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# **Education Committee**

**Thursday, March 23, 2017**

**9:00 AM**

**Reed Hall (102 HOB)**

**Meeting Packet**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Education Committee

**Start Date and Time:** Thursday, March 23, 2017 09:00 am  
**End Date and Time:** Thursday, March 23, 2017 12:00 pm  
**Location:** Reed Hall (102 HOB)  
**Duration:** 3.00 hrs

**Consideration of the following bill(s):**

CS/HB 303 Religious Expression in Public Schools by PreK-12 Quality Subcommittee, Daniels, Williams  
HB 373 Education by Grant, M.  
CS/HB 509 Postsecondary Fee Waivers by Post-Secondary Education Subcommittee, Ponder  
HB 591 Maximum Class Size by Massullo  
HB 781 Designation of School Grades by Porter  
HB 827 Teacher Bonuses by Porter  
HB 1109 Private School Student Participation in Extracurricular Activities by Antone

**NOTICE FINALIZED on 03/21/2017 4:27PM by Jones.Missy**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 303 Religious Expression in Public Schools  
**SPONSOR(S):** PreK-12 Quality Subcommittee; Daniels; Williams and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 436

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N, As CS	McAlarney	Duncan
2) Education Committee		McAlarney <i>DM</i>	Hassell <i>HH</i>

### SUMMARY ANALYSIS

The bill authorizes a student to:

- Express religious beliefs in written and oral assignments free from discrimination.
- Wear jewelry that displays a religious message or symbol to the same extent as secular types of jewelry that displays messages or symbols are permitted.
- Engage in and organize religious groups before, during, and after the school day in the same manner and to the same extent that secular student organizations and groups are permitted.

The bill requires a school district to:

- Allow a religious group the same access to the same school facilities for assembling as given to a secular group and allow a religious or secular group to advertise or announce its meetings.
- Permit school personnel to participate in religious activities on school grounds that are student-initiated and at reasonable times before or after the school day as long as the activities are voluntary and do not conflict with the duties and responsibilities of such school personnel.

The bill provides that these provisions may be enforced pursuant to s. 761.04, F.S., relating to attorney's fees and costs, authorized by the Religious Freedom Restoration Act of 1998.

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

The bill provides an effective date of July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Federal and State Law Regarding Religion

The relationship between religion and government in the United States is governed by the First Amendment to the U.S. Constitution,<sup>1</sup> which both prevents the government from establishing religion and protects privately initiated expression and activities from government interference and discrimination.

The First Amendment to the U.S. Constitution states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Similarly, Article I, Section 3 of the Florida Constitution states:

There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety.

Both the U.S. Constitution and the Florida Constitution contain an Establishment Clause, Free Exercise Clause, and protect individual freedom of speech and expression.<sup>2</sup>

##### *Establishment of Religion*

The Establishment Clause of the First Amendment to the U.S. Constitution requires the government, including public school officials, to maintain neutrality in its treatment of religion.<sup>3</sup> Accordingly, teachers and other school personnel, as government officials, may not lead students in prayer, devotional readings from religious texts, or other religious practices.<sup>4</sup>

##### *Free Exercise of Religion*

The protections of the Free Exercise Clause direct that no law may discriminate against some or all religious beliefs or regulate or prohibit conduct undertaken for religious reasons.<sup>5</sup> Florida courts have generally interpreted Florida's Free Exercise Clause as coequal to the federal clause.<sup>6</sup>

Students may pray, read religious texts, or study religious materials in a non-disruptive manner when not engaged in school activities or instruction.<sup>7</sup> School authorities are permitted to regulate such activities, but must do so in a manner that does not discriminate against religious expression.<sup>8</sup>

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

<sup>2</sup> U.S. Const., Amend. 1; Art. I, s. 3, Fla. Const.

<sup>3</sup> U.S. Department of Education, *Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools*, [https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html) (last visited March 9, 2017); see also *Everson v. Board of Education*, 330 U.S. 1, 18 (1947).

<sup>4</sup> *Engle v. Vitale*, 370 U.S. 421 (1962) (invalidating state laws directing the use of teacher-led prayer in public schools) and *School District of Abington Township Pennsylvania et al. v. Shempp et al.*, 374 U.S. 203 (1963) (invalidating state laws requiring public schools to begin the school day with Bible readings).

<sup>5</sup> *Church of the Lukimi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993).

<sup>6</sup> *Warner v. City of Boca Raton*, 887 So. 2d 1023, 1030 (citing *Toca v. State*, 834 So. 2d 204, 208 (Fla. 2d DCA 2002)).

Additionally, the Florida Religious Freedom Restoration Act (RFRA) specifically protects a person's right to the free exercise of religion.<sup>9</sup> The RFRA provides that government cannot burden the exercise of religion unless there is a compelling government interest and it is the least restrictive means of accomplishing that interest.<sup>10</sup>

### *The Civil Rights Act of 1964*

Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination based on race, color, religion, sex, and national origin.<sup>11</sup> As such, a school district may not discriminate against an employee on the basis of his or her religion. For purposes of the Civil Rights Act, the term "religion" includes all aspects of religious observance, practice, or belief.<sup>12</sup>

### *The Equal Access Act*

The Equal Access Act<sup>13</sup> makes it unlawful for any public secondary school that receives federal financial assistance and maintains a limited open forum<sup>14</sup> to deny equal access or fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of religious, political, philosophical, or other content of speech at such meetings.<sup>15</sup>

A public secondary school is deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that:<sup>16</sup>

1. The meeting is voluntary and student-initiated;
2. There is no sponsorship of the meeting by the school, the government, or its agents or employees;
3. Employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;
4. The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and
5. Nonschool persons do not direct, conduct, control, or regularly attend such activities of student groups.

The U.S. Supreme Court has held that the Equal Access Act does not violate the Establishment Clause of the First Amendment to the U.S. Constitution.<sup>17</sup> The Equal Access Act applies to public secondary schools<sup>18</sup> and does not address the applicability of the Act to elementary or middle schools.<sup>19</sup>

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<sup>7</sup> U.S. Department of Education, *Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools*, [https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html) (last visited March 9, 2017).

<sup>8</sup> *Board of Education of Westside Community Schools, etc. et al. v. Mergens et al.*, 496 U.S. 226 (1990).

<sup>9</sup> See ch. 761, F.S.

<sup>10</sup> Section 761.03, F.S.

<sup>11</sup> 42 U.S.C. s. 2000e.; U.S. Equal Employment Opportunity Commission, *Title VII of the Civil Rights Act of 1964*, <https://www.eeoc.gov/laws/statutes/titlevii.cfm> (last visited March 9, 2017).

<sup>12</sup> 42 U.S.C. s. 2000e(j).

<sup>13</sup> 20 U.S.C. s. 4071.

<sup>14</sup> A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurricular related student groups to meet on school premises during instructional time. 20 U.S.C. s. 4071(b). This is a different standard from the "limited public forum" specified in SB 436. See *East High Gay Straight Alliance v. Board of Education of Salt Lake City School District*, 81 F. Supp. 2d 1199, 1200 n.1 (D. Utah 1999) (citing *Mergens*, 496 U.S. at 242).

<sup>15</sup> 20 U.S.C. s. 4071(a).

<sup>16</sup> *Id.* at (c).

<sup>17</sup> *Mergens*, 496 U.S. at 253.

<sup>18</sup> A "secondary school" means a public school which provides secondary education as determined by state law. 20 U.S.C. 4072(1). A secondary school in Florida is described as a high school. Section 1003.01(2), F.S.

<sup>19</sup> The U.S. Supreme Court has noted that no meaning can be derived from the decision by Congress not to address elementary schools in the Equal Access Act. *Good News Club v. Milford Central School*, 533 U.S. 98, 118 n.8 (2001).

### *Guidance on Religious Expression in Public Schools*

The DOE is required to annually distribute the federal guidelines on “Religious Expression in Public Schools” published by the U.S. Department of Education to all district school board members, district superintendents, school principals, and teachers for informational purposes.<sup>20</sup>

#### *Inspirational Message*

Florida law authorizes a district school board to adopt a policy allowing an inspirational message by students at a student assembly.<sup>21</sup> The policy must provide that students who are responsible for organizing any student-led portion of a student assembly must:<sup>22</sup>

- Have sole discretion in determining whether an inspirational message is to be delivered.
- Choose the student volunteers to deliver the message. The student volunteers must be solely responsible for the preparation and content of the inspirational message.

School district personnel are prohibited from participating in, or otherwise influencing, the determination of whether an inspirational message is to be delivered or selecting the student volunteers to deliver the inspirational message.<sup>23</sup> Additionally, school district personnel may not monitor or otherwise review the content of a student volunteer’s inspirational message.<sup>24</sup>

The purpose of this provision is to give students an opportunity for formal or ceremonious observance of an occasion or event.<sup>25</sup>

#### *Permitting Study of the Bible and Religion and a Brief Meditation Period*

District school boards may allow a secular program of education that includes an objective study of the Bible and of religion.<sup>26</sup> Also, school districts may set aside 2 minutes of each school day for silent prayer or meditation.<sup>27</sup>

#### *Protection of School Speech*

District school boards, administrative personnel, and instructional personnel cannot take any affirmative action that infringes on the rights afforded to personnel or students by the First Amendment to the United States Constitution. An individual whose constitutional rights would be infringed may waive those rights. Such a waiver of rights must be expressly done in writing.<sup>28</sup>

#### *Attorney’s Fees and Costs*

Florida law provides that the prevailing plaintiff in any action or proceeding to enforce a provision of the Religious Freedom and Restoration Act, chapter 761, F.S., is entitled to reasonable attorney’s fees and costs to be paid by the government.<sup>29</sup>

### **Effect of Proposed Changes**

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<sup>20</sup> Section 1002.205, F.S.; see also U.S. Department of Education, *Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools*, [https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html) (last visited March 9, 2017).

<sup>21</sup> Section 1001.432(1), F.S.

<sup>22</sup> *Id.* at (1) (a).

<sup>23</sup> *Id.* at (1) (b) 1.

<sup>24</sup> *Id.* at (1) (b) 2.

<sup>25</sup> Section 1001.432(2), F.S.

<sup>26</sup> Section 1003.45 (1), F.S.

<sup>27</sup> Section 1003.45 (2), F.S.

<sup>28</sup> Section 1003.4505, F.S.

<sup>29</sup> Section 761.04, F.S.

The bill authorizes voluntary expression of religious beliefs by students in public schools. A student may express religious beliefs in homework, artwork, and other written and oral assignments free from discrimination based on the religious content.<sup>30</sup> Such assignments must be evaluated based on relevant academic standards, and neither penalized nor rewarded on account of religious content.<sup>31</sup>

In addition to permitting written and oral religious expression, the bill authorizes students to wear jewelry that displays a religious message or symbol<sup>32</sup> to the same extent that students are permitted to wear secular jewelry.

The bill also authorizes students to organize religious activities before, during, and after the school day to the same extent that students may engage in secular activities, expression, or groups. A religious group may be given access to the same school facilities for assembling as given to secular groups without discrimination based on the religious content of the group's expression. Further, the bill authorizes a religious group to advertise or announce its meetings to the same extent that a secular group may advertise or announce its meetings.<sup>33</sup> Students at such schools may organize during noninstructional time.<sup>34</sup> The bill appears to extend this right to students in public elementary and middle schools.

