



Education Committee

Thursday, April 6, 2017

8:00 AM

Reed Hall (102 HOB)

Meeting Packet

Richard Corcoran
Speaker

Michael Bileca
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Education Committee

Start Date and Time: Thursday, April 06, 2017 08:00 am
End Date and Time: Thursday, April 06, 2017 11:00 am
Location: Reed Hall (102 HOB)
Duration: 3.00 hrs

Consideration of the following bill(s):

CS/CS/HB 15 Educational Options by PreK-12 Appropriations Subcommittee, PreK-12 Innovation Subcommittee, Sullivan, Fischer
CS/HB 127 Public School Attendance Policies by PreK-12 Innovation Subcommittee, Plasencia
CS/HB 293 Middle School Study by PreK-12 Appropriations Subcommittee, Burton
CS/HB 351 Pub. Rec. and Meetings/Postsecondary Education Executive Search by Oversight, Transparency & Administration Subcommittee, Rommel
HB 371 Assistive Technology Devices by Ausley
CS/HB 501 Pub. Rec. and Meetings/Information Technology/Postsecondary Education Institutions by Post-Secondary Education Subcommittee, Leek, Silvers
HB 655 Exceptional Student Instruction by Porter
CS/HB 833 Student Eligibility for K-12 Virtual Instruction by PreK-12 Appropriations Subcommittee, Sullivan
CS/CS/HB 859 Postsecondary Distance Education by Higher Education Appropriations Subcommittee, Post-Secondary Education Subcommittee, Mariano
CS/HB 867 Student Loan Debt by Higher Education Appropriations Subcommittee, Leek
CS/HB 989 Instructional Materials by PreK-12 Quality Subcommittee, Donalds
CS/HB 1079 Pub. Rec. and Meetings/Campus Emergency Response for Public Postsecondary Educational Institutions by Oversight, Transparency & Administration Subcommittee, Rommel
HB 1111 Teacher Certification by Plasencia
CS/HB 1131 Shared Use of Public School Playground Facilities by PreK-12 Appropriations Subcommittee, Drake
CS/HB 1331 Education by PreK-12 Quality Subcommittee, Grall
CS/HB 7057 Civic Literacy by PreK-12 Appropriations Subcommittee, PreK-12 Quality Subcommittee, Raburn
CS/HB 7101 K-12 Education by PreK-12 Appropriations Subcommittee, PreK-12 Innovation Subcommittee, Cortes, B.

NOTICE FINALIZED on 04/04/2017 4:22PM by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 15 Educational Options

SPONSOR(S): PreK-12 Appropriations Subcommittee; PreK-12 Innovation Subcommittee; Sullivan; Fischer and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1314

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

SUMMARY ANALYSIS

The bill revises the Florida Tax Credit (FTC) Scholarship Program by:

- increasing the base annual scholarship amount, differentiated by grade level, for students enrolled in eligible private schools;
- increasing the amount of a transportation scholarship for a student who chooses a public school outside their district from \$500 to \$750;
- allowing a dependent child of a parent who is a member of the U.S. Armed Forces to apply for a scholarship at any time;
- authorizing a Scholarship Funding Organization (SFO) to make scholarship payments on behalf of a parent only if the SFO receives prior approval from the parent each time;
- providing that a private school that has consecutive years of material exceptions listed in their annual financial reports may be ineligible to participate in the FTC;
- requiring the Department of Revenue (DOR) to provide a copy of a denial letter to the SFO specified by the taxpayer seeking the tax credit;
- revising the date that a private school's agreed upon procedures report from a CPA is due to the SFO from September 15, to August 15, of each year; and
- removing obsolete language regarding student eligibility and funding.

There is no fiscal to state government.

The bill takes effect July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Florida Tax Credit Scholarship Program (FTC)

Present Situation

The FTC Program¹ was established to encourage taxpayers to make private, voluntary contributions to Scholarship Funding Organizations, expand educational opportunities for families that have limited financial resources and enable Florida's children to achieve a greater level of excellence in their education.² The FTC Program is funded with contributions to private nonprofit SFOs from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax; severance taxes on oil and gas production; self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine and spirits.³ The tax credit is equal to 100 percent of the eligible contributions made.⁴

SFOs use contributions to award scholarships to eligible low-income students for private school tuition and fees or transportation expenses to a Florida public school located outside of the school district in which the student resides.⁵ During the 2016-2017 school year, 98,457 students were awarded FTC Program scholarships. Of that number, 50,408 students were female and 48,049 students were male.⁶

Contingent upon available funds, a student is eligible for a FTC Program scholarship if he or she meets one or more of the following criteria:

- The student is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level.
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care.
- The student's household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.⁷

A student who receives a scholarship based upon placement in foster care or out-of-home care remains eligible until he or she graduates from high school or turns 21, whichever occurs first, regardless of his or her household income level. A sibling of a participating student is eligible for a scholarship if he or she resides in the same household as the sibling.⁸

Priority is given to students who received a scholarship in the previous year, to new applicants whose household income levels do not exceed 185 percent of poverty, and to students who are in foster care or out-of-home care.⁹

¹ Section 1002.395, F.S.

² Section 1002.395(1)(b), F.S.

³ Section 1002.395(1) and (5), F.S.

⁴ Sections 220.1875 and 1002.395(5), F.S.

⁵ Section 1002.3953 (6)(d), F.S. An eligible contribution is a monetary contribution from a taxpayer to an eligible nonprofit SFO. The taxpayer may not designate a specific child as the beneficiary of the contribution. Section 1002.395(2)(e), F.S.

⁶ Florida Department of Education, *Florida Tax Credit Scholarship Program: February 2017 Quarterly Report*, at 1-3, available at <http://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Feb-2017-Q-Report.pdf>.

⁷ Section 1002.395(3)(c)1-3., F.S.

⁸ Section 1002.395(3), F.S. (flush left provision at end of subsection).

⁹ Section 1002.395(6)(e), F.S.

The law caps the amount of tax credits that may be made for scholarships and places limits on the per-student scholarship amount.¹⁰

Tax Credit Cap

The tax credit cap amount is the amount in the prior state fiscal year unless the actual tax credit amount for the prior state fiscal year is equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, in which case the tax credit cap amount increases by 25 percent.¹¹ The tax credit cap for Fiscal Year 2016-2017 is \$559,000,000 and the estimated scholarship amount is \$5,886.¹²

Scholarship Amount

The amount of a scholarship awarded to a student enrolled in an eligible private school is equal to 82 percent of the unweighted FTE funding amount for that state fiscal year and thereafter.¹³ The scholarship amount is adjusted based on family income, unless the student is receiving a scholarship based upon placement in foster care or out-of-home care.¹⁴ Eligible income levels for the 2016-2017 school year are as follows:

FTC Scholarship Income Guidelines ¹⁵					
2016-2017 School Year					
Household size	Monthly Maximum Income for a 100% Scholarship	Monthly Maximum Income for an 88% Scholarship	Monthly Maximum Income for a 74% Scholarship	Monthly Maximum Income for a 60% Scholarship	Monthly Maximum Income for a 50% Scholarship
1	\$1,980	\$2,129	\$2,277	\$2,426	\$2,574
2	\$2,670	\$2,871	\$3,071	\$3,271	\$3,471
3	\$3,360	\$3,612	\$3,864	\$4,116	\$4,368
4	\$4,050	\$4,354	\$4,658	\$4,962	\$5,265
5	\$4,740	\$5,096	\$5,451	\$5,807	\$6,162
6	\$5,430	\$5,838	\$6,245	\$6,652	\$7,059
7	\$6,122	\$6,581	\$7,040	\$7,500	\$7,959
8	\$6,815	\$7,327	\$7,838	\$8,349	\$8,860
9	\$7,509	\$8,072	\$8,635	\$9,198	\$9,761
10	\$8,202	\$8,817	\$9,432	\$10,048	\$10,663
11	\$8,895	\$9,563	\$10,230	\$10,897	\$11,564
12	\$9,589	\$10,308	\$11,027	\$11,746	\$12,465
13	\$10,282	\$11,053	\$11,824	\$12,596	\$13,367
	Each additional member, add +693	Each additional member, add +745	Each additional member, add +797	Each additional member, add +849	Each additional member, add +901

For a scholarship awarded to a student for transportation to a Florida public school that is located outside the district in which the student resides, the limit is \$500.¹⁶

¹⁰ Section 1002.395(5), F.S.

¹¹ Section 1002.395(5)(a)2., F.S.

¹² Step Up For Students, 2015-16 Fact Sheet, available at, <https://www.stepupforstudents.org/newsroom/basic-program-facts/> (last visited March 1, 2017), Florida Department of Education, Fact Sheet, Florida Tax Credit Scholarship Program, available at http://www.fldoe.org/core/fileparse.php/15230/urlt/FTC_Sep_2016.pdf, (last visited February 13, 2017).

¹³ Section 1002.395(12)(a)1.a., F.S.

¹⁴ Section 1002.395(12)(a)3., F.S.

¹⁵ Step Up For Students, FTC Scholarship Income Guidelines, available at, <https://www.stepupforstudents.org/for-parents/income-based/how-the-scholarship-works/>.

¹⁶ Section 1002.395(12)(a)1.b., F.S.

To participate in the FTC Program, a private school must:

- comply with all of the requirements for private schools participating in state school choice scholarship programs;
- provide the SFO, upon request, all documentation required for student participation, including its fee schedule;
- annually provide the parent with a written explanation of the student's progress;
- annually administer or make provisions for students in grades three through 10 to participate in one of the nationally norm-referenced tests identified by the DOE or the statewide assessments¹⁷ and report the student's scores to the parent and to the Learning System Institute at Florida State University;
- cooperate with a student whose parent chooses to have the student participate in statewide assessments; and
- require each student receiving a scholarship to have regular and direct contact with his or her teachers at the school's physical location.¹⁸

Participating private schools that receive more than \$250,000 in funds from FTC Program scholarships in any state fiscal year must annually contract with an independent certified public accountant to perform agreed-upon procedures¹⁹ and produce a report of the results. The procedures must determine whether the private school has been verified as eligible by the Department of Education (DOE); has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds and has properly expended scholarship funds for education-related expenses. The private school must submit the report annually on September 15, to the SFO that awarded the majority of the private school's scholarships and the SFO must monitor a private school's compliance. The SFO must notify the commissioner of a private school's failure to submit its annual report or of any material exceptions set forth in the report.²⁰

DOE may remove a private school's eligibility to participate in the FTC program if the school fails to meet any of these requirements.²¹

Effect of Proposed Changes

The bill removes obsolete language regarding student eligibility and funding and increases the base annual scholarship limits for students enrolled in eligible private schools from 82 percent of the unweighted FTE to:

- eighty-eight percent of unweighted FTE for grades K-5;
- ninety-two percent of unweighted FTE for grades 6-8;
- ninety-six percent of unweighted FTE for grades 9-12.

¹⁷ The statewide assessment program for public schools includes statewide, standardized comprehensive assessments and end-of-course (EOC) assessments and the Florida Alternate Assessment for students with disabilities. The statewide, standardized comprehensive assessment tests reading (grades 3-10), mathematics (grades 3-8), science (once in elementary and middle school), and writing (once at the elementary, middle and high school level). EOC assessments for high school students include Algebra I, Biology I, Geometry, and U.S. History. Middle school students must take an EOC assessment if they are enrolled in any of the above listed high school courses and in Civics. Section 1008.22(3), F.S.

¹⁸ Section 1002.395(8)(a)-(d), F.S.

¹⁹ An agreed-upon procedure analysis is not a full financial statement audit. Instead, the certified public accountant is engaged by the client to examine specific financial or operational aspects of its company or organization. The client and the practitioner agree upon the procedures to be performed by the practitioner and the subject matter that they will cover. *See American Institute of Certified Public Accountants, Audit and Attest Standards, Statements on Standards for Attestation Agreements, Agreed-Upon Procedures Engagements*, at AT s. 201.02 (June 1, 2009), available at <http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/AT-00201.pdf>.

²⁰ Section 1002.395(6)(o) and (8)(e), F.S.

²¹ Section 1002.395(8), F.S. (flush-left provision at end of the subsection).

The amount of a transportation scholarship for a student, who chooses a public school outside his or her district, also increases from \$500 to \$750.

The bill authorizes an SFO to make scholarship payments to eligible private schools by funds transfer (including debit cards, electronic payment cards, or any other means the DOE deems commercially viable). Payments must be approved by the parent before the funds are deposited and a parent may not designate an entity or individual associated with the participating private school as their attorney to approve a fund transfer.

The bill permits a dependent child of a parent who is a member of the U.S. Armed Forces to apply for a scholarship at any time.

The bill revises the date that a private school's agreed upon procedures report is due to the SFO from September 15, to August 15, each year and provides that a private school may be ineligible to participate if it has consecutive years of material exceptions identified in its report.

The bill requires Department of Revenue to provide a copy of the denial or approval letter to the SFO within 10 days after approving or denying any of the following transactions:

- An application for a carryforward tax credit.
- The conveyance, transfer, or assignment of a tax credit.
- The rescindment of a tax credit.
- Acknowledgement of tax credits.

Finally, the bill authorizes an SFO to develop a professional development system that includes a master plan for in-service activities under the School Community Professional Development Act. The system and in service plan must be submitted to the commissioner of the State Board of Education for approval.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.395, F.S., relating to the Florida Tax Credit Scholarship Program.

Section 2. Amends s. 1012.98, F.S., relating to the School Community Professional Development Act.

Section 3. 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:

The bill has no fiscal impact to state government.

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 7, 2017, the PreK-12 Innovation Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment provides that a licensed physician from any state or territory may diagnose a student with a disability for purposes of Gardiner Scholarship Program eligibility. The bill analysis is drafted to the committee substitute as passed by the PreK-12 Innovation Subcommittee.

On March 28, 2017, the PreK-12 Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. Amendment one removed Sections 1 relating to the Gardiner Scholarship Program and Section 2 relating to the John M. McKay Scholarship Program. Amendment two removed the appropriation included in the bill. This bill analysis is drafted to the committee substitute as passed by the PreK-12 Appropriations Subcommittee.

1 A bill to be entitled
2 An act relating to educational options; amending s.
3 1002.395, F.S.; revising student eligibility criteria
4 for the Florida Tax Credit Scholarship Program;
5 requiring the Department of Education to provide a
6 letter of denial to participate in the program to a
7 specified entity within a certain period; requiring
8 the department to provide a letter of acceptance or
9 denial of specified actions related to a tax credit to
10 a specified entity and include that entity on certain
11 letters and correspondence; authorizing a child of a
12 parent who is a member of the United States Armed
13 Forces to apply for a scholarship at any time;
14 requiring a parent to approve each payment made by
15 funds transfer; prohibiting a parent from designating
16 certain entities or individuals to approve a funds
17 transfer; requiring certain private schools to submit
18 a report by a specified date; providing that
19 consecutive years of certain material exceptions
20 constitutes program ineligibility for certain private
21 schools; revising the annual limits of a scholarship
22 awarded to certain students; authorizing payment of
23 the scholarship to be made by funds transfer;
24 specifying approved means of funds transfer; requiring
25 a parent to approve a funds transfer before funds are

26 deposited; amending s. 1012.98, F.S.; authorizing
 27 certain nonprofit scholarship-funding organizations to
 28 develop a specified professional development system;
 29 providing an effective date.
 30

31 Be It Enacted by the Legislature of the State of Florida:
 32

33 Section 1. Paragraph (f) of subsection (5) of section
 34 1002.395, Florida Statutes, is redesignated as paragraph (g),
 35 subsection (3), paragraph (b) of subsection (5), paragraph (h)
 36 of subsection (6), paragraph (f) of subsection (7), subsection
 37 (8), and paragraphs (a) and (b) of subsection (12) are amended,
 38 and a new paragraph (f) is added to subsection (5) of that
 39 section, to read:

40 1002.395 Florida Tax Credit Scholarship Program.—

41 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

42 (a) The Florida Tax Credit Scholarship Program is
 43 established.

