates a public record exemption for the identity of a donor or prospective donor to the center who wishes to remain anonymous.



1 A bill to be entitled  
 2 An act relating to interscholastic and intrascholastic  
 3 sports; amending s. 1006.15, F.S.; removing certain  
 4 provisions relating to a pilot program in which a middle  
 5 school student or a high school student in a private  
 6 school may participate in athletics at a public school;  
 7 providing for statewide implementation of the program;  
 8 requiring that the athletic director of each public school  
 9 maintain the records of students participating in the  
 10 program; requiring that any private school that is not a  
 11 member of the Florida High School Athletic Association  
 12 make the records of participating students available to  
 13 the association upon request; requiring that a student  
 14 apply to participate in the program through the  
 15 appropriate application process; limiting participation in  
 16 the program to students who are enrolled in non-FHSAA  
 17 member private schools consisting of a maximum number of  
 18 students; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:  
 21

22 Section 1. Subsection (8) of section 1006.15, Florida  
 23 Statutes, is amended to read:

24 1006.15 Student standards for participation in  
 25 interscholastic and intrascholastic extracurricular student  
 26 activities; regulation.—

27 (8) (a) The Florida High School Athletic Association  
 28 (FHSAA), in cooperation with each ~~the~~ district school board

29 | ~~boards of Bradford County, Duval County, and Nassau County,~~  
 30 | shall facilitate a ~~2-year pilot~~ program during the ~~2008-2009 and~~  
 31 | ~~2009-2010 academic years~~ in which a middle school or high school  
 32 | student who attends a private school shall be eligible to  
 33 | participate in an interscholastic or intrascholastic sport at a  
 34 | public high school, a public middle school, or a 6-12 public  
 35 | school that is zoned for the physical address at which the  
 36 | student resides if:

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

40 |       2. The private school student meets the guidelines for the  
 41 | conduct of the ~~pilot~~ program established by the FHSAA's board of  
 42 | directors and the ~~participating~~ district school board ~~boards~~. At  
 43 | a minimum, such guidelines shall provide:

44 |           a. A deadline for each sport by which the private school  
 45 | student's parents must register with the public school in  
 46 | writing their intent for their child to participate at that  
 47 | school in the sport.

48 |           b. Requirements for a private school student to  
 49 | participate, including, but not limited to, meeting the same  
 50 | standards of eligibility, acceptance, behavior, educational  
 51 | progress, and performance which ~~that~~ apply to other students  
 52 | participating in interscholastic or intrascholastic sports at a  
 53 | public school or FHSAA member private school.

54 |       (b) The parents of a private school student participating  
 55 | in a public school sport under this subsection are responsible  
 56 | for transporting their child to and from the public school at

57 | which the student participates. The private school the student  
 58 | attends, the public school at which the student participates in  
 59 | a sport, the district school board, and the FHSAA are exempt  
 60 | from civil liability arising from any injury that occurs to the  
 61 | student during such transportation.

62 | (c) For each academic year, a private school student may  
 63 | only participate at the public school in which the student is  
 64 | first registered under sub-subparagraph (a)2.a. or makes himself  
 65 | or herself a candidate for an athletic team by engaging in a  
 66 | practice.

67 | (d) The athletic director of each participating FHSAA  
 68 | member public school shall maintain the student records  
 69 | necessary for eligibility, compliance, and participation in the  
 70 | program.

71 | (e) Any non-FHSAA member private school that has a student  
 72 | who wishes to participate in this program must make all student  
 73 | records, including, but not limited to, academic, financial,  
 74 | disciplinary, and attendance records, available upon request of  
 75 | the FHSAA.

76 | (f) A student must apply to participate in this program  
 77 | through the FHSAA program application process.

78 | (g) Only students who are enrolled in non-FHSAA member  
 79 | private schools consisting of 125 students or fewer are eligible  
 80 | to participate in the program in any given academic year.

81 | ~~(d) The FHSAA and participating district school boards~~  
 82 | ~~shall submit to the Governor, the President of the Senate, and~~  
 83 | ~~the Speaker of the House of Representatives.~~

84 | ~~1. A copy of the guidelines established under subparagraph~~

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85 ~~(a)2. for the pilot program no later than August 1, 2008.~~  
 86 ~~2. A report on the progress of the pilot program no later~~  
 87 ~~than January 1, 2010. The report shall include the number of~~  
 88 ~~students registered under sub-subparagraph (a)2.a., the number~~  
 89 ~~of students found eligible to participate in the pilot program,~~  
 90 ~~the number of students who transfer to the public schools at~~  
 91 ~~which the students participated under the pilot program,~~  
 92 ~~implementation issues experienced with the pilot program, and~~  
 93 ~~recommendations on how the pilot program may be improved and~~  
 94 ~~expanded to include other counties.~~

95 ~~(c) This subsection shall stand repealed on June 30, 2010,~~  
 96 ~~unless reviewed and reenacted by the Legislature.~~

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 797 Interscholastic and Intrasccholastic Sports

SPONSOR(S): Perry and others

TIED BILLS: IDEN./SIM. BILLS: SB 1000

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	12 Y, 0 N	Graf	Ahearn
2) PreK-12 Appropriations Subcommittee	13 Y, 0 N	Keith	Heflin
3) Education Committee		Graf <i>SG</i>	Klebacha <i>JK</i>

SUMMARY ANALYSIS

The bill allows a student attending a private middle school or high school to participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school does not offer an athletic program and is not a member of the Florida High School Athletic Association (FHSAA). The bill limits participation in the athletic program to students from non-FHSAA member private schools that have 125 or fewer students in any given year.

Current law allows eligible home school and charter school students to participate in interscholastic extracurricular student activities at assigned public schools pursuant to district controlled open-enrollment policies. These students are subject to the same eligibility requirements as other public school students.

A student attending a private school that is not a member of the FHSAA must meet the same standards of eligibility, code of conduct, and academic performance that apply to other students participating in interscholastic or intrascholastic sports at a public school or a FHSAA member private school.

The bill also requires the athletic director at each participating FHSAA member public school to maintain student records on eligibility, compliance, and participation for the participating students in the program. The bill provides authority to the FHSAA to request all student-level data from the participating private schools that are not members of their association.

The bill repeals a two-year pilot program involving Bradford County, Duval County, and Nassau County school districts. This program allowed private middle school and high school students to participate in interscholastic or intrascholastic sports at a public school zoned for the address of the participating student if that private school was not a member of the FHSAA, and did not offer an interscholastic or intrascholastic athletic program. The pilot program expired at the end of the 2009-2010 academic year.

The fiscal impact on school districts is indeterminate, but, insignificant. See Fiscal Comments.

The bill is effective upon becoming law.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### **Interscholastic Athletics**

Eligible home school and charter school students may participate in interscholastic extracurricular activities at assigned public schools pursuant to district controlled open-enrollment policies.<sup>1</sup> A student from a charter school may be eligible to participate in these activities at the public school to which the student is assigned according to district school board attendance area policies if such activity is not offered by that charter school.<sup>2</sup> Both home school and charter school students must register with the public school their intent to participate in interscholastic extracurricular activities, and are subject to the same eligibility requirements as other public school students.<sup>3</sup>

To be eligible to participate in interscholastic extracurricular activities, a student must maintain a 2.0 grade point average (GPA) in the semester prior to participation, or a 2.0 cumulative GPA in specified high school courses. If a student's cumulative GPA falls below 2.0 in the specified courses, the student must execute an academic performance contract with the district school board, the Florida High School Athletic Association (FHSAA), and the student's parents. At a minimum, the contract must require the student to attend summer school to improve his or her GPA.<sup>4</sup> A student must also maintain good conduct to remain eligible to participate in interscholastic extracurricular activities. The district school board policy governs the eligibility of a student to participate in these activities if he or she is found to be involved in a felony or delinquent act.<sup>5</sup>

###### **Florida High School Athletic Association (FHSAA)**

The FHSAA is a non-profit organization that governs interscholastic athletic programs in Florida's schools from grades 6 through 12. The organizational structure and governing authority for the FHSAA were established in law in 1997. Unless specifically provided for in law, the FHSAA may adopt bylaws governing athletic participation of member schools and individual student athletes.<sup>6</sup> FHSAA is required to adopt bylaws that include student eligibility, residence, transfer, and recruitment.<sup>7</sup>

###### **Pilot Program**

In 2008, the Legislature identified Bradford County, Duval County, and Nassau County school districts to participate in a two-year pilot program in cooperation with the FHSAA. Middle school and high school students attending a private school were allowed to participate in interscholastic or intrascholastic sports at the public school zoned for the address of the participating student if that private school was not a member of the FHSAA, and did not offer an interscholastic or intrascholastic athletic program. The pilot program was conducted during the 2008-2009 and 2009-2010 academic years.<sup>8</sup> The FHSAA

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<sup>1</sup> Sections 1002.41(4) and 1006.15(3)(c) and (d), F.S. "Interscholastic activities" are limited to high school athletic competitions. Section 1006.20(1), F.S. The Florida High School Athletic Association defines interscholastic contest as "any competition between organized teams of different schools in a sport recognized or sanctioned" by the FHSAA. Florida High School Athletic Association, *Interscholastic Contests*, available at, <http://www.fhsaa.org/about> (last visited March 17, 2011). "Extracurricular" activities include any school-authorized or education-related activity occurring during or outside the regular instructional school day. Section 1006.15(2), F.S.

<sup>2</sup> Section 1006.15(3)(d), F.S.

<sup>3</sup> Section 1006.15(3), F.S.

<sup>4</sup> Sections 1006.15(3)(a)(1) and (2) and 1003.43(1), F.S.

<sup>5</sup> Section 1006.15(3)(a)4., F.S.

<sup>6</sup> Section 1006.20(1), F.S.; see also Florida High School Athletic Association, *About the FHSAA*, available at, <http://www.fhsaa.org/about> (last visited March 15, 2011).

<sup>7</sup> Section 1006.20(2), F.S.

<sup>8</sup> Section 1006.15(8)(a), F.S.

reported that 23 students participated in the pilot program. None of the three school districts that participated reported problems with the implementation of the program.<sup>9</sup>

Current law does not allow a student attending a private school that is not a member of the FHSAA to participate in interscholastic extracurricular activities at a public school.

### **Effect of Proposed Changes**

The bill allows a student attending a private middle school or high school to participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school where the student is enrolled is not a member of the FHSAA, and does not offer an interscholastic or intrascholastic athletic program. The bill limits participation in the athletic program to students from non-FHSAA member private schools that have 125 or fewer students in any given year. Schools with more than 125 students typically become members of the FHSAA.<sup>10</sup>

In order to participate in an interscholastic or intrascholastic athletic program, parents of a student attending a private school that is not a member of the FHSAA must register with the assigned public school in writing affirming their intent for their child to participate in a specific sport through the FHSAA program application process. The parents must also be responsible for transporting their child to and from the public school at which the student participates.

A student from a non-FHSAA member private school participating in the athletic program must meet the same standards of eligibility, code of conduct, and academic performance that apply to other students participating in interscholastic or intrascholastic sports at a public school or a FHSAA member private school.<sup>11</sup> In addition, the bill requires these students to remain enrolled at the public school that they first registered to maintain their eligibility for continued participation in the interscholastic or intrascholastic athletic program during each academic year.

The bill also requires the athletic director at each participating FHSAA member public school to maintain student records on eligibility, compliance, and participation for the participating students in the program. Any non-FHSAA member private school that has a student who wishes to participate in this program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request of the FHSAA.

Finally, the bill repeals the two-year pilot program that concluded in 2010.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1006.15(8)(a), F.S.; to expand participation in interscholastic or intrascholastic sports to students attending non-FHSAA member private schools; and repeals the two-year pilot program in Bradford County, Duval County, and Nassau County.

**Section 2.** Provides that the bill shall take effect upon becoming a law.

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<sup>9</sup> Letter, Report on the progress of the pilot program pursuant to s. 1006.15, F.S., Florida High School Athletic Association (Dec. 15, 2009).

<sup>10</sup> Telephone interview with staff from the Florida High School Athletic Association (March 18, 2011).

<sup>11</sup> E-mail, Florida High School Athletic Association (March 14, 2011). The FHSAA reported that 218 private schools are currently members of their association. The actual number of non-FHSAA member private middle schools and high schools that do not offer an athletic program, and the number of students who will participate in this program, are unknown.

## 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:

There may be insignificant costs for local schools to maintain and provide the records required by this bill.

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

None.

### D. FISCAL COMMENTS:

The administrative workload associated with the maintenance of student records for eligibility, compliance, and program participation is indeterminate; however, it is not expected to have a significant fiscal impact on the school districts or the FHSAA.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

**Student Athlete Participation:** The bill allows a student attending a non-FHSAA member private school that does not offer an athletic program to participate in interscholastic sports at a public school. Current law already allows home school and charter school students to participate in the program.<sup>12</sup> The FHSAA has established bylaws allowing participation by home school and charter school students in the program.<sup>13</sup> The FHSAA bylaws will need to be amended to reflect the provisions for students attending non-FHSAA member private schools.

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<sup>12</sup> Sections 1002.41(4) and 1006.15(3)(c) and (d), F.S.

<sup>13</sup> Section 3.2.2, Types of Member Schools, *FHSAA Bylaws*, 2010-11 FHSAA Handbook, available at, <http://www.fhsaa.org/rules/fhsaa-handbook>.

**Student Athlete Transfer:** The bill restricts student eligibility to participation in a middle school or high school athletic competition in the school he or she first enrolls each year or practices as a candidate for an athletic team before enrolling in a FHSAA-member school. To the contrary, the FHSAA bylaws governing student transfer allow for exceptions to the transfer regulations. A transfer student may continue to remain eligible to participate in interscholastic athletics if the student moves with a parent or guardian with whom he or she lives to a different attendance area than the school that the student first enrolled in a given year.<sup>14</sup> Irrespective of the FHSAA bylaws, the bill's provisions govern.

**Enforcement of Bylaws:** The FHSAA member schools must comply with all FHSAA bylaws and other rules of the association.<sup>15</sup> The bill provides the FHSAA with authority to request student-level data including, but not limited to, academic, financial, disciplinary, and attendance records from the non-FHSAA member private schools.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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<sup>14</sup> Section 9.3, Transfer Regulations, *FHSAA Bylaws*, 2010-11 FHSAA Handbook, available at, <http://www.fhsaa.org/rules/fhsaa-handbook>.

<sup>15</sup> Section 3.5.2, Compliance with Rules, *FHSAA Bylaws*, 2010-11 FHSAA Handbook, available at, <http://www.fhsaa.org/rules/fhsaa-handbook>.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1255 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee

2 Representative Adkins offered the following:

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

5 Remove everything after the enacting clause and insert:

6  
7 Section 1. Paragraph (a) of subsection (4) of section  
8 1001.20, Florida Statutes, is amended to read:

9 1001.20 Department under direction of state board.—

10 (4) The Department of Education shall establish the  
11 following offices within the Office of the Commissioner of  
12 Education which shall coordinate their activities with all other  
13 divisions and offices:

14 (a) Office of Technology and Information Services.—  
15 Responsible for developing a systemwide technology plan, making  
16 budget recommendations to the commissioner, providing data  
17 collection and management for the system, assisting school  
18 districts in securing Internet access and telecommunications  
19 services, including those eligible for funding under the Schools

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20 and Libraries Program of the federal Universal Service Fund, and  
21 coordinating services with other state, local, and private  
22 agencies. The office shall develop a method to address the need  
23 for a statewide approach to planning and operations of library  
24 and information services to achieve a single K-20 education  
25 system library information portal and a unified higher education  
26 library management system. ~~The Florida Virtual School shall be  
27 administratively housed within the office.~~

28 Section 2. Subsection (23) of section 1001.42, Florida  
29 Statutes, is amended to read:

30 1001.42 Powers and duties of district school board.—The  
31 district school board, acting as a board, shall exercise all  
32 powers and perform all duties listed below:

33 (23) FLORIDA VIRTUAL SCHOOL.—Provide students with access  
34 to ~~enroll in~~ courses available through the Florida Virtual  
35 School and award credit for successful completion of such  
36 courses. Access shall be available to students during and or  
37 after the normal school day and through summer school  
38 enrollment.

39 Section 3. Section 1001.421, Florida Statutes, is created  
40 to read:

41 1001.421 Gifts.—Notwithstanding any other provision of law  
42 to the contrary, district school board members may not directly  
43 or indirectly solicit any gift, or accept any gift in excess of  
44 \$50, from any person, vendor, potential vendor, or other entity  
45 doing business with the school district. The term "gift" has the  
46 same meaning as in s. 112.312(12).

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47 Section 4. Paragraph (a) of subsection (1) of section  
48 1002.37, Florida Statutes, is amended to read:

49 1002.37 The Florida Virtual School.—

50 (1)(a) The Florida Virtual School is established for the  
51 development and delivery of online and distance learning  
52 education and shall be administratively housed within the  
53 ~~Commissioner of Education's Office of Technology and Information~~  
54 ~~Services~~. The Commissioner of Education shall monitor the  
55 school's performance and report its performance to the State  
56 Board of Education and the Legislature.

57  
58 The board of trustees of the Florida Virtual School shall  
59 identify appropriate performance measures and standards based on  
60 student achievement that reflect the school's statutory mission  
61 and priorities, and shall implement an accountability system for  
62 the school that includes assessment of its effectiveness and  
63 efficiency in providing quality services that encourage high  
64 student achievement, seamless articulation, and maximum access.

65 Section 5. Subsection (2) and paragraph (a) of subsection  
66 (3) of section 1002.38, Florida Statutes, are amended to read:

67 1002.38 Opportunity Scholarship Program.—

68 (2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.—For purposes of  
69 this section, a school's grade shall be based upon statewide  
70 assessments administered pursuant to s. 1008.22. A public school  
71 student's parent may request and receive from the state an  
72 opportunity scholarship for the student to enroll in and attend  
73 a private school in accordance with the provisions of this  
74 section if:



## Amendment No. 1

75 (a)1. By assigned school attendance area or by special  
76 assignment, the student has spent the prior school year in  
77 attendance at a public school that has been designated pursuant  
78 ~~to s. 1008.34~~ as performance grade category "F," failing to make  
79 adequate progress, and that has had 2 school years in a 4-year  
80 period of such low performance, and the student's attendance  
81 occurred during a school year in which such designation was in  
82 effect;

83 2. The student has been in attendance elsewhere in the  
84 public school system and has been assigned to such school for  
85 the next school year; or

86 3. The student is entering kindergarten or first grade and  
87 has been notified that the student has been assigned to such  
88 school for the next school year.

89 (b) The parent has obtained acceptance for admission of  
90 the student to a private school eligible for the program  
91 pursuant to subsection (4), and has notified the Department of  
92 Education and the school district of the request for an  
93 opportunity scholarship no later than July 1 of the first year  
94 in which the student intends to use the scholarship.

95  
96 The provisions of this section shall not apply to a student who  
97 is enrolled in a school operating for the purpose of providing  
98 educational services to youth in Department of Juvenile Justice  
99 commitment programs. For purposes of continuity of educational  
100 choice, the opportunity scholarship shall remain in force until  
101 the student returns to a public school or, if the student  
102 chooses to attend a private school the highest grade of which is

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103 grade 8, until the student matriculates to high school and the  
104 public high school to which the student is assigned is an  
105 accredited school with a performance grade category designation  
106 of "C" or better. However, at any time upon reasonable notice to  
107 the Department of Education and the school district, the  
108 student's parent may remove the student from the private school  
109 and place the student in a public school, as provided in  
110 subparagraph (3)(a)2.

111 (3) SCHOOL DISTRICT OBLIGATIONS.—

112 (a) A school district shall, for each student enrolled in  
113 or assigned to a school that has been designated as performance  
114 grade category "F" for 2 school years in a 4-year period:

115 1. Timely notify the parent of the student as soon as such  
116 designation is made of all options available pursuant to this  
117 section.

118 2. Offer that student's parent an opportunity to enroll  
119 the student in the public school within the district that has  
120 been designated by the state ~~pursuant to s. 1008.34~~ as a school  
121 performing higher than that in which the student is currently  
122 enrolled or to which the student has been assigned, but not less  
123 than performance grade category "C." The parent is not required  
124 to accept this offer in lieu of requesting a state opportunity  
125 scholarship to a private school. The opportunity to continue  
126 attending the higher performing public school shall remain in  
127 force until the student graduates from high school.

128 Section 6. Paragraph (a) of subsection (4) of section  
129 1002.39, Florida Statutes, is amended to read:

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130 1002.39 The John M. McKay Scholarships for Students with  
131 Disabilities Program.—There is established a program that is  
132 separate and distinct from the Opportunity Scholarship Program  
133 and is named the John M. McKay Scholarships for Students with  
134 Disabilities Program.

135 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.—

136 (a) For purposes of continuity of educational choice, a  
137 John M. McKay Scholarship shall remain in force until the  
138 student returns to a public school, graduates from high school,  
139 or reaches the age of 22, whichever occurs first. A scholarship  
140 student who enrolls in a public school or public school program  
141 is considered to have returned to a public school for the  
142 purpose of determining the end of the scholarship's term.  
143 However, if a student enters a Department of Juvenile Justice  
144 detention center for a period of no more than 21 days, the  
145 student is not considered to have returned to a public school  
146 for that purpose.

147 Section 7. Paragraph (b) of subsection (2) of section  
148 1002.45, Florida Statutes, is amended to read:

149 1002.45 School district virtual instruction programs.—

150 (2) PROVIDER QUALIFICATIONS.—

151 (b) An approved provider shall retain its approved status  
152 during the 3 school years ~~for a period of 3 years~~ after the date  
153 of the department's approval under paragraph (a) as long as the  
154 provider continues to comply with all requirements of this  
155 section.

156 Section 8. Paragraph (e) is added to subsection (2) of  
157 section 1002.66, Florida Statutes, to read:

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158 1002.66 Specialized instructional services for children  
159 with disabilities.—

160 (2) The parent of a child who is eligible for the  
161 prekindergarten program for children with disabilities may  
162 select one or more specialized instructional services that are  
163 consistent with the child's individual educational plan. These  
164 specialized instructional services may include, but are not  
165 limited to:

166 (e) Listening and Spoken Language specialists for any  
167 child who is deaf or hard of hearing and has received an implant  
168 or assistive hearing device.

169 Section 9. Subsection (1) and paragraph (c) of subsection  
170 (3) of section 1002.67, Florida Statutes, are amended to read:

171 1002.67 Performance standards; curricula and  
172 accountability.—

173 (1) (a) By April 1, 2005, the department shall develop and  
174 adopt performance standards for students in the Voluntary  
175 Prekindergarten Education Program. The performance standards  
176 must address the age-appropriate progress of students in the  
177 development of:

178 1. ~~(a)~~ The capabilities, capacities, and skills required  
179 under s. 1(b), Art. IX of the State Constitution; and

180 2. ~~(b)~~ Emergent literacy skills, including oral  
181 communication, knowledge of print and letters, phonemic and  
182 phonological awareness, and vocabulary and comprehension  
183 development.

184 (b) The State Board of Education shall periodically review  
185 and revise the performance standards for the statewide

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186 kindergarten screening administered under s. 1002.69 and align  
187 the standards to the standards established by the state board  
188 for student performance on the statewide assessments  
189 administered pursuant to s. 1008.22.

190 (3)

191 (c)1. If the kindergarten readiness rate of a private  
192 prekindergarten provider or public school falls below the  
193 minimum rate adopted by the State Board of Education as  
194 satisfactory under s. 1002.69(6), the early learning coalition  
195 or school district, as applicable, shall require the provider or  
196 school to submit an improvement plan for approval by the  
197 coalition or school district, as applicable, and to implement  
198 the plan.

199 2. If a private prekindergarten provider or public school  
200 fails to meet the minimum rate adopted by the State Board of  
201 Education as satisfactory under s. 1002.69(6) ~~for 2 consecutive~~  
202 ~~years~~, the early learning coalition or school district, as  
203 applicable, shall place the provider or school on probation and  
204 must require the provider or school to take certain corrective  
205 actions, including the use of a curriculum approved by the  
206 department under paragraph (2)(c).

207 3. A private prekindergarten provider or public school  
208 that is placed on probation must continue the corrective actions  
209 required under subparagraph 2., including the use of a  
210 curriculum approved by the department, until the provider or  
211 school meets the minimum rate adopted by the State Board of  
212 Education as satisfactory under s. 1002.69(6).

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213 4. If a private prekindergarten provider or public school  
214 remains on probation for 2 consecutive years and fails to meet  
215 the minimum rate adopted by the State Board of Education as  
216 satisfactory under s. 1002.69(6) and is not granted a good cause  
217 exemption by the department pursuant to s. 1002.69(7), the  
218 Agency for Workforce Innovation shall require the early learning  
219 coalition or the Department of Education shall require the  
220 school district to remove, as applicable, the provider or school  
221 from eligibility to deliver the Voluntary Prekindergarten  
222 Education Program and receive state funds for the program.

223 Section 10. Subsections (1), (4), (5), and(6) and  
224 paragraphs (b) and (c) of subsection (7) of section 1002.69,  
225 Florida Statutes, are amended to read:

226 1002.69 Statewide kindergarten screening; kindergarten  
227 readiness rates; prekindergarten enrollment screening.-

228 (1) The department shall adopt a statewide kindergarten  
229 screening that assesses the readiness of each student for  
230 kindergarten based upon the performance standards adopted by the  
231 department under s. 1002.67(1) for the Voluntary Prekindergarten  
232 Education Program. The department shall require that each school  
233 district administer the statewide kindergarten screening to each  
234 kindergarten student in the school district within the first 30  
235 school days of each school year. Nonpublic schools may  
236 administer the statewide kindergarten screening to each  
237 kindergarten student in a nonpublic school who was enrolled in  
238 the Voluntary Prekindergarten Education Program.

239 (4) Each parent who enrolls his or her child in the  
240 Voluntary Prekindergarten Education Program must submit the

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241 child for the statewide kindergarten screening, regardless of  
242 whether the child is admitted to kindergarten in a public school  
243 or nonpublic school. Each parent who enrolls his or her child in  
244 a Voluntary Prekindergarten Education Program must submit the  
245 child for statewide voluntary prekindergarten enrollment  
246 screening if required by the provider. ~~Each school district~~  
247 ~~shall designate sites to administer the statewide kindergarten~~  
248 ~~screening for children admitted to kindergarten in a nonpublic~~  
249 ~~school.~~

250 (5) The State Board of Education shall adopt procedures  
251 for the department to annually calculate each private  
252 prekindergarten provider's and public school's kindergarten  
253 readiness rate, which must be expressed as the percentage of the  
254 provider's or school's students who are assessed as ready for  
255 kindergarten. The kindergarten readiness rates must be based  
256 exclusively upon the results of the statewide kindergarten  
257 screening for students completing the Voluntary Prekindergarten  
258 Education Program, beginning with students completing the  
259 program during the 2005-2006 school year who are administered  
260 the statewide kindergarten screening during the 2006-2007 school  
261 year. The methodology for calculating each provider's  
262 kindergarten readiness rate must include the percentage of  
263 students who meet all state readiness measures. The rates must  
264 not include students who are not administered the statewide  
265 kindergarten screening.

266 (6) ~~(a)~~ The State Board of Education shall periodically  
267 adopt a minimum kindergarten readiness rate that, if achieved by  
268 a private prekindergarten provider or public school, would

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269 demonstrate the provider's or school's satisfactory delivery of  
270 the Voluntary Prekindergarten Education Program.

271 ~~(b) The minimum rate must not exceed the rate at which~~  
272 ~~more than 15 percent of the kindergarten readiness rates of all~~  
273 ~~private prekindergarten providers and public schools delivering~~  
274 ~~the Voluntary Prekindergarten Education Program in the state~~  
275 ~~would fall below the minimum rate.~~

276 (7)

277 (b) A private prekindergarten provider's or public  
278 school's request for a good cause exemption, or renewal of such  
279 an exemption, must be submitted to the state board in the manner  
280 and within the timeframes prescribed by the state board and must  
281 include the following:

282 1. Submission of data by the private prekindergarten  
283 provider or public school which documents ~~on a standardized~~  
284 ~~assessment~~ the achievement and progress of the children served  
285 as measured by a standardized pre-assessment and a standardized  
286 post-assessment approved by the department pursuant to  
287 subparagraph (c)1.