The bill provides that a school district may not prevent school personnel from participating in religious activities on school grounds that are initiated by students at reasonable times before or after the school day if such activities are voluntary and do not conflict with the responsibilities or assignments of such personnel. Pursuant to the Establishment Clause of the First Amendment to the U.S. Constitution, teachers, school administrators, or other school employees generally may not actively participate in prayer or similar religious activities with students on school grounds, unless the overall context makes clear such employees are not participating in their official capacity.<sup>35</sup>

The rights provided under the bill may be enforced pursuant to chapter 761, F.S., the Religious Freedom Restoration Act of 1998.

The bill provides an effective date of July 1, 2017.

## B. SECTION DIRECTORY:

- Section 1.** Creates subsection (25) of s. 1002.20, F.S., to include student rights including religious expression, religious jewelry, and religious organizations.
- Section 2.** Amends s. 1002.205, F.S. prohibiting school districts from preventing school personnel from participating in student initiated religious activities on school grounds.
- Section 3.** Provides an effective date of July 1, 2017.

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<sup>30</sup> See U.S. Department of Education, *Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools*, [https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html) (last visited March 9, 2017). As an example, if a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer should be judged on the basis of academic standards, such as literary quality. *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> An example of jewelry that displays a religious message or symbol may include a rosary necklace (see *Chalifoux v. New Caney Independent School District*, 976 F. Supp. 659 (S.D. Tex. 1997)).

<sup>33</sup> See Equal Access Act; 20 U.S.C. s. 4071.

<sup>34</sup> "A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time." *Id.* at (b).

<sup>35</sup> U.S. Department of Education, *Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools*, [https://www2.ed.gov/policy/gen/guid/religionandschools/prayer\\_guidance.html](https://www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html) (last visited March 9, 2017). For example, teachers may meet with other teachers for prayer or Bible study to the same extent that they may engage in other conversations or nonreligious activities. Similarly, teachers may participate in their personal capacities in privately sponsored baccalaureate ceremonies. *Id.*



## 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:

None.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 14, 2017, the House PreK-12 Quality Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably. The PCS differs from the bill by deleting provisions relating to clothing and accessories, a limited public forum, and the development and publishing of a model policy.

The bill analysis is drafted to the PCS as adopted by the PreK-12 Quality Subcommittee.

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A bill to be entitled  
 An act relating to religious expression in public schools; amending s. 1002.20, F.S.; prohibiting penalty or reward for a student's religious expression in coursework, artwork, or other specified assignments; authorizing a student to wear jewelry displaying religious messages or symbols; authorizing a student to organize prayer groups, religious clubs, and other religious gatherings; authorizing religious groups to have equal access to school facilities; authorizing religious groups to advertise or announce meetings in the same manner and to the same extent as secular groups; authorizing the enforcement of such student rights under the Religious Freedom Restoration Act of 1998; amending s. 1002.205, F.S.; prohibiting a school district from preventing school personnel from participating in voluntary, student-initiated religious activities on school grounds under specified circumstances; authorizing the enforcement of the right to such participation under the Religious Freedom Restoration Act of 1998; providing an effective date.

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

26 Section 1. Subsection (25) is added to section 1002.20,  
 27 Florida Statutes, to read:

28 1002.20 K-12 student and parent rights.—Parents of public  
 29 school students must receive accurate and timely information  
 30 regarding their child's academic progress and must be informed  
 31 of ways they can help their child to succeed in school. K-12  
 32 students and their parents are afforded numerous statutory  
 33 rights including, but not limited to, the following:

34 (25) RELIGIOUS LIBERTIES.—

35 (a) Religious expression.—A student may express his or her  
 36 religious beliefs in coursework, artwork, and other written and  
 37 oral assignments free from discrimination. A student's homework  
 38 and classroom assignments shall be evaluated, regardless of  
 39 their religious content, based on expected academic standards  
 40 relating to the course curriculum and requirements. A student  
 41 may not be penalized or rewarded based on the religious content  
 42 of his or her work if the coursework, artwork, or other written  
 43 or oral assignments require a student's viewpoint to be  
 44 expressed.

45 (b) Religious jewelry.—A student may wear jewelry that  
 46 displays a religious message or symbol in the same manner and to  
 47 the same extent that secular types of jewelry that display  
 48 messages or symbols are permitted to be worn.

49 (c) Religious organization.—A student may organize prayer  
 50 groups, religious clubs, and other religious gatherings before,

51 during, and after the school day in the same manner and to the  
 52 same extent that a student is permitted to organize secular  
 53 activities and groups. A religious group may be given access to  
 54 the same school facilities for assembling as given to secular  
 55 groups without discrimination based on the religious content of  
 56 the group's expression. A group that meets for prayer or other  
 57 religious speech may advertise or announce its meetings in the  
 58 same manner and to the same extent that a secular group may  
 59 advertise or announce its meetings.

60  
 61 The rights as provided in this subsection may be enforced under  
 62 chapter 761.

63 Section 2. Section 1002.205, Florida Statutes, is amended  
 64 to read:

65 1002.205 Guidelines on religious expression;  
 66 distribution.—The Department of Education shall each year  
 67 distribute for informational purposes to all district school  
 68 board members, district school superintendents, school  
 69 principals, and teachers the entire guidelines on "Religious  
 70 Expression in Public Schools" published by the United States  
 71 Department of Education, as updated from time to time. In  
 72 addition, a school district may not prevent school personnel  
 73 from participating in religious activities on school grounds  
 74 which are initiated by students at reasonable times before or  
 75 after the school day if such activities are voluntary and do not

76 conflict with the responsibilities or assignments of such  
77 personnel. The rights as provided in this section may be  
78 enforced under chapter 761.

79 Section 3. This act shall take effect July 1, 2017.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 373 Education  
**SPONSOR(S):** Grant  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 856

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	9 Y, 5 N	Dehmer	Healy
2) Education Committee		Dehmer <i>DW</i>	Hassell <i>AH</i>

**SUMMARY ANALYSIS**

Currently, school districts may award annual contracts to educational instructional personnel (those that provide direct instructional services or support to K-12 students) who have successfully completed a one year probationary contract and have met other specified criteria.

The bill clarifies that the district must issue contracts on an annual basis and may not:

- award an annual contract to instructional personnel based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or
- alter or limit its authority to award or not award an annual contract to instructional personnel as provided in s. 1012.335, F.S.

The bill provides that the provision prohibiting a school board from awarding, or altering its authority to award, an annual contract not expressed in s. 1012.335, F.S., only applies to collective bargaining agreements entered into or renewed by a district school board on or after this law is enacted.

This bill shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Instructional personnel provide direct instructional services or direct instructional support to K-12 students. Instructional personnel include classroom teachers;<sup>1</sup> staff who provide student personal services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists and education paraprofessionals under the direct supervision of instructional personnel.<sup>2</sup>

Three types of contracts are used to employ instructional personnel in Florida – continuing contracts, professional service contracts and annual contracts. Holding a continuing contract or professional service contract is often referred to as having tenured status.<sup>3</sup>

An annual contract is an employment contract for a period of no longer than one school year that a district school board may choose to award or not award without cause.<sup>4</sup> As of July 1, 2011, instructional personnel under an annual contract and personnel hired thereafter may only be employed on an annual contract basis. The first annual contract for newly hired instructional personnel is a one-year probationary contract, which may be terminated without cause or from which the employee may resign without breach of contract. “Newly hired instructional personnel” include employees new to the profession or employees with experience who are new to the school district.<sup>5</sup>

Upon successful completion of the one-year probationary contract, district school boards may award subsequent annual contracts if the employee:

- is certified;
- has been recommended by the superintendent based upon his or her performance evaluation, and approved by the district school board; and
- has not received two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a three-year period or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory.<sup>6</sup>

##### Effect of Proposed Changes

The bill clarifies that the district must issue contracts on an annual basis and may not:

- award an annual contract to instructional personnel based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or

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<sup>1</sup> Classroom teachers include substitute teachers. Section 1012.01(2)(a), F.S.

<sup>2</sup> Section 1012.01(2), F.S.

<sup>3</sup> See s. 1012.33(3)(d), F.S. (2010). Tenure is an employment policy which limits a public school district’s ability to terminate the employment of instructional personnel. See 67B Am. Jur. 2d Schools s. 195; see also s. 1012.33(3), F.S. Tenure usually takes the form of a continuous or automatically renewing employment contract. Tenured instructional personnel may only be dismissed for specified reasons after statutorily required hearings. See *Board of Regents v. Roth*, 408 U.S. 564 (1972); 67B Am. Jur. 2d Schools s. 211.

<sup>4</sup> Section 1012.335(1)(a), F.S.

<sup>5</sup> Section 1012.335(1)-(2), F.S. For the purpose of awarding annual contracts, the term “instructional personnel” does not include substitute teachers. Section 1012.335(1)(b), F.S.

<sup>6</sup> Section 1012.335(2)(c), F.S.



- alter or limit its authority to award or not award an annual contract to instructional personnel as provided in s. 1012.335, F.S.

These provisions only apply to collective bargaining agreements entered into or renewed by a district school board on or after this law is enacted.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1012.335, F.S., relating to contracts with educational instructional personnel hired on or after July 1, 2011.

**Section 2.** Directs the Division of Law Revision and Information to replace the phrase “the effective date of this act” as it occurs in section 1 with the date this act takes effect.

**Section 3.** Provides that the bill shall take effect upon becoming law.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                   A bill to be entitled  
 2           An act relating to education; amending s. 1012.335,  
 3           F.S.; prohibiting a district school board from  
 4           awarding an annual contract for instructional  
 5           personnel under certain circumstances; prohibiting a  
 6           district school board from altering or limiting its  
 7           authority to award or not award an annual contract;  
 8           providing applicability; providing a directive to the  
 9           Division of Law Revision and Information; providing an  
 10          effective date.

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

13  
 14           Section 1. Paragraph (d) is added to subsection (2) of  
 15           section 1012.335, Florida Statutes, to read:

16           1012.335 Contracts with instructional personnel hired on  
 17           or after July 1, 2011.—

18           (2) EMPLOYMENT.—

19           (d) A district school board may not:

20           1. Award an annual contract on the basis of any  
 21           contingency or condition not expressly authorized in this  
 22           section; or

23           2. Alter or limit its authority to award or not award an  
 24           annual contract as provided in this section.  
 25

26 This paragraph applies only to a collective bargaining agreement  
 27 entered into or renewed by a district school board on or after  
 28 the effective date of this act.

29 Section 2. The Division of Law Revision and Information is  
 30 directed to replace the phrase "the effective date of this act"  
 31 as it occurs in section 1 of this act with the date this act  
 32 takes effect.

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



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 509 Postsecondary Fee Waivers  
**SPONSOR(S):** Postsecondary Education Subcommittee; Ponder  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1132

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	14 Y, 0 N, As CS	McAlarney	Bishop
2) Higher Education Appropriations Subcommittee		Butler	Lloyd
3) Education Committee		McAlarney <i>DM</i>	Hassell <i>AA</i>

**SUMMARY ANALYSIS**

Currently, active duty United States Armed Forces members are reimbursed for tuition through the US Department of Defense (DOD) Military Tuition Assistance (MTA) program. The DOD program expressly prohibits the payment of fees, which are defined as any charge not directly related to course instruction. Therefore, active duty military members incur out of pocket expenses for mandatory fees when enrolling in a Florida College System (FCS) institution.

The bill authorizes FCS institutions to waive any portion of specified fees that are not covered under the DOD MTA program.

Active duty service members using the DOD MTA program will no longer incur out of pocket costs when they are enrolled in a Florida College System institution that elects to implement the fee waiver.

Each Florida College System institution must report to the State Board of Education the number and value of all fee waivers granted annually.