44 ~~(b) For the 2014-2015 and 2015-2016 school years,~~
 45 ~~contingent upon available funds, a student is eligible for a~~
 46 ~~Florida tax credit scholarship under this section if the student~~
 47 ~~meets one or more of the following criteria:~~

48 ~~1. The student qualifies for free or reduced-price school~~
 49 ~~lunches under the National School Lunch Act or is on the direct~~
 50 ~~certification list;~~

51 ~~2. The student is currently placed, or during the previous~~
 52 ~~state fiscal year was placed, in foster care or in out-of-home~~
 53 ~~care as defined in s. 39.01; or~~

54 ~~3. The student continues in the scholarship program as~~
 55 ~~long as the student's household income level does not exceed 230~~
 56 ~~percent of the federal poverty level.~~

57 (b)(c) ~~For the 2016-2017 school year and thereafter,~~
 58 ~~contingent upon available funds,~~ A student is eligible for a
 59 Florida tax credit scholarship under this section if the student
 60 meets one or more of the following criteria:

61 1. The student is on the direct certification list or the
 62 student's household income level does not exceed 185 percent of
 63 the federal poverty level; or

64 2. The student is currently placed, or during the previous
 65 state fiscal year was placed, in foster care or in out-of-home
 66 care as defined in s. 39.01.

67 3. The student's household income level is greater than
 68 185 percent of the federal poverty level but does not exceed 260
 69 percent of the federal poverty level.

70
 71 A student who initially receives a scholarship based on
 72 eligibility under subparagraph (b)2. ~~or subparagraph (c)2.~~
 73 remains eligible to participate until the student graduates from
 74 high school or attains the age of 21 years, whichever occurs
 75 first, regardless of the student's household income level. A

76 sibling of a student who is participating in the scholarship
 77 program under this subsection is eligible for a scholarship if
 78 the student resides in the same household as the sibling.

79 (5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.—

80 (b) A taxpayer may submit an application to the department
 81 for a tax credit or credits under one or more of s. 211.0251, s.
 82 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

83 1. The taxpayer shall specify in the application each tax
 84 for which the taxpayer requests a credit and the applicable
 85 taxable year for a credit under s. 220.1875 or s. 624.51055 or
 86 the applicable state fiscal year for a credit under s. 211.0251,
 87 s. 212.1831, or s. 561.1211. The department shall approve tax
 88 credits on a first-come, first-served basis and must obtain the
 89 division's approval before approving a tax credit under s.
 90 561.1211.

91 2. Within 10 days after approving or denying an
 92 application, the department shall provide a copy of its approval
 93 or denial letter to the eligible nonprofit scholarship-funding
 94 organization specified by the taxpayer in the application.

95 (f) Within 10 days after approving or denying an
 96 application for a carryforward tax credit under paragraph (c),
 97 the conveyance, transfer, or assignment of a tax credit under
 98 paragraph (d), or the rescindment of a tax credit under
 99 paragraph (e), the department shall provide a copy of its
 100 approval or denial letter to the eligible nonprofit scholarship-

101 funding organization specified by the taxpayer. The department
 102 shall also include the eligible nonprofit scholarship-funding
 103 organization specified by the taxpayer on all letters or
 104 correspondence of acknowledgment for tax credits under s.
 105 212.1831.

106 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 107 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
 108 organization:

109 (h) Must allow a student in foster care or out-of-home
 110 care or a dependent child of a parent who is a member of the
 111 United States Armed Forces to apply for a scholarship at any
 112 time.

113
 114 Information and documentation provided to the Department of
 115 Education and the Auditor General relating to the identity of a
 116 taxpayer that provides an eligible contribution under this
 117 section shall remain confidential at all times in accordance
 118 with s. 213.053.

119 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 120 PARTICIPATION.—

121 (f) Upon receipt of a scholarship warrant from the
 122 eligible nonprofit scholarship-funding organization, the parent
 123 to whom the warrant is made must restrictively endorse the
 124 warrant to the private school for deposit into the account of
 125 the private school. If payments are made by funds transfer, the

126 parent must approve each payment before the scholarship funds
 127 may be deposited. The parent may not designate any entity or
 128 individual associated with the participating private school as
 129 the parent's attorney in fact to endorse a scholarship warrant
 130 or approve a funds transfer. A participant who fails to comply
 131 with this paragraph forfeits the scholarship.

132 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
 133 eligible private school may be sectarian or nonsectarian and
 134 must:

135 (a) Comply with all requirements for private schools
 136 participating in state school choice scholarship programs
 137 pursuant to s. 1002.421.

138 (b) Provide to the eligible nonprofit scholarship-funding
 139 organization, upon request, all documentation required for the
 140 student's participation, including the private school's and
 141 student's fee schedules.

142 (c) Be academically accountable to the parent for meeting
 143 the educational needs of the student by:

144 1. At a minimum, annually providing to the parent a
 145 written explanation of the student's progress.

146 2. Annually administering or making provision for students
 147 participating in the scholarship program in grades 3 through 10
 148 to take one of the nationally norm-referenced tests identified
 149 by the Department of Education or the statewide assessments
 150 pursuant to s. 1008.22. Students with disabilities for whom

151 standardized testing is not appropriate are exempt from this
 152 requirement. A participating private school must report a
 153 student's scores to the parent. A participating private school
 154 must annually report by August 15 the scores of all
 155 participating students to the Learning System Institute
 156 described in paragraph (9)(j).

157 3. Cooperating with the scholarship student whose parent
 158 chooses to have the student participate in the statewide
 159 assessments pursuant to s. 1008.22 or, if a private school
 160 chooses to offer the statewide assessments, administering the
 161 assessments at the school.

162 a. A participating private school may choose to offer and
 163 administer the statewide assessments to all students who attend
 164 the private school in grades 3 through 10.

165 b. A participating private school must submit a request in
 166 writing to the Department of Education by March 1 of each year
 167 in order to administer the statewide assessments in the
 168 subsequent school year.

169 (d) Employ or contract with teachers who have regular and
 170 direct contact with each student receiving a scholarship under
 171 this section at the school's physical location.

172 (e) Provide a report from ~~Annually contract with~~ an
 173 independent certified public accountant who performs ~~to perform~~
 174 the agreed-upon procedures developed under paragraph (6)(o) ~~and~~
 175 ~~produce a report of the results~~ if the private school receives

176 more than \$250,000 in funds from scholarships awarded under this
 177 section in ~~the 2010-2011 state fiscal year or~~ a state fiscal
 178 year ~~thereafter~~. A private school subject to this paragraph must
 179 submit the report by August 15, 2017 ~~September 15, 2011~~, and
 180 annually thereafter to the scholarship-funding organization that
 181 awarded the majority of the school's scholarship funds. The
 182 agreed-upon procedures must be conducted in accordance with
 183 attestation standards established by the American Institute of
 184 Certified Public Accountants.

185
 186 If The inability of a private school is unable to meet the
 187 requirements of this subsection or has consecutive years of
 188 material exceptions listed in the report required under
 189 paragraph (e), the commissioner may determine that shall
 190 ~~constitute a basis for the ineligibility of the private school~~
 191 is ineligible to participate in the scholarship program as
 192 determined by the Department of Education.

193 (12) SCHOLARSHIP AMOUNT AND PAYMENT.-

194 (a) Except as provided in subparagraph 2., the scholarship
 195 ~~amount of a scholarship~~ provided to any student for any single
 196 school year by an eligible nonprofit scholarship-funding
 197 organization from eligible contributions shall be for total
 198 costs authorized under paragraph (6)(d), not to exceed annual
 199 limits, which shall be determined as follows:

200 1.a. The base amount ~~For a scholarship~~ awarded to a

201 student enrolled in an eligible private school, ~~the limit shall~~
 202 be determined as a percentage ~~by multiplying the unweighted FTE~~
 203 ~~funding amount in that state fiscal year by the percentage used~~
 204 ~~to determine the limit in the prior state fiscal year. However,~~
 205 ~~in each state fiscal year that the tax credit cap amount~~
 206 ~~increases pursuant to paragraph (5) (a), the prior year~~
 207 ~~percentage shall be increased by 4 percentage points and the~~
 208 ~~increased percentage shall be used to determine the limit for~~
 209 ~~that state fiscal year. If the percentage so calculated reaches~~
 210 ~~80 percent in a state fiscal year, no further increase in the~~
 211 ~~percentage is allowed and the limit shall be 80 percent of the~~
 212 ~~unweighted FTE funding amount for that state fiscal year and~~
 213 ~~thereafter. Beginning in the 2016-2017 state fiscal year, the~~
 214 ~~amount of a scholarship awarded to a student enrolled in an~~
 215 ~~eligible private school shall be equal to 82 percent of the~~
 216 unweighted FTE funding amount for that state fiscal year and
 217 thereafter as follows:-

218 (I) Eighty-eight percent for a student enrolled in
 219 kindergarten through grade 5.

220 (II) Ninety-two percent for a student enrolled in grade 6
 221 through grade 8.

222 (III) Ninety-six percent for a student enrolled in grade 9
 223 through grade 12.

224 b. The ~~For~~ a scholarship amount awarded to a student
 225 enrolled in a Florida public school that is located outside the

226 district in which the student resides or in a lab school as
 227 defined in s. 1002.32, is limited to \$750 ~~the limit shall be~~
 228 ~~\$500.~~

229 ~~2. The annual limit for a scholarship under sub-~~
 230 ~~subparagraph 1.a. shall be reduced by:~~

231 ~~a. Twenty-five percent if the student's household income~~
 232 ~~level is equal to or greater than 200 percent, but less than 215~~
 233 ~~percent, of the federal poverty level.~~

234 ~~b. Fifty percent if the student's household income level~~
 235 ~~is equal to or greater than 215 percent, but equal to or less~~
 236 ~~than 230 percent, of the federal poverty level.~~

237 2.3. ~~For the 2016-2017 state fiscal year and thereafter,~~
 238 The annual limit for a scholarship under sub-subparagraph 1.a.
 239 shall be reduced by:

240 a. Twelve percent if the student's household income level
 241 is greater than or equal to 200 percent, but less than 215
 242 percent, of the federal poverty level.

243 b. Twenty-six percent if the student's household income
 244 level is greater than or equal to 215 percent, but less than 230
 245 percent, of the federal poverty level.

246 c. Forty percent if the student's household income level
 247 is greater than or equal to 230 percent, but less than 245
 248 percent, of the federal poverty level.

249 d. Fifty percent if the student's household income level
 250 is greater than or equal to 245 percent, but less than or equal

251 | to 260 percent, of the federal poverty level.

252 | (b) Payment of the scholarship by the eligible nonprofit
 253 | scholarship-funding organization shall be by individual warrant
 254 | made payable to the student's parent or by funds transfer,
 255 | including, but not limited to, debit cards, electronic payment
 256 | cards, or any other means of payment that the department deems
 257 | to be commercially viable or cost-effective. If the payment is
 258 | made by warrant ~~parent chooses that his or her child attend an~~
 259 | ~~eligible private school,~~ the warrant must be delivered by the
 260 | eligible nonprofit scholarship-funding organization to the
 261 | private school of the parent's choice, and the parent shall
 262 | restrictively endorse the warrant to the private school. An
 263 | eligible nonprofit scholarship-funding organization shall ensure
 264 | that the parent to whom the warrant is made restrictively
 265 | endorsed the warrant to the private school for deposit into the
 266 | account of the private school or that the parent has approved a
 267 | funds transfer before any scholarship funds are deposited.

268 | Section 2. Subsection (6) of section 1012.98, Florida
 269 | Statutes, is amended to read:

270 | 1012.98 School Community Professional Development Act.—

271 | (6) An organization of private schools, a ~~or~~ consortium of
 272 | charter schools which has no fewer than 10 member schools in
 273 | this state, or an eligible nonprofit scholarship-funding
 274 | organization as defined in s. 1002.395, which publishes and
 275 | files with the Department of Education copies of its standards,

276 | and the member schools of which comply with the provisions of
277 | part II of chapter 1003, relating to compulsory school
278 | attendance, may also develop a professional development system
279 | that includes a master plan for inservice activities. The system
280 | and inservice plan must be submitted to the commissioner for
281 | approval pursuant to state board rules.

282 | Section 3. 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 Sullivan offered the following:

4 **Amendment (with title amendment)**

5 Between lines 39 and 40, insert:

6 Section 1. Paragraphs (i) and (j) of subsection (2) of
 7 section 1002.385, Florida Statutes, are redesignated as
 8 paragraphs (j) and (k), respectively, paragraphs (d) and (h) of
 9 subsection (2), paragraph (a) of subsection (3), subsection (5),
 10 paragraph (b) of subsection (6), subsection (8), paragraphs (e)
 11 and (f) of subsection (11), paragraph (j) of subsection (12),
 12 and paragraph (a) of subsection (13) are amended, and a new
 13 paragraph (i) is added to subsection (2) of that section, to
 14 read:

15 1002.385 The Gardiner Scholarship.-

16 (2) DEFINITIONS.-As used in this section, the term:



Amendment No. 1

17 (d) "Disability" means, for a 3- or 4-year-old child or
18 for a student in kindergarten to grade 12, autism spectrum
19 disorder, as defined in the Diagnostic and Statistical Manual of
20 Mental Disorders, Fifth Edition, published by the American
21 Psychiatric Association; cerebral palsy, as defined in s.
22 393.063(6); Down syndrome, as defined in s. 393.063(15); an
23 intellectual disability, as defined in s. 393.063(24); Phelan-
24 McDermid syndrome, as defined in s. 393.063(28); Prader-Willi
25 syndrome, as defined in s. 393.063(29); spina bifida, as defined
26 in s. 393.063(40); being a high-risk child, as defined in s.
27 393.063(23)(a); muscular dystrophy; rare diseases which affect
28 patient populations of fewer than 200,000 individuals in the
29 United States; anaphylaxis; and Williams syndrome or
30 identification as orthopedically impaired, deaf, visually
31 impaired, dual sensory impaired, traumatic brain injured, other
32 health impaired, as defined by rules of the State Board of
33 Education and evidenced by reports from the local school
34 district, or a student who is hospital or homebound, with a
35 medically diagnosed physical or psychiatric condition or illness
36 as defined by rules of the State Board of Education, and will be
37 confined to the home or hospital for more than 6 months.

38 (h) "IEP" means individual education plan, regardless of
39 whether the plan has been reviewed or revised within the last 12
40 months.

41 (i) "Inactive" means that no eligible expenditures have



Amendment No. 1

42 been made from an account funded pursuant to paragraph (13) (d).