288 2. Submission and review of data available from the  
289 respective early learning coalition or district school board,  
290 the Department of Children and Family Services, local licensing  
291 authority, or an accrediting association, as applicable,  
292 relating to the private prekindergarten provider's or public  
293 school's compliance with state and local health and safety  
294 standards.

295 3. Submission and review of data available to the  
296 department on the performance of the children served and the



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297 calculation of the private prekindergarten provider's or public  
298 school's kindergarten readiness rate.

299 (c) The State Board of Education shall adopt criteria for  
300 granting good cause exemptions. Such criteria shall include, but  
301 are not limited to:

302 1. Learning gains of children served in the Voluntary  
303 Prekindergarten Education Program by the private prekindergarten  
304 provider or public school. A provider seeking a good cause  
305 exemption shall have the early learning coalition or a  
306 department-approved second party administer a department-  
307 approved standardized assessment to each child in the  
308 prekindergarten provider's program within the first 30 days of  
309 each school year for which a good cause exemption is sought, and  
310 the provider shall administer a department-approved standardized  
311 followup assessment to measure the student's learning gains for  
312 the year or summer, as appropriate. All data must be submitted  
313 to the department within 30 days after the administration of  
314 each assessment.

315 ~~2. Verification that the private prekindergarten provider~~  
316 ~~or public school serves at least twice the statewide percentage~~  
317 ~~of children with disabilities as defined in s. 1003.01(3)(a) or~~  
318 ~~children identified as limited English proficient as defined in~~  
319 ~~s. 1003.56.~~

320 ~~2.3.~~ Verification that local and state health and safety  
321 requirements are met.

322 Section 11. Subsection (4) of section 1002.71, Florida  
323 Statutes, is amended to read:

324 1002.71 Funding; financial and attendance reporting.—

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325 (4) Notwithstanding s. 1002.53(3) and subsection (2):

326 (a) A child who, for any of the prekindergarten programs  
327 listed in s. 1002.53(3), has not completed more than 70 percent  
328 of the hours authorized to be reported for funding under  
329 subsection (2), or has not expended more than 70 percent of the  
330 funds authorized for the child under s. 1002.66, may withdraw  
331 from the program for good cause and reenroll in one of the  
332 programs. The total funding for a child who reenrolls in one of  
333 the programs for good cause may not exceed one full-time  
334 equivalent student. Funding for a child who withdraws and  
335 reenrolls in one of the programs for good cause shall be issued  
336 in accordance with the agency's uniform attendance policy  
337 adopted pursuant to paragraph (6)(d).

338 (b) A child who has not substantially completed any of the  
339 prekindergarten programs listed in s. 1002.53(3) may withdraw  
340 from the program due to an extreme hardship that is beyond the  
341 child's or parent's control, reenroll in one of the summer  
342 programs, and be reported for funding purposes as a full-time  
343 equivalent student in the summer program for which the child is  
344 reenrolled.

345  
346 A child may reenroll only once in a prekindergarten program  
347 under this section. A child who reenrolls in a prekindergarten  
348 program under this subsection may not subsequently withdraw from  
349 the program and reenroll, unless the child is granted a good  
350 cause exemption under this subsection. The Agency for Workforce  
351 Innovation shall establish criteria specifying whether a good  
352 cause exists for a child to withdraw from a program under

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353 paragraph (a), whether a child has substantially completed a  
354 program under paragraph (b), and whether an extreme hardship  
355 exists which is beyond the child's or parent's control under  
356 paragraph (b).

357 Section 12. Subsection (2) of section 1002.73, Florida  
358 Statutes, is amended to read:

359 1002.73 Department of Education; powers and duties;  
360 accountability requirements.—

361 (2) The department shall adopt procedures for its:

362 (a) Approval of prekindergarten director credentials under  
363 ss. 1002.55 and 1002.57.

364 (b) Approval of emergent literacy training courses under  
365 ss. 1002.55 and 1002.59.

366 (c) Administration of the statewide kindergarten screening  
367 and calculation of kindergarten readiness rates under s.  
368 1002.69.

369 (d) Adoption of the statewide voluntary prekindergarten  
370 enrollment screening, the costs associated with the  
371 administration of the voluntary prekindergarten enrollment  
372 screening, and the process for determining learning gains of  
373 students who complete the statewide voluntary prekindergarten  
374 enrollment screening and the statewide kindergarten screening.

375 (e)-(d) Approval of specialized instructional services  
376 providers under s. 1002.66.

377 (f) Annual reporting of the percentage of kindergarten  
378 students who meet all state readiness measures.

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379 ~~(g)(e)~~ Granting of a private prekindergarten provider's or  
380 public school's request for a good cause exemption under s.  
381 1002.69(7).

382 Section 13. Paragraph (b) of subsection (3) of section  
383 1003.01, Florida Statutes, is amended to read:

384 1003.01 Definitions.—As used in this chapter, the term:  
385 (3)

386 (b) "Special education services" means specially designed  
387 instruction and such related services as are necessary for an  
388 exceptional student to benefit from education. Such services may  
389 include: transportation; diagnostic and evaluation services;  
390 social services; physical and occupational therapy; speech and  
391 language pathology services; job placement; orientation and  
392 mobility training; braillists, typists, and readers for the  
393 blind; interpreters and auditory amplification; services  
394 provided by a certified Listening and Spoken Language  
395 specialist; rehabilitation counseling; transition services;  
396 mental health services; guidance and career counseling;  
397 specified materials, assistive technology devices, and other  
398 specialized equipment; and other such services as approved by  
399 rules of the state board.

400 Section 14. Subsection (1) of section 1003.4156, Florida  
401 Statutes, is amended to read:

402 1003.4156 General requirements for middle grades  
403 promotion.—

404 (1) ~~Beginning with students entering grade 6 in the 2006-~~  
405 ~~2007 school year,~~ Promotion from a school composed of middle  
406 grades 6, 7, and 8 requires that:

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407 (a) The student must successfully complete academic  
408 courses as follows:

409 1. Three middle school or higher courses in English. These  
410 courses shall emphasize literature, composition, and technical  
411 text.

412 2. Three middle school or higher courses in mathematics.  
413 Each middle school must offer at least one high school level  
414 mathematics course for which students may earn high school  
415 credit. Successful completion of a high school level Algebra I  
416 or geometry course is not contingent upon the student's  
417 performance on the end-of-course assessment required under s.  
418 1008.22(3)(c)2.a.(I). However, beginning with the 2011-2012  
419 school year, to earn high school credit for an Algebra I course,  
420 a middle school student must pass the Algebra I end-of-course  
421 assessment, and beginning with the 2012-2013 school year, to  
422 earn high school credit for a geometry course, a middle school  
423 student must pass the geometry end-of-course assessment.

424 3. Three middle school or higher courses in social  
425 studies, one semester of which must include the study of state  
426 and federal government and civics education. Beginning with  
427 students entering grade 6 in the 2012-2013 school year, one of  
428 these courses must be at least a one-semester civics education  
429 course that a student successfully completes in accordance with  
430 s. 1008.22(3)(c) and that includes the roles and  
431 responsibilities of federal, state, and local governments; the  
432 structures and functions of the legislative, executive, and  
433 judicial branches of government; and the meaning and  
434 significance of historic documents, such as the Articles of

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435 Confederation, the Declaration of Independence, and the  
436 Constitution of the United States.

437 4. Three middle school or higher courses in science.  
438 Successful completion of a high school level Biology I course is  
439 not contingent upon the student's performance on the end-of-  
440 course assessment required under s. 1008.22(3)(c)2.a.(II).  
441 However, beginning with the 2012-2013 school year, to earn high  
442 school credit for a Biology I course, a middle school student  
443 must pass the Biology I end-of-course assessment.

444 5. One course in career and education planning to be  
445 completed in 7th or 8th grade. The course may be taught by any  
446 member of the instructional staff; must include career  
447 exploration using Florida CHOICES or a comparable cost-effective  
448 program; must include educational planning using the online  
449 student advising system known as Florida Academic Counseling and  
450 Tracking for Students at the Internet website FACTS.org; and  
451 shall result in the completion of a personalized academic and  
452 career plan. The required personalized academic and career plan  
453 must inform students of high school graduation requirements,  
454 high school assessment and college entrance test requirements,  
455 Florida Bright Futures Scholarship Program requirements, state  
456 university and Florida college admission requirements, and  
457 programs through which a high school student can earn college  
458 credit, including Advanced Placement, International  
459 Baccalaureate, Advanced International Certificate of Education,  
460 dual enrollment, career academy opportunities, and courses that  
461 lead to national industry certification.

462

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463 A student with a disability, as defined in s. 1007.02(2), for  
464 whom the individual education plan team determines that an end-  
465 of-course assessment cannot accurately measure the student's  
466 abilities, taking into consideration all allowable  
467 accommodations, shall have the end-of-course assessment results  
468 waived for purposes of determining the student's course grade  
469 and completing the requirements for middle grades promotion.

470 Each school must hold a parent meeting either in the evening or  
471 on a weekend to inform parents about the course curriculum and  
472 activities. Each student shall complete an electronic personal  
473 education plan that must be signed by the student; the student's  
474 instructor, guidance counselor, or academic advisor; and the  
475 student's parent. The Department of Education shall develop  
476 course frameworks and professional development materials for the  
477 career exploration and education planning course. The course may  
478 be implemented as a stand-alone course or integrated into  
479 another course or courses. The Commissioner of Education shall  
480 collect longitudinal high school course enrollment data by  
481 student ethnicity in order to analyze course-taking patterns.

482 (b) For each year in which a student scores at Level 1 on  
483 FCAT Reading, the student must be enrolled in and complete an  
484 intensive reading course the following year. Placement of Level  
485 2 readers in either an intensive reading course or a content  
486 area course in which reading strategies are delivered shall be  
487 determined by diagnosis of reading needs. The department shall  
488 provide guidance on appropriate strategies for diagnosing and  
489 meeting the varying instructional needs of students reading  
490 below grade level. Reading courses shall be designed and offered

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491 pursuant to the comprehensive reading plan required by s.  
492 1011.62(9). A middle grades student who scores at Level 1 or  
493 Level 2 on FCAT Reading but who did not score below Level 3 in  
494 the previous 3 years may be granted a 1-year exemption from the  
495 reading remediation requirement; however, the student must have  
496 an approved academic improvement plan already in place, signed  
497 by the appropriate school staff and the student's parent, for  
498 the year for which the exemption is granted.

499 (c) For each year in which a student scores at Level 1 or  
500 Level 2 on FCAT Mathematics, the student must receive  
501 remediation the following year, which may be integrated into the  
502 student's required mathematics course.

503 Section 15. Section 1003.4203, Florida Statutes, is  
504 created to read:

505 1003.4203 Digital curriculum.—

506 (1) Each district school board, in consultation with the  
507 district school superintendent, may develop and implement a  
508 digital curriculum for students in grades 6 through 12 to enable  
509 students to attain competencies in web communications and web  
510 design. A digital curriculum may include web-based skills, web-  
511 based core technologies, web design, use of digital technologies  
512 and markup language to evidence competency in computer skills,  
513 and use of web-based core technologies to design creative,  
514 informational, and content standards for web-based digital  
515 products that demonstrate proficiency in creating, publishing,  
516 testing, monitoring, and maintaining a website.



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517       (2) The digital curriculum instruction may be integrated  
518 into middle school and high school subject area curricula or  
519 offered as a separate course, subject to available funding.

520       (3) The Department of Education shall develop a model  
521 digital curriculum to serve as a guide for district school  
522 boards in the development of a digital curriculum.

523       (4) A district school board may seek partnerships with  
524 private businesses and consultants to offer classes and  
525 instruction to teachers and students to assist the school  
526 district in providing digital curriculum instruction.

527       Section 16. Paragraph (b) of subsection (2) of section  
528 1003.428, Florida Statutes, is amended to read:

529       1003.428 General requirements for high school graduation;  
530 revised.—

531       (2) The 24 credits may be earned through applied,  
532 integrated, and combined courses approved by the Department of  
533 Education. The 24 credits shall be distributed as follows:

534       (b) Eight credits in electives.

535       1. For each year in which a student scores at Level 1 on  
536 FCAT Reading, the student must be enrolled in and complete an  
537 intensive reading course the following year. Placement of Level  
538 2 readers in either an intensive reading course or a content  
539 area course in which reading strategies are delivered shall be  
540 determined by diagnosis of reading needs. The department shall  
541 provide guidance on appropriate strategies for diagnosing and  
542 meeting the varying instructional needs of students reading  
543 below grade level. Reading courses shall be designed and offered  
544 pursuant to the comprehensive reading plan required by s.

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545 | 1011.62(9). A high school student who scores at Level 1 or Level  
546 | 2 on FCAT Reading but who did not score below Level 3 in the  
547 | previous 3 years may be granted a 1-year exemption from the  
548 | reading remediation requirement; however, the student must have  
549 | an approved academic improvement plan already in place, signed  
550 | by the appropriate school staff and the student's parent, for  
551 | the year for which the exemption is granted.

552 |       2. For each year in which a student scores at Level 1 or  
553 | Level 2 on FCAT Mathematics, the student must receive  
554 | remediation the following year. These courses may be taught  
555 | through applied, integrated, or combined courses and are subject  
556 | to approval by the department for inclusion in the Course Code  
557 | Directory.

558 |       Section 17. Subsections (2), (3), and (5) of section  
559 | 1003.491, Florida Statutes, are amended to read:

560 |       1003.491 Florida Career and Professional Education Act.—  
561 | The Florida Career and Professional Education Act is created to  
562 | provide a statewide planning partnership between the business  
563 | and education communities in order to attract, expand, and  
564 | retain targeted, high-value industry and to sustain a strong,  
565 | knowledge-based economy.

566 |       (2) ~~Beginning with the 2007-2008 school year, Each~~  
567 | district school board shall develop, in collaboration with  
568 | regional local workforce boards, economic development agencies,  
569 | and postsecondary institutions approved to operate in the state,  
570 | a strategic 5-year plan to address and meet local and regional  
571 | workforce demands. If involvement of a regional ~~the local~~  
572 | workforce board or an economic development agency in the

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573 strategic plan development is not feasible, the local school  
574 board, with the approval of the Agency for Workforce Innovation,  
575 shall collaborate with the most appropriate regional local  
576 business leadership board. Two or more school districts may  
577 collaborate in the development of the strategic plan and offer a  
578 career and professional academy as a joint venture. The  
579 strategic plan ~~Such plans~~ must describe in detail provisions for  
580 the efficient transportation of students, the maximum use of  
581 shared resources, and access to courses aligned to state  
582 curriculum standards through virtual education providers  
583 authorized under ss. 1002.37 and 1002.45, and an objective  
584 review of career and professional academy courses to determine  
585 if the courses will lead to the attainment of industry  
586 certifications included on the Industry Certified Funding List  
587 pursuant to rules adopted by the State Board of Education the  
588 ~~Florida Virtual School when appropriate.~~ Each strategic plan,  
589 shall be reviewed, updated, and jointly approved every 5 years  
590 by the local school district, regional workforce boards,  
591 economic development agencies, and state-approved postsecondary  
592 institutions completed no later than June 30, 2008, and shall  
593 ~~include provisions to have in place at least one operational~~  
594 ~~career and professional academy, pursuant to s. 1003.492, no~~  
595 ~~later than the beginning of the 2008-2009 school year.~~

596 (3) The strategic 5-year plan developed jointly between  
597 the local school district, regional local workforce boards,  
598 economic development agencies, and state-approved postsecondary  
599 institutions shall be constructed and based on:

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600 (a) Research conducted to objectively determine local and  
601 regional workforce needs for the ensuing 5 years, using labor  
602 projections of the United States Department of Labor and the  
603 Agency for Workforce Innovation;

604 (b) Strategies to develop and implement career academies  
605 based on those careers determined to be in high demand;

606 (c) Maximum use of private sector facilities and  
607 personnel;

608 (d) Strategies that ensure instruction by industry-  
609 certified faculty and standards and strategies to maintain  
610 current industry credentials and for recruiting and retaining  
611 faculty to meet those standards;

612 (e) Alignment of ~~te~~ requirements for middle school career  
613 exploration, middle and high school career and professional  
614 academies leading to industry certification, and high school  
615 graduation requirements redesign;

616 (f) Provisions to ensure that courses offered through  
617 career and professional academies are academically rigorous,  
618 meet or exceed appropriate state-adopted subject area standards,  
619 result in attainment of industry certification, and, when  
620 appropriate, result in postsecondary credit;

621 (g) Strategies to improve the passage rate for industry  
622 certification examinations if the rate falls below 50 percent;

623 (h) ~~(g)~~ Establishment of student eligibility criteria in  
624 career and professional academies which include opportunities  
625 for students who have been unsuccessful in traditional  
626 classrooms but who show aptitude to participate in academies.  
627 School boards shall address the analysis of eighth grade student

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628 achievement data to provide opportunities for students who may  
629 be deemed as potential dropouts to participate in career and  
630 professional academies;

631 ~~(i)-(h)~~ Strategies to provide sufficient space within  
632 academies to meet workforce needs and to provide access to all  
633 interested and qualified students;

634 ~~(j)-(i)~~ Strategies to implement ~~engage Department of~~  
635 ~~Juvenile Justice students in~~ career and professional academy  
636 training that leads to industry certification at Department of  
637 Juvenile Justice facilities;

638 ~~(k)-(j)~~ Opportunities for high school students to earn  
639 weighted or dual enrollment credit for higher-level career and  
640 technical courses;

641 ~~(l)-(k)~~ Promotion of the benefits of the Gold Seal Bright  
642 Futures Scholarship;

643 ~~(m)-(l)~~ Strategies to ensure the review of district pupil-  
644 progression plans and to amend such plans to include career and  
645 professional courses and to include courses that may qualify as  
646 substitute courses for core graduation requirements and those  
647 that may be counted as elective courses; and

648 ~~(n)-(m)~~ Strategies to provide professional development for  
649 secondary guidance counselors on the benefits of career and  
650 professional academies.

651 (5) The submission and review of newly proposed core  
652 courses shall be conducted electronically, and each proposed  
653 core course shall be approved or denied within 60 days. All  
654 courses approved as core courses for purposes of middle school  
655 promotion and high school graduation ~~purposes~~ shall be

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656 immediately added to the Course Code Directory. Approved core  
657 courses shall also be reviewed and considered for approval for  
658 dual enrollment credit. The Board of Governors and the  
659 Commissioner of Education shall jointly recommend an annual  
660 deadline for approval of new core courses to be included for  
661 purposes of postsecondary admissions and dual enrollment credit  
662 the following academic year. The State Board of Education shall  
663 establish an appeals process in the event that a proposed course  
664 is denied which shall require a consensus ruling by the Agency  
665 for Workforce Innovation and the Commissioner of Education  
666 within 15 days. The curriculum review committee must be  
667 established and operational no later than September 1, 2007.

668 Section 18. Subsections (2), (4), (5), and (6) of section  
669 1003.493, Florida Statutes, are amended to read:

670 1003.493 Career and professional academies.—

671 (2) The goals of a career and professional academy are to:

672 (a) Increase student academic achievement and graduation  
673 rates through integrated academic and career curricula.

674 (b) Prepare graduating high school students to make  
675 appropriate choices relative to employment and future  
676 educational experiences.

677 (c) Focus on career preparation through rigorous academics  
678 and industry certification.

679 (d) Raise student aspiration and commitment to academic  
680 achievement and work ethics through relevant coursework.

681 ~~(e) Support graduation requirements pursuant to s.~~  
682 ~~1003.428 by providing creative, applied major areas of interest.~~

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683        (e)~~(f)~~ Promote acceleration mechanisms, such as dual  
684 enrollment, articulated credit, or occupational completion  
685 points, so that students may earn postsecondary credit while in  
686 high school.

687        (f)~~(g)~~ Support the state's economy by meeting industry  
688 needs for skilled employees in high-demand occupations.

689            (4) Each career and professional academy must:

690            (a) Provide a rigorous standards-based academic curriculum  
691 integrated with a career curriculum. The curriculum must take  
692 into consideration multiple styles of student learning; promote  
693 learning by doing through application and adaptation; maximize  
694 relevance of the subject matter; enhance each student's capacity  
695 to excel; and include an emphasis on work habits and work  
696 ethics.

697            (b) Include one or more partnerships with postsecondary  
698 institutions, businesses, industry, employers, economic  
699 development organizations, or other appropriate partners from  
700 the local community. Such partnerships shall be delineated in  
701 articulation agreements to provide for career-based courses that  
702 earn postsecondary credit. Such agreements may include  
703 articulation between the academy and public or private 2-year  
704 and 4-year postsecondary institutions and technical centers. The  
705 Department of Education, in consultation with the Board of  
706 Governors, shall establish a mechanism to ensure articulation  
707 and transfer of credits to postsecondary institutions in this  
708 state. Such partnerships must provide opportunities for:

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709 1. Instruction from highly skilled professionals who  
710 possess industry-certification credentials for courses they are  
711 teaching.

712 2. Internships, externships, and on-the-job training.

713 3. A postsecondary degree, diploma, or certificate.

714 4. The highest available level of industry certification.

715 5. Maximum articulation of credits pursuant to s. 1007.23  
716 upon program completion.

717 (c) Provide shared, maximum use of private sector  
718 facilities and personnel.

719 (d) Provide personalized student advisement, including a  
720 parent-participation component, and coordination with middle  
721 schools to promote and support career exploration and education  
722 planning as required under s. 1003.4156. Coordination with  
723 middle schools must provide information to middle school  
724 students about secondary and postsecondary career education  
725 programs and academies.

726 (e) Promote and provide opportunities for career and  
727 professional academy students to attain, at minimum, the Florida  
728 Gold Seal Vocational Scholars award pursuant to s. 1009.536.

729 (f) Provide instruction in careers designated as high  
730 growth, high demand, and high pay by the regional local  
731 workforce development board, the chamber of commerce, economic  
732 development agencies, or the Agency for Workforce Innovation.

733 (g) Deliver academic content through instruction relevant  
734 to the career, including intensive reading and mathematics  
735 intervention required by s. 1003.428, with an emphasis on  
736 strengthening reading for information skills.



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737 (h) Offer applied courses that combine academic content  
738 with technical skills.

739 (i) Provide instruction resulting in competency,  
740 certification, or credentials in workplace skills, including,  
741 but not limited to, communication skills, interpersonal skills,  
742 decisionmaking skills, the importance of attendance and  
743 timeliness in the work environment, and work ethics.

744 (j) Provide opportunities for students to obtain the  
745 Florida Ready to Work Certification pursuant to s. 1004.99.

746 ~~(k) Include an evaluation plan developed jointly with the~~  
747 ~~Department of Education and the local workforce board. The~~  
748 ~~evaluation plan must include an assessment tool based on~~  
749 ~~national industry standards, such as the Career Academy National~~  
750 ~~Standards of Practice, and outcome measures, including, but not~~  
751 ~~limited to, achievement of national industry certifications~~  
752 ~~identified in the Industry Certification Funding List, pursuant~~  
753 ~~to rules adopted by the State Board of Education, graduation~~  
754 ~~rates, enrollment in postsecondary education, business and~~  
755 ~~industry satisfaction, employment and earnings, awards of~~  
756 ~~postsecondary credit and scholarships, and student achievement~~  
757 ~~levels and learning gains on statewide assessments administered~~  
758 ~~under s. 1008.22(3)(c). The Department of Education shall use~~  
759 ~~Workforce Florida, Inc., and Enterprise Florida, Inc., in~~  
760 ~~identifying industry experts to participate in developing and~~  
761 ~~implementing such assessments.~~

762 (k) ~~(l)~~ Include a plan to sustain career and professional  
763 academies.

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764 (1)~~(m)~~ Redirect appropriated career funding to career and  
765 professional academies.

766 (5) All career courses offered in a career and  
767 professional academy must lead to industry certification or  
768 college credit linked directly to the career theme of the  
769 course. If the passage rate on an industry certification  
770 examination that is associated with the career and professional  
771 academy falls below 50 percent, the academy must discontinue  
772 enrollment of new students the following school year and each  
773 year thereafter until such time as the passage rate is above 50  
774 percent or the academy is discontinued. At least 50 percent of  
775 students enrolled in a career course must achieve industry  
776 certifications or college credits during the second year the  
777 course is offered in order for the course to be offered a third  
778 year. At least 66 percent of students enrolled in such a course  
779 must achieve industry certifications or college credits during  
780 the third year the course is offered in order for it to be  
781 offered a fourth year and thereafter.

782 (6) Workforce Florida, Inc., through the secondary career  
783 academies initiatives, The Okaloosa County School District  
784 ~~CHOICE~~ Institutes shall serve in an advisory role and shall  
785 offer technical assistance in the development and deployment of  
786 newly established career and professional academies ~~for a 3-year~~  
787 ~~period beginning July 1, 2007.~~

788 Section 19. Section 1003.4935, Florida Statutes, is  
789 created to read:

790 1003.4935 Middle school career and professional academy  
791 courses.-

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792 (1) Beginning with the 2011-2012 school year, each  
793 district school board, in collaboration with regional workforce  
794 boards, economic development agencies, and state-approved  
795 postsecondary institutions, shall include plans to implement a  
796 career and professional academy in at least one middle school in  
797 the district as part of the strategic 5-year plan pursuant to s.  
798 1003.491(2). The middle school career and professional academy  
799 component of the strategic plan must ensure the transition of  
800 middle school career and professional academy students to a high  
801 school career and professional academy currently operating  
802 within the school district. Students who complete a middle  
803 school career and professional academy must have the opportunity  
804 to earn an industry certificate and high school credit and  
805 participate in career planning, job shadowing, and business  
806 leadership development activities.

807 (2) Each middle school career and professional academy  
808 must be aligned with at least one high school career and  
809 professional academy offered in the district and maintain  
810 partnerships with local business and industry and economic  
811 development boards. Middle school career and professional  
812 academies must:

813 (a) Provide instruction in courses leading to careers in  
814 occupations designated as high growth, high demand, and high pay  
815 in the Industry Certification Funding List approved under rules  
816 adopted by the State Board of Education;

817 (b) Offer career and professional academy courses that  
818 integrate content from core subject areas;

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819 (c) Offer courses that integrate career and professional  
820 academy content with intensive reading and mathematics pursuant  
821 to s. 1003.428;

822 (d) Coordinate with high schools to maximize opportunities  
823 for middle school career and professional academy students to  
824 earn high school credit;

825 (e) Provide access to virtual instruction courses provided  
826 by virtual education providers authorized under ss. 1002.37 and  
827 1002.45 which are aligned to state curriculum standards for  
828 middle school career and professional academy students, with  
829 priority given to students who have required course deficits;

830 (f) Provide instruction from highly skilled professionals  
831 who hold industry certificates in the career area in which they  
832 teach;

833 (g) Offer externships; and

834 (h) Provide personalized student advisement that includes  
835 a parent-participation component.

836 (3) Beginning with the 2012-2013 school year, if a school  
837 district implements a middle school career and professional  
838 academy, the Department of Education shall collect and report  
839 student achievement data pursuant to performance factors  
840 identified under s. 1003.492(3) for academy students.

841 Section 20. Section 1003.575, Florida Statutes, is amended  
842 to read:

843 1003.575 Assistive technology devices; findings;  
844 interagency agreements.—Accessibility, utilization, and  
845 coordination of appropriate assistive technology devices and  
846 services are essential as a young person with disabilities moves

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847 from early intervention to preschool, from preschool to school,  
848 from one school to another, and from school to employment or  
849 independent living. Within 60 school days after receiving a  
850 request for an assistive technology assessment for a student  
851 with a disability as defined in s. 1003.01(3), the individual  
852 education plan team shall seek consent from the parent and, if  
853 consent is granted, the school district shall complete the  
854 assessment. To ensure that an assistive technology device issued  
855 to a young person as part of his or her individualized family  
856 support plan, individual support plan, or an individual  
857 education plan remains with the individual through such  
858 transitions, the following agencies shall enter into interagency  
859 agreements, as appropriate, to ensure the transaction of  
860 assistive technology devices:

861 (1) The Florida Infants and Toddlers Early Intervention  
862 Program in the Division of Children's Medical Services of the  
863 Department of Health.