For institutions that choose to implement the fee waiver, the bill will result in a loss of fee revenues from eligible students currently attending these institutions. However, in waiving the fees, these institutions could experience increased enrollment for students who might not otherwise have attended, resulting in increased tuition revenues. In Fiscal Year 2016-17, tuition and fee revenues made up approximately 40 percent of the total operating costs for Florida Colleges, with state funding providing 60 percent. Because the potential eligible population and behavior is unknown, the fiscal impact is indeterminate.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The Department of Defense (DOD) Military Tuition Assistance (MTA) program is a benefit paid to eligible service members for tuition and fees at postsecondary education institutions. The program is authorized in federal code<sup>1</sup> and implemented through DOD instructions.<sup>2</sup> In 2014, the DOD MTA program instructions were modified to limit coverage of the benefit to tuition only. The payment of other mandatory fees using federal dollars is expressly prohibited. The guidance further defined fees to include any charge not directly related to course instruction, including but not limited to, costs associated with room, board, distance learning, equipment, supplies, books/materials, exams, insurance, parking, transportation, admissions, registration, or fines.

Florida's current tuition funding model authorizes tuition and fee charges at Florida College System (FCS) institutions<sup>3</sup> and state universities.<sup>4</sup> For Florida MTA students, the following mandatory fees are no longer covered by the DOD MTA program:

- Student Activity Fee
- Capital Improvement Fee
- Financial Aid Fee
- Technology Fee
- Access Fee

Together, these fees total approximately \$25 per credit hour at FCS institutions. It appears that several institutions are providing institution-based financial aid in order to eliminate out-of-pocket costs for their DOD MTA program beneficiaries. However, this may not be sustainable long-term.

##### Effect of Proposed Changes

This bill authorizes a Florida College System institution to waive any portion of the following fees for a US Armed Forces active duty member so long as they are using military tuition assistance provided by the US Department of Defense:

- Student activity and service fee;
- Financial aid fee;
- Technology fee;
- Capital improvement fee; and
- Any other fees authorized in s. 1009.23, F.S.

Additionally, each Florida College System institution must report to the State Board of Education the number and value of all fee waivers granted annually.

#### B. SECTION DIRECTORY:

Section 1. Adds subsection (15) to section 1009.26, F.S., authorizing Florida College System institutions to waive specified fees for active duty U.S. Armed Forces members who use the Department of Defense Military Tuition Assistance program.

<sup>1</sup> 38 USC Ch. 33: Post-9/11 EDUCATIONAL ASSISTANCE.

<sup>2</sup> U.S. Dep't of Def., DoD Instruction (DoDI) 1322.25, Voluntary Education Programs, July 7, 2014, <http://www.dtic.mil/whs/directives/corres/pdf/132225p.pdf> (last visited Mar. 6, 2017)

<sup>3</sup> Section 1009.23, F.S.

<sup>4</sup> Section 1009.24, F.S.

Section 2. Provides an effective date of July 1, 2017.

## 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:

Active duty service members using the DOD Military Tuition Assistance program will no longer have to incur out of pocket costs when they are enrolled in a Florida College System institution that elects to implement the fee waiver.

### D. FISCAL COMMENTS:

For institutions that choose to implement the fee waiver, the bill will result in a loss of fee revenues from eligible students currently attending these institutions. However, in waiving the fees, these institutions could experience increased enrollment for students who might not otherwise have attended, resulting in increased tuition revenues. In Fiscal Year 2016-17, tuition and fee revenues made up approximately 40 percent of the total operating costs for Florida Colleges, with state funding providing 60 percent. Because the potential eligible population and behavior is unknown, the fiscal impact is indeterminate.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:



None.

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

On March 8, 2017, the Postsecondary Education Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provides that each Florida College System institution shall report to the State Board of Education the number and value of all fee waivers granted annually as provided in the bill. The bill analysis is drafted to the committee substitute as passed by the Postsecondary Education Subcommittee.

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A bill to be entitled  
 An act relating to postsecondary fee waivers; amending  
 s. 1009.26, F.S.; authorizing a Florida College System  
 institution to waive any portion of certain  
 postsecondary fees for active duty members of the  
 Armed Forces of the United States using military  
 tuition assistance; requiring each institution to  
 report to the State Board of Education the number and  
 value of fee waivers granted annually; providing an  
 effective date.

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

Section 1. Subsection (15) is added to section 1009.26,  
 Florida Statutes, to read:

1009.26 Fee waivers.—

(15) A Florida College System institution may waive any  
 portion of the student activity and service fee, the financial  
 aid fee, the technology fee, the capital improvement fee, and  
 any other fees authorized in s. 1009.23 for a person who is an  
 active duty member of the Armed Forces of the United States  
 using military tuition assistance provided by the United States  
 Department of Defense. Each Florida College System institution  
 shall report to the State Board of Education the number and  
 value of all fee waivers granted annually under this subsection.

CS/HB 509



2017

26 Section 2. This act shall take effect July 1, 2017.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 591 Maximum Class Size  
**SPONSOR(S):** Massullo and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 808

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	13 Y, 2 N	Dehmer	Healy
2) PreK-12 Appropriations Subcommittee	13 Y, 0 N	Seifert	Potvin
3) Education Committee		Dehmer 	Hassell 

### SUMMARY ANALYSIS

The Florida Education Finance Program (FEFP) is the primary mechanism for funding the operating costs of Florida school districts and is the foundation for financing Florida's K-12 educational programs.

In 2003, the Florida Legislature enacted chapter 2003-391, Laws of Florida, which implements the provisions of the class-size amendment and defines the progress that districts must make in reducing class size.

Compliance with class size reduction requirements is calculated at the classroom level for traditional public schools and at the school level for charter schools, district-operated schools of choice and schools participating in the Principal Autonomy Pilot Program Initiative.

Districts and charter schools that are out of compliance with class size requirements have a reduction in class size categorical funding. Up to 25 percent of the reduction is reallocated to districts and charter schools that are in compliance with these requirements. The remaining balance is restored to districts and charter schools that are not in compliance but have submitted a certified plan to the Commissioner of Education explaining the actions the district or charter school will take to ensure compliance. The reallocations for traditional public schools, district-operated schools of choice and charter schools are each calculated separately based on their respective reduction amounts. In order for a district's traditional schools or district-operated schools of choice to qualify for the reallocation, all of its traditional schools and district-operated schools of choice must be in compliance with class size requirements.

The bill removes the exemptions for class size requirements and maintains class size compliance for each classroom but revises the method for calculating the penalty to be at the school average for any school that fails to comply with class size requirements. The bill repeals an increase in the penalty for failure to comply with the class size requirements and provides that a district may not have its class size categorical allocation reduced for the 2017-18 or 2018-19 fiscal years if it meets certain requirements.

The bill will result in a reduction in the amount deducted from a school district's class size reduction operating categorical.

See Fiscal Analysis & Economic Impact Statement.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Maximum Class Size

###### Present Situation

In 2002, voters approved the Class Size Reduction Amendment to Section 1, Article IX of the Florida Constitution. The amendment requires the Legislature, by the beginning of the 2010 school year, to make adequate provisions to ensure that there are a sufficient number of classrooms in Florida so that the maximum number of students assigned to each teacher does not exceed:

- 18 students for prekindergarten through 3rd grade;
- 22 students for 4th through 8th grades; and
- 25 students for 9th through 12th grades.

Extracurricular courses are expressly excluded from the class size mandate; thus, its requirements apply only to core curricula courses, which are defined in s. 1003.01(14), F.S.

Additionally, the amendment requires that the Legislature provide sufficient funds, beginning in Fiscal Year (FY) 2003-2004, for school districts to reduce the average number of students in each classroom by at least two annually until the constitutionally prescribed maximum number of students is achieved. Under the initial implementing statute<sup>1</sup>, compliance with the class size requirements was to be measured at the:

- district level for each of the three grade groupings during FYs 2003-2006;
- school level for each of the three grade groupings in FYs 2006-2008;
- individual classroom level for each of the three grade groupings in FY 2008-2009 and thereafter.

The timeframe for measuring class size at the school level was extended twice. In 2008, the Legislature extended school level measurement through FY 2008-2009.<sup>2</sup> The next year, the Legislature extended this timeframe by one more year, thereby delaying measurement of class size at the individual classroom level until FY 2010-2011 and thereafter.<sup>3</sup> Legislation enacted in 2010 established the compliance calculation for charter schools at the school level average.<sup>4</sup> Legislation enacted in 2013 granted the same treatment to district-operated schools of choice<sup>5</sup>, and in 2016, granted the same treatment to schools participating in the Principal Autonomy Pilot Program Initiative (PAPPI).<sup>6</sup>

In 2013, the Legislature added a provision to exempt “blended learning courses” from the core courses required to be in compliance with class size.<sup>7</sup>

To implement the class size amendment, the Legislature annually appropriates class size reduction categorical funding for school district operating costs. Additionally, the Legislature has appropriated funds for capital outlay (facility) needs and granted bonding authority to fund classroom construction and other capital needs related to class size reduction. Since 2003, the Legislature has appropriated

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<sup>1</sup> Section 2, ch. 2003-391, L.O.F.

<sup>2</sup> Section 5, ch. 2008-142, L.O.F.

<sup>3</sup> Section 13, ch. 2009-59, L.O.F.

<sup>4</sup> Section 1002.33(16)(b)3., F.S., as created in section 6, ch. 2010-154, L.O.F.

<sup>5</sup> Section 1002.31(9), F.S., as created in section 9, ch. 2013-250, L.O.F.

<sup>6</sup> Section 1011.6202(3)(b)7., F.S.

<sup>7</sup> Section 1003.01(14), F.S., as modified in section 3, ch. 2013-225, L.O.F.

more than \$34.2 billion for operational expenses and \$2.5 billion in facilities funding to implement the Class Size Reduction Amendment.

<b>History of Funding for Class Size Reduction<sup>8</sup></b>			
<b>Fiscal Year</b>	<b>Operating Funds</b>	<b>Facilities Funds</b>	<b>Total Funds</b>
2003-2004	\$ 468,198,634	\$ 600,000,000	\$ 1,068,198,634
2004-2005	\$ 972,191,216	\$ 100,000,000	\$ 1,072,191,216
2005-2006	\$ 1,507,199,696	\$ 83,400,000	\$ 1,590,599,696
2006-2007	\$ 2,108,529,344	\$1,100,000,000	\$ 3,208,529,344
2007-2008	\$ 2,640,719,730	\$ 650,000,000	\$ 3,290,719,730
2008-2009	\$ 2,729,491,033	\$ -	\$ 2,729,491,033
2009-2010	\$ 2,845,578,849	\$ -	\$ 2,845,578,849
2010-2011	\$ 2,913,825,383	\$ -	\$ 2,913,825,383
2011-2012	\$ 2,927,464,879	\$ -	\$ 2,927,464,879
2012-2013	\$ 2,974,748,257	\$ -	\$ 2,974,748,257
2013-2014	\$ 2,974,766,164	\$ -	\$ 2,974,766,164
2014-2015	\$ 3,013,103,776	\$ -	\$ 3,013,103,776
2015-2016	\$ 3,035,025,330	\$ -	\$ 3,035,025,330
2016-2017	\$ 3,071,776,000	\$ -	\$ 3,071,776,000
<b>Total to Date</b>	<b>\$34,182,618,299</b>	<b>\$2,533,400,000</b>	<b>\$36,716,018,299</b>

The Department of Education (DOE) is required to reduce class size categorical funding for school districts and charter schools that are out of compliance with class size requirements. The penalty is calculated at the classroom level for traditional public schools and at the school level for charter schools, district-operated schools of choice and innovation schools of technology. The penalties for traditional public schools and district-operated schools of choice are combined to make a total adjustment for each district. The DOE must calculate the penalty for traditional public schools out of compliance as follows:

- Step 1:** Identify, for each grade grouping, the number of classrooms that exceed the maximum and the total number of students which exceeds the maximum for all classes.
- Step 2:** Determine the number of full-time equivalent (FTE) students which exceeds the maximum for each grade grouping.
- Step 3:** Multiply the total number of FTE students over the maximum for each grade grouping by the district's FTE dollar amount of the class size reduction operating categorical allocation for that year and calculate the total for all three grade groupings.
- Step 4:** Multiply the total number of FTE students over the maximum for all classes by an amount equal to 100 percent of the base student allocation adjusted by the district cost differential.