43 (3) PROGRAM ELIGIBILITY.—A parent of a student with a
44 disability may request and receive from the state a Gardiner
45 Scholarship for the purposes specified in subsection (5) if:

46 (a) The student:

47 1. Is a resident of this state;

48 2. Is ~~3 or 4~~ years of age or older when on or before
49 ~~September 1 of the year in which~~ the student applies for program
50 participation or is eligible to enroll in kindergarten through
51 grade 12 in a public school in this state; and

52 3. Meets one or more of the following criteria:

53 a. Has a disability as defined in paragraph (2) (d) which
54 is documented by an IEP or by a diagnosis of a disability from a
55 physician who is licensed under chapter 458 or chapter 459 or a
56 psychologist who is licensed under chapter 490;

57 b. Is currently participating in the program, is 5 years
58 of age or older, and has previously been identified as a high-
59 risk child, as defined in s. 393.063(23) (a); or and

60 c. ~~4.~~ Is the subject of an IEP written in accordance with
61 rules of the State Board of Education or with the applicable
62 rules of another state. However, a student with an IEP whose
63 sole exceptionality is gifted is not eligible for the Gardiner
64 Scholarship has received a diagnosis of a disability from a
65 physician who is licensed under chapter 458 or chapter 459 or a
66 psychologist who is licensed under chapter 490.

024065 - h0015-line 39.docx

Published On: 4/5/2017 9:15:59 PM



Amendment No. 1

67 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must
68 be used to meet the individual educational needs of an eligible
69 student and may be spent for the following purposes:

70 (a) Instructional materials, including digital devices,
71 digital periphery devices, and assistive technology devices that
72 allow a student to access instruction or instructional content
73 and training on the use of and maintenance agreements for these
74 devices.

75 (b) Curriculum as defined in paragraph (2) (b).

76 (c) Specialized services by approved providers or a
77 Florida hospital that are selected by the parent. These
78 specialized services may include, but are not limited to:

79 1. Applied behavior analysis services as provided in ss.
80 627.6686 and 641.31098.

81 2. Services provided by speech-language pathologists as
82 defined in s. 468.1125.

83 3. Occupational therapy services as defined in s. 468.203.

84 4. Services provided by physical therapists as defined in
85 s. 486.021.

86 5. Services provided by listening and spoken language
87 specialists and an appropriate acoustical environment for a
88 child who is deaf or hard of hearing and who has received an
89 implant or assistive hearing device.

90 (d) Enrollment in, or tuition or fees associated with
91 enrollment in, a home education program, an eligible private



Amendment No. 1

92 school, an eligible postsecondary educational institution or a
93 program offered by the institution, a private tutoring program
94 authorized under s. 1002.43, a virtual program offered by a
95 department-approved private online provider that meets the
96 provider qualifications specified in s. 1002.45(2)(a), the
97 Florida Virtual School as a private paying student, or an
98 approved online course offered pursuant to s. 1003.499 or s.
99 1004.0961.

100 (e) Fees for nationally standardized, norm-referenced
101 achievement tests, Advanced Placement Examinations, industry
102 certification examinations, assessments related to postsecondary
103 education, or other assessments.

104 (f) Contributions to the Stanley G. Tate Florida Prepaid
105 College Program pursuant to s. 1009.98 or the Florida College
106 Savings Program pursuant to s. 1009.981, for the benefit of the
107 eligible student.

108 (g) Contracted services provided by a public school or
109 school district, including classes. A student who receives
110 services under a contract under this paragraph is not considered
111 enrolled in a public school for eligibility purposes as
112 specified in subsection (4).

113 (h) Tuition and fees for part-time tutoring services
114 provided by a person who holds a valid Florida educator's
115 certificate pursuant to s. 1012.56; a person who holds an
116 adjunct teaching certificate pursuant to s. 1012.57; or a person

024065 - h0015-line 39.docx

Published On: 4/5/2017 9:15:59 PM



Amendment No. 1

117 who has demonstrated a mastery of subject area knowledge
118 pursuant to s. 1012.56(5). As used in this paragraph, the term
119 "part-time tutoring services" does not qualify as regular school
120 attendance as defined in s. 1003.01(13)(e).

121 (i) Fees for specialized summer education programs.

122 (j) Fees for specialized after-school education programs.

123 (k) Transition services provided by job coaches.

124 (l) Fees for an annual evaluation of educational progress
125 by a state-certified teacher under s. 1002.41(1)(c), if this
126 option is chosen for a home education student.

127 (m) Tuition and fees associated with programs offered by
128 Voluntary Prekindergarten Education Program providers approved
129 pursuant to s. 1002.55 and school readiness providers approved
130 pursuant to s. 1002.88.

131 (n) Fees for services provided at a center that is a
132 member of the Professional Association of Therapeutic
133 Horsemanship International.

134 (o) Fees for services provided by a therapist who is
135 certified by the Certification Board for Music Therapists or
136 credentialed by the Art Therapy Credentials Board.

137
138 A provider of any services receiving payments pursuant to this
139 subsection may not share, refund, or rebate any moneys from the
140 Gardiner Scholarship with the parent or participating student in
141 any manner. A parent, student, or provider of any services may



Amendment No. 1

142 not bill an insurance company, Medicaid, or any other agency for
143 the same services that are paid for using Gardiner Scholarship
144 funds.

145 (6) TERM OF THE PROGRAM.—For purposes of continuity of
146 educational choice and program integrity:

147 (b)1. A student's scholarship account must be closed and
148 any remaining funds, including, but not limited to,
149 contributions made to the Stanley G. Tate Florida Prepaid
150 College Program or earnings from or contributions made to the
151 Florida College Savings Program using program funds pursuant to
152 paragraph (5)(f), shall revert to the state after ~~upon~~:

153 a. Denial or revocation of program eligibility by the
154 commissioner for fraud or abuse, including, but not limited to,
155 the student or student's parent accepting any payment, refund,
156 or rebate, in any manner, from a provider of any services
157 received pursuant to subsection (5); ~~or~~

158 b. ~~After~~ Any period of 3 consecutive years after high
159 school completion or graduation during which the student has not
160 been enrolled in an eligible postsecondary educational
161 institution or a program offered by the institution; or

162 c. Three consecutive fiscal years in which an account has
163 been inactive.

164 2. The commissioner must notify the parent and the
165 organization when a Gardiner Scholarship account is closed and
166 program funds revert to the state.



Amendment No. 1

167 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
168 eligible private school may be sectarian or nonsectarian and
169 shall:

170 (a) Comply with all requirements for private schools
171 participating in state school choice scholarship programs
172 pursuant to s. 1002.421.

173 (b) Provide to the organization, upon request, all
174 documentation required for the student's participation,
175 including the private school's and student's fee schedules.

176 (c) Be academically accountable to the parent for meeting
177 the educational needs of the student by:

178 1. At a minimum, annually providing to the parent a
179 written explanation of the student's progress.

180 2. Annually administering or making provision for students
181 participating in the program in grades 3 through 10 to take one
182 of the nationally norm-referenced tests identified by the
183 Department of Education or the statewide assessments pursuant to
184 s. 1008.22. Students with disabilities for whom standardized
185 testing is not appropriate are exempt from this requirement. A
186 participating private school shall report a student's scores to
187 the parent.

188 3. Cooperating with the scholarship student whose parent
189 chooses to have the student participate in the statewide
190 assessments pursuant to s. 1008.22 or, if a private school
191 chooses to offer the statewide assessments, administering the



Amendment No. 1

192 assessments at the school.

193 a. A participating private school may choose to offer and
194 administer the statewide assessments to all students who attend
195 the private school in grades 3 through 10.

196 b. A participating private school shall submit a request
197 in writing to the Department of Education by March 1 of each
198 year in order to administer the statewide assessments in the
199 subsequent school year.

200 (d) Employ or contract with teachers who have regular and
201 direct contact with each student receiving a scholarship under
202 this section at the school's physical location.

203 (e) Provide a report from ~~Annually contract with an~~
204 ~~independent certified public accountant who performs to perform~~
205 ~~the agreed-upon procedures developed under s. 1002.395(6)(o) and~~
206 ~~produce a report of the results if the private school receives~~
207 ~~more than \$250,000 in funds from scholarships awarded under this~~
208 ~~section in the 2014-2015 state fiscal year or a state fiscal~~
209 ~~year thereafter.~~ A private school subject to this paragraph must
210 submit the report by August 15, 2017 ~~September 15, 2015,~~ and
211 annually thereafter to the organization that awarded the
212 majority of the school's scholarship funds. The agreed-upon
213 procedures must be conducted in accordance with attestation
214 standards established by the American Institute of Certified
215 Public Accountants.

216

024065 - h0015-line 39.docx

Published On: 4/5/2017 9:15:59 PM



Amendment No. 1

217 ~~If The inability of a private school is unable to meet the~~
218 ~~requirements of this subsection or has consecutive years of~~
219 ~~material exceptions listed in the report required under~~
220 ~~paragraph (e), the commissioner may determine that constitutes a~~
221 ~~basis for the ineligibility of the private school is ineligible~~
222 ~~to participate in the program as determined by the commissioner.~~

223 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
224 PARTICIPATION.—A parent who applies for program participation
225 under this section is exercising his or her parental option to
226 determine the appropriate placement or the services that best
227 meet the needs of his or her child. The scholarship award for a
228 student is based on a matrix that assigns the student to support
229 Level III services. If a parent receives an IEP and a matrix of
230 services from the school district pursuant to subsection (7),
231 the amount of the payment shall be adjusted as needed, when the
232 school district completes the matrix.

233 (e) The parent must annually renew participation in the
234 program. Notwithstanding any changes to the student's IEP, a
235 student who was previously eligible for participation in the
236 program shall remain eligible to apply for renewal. ~~However, for~~
237 ~~a high risk child to continue to participate in the program in~~
238 ~~the school year after he or she reaches 6 years of age, the~~
239 ~~child's application for renewal of program participation must~~
240 ~~contain documentation that the child has a disability defined in~~
241 ~~paragraph (2) (d) other than high risk status.~~

024065 - h0015-line 39.docx

Published On: 4/5/2017 9:15:59 PM



Amendment No. 1

242 (f) The parent is responsible for procuring the services
243 necessary to educate the student. If a parent does not procure
244 the necessary educational services for the student and the
245 student's account has been inactive for 2 consecutive fiscal
246 years, the student is ineligible for additional scholarship
247 payments until the scholarship funding organization verifies
248 that expenditures from the account have occurred. When the
249 student receives a Gardiner Scholarship, the district school
250 board is not obligated to provide the student with a free
251 appropriate public education. For purposes of s. 1003.57 and the
252 Individuals with Disabilities in Education Act, a participating
253 student has only those rights that apply to all other
254 unilaterally parentally placed students, except that, when
255 requested by the parent, school district personnel must develop
256 an individual education plan or matrix level of services.

257
258 A parent who fails to comply with this subsection forfeits the
259 Gardiner Scholarship.

260 (12) OBLIGATIONS OF SCHOLARSHIP-FUNDING ORGANIZATIONS.—An
261 organization may establish Gardiner Scholarships for eligible
262 students by:

263 (j) Documenting each scholarship student's eligibility for
264 a fiscal year before granting a scholarship for that fiscal year
265 pursuant to paragraph (3)(b). A student is ineligible for a
266 scholarship if the student's account has been inactive for 2



Amendment No. 1

267 consecutive fiscal years. However, once an eligible expenditure
268 is made pursuant to paragraph (11)(f), the student is eligible
269 for a scholarship based on available funds.

270 (13) FUNDING AND PAYMENT.—

271 (a)1. The maximum funding amount granted for an eligible
272 student with a disability, pursuant to subsection (3), shall be
273 equivalent to the base student allocation in the Florida
274 Education Finance Program multiplied by the appropriate cost
275 factor for the educational program that ~~which~~ would have been
276 provided for the student in the district school to which he or
277 she would have been assigned, multiplied by the district cost
278 differential.

279 2. In addition, an amount equivalent to a share of the
280 guaranteed allocation for exceptional students in the Florida
281 Education Finance Program shall be determined and added to the
282 amount in subparagraph 1. The calculation shall be based on the
283 methodology and the data used to calculate the guaranteed
284 allocation for exceptional students for each district in chapter
285 2000-166, Laws of Florida. Except as provided in subparagraph
286 3., the calculation shall be based on the student's grade, the
287 matrix level of services, and the difference between the 2000-
288 2001 basic program and the appropriate level of services cost
289 factor, multiplied by the 2000-2001 base student allocation and
290 the 2000-2001 district cost differential for the sending
291 district. The calculated amount must also include an amount

024065 - h0015-line 39.docx

Published On: 4/5/2017 9:15:59 PM



Amendment No. 1

292 equivalent to the per-student share of supplemental academic
293 instruction funds, instructional materials funds, technology
294 funds, and other categorical funds as provided in the General
295 Appropriations Act.

296 3. Beginning with the 2017-2018 fiscal year and each
297 fiscal year thereafter, the calculation for a new student
298 entering the program shall be based on the student's matrix
299 level of services. The funding for a student without a matrix of
300 services ~~Except as otherwise provided in subsection (7), the~~
301 ~~calculation for all students participating in the program shall~~
302 be based on the matrix that assigns the student to support Level
303 III of services. If a parent chooses to request and receive a
304 matrix of services from the school district, when the school
305 district completes the matrix, the amount of the payment shall
306 be adjusted as needed.

307

308

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

309 Remove line 3 and insert:
310 1002.385, F.S.; revising definitions for the Gardiner
311 Scholarship Program; defining the term "inactive" for the
312 purposes of the program; revising student eligibility criteria;
313 authorizing program funds to be used for specified purposes and
314 by specified entities; prohibiting billing of certain entities
315 for services paid for through the program; revising private
316



Amendment No. 1

317 school eligibility requirements; providing that consecutive
318 years of certain material exceptions constitutes program
319 ineligibility for certain private schools; prohibiting certain
320 students from receiving additional scholarship payments until
321 certain conditions are met; revising funding calculations;
322 amending s. 1002.39, F.S.; revising student eligibility criteria



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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

3
 4 **Amendment (with title amendment)**
 5 Remove lines 268-281

6
 7
 8 -----

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

10 Remove lines 26-28 and insert:
 11 deposited;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 127 Public School Attendance Policies
SPONSOR(S): PreK-12 Innovation Subcommittee and Plasencia
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1128

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

SUMMARY ANALYSIS

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board. The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies. If a student is continually sick and repeatedly absent from school, state law requires the student to be under a physician's supervision in order for the absences to be excused.

The bill

- requires district school boards to adopt student absence policies regarding student appointments to receive autism spectrum disorder therapy, including but not limited to, applied behavioral analysis, speech therapy and occupational therapy;
- allows a parent to request and be granted permission for a student's absence resulting from an appointment to receive therapy provided by a licensed health care practitioner or a certified behavior analyst for the treatment of autism spectrum disorder; and
- allows a student who is continually sick and repeatedly absent to satisfy nonattendance requirement by being under the supervision of a licensed health care practitioner or a certified behavior analyst for the treatment of autism spectrum disorder.