864 (2) The Division of Blind Services, the Bureau of  
865 Exceptional Education and Student Services, and the Division of  
866 Vocational Rehabilitation of the Department of Education.

867 (3) The Voluntary Prekindergarten Education Program  
868 administered by the Department of Education and the Agency for  
869 Workforce Innovation.

870  
871 Interagency agreements entered into pursuant to this section  
872 shall provide a framework for ensuring that young persons with  
873 disabilities and their families, educators, and employers are  
874 informed about the utilization and coordination of assistive

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875 technology devices and services that may assist in meeting  
876 transition needs, and shall establish a mechanism by which a  
877 young person or his or her parent may request that an assistive  
878 technology device remain with the young person as he or she  
879 moves through the continuum from home to school to postschool.

880 Section 21. Effective upon this act becoming a law,  
881 subsection (2) and paragraph (c) of subsection (3) of section  
882 1008.22, Florida Statutes, are amended to read:

883 1008.22 Student assessment program for public schools.—

884 (2) NATIONAL AND INTERNATIONAL EDUCATION COMPARISONS.—It  
885 is Florida's intent to participate in the measurement of  
886 national educational goals. The Commissioner of Education shall  
887 direct Florida school districts to participate in the  
888 administration of the National Assessment of Educational  
889 Progress, or a similar national or international assessment  
890 program, both for the national sample and for any state-by-state  
891 comparison programs which may be initiated. The assessments must  
892 be conducted using the data collection procedures, the student  
893 surveys, the educator surveys, and other instruments included in  
894 the National Assessment of Educational Progress or similar  
895 national or international assessment program being administered  
896 in Florida. The results of these assessments shall be included  
897 in the annual report of the Commissioner of Education specified  
898 in this section, as applicable. The administration of the  
899 National Assessment of Educational Progress or similar national  
900 or international assessment program shall be in addition to and  
901 separate from the administration of the statewide assessment  
902 program.

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903 (3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall  
904 design and implement a statewide program of educational  
905 assessment that provides information for the improvement of the  
906 operation and management of the public schools, including  
907 schools operating for the purpose of providing educational  
908 services to youth in Department of Juvenile Justice programs.  
909 The commissioner may enter into contracts for the continued  
910 administration of the assessment, testing, and evaluation  
911 programs authorized and funded by the Legislature. Contracts may  
912 be initiated in 1 fiscal year and continue into the next and may  
913 be paid from the appropriations of either or both fiscal years.  
914 The commissioner is authorized to negotiate for the sale or  
915 lease of tests, scoring protocols, test scoring services, and  
916 related materials developed pursuant to law. Pursuant to the  
917 statewide assessment program, the commissioner shall:

918 (c) Develop and implement a student achievement testing  
919 program as follows:

920 1. The Florida Comprehensive Assessment Test (FCAT)  
921 measures a student's content knowledge and skills in reading,  
922 writing, science, and mathematics. The content knowledge and  
923 skills assessed by the FCAT must be aligned to the core  
924 curricular content established in the Next Generation Sunshine  
925 State Standards. Other content areas may be included as directed  
926 by the commissioner. Comprehensive assessments of reading and  
927 mathematics shall be administered annually in grades 3 through  
928 10 except, beginning with the 2010-2011 school year, the  
929 administration of grade 9 FCAT Mathematics shall be  
930 discontinued, and beginning with the 2011-2012 school year, the

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931 administration of grade 10 FCAT Mathematics shall be  
932 discontinued, except as required for students who have not  
933 attained minimum performance expectations for graduation as  
934 provided in paragraph (9)(c). FCAT Writing and FCAT Science  
935 shall be administered at least once at the elementary, middle,  
936 and high school levels except, beginning with the 2011-2012  
937 school year, the administration of FCAT Science at the high  
938 school level shall be discontinued.

939 2.a. End-of-course assessments for a subject shall be  
940 administered in addition to the comprehensive assessments  
941 required under subparagraph 1. End-of-course assessments must be  
942 rigorous, statewide, standardized, and developed or approved by  
943 the department. The content knowledge and skills assessed by  
944 end-of-course assessments must be aligned to the core curricular  
945 content established in the Next Generation Sunshine State  
946 Standards.

947 (I) Statewide, standardized end-of-course assessments in  
948 mathematics shall be administered according to this sub-sub-  
949 subparagraph. Beginning with the 2010-2011 school year, all  
950 students enrolled in Algebra I or an equivalent course must take  
951 the Algebra I end-of-course assessment. ~~Students who earned high~~  
952 ~~school credit in Algebra I while in grades 6 through 8 during~~  
953 ~~the 2007-2008 through 2009-2010 school years and who have not~~  
954 ~~taken Grade 10 FCAT Mathematics must take the Algebra I end of~~  
955 ~~course assessment during the 2010-2011 school year.~~ For students  
956 entering grade 9 during the 2010-2011 school year and who are  
957 enrolled in Algebra I or an equivalent, each student's  
958 performance on the end-of-course assessment in Algebra I shall



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959 constitute 30 percent of the student's final course grade.  
960 Beginning with students entering grade 9 in the 2011-2012 school  
961 year, a student who is enrolled in Algebra I or an equivalent  
962 must earn a passing score on the end-of-course assessment in  
963 Algebra I or attain an equivalent score as described in  
964 subsection (11) in order to earn course credit. Beginning with  
965 the 2011-2012 school year, all students enrolled in geometry or  
966 an equivalent course must take the geometry end-of-course  
967 assessment. For students entering grade 9 during the 2011-2012  
968 school year, each student's performance on the end-of-course  
969 assessment in geometry shall constitute 30 percent of the  
970 student's final course grade. Beginning with students entering  
971 grade 9 during the 2012-2013 school year, a student must earn a  
972 passing score on the end-of-course assessment in geometry or  
973 attain an equivalent score as described in subsection (11) in  
974 order to earn course credit.

975 (II) Statewide, standardized end-of-course assessments in  
976 science shall be administered according to this sub-sub-  
977 subparagraph. Beginning with the 2011-2012 school year, all  
978 students enrolled in Biology I or an equivalent course must take  
979 the Biology I end-of-course assessment. For the 2011-2012 school  
980 year, each student's performance on the end-of-course assessment  
981 in Biology I shall constitute 30 percent of the student's final  
982 course grade. Beginning with students entering grade 9 during  
983 the 2012-2013 school year, a student must earn a passing score  
984 on the end-of-course assessment in Biology I in order to earn  
985 course credit.

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986 b. During the 2012-2013 school year, an end-of-course  
987 assessment in civics education shall be administered as a field  
988 test at the middle school level. During the 2013-2014 school  
989 year, each student's performance on the statewide, standardized  
990 end-of-course assessment in civics education shall constitute 30  
991 percent of the student's final course grade. Beginning with the  
992 2014-2015 school year, a student must earn a passing score on  
993 the end-of-course assessment in civics education in order to  
994 pass the course and be promoted from the middle grades receive  
995 course credit. The school principal of a middle school shall  
996 determine, in accordance with State Board of Education rule,  
997 whether a student who transfers to the middle school and who has  
998 successfully completed a civics education course at the  
999 student's previous school must take an end-of-course assessment  
1000 in civics education.

1001 c. The commissioner may select one or more nationally  
1002 developed comprehensive examinations, which may include, but  
1003 need not be limited to, examinations for a College Board  
1004 Advanced Placement course, International Baccalaureate course,  
1005 or Advanced International Certificate of Education course, or  
1006 industry-approved examinations to earn national industry  
1007 certifications identified in the Industry Certification Funding  
1008 List, pursuant to rules adopted by the State Board of Education,  
1009 for use as end-of-course assessments under this paragraph, if  
1010 the commissioner determines that the content knowledge and  
1011 skills assessed by the examinations meet or exceed the grade  
1012 level expectations for the core curricular content established  
1013 for the course in the Next Generation Sunshine State Standards.

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1014 The commissioner may collaborate with the American Diploma  
1015 Project in the adoption or development of rigorous end-of-course  
1016 assessments that are aligned to the Next Generation Sunshine  
1017 State Standards.

1018 d. Contingent upon funding provided in the General  
1019 Appropriations Act, including the appropriation of funds  
1020 received through federal grants, the Commissioner of Education  
1021 shall establish an implementation schedule for the development  
1022 and administration of additional statewide, standardized end-of-  
1023 course assessments in English/Language Arts II, Algebra II,  
1024 chemistry, physics, earth/space science, United States history,  
1025 and world history. Priority shall be given to the development of  
1026 end-of-course assessments in English/Language Arts II. The  
1027 Commissioner of Education shall evaluate the feasibility and  
1028 effect of transitioning from the grade 9 and grade 10 FCAT  
1029 Reading and high school level FCAT Writing to an end-of-course  
1030 assessment in English/Language Arts II. The commissioner shall  
1031 report the results of the evaluation to the President of the  
1032 Senate and the Speaker of the House of Representatives no later  
1033 than July 1, 2011.

1034 3. The testing program shall measure student content  
1035 knowledge and skills adopted by the State Board of Education as  
1036 specified in paragraph (a) and measure and report student  
1037 performance levels of all students assessed in reading, writing,  
1038 mathematics, and science. The commissioner shall provide for the  
1039 tests to be developed or obtained, as appropriate, through  
1040 contracts and project agreements with private vendors, public  
1041 vendors, public agencies, postsecondary educational

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1042 institutions, or school districts. The commissioner shall obtain  
1043 input with respect to the design and implementation of the  
1044 testing program from state educators, assistive technology  
1045 experts, and the public.

1046 4. The testing program shall be composed of criterion-  
1047 referenced tests that shall, to the extent determined by the  
1048 commissioner, include test items that require the student to  
1049 produce information or perform tasks in such a way that the core  
1050 content knowledge and skills he or she uses can be measured.

1051 5. FCAT Reading, Mathematics, and Science and all  
1052 statewide, standardized end-of-course assessments shall measure  
1053 the content knowledge and skills a student has attained on the  
1054 assessment by the use of scaled scores and achievement levels.  
1055 Achievement levels shall range from 1 through 5, with level 1  
1056 being the lowest achievement level, level 5 being the highest  
1057 achievement level, and level 3 indicating satisfactory  
1058 performance on an assessment. For purposes of FCAT Writing,  
1059 student achievement shall be scored using a scale of 1 through 6  
1060 and the score earned shall be used in calculating school grades.  
1061 A score shall be designated for each subject area tested, below  
1062 which score a student's performance is deemed inadequate. The  
1063 school districts shall provide appropriate remedial instruction  
1064 to students who score below these levels.

1065 6. The State Board of Education shall, by rule, designate  
1066 a passing score for each part of the grade 10 assessment test  
1067 and end-of-course assessments. Any rule that has the effect of  
1068 raising the required passing scores may apply only to students  
1069 taking the assessment for the first time after the rule is

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1070 adopted by the State Board of Education. Except as otherwise  
1071 provided in this subparagraph and as provided in s.  
1072 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a  
1073 passing score on grade 10 FCAT Reading and grade 10 FCAT  
1074 Mathematics or attain concordant scores as described in  
1075 subsection (10) in order to qualify for a standard high school  
1076 diploma.

1077 7. In addition to designating a passing score under  
1078 subparagraph 6., the State Board of Education shall also  
1079 designate, by rule, a score for each statewide, standardized  
1080 end-of-course assessment which indicates that a student is high  
1081 achieving and has the potential to meet college-readiness  
1082 standards by the time the student graduates from high school.

1083 8. Participation in the testing program is mandatory for  
1084 all students attending public school, including students served  
1085 in Department of Juvenile Justice programs, except as otherwise  
1086 prescribed by the commissioner. A student who has not earned  
1087 passing scores on the grade 10 FCAT as provided in subparagraph  
1088 6. must participate in each retake of the assessment until the  
1089 student earns passing scores or achieves scores on a  
1090 standardized assessment which are concordant with passing scores  
1091 pursuant to subsection (10). If a student does not participate  
1092 in the statewide assessment, the district must notify the  
1093 student's parent and provide the parent with information  
1094 regarding the implications of such nonparticipation. A parent  
1095 must provide signed consent for a student to receive classroom  
1096 instructional accommodations that would not be available or  
1097 permitted on the statewide assessments and must acknowledge in

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1098 writing that he or she understands the implications of such  
1099 instructional accommodations. The State Board of Education shall  
1100 adopt rules, based upon recommendations of the commissioner, for  
1101 the provision of test accommodations for students in exceptional  
1102 education programs and for students who have limited English  
1103 proficiency. Accommodations that negate the validity of a  
1104 statewide assessment are not allowable in the administration of  
1105 the FCAT or an end-of-course assessment. However, instructional  
1106 accommodations are allowable in the classroom if included in a  
1107 student's individual education plan. Students using  
1108 instructional accommodations in the classroom that are not  
1109 allowable as accommodations on the FCAT or an end-of-course  
1110 assessment may have the FCAT or an end-of-course assessment  
1111 requirement waived pursuant to the requirements of s.  
1112 1003.428(8)(b) or s. 1003.43(11)(b).

1113 9. A student seeking an adult high school diploma must  
1114 meet the same testing requirements that a regular high school  
1115 student must meet.

1116 10. District school boards must provide instruction to  
1117 prepare students in the core curricular content established in  
1118 the Next Generation Sunshine State Standards adopted under s.  
1119 1003.41, including the core content knowledge and skills  
1120 necessary for successful grade-to-grade progression and high  
1121 school graduation. If a student is provided with instructional  
1122 accommodations in the classroom that are not allowable as  
1123 accommodations in the statewide assessment program, as described  
1124 in the test manuals, the district must inform the parent in  
1125 writing and must provide the parent with information regarding

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1126 the impact on the student's ability to meet expected performance  
1127 levels in reading, writing, mathematics, and science. The  
1128 commissioner shall conduct studies as necessary to verify that  
1129 the required core curricular content is part of the district  
1130 instructional programs.

1131 11. District school boards must provide opportunities for  
1132 students to demonstrate an acceptable performance level on an  
1133 alternative standardized assessment approved by the State Board  
1134 of Education following enrollment in summer academies.

1135 12. The Department of Education must develop, or select,  
1136 and implement a common battery of assessment tools that will be  
1137 used in all juvenile justice programs in the state. These tools  
1138 must accurately measure the core curricular content established  
1139 in the Next Generation Sunshine State Standards.

1140 13. For students seeking a special diploma pursuant to s.  
1141 1003.438, the Department of Education must develop or select and  
1142 implement an alternate assessment tool that accurately measures  
1143 the core curricular content established in the Next Generation  
1144 Sunshine State Standards for students with disabilities under s.  
1145 1003.438.

1146 14. The Commissioner of Education shall establish  
1147 schedules for the administration of statewide assessments and  
1148 the reporting of student test results. When establishing the  
1149 schedules for the administration of statewide assessments, the  
1150 commissioner shall consider the observance of religious and  
1151 school holidays. The commissioner shall, by August 1 of each  
1152 year, notify each school district in writing and publish on the  
1153 department's Internet website the testing and reporting

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1154 schedules for, at a minimum, the school year following the  
1155 upcoming school year. The testing and reporting schedules shall  
1156 require that:

1157 a. There is the latest possible administration of  
1158 statewide assessments and the earliest possible reporting to the  
1159 school districts of student test results which is feasible  
1160 within available technology and specific appropriations;  
1161 however, test results for the FCAT must be made available no  
1162 later than the week of June 8. Student results for end-of-course  
1163 assessments must be provided no later than 1 week after the  
1164 school district completes testing for each course. The  
1165 commissioner may extend the reporting schedule under exigent  
1166 circumstances.

1167 b. ~~Beginning with the 2010-2011 school year,~~ FCAT Writing  
1168 may ~~is~~ not be administered earlier than the week of March 1 and  
1169 a comprehensive statewide assessment of any other subject may ~~is~~  
1170 not be administered earlier than the week of April 15.

1171 c. A statewide, standardized end-of-course assessment is  
1172 administered ~~during a 3-week period~~ at the end of the course.  
1173 The commissioner shall select an a-3-week administration period  
1174 for assessments that meets the intent of end-of-course  
1175 assessments and provides student results prior to the end of the  
1176 course. School districts shall administer tests in accordance  
1177 with the schedule determined by the commissioner ~~select 1~~  
1178 ~~testing week within the 3-week administration period for each~~  
1179 ~~end-of-course assessment.~~ For an end-of-course assessment  
1180 administered at the end of the first semester, the commissioner  
1181 shall determine the most appropriate testing dates based on a



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1182 review of the school district academic calendars ~~school~~  
1183 ~~district's academic calendar.~~

1184  
1185 The commissioner may, based on collaboration and input from  
1186 school districts, design and implement student testing programs,  
1187 for any grade level and subject area, necessary to effectively  
1188 monitor educational achievement in the state, including the  
1189 measurement of educational achievement of the Next Generation  
1190 Sunshine State Standards for students with disabilities.  
1191 Development and refinement of assessments shall include  
1192 universal design principles and accessibility standards that  
1193 will prevent any unintended obstacles for students with  
1194 disabilities while ensuring the validity and reliability of the  
1195 test. These principles should be applicable to all technology  
1196 platforms and assistive devices available for the assessments.  
1197 The field testing process and psychometric analyses for the  
1198 statewide assessment program must include an appropriate  
1199 percentage of students with disabilities and an evaluation or  
1200 determination of the effect of test items on such students.

1201 Section 22. Subsection (3) of section 1008.30, Florida  
1202 Statutes, is amended to read:

1203 1008.30 Common placement testing for public postsecondary  
1204 education.—

1205 (3) The State Board of Education shall adopt rules that  
1206 require high schools to evaluate before the beginning of grade  
1207 12 the college readiness of each student who ~~indicates an~~  
1208 ~~interest in postsecondary education and~~ scores at Level 2 or  
1209 Level 3 on the reading portion of the grade 10 FCAT or Level 2,

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1210 Level 3, or Level 4 on the mathematics assessments under s.  
1211 1008.22(3)(c). High schools shall perform this evaluation using  
1212 results from the corresponding component of the common placement  
1213 test prescribed in this section, or an equivalent test  
1214 identified by the State Board of Education. The State Board  
1215 ~~Department~~ of Education shall identify in rule ~~purchase or~~  
1216 ~~develop~~ the assessments necessary to perform the evaluations  
1217 required by this subsection and shall work with the school  
1218 districts to administer the assessments. The State Board of  
1219 Education shall establish by rule the minimum test scores a  
1220 student must achieve to demonstrate readiness. Students who  
1221 demonstrate readiness by achieving the minimum test scores  
1222 established by the state board and enroll in a community college  
1223 within 2 years of achieving such scores shall not be required to  
1224 retest or enroll in remediation when admitted ~~courses as a~~  
1225 ~~condition of acceptance~~ to any community college. The high  
1226 school shall use the results of the test to advise the students  
1227 of any identified deficiencies and to ~~the maximum extent~~  
1228 practicable provide 12th grade students, and require them to  
1229 complete, access to appropriate postsecondary preparatory  
1230 ~~remedial~~ instruction prior to high school graduation. The  
1231 curriculum remedial instruction provided under this subsection  
1232 shall be identified in rule by the State Board of Education and  
1233 encompass Florida's Postsecondary Readiness Competencies. Other  
1234 elective courses may not be substituted for the selected  
1235 postsecondary mathematics preparatory course unless the elective  
1236 course covers the same competencies included in the  
1237 postsecondary mathematics preparatory course ~~a collaborative~~

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1238 ~~effort between secondary and postsecondary educational~~  
1239 ~~institutions. To the extent courses are available, the Florida~~  
1240 ~~Virtual School may be used to provide the remedial instruction~~  
1241 ~~required by this subsection.~~

1242 Section 23. Paragraph (b) of subsection (3) and subsection  
1243 (4) of section 1008.33, Florida Statutes, are amended to read:

1244 1008.33 Authority to enforce public school improvement.—

1245 (3)

1246 (b) For the purpose of determining whether a public school  
1247 requires action to achieve a sufficient level of school  
1248 improvement, beginning with the 2010-2011 school year, the  
1249 Department of Education shall annually categorize a public  
1250 school in one of six categories based on the following:

1251 1. The portion of a school's grade based upon statewide  
1252 assessments administered pursuant to s. 1008.22; and

1253 2. school's grade, pursuant to s. 1008.34, and The level,  
1254 and rate of change in student performance in the areas of  
1255 reading and mathematics, disaggregated into student subgroups as  
1256 described in the federal Elementary and Secondary Education Act,  
1257 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

1258 (4) The Department of Education shall create a matrix that  
1259 reflects intervention and support strategies to address the  
1260 particular needs of schools in each category.

1261 (a) Intervention and support strategies shall be applied  
1262 to schools based upon the school categorization pursuant to  
1263 paragraph (3)(b). The Department of Education shall apply the  
1264 most intense intervention strategies to the lowest-performing  
1265 schools. For all but the lowest category and "F" schools in the

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1266 second lowest category, the intervention and support strategies  
1267 shall be administered solely by the districts and the schools.

1268 (b) The lowest-performing schools are schools that are  
1269 categorized pursuant to paragraph (3) (b) and have received:

1270 1. A grade of "F" in the most recent school year and in 4  
1271 of the last 6 years; or

1272 2. A grade of "D" or "F" in the most recent school year  
1273 and meet at least three of the following criteria:

1274 a. The percentage of students who are not proficient in  
1275 reading has increased when compared to measurements taken 5  
1276 years previously;

1277 b. The percentage of students who are not proficient in  
1278 mathematics has increased when compared to measurements taken 5  
1279 years previously;

1280 c. At least 65 percent of the school's students are not  
1281 proficient in reading; or

1282 d. At least 65 percent of the school's students are not  
1283 proficient in mathematics.

1284 Section 24. Paragraphs (b) and (c) of subsection (3) of  
1285 section 1008.34, Florida Statutes, are amended to read:

1286 1008.34 School grading system; school report cards;  
1287 district grade.—

1288 (3) DESIGNATION OF SCHOOL GRADES.—

1289 (b)1. A school's grade shall be based on a combination of:

1290 a. Student achievement scores, including achievement on  
1291 all FCAT assessments administered under s. 1008.22(3)(c)1., end-  
1292 of-course assessments administered under s. 1008.22(3)(c)2.a.,  
1293 and achievement scores for students seeking a special diploma.

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1294 b. Student learning gains in reading and mathematics as  
1295 measured by FCAT and end-of-course assessments, as described in  
1296 s. 1008.22(3)(c)1. and 2.a. Learning gains for students seeking  
1297 a special diploma, as measured by an alternate assessment tool,  
1298 shall be included not later than the 2009-2010 school year.

1299 c. Improvement of the lowest 25th percentile of students  
1300 in the school in reading and mathematics on the FCAT or end-of-  
1301 course assessments described in s. 1008.22(3)(c)2.a., unless  
1302 these students are exhibiting satisfactory performance.

1303 2. Beginning with the 2011-2012 school year, for schools  
1304 comprised of middle school grades 6 through 8 or grades 7 and 8,  
1305 the school's grade shall include the performance and  
1306 participation of its students enrolled in high school level  
1307 courses with end-of-course assessments administered under s.  
1308 1008.22(3)(c)2.a. Performance and participation must be weighted  
1309 equally. As valid data becomes available, the school grades  
1310 shall include the students' attainment of national industry  
1311 certification identified in the Industry Certification Funding  
1312 List pursuant to rules adopted by the State Board of Education.

1313 ~~3.2.~~ Beginning with the 2009-2010 school year for schools  
1314 comprised of high school grades 9, 10, 11, and 12, or grades 10,  
1315 11, and 12, 50 percent of the school grade shall be based on a  
1316 combination of the factors listed in sub-subparagraphs 1.a.-c.  
1317 and the remaining 50 percent on the following factors:

1318 a. The high school graduation rate of the school;

1319 b. As valid data becomes available, the performance and  
1320 participation of the school's students in College Board Advanced  
1321 Placement courses, International Baccalaureate courses, dual

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1322 enrollment courses, and Advanced International Certificate of  
1323 Education courses; and the students' achievement of national  
1324 industry certification identified in the Industry Certification  
1325 Funding List, pursuant to rules adopted by the State Board of  
1326 Education;

1327 c. Postsecondary readiness of the school's students as  
1328 measured by the SAT, ACT, or the common placement test;

1329 d. The high school graduation rate of at-risk students who  
1330 scored at Level 2 or lower on the grade 8 FCAT Reading and  
1331 Mathematics examinations;

1332 e. As valid data becomes available, the performance of the  
1333 school's students on statewide standardized end-of-course  
1334 assessments administered under s. 1008.22(3)(c)2.b. and c.; and

1335 f. The growth or decline in the components listed in sub-  
1336 subparagraphs a.-e. from year to year.

1337 (c) Student assessment data used in determining school  
1338 grades shall include:

1339 1. The aggregate scores of all eligible students enrolled  
1340 in the school who have been assessed on the FCAT and statewide,  
1341 standardized end-of-course assessments in courses required for  
1342 high school graduation, including, beginning with the 2010-2011  
1343 school year, the end-of-course assessment in Algebra I; and  
1344 beginning with the 2011-2012 school year, the end-of-course  
1345 assessments in geometry and Biology; and beginning with the  
1346 2013-2014 school year, on the statewide, standardized end-of-  
1347 course assessment in civics education at the middle school  
1348 level.

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1349           2. The aggregate scores of all eligible students enrolled  
1350 in the school who have been assessed on the FCAT and end-of-  
1351 course assessments as described in s. 1008.22(3)(c)2.a., and who  
1352 have scored at or in the lowest 25th percentile of students in  
1353 the school in reading and mathematics, unless these students are  
1354 exhibiting satisfactory performance.

1355           3. The achievement scores and learning gains of eligible  
1356 students attending alternative schools that provide dropout  
1357 prevention and academic intervention services pursuant to s.  
1358 1003.53. The term "eligible students" in this subparagraph does  
1359 not include students attending an alternative school who are  
1360 subject to district school board policies for expulsion for  
1361 repeated or serious offenses, who are in dropout retrieval  
1362 programs serving students who have officially been designated as  
1363 dropouts, or who are in programs operated or contracted by the  
1364 Department of Juvenile Justice. The student performance data for  
1365 eligible students identified in this subparagraph shall be  
1366 included in the calculation of the home school's grade. As used  
1367 in this subparagraph ~~section~~ and s. 1008.341, the term "home  
1368 school" means the school to which the student would be assigned  
1369 if the student were not assigned to an alternative school. If an  
1370 alternative school chooses to be graded under this section,  
1371 student performance data for eligible students identified in  
1372 this subparagraph shall not be included in the home school's  
1373 grade but shall be included only in the calculation of the  
1374 alternative school's grade. A school district that fails to  
1375 assign the FCAT and end-of-course assessment as described in s.  
1376 1008.22(3)(c)2.a. scores of each of its students to his or her

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1377 home school or to the alternative school that receives a grade  
1378 shall forfeit Florida School Recognition Program funds for 1  
1379 fiscal year. School districts must require collaboration between  
1380 the home school and the alternative school in order to promote  
1381 student success. This collaboration must include an annual  
1382 discussion between the principal of the alternative school and  
1383 the principal of each student's home school concerning the most  
1384 appropriate school assignment of the student.

1385 4. The achievement scores and learning gains of students  
1386 designated as hospital or homebound. Student assessment data for  
1387 students designated as hospital or homebound shall be assigned  
1388 to their home school for the purposes of school grades. As used  
1389 in this subparagraph, the term "home school" means the school to  
1390 which a student would be assigned if the student were not  
1391 assigned to a hospital or homebound program.