A school district's class size reduction operating categorical allocation is then reduced by an amount equal to the sum of the calculations in Steps 3 and 4. Beginning in FY 2014-2015, the total number of FTE students over the maximum for all classes must be multiplied by 100 percent of the base student allocation adjusted by the district cost differential, thereby increasing the amount of the penalty (see Step 4).

The reduced amount is the lesser of the DOE's calculation or the undistributed balance of the school district's class size reduction operating categorical allocation. If a district made appropriate efforts to reduce class sizes but still failed to achieve compliance or an emergency caused noncompliance, the Commissioner of Education is authorized to recommend an alternative transfer amount for approval by the Legislative Budget Commission.<sup>9</sup> Once the reduced amount is determined, after district appeals,

<sup>8</sup> Florida Department of Education, *Class Size Implementation Budget*, available at <http://www.fldoe.org/finance/budget/class-size/index.shtml>.

<sup>9</sup> Section 1003.03(4)(c), F.S.

the commissioner must prepare a reallocation of the funds made available as a bonus to districts that have fully met the class size requirements by calculating an amount that is up to five percent of the base student allocation multiplied by the total district FTE students. The reallocation total may not exceed 25 percent of the total funds reduced.

<b>History of Class Size Transfer (&amp; Reallocation) Calculation for Traditional Public Schools</b>				
		Pre-Appeals	Post-Appeals	After Plan
District	2003-04	\$21,488,179	\$1,479,948	
District	2004-05	\$11,354,475	\$1,076,719	
District	2005-06	\$5,222,735	\$496,059	
School	2006-07	\$7,836,834	\$3,273,943	
School	2007-08	\$5,330,411	\$333,302	
School	2008-09	\$1,396,108	\$0	
School	2009-10	\$1,912,030	\$267,263	
Classroom	2010-11	\$40,795,637	\$31,305,124	\$7,826,281
Classroom	2011-12	\$58,749,605	\$43,407,465	\$10,851,866
Classroom	2012-13	\$26,965,789	\$22,698,784	\$5,674,696
Classroom	2013-14	\$12,674,357	\$9,558,513	\$2,389,628
Classroom	2014-15	\$11,306,609	\$1,260,083	\$315,021
Classroom	2015-16	\$2,302,910	\$921,429	\$230,357
Classroom	2016-17	\$2,562,990	\$724,620	\$181,155
<b>History of Class Size Transfer (&amp; Reallocation) Calculation for Charter Schools</b>				
		Pre-Appeals	Post-Appeals	After Plan
N/A	2003-04	\$0	\$0	
N/A	2004-05	\$0	\$0	
N/A	2005-06	\$0	\$0	
School	2006-07	\$6,831,504	\$2,724,878	
School	2007-08	\$802,515	\$194,836	
N/A	2008-09	\$0	\$0	
N/A	2009-10	\$0	\$0	
School	2010-11	\$2,292,191	\$355,539	\$88,885
School	2011-12	\$3,921,323	\$652,851	\$163,213
School	2012-13	\$1,570,397	\$431,345	\$107,836
School	2013-14	\$835,448	\$204,863	\$51,216
School	2014-15	\$2,789,830	\$562,397	\$140,599
School	2015-16	\$3,763,908	\$816,147	\$204,037
School	2016-17	\$5,075,827	\$859,117	\$214,779
<b>History of Class Size Transfer (&amp; Reallocation) Calculation for Choice Schools</b>				
		Pre-Appeals	Post-Appeals	After Plan
School	2013-14	\$1,129,183	\$475,592	\$118,898
School	2014-15	\$421,513	\$177,347	\$44,337
School	2015-16	\$927,533	\$194,578	\$48,645
School	2016-17	\$305,915	\$115,534	\$28,884

School districts that fail to comply with the class size requirements must submit a plan certified by the district school board by February 1, which describes the actions the district will take in order to be in compliance by October of the following year. For districts that submit the plan by the required deadline, the 75 percent of funds remaining after the reallocation calculation must be added back to the district's class size reduction operating categorical allocation based on each qualifying district's proportion of the



total reduction for all qualifying districts for which a reduction was calculated. The amount added back may not be greater than the amount that was reduced.<sup>10</sup>

### **Effect of Proposed Changes**

The bill revises the method for calculating the penalty for traditional schools that fail to comply with the class size requirements by calculating steps 2, 3, and 4 at the school average instead of at the classroom level, aligning the compliance level for all school types. The bill also repeals an increase in the penalty calculation that began with the FY 2014-2015 fiscal year, by returning the calculation to 50 percent of the base student allocation rather than 100 percent.

The bill removes the exemption from the class size requirement for charter schools, district-operated schools of choice, district innovation schools of technology program and PAPPI schools as the penalty for all schools will be calculated at the schoolwide average.

The bill provides that a district that has not complied with these requirements (based on the FY 2017-2018 October student survey) and has timely submitted their certified plan (that describes future actions that will be taken for compliance) may not have its class size categorical allocation reduced for the 2017-2018 and 2018-2019 fiscal years. Districts have until the FY 2018-2019 October student survey to comply with these requirements. The district must provide an updated plan by February 1, 2019, to the Commissioner of Education.

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

**Section 1:** Amends s. 1002.31, F.S. deleting a provision relating to compliance with maximum class size requirements for certain public schools of choice.

**Section 2:** Amends s. 1002.33, F.S. revising requirements for charter school compliance with maximum class size requirements.

**Section 3:** Amends s. 1002.451, F.S. revising requirements for district innovation school of technology compliance with maximum class size requirements.

**Section 4:** Amends s. 1003.03, F.S. calculating a school district's class size categorical allocation reduction at the school average when maximum class size requirements are not met; providing an exemption from the reduction of a school district's class size categorical allocation for specified fiscal years; and requiring an updated plan for compliance with class size requirements from certain districts for a specified fiscal year.

**Section 5:** Amends s. 1011.6202, F.S. revising requirements for compliance with maximum class size requirements for a school participating in the Principal Autonomy Pilot Project Program.

**Section 6:** Provides an effective date of July 1, 2017.

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

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

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

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<sup>10</sup> Section 1003.03(4)(e), F.S.  
**STORAGE NAME:** h0591d.EDC.DOCX  
**DATE:** 3/21/2017

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

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

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

None.

**D. FISCAL COMMENTS:**

The bill revises the compliance calculation for traditional public schools that fail to comply with the class size requirements by performing the compliance calculation at the school average instead of at the classroom level, so the amount deducted from a school district's class size reduction operating categorical will be reduced. The bill requires the district to spend the compliance funds within the school that is out of compliance to get the school to the class size maximum.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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A bill to be entitled  
 An act relating to maximum class size; amending s.  
 1002.31, F.S.; deleting a provision relating to  
 compliance with maximum class size requirements for  
 certain public schools of choice; amending s. 1002.33,  
 F.S.; revising requirements for charter school  
 compliance with maximum class size requirements;  
 amending s. 1002.451, F.S.; revising requirements for  
 district innovation school of technology compliance  
 with maximum class size requirements; amending s.  
 1003.03, F.S.; calculating a school district's class  
 size categorical allocation reduction at the school  
 average when maximum class size requirements are not  
 met; providing an exemption from the reduction of a  
 school district's class size categorical allocation  
 for specified fiscal years; requiring an updated plan  
 for compliance with class size requirements from  
 certain districts for a specified fiscal year;  
 amending s. 1011.6202, F.S.; revising requirements for  
 compliance with maximum class size requirements for a  
 school participating in the Principal Autonomy Pilot  
 Project Program; providing an effective date.

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

26 Section 1. Subsection (5) of section 1002.31, Florida  
 27 Statutes, is amended to read:

28 1002.31 Controlled open enrollment; Public school parental  
 29 choice.-

30 ~~(5) For a school or program that is a public school of~~  
 31 ~~choice under this section, the calculation for compliance with~~  
 32 ~~maximum class size pursuant to s. 1003.03(4) is the average~~  
 33 ~~number of students at the school level.~~

34 Section 2. Paragraph (b) of subsection (16) of section  
 35 1002.33, Florida Statutes, is amended to read:

36 1002.33 Charter schools.-

37 (16) EXEMPTION FROM STATUTES.-

38 (b) Additionally, a charter school shall be in compliance  
 39 with the following statutes:

40 1. Section 286.011, relating to public meetings and  
 41 records, public inspection, and criminal and civil penalties.

42 2. Chapter 119, relating to public records.

43 3. Section 1003.03, relating to the maximum class size,  
 44 ~~except that the calculation for compliance pursuant to s.~~  
 45 ~~1003.03 shall be the average at the school level.~~

46 4. Section 1012.22(1)(c), relating to compensation and  
 47 salary schedules.

48 5. Section 1012.33(5), relating to workforce reductions.

49 6. Section 1012.335, relating to contracts with  
 50 instructional personnel hired on or after July 1, 2011.

51           7. Section 1012.34, relating to the substantive  
52 requirements for performance evaluations for instructional  
53 personnel and school administrators.

54           Section 3. Paragraph (a) of subsection (5) of section  
55 1002.451, Florida Statutes, is amended to read:

56           1002.451 District innovation school of technology  
57 program.—

58           (5) EXEMPTION FROM STATUTES.—

59           (a) An innovation school of technology is exempt from  
60 chapters 1000-1013. However, an innovation school of technology  
61 shall comply with the following provisions of those chapters:

62           1. Laws pertaining to the following:

- 63           a. Schools of technology, including this section.
- 64           b. Student assessment program and school grading system.
- 65           c. Services to students who have disabilities.
- 66           d. Civil rights, including s. 1000.05, relating to  
67 discrimination.
- 68           e. Student health, safety, and welfare.

69           2. Laws governing the election and compensation of  
70 district school board members and election or appointment and  
71 compensation of district school superintendents.

72           3. Section 1003.03, governing maximum class size, ~~except~~  
73 ~~that the calculation for compliance pursuant to s. 1003.03 is~~  
74 ~~the average at the school level.~~

75           4. Sections 1012.22(1)(c) and 1012.27(2), relating to

76 compensation and salary schedules.

77 5. Section 1012.33(5), relating to workforce reductions,  
 78 for annual contracts for instructional personnel. This  
 79 subparagraph does not apply to at-will employees.

80 6. Section 1012.335, relating to contracts with  
 81 instructional personnel hired on or after July 1, 2011, for  
 82 annual contracts for instructional personnel. This subparagraph  
 83 does not apply to at-will employees.

84 7. Section 1012.34, relating to requirements for  
 85 performance evaluations of instructional personnel and school  
 86 administrators.

87 Section 4. Subsection (4) of section 1003.03, Florida  
 88 Statutes, is amended to read:

89 1003.03 Maximum class size.—

90 (4) ACCOUNTABILITY.—

91 (a) If the department determines that the number of  
 92 students assigned to any individual class exceeds the class size  
 93 maximum, as required in subsection (1), based upon the October  
 94 student membership survey, the department shall:

95 1. ~~Identify, for each grade group, the number of classes~~  
 96 ~~in which the number of students exceeds the maximum and the~~  
 97 ~~total number of students which exceeds the maximum for all~~  
 98 ~~classes.~~

99 ~~2.~~ Determine the number of FTE students which exceeds the  
 100 maximum for each grade group calculated at the school average.