There is no fiscal impact to the state.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.¹ The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.² If a student is continually sick and repeatedly absent from school, state law requires the student to be under a physician's supervision in order for the absences to be excused. In such cases, the physician's excuse justifies absences beyond the maximum number of days permitted under the district school board's attendance policy.³

State law and state board rule also authorize a public school to grant permission to students, in accordance with the school district's rules, to be absent from school for religious instruction, religious holidays or because religious tenets forbid secular activity during the school day.⁴

Effect of Proposed Changes

The bill:

- requires district school boards to adopt student absence policies regarding student appointments to receive autism spectrum disorder therapy, including but not limited to, applied behavioral analysis, speech therapy and occupational therapy;
- allows a parent to request and be granted permission for a student's absence resulting from an appointment to receive therapy provided by a licensed health care practitioner or a certified behavior analyst for the treatment of autism spectrum disorder; and
- allows a student who is continually sick and repeatedly absent to satisfy nonattendance requirement by being under the supervision of a licensed health care practitioner or a certified behavior analyst for the treatment of autism spectrum disorder.

The term "licensed" is defined in law as any permit, registration, certificate or license, including a provisional license, issued by the Department of Health.⁵

The term "health care practitioner" is defined in law as any person licensed under chapter 457 (acupuncture); chapter 458 (medical practice); chapter 459 (osteopathic medicine); chapter 460 (chiropractic medicine); chapter 461 (podiatric medicine); chapter 462 (naturopathy); chapter 463 (optometry); chapter 464 (nursing); chapter 465 (pharmacy); chapter 466 (dentistry); chapter 467 (midwifery); part I (speech-language pathology), part II (nursing home administration), part III (occupational therapy), part V (respiratory therapy), part X (dietetics and nutrition practice), part XIII (athletic trainers), or part XIV (orthotics, prosthetics and pedorthics) of chapter 468; chapter 478 (electrolysis); chapter 480 (massage practice); part III (clinical laboratory personnel) or part IV (medical physicists) of chapter 483; chapter 484 (dispensing of optical devices and hearing aids); chapter 486 (physical therapy); chapter 490 (psychological services) or chapter 491 (clinical, counseling and psychotherapy services).⁶

¹ Section 1003.24, F.S. (flush-left provisions at end of section).

² Section 1003.26, F.S.

³ Section 1003.24(4), F.S.

⁴ Sections 1002.20(2)(c) and 1003.21(2)(b), F.S.; rule 6A-1.09514(1) and (2), F.A.C.

⁵ Section 456.001(5), F.S.

⁶ Section 456.001(4), F.S.

A "certified behavior analyst" is a person who is certified under the Florida Behavior Certification Program in accordance with s. 393.17, F.S.⁷

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.20, F.S., regarding K-12 student and parent rights.

Section 2. Amends s. 1003.21, F.S., relating to school attendance.

Section 3. Amends s. 1003.24, F.S., relating to parents responsibility of children.

Section 4. 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:

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:

The bill provides for a broad definition of health care practitioner for purposes of granting excuses for student absences.⁸ It is unclear if each category of health care practitioner should be included for purposes of granting excuses for student absences.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2017, the PreK-12 Innovation Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment includes a certified behavior analyst as a provider of autism therapy services for purposes of granting permission for student absences. The amendment removes the specific authority for a licensed health care practitioner to provide a written statement as proof that student attendance is impracticable or inadvisable and, instead, provides that a student whose absences result from receiving services from a certified behavior analyst or a licensed health care practitioner for autism spectrum disorder qualify as an excusable absence. The bill analysis is drafted to the committee substitute as passed by the PreK-12 Innovation Subcommittee.

⁸ Section 456.001(4), F.S.
STORAGE NAME: h0127b.EDC.DOCX
DATE: 4/4/2017

1 A bill to be entitled
 2 An act relating to public school attendance policies;
 3 amending s. 1002.20, F.S; authorizing a parent to
 4 request and be granted permission for a student's
 5 absence from school for treatment of autism spectrum
 6 disorder by a licensed health care practitioner or
 7 certified behavior analyst; amending s. 1003.21, F.S.;
 8 requiring each district school board to adopt an
 9 attendance policy authorizing a student's absence for
 10 treatment of autism spectrum disorder; amending s.
 11 1003.24, F.S.; revising an exemption relating to
 12 parental responsibility for nonattendance of a student
 13 to include treatment for autism spectrum disorder;
 14 providing an effective date.

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

17
 18 Section 1. Paragraph (c) of subsection (2) of section
 19 1002.20, Florida Statutes, is amended, paragraph (d) is
 20 redesignated as paragraph (e), and a new paragraph (d) is added
 21 to that subsection, to read:

22 1002.20 K-12 student and parent rights.—Parents of public
 23 school students must receive accurate and timely information
 24 regarding their child's academic progress and must be informed
 25 of ways they can help their child to succeed in school. K-12

26 students and their parents are afforded numerous statutory
 27 rights, including, but not limited to, the following:

28 (2) ATTENDANCE.—

29 (c) Absence for religious purposes.—A parent of a public
 30 school student may request and be granted permission for absence
 31 of the student from school for religious instruction or
 32 religious holidays, in accordance with the provisions of s.
 33 1003.21(2)(b)1 ~~1003.21(2)(b)~~.

34 (d) Absence for treatment of autism spectrum disorder.—A
 35 parent of a public school student may request and be granted
 36 permission for absence of the student from school for an
 37 appointment scheduled to receive a therapy service provided by a
 38 licensed health care practitioner or behavior analyst certified
 39 pursuant to s. 393.17 for the treatment of autism spectrum
 40 disorder pursuant to ss. 1003.21(2)(b)2. and 1003.24(4).

41 Section 2. Paragraph (b) of subsection (2) of section
 42 1003.21, Florida Statutes, is amended to read:

43 1003.21 School attendance.—

44 (2)

45 (b) Each district school board, in accordance with rules
 46 of the State Board of Education, shall adopt policies
 47 authorizing a policy that authorizes a parent to request and be
 48 granted permission for absence of a student from school for:

- 49 1. Religious instruction or religious holidays.
 50 2. An appointment scheduled to receive a therapy service

51 | provided by a licensed health care practitioner or behavior
 52 | analyst certified pursuant to s. 393.17 for the treatment of
 53 | autism spectrum disorder, including, but not limited to, applied
 54 | behavioral analysis, speech therapy, and occupational therapy.

55 | Section 3. Subsection (4) of section 1003.24, Florida
 56 | Statutes, is amended to read:

57 | 1003.24 Parents responsible for attendance of children;
 58 | attendance policy.—Each parent of a child within the compulsory
 59 | attendance age is responsible for the child's school attendance
 60 | as required by law. The absence of a student from school is
 61 | prima facie evidence of a violation of this section; however,
 62 | criminal prosecution under this chapter may not be brought
 63 | against a parent until the provisions of s. 1003.26 have been
 64 | complied with. A parent of a student is not responsible for the
 65 | student's nonattendance at school under any of the following
 66 | conditions:

67 | (4) SICKNESS, INJURY, OR OTHER INSURMOUNTABLE CONDITION.—
 68 | Attendance was impracticable or inadvisable on account of
 69 | sickness or injury, as attested to by a written statement of a
 70 | licensed practicing physician, or was impracticable because of
 71 | some other stated insurmountable condition as defined by and
 72 | attested to in accordance with rules of the State Board of
 73 | Education. If a student is continually sick and repeatedly
 74 | absent from school, he or she must be under the supervision of a
 75 | physician, or if the absence is related to the student having

76 autism spectrum disorder, receiving services from a licensed
77 health care practitioner or behavior analyst certified pursuant
78 to s. 393.17, in order to receive an excuse from attendance.
79 Such excuse provides that a student's condition justifies
80 absence for more than the number of days permitted by the
81 district school board.

82

83 Each district school board shall establish an attendance policy
84 that includes, but is not limited to, the required number of
85 days each school year that a student must be in attendance and
86 the number of absences and tardinesses after which a statement
87 explaining such absences and tardinesses must be on file at the
88 school. Each school in the district must determine if an absence
89 or tardiness is excused or unexcused according to criteria
90 established by the district school board.

91 Section 4. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 293 Middle School Study
SPONSOR(S): PreK-12 Appropriations Subcommittee; Burton and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 360

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	13 Y, 0 N	McAlarney	Duncan
2) PreK-12 Appropriations Subcommittee	11 Y, 0 N, As CS	Deweese	Potvin
3) Education Committee		McAlarney	Hassell

SUMMARY ANALYSIS

The bill directs the Florida Department of Education to issue a competitive solicitation for a contract to conduct a comprehensive study of states with high-performing students in grades 6 through 8 in reading and mathematics, based on the states' performance on the National Assessment of Educational Progress. The findings of the study and the recommendations to improve middle school study performance must be reported to the Governor, the State Board of Education, the President of the Senate, and the Speaker of the House of Representatives by December 2017. The study must include a review of the following general topics:

- Academic expectations and instructional strategies.
- Availability of student support services.
- Attendance policies and student mobility issues.
- Teacher quality.
- Middle school administrator leadership and performance.
- Parental and community involvement.

The bill is estimated to have a fiscal impact of \$50,000 to the Department of Education.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

National and International Assessments

In addition to the administration of statewide, standardized assessments, Florida school districts are required to participate in the administration of the National Assessment of Educational Progress, or similar national or international assessments, both for the national sample and for any state-by-state comparison programs, as directed by the Commissioner of Education.¹

The National Assessment of Educational Progress (NAEP)

The NAEP is the largest nationally representative assessment of students' knowledge and performance in a variety of subject areas, including but not limited to mathematics, reading, and writing.² The NAEP provides results on subject matter achievement or student populations, subgroups of student populations, and under certain circumstances, by selected large urban school districts.³ The NAEP in reading and mathematics is administered to a representative sample of students in grades 4 and 8 every two years.⁴ The NAEP reports assessment results using three achievement levels:⁵

- Basic – A student achieving the Basic level demonstrates a partial mastery of prerequisite knowledge and skills that are fundamental for proficient work at each grade.
- Proficient – A student achieving the Proficient level demonstrates solid academic performance at the grade assessed. Students reaching this level have demonstrated competency over challenging subject matter, including subject-matter knowledge, application of such knowledge to real-world situations, and analytical skills appropriate to the subject matter.
- Advanced – A student achieving the Advanced level demonstrates superior performance.

According to the Department of Education, participation in the NAEP provides a basis for comparing the knowledge and skills of Florida students with students in other states, jurisdictions, and with the nation as a whole.⁶

The most recent results available are from 2015, which were released in October 2015. NAEP reading and mathematics were administered in March 2017; however, the results are not yet available.⁷

NAEP Reading

The following table shows performance trends of students in grade 8 on the NAEP reading assessment compared to the national average.⁸

¹ Section 1008.22(2), F.S.

² National Center for Education Statistics, National Assessment of Educational Progress (NAEP), *NAEP Overview*, <https://nces.ed.gov/nationsreportcard/about/> (last visited March 10, 2017). Additional NAEP subject area assessments include science, the arts, civics, economics, geography, U.S. History, and Technology and Engineering Literacy. *Id.*

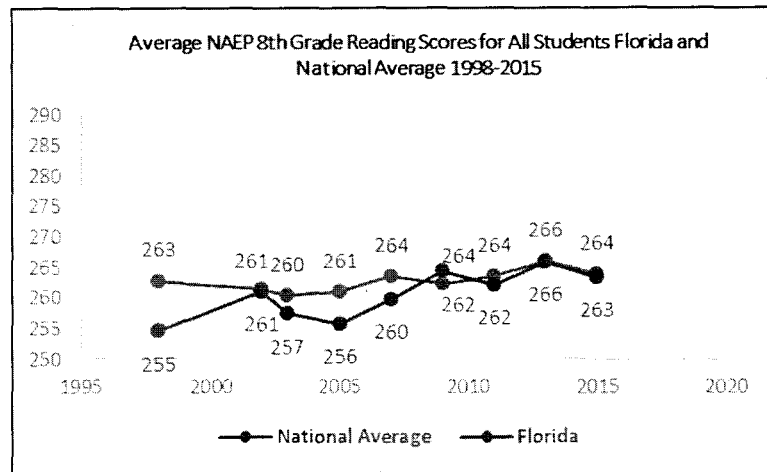
³ *Id.*

⁴ The Nation's Report Card, *Overview of the Nation's Report Card – What subjects does NAEP assess, and how are subjects chosen?*, <https://nationsreportcard.gov/faq.aspx#q9> (last visited March 10, 2017).

⁵ National Center for Education Statistics, NAEP Achievement Levels, <https://nces.ed.gov/nationsreportcard/achievement.aspx> (last visited March 10, 2017).

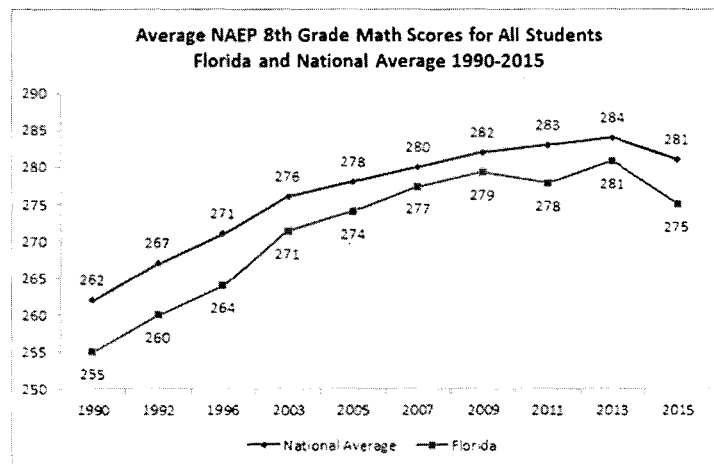
⁶ Florida Department of Education, National & International Assessments, <http://www.fldoe.org/accountability/assessments/national-international-assessments/> (last visited March 10, 2017).

⁷ Email, Florida Department of Education, 2017 Agency Legislative Bill Analysis, HB 293 (March 8, 2017).



NAEP Mathematics

The following table shows performance trends of students in grade 8 on the NAEP mathematics assessment compared to the national average.⁹



Florida's Statewide, Standardized Assessment Program

The statewide assessment program for Florida's public schools includes statewide, standardized assessments for English Language Arts (ELA) (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Algebra II, Geometry, Biology I, Civics, and U.S. History; and the Statewide Science Assessment (grades 5 and 8).¹⁰

The assessments measure the extent to which students have mastered Florida's academic content standards, the Next-Generation Sunshine State Standards (NGSSS) and Florida Standards.¹¹ The grade-level ELA and math assessments and Algebra I, Geometry, and Algebra II EOC assessments

⁸ Email, Foundation for Florida's Future, (Feb. 27, 2017).

⁹ *Id.*

¹⁰ Sections 1008.22(3), 1003.4156, and 1003.4282, F.S. Retake administrations are offered for the Grade 10 FSA ELA and Algebra I EOC assessment. Florida Department of Education, Division of Public Schools, *2016-17 Statewide Assessment Schedule Revisions and 2017-18 Preliminary Schedule Release*, Memorandum (August 1, 2016), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-7699/dps-2016-125.pdf>.