1392 5.4. For schools comprised of high school grades 9, 10,  
1393 11, and 12, or grades 10, 11, and 12, the data listed in  
1394 subparagraphs 1.-3. and the following data as the Department of  
1395 Education determines such data are valid and available:

1396 a. The high school graduation rate of the school as  
1397 calculated by the Department of Education;

1398 b. The participation rate of all eligible students  
1399 enrolled in the school and enrolled in College Board Advanced  
1400 Placement courses; International Baccalaureate courses; dual  
1401 enrollment courses; Advanced International Certificate of  
1402 Education courses; and courses or sequence of courses leading to  
1403 national industry certification identified in the Industry



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1404 Certification Funding List, pursuant to rules adopted by the  
1405 State Board of Education;

1406 c. The aggregate scores of all eligible students enrolled  
1407 in the school in College Board Advanced Placement courses,  
1408 International Baccalaureate courses, and Advanced International  
1409 Certificate of Education courses;

1410 d. Earning of college credit by all eligible students  
1411 enrolled in the school in dual enrollment programs under s.  
1412 1007.271;

1413 e. Earning of a national industry certification identified  
1414 in the Industry Certification Funding List, pursuant to rules  
1415 adopted by the State Board of Education;

1416 f. The aggregate scores of all eligible students enrolled  
1417 in the school in reading, mathematics, and other subjects as  
1418 measured by the SAT, the ACT, and the common placement test for  
1419 postsecondary readiness;

1420 g. The high school graduation rate of all eligible at-risk  
1421 students enrolled in the school who scored at Level 2 or lower  
1422 on the grade 8 FCAT Reading and Mathematics examinations;

1423 h. The performance of the school's students on statewide  
1424 standardized end-of-course assessments administered under s.  
1425 1008.22(3)(c)2.b. and c.; and

1426 i. The growth or decline in the data components listed in  
1427 sub-subparagraphs a.-h. from year to year.

1428  
1429 The State Board of Education shall adopt appropriate criteria  
1430 for each school grade. The criteria must also give added weight  
1431 to student achievement in reading. Schools designated with a

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1432 grade of "C," making satisfactory progress, shall be required to  
1433 demonstrate that adequate progress has been made by students in  
1434 the school who are in the lowest 25th percentile in reading and  
1435 mathematics on the FCAT and end-of-course assessments as  
1436 described in s. 1008.22(3)(c)2.a., unless these students are  
1437 exhibiting satisfactory performance. Beginning with the 2009-  
1438 2010 school year for schools comprised of high school grades 9,  
1439 10, 11, and 12, or grades 10, 11, and 12, the criteria for  
1440 school grades must also give added weight to the graduation rate  
1441 of all eligible at-risk students, as defined in this paragraph.  
1442 Beginning in the 2009-2010 school year, in order for a high  
1443 school to be designated as having a grade of "A," making  
1444 excellent progress, the school must demonstrate that at-risk  
1445 students, as defined in this paragraph, in the school are making  
1446 adequate progress.

1447 Section 25. Paragraph (a) of subsection (3) of section  
1448 1011.01, Florida Statutes, is amended to read:

1449 1011.01 Budget system established.—

1450 (3)(a) Each district school board and each community  
1451 college board of trustees shall prepare, adopt, and submit to  
1452 the Commissioner of Education ~~for review~~ an annual operating  
1453 budget. Operating budgets shall be prepared and submitted in  
1454 accordance with the provisions of law, rules of the State Board  
1455 of Education, the General Appropriations Act, and for district  
1456 school boards in accordance with the provisions of ss. 200.065  
1457 and 1011.64.

1458 Section 26. Subsection (4) of section 1011.03, Florida  
1459 Statutes, is amended to read:

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1460 1011.03 Public hearings; budget to be submitted to  
1461 Department of Education.-

1462 (4) The board shall hold public hearings to adopt  
1463 tentative and final budgets pursuant to s. 200.065. The hearings  
1464 shall be primarily for the purpose of hearing requests and  
1465 complaints from the public regarding the budgets and the  
1466 proposed tax levies and for explaining the budget and proposed  
1467 or adopted amendments thereto, if any. The district school board  
1468 shall then require the superintendent to transmit forthwith two  
1469 copies of the adopted budget to the Department of Education ~~for~~  
1470 ~~approval~~ as prescribed by law and rules of the State Board of  
1471 Education.

1472 Section 27. Section 1011.035, Florida Statutes, is created  
1473 to read:

1474 1011.035 School district budget transparency.-

1475 (1) It is important for school districts to provide  
1476 budgetary transparency to enable taxpayers, parents, and  
1477 education advocates to obtain school district budget and related  
1478 information in a manner that is simply explained and easily  
1479 understandable. Budgetary transparency leads to more responsible  
1480 spending, more citizen involvement, and improved accountability.  
1481 A budget that is not transparent, accessible, and accurate  
1482 cannot be properly analyzed, its implementation thoroughly  
1483 monitored, or its outcomes evaluated.

1484 (2) Each district school board shall post on its website a  
1485 plain language version of each proposed, tentative, and official  
1486 budget which describes each budget item in terms that are easily  
1487 understandable to the public. This information must be

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1488 prominently posted on the school district's website in a manner  
1489 that is readily accessible to the public.

1490 (3) Each district school board is encouraged to post the  
1491 following information on its website:

1492 (a) Timely information as to when a budget hearing will be  
1493 conducted.

1494 (b) Each contract between the district school board and  
1495 the teachers' union.

1496 (c) Each contract between the district school board and  
1497 noninstructional staff.

1498 (d) Each contract exceeding \$35,000 between the school  
1499 board and a vendor of services, supplies, or programs or for the  
1500 purchase or lease of lands, facilities, or properties.

1501 (e) Each contract exceeding \$35,000 that is an emergency  
1502 procurement or is with a single source as authorized under s.  
1503 287.057(3).

1504 (f) Recommendations of the citizens' budget advisory  
1505 committee.

1506 (g) Current and archived video recordings of each district  
1507 school board meeting and workshop.

1508 (4) The website should contain links to:

1509 (a) Help explain or provide background information on  
1510 various budget items that are required by state or federal law.

1511 (b) Allow users to navigate to related sites to view  
1512 supporting details.

1513 (c) Enable taxpayers, parents, and education advocates to  
1514 send e-mails asking questions about the budget and enable others  
1515 to view the questions and responses.

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1516 Section 28. Paragraph (e) of subsection (1) of section  
1517 1011.62, Florida Statutes, is amended to read:

1518 1011.62 Funds for operation of schools.—If the annual  
1519 allocation from the Florida Education Finance Program to each  
1520 district for operation of schools is not determined in the  
1521 annual appropriations act or the substantive bill implementing  
1522 the annual appropriations act, it shall be determined as  
1523 follows:

1524 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR  
1525 OPERATION.—The following procedure shall be followed in  
1526 determining the annual allocation to each district for  
1527 operation:

1528 (e) Funding model for exceptional student education  
1529 programs.—

1530 1.a. The funding model uses basic, at-risk, support levels  
1531 IV and V for exceptional students and career Florida Education  
1532 Finance Program cost factors, and a guaranteed allocation for  
1533 exceptional student education programs. Exceptional education  
1534 cost factors are determined by using a matrix of services to  
1535 document the services that each exceptional student will  
1536 receive. The nature and intensity of the services indicated on  
1537 the matrix shall be consistent with the services described in  
1538 each exceptional student's individual educational plan. The  
1539 Department of Education shall review and revise the descriptions  
1540 of the services and supports included in the matrix of services  
1541 for exceptional students and shall implement those revisions  
1542 before the beginning of the 2012-2013 school year.

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1543       b. In order to generate funds using one of the two  
1544 weighted cost factors, a matrix of services must be completed at  
1545 the time of the student's initial placement into an exceptional  
1546 student education program and at least once every 3 years by  
1547 personnel who have received approved training. Nothing listed in  
1548 the matrix shall be construed as limiting the services a school  
1549 district must provide in order to ensure that exceptional  
1550 students are provided a free, appropriate public education.

1551       c. Students identified as exceptional, in accordance with  
1552 chapter 6A-6, Florida Administrative Code, who do not have a  
1553 matrix of services as specified in sub-subparagraph b. shall  
1554 generate funds on the basis of full-time-equivalent student  
1555 membership in the Florida Education Finance Program at the same  
1556 funding level per student as provided for basic students.  
1557 Additional funds for these exceptional students will be provided  
1558 through the guaranteed allocation designated in subparagraph 2.

1559       2. For students identified as exceptional who do not have  
1560 a matrix of services and students who are gifted in grades K  
1561 through 8, there is created a guaranteed allocation to provide  
1562 these students with a free appropriate public education, in  
1563 accordance with s. 1001.42(4)(m) and rules of the State Board of  
1564 Education, which shall be allocated annually to each school  
1565 district in the amount provided in the General Appropriations  
1566 Act. These funds shall be in addition to the funds appropriated  
1567 on the basis of FTE student membership in the Florida Education  
1568 Finance Program, and the amount allocated for each school  
1569 district shall not be recalculated during the year. These funds  
1570 shall be used to provide special education and related services

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1571 for exceptional students and students who are gifted in grades K  
1572 through 8. Beginning with the 2007-2008 fiscal year, a  
1573 district's expenditure of funds from the guaranteed allocation  
1574 for students in grades 9 through 12 who are gifted may not be  
1575 greater than the amount expended during the 2006-2007 fiscal  
1576 year for gifted students in grades 9 through 12.

1577 Section 29. Paragraph (c) of subsection (1) of section  
1578 1012.39, Florida Statutes, is amended to read:

1579 1012.39 Employment of substitute teachers, teachers of  
1580 adult education, nondegreed teachers of career education, and  
1581 career specialists; students performing clinical field  
1582 experience.--

1583 (1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and  
1584 1012.57, or any other provision of law or rule to the contrary,  
1585 each district school board shall establish the minimal  
1586 qualifications for:

1587 (c) Part-time and full-time nondegreed teachers of career  
1588 programs. Qualifications shall be established for nondegreed  
1589 teachers of career and technical education courses for program  
1590 clusters that are recognized in the state and are agriculture,  
1591 business, health occupations, family and consumer sciences,  
1592 industrial, marketing, career specialist, and public service  
1593 education teachers, based primarily on successful occupational  
1594 experience rather than academic training. The qualifications for  
1595 such teachers shall require:

1596 1. The filing of a complete set of fingerprints in the  
1597 same manner as required by s. 1012.32. Faculty employed solely

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1598 to conduct postsecondary instruction may be exempted from this  
1599 requirement.

1600 2. Documentation of education and successful occupational  
1601 experience including documentation of:

1602 a. A high school diploma or the equivalent.

1603 b. Completion of 6 years of full-time successful  
1604 occupational experience or the equivalent of part-time  
1605 experience in the teaching specialization area. The district  
1606 school board may establish alternative qualifications for  
1607 teachers who hold industry certificates in the career areas in  
1608 which they teach. Alternate means of determining successful  
1609 occupational experience may be established by the district  
1610 school board.

1611 c. Completion of career education training conducted  
1612 through the local school district inservice master plan.

1613 d. For full-time teachers, completion of professional  
1614 education training in teaching methods, course construction,  
1615 lesson planning and evaluation, and teaching special needs  
1616 students. This training may be completed through coursework from  
1617 an accredited or approved institution or an approved district  
1618 teacher education program.

1619 e. Demonstration of successful teaching performance.

1620 f. Documentation of industry certification when state or  
1621 national industry certifications are available and applicable.

1622 Section 30. Except as otherwise expressly provided in this  
1623 act and except for this section, which shall take effect upon  
1624 this act becoming a law, this act shall take effect July 1,  
1625 2011.



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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

An act relating to education accountability; amending s.  
1001.20, F.S.; deleting a provision that requires the Florida  
Virtual School to be administratively housed within the Office  
of Technology and Information Services within the Office of the  
Commissioner of Education; amending s. 1001.42, F.S.; revising  
the powers and duties of district school boards relating to  
student access to Florida Virtual School courses; creating s.  
1001.421, F.S.; prohibiting district school board members from  
soliciting or accepting certain gifts; amending s. 1002.37,  
F.S.; conforming provisions to changes made by the act; amending  
s. 1002.38, F.S.; providing that school grades shall be based on  
statewide assessments for purposes of the Opportunity  
Scholarship Program; amending s. 1002.39, F.S.; providing  
requirements for determining the end of the term of a John M.  
McKay Scholarship; amending s. 1002.45, F.S.; revising  
provisions relating to virtual instruction program provider  
qualifications; amending s. 1002.66, F.S.; providing an  
additional instructional service for children with disabilities  
in the Voluntary Prekindergarten Education Program; amending s.  
1002.67, F.S.; requiring that the State Board of Education  
periodically review and revise the performance standards for the  
statewide kindergarten screening; amending s. 1002.69, F.S.;  
authorizing nonpublic schools to administer the statewide

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1654 kindergarten screening to kindergarten students who were  
1655 enrolled in the Voluntary Prekindergarten Education Program;  
1656 requiring each parent enrolling his or her child in the program  
1657 to submit the child for prekindergarten enrollment screening if  
1658 required by the provider; revising provisions relating to the  
1659 minimum kindergarten readiness rate and criteria for good cause  
1660 exemptions from meeting the requirement; amending s. 1002.71,  
1661 F.S.; providing that a child may reenroll more than once in a  
1662 prekindergarten program if granted a good cause exemption;  
1663 amending s. 1002.73, F.S.; requiring the Department of Education  
1664 to adopt procedures relating to prekindergarten enrollment  
1665 screening and reporting of the results of readiness measures;  
1666 amending s. 1003.01, F.S.; providing an additional special  
1667 education service; amending s. 1003.4156, F.S.; revising the  
1668 general requirements for middle grades promotion; providing that  
1669 a student with a disability may have end-of-course assessment  
1670 results waived under certain circumstances; providing that a  
1671 middle grades student may be exempt from reading remediation  
1672 requirements under certain circumstances; creating s. 1003.4203,  
1673 F.S.; authorizing each district school board to develop and  
1674 implement a digital curriculum for students in grades 6 through  
1675 12; requiring the Department of Education to develop a model  
1676 digital curriculum; authorizing partnerships with private  
1677 businesses and consultants; amending s. 1003.428, F.S.; revising  
1678 provisions relating to the general requirements for high school  
1679 graduation; providing that a high school student may be exempt  
1680 from reading remediation requirements under certain  
1681 circumstances; amending s. 1003.491, F.S.; revising provisions

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1682 relating to the development, contents, and approval of the  
1683 strategic plan to address workforce needs; amending s. 1003.493,  
1684 F.S.; revising requirements for career and professional  
1685 academies and enrollment of students; creating s. 1003.4935,  
1686 F.S.; requiring each district school board to develop a plan to  
1687 implement a career and professional academy in at least one  
1688 middle school; providing requirements for middle school career  
1689 and professional academies and academy courses; amending s.  
1690 1003.575, F.S.; providing requirements for completion of an  
1691 assistive technology assessment; amending s. 1008.22, F.S.;  
1692 revising provisions relating to the student assessment program  
1693 for public schools; requiring that the Commissioner of Education  
1694 direct school districts to participate in certain international  
1695 assessment programs; authorizing a school principal to exempt  
1696 certain students from the end-of-course assessment in civics  
1697 education; revising provisions relating to administration and  
1698 reporting of results of assessments; amending s. 1008.30, F.S.;  
1699 revising provisions relating to evaluation of college readiness  
1700 and providing for postsecondary preparatory instruction;  
1701 requiring the State Board of Education to adopt certain rules;  
1702 amending s. 1008.33, F.S.; revising provisions relating to  
1703 public school improvement; requiring the Department of Education  
1704 to categorize public schools based on the portion of a school's  
1705 grade that relies on statewide assessments; amending s. 1008.34,  
1706 F.S.; revising the basis for the designation of school grades;  
1707 including achievement scores and learning gains for students who  
1708 are hospital or homebound; amending s. 1011.01, F.S.; revising  
1709 provisions relating to the annual operating budgets of district

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1710 school boards and Florida College System institution boards of  
1711 trustees; amending s. 1011.03, F.S.; revising provisions  
1712 relating to adopted district school board budgets; creating s.  
1713 1011.035, F.S.; requiring each school district to post budgetary  
1714 information on its website; amending s. 1011.62, F.S.; revising  
1715 provisions relating to the funding model for exceptional student  
1716 education programs; requiring the Department of Education to  
1717 revise the descriptions of services and to implement the  
1718 revisions; amending s. 1012.39, F.S.; revising provisions  
1719 relating to the qualifications for nondegreed teachers of career  
1720 education; providing effective dates.

1 A bill to be entitled  
 2 An act relating to education accountability; amending s.  
 3 1001.20, F.S.; deleting a provision that requires the  
 4 Florida Virtual School to be administratively housed  
 5 within the Office of Technology and Information Services  
 6 within the Office of the Commissioner of Education;  
 7 amending s. 1001.42, F.S.; revising the powers and duties  
 8 of district school boards relating to student access to  
 9 Florida Virtual School courses; creating s. 1001.421,  
 10 F.S.; prohibiting district school board members and their  
 11 relatives from accepting certain gifts; amending s.  
 12 1002.37, F.S.; conforming provisions to changes made by  
 13 the act; amending s. 1002.38, F.S.; limiting the basis for  
 14 designation of school grades for purposes of the  
 15 Opportunity Scholarship Program; amending s. 1002.45,  
 16 F.S.; revising provisions relating to virtual instruction  
 17 program provider qualifications; amending s. 1002.67,  
 18 F.S.; requiring that the State Board of Education  
 19 periodically review and revise the performance standards  
 20 for the statewide kindergarten screening; amending s.  
 21 1002.69, F.S.; revising provisions relating to the minimum  
 22 kindergarten readiness rate and criteria for good cause  
 23 exemptions from meeting the requirement; amending s.  
 24 1003.4156, F.S.; revising the general requirements for  
 25 middle grades promotion; providing that a student with a  
 26 disability may have end-of-course assessment results  
 27 waived under certain circumstances; providing that a  
 28 middle grades student may be exempt from reading

29 remediation requirements under certain circumstances;  
30 creating s. 1003.4203, F.S.; authorizing each district  
31 school board to develop and implement a digital curriculum  
32 for students in grades 6 through 12; requiring the  
33 Department of Education to develop a model digital  
34 curriculum; authorizing partnerships with private  
35 businesses and consultants; amending s. 1003.428, F.S.;  
36 revising provisions relating to the general requirements  
37 for high school graduation; providing that a high school  
38 student may be exempt from reading remediation  
39 requirements under certain circumstances; amending s.  
40 1003.493, F.S.; revising provisions relating to career and  
41 professional academies to include middle schools;  
42 requiring that the middle school career and professional  
43 academy curriculum align with that of high school career  
44 and professional academies; requiring partnerships with  
45 high schools or other entities; amending s. 1003.575,  
46 F.S.; providing requirements for completion of an  
47 assistive technology assessment; amending s. 1008.22,  
48 F.S.; revising provisions relating to the student  
49 assessment program for public schools; requiring that the  
50 Commissioner of Education direct school districts to  
51 participate in certain international assessment programs;  
52 authorizing a school principal to exempt certain students  
53 from the end-of-course assessment in civics education;  
54 amending s. 1008.33, F.S.; revising provisions relating to  
55 public school improvement; requiring the Department of  
56 Education to categorize public schools based on the

57 portion of a school's grade that relies on statewide  
 58 assessments; amending s. 1008.34, F.S.; revising the basis  
 59 for the designation of school grades; including  
 60 achievement scores and learning gains for students who are  
 61 hospital or homebound; requiring a school that does not  
 62 meet minimal proficiency standards to receive a specified  
 63 school grade; amending s. 1011.01, F.S.; revising  
 64 provisions relating to the annual operating budgets of  
 65 district school boards and Florida College System  
 66 institution boards of trustees; amending s. 1011.03, F.S.;  
 67 revising provisions relating to adopted district school  
 68 board budgets; creating s. 1011.035, F.S.; requiring each  
 69 school district to post budgetary information its website;  
 70 amending s. 1012.39, F.S.; revising provisions relating to  
 71 the qualifications for nondegreed teachers of career  
 72 education; providing effective dates.

73

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

75

76 Section 1. Paragraph (a) of subsection (4) of section  
 77 1001.20, Florida Statutes, is amended to read:

78 1001.20 Department under direction of state board.—

79 (4) The Department of Education shall establish the  
 80 following offices within the Office of the Commissioner of  
 81 Education which shall coordinate their activities with all other  
 82 divisions and offices:

83 (a) Office of Technology and Information Services.—

84 Responsible for developing a systemwide technology plan, making

85 budget recommendations to the commissioner, providing data  
 86 collection and management for the system, assisting school  
 87 districts in securing Internet access and telecommunications  
 88 services, including those eligible for funding under the Schools  
 89 and Libraries Program of the federal Universal Service Fund, and  
 90 coordinating services with other state, local, and private  
 91 agencies. The office shall develop a method to address the need  
 92 for a statewide approach to planning and operations of library  
 93 and information services to achieve a single K-20 education  
 94 system library information portal and a unified higher education  
 95 library management system. ~~The Florida Virtual School shall be~~  
 96 ~~administratively housed within the office.~~

97 Section 2. Subsection (23) of section 1001.42, Florida  
 98 Statutes, is amended to read:

99 1001.42 Powers and duties of district school board.—The  
 100 district school board, acting as a board, shall exercise all  
 101 powers and perform all duties listed below:

102 (23) FLORIDA VIRTUAL SCHOOL.—Provide students with access  
 103 to ~~enroll in~~ courses available through the Florida Virtual  
 104 School and award credit for successful completion of such  
 105 courses. Access shall be available to students during and ~~or~~  
 106 after the normal school day and through summer school  
 107 enrollment.

108 Section 3. Section 1001.421, Florida Statutes, is created  
 109 to read:

110 1001.421 Gifts.—Notwithstanding ss. 112.3148 and 112.3149  
 111 or any other provision of law to the contrary, district school  
 112 board members and their relatives, as defined in s. 112.312(21),



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113 may not directly or indirectly solicit or accept any gift, as  
 114 defined in s. 112.312(12), from any person, vendor, potential  
 115 vendor, or other entity doing business with the school district.

116 Section 4. Paragraph (a) of subsection (1) of section  
 117 1002.37, Florida Statutes, is amended to read:

118 1002.37 The Florida Virtual School.—

119 (1)(a) The Florida Virtual School is established for the  
 120 development and delivery of online and distance learning  
 121 education and ~~shall be administratively housed within the~~  
 122 ~~Commissioner of Education's Office of Technology and Information~~  
 123 ~~Services.~~ The Commissioner of Education shall monitor the  
 124 school's performance and report its performance to the State  
 125 Board of Education and the Legislature.

126  
 127 The board of trustees of the Florida Virtual School shall  
 128 identify appropriate performance measures and standards based on  
 129 student achievement that reflect the school's statutory mission  
 130 and priorities, and shall implement an accountability system for  
 131 the school that includes assessment of its effectiveness and  
 132 efficiency in providing quality services that encourage high  
 133 student achievement, seamless articulation, and maximum access.

134 Section 5. Subsection (2) of section 1002.38, Florida  
 135 Statutes, is amended to read:

136 1002.38 Opportunity Scholarship Program.—

137 (2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.—For purposes of  
 138 this section, eligibility requirements relating to a school's  
 139 grade, pursuant to s. 1008.34, shall be determined only by that  
 140 portion of the school grade which is based on statewide

141 assessments administered pursuant to s. 1008.22. A public school  
 142 student's parent may request and receive from the state an  
 143 opportunity scholarship for the student to enroll in and attend  
 144 a private school in accordance with the provisions of this  
 145 section if:

146 (a)1. By assigned school attendance area or by special  
 147 assignment, the student has spent the prior school year in  
 148 attendance at a public school that has been designated pursuant  
 149 to s. 1008.34 as performance grade category "F," failing to make  
 150 adequate progress, and that has had 2 school years in a 4-year  
 151 period of such low performance, and the student's attendance  
 152 occurred during a school year in which such designation was in  
 153 effect;

154 2. The student has been in attendance elsewhere in the  
 155 public school system and has been assigned to such school for  
 156 the next school year; or

157 3. The student is entering kindergarten or first grade and  
 158 has been notified that the student has been assigned to such  
 159 school for the next school year.

160 (b) The parent has obtained acceptance for admission of  
 161 the student to a private school eligible for the program  
 162 pursuant to subsection (4), and has notified the Department of  
 163 Education and the school district of the request for an  
 164 opportunity scholarship no later than July 1 of the first year  
 165 in which the student intends to use the scholarship.

166

167 The provisions of this section shall not apply to a student who  
 168 is enrolled in a school operating for the purpose of providing

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169 educational services to youth in Department of Juvenile Justice  
 170 commitment programs. For purposes of continuity of educational  
 171 choice, the opportunity scholarship shall remain in force until  
 172 the student returns to a public school or, if the student  
 173 chooses to attend a private school the highest grade of which is  
 174 grade 8, until the student matriculates to high school and the  
 175 public high school to which the student is assigned is an  
 176 accredited school with a performance grade category designation  
 177 of "C" or better. However, at any time upon reasonable notice to  
 178 the Department of Education and the school district, the  
 179 student's parent may remove the student from the private school  
 180 and place the student in a public school, as provided in  
 181 subparagraph (3)(a)2.

182 Section 6. Paragraph (b) of subsection (2) of section  
 183 1002.45, Florida Statutes, is amended to read:

184 1002.45 School district virtual instruction programs.—

185 (2) PROVIDER QUALIFICATIONS.—

186 (b) An approved provider shall retain its approved status  
 187 during the 3 school years ~~for a period of 3 years~~ after the date  
 188 of the department's approval under paragraph (a) as long as the  
 189 provider continues to comply with all requirements of this  
 190 section.

191 Section 7. Subsection (1) and paragraph (c) of subsection  
 192 (3) of section 1002.67, Florida Statutes, are amended to read:

193 1002.67 Performance standards; curricula and  
 194 accountability.—

195 (1)(a) By April 1, 2005, the department shall develop and  
 196 adopt performance standards for students in the Voluntary

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197 Prekindergarten Education Program. The performance standards  
 198 must address the age-appropriate progress of students in the  
 199 development of:

200 1.~~(a)~~ The capabilities, capacities, and skills required  
 201 under s. 1(b), Art. IX of the State Constitution; and

202 2.~~(b)~~ Emergent literacy skills, including oral  
 203 communication, knowledge of print and letters, phonemic and  
 204 phonological awareness, and vocabulary and comprehension  
 205 development.

206 (b) The State Board of Education shall periodically review  
 207 and revise the performance standards for the statewide  
 208 kindergarten screening administered under s. 1002.69 and align  
 209 the standards to the standards established by the state board  
 210 for student performance on the statewide assessments  
 211 administered pursuant to s. 1008.22.

212 (3)

213 (c)1. If the kindergarten readiness rate of a private  
 214 prekindergarten provider or public school falls below the  
 215 minimum rate adopted by the State Board of Education as  
 216 satisfactory under s. 1002.69(6), the early learning coalition  
 217 or school district, as applicable, shall require the provider or  
 218 school to submit an improvement plan for approval by the  
 219 coalition or school district, as applicable, and to implement  
 220 the plan.

221 2. If a private prekindergarten provider or public school  
 222 fails to meet the minimum rate adopted by the State Board of  
 223 Education as satisfactory under s. 1002.69(6) ~~for 2 consecutive~~  
 224 ~~years,~~ the early learning coalition or school district, as

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225 applicable, shall place the provider or school on probation and  
 226 must require the provider or school to take certain corrective  
 227 actions, including the use of a curriculum approved by the  
 228 department under paragraph (2) (c).

229 3. A private prekindergarten provider or public school  
 230 that is placed on probation must continue the corrective actions  
 231 required under subparagraph 2., including the use of a  
 232 curriculum approved by the department, until the provider or  
 233 school meets the minimum rate adopted by the State Board of  
 234 Education as satisfactory under s. 1002.69(6).

235 4. If a private prekindergarten provider or public school  
 236 remains on probation for 2 consecutive years and fails to meet  
 237 the minimum rate adopted by the State Board of Education as  
 238 satisfactory under s. 1002.69(6) and is not granted a good cause  
 239 exemption by the department pursuant to s. 1002.69(7), the  
 240 Agency for Workforce Innovation shall require the early learning  
 241 coalition or the Department of Education shall require the  
 242 school district to remove, as applicable, the provider or school  
 243 from eligibility to deliver the Voluntary Prekindergarten  
 244 Education Program and receive state funds for the program.

245 Section 8. Subsection (6) and paragraphs (b) and (c) of  
 246 subsection (7) of section 1002.69, Florida Statutes, are amended  
 247 to read:

248 1002.69 Statewide kindergarten screening; kindergarten  
 249 readiness rates.—

250 (6) ~~(a)~~ The State Board of Education shall periodically  
 251 adopt a minimum kindergarten readiness rate that, if achieved by  
 252 a private prekindergarten provider or public school, would

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253 demonstrate the provider's or school's satisfactory delivery of  
 254 the Voluntary Prekindergarten Education Program.