101        ~~2.3.~~ Multiply the total number of FTE students which  
 102 exceeds the maximum for each grade group calculated at the  
 103 school average by the district's FTE dollar amount of the class  
 104 size categorical allocation for that year and calculate the  
 105 total for all three grade groups.

106        ~~3.4.~~ Multiply the total number of FTE students which  
 107 exceeds the maximum for all classes calculated at the school  
 108 average by an amount equal to 50 percent of the base student  
 109 allocation adjusted by the district cost differential ~~for each~~  
 110 ~~of the 2010-2011 through 2013-2014 fiscal years and by an amount~~  
 111 ~~equal to the base student allocation adjusted by the district~~  
 112 ~~cost differential in the 2014-2015 fiscal year and thereafter.~~

113        ~~4.5.~~ Reduce the district's class size categorical  
 114 allocation by an amount equal to the sum of the calculations in  
 115 subparagraphs 2. and 3. ~~and 4.~~

116        (b) The amount of funds reduced shall be the lesser of the  
 117 amount calculated in paragraph (a) or the undistributed balance  
 118 of the district's class size categorical allocation. The Florida  
 119 Education Finance Program Appropriation Allocation Conference  
 120 shall verify the department's calculation in paragraph (a). The  
 121 commissioner may withhold distribution of the class size  
 122 categorical allocation to the extent necessary to comply with  
 123 paragraph (a).

124        (c) In lieu of the reduction calculation in paragraph (a),  
 125 if the Commissioner of Education has evidence that a district

126 was unable to meet the class size requirements despite  
127 appropriate efforts to do so or because of an extreme emergency,  
128 the commissioner may recommend by February 15, subject to  
129 approval of the Legislative Budget Commission, the reduction of  
130 an alternate amount of funds from the district's class size  
131 categorical allocation.

132 (d) Upon approval of the reduction calculation in  
133 paragraphs (a)-(c), the commissioner must prepare a reallocation  
134 of the funds made available for the districts that have fully  
135 met the class size requirements. The funds shall be reallocated  
136 by calculating an amount of up to 5 percent of the base student  
137 allocation multiplied by the total district FTE students. The  
138 reallocation total may not exceed 25 percent of the total funds  
139 reduced.

140 (e) Each district that has not complied with the  
141 requirements in subsection (1) shall submit to the commissioner  
142 by February 1 a plan certified by the district school board that  
143 describes the specific actions the district will take in order  
144 to fully comply with the requirements in subsection (1) by  
145 October of the following school year. If a district submits the  
146 certified plan by the required deadline, the funds remaining  
147 after the reallocation calculation in paragraph (d) shall be  
148 added back to the district's class size categorical allocation  
149 based on each qualifying district's proportion of the total  
150 reduction for all qualifying districts for which a reduction was



151 calculated in paragraphs (a)-(c). However, no district shall  
152 have an amount added back that is greater than the amount that  
153 was reduced.

154 (f) The department shall adjust school district class size  
155 reduction categorical allocation distributions based on the  
156 calculations in paragraphs (a)-(e).

157 (g) A district that has not complied with the requirements  
158 in subsection (1) based on the October student membership survey  
159 for the 2017-2018 school year and has timely submitted the  
160 required plan under paragraph (e) may not have its class size  
161 categorical allocation reduced for the 2017-2018 and 2018-2019  
162 fiscal years. The district shall have until the October student  
163 membership survey for the 2018-2019 school year to comply with  
164 subsection (1); however, the district must provide an updated  
165 plan by February 1, 2019, to the commissioner to ensure the  
166 district is working to comply with the requirements of  
167 subsection (1).

168 Section 5. Paragraph (b) of subsection (3) of section  
169 1011.6202, Florida Statutes, is amended to read:

170 1011.6202 Principal Autonomy Pilot Program Initiative.—The  
171 Principal Autonomy Pilot Program Initiative is created within  
172 the Department of Education. The purpose of the pilot program is  
173 to provide the highly effective principal of a participating  
174 school with increased autonomy and authority to operate his or  
175 her school in a way that produces significant improvements in

176 student achievement and school management while complying with  
 177 constitutional requirements. The State Board of Education may,  
 178 upon approval of a principal autonomy proposal, enter into a  
 179 performance contract with up to seven district school boards for  
 180 participation in the pilot program.

181 (3) EXEMPTION FROM LAWS.—

182 (b) A participating school shall comply with the  
 183 provisions of chapters 1000-1013, and rules of the state board  
 184 that implement those provisions, pertaining to the following:

185 1. Those laws relating to the election and compensation of  
 186 district school board members, the election or appointment and  
 187 compensation of district school superintendents, public meetings  
 188 and public records requirements, financial disclosure, and  
 189 conflicts of interest.

190 2. Those laws relating to the student assessment program  
 191 and school grading system, including chapter 1008.

192 3. Those laws relating to the provision of services to  
 193 students with disabilities.

194 4. Those laws relating to civil rights, including s.  
 195 1000.05, relating to discrimination.

196 5. Those laws relating to student health, safety, and  
 197 welfare.

198 6. Section 1001.42(4)(f), relating to the uniform opening  
 199 date for public schools.

200 7. Section 1003.03, governing maximum class size, ~~except~~

201 ~~that the calculation for compliance pursuant to s. 1003.03 is~~  
 202 ~~the average at the school level for a participating school.~~

203 8. Sections 1012.22(1)(c) and 1012.27(2), relating to  
 204 compensation and salary schedules.

205 9. Section 1012.33(5), relating to workforce reductions  
 206 for annual contracts for instructional personnel. This  
 207 subparagraph does not apply to at-will employees.

208 10. Section 1012.335, relating to annual contracts for  
 209 instructional personnel hired on or after July 1, 2011. This  
 210 subparagraph does not apply to at-will employees.

211 11. Section 1012.34, relating to personnel evaluation  
 212 procedures and criteria.

213 12. Those laws pertaining to educational facilities,  
 214 including chapter 1013, except that s. 1013.20, relating to  
 215 covered walkways for relocatables, and s. 1013.21, relating to  
 216 the use of relocatable facilities exceeding 20 years of age, are  
 217 eligible for exemption.

218 13. Those laws pertaining to participating school  
 219 districts, including this section and ss. 1011.69(2) and  
 220 1012.28(8).

221 Section 6. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

4 **Amendment (with title amendment)**

5 Remove line 145 and insert:

6 October of the following school year. The plan shall be posted  
 7 on the district's website and be provided to the school advisory  
 8 council of each noncompliant school. A noncompliant school may  
 9 post the plan on its website. If a district submits the

10

11

-----

12

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

13

Remove lines 14-16 and insert:

14

met;



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 781 Designation of School Grades

**SPONSOR(S):** Porter

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1222

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	14 Y, 0 N	Dehmer	Healy
2) PreK-12 Appropriations Subcommittee	13 Y, 0 N	Seifert	Potvin
3) Education Committee		Dehmer <i>DD</i>	Hassell <i>ful</i>

### SUMMARY ANALYSIS

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public. School grades are also used to determine whether a school must select or implement a turnaround option or whether a school is eligible for school recognition funds as appropriated by the Legislature. School grades identify schools as having an A through F grade and are determined annually. Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the grading model.

A school that serves any combination of K-3 students, that does not receive a school grade as a result of its students not being tested and included in the school grading system, receives the school grade of a K-3 feeder pattern school determined by the Department of Education and verified by the district. A school feeder pattern exists if at least 60 percent of the students are assigned to the graded school.

The bill revises the number of students required to establish a school feeder pattern from 60 percent to a majority.

No fiscal impact to state government.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.<sup>1</sup> School grades are also used to determine whether a school must select or implement a turnaround option<sup>2</sup> or whether a school is eligible for school recognition funds as appropriated by the Legislature.<sup>3</sup>

The annual reports must identify schools as having one of the following grades:

- "A," for schools making excellent progress – 62% or higher of total points.
- "B," for schools making above average progress – 54% to 61% of total points.
- "C," for schools making satisfactory progress – 41% to 53% of total points.
- "D," for schools making less than satisfactory progress – 32% to 40% of total points.
- "F," for schools failing to make adequate progress – 31% or less of total points.<sup>4</sup>

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. Middle and high school models include additional components beyond the basic model.<sup>5</sup> Combination school models include the additional components for the grades served (e.g., a school serving grades K through 12 would include the additional components for the middle and high school models).

School Grades Models							
English Language Arts	Mathematics	Science	Civics EOC Assessment	Acceleration Success	U.S. History EOC Assessment	Graduation Rate	Acceleration Success
Achievement (0% to 100%)	Achievement (0% to 100%)	Achievement (0% to 100%)	Achievement (0% to 100%)	Percentage of students who pass high school EOC assessments & industry certifications (0% to 100%)	Achievement (0% to 100%)	Overall, 4-year graduation rate (0% to 100%)	Percent of students eligible to earn college credit through AP, IB, AICE, dual enrollment, or earn industry certification (0% to 100%) <sup>6</sup>
Learning Gains (0% to 100%)	Learning Gains (0% to 100%)						
Learning Gains of Low 25% (0% to 100%)	Learning Gains of Low 25% (0% to 100%)						

A school's grade must include only those components for which at least 10 students have complete data. If a school does not meet the 10-student threshold for a component, it will receive a school grade based only on the remaining components.<sup>7</sup>

<sup>1</sup> Section 1008.34(1), F.S. If there are fewer than 10 eligible students with data for a component, the component is not included in the calculation. Section 1008.34(3)(a), F.S.

<sup>2</sup> See s. 1008.33(4), F.S.

<sup>3</sup> See s. 1008.26, F.S.

<sup>4</sup> Section 1008.34(2), F.S.; rule 6A-1.09981(4)(d), F.A.C.

<sup>5</sup> See s. 1008.34(3)(b), F.S.; rule 6A-1.09981(4)(a)-(c), F.A.C.

<sup>6</sup> Other assessments used to measure college readiness, such as the Postsecondary Education Readiness Test and the College Level Examination Program, are not included in the Acceleration Success component of the school grading formula.

A school that serves any combination of K-3 students, that does not receive a school grade as a result of its students not being tested and included in the school grading system, receives the school grade of a K-3 feeder pattern school determined by the Department of Education and verified by the district. A school feeder pattern exists if at least 60 percent of the students are scheduled to be assigned to the graded school.<sup>8</sup>

### **Effect of Proposed Changes**

The bill revises the number of students required to establish a school feeder pattern from 60 percent of students scheduled to be assigned, to a majority of students scheduled to be assigned to the graded school.

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

**Section 1.** Amends s. 1008.34, F.S., relating to the school grading system, schools report cards and the district grade.

**Section 2.** Provides and effective date of July 1, 2017.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

#### **D. FISCAL COMMENTS:**

None.

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<sup>7</sup> See s. 1008.34(3)(a), F.S.

<sup>8</sup> Section 1008.34(3)(a)2. F.S.



### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

Not applicable.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

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

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1                   A bill to be entitled  
 2           An act relating to designation of school grades;  
 3           amending s. 1008.34, F.S.; revising the requirements  
 4           for certain schools to receive a school grade  
 5           designation of a K-3 feeder pattern school; providing  
 6           that a majority of students must be scheduled to be  
 7           assigned to a certain school for a feeder pattern to  
 8           exist; providing an effective date.