¹¹ See Florida Department of Education, *ESEA Flexibility Request* (August 21, 2015) at 98, available at <http://www.fldoe.org/core/fileparse.php/5637/urlt/15WaiverRenewalESEA.pdf> [hereinafter referred to as *ESEA Flexibility Request*].

are referred to as the Florida Standards Assessments (FSA). EOC assessments count as 30 percent of a student's final course grade.¹²

Results from the assessments are used to calculate school grades and school improvement ratings¹³ and determine student readiness for promotion to 4th grade and high school graduation.¹⁴ In addition, school districts use student performance data from the assessments in the performance evaluations for instructional personnel and school administrators.¹⁵

Florida and federal law require that all public school students participate in statewide, standardized ELA and math assessments at least annually beginning in the 3rd grade.¹⁶ Federal law also requires that students participate in a standardized science assessment at least once in each of grades 3 through 5, 6 through 9, and 10 through 12.¹⁷ The requirements for students in Florida are as follows:¹⁸

- ELA
 - Grades 3-10: annual participation in the FSA-ELA
- Math
 - Grades 3-8: annual participation in the math FSA
 - High school:
 - Algebra I EOC and Geometry assessments
 - (If enrolled) Algebra II EOC assessment
- Science
 - Grades 5 and 8: Statewide Science Assessment
 - High school: Biology I EOC assessment
- Social Studies
 - Middle school: Civics EOC assessment
 - High school: U.S. History EOC assessment

The law also provides that middle school students enrolled in a course with an associated EOC assessment must take the EOC assessment for that course and may not take the corresponding grade-level statewide, standardized assessment.¹⁹ For example, an 8th grade student who is enrolled in Algebra I must take the Algebra I EOC assessment and may not be administered the 8th grade FSA math assessment.²⁰

All statewide, standardized assessments and EOC assessments must use scaled scores and achievement levels.²¹ Achievement levels must range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on an assessment.²²

Trends in student performance on statewide, standardized reading, ELA, and mathematics assessments for the middle grades are indicated below.

¹² Sections 1003.4156(1)(c)-(d) and 1003.4282(3), F.S.

¹³ See ss. 1008.34 and 1008.341, F.S.

¹⁴ See ss. 1008.25(5) and 1003.4282(3)(a) and (b), F.S.

¹⁵ See s. 1012.34(3)(a)1., F.S.; rules 6A-5.030(2)(a), F.A.C.

¹⁶ See s. 1008.22(3)(a); 20 U.S.C. s. 6311(b)(2)(v)(I).

¹⁷ See 20 U.S.C. s. 6311(b)(2)(B)(v)(II).

¹⁸ See s. 1008.22(3)(a) and (b), F.S.

¹⁹ Section 1008.22(3)(b)2., F.S. For example, an 8th grade student who is enrolled in Algebra I must take the Algebra I EOC assessment and may not be administered the 8th grade FSA math assessment.

²⁰ Section 1008.22(3)(b)2., F.S.

²¹ Section 1008.22(3)(e), F.S. and Rule 6A-1.09422, F.A.C.

²² *Id.*

Reading and English Language Arts

The following table shows performance trends of students in grade 6 scoring at each achievement level on the statewide, standardized Reading and ELA assessment, as applicable.²³

Grade 6 Student Performance on Statewide, Standardized Reading or ELA Assessment						
Year	Test	Level 1	Level 2	Level 3	Level 4	Level 5
2010-11	FCAT 2.0 Reading	17%	24%	29%	19%	10%
2011-12	FCAT 2.0 Reading	19%	24%	28%	19%	10%
2012-13	FCAT 2.0 Reading	19%	23%	28%	20%	10%
2013-14	FCAT 2.0 Reading	16%	23%	28%	20%	11%
2014-15	FSA ELA	24%	26%	22%	21%	8%
2015-16	FSA ELA	22%	26%	22%	21%	8%

The following table shows performance trends of students in grade 7 scoring at each achievement level on the statewide, standardized Reading and ELA assessment, as applicable.²⁴

Grade 7 Student Performance on Statewide, Standardized Reading or ELA Assessment						
Year	Test	Level 1	Level 2	Level 3	Level 4	Level 5
2010-11	FCAT 2.0 Reading	18%	24%	29%	19%	10%
2011-12	FCAT 2.0 Reading	18%	25%	29%	19%	11%
2012-13	FCAT 2.0 Reading	20%	23%	27%	19%	11%
2013-14	FCAT 2.0 Reading	21%	23%	27%	19%	11%
2014-15	FSA ELA	25%	24%	23%	18%	11%
2015-16	FSA ELA	27%	24%	22%	17%	10%

The following table shows performance trends of students in grade 8 scoring at each achievement level on the statewide, standardized Reading and ELA assessment, as applicable.²⁵

Grade 8 Student Performance on Statewide, Standardized Reading or ELA Assessment						
Year	Test	Level 1	Level 2	Level 3	Level 4	Level 5
2010-11	FCAT 2.0 Reading	19%	28%	26%	17%	10%
2011-12	FCAT 2.0 Reading	17%	27%	26%	18%	12%
2012-13	FCAT 2.0 Reading	17%	27%	26%	19%	11%
2013-2014	FCAT 2.0 Reading	18%	25%	25%	19%	12%
2014-2015	FSA ELA	23%	22%	26%	18%	11%
2015-2016	FSA ELA	22%	21%	26%	19%	12%

Mathematics

The following table shows performance trends of students in grade 6 scoring at each achievement level on the statewide, standardized mathematics assessment.²⁶

Grade 6 Student Performance on Statewide, Standardized Mathematics Assessment						
Year	Test	Level 1	Level 2	Level 3	Level 4	Level 5
2010-11	FCAT 2.0	22%	24%	26%	18%	9%
2011-12	FCAT 2.0	23%	25%	25%	18%	10%
2012-13	FCAT 2.0	23%	24%	25%	18%	10%
2013-14	FCAT 2.0	23%	23%	24%	19%	11%

²³ Email, Florida Department of Education (Feb. 28, 2017).

²⁴ *Id.*

²⁵ *Id.*

²⁶ Email, Florida Department of Education (Feb. 28, 2017).

2014-15	FSA	26%	24%	23%	19%	8%
2015-16	FSA	26%	24%	23%	18%	8%

The following table shows performance trends of students in grade 7 scoring at each achievement level on the statewide, standardized mathematics assessment.²⁷

Grade 7 Student Performance on Statewide, Standardized Mathematics Assessment						
Year	Test	Level 1	Level 2	Level 3	Level 4	Level 5
2010-11	FCAT 2.0	20%	24%	28%	18%	10%
2011-12	FCAT 2.0	20%	24%	27%	18%	10%
2012-13	FCAT 2.0	21%	24%	27%	18%	9%
2013-14	FCAT 2.0	21%	23%	28%	19%	9%
2014-15	FSA	25%	23%	27%	16%	9%
2015-16	FSA	27%	21%	27%	17%	9%

The following table shows performance trends of students in grade 8 scoring at each achievement level on the statewide, standardized mathematics assessment.²⁸

Grade 8 Student Performance on Statewide, Standardized Mathematics Assessment						
Year	Test	Level 1	Level 2	Level 3	Level 4	Level 5
2010-11	FCAT 2.0	22%	22%	30%	16%	10%
2011-12	FCAT 2.0	22%	21%	30%	16%	11%
2012-13	FCAT 2.0	25%	24%	31%	14%	6%
2013-14	FCAT 2.0	28%	25%	29%	12%	6%
2014-15	FSA	29%	26%	26%	12%	7%
2015-16	FSA	28%	24%	26%	12%	10%

Effect of Proposed Changes

The bill requires the Department of Education (DOE) to issue a competitive solicitation for a contract to conduct a comprehensive study of states with high-performing students in grades 6 through 8 in reading and mathematics, based on the states' performance on the National Assessment of Educational Progress (NAEP).

The study must include a review, at a minimum, of the following:

- Academic expectation and instructional strategies. These strategies include the:
 - alignment of elementary and middle grades expectations with high school graduation requirements;
 - research-based instructional practices in reading and mathematics, including those targeting low-performing students;
 - rigor of the curriculum and courses and the availability of accelerated courses; and
 - availability of student support services.
- Attendance policies and student mobility issues.
- Teacher quality, which includes:
 - teacher certification and recertification requirements;
 - teacher preparedness to teach rigorous courses;
 - teacher recruitment and vacancy issues; and
 - staff development requirements and the availability of effective training.

²⁷ *Id.*

²⁸ *Id.*

- Middle school administrator leadership and performance; and
- Parental and community involvement.

The bill requires the DOE to submit a report on the findings of the comprehensive study and make recommendations to improve middle school student performance, to the Governor, the State Board of Education, the President of the Senate, and the Speaker of the House of Representatives by December 2017. The bill provides for expiration of the provisions related to the comprehensive study after the submission of the final report.

The bill provides an appropriation in the sum of \$50,000 in nonrecurring funds from the General Revenue Fund to the DOE to fund the comprehensive study.

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

B. SECTION DIRECTORY:

- Section 1 Directs the Department of Education to issue a competitive solicitation for a contract to conduct a comprehensive study of states with high-performing students in grades 6-8 in reading and mathematics, based upon the states' performance on the National Assessment of Educational Progress.
- Section 2 Provides an appropriation in the sum of \$50,000 in nonrecurring funds from the General Revenue Fund to the DOE to fund the comprehensive study.
- Section 3 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:
The Department of Education estimates a \$50,000 fiscal for the comprehensive study.

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:

According to the Florida Department of Education:

In November 2015, the department analyzed how other high-performing states define and report their state assessment achievement level results. This study used *Education Week's Quality Counts* (2015) rank, which was based on the National Assessment of Educational Progress (NAEP) 2013 results, to determine the top 10 ranked states in grades 4 and 8 reading and mathematics and looked at the percentage at or above the 2015 NAEP Proficient level, the percentage at or above the state's cut point for proficiency/meeting expectations, and the difference between these two measurements. The study also performed this analysis on the most populated states (California, Texas, New York and Illinois). The results of the analysis were presented to the State Board of Education on December 4, 2015, and are posted at <http://fldoe.org/core/fileparse.php/13152/urlt/NAEPANALYSIS.pdf>.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2017, the PreK-12 Appropriations Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. Amendment one requires the DOE to issue a competitive solicitation for a contract to conduct a comprehensive study on middle school performance. Amendment two clarifies that the report includes findings of the comprehensive study. Amendment three provides an appropriation to fund the comprehensive study.

The analysis is drafted to reflect the committee substitute.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A bill to be entitled
 An act relating to a middle school study; requiring
 the Department of Education to solicit for a contract
 to conduct a comprehensive study of states with
 nationally recognized high-performing middle schools
 in reading and mathematics; requiring a report to the
 Governor, the State Board of Education, and the
 Legislature by a specified time; providing for
 expiration; providing an appropriation; providing an
 effective date.

WHEREAS, since 1998, Florida has seen a continuing trend of
 reading improvement in the elementary school grades, which has
 led to an increase of 17 percentage points in reading at or
 above proficiency for 4th grade students on the National
 Assessment of Educational Progress, while Florida's 8th grade
 students achieved only an increase of 7 percentage points, and

WHEREAS, since 2003, Florida's 4th grade students have
 demonstrated an increase of 11 percentage points in mathematics
 at or above proficiency on the national assessment, while
 Florida's 8th grade students have shown an increase of only 3
 percentage points, and

WHEREAS, since 2013, Florida's middle school students'
 proficiencies on the national assessment in both reading and
 mathematics have remained flat or decreased, and

26 WHEREAS, Massachusetts, New Hampshire, Vermont,
 27 Connecticut, and New Jersey are the top performing states in the
 28 percentage of 4th and 8th grade students scoring at or above
 29 proficiency in reading on the national assessment, and

30 WHEREAS, Massachusetts, Minnesota, New Hampshire, New
 31 Jersey, and Washington are the top performing states in the
 32 percentage of 4th and 8th grade students scoring at or above
 33 proficiency in mathematics on the national assessment, and

34 WHEREAS, Florida's academic expectations for students in
 35 both reading and mathematics were raised in 2010 and 2014, and

36 WHEREAS, the performance of Florida's middle school
 37 students on the state assessments in reading has remained flat
 38 since the state's standards were raised, while their performance
 39 in mathematics increased slightly between 2015 and 2016, and

40 WHEREAS, success in the middle school grades is a predictor
 41 of academic success in high school and college and career
 42 readiness, NOW, THEREFORE,

43

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

45

46 Section 1. Comprehensive study on middle school
 47 performance.—

48 (1) The Department of Education shall issue a competitive
 49 solicitation for a contract to conduct a comprehensive study of
 50 states with high-performing students in grades 6 through 8 in

51 reading and mathematics, based on the states' performance on the
 52 National Assessment of Educational Progress.

53 (2) The study must include a review, at a minimum, of all
 54 of the following:

55 (a) Academic expectations and instructional strategies,
 56 including:

57 1. Alignment of elementary and middle grades expectations
 58 with high school graduation requirements;

59 2. Research-based instructional practices in reading and
 60 mathematics, including those targeting low-performing students;

61 3. The rigor of the curriculum and courses and the
 62 availability of accelerated courses; and

63 4. The availability of student support services.

64 (b) Attendance policies and student mobility issues.

65 (c) Teacher quality, including:

66 1. Teacher certification and recertification requirements;

67 2. Teacher preparedness to teach rigorous courses;

68 3. Teacher recruitment and vacancy issues; and

69 4. Staff development requirements and the availability of
 70 effective training.

71 (d) Middle school administrator leadership and
 72 performance.

73 (e) Parental and community involvement.

74 (3) The department shall submit a report on the findings
 75 of the comprehensive study and make recommendations to improve

76 middle school student performance to the Governor, the State
77 Board of Education, the President of the Senate, and the Speaker
78 of the House of Representatives by December 2017.

79 (4) This section expires upon submission of the final
80 report.

81 Section 2. For the 2017-2018 fiscal year, the sum of
82 \$50,000 in nonrecurring funds is appropriated from the General
83 Revenue Fund to the Department of Education to implement the
84 provisions of this act.

85 Section 3. 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 Donalds offered the following:

4 **Amendment**

5 Remove lines 59-70 and insert:

6 2. Strategies used to improve reading comprehension
 7 through the use of background knowledge and the use of sequenced
 8 curriculum programming and content rich texts to increase
 9 literacy skills in kindergarten through grade 8;

10 3. Research-based instructional practices in reading and
 11 math, including those targeting low-performing students;

12 4. The rigor of the curriculum and courses and the
 13 availability of accelerated courses;

14 5. The availability of student support services;

15 6. Course sequencing and prerequisites for advanced
 16 courses; and



Amendment No. 1

- 17 7. Availability of other academic and non-core classes,
18 and electives.
- 19 (b) Attendance policies and student mobility issues.
- 20 (c) Teacher quality, including;
- 21 1. Teacher certification and recertification
22 requirements;
- 23 2. Teacher preparedness to teach rigorous courses;
- 24 3. Teacher preparation specific to teaching the middle
25 school student;
- 26 4. Teacher recruitment and vacancy issues;
- 27 5. Staff development requirements and the availability of
28 effective training;
- 29 6. Teacher collaboration and planning provisions, both at
30 the school and district levels; and
- 31 7. Student performance data collection and dissemination.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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

4 **Amendment (with title amendment)**

5 Between lines 80 and 81, insert:

6 Section 3. Section 1003.4156, Florida Statutes, is amended
 7 to read:

8 1003.4156 General requirements for middle grades
 9 promotion.-

10 (1) In order for a student to be promoted to high school
 11 from a school that includes middle grades 6, 7, and 8, the
 12 student must successfully complete the following courses:

13 (a) Three middle grades or higher courses in English
 14 Language Arts (ELA).

