



K – 20 Competitiveness Subcommittee

Tuesday, January 31, 2012

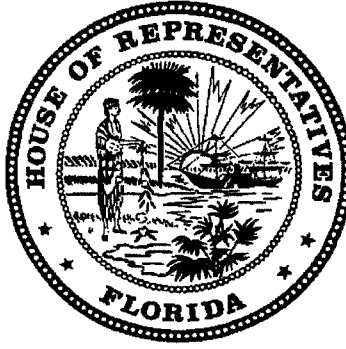
9:00 AM – 11:30 AM

306 - HOB

Meeting Packet

**Dean Cannon
Speaker**

**Erik Fresen
Chair**



AGENDA

K-20 Competitiveness Subcommittee
January 31, 2012
9:00 AM – 11:30 AM
306 HOB - Morris Hall

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bill:
 - HB 1357 District School Boards by Glorioso
- IV. Consideration of the following proposed committee bill:
 - PCB KCOS 12-01 Voluntary Prekindergarten Education Program
- V. Consideration of the following proposed committee substitute:
 - PCS for HB 1403 High School Athletics
- VI. Closing Remarks and Adjournment

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1357 (2012)

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WITHDRAWN _____ (Y/N)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: K-20 Competitiveness
2 Subcommittee

3 Representative Glorioso offered the following:

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

6 Remove lines 15-19 and insert:

7 1001.371 Organization of district school board. ~~On the~~
8 ~~third Tuesday after the first Monday~~ In November, of each year,
9 the district school board shall organize by electing a chair. In
10 an election year, that date shall coincide with the requirements
11 of s. 100.041(3) (a). It may elect a vice chair, and the district

12
13
14
15 -----
16 **T I T L E A M E N D M E N T**

17 Remove lines 4-7 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1357 (2012)

Amendment No. 1

18 board organize and elect a chair in November, and in an election
19 year, elect a chair in compliance with requirements for a
20 general election year; providing an exception if the chair is
21

1 A bill to be entitled
 2 An act relating to district school boards; amending s.
 3 1001.371, F.S.; requiring that each district school
 4 board organize and elect a chair at a publicly noticed
 5 meeting after the first Tuesday after the first Monday
 6 in November of each year, but before the end of
 7 November; providing an exception if the chair is
 8 elected by a districtwide vote; providing an effective
 9 date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 1001.371, Florida Statutes, is amended
 14 to read:

15 1001.371 Organization of district school board.—At a
 16 publicly noticed meeting after the first ~~on the third~~ Tuesday
 17 after the first Monday in November of each year, but before the
 18 end of November, the district school board shall organize by
 19 electing a chair. It may elect a vice chair, and the district
 20 school superintendent shall act ex officio as the secretary. If
 21 a vacancy should occur in the position of chair, the district
 22 school board shall proceed to elect a chair at the next ensuing
 23 regular or special meeting. At the organization meeting, the
 24 district school superintendent shall act as chair until the
 25 organization is completed. The chair and secretary shall then
 26 make and sign a copy of the proceedings of organization,
 27 including the schedule for regular meetings and the names and
 28 addresses of all district school officers, and annex their

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29 | affidavits that the same is a true and correct copy of the
30 | original, and the secretary shall file the document within 2
31 | weeks with the Department of Education. This section does not
32 | apply to any school district with a district school board chair
33 | who is elected by districtwide vote.

34 | Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1357 District School Boards
SPONSOR(S): Glorioso
TIED BILLS: IDEN./SIM. **BILLS:** SB 620

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee		Muller <i>EMM</i>	Ahear <i>[Signature]</i>
2) Education Committee			

SUMMARY ANALYSIS

The bill provides flexibility for school districts in scheduling elections of a school board chair. The bill amends the existing requirement that district school boards elect a chair on the third Tuesday after the first Monday of November, and instead requires that the election be held after the first Tuesday after the first Monday, but before the end of November.

The bill restates the public notice requirement for the meeting during which the chair of the district school board will be elected.

The bill has no fiscal impact.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Constitution requires that each county constitute a school district, and that each school district be governed by school board composed of five or more members.¹ The school board is charged with the operation, control, and supervision of all free public schools.²

Members of district school boards are elected by a vote of qualified electors within the district.³ These elections take place during the general election and members are elected for 4 year terms.⁴ General elections are required to take place in each county on the first Tuesday after the first Monday in November of each even-numbered year.⁵ The school board members begin their term on the second Tuesday following the general election.⁶

Current law provides that a district school board elect a chair of the board on the third Tuesday after the first Monday in November of each year.⁷ This requirement has resulted in the election taking place during a school district's Thanksgiving holiday.⁸

There is no explicit public notice requirement in the statute governing school board chair elections, but the meetings at which the elections take place are subject to both the constitutional requirements for public notice of open meetings as well as the public notice requirements for meetings found in statute.⁹

Effect of Proposed Changes

Current law requires that the election of a school board chair take place on the third Tuesday after the first Monday in November of each year.¹⁰ School districts have expressed concerns with the current scheduling requirement because sometimes the third Tuesday occurs during Thanksgiving holidays.¹¹ When this occurs, school districts need to bring in staff and provide access to the school district facilities when the facilities would otherwise be closed.¹² The need to bring in additional staff and reopen facilities can present additional costs to the school district.¹³

To address these concerns, the bill gives school districts flexibility in scheduling the election of the school board chair by removing the requirement that the meeting fall on the third Tuesday after the first Monday. The bill requires that the meeting occur after the first Tuesday after the first Monday in November, and before the end of November.

¹ Art. IX, s. (4)(a), Fla. Const.

² Art. IX, s. (4)(b), Fla. Const.

³ Section 1001.361, F.S.

⁴ Section 100.041, F.S.

⁵ Section 100.031, F.S.

⁶ Section 100.041, F.S.

⁷ Section 1001.37, F.S.

⁸ For example, in the 2011-12 school year, the third Tuesday after the first Monday was November 22, 2011, which was the Tuesday before Thanksgiving.

⁹ Art. I, s. 24(b), Fla. Const. ("All meetings ... of any ... school district ... at which official acts are to be taken or at which public business of such body is to be transacted or discussed shall be open and noticed to the public."); s. 1001.37, F.S.; s. 286.011(1), F.S. ("Any meetings of any ... political subdivision ... at which official acts are to be taken are declared to be public meetings open to the public at all times The board or commission must provide reasonable notice of all such meetings.").

¹⁰ Section 1001.37, F.S.

¹¹ For example, in the 2011-12 school year, the third Tuesday after the first Monday was November 22, 2011, which was the Tuesday before Thanksgiving.

¹² *Id.*

¹³ *Id.*

The bill restates the public notice requirement for the meeting during which the chair of the district school board will be elected.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.371, F.S., relating to the organization of district school boards, to require that each district school board organize and elect a chair at a publicly noticed meeting after the first Tuesday after the first Monday in November of each year, but before the end of November.

Section 2. Provides an effective date of July 1, 2012.

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:

The bill could potentially result in the election of the school board chair taking place before the new school board members begin their term.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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1 A bill to be entitled
2 An act relating to the Voluntary Prekindergarten
3 Education Program; amending ss. 1002.55, 1002.61, and
4 1002.63, F.S.; requiring private prekindergarten
5 providers and public schools that deliver the
6 Voluntary Prekindergarten Education Program to execute
7 the statewide provider agreement prescribed by the
8 Office of Early Learning; authorizing the execution of
9 a single agreement on behalf of multiple private
10 prekindergarten providers or public schools under
11 certain circumstances; creating s. 1002.64, F.S.;
12 requiring the Office of Early Learning to adopt rules
13 prescribing the statewide provider agreement;
14 requiring early learning coalitions to use the
15 agreement; providing for the format and content of the
16 agreement; prohibiting an early learning coalition
17 from executing agreements with private prekindergarten
18 providers until the coalition determines that the
19 providers are eligible to deliver the program;
20 providing for publication of the statewide provider
21 agreement and the submission of executed agreements to
22 the Office of Early Learning; requiring the submission
23 of certain proposed rules to the presiding officers of
24 the Legislature within a specified period; amending s.
25 1002.71, F.S.; revising requirements for the
26 calculation of student enrollment for purposes of
27 initial allocations of funds for the Voluntary
28 Prekindergarten Education Program; providing for the

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

29 monthly reporting of student enrollment; requiring the
 30 Auditor General to conduct audits of early learning
 31 coalitions; amending s. 1002.75, F.S.; requiring the
 32 Office of Early Learning to monitor and evaluate the
 33 performance, finances, and operations of early
 34 learning coalitions; amending s. 411.01, F.S.;
 35 conforming provisions; repealing ss. 1002.65 and
 36 1002.77, F.S., relating to legislative intent
 37 concerning the professional credentials of
 38 prekindergarten instructors and the creation,
 39 membership, and duties of the Florida Early Learning
 40 Advisory Council; providing an effective date.