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

11  
 12           Section 1. Paragraph (a) of subsection (3) of section  
 13   1008.34, Florida Statutes, is amended to read:

14           1008.34 School grading system; school report cards;  
 15   district grade.—

16           (3) DESIGNATION OF SCHOOL GRADES.—

17           (a) Each school must assess at least 95 percent of its  
 18   eligible students, except as provided under s. 1008.341 for  
 19   alternative schools. Each school shall receive a school grade  
 20   based on the school's performance on the components listed in  
 21   subparagraphs (b)1. and 2. If a school does not have at least 10  
 22   students with complete data for one or more of the components  
 23   listed in subparagraphs (b)1. and 2., those components may not  
 24   be used in calculating the school's grade.

25           1. An alternative school may choose to receive a school

26 grade under this section or a school improvement rating under s.  
27 1008.341. For charter schools that meet the definition of an  
28 alternative school pursuant to State Board of Education rule,  
29 the decision to receive a school grade is the decision of the  
30 charter school governing board.

31 2. A school that serves any combination of students in  
32 kindergarten through grade 3 that does not receive a school  
33 grade because its students are not tested and included in the  
34 school grading system shall receive the school grade designation  
35 of a K-3 feeder pattern school identified by the Department of  
36 Education and verified by the school district. A school feeder  
37 pattern exists if a majority ~~at least 60 percent~~ of the students  
38 in the school serving a combination of students in kindergarten  
39 through grade 3 are scheduled to be assigned to the graded  
40 school.

41 3. If a collocated school does not earn a school grade or  
42 school improvement rating for the performance of its students,  
43 the student performance data of all schools operating at the  
44 same facility must be aggregated to develop a school grade that  
45 will be assigned to all schools at that location. A collocated  
46 school is a school that has its own unique master school  
47 identification number, provides for the education of each of its  
48 enrolled students, and operates at the same facility as another  
49 school that has its own unique master school identification  
50 number and provides for the education of each of its enrolled

51 | students.

52 | Section 2. This act shall take effect July 1, 2017.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 827 Teacher Bonuses  
**SPONSOR(S):** Porter and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	14 Y, 0 N	Dehmer	Healy
2) PreK-12 Appropriations Subcommittee	14 Y, 0 N	Seifert	Potvin
3) Education Committee		Dehmer <i>DS</i>	Hassell <i>HL</i>

**SUMMARY ANALYSIS**

School districts that provide International Baccalaureate (IB), Advanced International Certificate of Education (AICE), Advanced Placement (AP) and Career and Professional Education (CAPE) courses receive additional funding based on students achievement in the specific course.

Individual teachers of IB, AICE, AP, and CAPE courses are awarded bonuses from portions of the additional funds for students who achieve specific result in the course.

Depending on specific circumstances, a teacher's bonus for an IB, AICE, AP or CAPE course may not exceed either \$2,000 or \$3,000 per year.

The bill removes the annual teacher bonus limits for IB, AICE, AP and CAPE courses.

There is no fiscal impact to the state.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The Legislature allocates public education funding to Florida's 67 school districts and 8 special districts through the Florida Education Finance Program (FEFP). The FEFP provides equalized funding to guarantee to each student in the Florida public education system the availability of programs and services appropriate to his or her educational needs that are substantially equal to those available to any similar student notwithstanding geographic differences and varying local economic factors. The FEFP is the primary mechanism for funding the operating costs of Florida school districts, which among other things, includes the payment of teacher salaries.<sup>1</sup>

Teachers of IB, AICE and AP courses are awarded bonuses for students who earn specified scores on the course examinations.<sup>2</sup>

Yearly Teacher per-Student Bonuses by Advanced Course			
	IB	AP	AICE
Half Credit			\$25
Full Credit	\$50	\$50	\$50
Full Credit D Or F School	\$500 (per teacher)	\$500 (per teacher)	\$500 (per teacher)
Half Credit D Or F School			\$250 (per teacher)
Max if 50% earn 3 or higher (25% for D or F School)	\$3,000	\$3,000	\$2,000
Max if Not met	\$2,000	\$2,000	\$2,000

##### International Baccalaureate Bonus

Each school district receives additional funding in the amount of 0.16 weighted full-time equivalent student membership (FTE) for each student enrolled in an International Baccalaureate (IB) course who receives a score of 4 or higher on the subject exam and 0.3 weighted FTE for each student who receives an IB diploma. The school district receives the additional funding in the following school year. Each school district must allocate 80 percent of the additional funding to the program where the funds were generated and to programs that prepare prospective students to enroll in IB courses.<sup>3</sup>

An IB teacher receives a \$50 bonus, from the additional FTE funds generated, for each student who scores 4 or higher on the IB examination. An IB teacher in a "D" or "F" school who has at least one

<sup>1</sup> See s. 1011.60, F.S. The performance salary schedule is funded from the same sources used to pay instructional personnel and school administrators under the grandfathered salary schedule.

<sup>2</sup> Section 1011.62(1)(l)-(n), F.S.; *International Baccalaureate*, <http://www.ibo.org> (last visited Apr. 18, 2016); University of Cambridge, International Examinations, *Cambridge Advanced International Certificate of Education Diploma*, <http://www.cie.org.uk/qualifications/academic/uppersec/aice> (last visited Apr. 18, 2016); College Board, *Advanced Placement Program*, <http://www.collegeboard.com/student/testing/ap/about.html> (last visited Apr. 18, 2016).

<sup>3</sup> Section 1011.62(1)(l), F.S.

student scoring 4 or higher on the IB examination receives an additional \$500 bonus.<sup>4</sup> The bonus awarded to a teacher may not exceed \$2,000 in any given school year; however, the maximum bonus may be \$3,000 if, in a school designated with a grade of “A,” “B” or “C,” at least 50 percent of the students enrolled in the teacher’s course earn a score of 4 or higher on the examination or if, in a school designated with a grade of “D” or “F,” at least 25 percent of the students enrolled in the teacher’s course earn a score of 4 or higher.<sup>5</sup>

### **Effect of Proposed Changes**

The bill removes the \$2,000 and \$3,000 yearly IB teacher bonus limits.

### **Present Situation**

#### Advanced International Certificate of Education Bonus

Each school district receives additional funding in the amount of 0.16 weighted FTE for each student enrolled in an Advanced International Certificate of Education (AICE) course who receives a score of “E” or higher on the subject exam, 0.08 weighted FTE for each student enrolled in a half-credit AICE course who receives an “E” or higher and 0.3 weighted FTE for each student who receives an AICE diploma. The school district receives the additional funding in the following school year.<sup>6</sup>

An AICE teacher receives a \$50 bonus, from the additional FTE funds generated, for each student in a full-credit AICE course, or \$25 bonus for a student in a half-credit AICE course, who scores “E” or higher on the AICE examination. An AICE teacher in a “D” or “F” school receives an additional \$500 bonus if one of the teacher’s students’ scores “E” or higher on the full-credit AICE examination, or a \$250 bonus for each half-credit AICE course taught which has at least one student scoring “E” or higher on the half-credit AICE examination, not to exceed an additional \$500 bonus.<sup>7</sup> The bonus awarded to a teacher may not exceed \$2,000 in any given school year.<sup>8</sup>

### **Effect of Proposed Changes**

The bill removes the \$500 half-credit yearly AICE teacher bonus limit and the \$2,000 yearly teacher bonus limit.

### **Present Situation**

#### Advanced Placement Bonus

Each school district receives additional funding in the amount of 0.16 weighted FTE for each student enrolled in an Advanced Placement (AP) course who receives a score of 3 or higher on the College Board Advanced Placement Exam. Each school district must allocate 80 percent of the additional funding to the school that generated the funds for AP instruction.<sup>9</sup>

An AP teacher receives a \$50 bonus, from the additional FTE funds generated, for each of his or her students who scores 3 or higher on the College Board AP examination. An AP teacher in a “D” or “F” school who has at least one student scoring 3 or higher on the College Board AP examination receives an additional \$500 bonus.<sup>10</sup> The bonus awarded to a teacher may not exceed \$2,000 in any given school year; however, the maximum bonus may be \$3,000 if, in a school designated with a grade of

---

<sup>4</sup> *Id.*

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

<sup>6</sup> Section 1011.62(1)(m), F.S.

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

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

<sup>9</sup> Section 1011.62(1)(n), F.S.

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



“A,” “B” or “C,” at least 50 percent of the students enrolled in the teacher’s course earn a score of 3 or higher on the examination or if, in a school designated with a grade of “D” or “F,” at least 25 percent of the students enrolled in the teacher’s course earn a score of 3 or higher.<sup>11</sup>

**Effect of Proposed Changes**

The bill removes the \$2,000 and \$3,000 yearly AP teacher bonus limits.

**Present Situation**

Additional Bonuses

Teachers of courses that lead to the attainment of a Career and Professional Education (CAPE) industry certification receive an additional bonus. Depending on the certification earned, a school district receives bonus funding of 0.1, 0.2, 0.3, 0.5, or 1.0 weighted FTE. At least 80 percent of the additional funding received by the district must be allocated to the program that generated the funding.<sup>12</sup> Teacher bonus funding is awarded, from the additional FTE funds generated, for each student taught by a teacher who provided instruction in a course that led to the student’s attainment of a CAPE industry certification on the CAPE Industry Certification Funding List, as follows:

- A bonus in the amount of \$25 is awarded for a course with a weight of 0.1.<sup>13</sup>
- A bonus in the amount of \$50 is awarded for a course with a weight of 0.2.<sup>14</sup>
- A bonus in the amount of \$75 is awarded for a course with a weight of 0.3.<sup>15</sup>
- A bonus in the amount of \$100 is awarded for a course with a weight of 0.5 or 1.0.<sup>16</sup>

CAPE industry certification bonuses may not exceed \$3,000 to a teacher in any given school year.<sup>17</sup>

<b>Yearly Teacher per-Student CAPE Bonuses</b>		
<b>Weight</b>	<b>Type</b>	<b>Amount</b>
<b>0.1 FTE</b>	CAPE Industry Cert Does Not Articulate	\$25
<b>0.2 FTE</b>	CAPE Industry Cert Articulates to College Credit	\$50
<b>0.3 FTE</b>	CAPE Innovation Course <sup>18</sup>	\$75
<b>0.5 FTE</b>	CAPE Acceleration Industry Cert Articulates to 15-29 College Credit Hours <sup>19</sup>	\$100
<b>1.0 FTE</b>	CAPE Acceleration Industry Cert Articulates to 30+ College Credit Hours	\$100
<b>Max Yearly CAPE Bonus</b>		\$3,000

<sup>11</sup> *Id.*  
<sup>12</sup> Section 1011.62 (1)(o), F.S.  
<sup>13</sup> *Id.*  
<sup>14</sup> *Id.*  
<sup>15</sup> Section 1011.62(1)(o), F.S.  
<sup>16</sup> *Id.*  
<sup>17</sup> *Id.*

<sup>18</sup> A CAPE Innovation course is one of up to five courses annually approved by the Commissioner of Education that combines academic career content and incorporates at least two third-party assessments that, if completed successfully by the student, articulate to college credit. See s. 1003.4203(5)(a), F.S. For a list of approved courses, see Florida Department of Education, *CAPE Innovation Courses*, <http://www.fldoe.org/academics/career-adult-edu/cape-secondary/innovation.shtml> (last visited May 2, 2016).

<sup>19</sup> A CAPE Acceleration industry certification is one annually approved by the Commissioner of Education that articulates to 15 or more college credits. See s. 101.62(5)(b), F.S.

## **Effect of Proposed Changes**

The bill removes the \$3,000 CAPE industry certification teacher bonus limit.