15 (b) Three middle grades or higher courses in mathematics.

16 Each school that includes middle grades must offer at least one



Amendment No. 2

17 high school level mathematics course for which students may earn
18 high school credit. Successful completion of a high school level
19 Algebra I or Geometry course is not contingent upon the
20 student's performance on the statewide, standardized end-of-
21 course (EOC) assessment. To earn high school credit for Algebra
22 I, a middle grades student must take the statewide, standardized
23 Algebra I EOC assessment and pass the course, and in addition,
24 beginning with the 2013-2014 school year and thereafter, a
25 student's performance on the Algebra I EOC assessment
26 constitutes 30 percent of the student's final course grade. To
27 earn high school credit for a Geometry course, a middle grades
28 student must take the statewide, standardized Geometry EOC
29 assessment, which constitutes 30 percent of the student's final
30 course grade, and earn a passing grade in the course.

31 (c) Three middle grades or higher courses in social
32 studies. Beginning with students entering grade 6 in the 2012-
33 2013 school year, one of these courses must be at least a one-
34 semester civics education course that includes the roles and
35 responsibilities of federal, state, and local governments; the
36 structures and functions of the legislative, executive, and
37 judicial branches of government; and the meaning and
38 significance of historic documents, such as the Articles of
39 Confederation, the Declaration of Independence, and the
40 Constitution of the United States. Beginning with the 2013-2014
41 school year, each student's performance on the statewide,

462837 - h0293-line 80.docx

Published On: 4/5/2017 9:21:39 PM



Amendment No. 2

42 standardized EOC assessment in civics education required under
43 s. 1008.22 constitutes 30 percent of the student's final course
44 grade. A middle grades student who transfers into the state's
45 public school system from out of country, out of state, a
46 private school, or a home education program after the beginning
47 of the second term of grade 8 is not required to meet the civics
48 education requirement for promotion from the middle grades if
49 the student's transcript documents passage of three courses in
50 social studies or two year-long courses in social studies that
51 include coverage of civics education.

52 (d) Three middle grades or higher courses in science.
53 Successful completion of a high school level Biology I course is
54 not contingent upon the student's performance on the statewide,
55 standardized EOC assessment required under s. 1008.22. However,
56 beginning with the 2012-2013 school year, to earn high school
57 credit for a Biology I course, a middle grades student must take
58 the statewide, standardized Biology I EOC assessment, which
59 constitutes 30 percent of the student's final course grade, and
60 earn a passing grade in the course.

61 ~~(e) One course in career and education planning to be~~
62 ~~completed in 6th, 7th, or 8th grade. The course may be taught by~~
63 ~~any member of the instructional staff. At a minimum, the course~~
64 ~~must be Internet based, easy to use, and customizable to each~~
65 ~~student and include research-based assessments to assist~~
66 ~~students in determining educational and career options and~~

462837 - h0293-line 80.docx

Published On: 4/5/2017 9:21:39 PM



Amendment No. 2

67 ~~goals. In addition, the course must result in a completed~~
68 ~~personalized academic and career plan for the student; must~~
69 ~~emphasize the importance of entrepreneurship skills; must~~
70 ~~emphasize technology or the application of technology in career~~
71 ~~fields; and, beginning in the 2014-2015 academic year, must~~
72 ~~include information from the Department of Economic~~
73 ~~Opportunity's economic security report as described in s.~~
74 ~~445.07. The required personalized academic and career plan must~~
75 ~~inform students of high school graduation requirements,~~
76 ~~including a detailed explanation of the diploma designation~~
77 ~~options provided under s. 1003.4285; high school assessment and~~
78 ~~college entrance test requirements; Florida Bright Futures~~
79 ~~Scholarship Program requirements; state university and Florida~~
80 ~~College System institution admission requirements; available~~
81 ~~opportunities to earn college credit in high school, including~~
82 ~~Advanced Placement courses; the International Baccalaureate~~
83 ~~Program; the Advanced International Certificate of Education~~
84 ~~Program; dual enrollment, including career dual enrollment; and~~
85 ~~career education courses, including career themed courses and~~
86 ~~courses that lead to industry certification pursuant to s.~~
87 ~~1003.492 or s. 1008.44.~~

88
89 ~~Each school must inform parents about the course curriculum and~~
90 ~~activities. Each student shall complete a personal education~~
91 ~~plan that must be signed by the student and the student's~~

462837 - h0293-line 80.docx

Published On: 4/5/2017 9:21:39 PM



Amendment No. 2

92 ~~parent. The Department of Education shall develop course~~
 93 ~~frameworks and professional development materials for the career~~
 94 ~~and education planning course. The course may be implemented as~~
 95 ~~a stand alone course or integrated into another course or~~
 96 ~~courses. The Commissioner of Education shall collect~~
 97 ~~longitudinal high school course enrollment data by student~~
 98 ~~ethnicity in order to analyze course taking patterns.~~

99 (2) The State Board of Education shall adopt rules
 100 pursuant to ss. 120.536(1) and 120.54 to implement this section
 101 and may enforce this section pursuant to s. 1008.32.

102
 103
 104

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

105
 106 Remove lines 2-10 and insert:
 107 An act relating to middle grades; requiring the Department of
 108 Education to solicit for a contract to conduct a comprehensive
 109 study of states with nationally recognized high-performing
 110 middle schools in reading and mathematics; requiring a report to
 111 the Governor, the State Board of Education, and the Legislature
 112 by a specified time; providing for expiration; providing an
 113 appropriation; amending s. 1003.4156, F.S., deleting
 114 requirements related to the middle grades career and education
 115 planning course; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 351 Pub. Rec. and Meetings/Postsecondary Education Executive Search
SPONSOR(S): Oversight, Transparency & Administration Subcommittee; Rommel and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 478

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	11 Y, 3 N	McAlarney	Bishop
2) Oversight, Transparency & Administration Subcommittee	10 Y, 3 N, As CS	Toliver	Harrington
3) Education Committee		McAlarney <i>DW</i>	Hassell

SUMMARY ANALYSIS

State universities and Florida College System (FCS) institutions occasionally establish search committees to fill vacant positions for president, vice president, provost, or dean. The search committee may be comprised of members from an institution's board of trustees, faculty or student representatives, members of the community, members from the Board of Governors or State Board of Education, and other potentially interested persons. The purpose of the committee is to locate qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position.

The bill creates an exemption from public record and public meeting requirements for information associated with the applicant recruitment process and discussions associated with the applicant search for certain state university and FCS institution employees. Specifically, the bill provides that any personal identifying information of an applicant for president, vice president, provost, or dean of any state university or FCS institution is confidential and exempt from public record requirements. It also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president, vice president, provost, or dean of any state university or FCS institution.

The bill provides instances when the public meeting exemption does not apply. In addition, it provides that the names of any applicants who comprise a final group of applicants must be released by the state university or FCS institution no later than 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. All documents containing personal identifying information of any applicants who comprise a final group of applicants become subject to public record requirements when the applicants' names are released.

The bill provides for repeal of the exemptions on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings is addressed further in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.² The board or commission must provide reasonable notice of all public meetings.³ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.⁴ Minutes of a public meeting must be promptly recorded and open to public inspection.⁵

Public Record and Public Meeting Exemptions

The Legislature, however, may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.⁶ A bill enacting an exemption must pass by a two-thirds vote of the members present and voting.⁷

Furthermore, the Open Government Sunset Review Act⁸ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;

¹ Article I, s. 24(a), FLA. CONST.

² Section 286.011(1), F.S.

³ *Id.*

⁴ Section 286.011(6), F.S.

⁵ Section 286.011(2), F.S.

⁶ Article I, s. 24(c), FLA. CONST.

⁷ *Id.*

⁸ Section 119.15, F.S.

- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protects trade or business secrets.

Search Committees

Often, when looking to fill a vacant president, vice president, provost, or dean position, state universities and Florida College System (FCS) institutions⁹ establish a search committee, which may be comprised of members from an institution's board of trustees, faculty or student representatives, members of the community, members from the Board of Governors or State Board of Education, and other potentially interested persons. The purpose of the committee is to locate qualified applicants who are interested in filling the vacant position at the university or institution, vetting applicants, and selecting a candidate to fill the position.¹⁰

The search committee often retains the services of a consulting firm for the purpose of conducting the search for a president, vice president, provost, or dean. It is typical for the consultant to make the initial contact with a potential applicant to determine if the person is interested in applying to fill the vacancy at the state university or FCS institution.

Information obtained by a search committee or consultant, including applications and other information gathered by a committee or consultant regarding applicants, must be made available for copying and inspection upon request. In addition, any meetings associated with the search process, including vetting of applicants, are open to the public.¹¹

Effect of Proposed Changes

The bill creates an exemption from public record requirements for information associated with the applicant recruitment process and an exemption from public meeting requirements for discussions associated with the applicant search.

Specifically, the bill provides that any personal identifying information of an applicant for president, vice president, provost, or dean of any state university or FCS institution is confidential and exempt¹² from public record requirements.

The bill also creates a public meeting exemption for any meeting held for the purpose of identifying or vetting applicants for president, vice president, provost, or dean of any state university or FCS institution. It provides that the public meeting exemption does not apply to a meeting held for the purpose of establishing qualifications of potential applicants or any compensation framework to be offered to potential applicants; however, any portion of such meeting that would disclose personal identifying information of an applicant or potential applicant is exempt from public meeting requirements.

⁹ The Board of trustees for a FCS institution is charged with appointing an institution president and may appoint a search committee for this purpose. Section 1001.64(19), F.S.

¹⁰ The Board of Governors must confirm the selected candidate for president of a state university. Section 1001.706(6)(a), F.S.

¹¹ FCS institutions and state universities are considered state agencies, subject to public records and public meetings laws. *See Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983) (holding that a University of Florida screening committee was subject to Florida's Sunshine Law); *Rhea v. District Bd. Of Trustees of Santa Fe College*, 109 So. 3d 851, 855, fn. 1 (Fla. 1st DCA 2013) (noting that Santa Fe College, as part of the FCS, is a state agency having a duty to provide access to public records).

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

Any meeting or interview held after a final group of applicants has been established and held for the purpose of making a final selection to fill the position of president, vice president, provost, or dean is subject to public meeting requirements. In addition, the names of any applicants who comprise a final group of applicants must be released by the state university or FCS institution no later than 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the applicants. All documents containing personal identifying information of any applicants who comprise a final group of applicants become subject to public record requirements when the applicants' names are released.

The bill provides that the section is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2022, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.097, F.S., to provide public record and public meeting exemptions associated with a search conducted by a state university or FCS institution for the purpose of identifying or vetting applicants for president, vice president, provost, or dean.

Section 2. Provides a statement of public necessity as required by the State Constitution.

Section 3. Provides an effective date of upon becoming a 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:

The bill likely could create a minimal fiscal impact on state universities and FCS institutions, because staff responsible for complying with public record requests could require training related to creation of the public record exemption. In addition, state universities and FCS institutions could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The

costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the universities and institutions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Vote Requirement

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

Public Necessity Statement

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

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for any personal identifying information of an applicant for president, vice president, provost, or dean of any state university or FCS institution, in addition to a public meeting exemption for any meetings wherein such information is discussed or such applicants are vetted. The exemptions seek to ensure that a search committee can avail of qualified applicants without those applicants fearing the possibility of losing their current jobs as a consequence of applying to these institutions. As such, the exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish their stated purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2017, the Oversight, Transparency & Administration Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment added "vice president" to the list of positions that are exempt from public record and public meeting requirements. The amendment also extended the time period during which the names of any applicants who comprise a final group of applicants must be released from 10 days before final action on employment to 21 days. This analysis is drafted to the committee substitute as adopted by the Oversight, Transparency & Administration Subcommittee.

1 A bill to be entitled
2 An act relating to public records and public meetings;
3 creating s. 1004.097, F.S.; providing an exemption
4 from public records requirements for any personal
5 identifying information of an applicant for president,
6 vice president, provost, or dean of a state university
7 or Florida College System institution; providing an
8 exemption from public meeting requirements for any
9 meeting held for the purpose of identifying or vetting
10 applicants for president, vice president, provost, or
11 dean of a state university or Florida College System
12 institution and for any portion of a meeting held for
13 the purpose of establishing qualifications of, or any
14 compensation framework to be offered to, such
15 potential applicants that would disclose personal
16 identifying information of an applicant or potential
17 applicant; providing for applicability; requiring
18 release of the names of specified applicants within a
19 certain timeframe; providing for future legislative
20 review and repeal of the exemptions; providing a
21 statement of public necessity; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Section 1004.097, Florida Statutes, is created
 27 to read:

28 1004.097 Information identifying applicants for president,
 29 vice president, provost, or dean at state universities and
 30 Florida College System institutions; public records exemption;
 31 public meeting exemption.

32 (1) Any personal identifying information of an applicant
 33 for president, vice president, provost, or dean of a state
 34 university or Florida College System institution is confidential
 35 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 36 Constitution.

37 (2) Any meeting held for the purpose of identifying or
 38 vetting applicants for president, vice president, provost, or
 39 dean of a state university or Florida College System institution
 40 is exempt from s. 286.011 and s. 24(b), Art. I of the State
 41 Constitution. This exemption does not apply to a meeting held
 42 for the purpose of establishing qualifications of potential
 43 applicants or any compensation framework to be offered to
 44 potential applicants. However, any portion of such a meeting
 45 that would disclose personal identifying information of an
 46 applicant or potential applicant is exempt from s. 286.011 and
 47 s. 24(b), Art. I of the State Constitution.

48 (3) Any meeting or interview held after a final group of
 49 applicants has been established and held for the purpose of
 50 making a final selection to fill the position of president, vice

51 president, provost, or dean of a state university or Florida
 52 College System institution is subject to the provisions of s.
 53 286.011 and s. 24(b), Art. I of the State Constitution.

54 (4) The names of applicants who comprise a final group of
 55 applicants pursuant to subsection (3) must be released by the
 56 state university or Florida College System institution no later
 57 than 21 days before the date of the meeting at which final
 58 action or vote is to be taken on the employment of the
 59 applicants.

60 (5) Any personal identifying information of applicants who
 61 comprise a final group of applicants pursuant to subsection (3)
 62 become subject to the provisions of s. 119.07(1) and s. 24(a),
 63 Art. I of the State Constitution at the time the names of such
 64 applicants are released pursuant to subsection (4).

65 (6) This section is subject to the Open Government Sunset
 66 Review Act in accordance with s. 119.15 and shall stand repealed
 67 on October 2, 2022, unless reviewed and saved from repeal
 68 through reenactment by the Legislature.