41

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

43

44 Section 1. Paragraph (i) of subsection (3) of section
 45 1002.55, Florida Statutes, is redesignated as paragraph (j), and
 46 a new paragraph (i) is added to that subsection, to read:

47 1002.55 School-year prekindergarten program delivered by
 48 private prekindergarten providers.—

49 (3) To be eligible to deliver the prekindergarten program,
 50 a private prekindergarten provider must meet each of the
 51 following requirements:

52 (i) The private prekindergarten provider must execute the
 53 statewide provider agreement prescribed under s. 1002.64, except
 54 that an individual who owns or operates multiple private
 55 prekindergarten providers within a coalition's service area may
 56 execute a single agreement with the coalition on behalf of each

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57 | provider.

58 | Section 2. Subsection (3) of section 1002.61, Florida
59 | Statutes, is amended to read:

60 | 1002.61 Summer prekindergarten program delivered by public
61 | schools and private prekindergarten providers.—

62 | (3) (a) Each district school board shall determine which
63 | public schools in the school district are eligible to deliver
64 | the summer prekindergarten program. The school district shall
65 | use educational facilities available in the public schools
66 | during the summer term for the summer prekindergarten program.

67 | (b) Each public school delivering the summer
68 | prekindergarten program must execute the statewide provider
69 | agreement prescribed under s. 1002.64, except that the school
70 | district may execute a single agreement with the early learning
71 | coalition on behalf of all district schools.

72 | (c) ~~(b)~~ Except as provided in this section, to be eligible
73 | to deliver the summer prekindergarten program, a private
74 | prekindergarten provider must meet each requirement in s.
75 | 1002.55.

76 | Section 3. Subsection (3) of section 1002.63, Florida
77 | Statutes, is amended to read:

78 | 1002.63 School-year prekindergarten program delivered by
79 | public schools.—

80 | (3) (a) The district school board of each school district
81 | shall determine which public schools in the district may deliver
82 | the prekindergarten program during the school year.

83 | (b) Each public school delivering the school-year
84 | prekindergarten program must execute the statewide provider

85 agreement prescribed under s. 1002.64, except that the school
 86 district may execute a single agreement with the early learning
 87 coalition on behalf of all district schools.

88 Section 4. Section 1002.64, Florida Statutes, is created
 89 to read:

90 1002.64 Statewide provider agreement.-

91 (1) (a) The Office of Early Learning shall adopt rules
 92 prescribing the statewide provider agreement for the Voluntary
 93 Prekindergarten Education Program.

94 (b) An early learning coalition must use the statewide
 95 provider agreement to annually contract with each private
 96 prekindergarten provider and public school that delivers the
 97 Voluntary Prekindergarten Education Program within the
 98 coalition's service area.

99 (c) The rules must prescribe a standardized uniform format
 100 for the statewide provider agreement. An early learning
 101 coalition may not omit, supplement, or amend any provision of
 102 the statewide provider agreement. In addition, an early learning
 103 coalition may not insert or append attachments, addenda, or
 104 exhibits to the statewide provider agreement.

105 (2) The statewide provider agreement must include:

106 (a) Child eligibility and enrollment procedures and
 107 requirements under s. 1002.53.

108 (b) Student reenrollment requirements under s. 1002.71.

109 (c) Eligibility requirements for private prekindergarten
 110 providers and public schools delivering the program under ss.
 111 1002.55, 1002.61, 1002.63, and 1002.66.

112 (d) Program performance and accountability requirements

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113 under ss. 1002.67 and 1002.69.

114 (e) Requirements for the maintenance of records and data
115 and the confidentiality of such information.

116 (f) Provisions requiring compliance with the
117 antidiscrimination requirements of s. 1002.53(6)(c).

118 (g) Provisions prohibiting a private prekindergarten
119 provider or public school from requiring payment of any fee or
120 charge that is inconsistent with s. 1002.71(8)(a).

121 (h) Provisions prohibiting a private prekindergarten
122 provider or public school from requiring a child's enrollment in
123 or payment of any fee or charge for supplemental services in a
124 manner that is inconsistent with s. 1002.71(8)(b).

125 (i) Requirements for notifications between the early
126 learning coalition, the private prekindergarten provider or
127 public school, and the parent, which may include, but are not
128 limited to:

129 1. Changes to information submitted in the private
130 prekindergarten provider's or public school's registration form
131 or the prekindergarten class registration.

132 2. A parent's withdrawal of his or her child from the
133 program or a private prekindergarten provider's or public
134 school's dismissal of a child under s. 1002.71.

135 3. Temporary closure of a private prekindergarten
136 provider's facility and subsequent reopening of the facility.

137 (j) Procedures for the reporting and certification of
138 student attendance under s. 1002.71.

139 (k) Specific grounds for termination of the agreement.

140 (l) Dispute resolution procedures.

141 (m) Provisions under which the private prekindergarten
 142 provider, public school, or school district indemnifies the
 143 early learning coalition from liability arising under the
 144 agreement.

145 (3) (a) An early learning coalition may not execute the
 146 statewide provider agreement with a private prekindergarten
 147 provider before the coalition determines that the provider is
 148 eligible to deliver the Voluntary Prekindergarten Education
 149 Program under s. 1002.55 or s. 1002.61.

150 (b) An early learning coalition shall submit to the Office
 151 of Early Learning each original, fully executed, and dated
 152 agreement. The coalition shall provide a copy of the executed
 153 agreement to the private prekindergarten provider, public
 154 school, or school district that executed the agreement. The
 155 coalition shall also maintain a copy of the executed agreement
 156 in the coalition's records.

157 (c) A private prekindergarten provider or public school
 158 may not deliver the Voluntary Prekindergarten Education Program
 159 until the statewide provider agreement is fully executed.

160 (4) In addition to the requirements of s. 120.54, at least
 161 30 days before publication in the Florida Administrative Weekly
 162 of notice of the proposed adoption, amendment, or repeal of any
 163 rule prescribing the statewide provider agreement, the Office of
 164 Early Learning must provide copies of the notice and the
 165 proposed rule to the President of the Senate and the Speaker of
 166 the House of Representatives. The Office of Early Learning shall
 167 also publish a copy of the statewide provider agreement on its

168 Internet website and provide a copy of the agreement to each
 169 early learning coalition.

170 Section 5. Paragraph (c) of subsection (3) of section
 171 1002.71, Florida Statutes, is amended, and subsection (10) is
 172 added to that section, to read:

173 1002.71 Funding; financial and attendance reporting.-

174 (3)

175 (c) The initial allocation shall be based on estimated
 176 student enrollment in the Voluntary Prekindergarten Education
 177 Program in each coalition service area. The Office of Early
 178 Learning shall reallocate funds among the coalitions based on
 179 actual full-time equivalent student enrollment in the Voluntary
 180 Prekindergarten Education Program in each coalition service
 181 area. Each early learning coalition shall submit monthly reports
 182 of student enrollment to the Office of Early Learning in
 183 accordance with subsection (2). A student enrollment report may
 184 not be amended after December 31 of any year.

185 (10) The Auditor General shall conduct audits of early
 186 learning coalitions as provided in s. 11.45.

187 Section 6. Subsections (1) and (4) of section 1002.75,
 188 Florida Statutes, are amended to read:

189 1002.75 Office of Early Learning; powers and duties;
 190 operational requirements.-

191 (1) The Office of Early Learning shall:

192 (a) Administer the operational requirements of the
 193 Voluntary Prekindergarten Education Program at the state level.

194 (b) Monitor and evaluate the performance of each early
 195 learning coalition and of the coalition's finances and

196 operations related to administration of the Voluntary
 197 Prekindergarten Education Program.

198 (4) The Office of Early Learning shall also adopt
 199 procedures for the office's ~~agency's~~ distribution of funds to
 200 early learning coalitions under s. 1002.71.

201 Section 7. Paragraph (m) of subsection (4) and paragraph
 202 (a) of subsection (5) of section 411.01, Florida Statutes, are
 203 amended to read:

204 411.01 School readiness programs; early learning
 205 coalitions.—

206 (4) OFFICE OF EARLY LEARNING OF THE DEPARTMENT OF
 207 EDUCATION.—

208 (m) The Office of Early Learning shall submit an annual
 209 report of its activities conducted under this section to the
 210 Governor, the President of the Senate, the Speaker of the House
 211 of Representatives, and the minority leaders of both houses of
 212 the Legislature. In addition, the Office of Early Learning's
 213 reports and recommendations shall be made available to ~~the~~
 214 ~~Florida Early Learning Advisory Council and other~~ appropriate
 215 state agencies and entities. The annual report must provide an
 216 analysis of school readiness activities across the state,
 217 including the number of children who were served in the
 218 programs.

219 (5) CREATION OF EARLY LEARNING COALITIONS.—

220 (a) Early learning coalitions.—

221 1. Each early learning coalition shall maintain direct
 222 enhancement services at the local level and ensure access to
 223 such services in all 67 counties.