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

**Section 1.** Amends s. 1011.62, F.S., regarding operating funds of schools.

**Section 2.** Provides an effective date of July 1, 2017.

## **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:**

There is no known fiscal impact to the state. School districts may have a fiscal impact as these funds not only pay for teacher bonuses but also for program and course material costs, student examination fees, and applicable school membership fees. If more of the funds are used for teacher bonuses, it will reduce the amount of the remaining funds available for the other eligible uses.

## **III. COMMENTS**

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

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

Not applicable.

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

None.

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

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                   A bill to be entitled  
 2           An act relating to teacher bonuses; amending s.  
 3           1011.62, F.S.; deleting provisions relating to caps  
 4           imposed on the amounts of bonuses awarded to teachers  
 5           based on student performance on certain course  
 6           examinations; providing an effective date.

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

9  
 10       Section 1. Paragraphs (l) through (o) of subsection (1) of  
 11       section 1011.62, Florida Statutes, are amended to read:

12           1011.62 Funds for operation of schools.—If the annual  
 13       allocation from the Florida Education Finance Program to each  
 14       district for operation of schools is not determined in the  
 15       annual appropriations act or the substantive bill implementing  
 16       the annual appropriations act, it shall be determined as  
 17       follows:

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

22           (1) Calculation of additional full-time equivalent  
 23       membership based on International Baccalaureate examination  
 24       scores of students.—A value of 0.16 full-time equivalent student  
 25       membership shall be calculated for each student enrolled in an

26 International Baccalaureate course who receives a score of 4 or  
 27 higher on a subject examination. A value of 0.3 full-time  
 28 equivalent student membership shall be calculated for each  
 29 student who receives an International Baccalaureate diploma.  
 30 Such value shall be added to the total full-time equivalent  
 31 student membership in basic programs for grades 9 through 12 in  
 32 the subsequent fiscal year. Each school district shall allocate  
 33 80 percent of the funds received from International  
 34 Baccalaureate bonus FTE funding to the school program whose  
 35 students generate the funds and to school programs that prepare  
 36 prospective students to enroll in International Baccalaureate  
 37 courses. Funds shall be expended solely for the payment of  
 38 allowable costs associated with the International Baccalaureate  
 39 program. Allowable costs include International Baccalaureate  
 40 annual school fees; International Baccalaureate examination  
 41 fees; salary, benefits, and bonuses for teachers and program  
 42 coordinators for the International Baccalaureate program and  
 43 teachers and coordinators who prepare prospective students for  
 44 the International Baccalaureate program; supplemental books;  
 45 instructional supplies; instructional equipment or instructional  
 46 materials for International Baccalaureate courses; other  
 47 activities that identify prospective International Baccalaureate  
 48 students or prepare prospective students to enroll in  
 49 International Baccalaureate courses; and training or  
 50 professional development for International Baccalaureate

51 teachers. School districts shall allocate the remaining 20  
 52 percent of the funds received from International Baccalaureate  
 53 bonus FTE funding for programs that assist academically  
 54 disadvantaged students to prepare for more rigorous courses. The  
 55 school district shall distribute to each classroom teacher who  
 56 provided International Baccalaureate instruction:

57 1. A bonus in the amount of \$50 for each student taught by  
 58 the International Baccalaureate teacher in each International  
 59 Baccalaureate course who receives a score of 4 or higher on the  
 60 International Baccalaureate examination.

61 2. An additional bonus of \$500 to each International  
 62 Baccalaureate teacher in a school designated with a grade of "D"  
 63 or "F" who has at least one student scoring 4 or higher on the  
 64 International Baccalaureate examination, regardless of the  
 65 number of classes taught or of the number of students scoring a  
 66 4 or higher on the International Baccalaureate examination.

67  
 68 ~~Bonuses awarded to a teacher according to this paragraph may not~~  
 69 ~~exceed \$2,000 in any given school year. However, the maximum~~  
 70 ~~bonus shall be \$3,000 if at least 50 percent of the students~~  
 71 ~~enrolled in a teacher's course earn a score of 4 or higher on~~  
 72 ~~the examination in a school designated with a grade of "A," "B,"~~  
 73 ~~or "C"; or if at least 25 percent of the students enrolled in a~~  
 74 ~~teacher's course earn a score of 4 or higher on the examination~~  
 75 ~~in a school designated with a grade of "D" or "F." Bonuses~~

76 awarded under this paragraph shall be in addition to any regular  
 77 wage or other bonus the teacher received or is scheduled to  
 78 receive. For such courses, the teacher shall earn an additional  
 79 bonus of \$50 for each student who has a qualifying score ~~up to~~  
 80 ~~the maximum of \$3,000 in any given school year.~~

81 (m) Calculation of additional full-time equivalent  
 82 membership based on Advanced International Certificate of  
 83 Education examination scores of students.—A value of 0.16 full-  
 84 time equivalent student membership shall be calculated for each  
 85 student enrolled in a full-credit Advanced International  
 86 Certificate of Education course who receives a score of E or  
 87 higher on a subject examination. A value of 0.08 full-time  
 88 equivalent student membership shall be calculated for each  
 89 student enrolled in a half-credit Advanced International  
 90 Certificate of Education course who receives a score of E or  
 91 higher on a subject examination. A value of 0.3 full-time  
 92 equivalent student membership shall be calculated for each  
 93 student who receives an Advanced International Certificate of  
 94 Education diploma. Such value shall be added to the total full-  
 95 time equivalent student membership in basic programs for grades  
 96 9 through 12 in the subsequent fiscal year. The school district  
 97 shall distribute to each classroom teacher who provided Advanced  
 98 International Certificate of Education instruction:

- 99 1. A bonus in the amount of \$50 for each student taught by  
 100 the Advanced International Certificate of Education teacher in

101 each full-credit Advanced International Certificate of Education  
 102 course who receives a score of E or higher on the Advanced  
 103 International Certificate of Education examination. A bonus in  
 104 the amount of \$25 for each student taught by the Advanced  
 105 International Certificate of Education teacher in each half-  
 106 credit Advanced International Certificate of Education course  
 107 who receives a score of E or higher on the Advanced  
 108 International Certificate of Education examination.

109 2. An additional bonus of \$500 to each Advanced  
 110 International Certificate of Education teacher in a school  
 111 designated with a grade of "D" or "F" who has at least one  
 112 student scoring E or higher on the full-credit Advanced  
 113 International Certificate of Education examination, regardless  
 114 of the number of classes taught or of the number of students  
 115 scoring an E or higher on the full-credit Advanced International  
 116 Certificate of Education examination.

117 3. Additional bonuses of \$250 each to teachers of half-  
 118 credit Advanced International Certificate of Education classes  
 119 in a school designated with a grade of "D" or "F" which has at  
 120 least one student scoring an E or higher on the half-credit  
 121 Advanced International Certificate of Education examination in  
 122 that class. ~~The maximum additional bonus for a teacher awarded~~  
 123 ~~in accordance with this subparagraph shall not exceed \$500 in~~  
 124 ~~any given school year.~~ Teachers receiving an award under  
 125 subparagraph 2. are not eligible for a bonus under this



126 subparagraph.

127

128 Bonuses awarded to a teacher according to this paragraph ~~shall~~  
 129 ~~not exceed \$2,000 in any given school year and~~ shall be in  
 130 addition to any regular wage or other bonus the teacher received  
 131 or is scheduled to receive.

132 (n) Calculation of additional full-time equivalent  
 133 membership based on college board advanced placement scores of  
 134 students.—A value of 0.16 full-time equivalent student  
 135 membership shall be calculated for each student in each advanced  
 136 placement course who receives a score of 3 or higher on the  
 137 College Board Advanced Placement Examination for the prior year  
 138 and added to the total full-time equivalent student membership  
 139 in basic programs for grades 9 through 12 in the subsequent  
 140 fiscal year. Each district must allocate at least 80 percent of  
 141 the funds provided to the district for advanced placement  
 142 instruction, in accordance with this paragraph, to the high  
 143 school that generates the funds. The school district shall  
 144 distribute to each classroom teacher who provided advanced  
 145 placement instruction:

146 1. A bonus in the amount of \$50 for each student taught by  
 147 the Advanced Placement teacher in each advanced placement course  
 148 who receives a score of 3 or higher on the College Board  
 149 Advanced Placement Examination.

150 2. An additional bonus of \$500 to each Advanced Placement

151 teacher in a school designated with a grade of "D" or "F" who  
 152 has at least one student scoring 3 or higher on the College  
 153 Board Advanced Placement Examination, regardless of the number  
 154 of classes taught or of the number of students scoring a 3 or  
 155 higher on the College Board Advanced Placement Examination.

156  
 157 ~~Bonuses awarded to a teacher according to this paragraph shall~~  
 158 ~~not exceed \$2,000 in any given school year. However, the maximum~~  
 159 ~~bonus shall be \$3,000 if at least 50 percent of the students~~  
 160 ~~enrolled in a teacher's course earn a score of 3 or higher on~~  
 161 ~~the examination in a school with a grade of "A," "B," or "C" or~~  
 162 ~~if at least 25 percent of the students enrolled in a teacher's~~  
 163 ~~course earn a score of 3 or higher on the examination in a~~  
 164 ~~school with a grade of "D" or "F."~~ Bonuses awarded under this  
 165 paragraph shall be in addition to any regular wage or other  
 166 bonus the teacher received or is scheduled to receive. For such  
 167 courses, the teacher shall earn an additional bonus of \$50 for  
 168 each student who has a qualifying score ~~up to the maximum of~~  
 169 ~~\$3,000 in any given school year.~~

170 (o) Calculation of additional full-time equivalent  
 171 membership based on successful completion of a career-themed  
 172 course pursuant to ss. 1003.491, 1003.492, and 1003.493, or  
 173 courses with embedded CAPE industry certifications or CAPE  
 174 Digital Tool certificates, and issuance of industry  
 175 certification identified on the CAPE Industry Certification

176 Funding List pursuant to rules adopted by the State Board of  
 177 Education or CAPE Digital Tool certificates pursuant to s.  
 178 1003.4203.—

179 1.a. A value of 0.025 full-time equivalent student  
 180 membership shall be calculated for CAPE Digital Tool  
 181 certificates earned by students in elementary and middle school  
 182 grades.

183 b. A value of 0.1 or 0.2 full-time equivalent student  
 184 membership shall be calculated for each student who completes a  
 185 course as defined in s. 1003.493(1)(b) or courses with embedded  
 186 CAPE industry certifications and who is issued an industry  
 187 certification identified annually on the CAPE Industry  
 188 Certification Funding List approved under rules adopted by the  
 189 State Board of Education. A value of 0.2 full-time equivalent  
 190 membership shall be calculated for each student who is issued a  
 191 CAPE industry certification that has a statewide articulation  
 192 agreement for college credit approved by the State Board of  
 193 Education. For CAPE industry certifications that do not  
 194 articulate for college credit, the Department of Education shall  
 195 assign a full-time equivalent value of 0.1 for each  
 196 certification. Middle grades students who earn additional FTE  
 197 membership for a CAPE Digital Tool certificate pursuant to sub-  
 198 subparagraph a. may not use the previously funded examination to  
 199 satisfy the requirements for earning an industry certification  
 200 under this sub-subparagraph. Additional FTE membership for an

201 elementary or middle grades student may not exceed 0.1 for  
 202 certificates or certifications earned within the same fiscal  
 203 year. The State Board of Education shall include the assigned  
 204 values on the CAPE Industry Certification Funding List under  
 205 rules adopted by the state board. Such value shall be added to  
 206 the total full-time equivalent student membership for grades 6  
 207 through 12 in the subsequent year. CAPE industry certifications  
 208 earned through dual enrollment must be reported and funded  
 209 pursuant to s. 1011.80. However, if a student earns a  
 210 certification through a dual enrollment course and the  
 211 certification is not a fundable certification on the  
 212 postsecondary certification funding list, or the dual enrollment  
 213 certification is earned as a result of an agreement between a  
 214 school district and a nonpublic postsecondary institution, the  
 215 bonus value shall be funded in the same manner as other nondual  
 216 enrollment course industry certifications. In such cases, the  
 217 school district may provide for an agreement between the high  
 218 school and the technical center, or the school district and the  
 219 postsecondary institution may enter into an agreement for  
 220 equitable distribution of the bonus funds.