69 Section 2. The Legislature finds that it is a public
 70 necessity that any personal identifying information of an
 71 applicant for president, vice president, provost, or dean of a
 72 state university or Florida College System institution be made
 73 confidential and exempt from s. 119.07(1), Florida Statutes, and
 74 s. 24(a), Art. I of the State Constitution. It is also the
 75 finding of the Legislature that any meeting held for the purpose

76 of identifying or vetting applicants for president, vice
77 president, provost, or dean of a state university or Florida
78 College System institution and any portion of a meeting held for
79 the purpose of establishing qualifications of, or any
80 compensation framework to be offered to, such potential
81 applicants that would disclose personal identifying information
82 of an applicant or potential applicant be made exempt from s.
83 286.011, Florida Statutes, and s. 24(b), Art. I of the State
84 Constitution. The task of filling the position of president,
85 vice president, provost, or dean within a state university or
86 Florida College System institution is often conducted by an
87 executive search committee. Many, if not most, applicants for
88 such a position are currently employed at another job at the
89 time they apply and could jeopardize their current positions if
90 it were to become known that they were seeking employment
91 elsewhere. These exemptions from public records and public
92 meeting requirements are needed to ensure that such a search
93 committee can avail itself of the most experienced and desirable
94 pool of qualified applicants from which to fill the position of
95 president, vice president, provost, or dean of a state
96 university or Florida College System institution. If potential
97 applicants fear the possibility of losing their current jobs as
98 a consequence of attempting to progress along their chosen
99 career path or simply seeking different and more rewarding
100 employment, failure to have these safeguards in place could have

101 | a chilling effect on the number and quality of applicants
102 | available to fill the position of president, vice president,
103 | provost, or dean of a state university or Florida College System
104 | institution.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 371 Assistive Technology Devices

SPONSOR(S): Ausley

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 772

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

SUMMARY ANALYSIS

Federal law defines an assistive technology device as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability and requires the school to meet a student's individual education plan (IEP) requirements regarding assistive technology. If the student moves from one school to another within the district, the assistive technology device must be provided at the new school. Whether or not a student may take his or her assistive technology device home is determined on an individual basis and should be specified in the IEP.

Certain agencies are required by law to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan or IEP.

The bill revises provisions related to the use of an assistive technology device by students with disabilities by:

- clarifying that access to and use of the assistive technology device is essential for a student moving from school to home and community;
- specifying an individual work plan as one of the plans that may serve as the basis for issuing an assistive technology device to a student; and
- requiring the Office of Independent Education and Parental Choice, within the Florida Department of Education, to enter into interagency agreements with specified agencies, as appropriate, for the transaction of assistive technology devices.

There is no fiscal impact to the state.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal law defines an assistive technology device as any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.¹ The term does not include a medical device that is surgically implanted or the replacement of such device.² Federal regulations require each federal public agency to ensure that assistive technology devices are made available to a child with a disability under certain circumstances.³ Moreover, in order to receive federal assistance under the Assistive Technology Act, a state must assure the U.S. Secretary of Education that the state complies with the federal regulations.⁴

Florida law specifies assistive technology devices as manual wheelchairs, motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to in effect speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability.⁵

Special Education Services

Special education services (SES) means specially designed instruction and related services that are provided to exceptional students.⁶ Florida law specifies the disabilities that qualify a student for SES.⁷ The U.S. Individuals with Disabilities Education Act (IDEA) requires school districts to make a free appropriate public education (FAPE) available to such students ages 3 through 21.⁸ A school district, at its discretion, may provide services to eligible children with disabilities below 3 years of age.⁹ A FAPE must include special education and related services¹⁰ that are provided by the public school system at

¹ 20 U.S.C. s. 1401(1)(A).

² *Id.* at 1401(1)(B).

³ 34 C.F.R. s. 300.105(a).

⁴ *Id.* at 300.101.

⁵ Section 427.802(1), F.S. A person with a disability means any person who has one or more permanent physical or mental limitations that restrict his or her ability to perform the normal activities of daily living and impede his or her capacity to live independently. Section 427.802(2), F.S.

⁶ Section 1003.01(3)(b), F.S. Exceptional student means any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; another health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including but not limited to dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules pursuant to law. Section 1003.01(3)(a), F.S.

⁷ Section 1003.01(3)(a)-(b), F.S.

⁸ 20 U.S.C. s. 1400(d)(1)(A); 24 C.F.R. s. 300.101; Rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

⁹ Rules 6A-6.0331 and 6A-6.03026, F.A.C.

¹⁰ Related services means "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes." Related services also include health services and school nurse services, social work services in schools, and parent counseling and training. 34 C.F.R. s. 300.34(a).

no cost to the parent, that meet the standards of the state, and that are in conformity with the student's individual education plan (IEP).¹¹

Individual Education Plans

For each eligible child with a disability served by a school district, or other state agency that provides special education and related services directly, by contract, or through other arrangements, an IEP or individual family support plan must be developed, reviewed and revised.¹²

An IEP team must meet to develop a plan for the student's needs within 30 days of determining a student's eligibility for SES.¹³ The multidisciplinary IEP team includes school and district staff and other experts, if necessary.¹⁴ Parents also participate in the plan development, which may not be implemented without parental consent to a student's initial placement into the SES program.¹⁵

The IEP sets forth a child's academic achievement and functional performance, describes how the child will be included in the general education curriculum, establishes annual goals for the child and describes how those goals will be measured, directs what special education and related services are needed, describes how the child will be appropriately assessed, including the use of alternate assessments, and determines what accommodations may be appropriate for the child's instruction and assessment.¹⁶ All IEP teams must consider whether a student with disability requires assistive technology devices and services.¹⁷

Use and Transfer of Devices

Federal law requires the school to meet the student's IEP requirements regarding assistive technology.¹⁸ If the student moves from one school to another school within the district, the assistive technology device must be provided at the new school.¹⁹ The same device does not necessarily need to follow the student, but the transfer of assistive devices from school to school is encouraged because students benefit from continued use of the same device.²⁰ If the student moves to another district, federal regulation provides that agencies or districts make the equipment available for use in other districts, until the new district adopts the student's prior IEP or executes a new IEP.²¹

Whether or not a student may take his or her assistive technology device home is determined on an individual basis and should be specified in the IEP.²² If the student requires assistive technology in order to complete homework assignments or practice skills that require the device, such as communication or socialization, it should be specified in the IEP.²³ Not all assistive technology may be required for home use.²⁴ Use of the assistive technology device over the summer is also determined on an individual basis and should be specified in the IEP.²⁵

¹¹ 34 C.F.R. s. 300.17; Rule 6A-6.03411(1)(p), F.A.C.

¹² Rule 6A-6.03028(3), F.A.C.

¹³ Rules 6A-6.03028(3)(f) and 6A-6.030190(6)(b), F.A.C.

¹⁴ Rules 6A.03028(3)(c), 6A-6.030191(3), and 6A-6.03029(6), F.A.C.

¹⁵ Rule 6A-6.0331(9), F.A.C.

¹⁶ Rules 6A-6.03028(3)(h), 6A-6.03029(3), and 6A-6.030191(4), F.A.C.

¹⁷ 34 C.F.R. s. 300.324(a)(2)(v); Rule 6A-6.03028(3)(g)11., F.A.C.

¹⁸ 34 C.F.R. s. 300.323(e).

¹⁹ *Id.*

²⁰ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 13-14.

²¹ 34 C.F.R. s. 300.323(e).

²² Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 12.

²³ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 12.

²⁴ *Id.*

²⁵ *Id.*

The federal IDEA and regulations specify that it is the school's responsibility to provide transition services.²⁶ The transition planning must begin by age 14 or grade 8, whichever occurs first.²⁷ A student's IEP should include a statement of assistive technology needed under transition services, including a statement indicating agency responsibilities and linkages, if appropriate.²⁸ It is the school district's responsibility to provide a plan for the transition of assistive technology as the student prepares for postsecondary education, vocational placement, independent living and community experiences.²⁹ If the student will benefit from continued use of the same device, the transition of technology from school to the post-school setting is encouraged.³⁰ The IEP team must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services, such as assistive technology services and devices.³¹ However, if the participating agency fails to provide the transition services and assistive technology defined in the IEP, the school district must reconvene the IEP team to identify alternative strategies in order to meet the transition objective.³²

Upon request by a student or his or her parent, the district may transfer assistive technology to the postsecondary setting.³³ The transfer must follow the proper interagency agreement procedures, with the receiving agency documenting support of the equipment.³⁴

Interagency Agreements

Certain agencies are required by law to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan, or individual education plan.³⁵ The interagency agreements provide the framework for ensuring that students with disabilities, their families, educators, and employers are informed about the utilization and coordination of assistive technology devices and services to help such students transition from school to postschool.³⁶ The agreements also ensure that all agencies are informed about the needed assistive technology, the content of the transition plan, and the post-school support required to meet student needs.³⁷

The Florida Interagency Agreement for the Transfer of Assistive Technology was entered in September of 2006, between the following agencies:³⁸

- Florida Infants and Toddlers early Intervention Program (Early Steps) of the Division of Children's Medical Services of the Department of Health;
- The Division of Blind Services of the Department of Education;
- The Division of Vocational Rehabilitation of the Department of Education;
- The Voluntary Prekindergarten Education Program of the Department of Education and the Agency for Workforce Innovation; and

²⁶ 34 C.F.R. s. 300.320(b).

²⁷ Rule 6A-6.03028(3)(b)4., F.A.C.

²⁸ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 14.

²⁹ *Id.*

³⁰ *Id.*

³¹ 34 C.F.R. s. 300.321(b)(3); s. 1003.575, F.S.

³² Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013), at 14.

³³ *Id.*

³⁴ *Id.*

³⁵ Section 1003.575, F.S.

³⁶ *Id.*

³⁷ Section 1003.575, F.S.

³⁸ Florida Department of Education, Bureau of Exceptional Education and Student Services, *Assistive Technology for Students with Disabilities*, Technical Assistance Paper FY 2013-65 (Aug. 2013).

- The Bureau of Exceptional Education and Student Services of the Department of Education.

Effect of Proposed Changes

The bill revises provisions related to the use of an assistive technology device by students with disabilities by:

- clarifying that access to and use of the assistive technology device is essential for a student moving from school to home and community;
- specifying an individual work plan as one of the plans that may serve as the basis for issuing an assistive technology device to a student; and
- requiring the Office of Independent Education and Parental Choice, within the Florida Department of Education, to enter into interagency agreements with specified agencies, as appropriate, for the transaction of assistive technology devices.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.575, F.S., relating to assistive technology devices and interagency agreements.

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:

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 assistive technology devices;
 3 amending s. 1003.575, F.S.; revising provisions
 4 relating to the accessibility and use of assistive
 5 technology devices by persons with disabilities;
 6 providing an effective date.

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

9
 10 Section 1. Section 1003.575, Florida Statutes, is amended
 11 to read:

12 1003.575 Assistive technology devices; findings;
 13 interagency agreements.—Accessibility, utilization, and
 14 coordination of appropriate assistive technology devices and
 15 services are essential as a young person with disabilities moves
 16 from early intervention to preschool, from preschool to school,
 17 from one school to another, ~~and~~ from school to employment or
 18 independent living, and from school to home and community. If an
 19 individual education plan team makes a recommendation in
 20 accordance with State Board of Education rule for a student with
 21 a disability, as defined in s. 1003.01(3), to receive an
 22 assistive technology assessment, that assessment must be
 23 completed within 60 school days after the team's recommendation.
 24 To ensure that an assistive technology device issued to a young
 25 person as part of his or her individualized family support plan,

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

26 individual support plan, individual work plan, or ~~an~~ individual
 27 education plan remains with the individual through such
 28 transitions, the following agencies shall enter into interagency
 29 agreements, as appropriate, to ensure the transaction of
 30 assistive technology devices:

31 (1) The Early Steps Program in the Division of Children's
 32 Medical Services of the Department of Health.

33 (2) The Division of Blind Services, the Bureau of
 34 Exceptional Education and Student Services, the Office of
 35 Independent Education and Parental Choice, and the Division of
 36 Vocational Rehabilitation of the Department of Education.

37 (3) The Voluntary Prekindergarten Education Program
 38 administered by the Department of Education and the Office of
 39 Early Learning.

40

41 Interagency agreements entered into pursuant to this section
 42 shall provide a framework for ensuring that young persons with
 43 disabilities and their families, educators, and employers are
 44 informed about the utilization and coordination of assistive
 45 technology devices and services that may assist in meeting
 46 transition needs, and shall establish a mechanism by which a
 47 young person or his or her parent may request that an assistive
 48 technology device remain with the young person as he or she
 49 moves through the continuum from home to school to postschool.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 501 Pub. Rec. and Meetings/Information Technology/Postsecondary Education Institutions
SPONSOR(S): Post-Secondary Education Subcommittee; Leek; Silver and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/CS/SB 110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	14 Y, 0 N, As CS	McAlarney <i>DM</i>	Bishop
2) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N	Whittaker	Harrington
3) Education Committee		McAlarney <i>DM</i>	Hassell

SUMMARY ANALYSIS

Records and meetings held by state universities and Florida College System institutions regarding information security incidents, such as investigations into security breaches, security technologies, processes and practices as well as security risk assessments are subject to Florida open record laws. Public disclosure of this information may present a significant security risk because such information could reveal weaknesses within the State University System and Florida College System computer networks, raising the potential for exploitation.

The bill provides that the following records held by a state university or Florida College System institution are confidential and exempt from public record requirements:

- Records that identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, if the disclosure of such records would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data or information or information technology resources; and
- Those portions of risk assessments, evaluations, external and internal audits, and other reports of the university's or institution's information technology security program for its data, information, and information technology resources, if the disclosure of such records would facilitate unauthorized access to or unauthorized modification, disclosure, or destruction of data or information or information technology resources.

The bill exempts from public meeting requirements those portions of a meeting that would reveal data or information that is made confidential and exempt by this bill. The meeting must be recorded and transcribed, but the recording and transcript of such a meeting must remain confidential and exempt from public disclosure. The bill provides that such confidential and exempt information must be provided to specified entities.

The bill provides for repeal of the exemption on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Public Record and Public Meeting Exemptions

The Legislature, however, may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.⁵

Furthermore, the Open Government Sunset Review Act⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

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

¹ Section 286.011(1), F.S.

² *Id.*

³ Section 286.011(6), F.S.

⁴ Section 286.011(2), F.S.

⁵ Art. I, s. 24(c), Fla. Const.

⁶ Section 119.15, F.S.

- Protects trade or business secrets.

State Universities and Florida College System Institutions

Records and meetings held by state universities and Florida College System institutions regarding information security incidents, such as investigations into security breaches, security technologies, processes and practices as well as security risk assessments are subject to Florida open records laws.^{7,8} Public disclosure of this information presents a significant security risk and would reveal weaknesses within the State University System and Florida College System computer networks, raising the potential for exploitation.

Section 282.318, F.S., exempts from Open Meeting and Public Records laws data and information from technology systems owned, contracted, or maintained by a state agency.

However, state universities and university boards of trustees are specifically excluded from the definition of "state agency". Section 282.318(2), F.S., defines "state agency" as having the same meaning as provided in s. 282.0041, F.S. State agency is defined in s. 282.0041(23), F.S., as meaning:

[A]ny official, officer, commission, board, authority, council, committee, or department of the executive branch of state government; the Justice Administrative Commission; and the Public Service Commission. The term does not include university boards of trustees or state universities. ...