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224 2. The Office of Early Learning shall establish the
 225 minimum number of children to be served by each early learning
 226 coalition through the coalition's school readiness program. The
 227 Office of Early Learning may only approve school readiness plans
 228 in accordance with this minimum number. The minimum number must
 229 be uniform for every early learning coalition and must:

- 230 a. Permit 31 or fewer coalitions to be established; and
- 231 b. Require each coalition to serve at least 2,000 children
 232 based upon the average number of all children served per month
 233 through the coalition's school readiness program during the
 234 previous 12 months.

235 3. If an early learning coalition would serve fewer
 236 children than the minimum number established under subparagraph
 237 2., the coalition must merge with another county to form a
 238 multicounty coalition. The Office of Early Learning shall adopt
 239 procedures for merging early learning coalitions, including
 240 procedures for the consolidation of merging coalitions, and for
 241 the early termination of the terms of coalition members which
 242 are necessary to accomplish the mergers. However, the Office of
 243 Early Learning shall grant a waiver to an early learning
 244 coalition to serve fewer children than the minimum number
 245 established under subparagraph 2., if:

- 246 a. The Office of Early Learning has determined during the
 247 most recent review of the coalition's school readiness plan, or
 248 through monitoring and performance evaluations conducted under
 249 paragraph (4)(1), that the coalition has substantially
 250 implemented its plan;

- 251 b. The coalition demonstrates to the Office of Early

252 Learning the coalition's ability to effectively and efficiently
 253 implement the Voluntary Prekindergarten Education Program; and
 254 c. The coalition demonstrates to the Office of Early
 255 Learning that the coalition can perform its duties in accordance
 256 with law.

257
 258 If an early learning coalition fails or refuses to merge as
 259 required by this subparagraph, the Office of Early Learning may
 260 dissolve the coalition and temporarily contract with a qualified
 261 entity to continue school readiness and prekindergarten services
 262 in the coalition's county or multicounty region until the office
 263 reestablishes the coalition and a new school readiness plan is
 264 approved by the office.

265 4. Each early learning coalition shall be composed of at
 266 least 15 members but not more than 30 members. The Office of
 267 Early Learning shall adopt standards establishing within this
 268 range the minimum and maximum number of members that may be
 269 appointed to an early learning coalition and procedures for
 270 identifying which members have voting privileges under
 271 subparagraph 6. These standards must include variations for a
 272 coalition serving a multicounty region. Each early learning
 273 coalition must comply with these standards.

274 5. The Governor shall appoint the chair and two other
 275 members of each early learning coalition, who must each meet the
 276 same qualifications as private sector business members appointed
 277 by the coalition under subparagraph 7.

278 6. Each early learning coalition must include the
 279 following member positions; however, in a multicounty coalition,

280 each ex officio member position may be filled by multiple
 281 nonvoting members but no more than one voting member shall be
 282 seated per member position. If an early learning coalition has
 283 more than one member representing the same entity, only one of
 284 such members may serve as a voting member:

285 a. A Department of Children and Family Services circuit
 286 administrator or his or her designee who is authorized to make
 287 decisions on behalf of the department.

288 b. A district superintendent of schools or his or her
 289 designee who is authorized to make decisions on behalf of the
 290 district.

291 c. A regional workforce board executive director or his or
 292 her designee.

293 d. A county health department director or his or her
 294 designee.

295 e. A children's services council or juvenile welfare board
 296 chair or executive director, if applicable.

297 f. An agency head of a local licensing agency as defined
 298 in s. 402.302, where applicable.

299 g. A president of a community college or his or her
 300 designee.

301 h. One member appointed by a board of county commissioners
 302 or the governing board of a municipality.

303 i. A central agency administrator, where applicable.

304 j. A Head Start director.

305 k. A representative of private for-profit child care
 306 providers, including private for-profit family day care homes.

307 l. A representative of faith-based child care providers.

308 m. A representative of programs for children with
 309 disabilities under the federal Individuals with Disabilities
 310 Education Act.

311 7. Including the members appointed by the Governor under
 312 subparagraph 5., more than one-third of the members of each
 313 early learning coalition must be private sector business members
 314 who do not have, and none of whose relatives as defined in s.
 315 112.3143 has, a substantial financial interest in the design or
 316 delivery of the Voluntary Prekindergarten Education Program
 317 created under part V of chapter 1002 or the coalition's school
 318 readiness program. To meet this requirement an early learning
 319 coalition must appoint additional members. The Office of Early
 320 Learning shall establish criteria for appointing private sector
 321 business members. These criteria must include standards for
 322 determining whether a member or relative has a substantial
 323 financial interest in the design or delivery of the Voluntary
 324 Prekindergarten Education Program or the coalition's school
 325 readiness program.

326 8. A majority of the voting membership of an early
 327 learning coalition constitutes a quorum required to conduct the
 328 business of the coalition. An early learning coalition board may
 329 use any method of telecommunications to conduct meetings,
 330 including establishing a quorum through telecommunications,
 331 provided that the public is given proper notice of a
 332 telecommunications meeting and reasonable access to observe and,
 333 when appropriate, participate.

334 9. A voting member of an early learning coalition may not
 335 appoint a designee to act in his or her place, except as

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336 otherwise provided in this paragraph. A voting member may send a
 337 representative to coalition meetings, but that representative
 338 does not have voting privileges. When a district administrator
 339 for the Department of Children and Family Services appoints a
 340 designee to an early learning coalition, the designee is the
 341 voting member of the coalition, and any individual attending in
 342 the designee's place, including the district administrator, does
 343 not have voting privileges.

344 10. Each member of an early learning coalition is subject
 345 to ss. 112.313, 112.3135, and 112.3143. For purposes of s.
 346 112.3143(3)(a), each voting member is a local public officer who
 347 must abstain from voting when a voting conflict exists.

348 11. For purposes of tort liability, each member or
 349 employee of an early learning coalition shall be governed by s.
 350 768.28.

351 12. An early learning coalition serving a multicounty
 352 region must include representation from each county.

353 13. Each early learning coalition shall establish terms
 354 for all appointed members of the coalition. The terms must be
 355 staggered and must be a uniform length that does not exceed 4
 356 years per term. Coalition chairs shall be appointed for 4 years
 357 ~~in conjunction with their membership on the Early Learning~~
 358 ~~Advisory Council under s. 20.052.~~ Appointed members may serve a
 359 maximum of two consecutive terms. When a vacancy occurs in an
 360 appointed position, the coalition must advertise the vacancy.

361 Section 8. Sections 1002.65 and 1002.77, Florida Statutes,
 362 are repealed.



363 Section 9. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB PCB KCOS 12-01 Voluntary Prekindergarten Education Program

SPONSOR(S): K-20 Competitiveness Subcommittee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Competitiveness Subcommittee		Graf 	Ahearn 

SUMMARY ANALYSIS

The bill increases accountability by requiring:

- The Auditor General to conduct audits of the early learning coalitions. In addition, the bill requires the Office of Early Learning (OEL) to monitor and evaluate the performance of each early learning coalition, review each Early Learning Coalition's (ELC's) finances, and evaluate each ELC's operations and administration of the Voluntary Prekindergarten (VPK) Program.
- The OEL to adopt by rule, a statewide provider agreement that must be used by each early learning coalition when contracting with a VPK provider and specifying the terms that must be included in the agreement:
 - Child eligibility and enrollment procedures;
 - Student reenrollment requirements;
 - Provider eligibility requirements;
 - Program performance and accountability requirements;
 - Requirements for the maintenance of records and data and the confidentiality of such information;
 - Provisions requiring compliance with antidiscrimination laws;
 - Provisions prohibiting a private prekindergarten provider or public school from requiring payment of any fee or charge inconsistent with law;
 - Provisions prohibiting a private prekindergarten provider or public school from requiring a child's enrollment in or payment of any fee or charge for supplemental services in a manner inconsistent with the law;
 - Requirements for notifications between the early learning coalition, the private prekindergarten provider or public school and the parent, which may include, for example, student withdrawal from the program and temporary closure of the facility;
 - Procedures for reporting and certification of student attendance;
 - Specific grounds for termination of the provider agreement;
 - Dispute resolution procedures; and
 - Provision under which the private prekindergarten provider, public school, or school district indemnifies the ELC from liability arising under the provider agreement.

The bill also repeals s. 1002.65, F.S., which states aspirational goals regarding VPK instructor credentials and s. 1002.77, F.S., which establishes the Florida Early Learning Advisory Council.

Finally the bill prohibits a VPK provider from amending its student enrollment count after December 31.