221 c. A value of 0.3 full-time equivalent student membership  
 222 shall be calculated for student completion of the courses and  
 223 the embedded certifications identified on the CAPE Industry  
 224 Certification Funding List and approved by the commissioner  
 225 pursuant to ss. 1003.4203(5)(a) and 1008.44.

226 d. A value of 0.5 full-time equivalent student membership  
 227 shall be calculated for CAPE Acceleration Industry  
 228 Certifications that articulate for 15 to 29 college credit  
 229 hours, and 1.0 full-time equivalent student membership shall be  
 230 calculated for CAPE Acceleration Industry Certifications that  
 231 articulate for 30 or more college credit hours pursuant to CAPE  
 232 Acceleration Industry Certifications approved by the  
 233 commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.

234 2. Each district must allocate at least 80 percent of the  
 235 funds provided for CAPE industry certification, in accordance  
 236 with this paragraph, to the program that generated the funds.  
 237 This allocation may not be used to supplant funds provided for  
 238 basic operation of the program.

239 3. For CAPE industry certifications earned in the 2013-  
 240 2014 school year and in subsequent years, the school district  
 241 shall distribute to each classroom teacher who provided direct  
 242 instruction toward the attainment of a CAPE industry  
 243 certification that qualified for additional full-time equivalent  
 244 membership under subparagraph 1.:

245 a. A bonus of \$25 for each student taught by a teacher who  
 246 provided instruction in a course that led to the attainment of a  
 247 CAPE industry certification on the CAPE Industry Certification  
 248 Funding List with a weight of 0.1.

249 b. A bonus of \$50 for each student taught by a teacher who  
 250 provided instruction in a course that led to the attainment of a

251 CAPE industry certification on the CAPE Industry Certification  
 252 Funding List with a weight of 0.2.

253 c. A bonus of \$75 for each student taught by a teacher who  
 254 provided instruction in a course that led to the attainment of a  
 255 CAPE industry certification on the CAPE Industry Certification  
 256 Funding List with a weight of 0.3.

257 d. A bonus of \$100 for each student taught by a teacher  
 258 who provided instruction in a course that led to the attainment  
 259 of a CAPE industry certification on the CAPE Industry  
 260 Certification Funding List with a weight of 0.5 or 1.0.

261  
 262 Bonuses awarded pursuant to this paragraph shall be provided to  
 263 teachers who are employed by the district in the year in which  
 264 the additional FTE membership calculation is included in the  
 265 calculation. Bonuses shall be calculated based upon the  
 266 associated weight of a CAPE industry certification on the CAPE  
 267 Industry Certification Funding List for the year in which the  
 268 certification is earned by the student. Any bonus awarded to a  
 269 teacher under this paragraph ~~may not exceed \$3,000 in any given~~  
 270 ~~school year and~~ is in addition to any regular wage or other  
 271 bonus the teacher received or is scheduled to receive.

272 Section 2. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

4 **Amendment (with title amendment)**

5 Remove line 96 and insert:  
 6 9 through 12 in the subsequent fiscal year. Each district must  
 7 allocate at least 80 percent of the funds generated by the  
 8 Advanced International Certificate of Education examination  
 9 bonus, in accordance with this paragraph, to the school program  
 10 that generated the funds. The school district

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

14 Remove line 6 and insert:  
 15 examinations; clarifying that at least 80 percent of the  
 16 Advanced International Certificate of Education bonus funds are



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 827 (2017)

Amendment No. 1

17 | allocated to the school that generated the funds; providing an  
18 | effective date.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1109 Private School Student Participation in Extracurricular Activities  
**SPONSOR(S):** Antone  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1302

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	14 Y, 0 N	Dehmer	Healy
2) Education Committee		Dehmer <i>DO</i>	Hassell <i>JH</i>

### SUMMARY ANALYSIS

Each district school board, charter school and private school must establish in its code of student conduct eligibility standards and student disciplinary actions regarding student participation in interscholastic and intrascholastic extracurricular activities.

Home education students, charter school students, full-time Florida Virtual School students and private school students who participate in extracurricular activities for a public school are subject to the school district's code of student conduct for purposes of eligibility.

While district school boards have the authority and responsibility for student eligibility, the Florida High School Athletics Association (FHSAA) retains jurisdiction over, among other things, membership in the FHSAA and school eligibility. The FHSAA bylaws require member schools to comply with all FHSAA bylaws and administrative policies and procedures.

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 has an enrollment of less than 125 students.

The bill revises private school student eligibility by allowing a student in a non-FHSAA member private school to participate in interscholastic or intrascholastic activities at the school where the student could choose to attend pursuant to controlled open enrollment, in addition to the student's zoned school which is currently permitted by law.

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

This bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Each district school board, charter school and private school must establish, in its code of student conduct, eligibility standards and student disciplinary actions regarding student participation in interscholastic and intrascholastic extracurricular activities. The code must at least provide that:

- a student not suspended or expelled is eligible to participate in interscholastic athletics;
- a student's eligibility to participate in an interscholastic or intrascholastic activity may not be affected by recruiting allegations until a final determination has been reached;
- a student may not participate in any interscholastic or intrascholastic activity if the student participated in that same sport at another school during the same school year unless the student:
  - is a dependent child of active duty military personnel whose move resulted from military orders;
  - has been relocated due to a foster care placement in a different school zone;
  - has moved due to a court-ordered change in custody due to separation or divorce or the serious illness or death of a custodial parent; or
  - is authorized for good cause in district or charter school policy.<sup>1</sup>

Home education students, charter school students, full-time Florida Virtual School students, and private school students who participate in extracurricular activities for a public school are subject to the school district's code of student conduct for purposes of eligibility.

While district school boards have the authority and responsibility for student eligibility, the Florida High School Athletics Association (FHSAA) retains jurisdiction over, among other things, membership in the FHSAA and school eligibility.<sup>2</sup> The FHSAA bylaws require member schools to comply with all FHSAA bylaws and administrative policies and procedures.<sup>3</sup> Each member school must, as a condition to membership in FHSAA, annually adopt the bylaws as the rules governing its interscholastic athletic programs.<sup>4</sup> Such adoption acts as a contract between FHSAA and the member school.<sup>5</sup> Member schools that violate the bylaws are subject to disciplinary action determined to be appropriate by FHSAA.<sup>6</sup> To be eligible for participation in interscholastic extracurricular activities under the FHSAA, a high school student<sup>7</sup> must:

- maintain either a 2.0 grade point average (GPA) or above on a 4.0 scale in the semester preceding participation; or a cumulative 2.0 GPA or above in the courses required for high school graduation;
- execute and fulfill the requirements of an academic performance contract if the student's GPA falls below 2.0 in the courses required for graduation. An academic performance contract is an agreement between the student, the district school board, the appropriate governing association, and the student's parents, which at a minimum requires the student to attend

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<sup>1</sup> Section 1006.195(1), F.S.

<sup>2</sup> Section 1006.195(2)(a), F.S. The FHSAA retains jurisdiction over recruiting prohibitions and violations, student medical evaluations, investigations, sanctions for coaches, forfeiture of contests, student concussions or head injuries, the sports medical advisory committee, general operational provisions of the FHSAA.

<sup>3</sup> Bylaws 2.6 (compliance with rules), 3.3.1 (conditions of membership), and 3.5, FHSAA (obligations of membership).

<sup>4</sup> Bylaw 3.3.1(d), FHSAA.

<sup>5</sup> *Sult v. Gilbert*, 148 Fla. 31, 35 (1941).

<sup>6</sup> *Sult*, 148 Fla. at 35; bylaw 2.6, FHSAA.

<sup>7</sup> For purposes of athletics in public K-12 schools, high school includes grade six through 12. Section 1006.20(1), F.S.

summer school or its graded equivalent, between grades nine and 10 or grades 10 and 11, as necessary;

- have a cumulative GPA of 2.0 or above in the courses required for graduation in his or her junior or senior year; and
- maintain satisfactory conduct. The eligibility of a student who is convicted of, or found to have committed, a felony or delinquent act that would have been a felony if committed by an adult is governed by district school board policy.<sup>8</sup>

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 has an enrollment of less than 125 students (Non-FHSAA member private school).<sup>9</sup>

The FHSAA and district school board must adopt guidelines that establish:

- registration deadlines and procedures for each sport; and
- student participation requirements that include, but are not limited to, the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to students attending FHSAA member public and private schools.<sup>10</sup>

### **Effect of Proposed Changes**

The bill revises private school student eligibility by allowing a student in a non-FHSAA member private school to participate in interscholastic or intrascholastic activities at the school where the student could choose to attend pursuant to controlled open enrollment.

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

**Section 1.** Amends s. 1006.15, F.S. relating to student standards for participation in interscholastic and interscholastic extracurricular activities.

**Section 2.** Provides that the bill takes effect on July 1, 2017.

## **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.

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<sup>8</sup> Section 1006.15(3)(a), F.S.

<sup>9</sup> Section 1006.15(8), F.S. A private school that has a student who wishes to participate in a public school athletic program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request by the FHSAA; section 1006.15(3)(c), (d), and (e), F.S.; bylaw 9.2.2.4, FHSAA.

<sup>10</sup> Section 1006.15(8), F.S.

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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A bill to be entitled  
An act relating to private school student participation in extracurricular activities; amending s. 1006.15, F.S.; revising the eligibility requirements for certain private school students to participate in interscholastic or intrascholastic sports at specified public schools; providing an effective date.

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

Section 1. Paragraph (a) of subsection (8) of section 1006.15, Florida Statutes, is amended to read:

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

(8) (a) The Florida High School Athletic Association (FHSAA), in cooperation with each district school board, shall facilitate a program in which a middle school or high school student who attends a private school shall be eligible to participate in an interscholastic or intrascholastic sport at a public high school, a public middle school, or a 6-12 public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to s. 1002.31 ~~that is~~

26 ~~zoned for the physical address at which the student resides if:~~

27 1. The private school in which the student is enrolled is  
 28 not a member of the FHSAA.

29 2. The private school student meets the guidelines for the  
 30 conduct of the program established by the FHSAA's board of  
 31 directors and the district school board. At a minimum, such  
 32 guidelines shall provide:

33 a. A deadline for each sport by which the private school  
 34 student's parents must register with the public school in  
 35 writing their intent for their child to participate at that  
 36 school in the sport.

37 b. Requirements for a private school student to  
 38 participate, including, but not limited to, meeting the same  
 39 standards of eligibility, acceptance, behavior, educational  
 40 progress, and performance which apply to other students  
 41 participating in interscholastic or intrascholastic sports at a  
 42 public school or FHSAA member private school.

43 Section 2. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

4 **Amendment**

5 Remove lines 24-25 and insert:  
 6 district school board attendance area policies and procedures or  
 7 which the student could choose to attend pursuant to s. 1002.31,  
 8 provided the public school has not reached capacity as  
 9 determined by the district school board, that is