255 ~~(b) The minimum rate must not exceed the rate at which~~  
 256 ~~more than 15 percent of the kindergarten readiness rates of all~~  
 257 ~~private prekindergarten providers and public schools delivering~~  
 258 ~~the Voluntary Prekindergarten Education Program in the state~~  
 259 ~~would fall below the minimum rate.~~

260 (7)

261 (b) A private prekindergarten provider's or public  
 262 school's request for a good cause exemption, or renewal of such  
 263 an exemption, must be submitted to the state board in the manner  
 264 and within the timeframes prescribed by the state board and must  
 265 include the following:

266 1. Submission of data by the private prekindergarten  
 267 provider or public school which documents ~~on a standardized~~  
 268 ~~assessment~~ the achievement and progress of the children served  
 269 as measured by a standardized pre-assessment and a standardized  
 270 post-assessment approved by the department pursuant to paragraph

271 (c)1.

272 2. Submission and review of data available from the  
 273 respective early learning coalition or district school board,  
 274 the Department of Children and Family Services, local licensing  
 275 authority, or an accrediting association, as applicable,  
 276 relating to the private prekindergarten provider's or public  
 277 school's compliance with state and local health and safety  
 278 standards.

279 3. Submission and review of data available to the  
 280 department on the performance of the children served and the

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281 calculation of the private prekindergarten provider's or public  
 282 school's kindergarten readiness rate.

283 (c) The State Board of Education shall adopt criteria for  
 284 granting good cause exemptions. Such criteria shall include, but  
 285 are not limited to:

286 1. Learning gains of children served in the Voluntary  
 287 Prekindergarten Education Program by the private prekindergarten  
 288 provider or public school. A provider seeking a good cause  
 289 exemption shall have the early learning coalition or a  
 290 department-approved second party administer a department-  
 291 approved standardized assessment to each child in the  
 292 prekindergarten provider's program within the first 30 days of  
 293 each school year for which a good cause exemption is sought, and  
 294 the provider shall administer a department-approved standardized  
 295 followup assessment to measure the student's learning gains for  
 296 the year or summer, as appropriate. All data must be submitted  
 297 to the department within 30 days after the administration of  
 298 each assessment.

299 ~~2. Verification that the private prekindergarten provider~~  
 300 ~~or public school serves at least twice the statewide percentage~~  
 301 ~~of children with disabilities as defined in s. 1003.01(3)(a) or~~  
 302 ~~children identified as limited English proficient as defined in~~  
 303 ~~s. 1003.56.~~

304 ~~2.3.~~ Verification that local and state health and safety  
 305 requirements are met.

306 Section 9. Subsection (1) of section 1003.4156, Florida  
 307 Statutes, is amended to read:

308 1003.4156 General requirements for middle grades

309 promotion.-

310 (1) ~~Beginning with students entering grade 6 in the 2006-~~  
 311 ~~2007 school year,~~ Promotion from a school composed of middle  
 312 grades 6, 7, and 8 requires that:

313 (a) The student must successfully complete academic  
 314 courses as follows:

315 1. Three middle school or higher courses in English. These  
 316 courses shall emphasize literature, composition, and technical  
 317 text.

318 2. Three middle school or higher courses in mathematics.  
 319 Each middle school must offer at least one high school level  
 320 mathematics course for which students may earn high school  
 321 credit. Successful completion of a high school level Algebra I  
 322 or geometry course is not contingent upon the student's  
 323 performance on the end-of-course assessment required under s.  
 324 1008.22(3)(c)2.a.(I). However, beginning with the 2011-2012  
 325 school year, to earn high school credit for an Algebra I course,  
 326 a middle school student must pass the Algebra I end-of-course  
 327 assessment, and beginning with the 2012-2013 school year, to  
 328 earn high school credit for a geometry course, a middle school  
 329 student must pass the geometry end-of-course assessment.

330 3. Three middle school or higher courses in social  
 331 studies, one semester of which must include the study of state  
 332 and federal government and civics education. Beginning with  
 333 students entering grade 6 in the 2012-2013 school year, one of  
 334 these courses must be at least a one-semester civics education  
 335 course that a student successfully completes in accordance with  
 336 s. 1008.22(3)(c) and that includes the roles and



337 responsibilities of federal, state, and local governments; the  
 338 structures and functions of the legislative, executive, and  
 339 judicial branches of government; and the meaning and  
 340 significance of historic documents, such as the Articles of  
 341 Confederation, the Declaration of Independence, and the  
 342 Constitution of the United States.

343 4. Three middle school or higher courses in science.  
 344 Successful completion of a high school level Biology I course is  
 345 not contingent upon the student's performance on the end-of-  
 346 course assessment required under s. 1008.22(3)(c)2.a.(II).  
 347 However, beginning with the 2012-2013 school year, to earn high  
 348 school credit for a Biology I course, a middle school student  
 349 must pass the Biology I end-of-course assessment.

350 5. One course in career and education planning to be  
 351 completed in 7th or 8th grade. The course may be taught by any  
 352 member of the instructional staff; must include career  
 353 exploration using Florida CHOICES or a comparable cost-effective  
 354 program; must include educational planning using the online  
 355 student advising system known as Florida Academic Counseling and  
 356 Tracking for Students at the Internet website FACTS.org; and  
 357 shall result in the completion of a personalized academic and  
 358 career plan. The required personalized academic and career plan  
 359 must inform students of high school graduation requirements,  
 360 high school assessment and college entrance test requirements,  
 361 Florida Bright Futures Scholarship Program requirements, state  
 362 university and Florida college admission requirements, and  
 363 programs through which a high school student can earn college  
 364 credit, including Advanced Placement, International

365 Baccalaureate, Advanced International Certificate of Education,  
 366 dual enrollment, career academy opportunities, and courses that  
 367 lead to national industry certification.

368  
 369 A student with a disability, as defined in s. 1007.02(2), for  
 370 whom the individual education plan team determines that an end-  
 371 of-course assessment cannot accurately measure the student's  
 372 abilities, taking into consideration all allowable  
 373 accommodations, shall have the end-of-course assessment results  
 374 waived for purposes of determining the student's course grade  
 375 and completing the requirements for middle grades promotion.

376 Each school must hold a parent meeting either in the evening or  
 377 on a weekend to inform parents about the course curriculum and  
 378 activities. Each student shall complete an electronic personal  
 379 education plan that must be signed by the student; the student's  
 380 instructor, guidance counselor, or academic advisor; and the  
 381 student's parent. The Department of Education shall develop  
 382 course frameworks and professional development materials for the  
 383 career exploration and education planning course. The course may  
 384 be implemented as a stand-alone course or integrated into  
 385 another course or courses. The Commissioner of Education shall  
 386 collect longitudinal high school course enrollment data by  
 387 student ethnicity in order to analyze course-taking patterns.

388 (b) For each year in which a student scores at Level 1 on  
 389 FCAT Reading, the student must be enrolled in and complete an  
 390 intensive reading course the following year. Placement of Level  
 391 2 readers in either an intensive reading course or a content  
 392 area course in which reading strategies are delivered shall be

393 | determined by diagnosis of reading needs. The department shall  
 394 | provide guidance on appropriate strategies for diagnosing and  
 395 | meeting the varying instructional needs of students reading  
 396 | below grade level. Reading courses shall be designed and offered  
 397 | pursuant to the comprehensive reading plan required by s..  
 398 | 1011.62(9). A middle grades student who scores at Level 1 or  
 399 | Level 2 on FCAT Reading but who did not score below Level 3 in  
 400 | the previous 3 years may be granted a 1-year exemption from the  
 401 | reading remediation requirement; however, the student must have  
 402 | an approved academic improvement plan already in place, signed  
 403 | by the appropriate school staff and the student's parent for the  
 404 | year for which the exemption is granted.

405 | (c) For each year in which a student scores at Level 1 or  
 406 | Level 2 on FCAT Mathematics, the student must receive  
 407 | remediation the following year, which may be integrated into the  
 408 | student's required mathematics course.

409 | Section 10. Section 1003.4203, Florida Statutes, is  
 410 | created to read:

411 | 1003.4203 Digital curriculum.—

412 | (1) Each district school board, in consultation with the  
 413 | district school superintendent, may develop and implement a  
 414 | digital curriculum for students in grades 6 through 12 to enable  
 415 | students to attain competencies in web communications and web  
 416 | design. A digital curriculum may include web-based skills, web-  
 417 | based core technologies, web design, use of digital technologies  
 418 | and markup language to evidence competency in computer skills,  
 419 | and use of web-based core technologies to design creative,  
 420 | informational, and content standards for web-based digital

421 | products that demonstrate proficiency in creating, publishing,  
 422 | testing, monitoring, and maintaining a website.

423 |       (2) The digital curriculum instruction may be integrated  
 424 | into middle school and high school subject area curricula or  
 425 | offered as a separate course, subject to available funding.

426 |       (3) The Department of Education shall develop a model  
 427 | digital curriculum to serve as a guide for district school  
 428 | boards in the development of a digital curriculum.

429 |       (4) A district school board may seek partnerships with  
 430 | private businesses and consultants to offer classes and  
 431 | instruction to teachers and students to assist the school  
 432 | district in providing digital curriculum instruction.

433 |       Section 11. Paragraph (b) of subsection (2) of section  
 434 | 1003.428, Florida Statutes, is amended to read:

435 |       1003.428 General requirements for high school graduation;  
 436 | revised.—

437 |       (2) The 24 credits may be earned through applied,  
 438 | integrated, and combined courses approved by the Department of  
 439 | Education. The 24 credits shall be distributed as follows:

440 |       (b) Eight credits in electives.

441 |       1. For each year in which a student scores at Level 1 on  
 442 | FCAT Reading, the student must be enrolled in and complete an  
 443 | intensive reading course the following year. Placement of Level  
 444 | 2 readers in either an intensive reading course or a content  
 445 | area course in which reading strategies are delivered shall be  
 446 | determined by diagnosis of reading needs. The department shall  
 447 | provide guidance on appropriate strategies for diagnosing and  
 448 | meeting the varying instructional needs of students reading

449 below grade level. Reading courses shall be designed and offered  
 450 pursuant to the comprehensive reading plan required by s.  
 451 1011.62(9). A high school student who scores at Level 1 or Level  
 452 2 on FCAT Reading but who did not score below Level 3 in the  
 453 previous 3 years may be granted a 1-year exemption from the  
 454 reading remediation requirement; however, the student must have  
 455 an approved academic improvement plan already in place, signed  
 456 by the appropriate school staff and the student's parent for the  
 457 year for which the exemption is granted.

458 2. For each year in which a student scores at Level 1 or  
 459 Level 2 on FCAT Mathematics, the student must receive  
 460 remediation the following year. These courses may be taught  
 461 through applied, integrated, or combined courses and are subject  
 462 to approval by the department for inclusion in the Course Code  
 463 Directory.

464 Section 12. Section 1003.493, Florida Statutes, is amended  
 465 to read:

466 1003.493 Career and professional academies.—

467 (1) A "career and professional academy" is a research-  
 468 based program that integrates a rigorous academic curriculum  
 469 with an industry-specific curriculum aligned directly to  
 470 priority workforce needs established by the regional workforce  
 471 board. High school career and professional academies shall, and  
 472 middle school career and professional academies may, be offered  
 473 by public schools and school districts. The Florida Virtual  
 474 School is encouraged to develop and offer rigorous career and  
 475 professional courses as appropriate. Students completing high  
 476 school career and professional academy programs must receive a

477 standard high school diploma, the highest available industry  
 478 certification, and opportunities to earn postsecondary credit if  
 479 the academy partners with a postsecondary institution approved  
 480 to operate in the state. Students completing a middle school  
 481 career and professional academy program must have the  
 482 opportunity to earn an industry certification, earn high school  
 483 credit, and participate in career planning, job shadowing, and  
 484 leadership-development opportunities.

485 (2) The goals of a career and professional academy are to:

486 (a) Increase student academic achievement and graduation  
 487 rates through integrated academic and career curricula.

488 (b) Prepare graduating high school students to make  
 489 appropriate choices relative to employment and future  
 490 educational experiences.

491 (c) Focus on career preparation through rigorous academics  
 492 and industry certification.

493 (d) Raise student aspiration and commitment to academic  
 494 achievement and work ethics through relevant coursework.

495 (e) Support graduation requirements pursuant to s.  
 496 1003.428 by providing creative, applied major areas of interest.

497 (f) Promote acceleration mechanisms, such as dual  
 498 enrollment, articulated credit, or occupational completion  
 499 points, so that students may earn postsecondary credit while in  
 500 high school.

501 (g) Support the state's economy by meeting industry needs  
 502 for skilled employees in high-demand occupations.

503 (3) Existing career education courses may serve as a  
 504 foundation for the creation of a career and professional

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505 academy. A career and professional academy may be offered as one  
 506 of the following small learning communities:

507 (a) A school-within-a-school career academy, as part of an  
 508 existing middle school or high school, that provides courses in  
 509 one occupational cluster. Students in the middle school or high  
 510 school are not required to be students in the academy.

511 (b) A total school configuration providing multiple  
 512 academies, each structured around an occupational cluster. Every  
 513 student in the school is in an academy.

514 (4) Each middle school or high school career and  
 515 professional academy must:

516 ~~(a)~~ provide a rigorous standards-based academic curriculum  
 517 integrated with a career curriculum. The curriculum must take  
 518 into consideration multiple styles of student learning; promote  
 519 learning by doing through application and adaptation; maximize  
 520 relevance of the subject matter; enhance each student's capacity  
 521 to excel; and include an emphasis on work habits and work  
 522 ethics.

523 ~~(5)(b)~~ Each middle school or high school career and  
 524 professional academy must include one or more partnerships with  
 525 postsecondary institutions, businesses, industry, employers,  
 526 economic development organizations, or other appropriate  
 527 partners from the local community. Such partnerships shall be  
 528 delineated in articulation agreements to provide for career-  
 529 based courses that earn postsecondary credit. Such agreements  
 530 may include articulation between the academy and public or  
 531 private 2-year and 4-year postsecondary institutions and  
 532 technical centers. The Department of Education, in consultation

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533 with the Board of Governors, shall establish a mechanism to  
 534 ensure articulation and transfer of credits to postsecondary  
 535 institutions in this state. Such partnerships must provide  
 536 opportunities for:

537 (a)1- Instruction from highly skilled professionals who  
 538 possess industry-certification credentials for courses they are  
 539 teaching.

540 (b)2- Internships, externships, and on-the-job training.

541 (c)3- A postsecondary degree, diploma, or certificate.

542 (d)4- The highest available level of industry  
 543 certification.

544 (e)5- Maximum articulation of credits pursuant to s.  
 545 1007.23 upon program completion.

546 (6)-(e) Each middle school or high school career and  
 547 professional academy must:

548 (a) Provide shared, maximum use of private sector  
 549 facilities and personnel.

550 (b)-(d) Provide personalized student advisement, including  
 551 a parent-participation component, and coordination of high  
 552 schools with middle schools to promote and support career  
 553 exploration and education planning as required under s.  
 554 1003.4156. Coordination of high schools with middle schools must  
 555 provide information to middle school students about secondary  
 556 and postsecondary career education programs and academies.

557 (c)-(e) Promote and provide opportunities for career and  
 558 professional academy students to attain, at minimum, the Florida  
 559 Gold Seal Vocational Scholars award pursuant to s. 1009.536.

560 (d)-(f) Provide instruction in careers designated as high



561 growth, high demand, and high pay by the local workforce  
 562 development board, the chamber of commerce, or the Agency for  
 563 Workforce Innovation.

564 (e)~~(g)~~ Deliver academic content through instruction  
 565 relevant to the career, including intensive reading and  
 566 mathematics intervention required by s. 1003.428, with an  
 567 emphasis on strengthening reading for information skills.

568 (f)~~(h)~~ Offer applied courses that combine academic content  
 569 with technical skills.

570 (g)~~(i)~~ Provide instruction resulting in competency,  
 571 certification, or credentials in workplace skills, including,  
 572 but not limited to, communication skills, interpersonal skills,  
 573 decisionmaking skills, the importance of attendance and  
 574 timeliness in the work environment, and work ethics.

575 (h)~~(j)~~ Provide opportunities for students to obtain the  
 576 Florida Ready to Work Certification pursuant to s. 1004.99.

577 (i)~~(k)~~ Include an evaluation plan developed jointly with  
 578 the Department of Education and the local workforce board. The  
 579 evaluation plan must include an assessment tool based on  
 580 national industry standards, such as the Career Academy National  
 581 Standards of Practice, and outcome measures, including, but not  
 582 limited to, achievement of national industry certifications  
 583 identified in the Industry Certification Funding List, pursuant  
 584 to rules adopted by the State Board of Education, graduation  
 585 rates, enrollment in postsecondary education, business and  
 586 industry satisfaction, employment and earnings, awards of  
 587 postsecondary credit and scholarships, and student achievement  
 588 levels and learning gains on statewide assessments administered

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589 | under s. 1008.22(3)(c). The Department of Education shall use  
 590 | Workforce Florida, Inc., and Enterprise Florida, Inc., in  
 591 | identifying industry experts to participate in developing and  
 592 | implementing such assessments.

593 |        (j)~~(l)~~ Include a plan to sustain career and professional  
 594 | academies.

595 |        (k)~~(m)~~ Redirect appropriated career funding to career and  
 596 | professional academies.

597 |        (7)~~(5)~~ All high school career courses offered in a career  
 598 | and professional academy must lead to industry certification or  
 599 | college credit linked directly to the career theme of the  
 600 | course. At least 50 percent of students enrolled in a career  
 601 | course must achieve industry certifications or college credits  
 602 | during the second year the course is offered in order for the  
 603 | course to be offered a third year. At least 66 percent of  
 604 | students enrolled in such a course must achieve industry  
 605 | certifications or college credits during the third year the  
 606 | course is offered in order for it to be offered a fourth year  
 607 | and thereafter.

608 |        (8) Each middle school career and professional academy's  
 609 | curriculum and coursework must be aligned with that of high  
 610 | school career and professional academies in the school district  
 611 | and include one or more partnerships with high schools,  
 612 | businesses, industry, employers, economic development  
 613 | organizations, or other appropriate partners from the local  
 614 | community. Such partnerships must provide opportunities for:

615 |        (a) Instruction from highly skilled professionals who  
 616 | possess industry-certification credentials for courses they are

- 617 teaching.
- 618 (b) Internships and externships.
- 619 (c) Maximum articulation of high school dual enrollment
- 620 credits upon program completion.
- 621 (d) Personalized student advisement, including a parent-
- 622 participation component, and coordination with high schools to
- 623 promote accelerated course credit.
- 624 (e) Instruction in careers designated as high growth, high
- 625 demand, and high pay by the local workforce development board,
- 626 the chamber of commerce, or the Agency for Workforce Innovation.
- 627 (f) The delivery of academic content through instruction
- 628 that is relevant to a career, including intensive reading and
- 629 mathematics intervention required by ss. 1003.4156 and 1003.428,
- 630 along with an emphasis on strengthening reading for information
- 631 skills.
- 632 (g) Applied courses that combine academic content with
- 633 technical skills.
- 634 (h) Instruction resulting in competency, including, but
- 635 not limited to, communication skills, interpersonal skills,
- 636 decisionmaking skills, the importance of attendance and
- 637 timeliness in the work environment, and work ethics.
- 638 (i) An evaluation plan developed jointly with the
- 639 Department of Education and the local workforce board. The
- 640 department shall consult with Workforce Florida, Inc., and
- 641 Enterprise Florida, Inc., in identifying industry experts to
- 642 participate in developing and implementing evaluation
- 643 assessments.
- 644 ~~(6) The Okaloosa County School District CHOICE Institutes~~

645 ~~shall serve in an advisory role and shall offer technical~~  
 646 ~~assistance in the development of newly established career and~~  
 647 ~~professional academies for a 3-year period beginning July 1,~~  
 648 ~~2007.~~

649 Section 13. Section 1003.575, Florida Statutes, is amended  
 650 to read:

651 1003.575 Assistive technology devices; findings;  
 652 interagency agreements.—Accessibility, utilization, and  
 653 coordination of appropriate assistive technology devices and  
 654 services are essential as a young person with disabilities moves  
 655 from early intervention to preschool, from preschool to school,  
 656 from one school to another, and from school to employment or  
 657 independent living. Within 60 school days after receiving a  
 658 request for an assistive technology assessment for a student  
 659 with a disability as defined in s. 1003.01(3), the individual  
 660 education plan team shall seek consent from the parent and, if  
 661 consent is granted, the school district shall complete the  
 662 assessment. To ensure that an assistive technology device issued  
 663 to a young person as part of his or her individualized family  
 664 support plan, individual support plan, or an individual  
 665 education plan remains with the individual through such  
 666 transitions, the following agencies shall enter into interagency  
 667 agreements, as appropriate, to ensure the transaction of  
 668 assistive technology devices:

669 (1) The Florida Infants and Toddlers Early Intervention  
 670 Program in the Division of Children's Medical Services of the  
 671 Department of Health.

672 (2) The Division of Blind Services, the Bureau of

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673 Exceptional Education and Student Services, and the Division of  
674 Vocational Rehabilitation of the Department of Education.

675 (3) The Voluntary Prekindergarten Education Program  
676 administered by the Department of Education and the Agency for  
677 Workforce Innovation.

678  
679 Interagency agreements entered into pursuant to this section  
680 shall provide a framework for ensuring that young persons with  
681 disabilities and their families, educators, and employers are  
682 informed about the utilization and coordination of assistive  
683 technology devices and services that may assist in meeting  
684 transition needs, and shall establish a mechanism by which a  
685 young person or his or her parent may request that an assistive  
686 technology device remain with the young person as he or she  
687 moves through the continuum from home to school to postschool.

688 Section 14. Effective upon this act becoming a law,  
689 subsection (2) and paragraph (c) of subsection (3) of section  
690 1008.22, Florida Statutes, are amended to read:

691 1008.22 Student assessment program for public schools.—

692 (2) NATIONAL AND INTERNATIONAL EDUCATION COMPARISONS.—It  
693 is Florida's intent to participate in the measurement of  
694 national educational goals. The Commissioner of Education shall  
695 direct Florida school districts to participate in the  
696 administration of the National Assessment of Educational  
697 Progress, or a similar national or international assessment  
698 program, both for the national sample and for any state-by-state  
699 comparison programs which may be initiated. The assessments must  
700 be conducted using the data collection procedures, the student

701 surveys, the educator surveys, and other instruments included in  
 702 the National Assessment of Educational Progress or similar  
 703 national or international assessment program being administered  
 704 in Florida. The results of these assessments shall be included  
 705 in the annual report of the Commissioner of Education specified  
 706 in this section, as applicable. The administration of the  
 707 National Assessment of Educational Progress or similar national  
 708 or international assessment program shall be in addition to and  
 709 separate from the administration of the statewide assessment  
 710 program.

711 (3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall  
 712 design and implement a statewide program of educational  
 713 assessment that provides information for the improvement of the  
 714 operation and management of the public schools, including  
 715 schools operating for the purpose of providing educational  
 716 services to youth in Department of Juvenile Justice programs.  
 717 The commissioner may enter into contracts for the continued  
 718 administration of the assessment, testing, and evaluation  
 719 programs authorized and funded by the Legislature. Contracts may  
 720 be initiated in 1 fiscal year and continue into the next and may  
 721 be paid from the appropriations of either or both fiscal years.  
 722 The commissioner is authorized to negotiate for the sale or  
 723 lease of tests, scoring protocols, test scoring services, and  
 724 related materials developed pursuant to law. Pursuant to the  
 725 statewide assessment program, the commissioner shall:

726 (c) Develop and implement a student achievement testing  
 727 program as follows:

728 1. The Florida Comprehensive Assessment Test (FCAT)

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729 measures a student's content knowledge and skills in reading,  
730 writing, science, and mathematics. The content knowledge and  
731 skills assessed by the FCAT must be aligned to the core  
732 curricular content established in the Next Generation Sunshine  
733 State Standards. Other content areas may be included as directed  
734 by the commissioner. Comprehensive assessments of reading and  
735 mathematics shall be administered annually in grades 3 through  
736 10 except, beginning with the 2010-2011 school year, the  
737 administration of grade 9 FCAT Mathematics shall be  
738 discontinued, and beginning with the 2011-2012 school year, the  
739 administration of grade 10 FCAT Mathematics shall be  
740 discontinued, except as required for students who have not  
741 attained minimum performance expectations for graduation as  
742 provided in paragraph (9)(c). FCAT Writing and FCAT Science  
743 shall be administered at least once at the elementary, middle,  
744 and high school levels except, beginning with the 2011-2012  
745 school year, the administration of FCAT Science at the high  
746 school level shall be discontinued.

747 2.a. End-of-course assessments for a subject shall be  
748 administered in addition to the comprehensive assessments  
749 required under subparagraph 1. End-of-course assessments must be  
750 rigorous, statewide, standardized, and developed or approved by  
751 the department. The content knowledge and skills assessed by  
752 end-of-course assessments must be aligned to the core curricular  
753 content established in the Next Generation Sunshine State  
754 Standards.

755 (I) Statewide, standardized end-of-course assessments in  
756 mathematics shall be administered according to this sub-sub-

757 subparagraph. Beginning with the 2010-2011 school year, all  
 758 students enrolled in Algebra I or an equivalent course must take  
 759 the Algebra I end-of-course assessment. ~~Students who earned high~~  
 760 ~~school credit in Algebra I while in grades 6 through 8 during~~  
 761 ~~the 2007-2008 through 2009-2010 school years and who have not~~  
 762 ~~taken Grade 10 FCAT Mathematics must take the Algebra I end-of-~~  
 763 ~~course assessment during the 2010-2011 school year.~~ For students  
 764 entering grade 9 during the 2010-2011 school year and who are  
 765 enrolled in Algebra I or an equivalent, each student's  
 766 performance on the end-of-course assessment in Algebra I shall  
 767 constitute 30 percent of the student's final course grade.  
 768 Beginning with students entering grade 9 in the 2011-2012 school  
 769 year, a student who is enrolled in Algebra I or an equivalent  
 770 must earn a passing score on the end-of-course assessment in  
 771 Algebra I or attain an equivalent score as described in  
 772 subsection (11) in order to earn course credit. Beginning with  
 773 the 2011-2012 school year, all students enrolled in geometry or  
 774 an equivalent course must take the geometry end-of-course  
 775 assessment. For students entering grade 9 during the 2011-2012  
 776 school year, each student's performance on the end-of-course  
 777 assessment in geometry shall constitute 30 percent of the  
 778 student's final course grade. Beginning with students entering  
 779 grade 9 during the 2012-2013 school year, a student must earn a  
 780 passing score on the end-of-course assessment in geometry or  
 781 attain an equivalent score as described in subsection (11) in  
 782 order to earn course credit.

783 (II) Statewide, standardized end-of-course assessments in  
 784 science shall be administered according to this sub-sub-



785 subparagraph. Beginning with the 2011-2012 school year, all  
 786 students enrolled in Biology I or an equivalent course must take  
 787 the Biology I end-of-course assessment. For the 2011-2012 school  
 788 year, each student's performance on the end-of-course assessment  
 789 in Biology I shall constitute 30 percent of the student's final  
 790 course grade. Beginning with students entering grade 9 during  
 791 the 2012-2013 school year, a student must earn a passing score  
 792 on the end-of-course assessment in Biology I in order to earn  
 793 course credit.

794 b. During the 2012-2013 school year, an end-of-course  
 795 assessment in civics education shall be administered as a field  
 796 test at the middle school level. During the 2013-2014 school  
 797 year, each student's performance on the statewide, standardized  
 798 end-of-course assessment in civics education shall constitute 30  
 799 percent of the student's final course grade. Beginning with the  
 800 2014-2015 school year, a student must earn a passing score on  
 801 the end-of-course assessment in civics education in order to  
 802 pass the course and be promoted from the middle grades ~~receive~~  
 803 ~~course credit.~~ The school principal of a middle school shall  
 804 determine, in accordance with State Board of Education rule,  
 805 whether a student who transfers to the middle school and who has  
 806 successfully completed a civics education course at the  
 807 student's previous school must take an end-of-course assessment  
 808 in civics education.