The bill may have minimal fiscal impact. See FISCAL COMMENTS.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background – Voluntary Prekindergarten (VPK) Program

In 2004, the Legislature established the VPK program, a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.¹ 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.² Parents may choose either a school-year or summer program offered by either a private VPK provider or public school or a specialized instructional services program for children who have disabilities, if the child has been evaluated and determined eligible and has a current individual educational plan.³ 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.⁴ 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.⁵

Local oversight of the VPK program is provided by early learning coalitions (ELC) and school districts. Each ELC is the single point of entry for VPK student registration and enrollment in its county or multi-county service area.⁶ Each ELC must coordinate with each school district in its service area to develop procedures for enrolling children in public school VPK programs.⁷ Local oversight of individual VPK providers is split, with ELCs providing administration over privately provided programs and school districts administering public school programs.⁸

The Office of Early Learning (OEL), Department of Education (DOE), and Department of Children and Family Services (DCF) each play a role in state level oversight of the VPK program. As lead agency for Florida's school readiness system, OEL governs the day-to-day operations of the VPK program.⁹ OEL oversees each ELC regarding child enrollment, attendance reporting, and payment of VPK providers as well as monitors VPK providers for compliance with program requirements.¹⁰

DOE adopts kindergarten readiness standards, approves VPK curricula, oversees statewide kindergarten readiness screening, calculates kindergarten readiness rates, approves emergent literacy

¹ Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; Art. IX, s. 1(b) and (c), Fla. Const. The VPK program originated from a ballot initiative proposing an amendment to the Florida Constitution in the November 2002 general election. The amendment required the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year. Voters approved the amendment: 59 percent for to 41 percent against. Florida Department of State, Division of Elections, *Voluntary Universal Prekindergarten Education*, <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=34708&seqnum=1> (last visited Jan. 26, 2012).

² Section 1002.53(2), F.S.

³ Section 1002.53(3), F.S.; s. 1002.66, F.S., (Specialized instructional services for children with disabilities).

⁴ Section 1002.53(2), F.S. Children who attain five years of age on or before September 1 of the academic year are eligible for admission to public kindergarten. Section 1003.21(1)(a)2., F.S.

⁵ Section 1002.61(2)(c), F.S.

⁶ Sections 411.01(5)(c)1.e. and 1002.53(4)(a)-(b), F.S. Each ELC must serve at least 2,000 children based upon the average number of all children served per month through the coalition's school readiness program during the previous 12 months. There are currently 31 ELCs, which is the maximum permitted by law. Section 411.01(5)(a)2., F.S. Office of Early Learning, *Early Learning Coalition Directory*, http://www.floridaearlylearning.com/EarlyLearning/OEL_Coalitions_CoalitionsDirectory.html (last visited Jan. 26, 2012).

⁷ Section 1002.53(4)(c), F.S.

⁸ Sections 1002.53(6), 1002.55(1), 1002.61(1)(a)-(b), and 1002.63(1), F.S.

⁹ Sections 411.01(4)(a) and 1002.75(1)-(2), F.S. In 2011, the Legislature transferred the Office of Early Learning from the Agency for Workforce Innovation to the Department of Education as a separate budget entity, not subject to control, supervision, or direction by the Department of Education or the State Board of Education. Sections 12 and 305, ch. 2011-142, L.O.F.

¹⁰ Section 1002.75(2), F.S.

training courses and VPK director credentials, and specifies Child Development Associate (CDA) credentials¹¹ that qualify for articulation into college credit.¹²

DCF administers the state's child care provider licensing program and posts VPK provider profiles on its website.¹³

VPK Program Accountability

Present Situation

Current law requires OEL to monitor and evaluate the performance of each ELC in administering the VPK program. OEL must, at a minimum, review each early learning coalition's finances, management, operations, and program administration.¹⁴

In 2011, the Legislature required the Auditor General to conduct a financial and performance audit of OEL's programs and related delivery systems.¹⁵ The audit focused on the governance structure of the state's early learning programs, statewide administration and oversight of the School Readiness and VPK programs, and operations of the ELCs. The audit disclosed that notwithstanding the adequacy of design of the early learning program governance structure, "OEL did not always provide the oversight necessary for the effective and efficient administration of the School Readiness and VPK Education programs."¹⁶ In addition, the audit also disclosed deficiencies in ELCs' financial management, operations, program administration, information technology practices, and noncompliance with state and federal regulations. The audit pointed out that several control deficiencies at OEL and at the early learning coalitions contributed to ineffective program administration.¹⁷

Audit findings regarding ELCs' administration of the VPK Education program are as follows:

- Some ELCs did not always ensure that VPK program eligibility and enrollment files were maintained in accordance with applicable provisions of State law and OEL rules or that data contained in Enhanced Field System (EFS) database accurately reflected the information documented in the child eligibility files.
- Some ELCs did not always document that parents were informed of their rights and responsibilities or that VPK Program provider profiles were made available as required by State law.
- Some ELCs did not always maintain documentation demonstrating that, prior to delivering VPK Program instruction or receiving payment, VPK Program providers submitted complete and signed Statewide Provider Registration Applications.
- Some ELCs did not always maintain documentation to demonstrate that background screenings had been properly performed and reviewed for all VPK instructors.
- Some ELCs did not always maintain documentation to demonstrate that VPK instructor requirements, including education and training requirements, had been satisfied.
- ELC payments to VPK Program providers were not always supported by appropriate documentation.

¹¹ The CDA credential is a child care credential issued by the Council on Professional Recognition. Council for Professional Recognition, *How to Earn a CDA*, <http://www.cdacouncil.org/the-cda-credential/how-to-earn-a-cda> (last visited Jan. 26, 2012).

¹² Sections 1002.57(1), 1002.59, 1002.67(1) and (2), 1002.73(2), and 1007.23(5), F.S.

¹³ Sections 402.301-402.319, F.S.; see Florida Department of Children and Family Services, *Provider Search*, <http://dcfsanswrite.state.fl.us/Childcare/provider> (last visited Jan. 26, 2012).

¹⁴ Section 411.01(4)(l), F.S.

¹⁵ Section 2, ch. 2011-142, L.O.F.

¹⁶ Florida Auditor General, *Early Learning Programs and Related Delivery Systems*, Report No. 2012-061 (Dec. 2011), at 1, available at http://www.myflorida.com/audgen/pages/pdf_files/2012-061.pdf.

¹⁷ *Id.*

- Some ELCs did not utilize comprehensive monitoring schedules to track the results of School Readiness and VPK Program provider monitoring efforts.¹⁸

Effect of Proposed Changes

The bill requires the Auditor General to conduct audits of the ELCs. In addition, the bill requires OEL to monitor and evaluate the performance of each early learning coalition, review each ELC's finances, and evaluate each ELC's operations and administration of the VPK Program. These oversight functions are currently required of OEL in Chapter 411, F.S., regarding early childhood assistance.¹⁹ The bill reiterates those same requirements in the section of law addressing OEL's powers and duties with regard to the VPK Program. By so doing, some of the concerns identified in the Auditor General's financial and performance audit of OEL, as discussed above, are addressed.

Provider Agreement

Present Situation

Current law requires OEL to adopt procedures for ELCs to register public schools and private prekindergarten providers to deliver the VPK Program. Each public school and private prekindergarten provider delivering the school-year or summer term VPK Program must register with an early learning coalition on forms prescribed by OEL.²⁰

OEL has adopted a Statewide Provider Registration Application that a public school or a private kindergarten provider must use to register with a coalition to participate in the VPK Program.²¹ In addition, OEL has adopted, in rule, a Statewide Provider Agreement, the terms and conditions of which must be identically contained in a provider agreement that each ELC must use when contracting with a school district or a private kindergarten provider to deliver VPK Program services.²²

Each ELC must maintain a fully executed copy of each provider agreement. The provider agreement may not omit, supplement, include attachments, addenda or exhibits, or amend the terms and conditions of the provider agreement unless:

- The coalition submits the agreement to the OEL in writing; and
- The Deputy Director for OEL approves the agreement before the coalition and a VPK provider execute the agreement.

An ELC is not authorized to execute a provider agreement with a VPK provider before the VPK provider registers on forms prescribed by the OEL and the coalition determines eligibility of the provider to offer VPK services.²³

A school district is authorized to sign a single provider agreement on behalf of all public school VPK providers in the district. Similarly, the owner or manager of multiple private VPK providers is authorized, on their behalf, to sign a single provider agreement with a coalition. An early learning coalition must be a party to a provider agreement.²⁴

The audit conducted by the Auditor General, discussed above, disclosed that files maintained at some ELCs did not always contain a completed and signed Statewide Provider Registration Application. In addition, a review of ELCs' agreements and contracts including contractual service contracts for

¹⁸ *Id.*, at 2-3.

¹⁹ Section 411.01, F.S., deals with school readiness programs and early learning coalitions. Subsection (4) addresses OEL's oversight functions.

²⁰ Sections 1002.75(2)(c), 1002.55(3)(h), 1002.61 (2)(b) and (8)(a), and 1002.63 (8)(a), F.S.

²¹ Rule 60BB-8.300, F.A.C.

²² Rule 60BB-8.301, F.A.C.

²³ *Id.*

²⁴ *Id.*

provider and child eligibility determinations, provider monitoring, data entry, bookkeeping, and issuance of provider payments revealed that some ELCs “did not always include important provisions, such as provisions allowing for unilateral cancellation of contract should a contractor refuse to allow public access to applicable documents, identifying the contract renewal or extension terms, or specifying the financial consequences should a contractor fail to perform in accordance with the contract.”²⁵

Effect of Proposed Changes

The bill requires OEL to adopt by rule, a statewide provider agreement that must be used by each early learning coalition when contracting with a VPK provider. The provider agreement must include:

- Child eligibility and enrollment procedures;
- Student reenrollment requirements;
- Provider eligibility requirements;
- Program performance and accountability requirements;
- Requirements for the maintenance of records and data and the confidentiality of such information;
- Provisions requiring compliance with antidiscrimination laws;
- Provisions prohibiting a private prekindergarten provider or public school from requiring payment of any fee or charge inconsistent with law;
- Provisions prohibiting a private prekindergarten provider or public school from requiring a child’s enrollment in or payment of any fee or charge for supplemental services in a manner inconsistent with the law;
- Requirements for notifications between the early learning coalition, the private prekindergarten provider or public school and the parent, which may include, for example, student withdrawal from the program and temporary closure of the facility;
- Procedures for reporting and certification of student attendance;
- Specific grounds for termination of the provider agreement;
- Dispute resolution procedures; and
- Provision under which the private prekindergarten provider, public school, or school district indemnifies the ELC from liability arising under the provider agreement.

Currently, VPK program provider agreements vary from one ELC to another and vary among the providers within an ELC area of service. Some ELCs, either with or without OEL approval, add many additional requirements to the agreement. These additional requirements create lack of uniformity across the state and establish additional standards for some providers. The overall goal of a provider agreement is to establish necessary accounting and procedural requirements and program outcome and accountability standards, not to add provisions in excess of that goal. Furthermore, additional requirements that focus on inputs not outcomes do often create fiscal impacts.²⁶

The bill prohibits an early learning coalition from omitting, supplementing, or amending provisions in the statewide provider agreement. In addition, the bill prohibits an early learning coalition from inserting or including attachments, addenda, or exhibits to the provider agreement. Unlike existing law, the bill does not allow for exceptions to this requirement; i.e., no ability to append pursuant to OEL’s approval.

Instructor Credentials

Present Situation

A private prekindergarten provider or public school offering a school-year VPK Program must have for each class at least one instructor with the following credentials:

²⁵ Florida Auditor General, *Early Learning Programs and Related Delivery Systems*, Report No. 2012-061 (Dec. 2011), available at http://www.myflorida.com/audgen/pages/pdf_files/2012-061.pdf.

²⁶ See emails, Smith, Bryan and Myers, (Oct. 27-28, 2011) (providing copies of provider agreements with attachments and addenda).

- A Child Development Associate (CDA) issued by the National Credentialing Program of the Council for Professional Recognition, plus five hours of training in emergent literacy;²⁷ or
- A credential approved by the Department of Children and Family Services as being equivalent to or greater than the CDA, plus “five clock hours” of training in emergent literacy.²⁸

In addition, a public school or private prekindergarten provider offering a school-year VPK Program must have a second adult instructor for each class of 12 or more students; however, the second instructor is not required to have the same qualifications as the lead instructor.²⁹

A private prekindergarten provider or public school offering a summer VPK Program must have for each class a Florida-certified teacher or at least one instructor with the following credentials:

- Bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science, or
- Bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the teaching certificate is current.³⁰

Section 1002.65, F.S., enacted in 2004,³¹ states that the aspirational goal for the 2010-11 academic year is to have at least one prekindergarten instructor holding an associate's or higher degree in the field of early childhood education or child development and meet other requirements.

The law does not require these standards and the 2010-11 academic year has passed.

Section 1002.65, F.S., also provides an aspirational goal for the 2012-12 academic year: That each VPK class have at least one prekindergarten instructor who holds a bachelor's or higher degree in the field of early childhood education or child development. Research does not support requiring bachelor degrees at this level of instruction because student learning outcomes are not statistically better for instructors with a CDA credential as opposed to a bachelor's degree.³²

Effect of Proposed Changes

The bill repeals s. 1002.65, F.S., which states aspirational goals regarding VPK instructor credentials. This section is unnecessary because the statute is only a statement of aspirational goals and not a requirement. In addition, research does not support the additional degree requirements aspired to under s. 1002.65, F.S.³³ Also, implementation of these goals may increase the cost to employ VPK instructors. Finally, even though the bill repeals s. 1002.65, F.S., both private prekindergarten providers

²⁷ Sections 1002.55(3)(c)1.a. and 2., F.S. Emergent literacy includes oral communication, knowledge of print and letters, phonemic and phonological awareness (recognition that words are made up of sounds), and vocabulary and comprehension development. *See* ss. 1002.59 and 1002.67(1)(b), F.S.

²⁸ Sections 1002.55(3)(c)1.b. and 2. and (4) and 1002.59, F.S.

²⁹ Sections 1002.55(3)(f) and 1002.63(7), F.S.

³⁰ Section 1002.61(4), F.S.; *see also* s. 1002.55(4)(a) and (b), F.S. (list of educational credentials authorized for instructors in summer VPK Program).

³¹ Section 1, ch. 2004-484, L.O.F.

³² Howes, Carolle, *Children's experiences in center-based child care as a function of teacher background and adult:child ratio*, Merrill-Palmer Quarterly: Journal of Developmental Psychology, Vol. 43(3), July 1997, at 404-425, *available at* <http://psycnet.apa.org/psycinfo/1997-07143-004>; Early, D.M., Maxwell, K.L., and Burchinal, M., *Teachers' Education, Classroom Quality, and Young Children's Academic Skills: Results From Seven Studies of Preschool Programs*, Child Development, Vol. 78(2), March/April 2007, at 558-580, *available at* <http://onlinelibrary.wiley.com/doi/10.1111/j.1467-8624.2007.01014.x/full>; *see also* Fixing Checker Finn's Preschool Bandwagon, Early Ed Watch (May 15, 2009) (“Pre-K advocates have been ... too focused on inputs as measures of quality. Many of the criteria currently used to evaluate quality in pre-k programs – adult:child ratios, whether or not teachers have a bachelor's degree – are pure input measures.”)

³³ *See infra* text accompanying notes 26-32 for a discussion of the aspirational goals.

and public schools, on their own volition, are not prohibited from employing instructors with these additional credentials.

Student Enrollment Count

Present Situation

OEL has established payment procedures and a uniform attendance policy used for funding purposes.³⁴ Funds are distributed monthly to ELCs for payments to private prekindergarten providers and public schools.³⁵ Each ELC is advanced funds based on projected attendance. Once school begins, parents certify attendance each month for the prior month.³⁶ Subsequent funds are reconciled based on actual attendance.³⁷

Effect of Proposed Changes

The bill prohibits a VPK provider from amending its student enrollment count after December 31.

Each VPK provider is required to submit its student enrollment count to the ELC to receive payment for VPK services. Currently, a VPK provider can amend its student enrollment count at any time. The bill establishes a deadline by which a provider may amend its student enrollment count. Allowing amendment of student enrollment counts at any time is inefficient and may contribute to ineffective, untimely record-keeping.

Florida Early Learning Advisory Council

Present Situation

In 2004, the Legislature established the Florida Early Learning Advisory Council.³⁸ The purpose of the advisory council is to submit recommendations to DOE on early learning policy of the state including recommendations regarding administration of the VPK program. The chair of the council is appointed by the Governor. The members of the council include the chair of each ELC, a member appointed by the President of the Senate, and a member appointed by the Speaker of the House of Representatives.³⁹

The chair of the council and its appointed members are required to have a background in early learning. Council members serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses, and must meet at least quarterly. OEL provides administrative support.⁴⁰

Effect of Proposed Changes

The bill repeals s. 1002.77, F.S., which establishes the Florida Early Learning Advisory Council. Any such "early learning council" would be more appropriately established in Chapter 411, F.S., dealing with early learning.

In addition, a similar advisory council, called the State Advisory Council on Early Childhood Education and Care, exists in the Florida Children and Youth Cabinet in the Office of the Governor.

³⁴ Section 1002.71(5)(b) and (6)(d), F.S.; rule 60BB-8.204, F.A.C.

³⁵ Section 1002.71(5)(b), F.S.

³⁶ Section 1002.71(6)(b)1. and 2., F.S.

³⁷ Section 1002.71(5)(b), F.S.

³⁸ Section 1, ch. 2004-484, L.O.F.

³⁹ Section 1002.77(1) and (2), F.S.

⁴⁰ Section 1002.77(2) and (3), F.S.

Federal law requires that the Governor establish a State Advisory Council on Early Childhood Education and Care.⁴¹ The Governor is authorized to “designate an existing entity to serve as the State Advisory Council.” The Governor did not designate the Florida Early Learning Advisory Council as the State Advisory Council. Instead, the Governor established the State Advisory Council on Early Childhood Education and Care and appointed members as required by federal law.⁴²

The purpose of the State Advisory Council on Early Childhood Education and Care is to “lead the development of a high quality, comprehensive system of early childhood education and care that ensures statewide coordination and collaboration among the wide array of early childhood programs and services in the State, including Head Start, child care and pre-kindergarten programs and services.”⁴³

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.55(3), F.S., relating to school-year VPK programs delivered by private VPK providers, requiring that a private VPK provider execute the statewide provider agreement; and providing exceptions.