809 c. The commissioner may select one or more nationally  
 810 developed comprehensive examinations, which may include, but  
 811 need not be limited to, examinations for a College Board  
 812 Advanced Placement course, International Baccalaureate course,

813 or Advanced International Certificate of Education course, or  
814 industry-approved examinations to earn national industry  
815 certifications identified in the Industry Certification Funding  
816 List, pursuant to rules adopted by the State Board of Education,  
817 for use as end-of-course assessments under this paragraph, if  
818 the commissioner determines that the content knowledge and  
819 skills assessed by the examinations meet or exceed the grade  
820 level expectations for the core curricular content established  
821 for the course in the Next Generation Sunshine State Standards.  
822 The commissioner may collaborate with the American Diploma  
823 Project in the adoption or development of rigorous end-of-course  
824 assessments that are aligned to the Next Generation Sunshine  
825 State Standards.

826 d. Contingent upon funding provided in the General  
827 Appropriations Act, including the appropriation of funds  
828 received through federal grants, the Commissioner of Education  
829 shall establish an implementation schedule for the development  
830 and administration of additional statewide, standardized end-of-  
831 course assessments in English/Language Arts II, Algebra II,  
832 chemistry, physics, earth/space science, United States history,  
833 and world history. Priority shall be given to the development of  
834 end-of-course assessments in English/Language Arts II. The  
835 Commissioner of Education shall evaluate the feasibility and  
836 effect of transitioning from the grade 9 and grade 10 FCAT  
837 Reading and high school level FCAT Writing to an end-of-course  
838 assessment in English/Language Arts II. The commissioner shall  
839 report the results of the evaluation to the President of the  
840 Senate and the Speaker of the House of Representatives no later

841 | than July 1, 2011.

842 |         3. The testing program shall measure student content  
 843 | knowledge and skills adopted by the State Board of Education as  
 844 | specified in paragraph (a) and measure and report student  
 845 | performance levels of all students assessed in reading, writing,  
 846 | mathematics, and science. The commissioner shall provide for the  
 847 | tests to be developed or obtained, as appropriate, through  
 848 | contracts and project agreements with private vendors, public  
 849 | vendors, public agencies, postsecondary educational  
 850 | institutions, or school districts. The commissioner shall obtain  
 851 | input with respect to the design and implementation of the  
 852 | testing program from state educators, assistive technology  
 853 | experts, and the public.

854 |         4. The testing program shall be composed of criterion-  
 855 | referenced tests that shall, to the extent determined by the  
 856 | commissioner, include test items that require the student to  
 857 | produce information or perform tasks in such a way that the core  
 858 | content knowledge and skills he or she uses can be measured.

859 |         5. FCAT Reading, Mathematics, and Science and all  
 860 | statewide, standardized end-of-course assessments shall measure  
 861 | the content knowledge and skills a student has attained on the  
 862 | assessment by the use of scaled scores and achievement levels.  
 863 | Achievement levels shall range from 1 through 5, with level 1  
 864 | being the lowest achievement level, level 5 being the highest  
 865 | achievement level, and level 3 indicating satisfactory  
 866 | performance on an assessment. For purposes of FCAT Writing,  
 867 | student achievement shall be scored using a scale of 1 through 6  
 868 | and the score earned shall be used in calculating school grades.

869 A score shall be designated for each subject area tested, below  
 870 which score a student's performance is deemed inadequate. The  
 871 school districts shall provide appropriate remedial instruction  
 872 to students who score below these levels.

873 6. The State Board of Education shall, by rule, designate  
 874 a passing score for each part of the grade 10 assessment test  
 875 and end-of-course assessments. Any rule that has the effect of  
 876 raising the required passing scores may apply only to students  
 877 taking the assessment for the first time after the rule is  
 878 adopted by the State Board of Education. Except as otherwise  
 879 provided in this subparagraph and as provided in s.

880 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a  
 881 passing score on grade 10 FCAT Reading and grade 10 FCAT  
 882 Mathematics or attain concordant scores as described in  
 883 subsection (10) in order to qualify for a standard high school  
 884 diploma.

885 7. In addition to designating a passing score under  
 886 subparagraph 6., the State Board of Education shall also  
 887 designate, by rule, a score for each statewide, standardized  
 888 end-of-course assessment which indicates that a student is high  
 889 achieving and has the potential to meet college-readiness  
 890 standards by the time the student graduates from high school.

891 8. Participation in the testing program is mandatory for  
 892 all students attending public school, including students served  
 893 in Department of Juvenile Justice programs, except as otherwise  
 894 prescribed by the commissioner. A student who has not earned  
 895 passing scores on the grade 10 FCAT as provided in subparagraph  
 896 6. must participate in each retake of the assessment until the

897 student earns passing scores or achieves scores on a  
 898 standardized assessment which are concordant with passing scores  
 899 pursuant to subsection (10). If a student does not participate  
 900 in the statewide assessment, the district must notify the  
 901 student's parent and provide the parent with information  
 902 regarding the implications of such nonparticipation. A parent  
 903 must provide signed consent for a student to receive classroom  
 904 instructional accommodations that would not be available or  
 905 permitted on the statewide assessments and must acknowledge in  
 906 writing that he or she understands the implications of such  
 907 instructional accommodations. The State Board of Education shall  
 908 adopt rules, based upon recommendations of the commissioner, for  
 909 the provision of test accommodations for students in exceptional  
 910 education programs and for students who have limited English  
 911 proficiency. Accommodations that negate the validity of a  
 912 statewide assessment are not allowable in the administration of  
 913 the FCAT or an end-of-course assessment. However, instructional  
 914 accommodations are allowable in the classroom if included in a  
 915 student's individual education plan. Students using  
 916 instructional accommodations in the classroom that are not  
 917 allowable as accommodations on the FCAT or an end-of-course  
 918 assessment may have the FCAT or an end-of-course assessment  
 919 requirement waived pursuant to the requirements of s.  
 920 1003.428(8)(b) or s. 1003.43(11)(b).

921 9. A student seeking an adult high school diploma must  
 922 meet the same testing requirements that a regular high school  
 923 student must meet.

924 10. District school boards must provide instruction to

925 | prepare students in the core curricular content established in  
 926 | the Next Generation Sunshine State Standards adopted under s.  
 927 | 1003.41, including the core content knowledge and skills  
 928 | necessary for successful grade-to-grade progression and high  
 929 | school graduation. If a student is provided with instructional  
 930 | accommodations in the classroom that are not allowable as  
 931 | accommodations in the statewide assessment program, as described  
 932 | in the test manuals, the district must inform the parent in  
 933 | writing and must provide the parent with information regarding  
 934 | the impact on the student's ability to meet expected performance  
 935 | levels in reading, writing, mathematics, and science. The  
 936 | commissioner shall conduct studies as necessary to verify that  
 937 | the required core curricular content is part of the district  
 938 | instructional programs.

939 |         11. District school boards must provide opportunities for  
 940 | students to demonstrate an acceptable performance level on an  
 941 | alternative standardized assessment approved by the State Board  
 942 | of Education following enrollment in summer academies.

943 |         12. The Department of Education must develop, or select,  
 944 | and implement a common battery of assessment tools that will be  
 945 | used in all juvenile justice programs in the state. These tools  
 946 | must accurately measure the core curricular content established  
 947 | in the Next Generation Sunshine State Standards.

948 |         13. For students seeking a special diploma pursuant to s.  
 949 | 1003.438, the Department of Education must develop or select and  
 950 | implement an alternate assessment tool that accurately measures  
 951 | the core curricular content established in the Next Generation  
 952 | Sunshine State Standards for students with disabilities under s.

953 1003.438.

954 14. The Commissioner of Education shall establish  
 955 schedules for the administration of statewide assessments and  
 956 the reporting of student test results. When establishing the  
 957 schedules for the administration of statewide assessments, the  
 958 commissioner shall consider the observance of religious and  
 959 school holidays. The commissioner shall, by August 1 of each  
 960 year, notify each school district in writing and publish on the  
 961 department's Internet website the testing and reporting  
 962 schedules for, at a minimum, the school year following the  
 963 upcoming school year. The testing and reporting schedules shall  
 964 require that:

965 a. There is the latest possible administration of  
 966 statewide assessments and the earliest possible reporting to the  
 967 school districts of student test results which is feasible  
 968 within available technology and specific appropriations;  
 969 however, test results for the FCAT must be made available no  
 970 later than the week of June 8. Student results for end-of-course  
 971 assessments must be provided no later than 1 week after the  
 972 school district completes testing for each course. The  
 973 commissioner may extend the reporting schedule under exigent  
 974 circumstances.

975 b. ~~Beginning with the 2010-2011 school year,~~ FCAT Writing  
 976 may ~~is~~ not be administered earlier than the week of March 1 and  
 977 a comprehensive statewide assessment of any other subject may ~~is~~  
 978 not be administered earlier than the week of April 15.

979 c. A statewide, standardized end-of-course assessment is  
 980 administered during a 3-week period at the end of the course.

981 The commissioner shall select a 3-week administration period for  
 982 assessments that meets the intent of end-of-course assessments  
 983 and provides student results prior to the end of the course.  
 984 School districts shall select 1 testing week within the 3-week  
 985 administration period for each end-of-course assessment. For an  
 986 end-of-course assessment administered at the end of the first  
 987 semester, the commissioner shall determine the most appropriate  
 988 testing dates based on a school district's academic calendar.

989  
 990 The commissioner may, based on collaboration and input from  
 991 school districts, design and implement student testing programs,  
 992 for any grade level and subject area, necessary to effectively  
 993 monitor educational achievement in the state, including the  
 994 measurement of educational achievement of the Next Generation  
 995 Sunshine State Standards for students with disabilities.

996 Development and refinement of assessments shall include  
 997 universal design principles and accessibility standards that  
 998 will prevent any unintended obstacles for students with  
 999 disabilities while ensuring the validity and reliability of the  
 1000 test. These principles should be applicable to all technology  
 1001 platforms and assistive devices available for the assessments.  
 1002 The field testing process and psychometric analyses for the  
 1003 statewide assessment program must include an appropriate  
 1004 percentage of students with disabilities and an evaluation or  
 1005 determination of the effect of test items on such students.

1006 Section 15. Paragraph (b) of subsection (3) and subsection  
 1007 (4) of section 1008.33, Florida Statutes, are amended to read:  
 1008 1008.33 Authority to enforce public school improvement.—



1009 (3)  
 1010 (b) For the purpose of determining whether a public school  
 1011 requires action to achieve a sufficient level of school  
 1012 improvement, beginning with the 2010-2011 school year, the  
 1013 Department of Education shall annually categorize a public  
 1014 school in one of six categories based on the following:

1015 1. The portion of a school's grade based upon statewide  
 1016 assessments administered pursuant to s. 1008.22; and

1017 2. ~~school's grade, pursuant to s. 1008.34, and~~ The level  
 1018 and rate of change in student performance in the areas of  
 1019 reading and mathematics, disaggregated into student subgroups as  
 1020 described in the federal Elementary and Secondary Education Act,  
 1021 20 U.S.C. s. 6311(b) (2) (C) (v) (II).

1022 (4) The Department of Education shall create a matrix that  
 1023 reflects intervention and support strategies to address the  
 1024 particular needs of schools in each category.

1025 (a) Intervention and support strategies shall be applied  
 1026 to schools based upon the school categorization pursuant to  
 1027 paragraph (3) (b). The Department of Education shall apply the  
 1028 most intense intervention strategies to the lowest-performing  
 1029 schools. For all but the lowest category and "F" schools in the  
 1030 second lowest category, the intervention and support strategies  
 1031 shall be administered solely by the districts and the schools.

1032 (b) The lowest-performing schools are schools that are  
 1033 categorized pursuant to paragraph (3) (b) and have received:

- 1034 1. A grade of "F" in the most recent school year and in 4  
 1035 of the last 6 years; or  
 1036 2. A grade of "D" or "F" in the most recent school year

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1037 and meet at least three of the following criteria:

1038 a. The percentage of students who are not proficient in  
1039 reading has increased when compared to measurements taken 5  
1040 years previously;

1041 b. The percentage of students who are not proficient in  
1042 mathematics has increased when compared to measurements taken 5  
1043 years previously;

1044 c. At least 65 percent of the school's students are not  
1045 proficient in reading; or

1046 d. At least 65 percent of the school's students are not  
1047 proficient in mathematics.

1048 Section 16. Subsection (3) of section 1008.34, Florida  
1049 Statutes, is amended to read:

1050 1008.34 School grading system; school report cards;  
1051 district grade.—

1052 (3) DESIGNATION OF SCHOOL GRADES.—

1053 (a) Each school that has students who are tested and  
1054 included in the school grading system shall receive a school  
1055 grade, except as follows:

1056 1. A school shall not receive a school grade if the number  
1057 of its students tested and included in the school grading system  
1058 is less than the minimum sample size necessary, based on  
1059 accepted professional practice, for statistical reliability and  
1060 prevention of the unlawful release of personally identifiable  
1061 student data under s. 1002.22 or 20 U.S.C. s. 1232g.

1062 2. An alternative school may choose to receive a school  
1063 grade under this section or a school improvement rating under s.  
1064 1008.341. For charter schools that meet the definition of an

1065 alternative school pursuant to State Board of Education rule,  
 1066 the decision to receive a school grade is the decision of the  
 1067 charter school governing board.

1068 3. A school that serves any combination of students in  
 1069 kindergarten through grade 3 which does not receive a school  
 1070 grade because its students are not tested and included in the  
 1071 school grading system shall receive the school grade designation  
 1072 of a K-3 feeder pattern school identified by the Department of  
 1073 Education and verified by the school district. A school feeder  
 1074 pattern exists if at least 60 percent of the students in the  
 1075 school serving a combination of students in kindergarten through  
 1076 grade 3 are scheduled to be assigned to the graded school.

1077 (b)1. A school's grade shall be based on a combination of:

1078 a. Student achievement scores, including achievement on  
 1079 all FCAT assessments administered under s. 1008.22(3)(c)1., end-  
 1080 of-course assessments administered under s. 1008.22(3)(c)2.a.,  
 1081 and achievement scores for students seeking a special diploma.

1082 b. Student learning gains in reading and mathematics as  
 1083 measured by FCAT and end-of-course assessments, as described in  
 1084 s. 1008.22(3)(c)1. and 2.a. Learning gains for students seeking  
 1085 a special diploma, as measured by an alternate assessment tool,  
 1086 shall be included not later than the 2009-2010 school year.

1087 c. Improvement of the lowest 25th percentile of students  
 1088 in the school in reading and mathematics on the FCAT or end-of-  
 1089 course assessments described in s. 1008.22(3)(c)2.a., unless  
 1090 these students are exhibiting satisfactory performance.

1091 2. Beginning with the 2011-2012 school year, for schools  
 1092 comprised of middle school grades 6 through 8 or grades 7 and 8,

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1093 the school's grade shall include the performance and  
 1094 participation of its students enrolled in high school level  
 1095 courses with end-of-course assessments administered under s.  
 1096 1008.22(3)(c)2.a. Performance and participation must be weighted  
 1097 equally.

1098 ~~3.2.~~ Beginning with the 2009-2010 school year for schools  
 1099 comprised of high school grades 9, 10, 11, and 12, or grades 10,  
 1100 11, and 12, 50 percent of the school grade shall be based on a  
 1101 combination of the factors listed in sub-subparagraphs 1.a.-c.  
 1102 and the remaining 50 percent on the following factors:

1103 a. The high school graduation rate of the school;  
 1104 b. As valid data becomes available, the performance and  
 1105 participation of the school's students in College Board Advanced  
 1106 Placement courses, International Baccalaureate courses, dual  
 1107 enrollment courses, and Advanced International Certificate of  
 1108 Education courses; and the students' achievement of national  
 1109 industry certification identified in the Industry Certification  
 1110 Funding List, pursuant to rules adopted by the State Board of  
 1111 Education;

1112 c. Postsecondary readiness of the school's students as  
 1113 measured by the SAT, ACT, or the common placement test;

1114 d. The high school graduation rate of at-risk students who  
 1115 scored at Level 2 or lower on the grade 8 FCAT Reading and  
 1116 Mathematics examinations;

1117 e. As valid data becomes available, the performance of the  
 1118 school's students on statewide standardized end-of-course  
 1119 assessments administered under s. 1008.22(3)(c)2.b. and c.; and

1120 f. The growth or decline in the components listed in sub-

1121 subparagraphs a.-e. from year to year.

1122 (c) Student assessment data used in determining school  
 1123 grades shall include:

1124 1. The aggregate scores of all eligible students enrolled  
 1125 in the school who have been assessed on the FCAT and statewide,  
 1126 standardized end-of-course assessments in courses required for  
 1127 high school graduation, including, beginning with the 2010-2011  
 1128 school year, the end-of-course assessment in Algebra I; and  
 1129 beginning with the 2011-2012 school year, the end-of-course  
 1130 assessments in geometry and Biology; and beginning with the  
 1131 2013-2014 school year, on the statewide, standardized end-of-  
 1132 course assessment in civics education at the middle school  
 1133 level.

1134 2. The aggregate scores of all eligible students enrolled  
 1135 in the school who have been assessed on the FCAT and end-of-  
 1136 course assessments as described in s. 1008.22(3)(c)2.a., and who  
 1137 have scored at or in the lowest 25th percentile of students in  
 1138 the school in reading and mathematics, unless these students are  
 1139 exhibiting satisfactory performance.

1140 3. The achievement scores and learning gains of eligible  
 1141 students attending alternative schools that provide dropout  
 1142 prevention and academic intervention services pursuant to s.  
 1143 1003.53. The term "eligible students" in this subparagraph does  
 1144 not include students attending an alternative school who are  
 1145 subject to district school board policies for expulsion for  
 1146 repeated or serious offenses, who are in dropout retrieval  
 1147 programs serving students who have officially been designated as  
 1148 dropouts, or who are in programs operated or contracted by the

1149 Department of Juvenile Justice. The student performance data for  
 1150 eligible students identified in this subparagraph shall be  
 1151 included in the calculation of the home school's grade. As used  
 1152 in this subparagraph ~~section~~ and s. 1008.341, the term "home  
 1153 school" means the school to which the student would be assigned  
 1154 if the student were not assigned to an alternative school. If an  
 1155 alternative school chooses to be graded under this section,  
 1156 student performance data for eligible students identified in  
 1157 this subparagraph shall not be included in the home school's  
 1158 grade but shall be included only in the calculation of the  
 1159 alternative school's grade. A school district that fails to  
 1160 assign the FCAT and end-of-course assessment as described in s.  
 1161 1008.22(3)(c)2.a. scores of each of its students to his or her  
 1162 home school or to the alternative school that receives a grade  
 1163 shall forfeit Florida School Recognition Program funds for 1  
 1164 fiscal year. School districts must require collaboration between  
 1165 the home school and the alternative school in order to promote  
 1166 student success. This collaboration must include an annual  
 1167 discussion between the principal of the alternative school and  
 1168 the principal of each student's home school concerning the most  
 1169 appropriate school assignment of the student.

1170 4. The achievement scores and learning gains of students  
 1171 designated as hospital or homebound. Student assessment data for  
 1172 students designated as hospital or homebound shall be assigned  
 1173 to their home school for the purposes of school grades. As used  
 1174 in this subparagraph, the term "home school" means the school to  
 1175 which a student would be assigned if the student were not  
 1176 assigned to a hospital or homebound program.

1177           ~~5.4.~~ For schools comprised of high school grades 9, 10,  
 1178 11, and 12, or grades 10, 11, and 12, the data listed in  
 1179 subparagraphs 1.-3. and the following data as the Department of  
 1180 Education determines such data are valid and available:  
 1181           a. The high school graduation rate of the school as  
 1182 calculated by the Department of Education;  
 1183           b. The participation rate of all eligible students  
 1184 enrolled in the school and enrolled in College Board Advanced  
 1185 Placement courses; International Baccalaureate courses; dual  
 1186 enrollment courses; Advanced International Certificate of  
 1187 Education courses; and courses or sequence of courses leading to  
 1188 national industry certification identified in the Industry  
 1189 Certification Funding List, pursuant to rules adopted by the  
 1190 State Board of Education;  
 1191           c. The aggregate scores of all eligible students enrolled  
 1192 in the school in College Board Advanced Placement courses,  
 1193 International Baccalaureate courses, and Advanced International  
 1194 Certificate of Education courses;  
 1195           d. Earning of college credit by all eligible students  
 1196 enrolled in the school in dual enrollment programs under s.  
 1197 1007.271;  
 1198           e. Earning of a national industry certification identified  
 1199 in the Industry Certification Funding List, pursuant to rules  
 1200 adopted by the State Board of Education;  
 1201           f. The aggregate scores of all eligible students enrolled  
 1202 in the school in reading, mathematics, and other subjects as  
 1203 measured by the SAT, the ACT, and the common placement test for  
 1204 postsecondary readiness;

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1205 g. The high school graduation rate of all eligible at-risk  
 1206 students enrolled in the school who scored at Level 2 or lower  
 1207 on the grade 8 FCAT Reading and Mathematics examinations;

1208 h. The performance of the school's students on statewide  
 1209 standardized end-of-course assessments administered under s.  
 1210 1008.22(3)(c)2.b. and c.; and

1211 i. The growth or decline in the data components listed in  
 1212 sub-subparagraphs a.-h. from year to year.

1213

1214 The State Board of Education shall adopt appropriate criteria  
 1215 for each school grade. The criteria must also give added weight  
 1216 to student achievement in reading. Schools designated with a  
 1217 grade of "C," making satisfactory progress, shall be required to  
 1218 demonstrate that adequate progress has been made by students in  
 1219 the school who are in the lowest 25th percentile in reading and  
 1220 mathematics on the FCAT and end-of-course assessments as  
 1221 described in s. 1008.22(3)(c)2.a., unless these students are  
 1222 exhibiting satisfactory performance. Beginning with the 2009-  
 1223 2010 school year for schools comprised of high school grades 9,  
 1224 10, 11, and 12, or grades 10, 11, and 12, the criteria for  
 1225 school grades must also give added weight to the graduation rate  
 1226 of all eligible at-risk students, as defined in this paragraph.  
 1227 Beginning in the 2009-2010 school year, in order for a high  
 1228 school to be designated as having a grade of "A," making  
 1229 excellent progress, the school must demonstrate that at-risk  
 1230 students, as defined in this paragraph, in the school are making  
 1231 adequate progress.

1232 (d) Notwithstanding the requirements in paragraphs (b) and



1233 | (c), beginning with the 2011-2012 school year, a school that  
 1234 | does not meet the minimum percentage of students proficient in  
 1235 | reading, established by rule of the State Board of Education,  
 1236 | shall receive a school grade of "F" unless granted an exception  
 1237 | by the department based upon significant gains in reading  
 1238 | proficiency from the prior year, as defined by rule. The state  
 1239 | board shall adopt rules to establish the minimum percentage and  
 1240 | define the exception.

1241 | Section 17. Paragraph (a) of subsection (3) of section  
 1242 | 1011.01, Florida Statutes, is amended to read:

1243 | 1011.01 Budget system established.—

1244 | (3)(a) Each district school board and each community  
 1245 | college board of trustees shall prepare, adopt, and submit to  
 1246 | the Commissioner of Education ~~for review~~ an annual operating  
 1247 | budget. Operating budgets shall be prepared and submitted in  
 1248 | accordance with the provisions of law, rules of the State Board  
 1249 | of Education, the General Appropriations Act, and for district  
 1250 | school boards in accordance with the provisions of ss. 200.065  
 1251 | and 1011.64.

1252 | Section 18. Subsection (4) of section 1011.03, Florida  
 1253 | Statutes, is amended to read:

1254 | 1011.03 Public hearings; budget to be submitted to  
 1255 | Department of Education.—

1256 | (4) The board shall hold public hearings to adopt  
 1257 | tentative and final budgets pursuant to s. 200.065. The hearings  
 1258 | shall be primarily for the purpose of hearing requests and  
 1259 | complaints from the public regarding the budgets and the  
 1260 | proposed tax levies and for explaining the budget and proposed

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1261 or adopted amendments thereto, if any. The district school board  
 1262 shall then require the superintendent to transmit forthwith two  
 1263 copies of the adopted budget to the Department of Education ~~for~~  
 1264 ~~approval~~ as prescribed by law and rules of the State Board of  
 1265 Education.

1266 Section 19. Section 1011.035, Florida Statutes, is created  
 1267 to read:

1268 1011.035 School district budget transparency.-

1269 (1) It is important for school districts to provide  
 1270 budgetary transparency to enable taxpayers, parents, and  
 1271 education advocates to obtain school district budget and related  
 1272 information in a manner that is simply explained and easily  
 1273 understandable. Budgetary transparency leads to more responsible  
 1274 spending, more citizen involvement, and improved accountability.  
 1275 A budget that is not transparent, accessible, and accurate  
 1276 cannot be properly analyzed, its implementation thoroughly  
 1277 monitored, or its outcomes evaluated.

1278 (2) Each district school board shall post on its website a  
 1279 plain language version of each proposed, tentative, and official  
 1280 budget which describes each budget item in terms that are easily  
 1281 understandable to the public. This information must be  
 1282 prominently posted on the school district's website in a manner  
 1283 that is readily accessible to the public.

1284 (3) Each district school board is encouraged to post the  
 1285 following information on its website:

1286 (a) Timely information as to when a budget hearing will be  
 1287 conducted.

1288 (b) Each contract between the district school board and

1289 the teachers' union.

1290 (c) Each contract between the district school board and  
 1291 noninstructional staff.

1292 (d) Each contract exceeding \$35,000 between the school  
 1293 board and a vendor of services, supplies, or programs or for the  
 1294 purchase or lease of lands, facilities, or properties.

1295 (e) Each contract exceeding \$35,000 that is an emergency  
 1296 procurement or is with a single source as authorized under s.  
 1297 287.057(3).

1298 (f) Recommendations of the citizens' budget advisory  
 1299 committee.

1300 (g) Current and archived video recordings of each district  
 1301 school board meeting and workshop.

1302 (4) The website should contain links to:

1303 (a) Help explain or provide background information on  
 1304 various budget items that are required by state or federal law.

1305 (b) Allow users to navigate to related sites to view  
 1306 supporting details.

1307 (c) Enable taxpayers, parents, and education advocates to  
 1308 send e-mails asking questions about the budget and enable others  
 1309 to view the questions and responses.

1310 Section 20. Paragraph (c) of subsection (1) of section  
 1311 1012.39, Florida Statutes, is amended to read:

1312 1012.39 Employment of substitute teachers, teachers of  
 1313 adult education, nondegreed teachers of career education, and  
 1314 career specialists; students performing clinical field  
 1315 experience.—

1316 (1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and

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1317 1012.57, or any other provision of law or rule to the contrary,  
 1318 each district school board shall establish the minimal  
 1319 qualifications for:

1320 (c) Part-time and full-time nondegreed teachers of career  
 1321 programs. Qualifications shall be established for nondegreed  
 1322 teachers of career and technical education courses for program  
 1323 clusters that are recognized in the state and are ~~agriculture,~~  
 1324 ~~business, health occupations, family and consumer sciences,~~  
 1325 ~~industrial, marketing, career specialist, and public service~~  
 1326 ~~education teachers,~~ based primarily on successful occupational  
 1327 experience rather than academic training. The qualifications for  
 1328 such teachers shall require:

1329 1. The filing of a complete set of fingerprints in the  
 1330 same manner as required by s. 1012.32. Faculty employed solely  
 1331 to conduct postsecondary instruction may be exempted from this  
 1332 requirement.

1333 2. Documentation of education and successful occupational  
 1334 experience including documentation of:

1335 a. A high school diploma or the equivalent.

1336 b. Completion of 6 years of full-time successful  
 1337 occupational experience or the equivalent of part-time  
 1338 experience in the teaching specialization area. Alternate means  
 1339 of determining successful occupational experience may be  
 1340 established by the district school board.

1341 c. Completion of career education training conducted  
 1342 through the local school district inservice master plan.