Section 2. Amends s. 1002.61, F.S., relating to summer VPK programs delivered by public school and private VPK providers, requiring that a VPK provider execute the statewide provider agreement; and providing exceptions.

Section 3. Amends s. 1002.63, F.S., relating to school-year VPK program delivered by public schools, requiring that the public VPK provider execute the statewide provider agreement; and providing exceptions.

Section 4. Creates s. 1002.64, relating to the creation of a statewide provider agreement, requiring OEL rule development of a statewide provider agreement; specifying requirements for the content and use of the agreement; specifying requirements regarding the use of the agreement; requiring submission to the Legislature of the draft rule 30 days before publication to the Legislature; prohibiting an ELC from executing agreements with private VPK providers until the coalition determines that the providers are eligible to deliver the program.

Section 5. Amends s. 1002.71(3), F.S., relating to PVK financial and attendance reporting; revising requirements for the calculation of student enrollment for purposes of initial allocations of funds for the VPK Program; providing for the monthly reporting of student enrollment; and requiring the Auditor General to conduct audits of ELCs.

Section 6. Amends s. 1002.75, F.S., relating to the powers, duties, and operational requirements of OEL; Requiring OEL to monitor and evaluate the performance, finances, and operations of ELCs.

Section 7. Amends s. 411.01, F.S., relating to school readiness programs and early learning coalitions; repealing references to the Florida Early Learning Advisory Council.

Section 8. Repeals ss. 1002.65 and 1002.77, F.S., relating to aspirational VPK instructor credentials and the Florida Early Learning Advisory Council.

Section 9. Provides an effective date of July 1, 2012.

⁴¹ 42 U.S.C. 9831 (Improving Head Start for School Readiness Act of 2007) s. 642B(b)(1)(A).

⁴² *Id.*

⁴³ Office of the Governor, *Florida Children and Youth Cabinet State Advisory Council on Early Education and Care*, available at http://www.flgov.com/child_advocacy_cyc_saceec/ (last visited Jan. 30, 2012).

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:

This bill requires ELCs and VPK providers to use a statewide VPK provider agreement, to be adopted, in rule, by OEL. The bill restricts ELCs from adding, or removing, requirements to the agreement. Currently some providers are experiencing increased costs for program delivery because of certain ELC additions to the provider agreement. This bill should eliminate those additional costs.

D. FISCAL COMMENTS:

Repealing the Florida Early Learning Advisory Council eliminates the payment of per diem and travel to its members. The amount paid annually for per diem and travel is not known, but is minimal.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill requires OEL to adopt, by rule, a statewide VPK provider agreement that must be used by all ELCs and VPK providers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to high school athletics; amending s.
 3 1006.15, F.S.; authorizing students attending certain
 4 private schools to participate in certain public
 5 school athletic programs if the private school does
 6 not offer a specific sport; requiring certain private
 7 schools that have students participating in public
 8 school athletic programs make all student records
 9 available upon request; expanding the private school
 10 enrollment requirement for participation in public
 11 school athletic programs; amending s. 1006.20, F.S.;
 12 authorizing, but not requiring, all Florida high
 13 schools to join the Florida High School Athletic
 14 Association; requiring the Florida High School
 15 Athletic Association bylaws governing residence and
 16 transfer to allow a student that obtains an approved
 17 transfer request from the district school board to
 18 participate in athletics; requiring the Florida High
 19 School Athletic Association to adopt bylaws allowing a
 20 student who transfers from a public school to a
 21 private school to participate in any sport, regulating
 22 investigators, and sanctioning certain coaches;
 23 providing penalties for a private school that recruits
 24 a student athlete; requiring an expedited appeals
 25 process, if possible; amending s. 1012.468, F.S.;
 26 providing background screening exceptions for certain
 27 investigators; providing an effective date.
 28

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

30

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

33 1006.15 Student standards for participation in
34 interscholastic and intrascholastic extracurricular student
35 activities; regulation.—

36 (8)(a) The Florida High School Athletic Association
37 (FHSAA), in cooperation with each district school board, shall
38 facilitate a program in which a middle school or high school
39 student who attends a private school shall be eligible to
40 participate in an interscholastic or intrascholastic sport at a
41 public high school, a public middle school, or a 6-12 public
42 school that is zoned for the physical address at which the
43 student resides if:

44 1. The private school in which the student is enrolled is
45 not a member of the FHSAA and does not offer an interscholastic
46 or intrascholastic athletic program or does not offer a specific
47 sport that is offered at the public school.

48 2. The private school student meets the guidelines for the
49 conduct of the program established by the FHSAA's board of
50 directors and the district school board. At a minimum, such
51 guidelines shall provide:

52 a. A deadline for each sport by which the private school
53 student's parents must register with the public school in
54 writing their intent for their child to participate at that
55 school in the sport.

56 b. Requirements for a private school student to

57 | participate, including, but not limited to, meeting the same
 58 | standards of eligibility, acceptance, behavior, educational
 59 | progress, and performance which apply to other students
 60 | participating in interscholastic or intrascholastic sports at a
 61 | public school or FHSAA member private school.

62 | (b) The parents of a private school student participating
 63 | in a public school sport under this subsection are responsible
 64 | for transporting their child to and from the public school at
 65 | which the student participates. The private school the student
 66 | attends, the public school at which the student participates in
 67 | a sport, the district school board, and the FHSAA are exempt
 68 | from civil liability arising from any injury that occurs to the
 69 | student during such transportation.

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

75 | (d) The athletic director of each participating FHSAA
 76 | member public school shall maintain the student records
 77 | necessary for eligibility, compliance, and participation in the
 78 | program.

79 | (e) Any non-FHSAA member private school that has a student
 80 | who wishes to participate in this program must make all student
 81 | records, including, but not limited to, academic, ~~financial,~~
 82 | disciplinary, and attendance records, available upon request of
 83 | the FHSAA.

84 | (f) A student must apply to participate in this program

85 through the FHSAA program application process.

86 (g) Only students who are enrolled in non-FHSAA member
 87 private schools consisting of 250 ~~125~~ students or fewer are
 88 eligible to participate in the program in any given academic
 89 year.

90 Section 2. Subsections (1) and (2), of section 1006.20,
 91 Florida Statutes, are amended, and paragraph (f) is added to
 92 subsection (7) of that section, to read:

93 1006.20 Athletics in public K-12 schools.—

94 (1) GOVERNING NONPROFIT ORGANIZATION.—The Florida High
 95 School Athletic Association (FHSAA) is designated as the
 96 governing nonprofit organization of athletics in Florida public
 97 schools. If the FHSAA ~~Florida High School Athletic Association~~
 98 fails to meet the provisions of this section, the commissioner
 99 shall designate a nonprofit organization to govern athletics
 100 with the approval of the State Board of Education. The FHSAA
 101 ~~organization~~ is not ~~to be~~ a state agency as defined in s.
 102 120.52. The FHSAA organization shall be subject to the
 103 provisions of s. 1006.19. A private school that wishes to engage
 104 in high school athletic competition with a public high school
 105 may become a member of the FHSAA organization. Any high school
 106 in the state, including charter schools, virtual schools, and
 107 home education cooperatives, may become a member of the FHSAA
 108 and participate in the activities of the FHSAA. However,
 109 membership in the FHSAA is not mandatory for any school. The
 110 bylaws of the FHSAA organization are to be the rules by which
 111 high school athletic programs in its member schools, and the
 112 students who participate in them, are governed, unless otherwise

113 specifically provided by statute. For the purposes of this
 114 section, "high school" includes grades 6 through 12.

115 (2) ADOPTION OF BYLAWS.—

116 (a) The FHSAA organization shall adopt bylaws that, unless
 117 specifically provided by statute, establish eligibility
 118 requirements for all students who participate in high school
 119 athletic competition in its member schools. The bylaws governing
 120 residence and transfer shall allow the student to be eligible in
 121 the school in which he or she first enrolls each school year,
 122 the school in which the student ~~or~~ makes himself or herself a
 123 candidate for an athletic team by engaging in a practice before
 124 ~~prior to~~ enrolling in the any member school, or in the school to
 125 which the student has transferred pursuant to district school
 126 board approval. The bylaws shall also allow a student who
 127 transfers from a public school to a private school during the
 128 school year to participate in any sport offered by the private
 129 school. If it is determined that a private school has recruited
 130 a student, the FHSAA may require the private school to
 131 participate in a higher competitive division for the sport in
 132 which the recruited student competes and pay the appropriate
 133 fine. The student shall be eligible in that school so long as he
 134 or she remains enrolled in that school. Subsequent eligibility
 135 shall be determined and enforced through the FHSAA's
 136 ~~organization's~~ bylaws.

137 (b) The FHSAA organization shall adopt bylaws that
 138 specifically prohibit the recruiting of students for athletic
 139 purposes. The bylaws shall prescribe penalties and an appeals
 140 process for athletic recruiting violations.

141 (c) The FHSAA ~~organization~~ shall adopt bylaws that require
 142 all students participating in interscholastic athletic
 143 competition or who are candidates for an interscholastic
 144 athletic team to satisfactorily pass a medical evaluation each
 145 year prior to participating in interscholastic athletic
 146 competition or engaging in any practice, tryout, workout, or
 147 other physical activity associated with the student's candidacy
 148 for an interscholastic athletic team. Such medical evaluation
 149 may ~~can~~ only be administered only by a practitioner licensed
 150 ~~under the provisions of~~ chapter 458, chapter 459, chapter 460,
 151 or s. 464.012, and in good standing with the practitioner's
 152 regulatory board. The bylaws shall establish requirements for
 153 eliciting a student's medical history and performing the medical
 154 evaluation required under this paragraph, which shall include a
 155 physical assessment of the student's physical capabilities to
 156 participate in interscholastic athletic competition as contained
 157 in a uniform preparticipation physical evaluation and history
 158 form. The evaluation form shall incorporate the recommendations
 159 of the American Heart Association for participation
 160 cardiovascular screening and shall provide a place for the
 161 signature of the practitioner performing the evaluation with an
 162 attestation that each examination procedure listed on the form
 163 was performed by the practitioner or by someone under the direct
 164 supervision of the practitioner. The form shall also contain a
 165 place for the practitioner to indicate if a referral to another
 166 practitioner was made in lieu of completion of a certain
 167 examination procedure. The form shall provide a place for the
 168 practitioner to whom the student was referred to complete the

169 remaining sections and attest to that portion of the
 170 examination. The preparticipation physical evaluation form shall
 171 advise students to complete a cardiovascular assessment and
 172 shall include information concerning alternative cardiovascular
 173 evaluation and diagnostic tests. Results of such medical
 174 evaluation must be provided to the school. No student shall be
 175 eligible to participate in any interscholastic athletic
 176 competition or engage in any practice, tryout, workout, or other
 177 physical activity associated with the student's candidacy for an
 178 interscholastic athletic team until the results of the medical
 179 evaluation have been received and approved by the school.

180 (d) Notwithstanding the provisions of paragraph (c), a
 181 student may participate in interscholastic athletic competition
 182 or be a candidate for an interscholastic athletic team if the
 183 parent of the student objects in writing to the student
 184 undergoing a medical evaluation because such evaluation is
 185 contrary to his or her religious tenets or practices. However,
 186 in such case, there shall be no liability on the part of any
 187 person or entity in a position to otherwise rely on the results
 188 of such medical evaluation for any damages resulting from the
 189 student's injury or death arising directly from the student's
 190 participation in interscholastic athletics where an undisclosed
 191 medical condition that would have been revealed in the medical
 192 evaluation is a proximate cause of the injury or death.

193 (e) The FHSAA shall adopt bylaws that regulate persons who
 194 conduct investigations on behalf of the FHSAA. The bylaws shall
 195 include provisions that require investigators to:

196 1. Undergo level 2 background screening under s. 435.04,

197 unless the investigator can provide proof of compliance with
 198 level 2 screening standards submitted within the previous 5
 199 years to meet any professional licensure requirements, provided:

200 a. The investigator has not had a break in service from a
 201 position that requires level 2 screening for more than 90 days;
 202 and

203 b. The investigator submits, under penalty of perjury, an
 204 affidavit of compliance with the provisions of chapter 435 and
 205 this paragraph.

206 2. Carry a photo identification card that shows the FHSAA
 207 name, logo, and the investigator's job title.

208 3. Adhere to the following guidelines:

209 a. Only conduct interviews on Monday through Friday
 210 between the hours of 7 a.m. and 7 p.m., unless previously agreed
 211 to by the interviewee.

212 b. Allow the parent of any student being interviewed to be
 213 present during the interview.

214 c. Only search residences or other private areas with the
 215 written consent of the student's parent.

216
 217 (f) The FHSAA shall adopt bylaws that establish sanctions
 218 for coaches who have committed major violations of the FHSAA's
 219 bylaws and policies.

220 1. Major violations shall include, but are not limited to
 221 allowing an ineligible student to participate in a contest
 222 representing a member school in an interscholastic contest or
 223 violations of the FHSAA's recruiting or sportsmanship policies.

224 2. Sanctions placed upon the individual coach may include,

225 but are not limited to prohibiting or suspending the coach from
 226 coaching, participating, or attending any athletic activity
 227 sponsored, recognized, or sanctioned by the FHSAA and the member
 228 school for which the coach committed the violation. If a coach
 229 is sanctioned by the FHSAA and the coach transfers to another
 230 member school, those sanctions remain in full force and effect
 231 during the term of the sanction.

232 3. If a member school is assessed a financial penalty as a
 233 result of a coach committing a major violation, the coach shall
 234 reimburse the member school before being allowed to coach,
 235 participate, or attend any athletic activity sponsored,
 236 recognized, or sanctioned by the FHSAA and a member school.

237 4. The FHSAA shall establish a due process procedure for
 238 coaches sanctioned under this paragraph, consistent with the
 239 appeals procedures set forth in subsection (7).

240 (7) APPEALS.—

241 (f) The FHSAA shall expedite the appeals process so that
 242 disposition of the appeal can be made before the end of the
 243 applicable sports season, if possible.

244 Section 3. Paragraph (g) is added to subsection (2) of
 245 section 1012.468, Florida Statutes, to read:

246 1012.468 Exceptions to certain fingerprinting and criminal
 247 history checks.—

248 (2) A district school board shall exempt from the
 249 screening requirements set forth in ss. 1012.465 and 1012.467
 250 the following noninstructional contractors:

251 (g) An investigator for the Florida High School Athletic
 252 Association who meets the requirements under s. 1006.20(2)(e).

PCS FOR HB 1403

ORIGINAL

2012

253


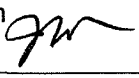
Section 4. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1403 High School Athletics

SPONSOR(S): K-20 Competitiveness Subcommittee

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Competitiveness Subcommittee		Fudge 	Ahearn 

SUMMARY ANALYSIS

The bill increases the ability of private school students to participate in interscholastic and intrascholastic sports at public schools. Currently, participation is limited to students enrolled in private schools with 125 or fewer students and do not offer a sports program. The bill increases the allowable size of the private school to 250 or fewer students and allows students from such schools to participate provided the private school does not offer the specific sport offered at the public school.

The bill allows, but does not require, charter schools, virtual schools, and home education cooperatives to become members of the Florida High School Athletic Association (FHSAA).

The bill allows a student who has transferred pursuant to district school board approval to remain eligible for athletic competition at FHSAA member schools, and allows a public school student who transfers to a private school to participate in any sport offered by the private school. However, if a private school has recruited a student, the FHSAA may require the private school to participate in a higher competitive division for the sport in which the recruited student competes and pay a fine.

The bill requires FHSAA to adopt bylaws that:

- Regulate the conduct of investigators and establish guidelines investigators must follow when conducting investigations;
- Establish sanctions for coaches who have committed major violations such as allowing an ineligible student to participate in a contest representing a member school or violating the FHSAA's recruiting or sportsmanship policies;
- Require coaches to reimburse a member school assessed a financial penalty due to the coach's violation of FHSAA policies;
- Establish a due process procedure for the sanctioning of coaches consistent with FHSAA's appeal procedures.

See FISCAL COMMENTS.

The bill is effective July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

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.

Interscholastic Athletics

Present Situation

Eligible home school and charter school students may participate in interscholastic extracurricular activities at assigned public schools or public schools to which students could attend pursuant to district controlled open-enrollment policies.¹ A student from a charter school may be eligible to participate in activities at the public school if such activity is not offered by that charter school.² 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.³

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 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.⁴ 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.⁵

A student attending a private middle school or high school may 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. Only students attending a non-FHSAA member private school with enrollment of 125 or fewer students may participate in a public school athletic program.⁶

Effect of Proposed Changes

Currently, participation in interscholastic or intrascholastic sports by private school students is limited to students from non-FHSAA member private schools that have 125 or fewer students in any given year and who do not offer an interscholastic or intrascholastic program. The bill increases the number of

¹ 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.

² Section 1006.15(3)(d), F.S.

³ Section 1006.15(3), F.S.

⁴ Sections 1006.15(3)(a)1. and 2. and 1003.43(1), F.S.

⁵ Section 1006.15(3)(a)4., F.S.