1343 d. For full-time teachers, completion of professional  
 1344 education training in teaching methods, course construction,

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1345 lesson planning and evaluation, and teaching special needs  
1346 students. This training may be completed through coursework from  
1347 an accredited or approved institution or an approved district  
1348 teacher education program.

1349 e. Demonstration of successful teaching performance.

1350 f. Documentation of industry certification when state or  
1351 national industry certifications are available and applicable.

1352 Section 21. Except as otherwise expressly provided in this  
1353 act and except for this section, which shall take effect upon  
1354 this act becoming a law, this act shall take effect July 1,  
1355 2011.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1255 Education Accountability  
**SPONSOR(S):** K-20 Competitiveness Subcommittee, Adkins  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	14 Y, 0 N, As CS	Valenstein	Ahearn
2) Education Committee		Valenstein <i>JB</i>	Klebacha <i>Y/C</i>

**SUMMARY ANALYSIS**

This bill amends various provisions of the Florida School Code related to public school accountability. More specifically the bill:

- Amends the good cause exemption for voluntary prekindergarten program providers.
- Expands access to virtual education by requiring school districts to provide access both during and after school, rather than one or the other.
- Authorizes the Commissioner of Education to require school districts to participate in the administration of international assessments.
- Provides the Commissioner of Education limited flexibility to extend the schedule for reporting student results on statewide assessments.
- Eliminates the requirement that certain students take the Algebra I end-of-course assessment.
- Establishes a limited exemption from the intensive reading course requirement for certain students.
- Amends the formula for calculating school grades to include end-of-course assessments taken by middle school students and the achievement score and learning gains of students in a hospital homebound program.
- Establishes, by State Board of Education rule, a minimum percentage of students that must be proficient in reading in order not to receive a school grade of "F," with exception.
- Amends how school grades are determined for purposes of differentiated accountability and eligibility for the Opportunity Scholarship Program.
- Establishes a waiver from the results of end-of-course assessments for certain students.
- Authorizes a middle school principal to determine if a transfer student who has already successfully completed a civics education course needs to take the civics end-of-course assessment.
- Authorizes school districts to provide digital curriculum for students in grades 6 through 12.
- Authorizes the establishment of middle school Career and Professional Academies.
- Requires industry certification, when available, for certain career and technical education teachers.
- Requires individualized education plan teams to arrange to complete an assistive technology assessment within 60 days.
- Eliminates the requirement that the Commissioner of Education review the budgets for school districts and Florida College System institutions.
- Eliminates the requirement for Department of Education approval of the budgets for district school boards.
- Establishes budget transparency by requiring school districts to post each proposed, tentative, and official budget on their websites and encouraging school districts to provide additional information on their websites.
- Establishes a gift ban for school board members.

This bill does not have a fiscal impact.

This bill provides an effective date of July 1, 2011, except as otherwise expressly provided.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

This bill amends various provisions of the Florida School Code related to public school accountability, described below in further detail.

#### Voluntary Prekindergarten Education Program

##### **Current Law**

In 2002, the Florida voters amended the State Constitution to require the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year. In 2004, the Legislature established the Voluntary Prekindergarten Education (VPK) Program. The VPK program is a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.<sup>1</sup> A child must be a Florida resident and attain four years of age on or before September 1 of the academic year to be eligible for the VPK program. Parents may choose either a school year or summer program offered by either a private or public school provider. The child remains eligible for the VPK program until he or she is eligible for kindergarten in a public school or is admitted to kindergarten, whichever occurs first.<sup>2</sup> A child may not attend the summer VPK program earlier than the summer immediately before the academic year in which the child becomes eligible for kindergarten.<sup>3</sup>

Within the first 30 days of an academic year, school districts must screen each kindergarten student to determine his or her readiness for kindergarten. From the results of this screening, the kindergarten readiness rate is calculated for each VPK provider. The kindergarten readiness rate is the percentage of students that participated in the provider's VPK program that are deemed ready for kindergarten. Currently, the readiness rate may not be set higher than a rate below which 15 percent of the VPK providers would fall.<sup>4</sup>

If a provider falls below the minimum readiness rate the provider must submit and implement an improvement plan. If the provider then falls below the minimum readiness rate for two consecutive years, the provider is placed on probation and is required to take certain corrective actions, including using curriculum approved by the Department of Education (DOE).<sup>5</sup> If a provider remains on probation for two consecutive years without receiving a good cause exemption, the provider loses eligibility to deliver the VPK program and may no longer receive state funds for the program.<sup>6</sup>

A good cause exemption may be granted for a provider that meets certain criteria established by the State Board of Education (SBE). A provider may receive an exemption if it can show learning gains of children served in the VPK program, if the provider has served at least twice the statewide percentage of children with disabilities or children identified as limited English proficient, and if the provider shows that local and state health and safety requirements are met. A provider must still implement its improvement plan and continue necessary corrective actions after receiving a good cause exemption.<sup>7</sup>

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<sup>1</sup> Section 1, ch. 2004-484, L.O.F., part V, ch. 1002, F.S., s. 1(b) and (c), Art. IX of the State Constitution.

<sup>2</sup> Section 1002.53, F.S.

<sup>3</sup> Section 1002.61(2)(c), F.S.

<sup>4</sup> Section 1002.69(6)(b), F.S.

<sup>5</sup> Section 1002.67(3)(c), F.S.

<sup>6</sup> Section 1002.69(7), F.S.

<sup>7</sup> Section 1002.69(7)(b), F.S.

## Effect of Bill

The bill requires the SBE to periodically review and revise the performance standards for statewide kindergarten screening. The SBE must align these standards to the standards for the expectations of student performance on statewide assessments.

The bill requires a VPK provider to be placed on probation if it fails to meet the minimum kindergarten readiness rate established by the State Board of Education. Previously, a provider had to fail to meet the standards for two consecutive years. This will require providers to begin corrective actions sooner and will thus improve the quality of VPK providers.

The bill eliminates the restrictions placed on increasing the kindergarten readiness rates and the requirement that no more than 15 percent of the VPK providers can fall below the minimum readiness rate. The readiness rates may now be increased regardless of how many public and private VPK providers will fail to meet them.

The bill amends the criteria the SBE may use to grant good cause exemptions for public and private VPK providers by eliminating the exemption for providers serving at least twice the statewide percentage of children with disabilities or children identified as limited English proficient. However, the bill establishes a good cause exemption to a provider if the provider submits data, in accordance with the criteria established by the SBE, which documents the achievement and progress of the children served, as measured by a standardized pre and post assessment approved by the DOE. The pre assessment must be administered by either the Early Learning Coalition or a second party approved by the DOE. The assessment must be approved by the DOE and administered within the first 30 days of each school year for which a good cause exemption is sought. The provider must also administer a post assessment to measure learning gains for the year or the summer, as appropriate. Providers must submit this data to the DOE within 30 days of the administration of each assessment. This change shifts the emphasis for a good cause exemption from simply what types of students a provider has (inputs) to how much student learning has occurred (outputs).

## Virtual Education

### Current Law

The Florida Virtual School (FLVS) is a public online school providing students with virtual education options, offering over 100 courses in core subjects, world languages, electives, honors, and Advanced Placement.<sup>8</sup> The FLVS offers individual course enrollments to all Florida students in grades 6 through 12, including public school, private school, and home education students.<sup>9</sup> School districts are required to provide students with access to enroll in courses available through the FLVS during or after the normal school day and through summer school enrollment.

The FLVS is currently required to be administratively housed within the Office of Technology and Information Services (OTIS) within the DOE. The OTIS is responsible for developing a systemwide technology plan and assisting school districts in securing Internet access and telecommunications services, among other things.<sup>10</sup> A board of trustees appointed by the governor governs the FLVS. The performance of FLVS is monitored by the Commissioner of Education and reported to the State Board of Education (SBE) and the Legislature.<sup>11</sup>

Virtual education is also provided through school district virtual instruction programs. These programs of instruction provide an interactive learning environment created through technology in which students

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<sup>8</sup> See s. 1002.37, F.S.; see also Florida Department of Education, Florida Public Virtual Schools, *FLVS FAQ*, <http://www.fldoe.org/Schools/virtual-schools/faqs.asp> (last visited March 17, 2011).

<sup>9</sup> *Id.*

<sup>10</sup> Sections 1001.02 and 1002.37, F.S.

<sup>11</sup> Section 1002.37(1) and (2), F.S.



are separated from their teachers by time or space, or both.<sup>12</sup> Each school district is required to provide a full-time virtual instruction program for students in kindergarten through grade 12 and a full-time or part-time virtual instruction program for students in grades 9 through 12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.<sup>13</sup>

In order to provide the required virtual instruction program a school district may contract with the FLVS or establish a franchise of the FLVS; contract with a provider approved by the DOE; contract with a Florida College System institution; or enter into an agreement with another school district to allow its students to participate in a virtual instruction program provided by the other school district.

A provider approved by the DOE is required to be nonsectarian, comply with antidiscrimination provisions, require all instructional staff to be Florida-certified teachers, conduct background screenings for all employees or contracted personnel, have prior successful experience offering online courses to K-12 students, and be accredited by a specified accrediting agency. Once a provider is approved, it retains its approved status for a period of three years after the date of the DOE's approval as long as the provider continues to comply with program requirements.<sup>14</sup>

### **Effect of Bill**

The bill eliminates the requirement that the FLVS be administratively housed in the OTIS within the DOE.

The bill also changes the requirement that a school district provide students access to enroll in FLVS courses during or after the school day by requiring school districts to provide students access to FLVS courses during and after the normal school day. This change increases a student's access to the FLVS.

The bill amends the length of time a virtual instruction provider maintains its approved provider status. Virtual instruction providers approved by DOE are currently approved for a period of 3 years from the date of approval. The bill changes that to "3 school years" after the date of approval. Since providers are currently approved in February, changing the length of approved provider status to correlate with the school year will prevent the loss of approved provider status in the middle of a school year.

### **Assessments**

#### **Current Law**

The Commissioner of Education is required to direct Florida school districts to participate in the administration of the National Assessment of Educational Progress (NAEP), or a similar national assessment program.<sup>15</sup>

The commissioner is also required to design and implement a statewide program of educational assessment. As part of this responsibility, the commissioner is required to establish schedules for the administration of the assessments and the reporting of student test results. The commissioner is required to consider religious and school holidays when establishing the schedules. Currently, the schedule for reporting student test results on the FCAT is no later than the week of June 8 and for end-of-course assessment results no later than a week after the school district completes testing for each course.

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<sup>12</sup> Section 1002.45(1)(a), F.S.

<sup>13</sup> Section 1002.45(1)(b)2., F.S.

<sup>14</sup> Section 1002.45(2), F.S.

<sup>15</sup> Section 1008.22(2), F.S.

## Effect of Bill

The bill authorizes the commissioner to direct school districts to participate in the administration of an international assessment in addition to the administration of the NAEP. This will authorize the commissioner to direct school districts to participate in assessments like the Program for International Student Assessment and the Trends in International Mathematics and Science Study assessment.

The bill provides the commissioner limited flexibility with the reporting schedule of student test results by authorizing the commissioner to extend the reporting schedule under exigent circumstances.

## Algebra I End of Course Assessment Exemption

### Current Law

Beginning in the 2011-12 school year, entering ninth grade students must take and pass the statewide end-course-assessment (EOC) for Algebra I, to earn course credit.<sup>16</sup> Although students have been required to take and pass Algebra I to earn high school credit, students were not previously required to take and pass an EOC associated with the course.<sup>17</sup>

Beginning in the 2010-11 school year, there will no longer be a ninth grade Mathematics FCAT and beginning in the 2011-12 school year, there will no longer be a tenth grade Mathematics FCAT.<sup>18</sup> Federal law requires that all public school students be tested in reading and mathematics at least once at the elementary, middle, and high school level.<sup>19</sup> To comply with the federal law, a high school student who earned high school credit for Algebra I while in middle school in the 2007-08 through 2009-10 school years and who would not be able to take the tenth grade Mathematics FCAT because of its discontinuance are required to take the Algebra I EOC.<sup>20</sup> This provision was enacted to satisfy the federal testing requirements. The DOE estimates that approximately 39,600 students completed Algebra I in the middle grades, and will not take the 10th grade Mathematics FCAT; therefore they would be required to take the Algebra I EOC in May 2010.<sup>21</sup>

Although students who take high school level courses in the middle grades will, most likely, enroll in sequentially more rigorous courses, some school districts raised concerns that the lapse in time between taking the course in middle school and sitting for the EOC assessment in high school would be unfair. In addition, these students will have already earned their course credit in Algebra I and do not need to pass the EOC assessment to earn course credit or graduate from high school. Accordingly, there were concerns that these students had no reason to perform well, yet their test results would be included in the school's grade. As a result, the Department of Education submitted a request to the U.S. Department of Education for a waiver from the federal law for the specific cohort of students who are affected. The waiver was granted on January 19, 2011.<sup>22</sup>

### Effect of Bill

This bill eliminates the requirement that all students who took Algebra I in middle school during the 2007-08 through 2009-10 school years take the EOC assessment in the 2010-11 school year. These students are no longer required to take the EOC assessment because the DOE obtained a waiver from the U.S. Department of Education. Without removing this requirement, approximately 39,600 students will unnecessarily be required to take the Algebra I EOC assessment in May.

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<sup>16</sup> s. 1008.22(3)(c) 2.a.(I), F.S.

<sup>17</sup> s. 1008.22(3)(c)2.a.(I), F.S.

<sup>18</sup> s. 1008.22(3)(c)1., F.S.

<sup>19</sup> See s. 1111(b)(3)(C)(v)(I)(cc) of the Elementary and Secondary Education Act (ESEA), *available at*,

<http://www2.ed.gov/policy/elsec/leg/esea02/pg2.html>.

<sup>20</sup> s. 1008.22(3)(c)2.a.(I), F.S.

<sup>21</sup> Email, Florida Department of Education, on file with the committee (March 7, 2011).

<sup>22</sup> Letter to Commissioner of Education Eric Smith from the Assistant Secretary of the U.S. Department of Education, on file with the committee (Jan. 19, 2011).

This provision will take effect upon becoming law.

## **Intensive Reading Course Exemption**

### **Current Law**

Students in grades 6 through 12 who score a Level 1 on FCAT Reading must be enrolled in and complete an intensive reading course the following year. The reading needs of a student that scores a Level II on FCAT Reading must be assessed to determine whether the student needs to be placed in an intensive reading course or a content area course in which reading strategies are delivered.

### **Effect of Bill**

The bill provides an exemption for a student who scores a Level 1 or 2 on FCAT Reading from the intensive reading requirement, so long as the student has not scored below Level 3 on FCAT Reading in the previous three years. The bill requires the student to have an approved academic improvement plan already in place and signed by the school and a parent or guardian for the year the exemption is granted. This change allows a student to avoid taking an intensive reading course when one test result is out of the ordinary.

## **School Grades**

### **Current Law**

School grades for public schools in Florida are determined each year based upon a point system. The school's points are based upon student achievement and annual learning gains.<sup>23</sup> Middle school grades are currently based upon student scores on the FCAT in Reading, Mathematics, Science, and Writing. Beginning in the 2013-14 school year, middle school grades will also include the aggregate scores of all eligible students enrolled in the school who have been assessed on the civics education end-of-course (EOC) examination.

Beginning in the 2009-10 school year, the calculation for high school grades incorporated other factors in addition to student achievement and annual learning gains. These factors include a high school's graduation rate; a high school's graduation rate of certain at-risk students; and student performance and participation in Advanced Placement, International Baccalaureate, dual enrollment, and Advanced International Certificate of Education courses.<sup>24</sup>

The school grading formula does not include, for the "home school"<sup>25</sup> student achievement and annual learning gains for its students attending a hospital homebound program. The assessment data is assigned to the hospital homebound program, not the home school to which the student is assigned.

The grade a school receives is used to determine categories of differentiated accountability and eligibility for the Opportunity Scholarship Program (OSP). Differentiated accountability is a system of categorizing schools based upon student achievement and determining appropriate interventions. Each category is based upon the school's grade, progress towards adequate yearly progress under the federal No Child Left Behind requirements, and changes in student performance. School grades are also used to determine if a child is eligible for an Opportunity Scholarship. The OSP provides parents whose children are assigned to a school that has received an "F" twice in a four-year period the opportunity to send their children to a higher performing school.

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<sup>23</sup> Section 1008.34, F.S.; rule 6A-1.09981, F.A.C.

<sup>24</sup> Section 1008.34

<sup>25</sup> Home school refers to the school where the student is zoned.

## **Effect of Bill**

The bill requires the school grade for schools comprised of middle school grades 6 through 8 or grades 7 and 8, to include the performance and participation of its students enrolled in high school level courses with end-of-course assessments. The performance and participation of students in these courses must be weighted equally in the calculation of school grades.

The bill also requires the achievement score and learning gains of a student designated as hospital or homebound to be assigned to that student's home school. A home school is defined as the school the student would be assigned if the student were not assigned to a hospital or homebound program.

The bill requires a school to receive a school grade of "F," unless it meets a minimum percentage of students proficient in reading. In addition, the bill allows the DOE to grant an exception if the school made significant gains in reading proficiency from the prior year. The SBE must establish the minimum percentage required to receive an exception.

The bill changes how school grades are determined for purposes of differentiated accountability. The bill requires high school grades to be based solely upon the portion of school's grade derived from statewide assessments, including the FCAT and end-of-course assessments, and the level and rate of change in student performance in the areas of reading and mathematics. The formula for calculating high school grades changed in the 2009-10 school year to incorporate other factors, including high school graduation rates and student participation and performance in certain accelerated courses. Because of the additional factors included in the high school grading formula, the DOE will not be able to categorize schools until after the following school year begins. Accordingly, by changing the law to focus on statewide assessment results, which are provided before the end of the school year, a school may be more quickly categorized. This allows the DOE, school districts, and schools to more timely provide the necessary type and intensity of intervention for schools in need of improvement.

The bill changes how school grades are determined for purposes of the OSP. The bill requires high school grades to be based solely upon student achievement and annual learning gains to determine eligibility for the OSP. Because incorporating the additional factors into the high school grading formula takes more time, a parent must wait until as late as November to determine if their child is eligible to participate in the OSP. Changing how the school grades are calculated for the OSP will allow parents to decide if they want their child to participate in the OSP before the school year begins.

## **Middle Grades Promotion**

### **Current Law**

In order for students to be promoted to high school, the student must successfully complete three middle school or higher courses in English, mathematics, science, and social studies, including one semester of state and federal government and civics education, and one course in career and education planning to be completed in grades 7 or 8.<sup>26</sup> Beginning in the 2012-13 school year, the required civics course must include an end-of-course assessment. By the 2014-15 school year, all students must pass the civics EOC assessment to pass the course and receive course credit.<sup>27</sup>

### **Effect of Bill**

The bill authorizes the individual education plan (IEP) team to waive the EOC assessment results for students with disabilities.<sup>28</sup> The IEP team must determine that the EOC assessment cannot accurately

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<sup>26</sup> Section 1003.4156, F.S.

<sup>27</sup> Section 1008.22(3)(c), F.S.

<sup>28</sup> To be eligible for this waiver, a student must be documented as having an intellectual disability, a hearing impairment, including deafness, a speech or language impairment, a visual impairment, including blindness, an emotional or behavioral disability, an orthopedic or other health impairment, an autism spectrum disorder, a traumatic brain injury, or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia, s. 1007.02(2), F.S.

measure the student's abilities even after considering all allowable accommodations. This exemption will allow middle grade students with disabilities the opportunity to pass a course and receive course credit without passing the EOC assessment; however, the student is still required to take the assessment. The waiver only exempts the student from passing the EOC assessment, not taking the EOC assessment.

The bill also authorizes middle school principals to determine whether a student that transfers to the middle school and has already completed a civics education course prior to transfer must take the civics education EOC assessment. The middle school principal must make this determination in accordance with SBE rules. Allowing a principal to make this determination will allow civics education course credit to transfer with a student.

## **Digital Curriculum**

### **Current Law**

School boards are not currently required or specifically authorized to provide digital curriculum; however, school boards are not prohibited from providing this type of instruction. In fact, many schools currently offer courses in computer programming, web design, and in other information technology areas. Computer and other digital curriculum are included under the Fine Arts subject area of the Sunshine State Standards and the Next Generation Sunshine State Standards. These standards establish the core content of the curricula to be taught and specify the core content knowledge and skills that K-12 public school students are expected to acquire.<sup>29</sup>

### **Effect of Bill**

The bill authorizes district school boards to develop and implement a digital curriculum for students in grades 6 through 12. The curriculum will enable students to attain competencies in web communications and web design and may include web-based skills, web-based core technologies, web design, use of digital technologies and markup language to evidence competency in computer skills. The curriculum should use web-based core technologies to design creative, informational, and content standards for web-based digital products that demonstrate proficiency in creating, publishing, testing, monitoring, and maintaining a website. The digital curriculum may be integrated into another subject area or may be offered as a separate course, subject to available funding.

The DOE is required to develop a model digital curriculum to provide school boards a guide in the development of a digital curriculum. To provide school boards additional guidance on providing digital curriculum instruction, school boards are authorized to seek partnerships with private businesses and consultants to offer classes and instruction to both teachers and students.

## **Career and Professional Academies**

### **Current Law**

A career and professional academy (academy) is a public high school career and technical education program that leads to a high school diploma, industry certification, and opportunities for students to simultaneously earn postsecondary credit. Each school board is required to operate at least one academy, which may be established as a school within an existing high school or as a total school configuration offering multiple academies. School boards are required to develop a five year strategic plan in partnership with local workforce boards, employers, and state-approved postsecondary institutions to better align academy programs with local workforce needs.<sup>30</sup>

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<sup>29</sup> See Florida Department of Education, *Sunshine State Standards*, <http://www.fldoe.org/bii/curriculum/sss> (last visited March 20, 2011).

<sup>30</sup> Sections 1003.491(1) and 1003.493(1) and (2), F.S.

Courses offered in an academy must lead to industry certification or postsecondary credit linked directly to the career theme of the course. At least 50 percent of students enrolled in an academy course must achieve industry certifications or college credits during the second year the course is offered in order for the course to be offered a third year and at least 66 percent in the third year for the course to be offered a fourth year.<sup>31</sup>

### **Effect of Bill**

The bill authorizes, but does not require, the establishment of middle school career and professional academies (middle school academies). A middle school academy must provide students the opportunity to earn an industry certification, earn high school credit, and participate in career planning, job shadowing, and leadership-development opportunities. The curriculum for middle school academies must be aligned with high school career and professional academies (high school academies).

Middle school academies must include one or more partnerships with high schools, businesses, industry, employers, economic development organizations, or other appropriate partners from the local community. These partnerships must provide the opportunity for: instruction from highly-skilled professionals; internships and externships; maximum articulation of course credits; personalized student advisement; instruction in careers designated as high growth, high demand, and high pay; academic content that is delivered through instruction relevant to a career; courses that combine academic content with technical skills; instruction resulting in competency; and an evaluation plan.

The bill also deletes obsolete language regarding the Okaloosa County School District CHOICE Institutes. This provision expired July 1, 2010.

### **Career and Technical Education Teachers**

#### **Current Law**

Qualifications for certain nondegreed teachers of career programs must be based primarily upon successful occupational experience rather than academic training. The qualifications for these teachers include filing a complete set of fingerprints and documentation of education and successful occupational experience. These qualifications apply to agriculture, business, health occupations, family and consumer sciences, industrial, marketing, career specialist, and public service education teachers.

#### **Effect of Bill**

The bill creates a new qualification for nondegreed teachers of career and technical education courses. In addition to the current qualifications, the bill requires documentation of industry certification, when state or national industry certifications are available and applicable. This qualification is for teachers teaching courses for program clusters that are recognized by the state. The bill eliminates the specific references to individual industry areas. Program clusters are not defined in law.

### **Assistive Technology Devices**

#### **Current Law**

Currently, certain agencies are required to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan, or an IEP. The required agencies include the Florida Infants and Toddlers Early Intervention Program in the Division of Children's Medical Services of the Department of Health, the Division of Blind Services and the Division of Vocational Rehabilitation of the Department of Education, and the Voluntary Prekindergarten Education Program administered by the

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<sup>31</sup> Section 1003.493(5), F.S.

Department of Education and the Agency for Workforce Innovation.<sup>32</sup> The interagency agreements provide the framework for ensuring that students with disabilities, their families, educators, and post-graduation support agencies coordinate services. These agreements also ensure that all agencies are informed about the needed assistive technology, the content of the transition plan, and the post-school support required to meet the student's transition goals.<sup>33</sup>

Assistive technology devices are defined as manual and motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, Braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to in effect speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability.<sup>34</sup>

### **Effect of Bill**

Within 60 school days after receiving a request for an assistive technology assessment for a student with a disability, the IEP team must seek consent from the parent and the district must complete the assessment. The assistive technology assessment is performed to determine what type of assistive technology is needed to maintain or improve the functional capabilities of the student with disabilities and consequently provide greater benefit from the educational program.

### **Budget**

#### **Current Law**

Currently, district school boards and Florida College System boards of trustees are required to prepare, adopt, and submit to the Commissioner of Education for review an annual operating budget.<sup>35</sup> The DOE is also required to approve budgets adopted by district school boards.<sup>36</sup>

#### **Effect of Bill**

The bill removes the requirement that the commissioner review the annual operating budgets for district school boards and Florida College System institutions and also removes the requirement that the DOE approve the budgets of district school boards. Some school districts have attempted to hold the commissioner and the DOE accountable when problems existed with their budgets because the budgets had, in theory, been reviewed and approved. By removing the requirement to review and approve, the school districts will be fully accountable for their budgets.

### **Budget Transparency**

#### **Current Law**

District school boards are currently required to post a summary of their tentative budget online and advertise it in a newspaper of general circulation in the district.<sup>37</sup>

#### **Effect of Bill**

The bill requires district school boards to post on their websites their plain language version of each proposed, tentative, and official budget. The document posted on their websites must describe each

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<sup>32</sup> Section 1003.575, F.S.

<sup>33</sup> Florida Department of Education, Technical Assistance Paper, The Transfer of Assistive Technology to Home, Other Districts, Other Schools, and Other Agencies (Dec. 2005), available at <http://www.fldoe.org/ese/pdf/y2006-6.pdf>.

<sup>34</sup> Section 427.802, F.S.

<sup>35</sup> Section 1011.01(3)(a), F.S.

<sup>36</sup> Section 1011.03(4), F.S.

<sup>37</sup> Section 1011.03, F.S.

budget item in terms that are easily understandable to the public. This information must be prominently posted on the website in a manner that is readily accessible to the public.

The bill encourages district school boards to post timely information as to when a budget hearing will be conducted; each contract between the district school board and the teacher's union; each contract between the district school board and noninstructional staff; each contract exceeding \$35,000 between the school board and a vendor of service, supplies, or programs, or a contract for the purchase or lease of lands, facilities, or properties; each contract over \$35,000 that was an emergency procurement or a contract with a single source; recommendations of the citizens' budget advisory committee; and current and archived video recordings of each district school board meeting and workshop.<sup>38</sup>

The website should also contain links to help explain or provide background information on various budget items that are required by state or federal law; to allow users to navigate to related sites to view supporting detail; and to enable taxpayers, parents, and education advocates to send e-mails asking questions about the budget and enable others to see the questions and responses.

## Gift Ban

### **Current Law**

Public officers, employees of agencies, local government attorneys, and candidates for nomination or election are not allowed to accept anything of value, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney or candidate would be influenced by the gift.<sup>39</sup> School board members, as elected officials, are included in the definition of public officers.<sup>40</sup> In addition, school board members, school superintendents, and any business organization in which a school board member or school superintendent has any financial interest are prohibited from contracting with a school district for materials, supplies, and services needed.<sup>41</sup> School board members<sup>42</sup> must also report any gifts that exceed \$100 in value, for which compensation was not "provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less."<sup>43</sup>

### **Effect of Bill**

The bill expands the current prohibition to include any gift to a school board member, regardless of whether the gift was accepted to influence a school board member's vote. The bill also expands the gift ban to apply to the relatives of school board members.<sup>44</sup> A gift is defined to include real property, personal property, preferential rate or terms on debt, forgiveness of indebtedness, transportation, food or beverage, membership dues, entrance fees, plants, flowers, or floral arrangements.