⁶ Section 1006.20(8), F.S.

private schools from which students may participate by increasing the allowable size of the private school from 125 to 250 students and allowing students from such schools to participate so long as the school does not offer the specific sport that is offered at the public school. However, schools with more than 125 students typically become members of the FHSAA.⁷

FHSAA Bylaws

Present Situation

Unless specifically provided for in law, the FHSAA may adopt bylaws governing athletic participation of member schools and individual student athletes.⁸ FHSAA must adopt bylaws that address student eligibility, residence, transfer, and recruitment.⁹ Private schools that wish to engage in high school athletic competition are authorized to become FHSAA member schools. The FHSAA bylaws “are to be the rules by which high school athletic programs, and the students who participate in them, are governed.”¹⁰

FHSAA’s membership bylaws require member schools to comply with all bylaws, policies, and procedures.¹¹ Each member school must, as a condition of membership in FHSAA, annually adopt the bylaws as the rules governing its interscholastic athletic programs.¹² The adoption of the bylaws acts as a contract between FHSAA and the member school.¹³ Member schools that violate the bylaws are subject to any disciplinary action determined to be appropriate by FHSAA.¹⁴ In this context, FHSAA bylaws define a member school to include not just the institution, but also “its administration, faculty, athletic staff, student athletes, student body, and any other individual or group engaged in activities representing, supporting or promoting the athletic interests of the school.”¹⁵

FHSAA must also adopt bylaws prohibiting the recruitment of student athletes and establishing penalties and an appeals process for recruiting violations. The law does not prescribe the types of penalties or persons who must be penalized for such violations.¹⁶

FHSAA’s bylaws prohibit recruitment of student athletes. The details of FHSAA’s recruiting policy are set forth in an administrative policy adopted by its board of directors.¹⁷ The recruiting policy defines recruiting¹⁸ and the individuals, including coaches, who may not engage in recruiting behavior;¹⁹ prohibits student athlete receipt of impermissible benefits;²⁰ and establishes penalties for member schools and student athletes involved in recruiting.²¹ “Athletic recruiting is any effort by a school employee, athletic department staff member, or representative of a school’s athletic interests to

⁷ Telephone interview with staff, Florida High School Athletic Association (March 18, 2011).

⁸ 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 Jan. 27, 2012).

⁹ Section 1006.20(2), F.S.

¹⁰ Section 1006.20(1), F.S. Senior high schools, middle/junior high schools, combination schools, or home education cooperatives may be members of FHSAA. Section 3.1.1 of Bylaw 3.1, *FHSAA Handbook*, available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf. Member senior high schools, middle/junior high schools, and combination schools may include traditional public schools, charter schools, private schools, and university lab schools. Section 3.2.2 of Bylaw 3.2, *FHSAA Handbook*.

¹¹ Bylaw 2.6, (compliance with rules) and s. 3.3.1(d) of Bylaw 3.3, *FHSAA Handbook* (conditions of membership), and ss. 3.51 and 3.52 of Bylaw 3.5 (obligations of membership).

¹² Section 3.3.1(d) of Bylaw 3.3, *FHSAA Handbook*.

¹³ *Sult v. Gilbert*, 148 Fla. 31, 35 (1941).

¹⁴ *Sult*, 148 Fla. at 35; Bylaw 2.6, *FHSAA Handbook*.

¹⁵ Section 3.2.1 of Bylaw 3.2, *FHSAA Handbook*.

¹⁶ Section 1006.20(2)(b), F.S.

¹⁷ Bylaw 6.3, *FHSAA Handbook*; Policy 36, *FHSAA Handbook*. The law authorizes the FHSAA board of directors to adopt administrative policies, as authorized by the bylaws. Section 1006.20(4)(e)2., F.S. The administrative policy on recruiting is incorporated by reference by the bylaw. Bylaw 6.3, *FHSAA Handbook*.

¹⁸ Section 36.3.2 of Policy 36, *FHSAA Handbook*.

¹⁹ Sections 36.1.2. and 36.2.1.1 of Policy 36, *FHSAA Handbook*.

²⁰ Section 36.4 of Policy 36, *FHSAA Handbook*.

²¹ Section 36.8 of Policy 36, *FHSAA Handbook*.

pressure, urge or entice a student to attend that school for athletic reasons.”²² Recruiting is further defined as an “act of unsportsmanlike conduct.”²³

A member school may be penalized for recruiting actions taken by its employees, boosters, or other individuals closely associated with the school. Member schools are subject to the following penalties:

- Mandatory forfeiture of games or championships won in which the recruited athlete participated;
- Public reprimand;
- A minimum fine of \$2,500;
- Probation;
- Disqualification from participation in the sport in which the violation occurred; or
- Expulsion or restricted membership in FHSAA for a period of one or more years.²⁴

Student athletes who are recruited or found to have accepted impermissible benefits are declared ineligible for athletic competition for a period of one or more years.²⁵

The head coach of each varsity sport offered by a member school must certify that he or she has reviewed FHSAA’s recruiting policy, agree to comply with the policy, and agree to review the policy with the coaching staff and players.²⁶ Although the recruiting policy prohibits coaches from engaging in recruiting, the policy does not subject coaches found guilty of recruiting to suspension or other penalty.²⁷

Effect of Proposed Changes

The bill authorizes any high school²⁸ in the state, including charter schools and virtual schools, or home education cooperatives to become a member of FHSAA and participate in the activities of FHSAA.

The bill requires FHSAA to adopt bylaws that regulate persons who conduct investigations on behalf of the FHSAA. The bylaws must include provisions that require the investigator to under level 2 background screening pursuant to s. 435.04 unless the investigator provides proof of compliance with such requirement within the previous 5 years as part of other professional licensure requirements. The investigator may only conduct interviews on weekdays between the hours of 7 a.m. and 7 p.m. or at some other time previously agreed to by the interviewee, may only search residences or other private areas upon the written consent of the student’s parents, and must allow the parent of any student to be present during an interview.

FHSAA must also adopt bylaws that establish sanctions for coaches who have committed major violations of the FHSAA’s bylaws or policies. Major violations include, but are not limited to, allowing an ineligible student to participate in a contest representing a member school in an interscholastic contest or violations of the FHSAA’s recruiting or sportsmanship policies. The bill also prescribes sanctions that may be placed upon coaches and that such sanctions remain in full force and effect during the term of the sanction even if the coach transfers to another member school.

The coach must reimburse a member school assessed a financial penalty as a result of the coach’s major violation before the coach is allowed to coach, participate, or attend any athletic activity sponsored by, recognized, or sanctioned by the FHSAA or a member school. The FHSAA must establish a due process procedure for sanctioned coaches that is consistent with the FHSAA’s appeal procedure.

²² Section 36.2.1 of Policy 36, *FHSAA Handbook*.

²³ Section 6.3.1 of Bylaw 6.3, *FHSAA Handbook*.

²⁴ Section 36.8 of Policy 36, *FHSAA Handbook*.

²⁵ *Id.*

²⁶ Section 36.7.1 of Policy 36.7, *FHSAA Handbook*.

²⁷ Sections 36.1.2. and 36.2.1.1 of Policy 36 and s. 36.8 of Policy 36, *FHSAA Handbook*.

²⁸ High school is defined as grades 6 through 12 for purposes of this section. Section 1006.20(1), F.S.

Student Eligibility

Present Situation

The FHSAA must adopt bylaws that establish eligibility requirements for all students who participate in high school athletics at member schools. The bylaws governing residence and transfer must allow the student to be eligible in the school in which he or she first enrolls each school year or makes himself or herself a candidate for an athletic team by engaging in practice prior to enrolling in the school.²⁹

FHSAA bylaws governing student transfer generally allow a student to transfer to another school and remain eligible for athletics if the student moves to a new attendance area with a parent or guardian with whom the student has resided with for one full calendar year. Subject to certain exceptions, a student transfer that is not accompanied by a corresponding "full and complete move"³⁰ of the parent's residence renders the student ineligible until the following school year.³¹

Effect of Proposed Changes

The bill requires FHSAA residence and transfer bylaws to allow the student to be eligible in the school to which the student has transferred pursuant to district school board approval, thereby obviating the need for FHSAA to determine whether a "full and complete" move has occurred. The bylaws must also allow a public school student to transfer to a private school during the school year. However, if it is determined that a private school has recruited a student, the FHSAA may require the private school to participate in a higher competitive division for the sport in which the student competes and pay the appropriate fine.

B. SECTION DIRECTORY:

Section 1. Amends s. 1006.15, relating to student standards for participating in interscholastic and intrascholastic extracurricular student activities; regulation; expanding certain private school student participation in certain public school sports programs.

Section 2. Amends s. 1006.20, relating to athletics in public K-12 schools; to requiring FHSAA to adopt specified bylaws such as regulation of investigators and sanction of coaches.

Section 3. Amends s. 1012.468, relating to exceptions to certain fingerprinting and criminal history checks; exempting investigators who meet the requirements of s. 1006.20, from certain background screening requirements.

Section 4. Providing an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

²⁹ Section 1006.20(2), F.S.

³⁰ A "full and complete move" occurs when the former residence is no longer occupied by the student, all personal belongings are moved from the former residence, mail is received at the new residence, all utilities are transferred to the new residence, and driver's license, voter registration and other forms of legal identification are changed to the new residence. Section 9.3.2.1.1 of Bylaw 9.3, *FHSAA Handbook*.

³¹ Article 9.3, *2011-12 FHSAA Handbook*.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Investigators who conduct investigations on behalf of FHSAA are not currently required to undergo background screenings. Unless the FHSAA chooses to pay for background screening FHSAA investigators will experience increased costs because the bill requires, without exception, all investigators to undergo background screening. The cost of a state and federal criminal history check is \$43.25.

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 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

Not applicable.