The bill prohibits school board members and their relatives from soliciting or accepting, directly or indirectly, any gift from any person, vendor, potential vendor, or other entity doing business with the

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<sup>38</sup> These items are included to address some of the issues raised by the grand jury regarding the wasteful utilization of resources and contracts made by the Broward County School Board. *Final Report of the 19<sup>th</sup> Statewide Grand Jury in the Supreme Court of the State of Florida*, Case No: SC09-1910, at 3 and 24.

<sup>39</sup> Section 112.313, F.S.

<sup>40</sup> Section 112.313(1), F.S.

<sup>41</sup> Section 1001.42(12)(i), F.S.

<sup>42</sup> School board members are "reporting individuals" for purposes of filing full or limited public disclosure of their financial interests, s. 112.3148(2)(e), F.S.

<sup>43</sup> Section 112.3148(8)(a), F.S.

<sup>44</sup> Relative is defined to include: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the school board member, or any other natural person having the same legal residence as the school board member, s. 112.312(12), F.S.



school district. This change imposes stricter ethics requirements on school board members and their relatives.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1001.20, F.S., to delete a provision that requires the Florida Virtual School to be administratively housed within the Office of Technology and Information Services within the Department of Education.

**Section 2.** Amends s. 1001.42, F.S., to revise the powers and duties of district school boards to require that students be provided with access to Florida Virtual School courses.

**Section 3.** Amends s. 1001.421, F.S., to prohibit district school board members from accepting gifts from vendors.

**Section 4.** Amends s. 1002.37, F.S., to conform provisions to changes made by the act.

**Section 5.** Amends s. 1002.38, F.S., to revise provisions relating to the Opportunity Scholarship Program to provide that school grades for all schools be based on statewide assessments.

**Section 6.** Amends s. 1002.45, F.S., to revise language regarding duration of approved status.

**Section 7.** Amends s. 1002.67, F.S., to require that the State Board of Education periodically review and revise the performance standards for the statewide kindergarten screening and align to student performance standards for statewide assessments.

**Section 8.** Amends s. 1002.69, F.S., to eliminate the limitation on setting kindergarten readiness rates and to revise the good cause exemption requirements.

**Section 9.** Amends s. 1003.4156, F.S., to revise the general requirements for middle grades promotion; provide that a student with a disability may have his or her end-of-course assessment results waived under certain circumstances; and provide that a middle grades student is exempt from the reading remediation requirements under certain circumstances.

**Section 10.** Creates s. 1003.4203, F.S., to authorize each district school board to develop and implement a digital curriculum for students in grades 6 through 12; specify certain components of a digital curriculum; require the Department of Education to develop a model to serve as a guide for school districts; and authorize partnerships with private businesses and consultants.

**Section 11.** Amends s. 1003.428, F.S., to revise the general requirements for high school graduation and provide that a high school student is exempt from the reading remediation requirements under certain circumstances.

**Section 12.** Amends s. 1003.493, F.S., to revise provisions relating to career and professional academies to include middle schools; require that students who are completing a middle school career and professional academy program have an opportunity to earn an industry certification high school credit, and participate in career planning, job shadowing, and leadership development opportunities; require that middle school career and professional academies align with high school career and professional academies; and provide for partnerships with high schools, businesses, industry, employers, economic development organizations, and other local community partners.

**Section 13.** Amends s. 1003.575, F.S., to revise provisions relating to assistive technology devices for young persons with disabilities to require that any school having an individualized education plan team arrange to complete an assistive technology assessment within a specified number of days after receiving a request for such assessment.

**Section 14.** Amends s. 1008.22, F.S., to revise provisions relating to the student assessment program for public schools; require that the Commissioner of Education direct school districts to participate in the administration of the national Assessment of Educational Progress or similar national or international assessment program; authorize the school principal to exempt certain students from the end-of-course assessment in civics education.

**Section 15.** Amends s. 1008.33, F.S., to revise provisions relating to public school improvement; requiring that the Department of education categorize public schools based on the portion of a school's grade that relies on statewide assessments; revise the categorization of the lowest-performing schools.

**Section 16.** Amends s. 1008.34, F.S., to revise provisions relating to the designation of school grades to conform to changes made by the act, provide for assigning achievement scores and learning gains for students who are hospital or homebound, requiring that a school that does not meet minimal proficiency standards established by the State Board of Education receive a school grade of "F."

**Section 17.** Amends s. 1011.01, F.S., to revise provisions relating to the annual operating budgets of district school boards and community college boards of trustees.

**Section 18.** Amends s. 1011.03, F.S., to revise provisions relating to tentative and final district school board budgets, require that an adopted budget be transmitted to the Department of Education.

**Section 19.** Creates s. 1011.035, F.S., to require each school district to post certain budgetary information on its website.

**Section 20.** Amends s. 1012.39, F.S., to revise provisions relating to the employment of nondegreed teachers of career education, require that qualifications be established for nondegreed teachers of career and technical education courses for state-recognized program clusters.

**Section 21.** Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules:

- Establishing additional criteria for a voluntary prekindergarten provider seeking a good cause exemption.
- Establishing criteria for a principal to determine when a transfer student may be waived from the civics education end-of-course assessment.
- Establishing the minimum percentage of students proficient in reading and the criteria necessary to receive an exception from the minimum percentage for purposes of school grades.

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

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 23, 2011, the K-20 Competitiveness Subcommittee adopted one amendment and the bill was reported favorably as a Committee Substitute. The amendment removed the language "as available" after the requirement that middle school and high school career and professional academies provide opportunities for students to obtain the Florida Ready to Work Certification.



HB 4153

2011

1                           A bill to be entitled  
2           An act relating to the Florida Business and Education  
3           Collaborative; repealing s. 1000.07, F.S., which  
4           establishes and provides responsibilities of the Florida  
5           Business and Education Collaborative; providing an  
6           effective date.

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

9  
10       Section 1. Section 1000.07, Florida Statutes, is repealed.  
11       Section 2. This act shall take effect July 1, 2011.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 4153 Florida Business and Education Collaborative

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

**TIER BILL:** ~~YES~~ **IDENTICAL BILL:** ~~NO~~

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

In 2007, the Business and Education Collaborative was established to serve as a state-level advisory group to the Governor, the Legislature, the State Board of Education, the Board of Governors, and other interested parties.<sup>1</sup> Members of the collaborative were to be appointed by the Governor and represent state business leaders, legislative members, leaders of state and non-public postsecondary institutions, and national education and economic development policy leaders.<sup>2</sup> The law does not provide for a specific number of members.<sup>3</sup>

The responsibilities of the collaborative were to: assess the degree of alignment between postsecondary program offerings and state economic development goals; provide recommendations concerning the measurement of performance outcomes; provide recommendations concerning funding approaches; and submit an annual report of findings and recommendations to the Governor, the Legislature, the State Board of Education and the Board of Governors.<sup>4</sup>

The Governor never made any member appointments to the collaborative; therefore, the collaborative never met and no annual report was ever produced.

However, an additional advisory board was established in 2010 with a similar purpose and member composition. The Higher Education Coordinating Council is an operational body and has already met several times. The council includes representatives from all higher education sectors as well as from the business community. The business community representatives were appointed by the Speaker of the House of Representatives and the President of the Senate and currently serve as co-chairs.<sup>5</sup>

The bill repeals s. 1000.07, establishing the Florida Business and Education Collaborative.

The Board of Governors and the Department of Education do not have any issues with the repeal of this section of law.<sup>6</sup>

#### B. SECTION DIRECTORY:

**Section 1.** Repeals s. 1000.07, F.S.

**Section 2.** Provides an effective date of July 1, 2011.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:

None.

2. Expenditures:

None.

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<sup>1</sup> Section 3, ch. 2007-246, L.O.F.; *see also* s. 1000.07, F.S.

<sup>2</sup> Section 1000.07(2)(a), F.S.

<sup>3</sup> Section 1000.07, F.S.

<sup>4</sup> Section 1000.07(2)(c) and (d), F.S.

<sup>5</sup> Section 13, ch. 2010-78, L.O.F.; *see also* s. 1004.015, F.S.

<sup>6</sup> Email, Board of Governors Staff (March 13, 2011); telephone conference with Department of Education Staff (March 14, 2011).

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.





1 A bill to be entitled  
 2 An act relating to the College-Level Academic Skills Test;  
 3 amending s. 1007.25, F.S.; deleting provisions relating to  
 4 the College-Level Academic Skills Test (CLAST) and  
 5 authorized examinations that demonstrate mastery of  
 6 certain academic competencies; amending ss. 467.009,  
 7 1004.04, 1008.30, 1008.38, and 1012.56, F.S.; deleting  
 8 provisions relating to the CLAST; providing an effective  
 9 date.

10

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

12

13 Section 1. Subsection (12) of section 1007.25, Florida  
 14 Statutes, is amended to read:

15 1007.25 General education courses; common prerequisites;  
 16 and other degree requirements.—

17 ~~(12)(a) A public postsecondary educational institution may~~  
 18 ~~not confer an associate in arts or baccalaureate degree upon any~~  
 19 ~~student who fails to successfully complete one of the following~~  
 20 ~~requirements:~~

21 ~~1. Achieve a score that meets or exceeds a minimum score~~  
 22 ~~on a nationally standardized examination, as established by the~~  
 23 ~~State Board of Education in conjunction with the Board of~~  
 24 ~~Governors; or~~

25 ~~2. Demonstrate successful remediation of any academic~~  
 26 ~~deficiencies and achieve a cumulative grade point average of 2.5~~  
 27 ~~or above, on a 4.0 scale, in postsecondary-level coursework~~  
 28 ~~identified by the State Board of Education in conjunction with~~

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29 | ~~the Board of Governors. The Department of Education shall~~  
 30 | ~~specify the means by which a student may demonstrate successful~~  
 31 | ~~remediation.~~

32 |       ~~(b) Any student who, in the best professional opinion of~~  
 33 | ~~the postsecondary educational institution, has a specific~~  
 34 | ~~learning disability such that the student cannot demonstrate~~  
 35 | ~~successful mastery of one or more of the authorized examinations~~  
 36 | ~~but is achieving at the college level in every area despite his~~  
 37 | ~~or her disability, and whose diagnosis indicates that further~~  
 38 | ~~remediation will not succeed in overcoming the disability, may~~  
 39 | ~~appeal through the appropriate dean to a committee appointed by~~  
 40 | ~~the president or the chief academic officer for special~~  
 41 | ~~consideration. The committee shall examine the evidence of the~~  
 42 | ~~student's academic and medical records and may hear testimony~~  
 43 | ~~relevant to the case. The committee may grant a waiver for one~~  
 44 | ~~or more of the authorized examinations based on the results of~~  
 45 | ~~its review.~~

46 |       ~~(c) Each public postsecondary educational institution~~  
 47 | ~~president shall establish a committee to consider requests for~~  
 48 | ~~waivers from the requirements in paragraph (a). The committee~~  
 49 | ~~shall be chaired by the chief academic officer of the~~  
 50 | ~~institution and shall have four additional members appointed by~~  
 51 | ~~the president as follows:~~

- 52 |           ~~1. One faculty member from the mathematics department;~~  
 53 |           ~~2. One faculty member from the English department;~~  
 54 |           ~~3. The institutional test administrator; and~~  
 55 |           ~~4. One faculty member from a department other than English~~  
 56 | ~~or mathematics.~~

57 ~~(d) Any student who has taken the authorized examinations~~  
 58 ~~and has not achieved a passing score, but has otherwise~~  
 59 ~~demonstrated proficiency in coursework in the same subject area,~~  
 60 ~~may request a waiver from the examination requirement. Waivers~~  
 61 ~~shall be considered only after students have been provided test~~  
 62 ~~accommodations or other administrative adjustments to permit the~~  
 63 ~~accurate measurement of the student's proficiency in the subject~~  
 64 ~~areas measured by the authorized examinations. The committee~~  
 65 ~~shall consider the student's educational records and other~~  
 66 ~~evidence as to whether the student should be able to pass the~~  
 67 ~~authorized examinations. A waiver may be recommended to the~~  
 68 ~~president upon a majority vote of the committee. The president~~  
 69 ~~may approve or disapprove the recommendation. The president may~~  
 70 ~~not approve a request that the committee has disapproved. If a~~  
 71 ~~waiver is approved, the student's transcript shall include a~~  
 72 ~~statement that the student did not meet the requirements of this~~  
 73 ~~subsection and that a waiver was granted.~~

74 Section 2. Subsection (3) of section 467.009, Florida  
 75 Statutes, is amended to read:

76 467.009 Midwifery programs; education and training  
 77 requirements.—

78 (3) To be accepted into an approved midwifery program an  
 79 applicant shall have:

80 (a) A high school diploma or its equivalent.

81 (b) ~~Passed the college level academic scholastic test~~  
 82 ~~(CLAST) or~~ Taken three college-level credits each of math and  
 83 English or demonstrated competencies in communication and  
 84 computation.

85 Section 3. Paragraph (b) of subsection (4) of section  
86 1004.04, Florida Statutes, is amended to read:

87 1004.04 Public accountability and state approval for  
88 teacher preparation programs:—

89 (4) INITIAL STATE PROGRAM APPROVAL.—

90 (b) Each teacher preparation program approved by the  
91 Department of Education, as provided for by this section, shall  
92 require students to meet the following as prerequisites for  
93 admission into the program:

94 1. Have a grade point average of at least 2.5 on a 4.0  
95 scale for the general education component of undergraduate  
96 studies or have completed the requirements for a baccalaureate  
97 degree with a minimum grade point average of 2.5 on a 4.0 scale  
98 from any college or university accredited by a regional  
99 accrediting association as defined by State Board of Education  
100 rule or any college or university otherwise approved pursuant to  
101 State Board of Education rule.

102 2. Demonstrate mastery of general knowledge, including the  
103 ability to read, write, and compute, by passing the General  
104 Knowledge Test of the Florida Teacher Certification Examination,  
105 ~~the College Level Academic Skills Test,~~ a corresponding  
106 component of the National Teachers Examination series, or a  
107 similar test pursuant to rules of the State Board of Education.

108  
109 Each teacher preparation program may waive these admissions  
110 requirements for up to 10 percent of the students admitted.  
111 Programs shall implement strategies to ensure that students  
112 admitted under a waiver receive assistance to demonstrate

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113 competencies to successfully meet requirements for  
 114 certification.

115 Section 4. Subsection (2) of section 1008.30, Florida  
 116 Statutes, is amended to read:

117 1008.30 Common placement testing for public postsecondary  
 118 education.—

119 (2) The common placement testing program shall include at  
 120 a minimum the following: the capacity to diagnose basic  
 121 competencies in the areas of English, reading, and mathematics  
 122 which are essential to perform college-level work; prerequisite  
 123 skills that relate to progressively advanced instruction in  
 124 mathematics, such as algebra and geometry; prerequisite skills  
 125 that relate to progressively advanced instruction in language  
 126 arts, such as English composition and literature; ~~prerequisite~~  
 127 ~~skills which relate to the College Level Academic Skills Test~~  
 128 ~~(CLAST);~~ and provision of test information to students on the  
 129 specific deficiencies.

130 Section 5. Subsection (6) of section 1008.38, Florida  
 131 Statutes, is amended to read:

132 1008.38 Articulation accountability process.—The State  
 133 Board of Education, in conjunction with the Board of Governors,  
 134 shall develop articulation accountability measures which assess  
 135 the status of systemwide articulation processes authorized under  
 136 s. 1007.23 and establish an articulation accountability process  
 137 which at a minimum shall address:

138 ~~(6) The relationship between the College Level Academic~~  
 139 ~~Skills Test Program and articulation to the upper division in~~  
 140 ~~public postsecondary institutions.~~

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141 Section 6. Subsection (3) of section 1012.56, Florida  
 142 Statutes, is amended to read:

143 1012.56 Educator certification requirements.—

144 (3) MASTERY OF GENERAL KNOWLEDGE.—Acceptable means of  
 145 demonstrating mastery of general knowledge are:

146 (a) Achievement of passing scores on basic skills  
 147 examination required by state board rule;

148 ~~(b) Achievement of passing scores on the College Level  
 149 Academic Skills Test earned prior to July 1, 2002;~~

150 (b)(e) A valid professional standard teaching certificate  
 151 issued by another state;

152 (c)(d) A valid certificate issued by the National Board  
 153 for Professional Teaching Standards or a national educator  
 154 credentialing board approved by the State Board of Education; or

155 (d)(e) Documentation of two semesters of successful  
 156 teaching in a community college, state university, or private  
 157 college or university that awards an associate or higher degree  
 158 and is an accredited institution or an institution of higher  
 159 education identified by the Department of Education as having a  
 160 quality program.

161 Section 7. This act shall take effect July 1, 2011.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 4155 College-Level Academic Skills Test  
**SPONSOR(S):** Stargel and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1278

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	13 Y, 0 N	Valenstein	Ahearn
2) Education Committee		Valenstein <i>JBV</i>	Klebacha <i>JK</i>

**SUMMARY ANALYSIS**

The bill repeals the criteria a student in a public postsecondary educational institution must meet in order to obtain an associate in arts or a baccalaureate degree and the waivers associated with those requirements. A student will no longer be required, by law, to achieve a minimum score on a nationally standardized examination or demonstrate successful remediation and achieve a certain grade point average. However, an institution may continue to require similar criteria to ensure a student has met the necessary learning outcomes in accordance with its accreditation process.

In 1986, the Florida Legislature passed a law requiring students to demonstrate mastery of the academic competencies prerequisite to upper-division undergraduate instruction. Students were required to pass the college-level communication and computation skills (CLAST) examination to obtain an associate in arts or a baccalaureate degree.

In 1995, the Legislature created exemptions from the CLAST examination. A student could demonstrate mastery of the required academic competencies by: achieving a certain score on a nationally standardized examination; achieving a certain score on the college placement test and obtaining a cumulative grade point average of 3.0 or above, on a 4.0 scale, in college-preparatory high school course work; or demonstrating successful remediation of any academic deficiencies and obtaining a cumulative grade point average of 2.5, on a 4.0 scale, in postsecondary-level coursework. The exemption allowing a student to demonstrate mastery of the required academic competencies through a certain score on the college placement test and grade point average in college-preparatory high school courses was eliminated in 1997.

In 2009, due to budgetary concerns, the Legislature repealed the CLAST examination. However, the Legislature maintained the requirements that a student obtain a certain score, to be determined by the State Board of Education, on a nationally standardized examination, or demonstrate successful remediation of any academic deficiencies and achieve a cumulative grade point average of 2.5 or above, on a 4.0 scale, in certain postsecondary-level coursework to obtain an associate in arts or baccalaureate degree. The Legislature, in addition, authorized a waiver from these provisions under certain circumstances.

The bill does not have a fiscal impact.

The bill provides an effective date of July 1, 2011.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

In 1986, the Florida Legislature passed a law providing that the college-level communication and computation skills (CLAST) examination serve as a mechanism for students to demonstrate mastery of the academic competencies prerequisite to upper-division undergraduate instruction. State college and university students were required to pass the CLAST examination to obtain an associate in arts or a baccalaureate degree.<sup>1</sup>

In 1990, the Legislature established a fee to be assessed for the administration of the CLAST examination for students attending a private postsecondary education institution. Students receiving financial aid were not assessed a fee.<sup>2</sup> In 1997, that policy changed and all students were assessed a fee, regardless of the student's receipt of financial aid.<sup>3</sup>

In 1995, the law was amended to exempt students from the CLAST requirement if a student could demonstrate mastery of the required academic competencies by achieving a certain score on a nationally standardized examination, by achieving a certain score on the college placement test and obtaining a cumulative grade point average of 3.0 or above, on a 4.0 scale, in college-preparatory high school course work or by demonstrating successful remediation of any academic deficiencies and obtaining a cumulative grade point average of 2.5, on a 4.0 scale, in postsecondary-level coursework.<sup>4</sup> The exemption allowing a student to demonstrate mastery of the required academic competencies through a certain score on the college placement test and grade point average in college-preparatory high school courses was eliminated in 1997.<sup>5</sup>

In 2009, due to budgetary concerns, the Legislature eliminated the CLAST examination.<sup>6</sup> However, the Legislature maintained the requirements that a student obtain a certain score, to be determined by the State Board of Education, on a nationally standardized examination, or demonstrate successful remediation of any academic deficiencies and achieve a cumulative grade point average of 2.5 or above, on a 4.0 scale, in certain postsecondary-level coursework to obtain an associate in arts or baccalaureate degree. The Legislature, in addition, authorized a waiver of these requirements, under certain circumstances.<sup>7</sup>

The bill repeals the criteria a student in a public postsecondary educational institution must meet to obtain an associate in arts or a baccalaureate degree and the waivers associated with these requirements. A student will no longer be required, by statute, to achieve a minimum score on a nationally standardized examination or demonstrate successful remediation and achieve a certain grade point average. However, an institution may continue to require similar criteria to ensure a student has met the necessary learning outcomes in accordance with its accreditation process.

The bill also repeals the waiver provisions and removes obsolete references to the CLAST examination.

The Board of Governors does not have any issues with the repeal of this section of law.<sup>8</sup> The Department of Education has suggested a similar repeal in other legislation.<sup>9</sup>

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<sup>1</sup> Section 21, ch. 86-145, L.O.F.

<sup>2</sup> Section 11, ch. 90-99, L.O.F.

<sup>3</sup> Section 6, ch. 97-169, L.O.F.

<sup>4</sup> Section 5, ch. 95-411, L.O.F.

<sup>5</sup> Section 8, ch. 97-246, L.O.F.

<sup>6</sup> Section 21, ch. 2009-59, L.O.F.

<sup>7</sup> Section 1007.25(12), F.S.; *see also* s. 20, 2009-59, L.O.F.

<sup>8</sup> Email, Board of Governors Staff (March 13, 2011).

<sup>9</sup> *See* HB 881 and SB 1194, Regular Session 2011.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1007.25, F.S., deleting requirements relating to earning an associate in arts or a baccalaureate degree.

**Section 2.** Amends s. 467.009, F.S., deleting provisions relating to the CLAST.

**Section 3.** Amends s. 1004.04, F.S., deleting provisions relating to the CLAST.

**Section 4.** Amends s. 1008.30, F.S., deleting provisions relating to the CLAST.

**Section 5.** Amends s. 1008.38, F.S., deleting provisions relating to the CLAST.

**Section 6.** Amends s. 1012.56, F.S., deleting provisions relating to the CLAST.

**Section 7.** Provides an effective date of July 1, 2011.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.



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1                                   A bill to be entitled  
 2           An act relating to public postsecondary education;  
 3           amending s. 1007.27, F.S.; deleting provisions relating to  
 4           the exemption for a student who earns certain credits  
 5           through acceleration mechanisms from any requirement of a  
 6           public postsecondary educational institution mandating  
 7           enrollment during a summer term; providing an effective  
 8           date.

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

11  
 12           Section 1. Subsection (10) of section 1007.27, Florida  
 13   Statutes, is amended to read:

14           1007.27 Articulated acceleration mechanisms.—

15           ~~(10) Any student who earns 9 or more credits from one or~~  
 16 ~~more of the acceleration mechanisms provided for in this section~~  
 17 ~~is exempt from any requirement of a public postsecondary~~  
 18 ~~educational institution mandating enrollment during a summer~~  
 19 ~~term.~~

20           Section 2. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4177 Public Postsecondary Education

SPONSOR(S): Metz and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	13 Y, 0 N	Guilford	Sherry
2) Higher Education Appropriations Subcommittee	12 Y, 1 N	Garner	Heflin
3) Education Committee		Guilford <i>JA</i>	Klebacha <i>TK</i>

SUMMARY ANALYSIS

The Board of Governors (BOG) regulation requires all students entering the State University System with less than 60 credit hours to enroll in a minimum of nine credit hours of coursework during one or more summer semesters. Currently, exceptions are made for students who earn nine or more credits from the acceleration mechanisms, such as dual enrollment, early admission, advanced placement, and credit by examination. The bill repeals this statutory exemption from the BOG rule requiring students to earn nine credit hours during a summer semester regardless of whether they earned nine or more credits from the acceleration mechanisms.

The bill takes effect July 1, 2011.

See Fiscal Comments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

The Board of Governors (BOG) regulation requires all students entering a state university with fewer than 60 credit hours to earn at least nine credit hours during the at least one summer term prior to graduation. University presidents are authorized to grant hardship waivers to this requirement.<sup>1</sup>

Florida law provides an exemption from the summer enrollment requirement for students who have earned nine or more credits through articulated acceleration mechanisms.<sup>2</sup> Articulated acceleration mechanisms include dual enrollment, early admission, advanced placement, College Level Examination Program, International Baccalaureate, or Advanced International Certificate of Education.<sup>3</sup>

##### Effect of Proposed Changes

The bill repeals this exemption, allowing a state university to require all students to attend at least one summer term regardless of whether they earned nine or more credits from the acceleration mechanisms. Universities have increased the use of facilities and faculty during the summer term due to increasing access demands and greater competition. This change will provide state universities with more flexibility regarding course scheduling. Increasing summer term enrollment may shorten the time it takes for students to complete their degrees, which will create more openings for prospective students.<sup>4</sup> The provision could create new costs for students who receive state financial aid, including the Bright Futures Scholarships, if the state scholarship programs are only funded for the fall and spring academic terms.

#### B. SECTION DIRECTORY:

**Section 1:** Repealing s. 1007.27(10), F.S.; relating to Articulated Acceleration Mechanisms; repealing an exemption.

**Section 2:** Providing an effective date of July 1, 2011.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:

None.

2. Expenditures:

None.

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<sup>1</sup> Regulation 6.016, Board of Governors.

<sup>2</sup> Section. 1007.27(10), F.S.

<sup>3</sup> Sections 1007.27, 100.271, and 1007.272, Florida Statutes.

<sup>4</sup> Interview with Board of Governors Staff (March 18, 2011).

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

Requiring students to enroll in at least one summer term during the course of their enrollment would generate additional tuition revenue for the universities during the summer term. The tuition generated would help support related operational costs, such as utilities, and the hiring or retaining of faculty to meet the summer demand. It would also support increased capacity for the summer term and make better year-round use of their facilities. This should provide for more timely completion of degrees and may afford some state universities the ability to admit more students and increase capacity.

The provision could create new costs for students who receive state financial aid, including the Bright Futures Scholarships, if the state scholarship programs are only funded for the fall and spring academic terms. The Bright Futures Scholarships may be used in the summer term if funds are available, but the Legislature has not funded the scholarship for the summer term.<sup>5</sup> Scholarship recipients who would normally qualify for the exemption may be required to find an additional funding source to pay for summer term enrollment.

According to the Department of Education, 21,200 students, who earned a standard high school diploma in 2010, earned nine or more credit hours through an accelerated mechanism, such as Advanced Placement, dual enrollment, International Baccalaureate, or Advanced International Certificate of Education.<sup>6</sup> The average tuition and fee cost per credit hour for the fall 2010-2011 semester was \$166 for a resident undergraduate student and ranged from \$175 at Florida State University to \$149 at New College of Florida. At this average rate, nine credit hours calculated a cost of \$1,481 ranged from \$1,341 to \$1,571. The average tuition and fee cost was \$657 for a non-resident undergraduate student and ranged from \$911 at the University of Florida to \$522 at Florida Agricultural and Mechanical University. At this average rate, nine credit hours calculated a cost of \$5,912 and ranged from \$8,196 to \$4,970.<sup>7</sup> These calculations do not address the additional costs associated with room and board, textbooks, and other living expenses which is an estimated average of an additional \$3,367 for a summer term.<sup>8</sup>

The existing BOG regulation authorizes each university president to grant hardship waivers of the summer term attendance requirement.<sup>9</sup>

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<sup>5</sup> Section 1009.53(9), Florida Statutes.

<sup>6</sup> Correspondence with the Department of Education, Office of Legislative and Policy Affairs of the Division of Accountability, Research and Measurement, March 15, 2011.

<sup>7</sup> Board of Governors, Fall 2010 Tuition and Fee Report. < <http://www.flbog.org/about/budget/current.php>>

<sup>8</sup> Tuition and Fee Policy Presentation, Board of Governors. February 16, 2011. Confirmed via correspondence with Board of Governors staff.

<sup>9</sup> Regulation 6.016, Board of Governors.



### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

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

Not Applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.