Therefore, a state university is vulnerable to the disclosure of records or information that could potentially compromise the confidentiality, integrity, and availability of a state university's information technology system which contains highly sensitive student, medical, research, and other personal data.⁹

Florida College System records at the state level, as part of the Department of Education, are protected under s. 282.318, F.S., but it is unclear the extent to which individual colleges and their boards of trustees are protected under current law.

Effect of Proposed Changes

The bill creates public record and public meeting exemptions to protect data and records pertaining to the security of the State University System and Florida College System information networks from disclosure. Certain enumerated forms of information held by a university or institution related to information technology security and potential breaches of security, as well as risk assessments, evaluations, and audits, are confidential and exempt from disclosure, including:

- Records held by the university or college which identify detection, investigation, or response practices for suspected or confirmed information technology security incidents, including suspected or confirmed breaches, if the disclosure of such records would facilitate unauthorized access to or the unauthorized modification, disclosure, or destruction of data or information, whether physical or virtual, or information technology resources; and
- Those portions of risk assessments, evaluations, external and internal audits, and other reports of the university's or institution's information technology security program for its data, information, and information technology resources which are held by the university or institution. These records would be exempt if their disclosure would lead to the unauthorized access to or modification, disclosure, or destruction of the data, information, or information technology resources.

⁷ FLA. CONST. art. I, s. 24 (c).

⁸ Chapter 119, F.S.

⁹ State University System of Florida, Board of Governors, Legislative Bill Analysis (February 13, 2017).

The bill also exempts portions of otherwise public meetings where such enumerated information technology security matters are discussed. Recordings or transcripts of such closed portions of meetings must be taken. Recordings or transcripts are confidential and exempt, unless a court determines a transcript may be released to a third party, and subject to an in camera review by a judge upon challenge of a refusal to disclose.

The public record exemptions are retroactive and apply to records or portions of public meetings, recordings, and transcripts held by the university or institution before, on, or after the effective date of this act.

The bill provides for the review of such enumerated information by the Auditor General, the Board of Governors for a state university, the State Board of Education for a Florida College System institution, and the Cybercrime Office of the Department of Law Enforcement, as well as other state and federal agencies for security purposes.

The bill creates an October 2, 2022, sunset provision.

B. SECTION DIRECTORY:

Section 1. Exempts from the Sunshine Laws all specified data or information from technology systems owned, contracted, or maintained by a state university or a Florida College System institution. Also, provides an October 2, 2022, sunset of the exemption.

Section 2. Provides a public necessity statement.

Section 3. Directs Division of Law Revision and Information to replace the phrase “the effective date of this act” with the date this act becomes law.

Section 4. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may create a minimal fiscal impact on state universities and the Florida College System because staff responsible for complying with public record requests could require training related to the creation of the public record exemptions. In addition, state universities and the Florida College System could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the state universities and the Florida College System.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Vote Requirement

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

Public Necessity Statement

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

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates public record exemptions for records held by a state university or Florida College System institution that identify detection, investigation, or response practices for suspected or confirmed information technology security incidents in addition to a public meeting exemption for portions of public meetings which would reveal such data and information. The exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish the stated purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2017, the Post-Secondary Education Subcommittee adopted an amendment clarifying that records and portions of public meeting records and transcripts related to the Florida College System must be made available to the State Board of Education. The bill was reported favorably as a committee substitute. The bill analysis is drafted to the committee substitute as adopted by the Post-Secondary Education Subcommittee.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A bill to be entitled
 An act relating to public records and public meetings;
 creating s. 1004.055, F.S.; creating an exemption from
 public records requirements for certain records held
 by a state university or Florida College System
 institution which identify detection, investigation,
 or response practices for suspected or confirmed
 information technology security incidents; creating an
 exemption from public records requirements for certain
 portions of risk assessments, evaluations, external
 and internal audits, and other reports of a
 university's or institution's information technology
 security program; creating an exemption from public
 meetings requirements for portions of public meetings
 which would reveal such data and information;
 providing an exemption from public records
 requirements for a specified period for the recording
 and transcript of a closed meeting; authorizing
 disclosure of confidential and exempt information to
 certain agencies and officers; defining the term
 "external audit"; providing retroactive application;
 providing for future legislative review and repeal of
 the exemptions; providing statements of public
 necessity; providing a directive to the Division of
 Law Revision and Information; providing an effective

26 date.

27

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

29

30 Section 1. Section 1004.055, Florida Statutes, is created
31 to read:

32 1004.055 Security of data and information technology in
33 state postsecondary education institutions.-

34 (1) All of the following data or information from
35 technology systems owned, contracted, or maintained by a state
36 university or a Florida College System institution are
37 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
38 of the State Constitution:

39 (a) Records held by the university or institution which
40 identify detection, investigation, or response practices for
41 suspected or confirmed information technology security
42 incidents, including suspected or confirmed breaches, if the
43 disclosure of such records would facilitate unauthorized access
44 to or unauthorized modification, disclosure, or destruction of:

45 1. Data or information, whether physical or virtual; or

46 2. Information technology resources, which include:

47 a. Information relating to the security of the
48 university's or institution's technologies, processes, and
49 practices designed to protect networks, computers, data
50 processing software, and data from attack, damage, or

51 unauthorized access; or

52 b. Security information, whether physical or virtual,

53 which relates to the university's or institution's existing or

54 proposed information technology systems.

55 (b) Those portions of risk assessments, evaluations,

56 external and internal audits, and other reports of the

57 university's or institution's information technology security

58 program for its data, information, and information technology

59 resources which are held by the university or institution, if

60 the disclosure of such records would facilitate unauthorized

61 access to or unauthorized modification, disclosure, or

62 destruction of:

63 1. Data or information, whether physical or virtual; or

64 2. Information technology resources, which include:

65 a. Information relating to the security of the

66 university's or institution's technologies, processes, and

67 practices designed to protect networks, computers, data

68 processing software, and data from attack, damage, or

69 unauthorized access; or

70 b. Security information, whether physical or virtual,

71 which relates to the university's or institution's existing or

72 proposed information technology systems.

73 (2) Those portions of a public meeting as specified in s.

74 286.011 which would reveal data and information described in

75 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. 1

76 of the State Constitution. An exempt portion of the meeting may
 77 not be off the record. All exempt portions of such a meeting
 78 must be recorded and transcribed. The recording and transcript
 79 of the meeting must remain confidential and exempt from
 80 disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the State
 81 Constitution unless a court of competent jurisdiction, following
 82 an in camera review, determines that the meeting was not
 83 restricted to the discussion of data and information made
 84 confidential and exempt by this section. In the event of such a
 85 judicial determination, only that portion of the transcript
 86 which reveals nonexempt data and information may be disclosed.

87 (3) The records and portions of public meeting recordings
 88 and transcripts described in subsections (1) and (2) must be
 89 available to the Auditor General and the Cybercrime Office of
 90 the Department of Law Enforcement; for a state university, the
 91 Board of Governors; and, for a Florida College System
 92 institution, the State Board of Education. Such records and
 93 portions of meetings, recordings, and transcripts may be made
 94 available to a state or federal agency for security purposes or
 95 in furtherance of the agency's official duties. For purposes of
 96 this section, "external audit" means an audit that is conducted
 97 by an entity other than the state university or Florida College
 98 System institution that is the subject of the audit.

99 (4) The exemptions listed in this section apply to such
 100 records or portions of public meetings, recordings, and

101 transcripts held by the university or institution before, on, or
 102 after the effective date of this act.

103 (5) This section is subject to the Open Government Sunset
 104 Review Act in accordance with s. 119.15 and shall stand repealed
 105 on October 2, 2022, unless reviewed and saved from repeal
 106 through reenactment by the Legislature.

107 Section 2. (1)(a) The Legislature finds that it is a
 108 public necessity that records held by a state university or
 109 Florida College System institution which identify detection,
 110 investigation, or response practices for suspected or confirmed
 111 information technology security incidents, including suspected
 112 or confirmed breaches, be made confidential and exempt from s.
 113 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 114 State Constitution if the disclosure of such records would
 115 facilitate unauthorized access to or unauthorized modification,
 116 disclosure, or destruction of:

117 1. Data or information, whether physical or virtual; or

118 2. Information technology resources, which include:

119 a. Information relating to the security of the
 120 university's or institution's technologies, processes, and
 121 practices designed to protect networks, computers, data
 122 processing software, and data from attack, damage, or
 123 unauthorized access; or

124 b. Security information, whether physical or virtual,
 125 which relates to the university's or institution's existing or

126 proposed information technology systems.

127 (b) Such records must be made confidential and exempt for
 128 the following reasons:

129 1. Records held by a state university or Florida College
 130 System institution which identify information technology
 131 detection, investigation, or response practices for suspected or
 132 confirmed information technology security incidents or breaches
 133 are likely to be used in the investigation of the incident or
 134 breach. The release of such information could impede the
 135 investigation and impair the ability of reviewing entities to
 136 effectively and efficiently execute their investigative duties.
 137 In addition, the release of such information before an active
 138 investigation is completed could jeopardize the ongoing
 139 investigation.

140 2. An investigation of an information technology security
 141 incident or breach is likely to result in the gathering of
 142 sensitive personal information, including identification
 143 numbers, personal financial and health information, and
 144 educational records exempt from disclosure under the Family
 145 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and ss.
 146 1002.225 and 1006.52, Florida Statutes. Such information could
 147 be used to commit identity theft or other crimes. In addition,
 148 release of such information could subject possible victims of
 149 the security incident or breach to further harm.

150 3. Disclosure of a record, including a computer forensic

151 analysis, or other information that would reveal weaknesses in a
152 state university's or Florida College System institution's data
153 security could compromise that security in the future if such
154 information were available upon conclusion of an investigation
155 or once an investigation ceased to be active.

156 4. Such records are likely to contain proprietary
157 information about the security of the system at issue. The
158 disclosure of such information could result in the
159 identification of vulnerabilities and further breaches of that
160 system. In addition, the release of such information could give
161 business competitors an unfair advantage and weaken the security
162 technology supplier supplying the proprietary information in the
163 marketplace.

164 5. The disclosure of such records could potentially
165 compromise the confidentiality, integrity, and availability of
166 state university and Florida College System institution data and
167 information technology resources, which would significantly
168 impair the administration of vital educational programs. It is
169 necessary that this information be made confidential in order to
170 protect the technology systems, resources, and data of the
171 universities and institutions. The Legislature further finds
172 that this public records exemption be given retroactive
173 application because it is remedial in nature.

174 (2)(a) The Legislature also finds that it is a public
175 necessity that portions of risk assessments, evaluations,

176 external and internal audits, and other reports of a state
 177 university's or Florida College System institution's information
 178 technology security program for its data, information, and
 179 information technology resources which are held by the
 180 university or institution be made confidential and exempt from
 181 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 182 State Constitution if the disclosure of such portions of records
 183 would facilitate unauthorized access to or the unauthorized
 184 modification, disclosure, or destruction of:

185 1. Data or information, whether physical or virtual; or

186 2. Information technology resources, which include:

187 a. Information relating to the security of the
 188 university's or institution's technologies, processes, and
 189 practices designed to protect networks, computers, data
 190 processing software, and data from attack, damage, or
 191 unauthorized access; or

192 b. Security information, whether physical or virtual,
 193 which relates to the university's or institution's existing or
 194 proposed information technology systems.

195 (b) The Legislature finds that it may be valuable,
 196 prudent, or critical to a state university or Florida College
 197 System institution to have an independent entity conduct a risk
 198 assessment, an audit, or an evaluation or complete a report of
 199 the university's or institution's information technology program
 200 or related systems. Such documents would likely include an

201 analysis of the university's or institution's current
 202 information technology program or systems which could clearly
 203 identify vulnerabilities or gaps in current systems or processes
 204 and propose recommendations to remedy identified
 205 vulnerabilities.

206 (3) (a) The Legislature further finds that it is a public
 207 necessity that those portions of a public meeting which could
 208 reveal information described in subsections (1) and (2) be made
 209 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
 210 I of the State Constitution. It is necessary that such meetings
 211 be made exempt from the open meetings requirements in order to
 212 protect institutional information technology systems, resources,
 213 and data. The information disclosed during portions of meetings
 214 would clearly identify a state university's or Florida College
 215 System institution's information technology systems and its
 216 vulnerabilities. This disclosure would jeopardize the
 217 information technology security of the institution and
 218 compromise the integrity and availability of state university or
 219 Florida College System institution data and information
 220 technology resources, which would significantly impair the
 221 administration of educational programs.

222 (b) The Legislature further finds that it is a public
 223 necessity that the recording and transcript of those portions of
 224 meetings specified in paragraph (a) be made confidential and
 225 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),

226 Article I of the State Constitution unless a court determines
 227 that the meeting was not restricted to the discussion of data
 228 and information made confidential and exempt by this act. It is
 229 necessary that the resulting recordings and transcripts be made
 230 confidential and exempt from the public record requirements in
 231 order to protect institutional information technology systems,
 232 resources, and data. The disclosure of such recordings and
 233 transcripts would clearly identify a state university's or
 234 Florida College System institution's information technology
 235 systems and its vulnerabilities. This disclosure would
 236 jeopardize the information technology security of the
 237 institution and compromise the integrity and availability of
 238 state university or Florida College System institution data and
 239 information technology resources, which would significantly
 240 impair the administration of educational programs.

241 (c) The Legislature further finds that this public meeting
 242 and public records exemption must be given retroactive
 243 application because it is remedial in nature.

244 Section 3. The Division of Law Revision and Information is
 245 directed to replace the phrase "the effective date of this act"
 246 wherever it occurs in this act with the date this act becomes a
 247 law.

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



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 Leek offered the following:

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

7 Section 1. Section 1004.055, Florida Statutes, is created
8 to read:

9 1004.055 Security of data and information technology in
10 state postsecondary education institutions.-

11 (1) All of the following data or information from
 12 technology systems owned, under contract, or maintained by a
 13 state university or a Florida College System institution are
 14 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 15 of the State Constitution:

16 (a) Records held by the university or institution which



Amendment No. 1

- 17 identify detection, investigation, or response practices for
18 suspected or confirmed information technology security
19 incidents, including suspected or confirmed breaches, if the
20 disclosure of such records would facilitate unauthorized access
21 to or unauthorized modification, disclosure, or destruction of:
- 22 1. Data or information, whether physical or virtual; or
 - 23 2. Information technology resources, which include:
 - 24 a. Information relating to the security of the
25 university's or institution's technologies, processes, and
26 practices designed to protect networks, computers, data
27 processing software, and data from attack, damage, or
28 unauthorized access; or
 - 29 b. Security information, whether physical or virtual,
30 which relates to the university's or institution's existing or
31 proposed information technology systems.
- 32 (b) Those portions of risk assessments, evaluations,
33 audits, and other reports of the university's or institution's
34 information technology security program for its data,
35 information, and information technology resources which are held
36 by the university or institution, if the disclosure of such
37 records would facilitate unauthorized access to or the
38 unauthorized modification, disclosure, or destruction of:
- 39 1. Data or information, whether physical or virtual; or
 - 40 2. Information technology resources, which include:
 - 41 a. Information relating to the security of the

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

42 university's or institution's technologies, processes, and
43 practices designed to protect networks, computers, data
44 processing software, and data from attack, damage, or
45 unauthorized access; or

46 b. Security information, whether physical or virtual,
47 which relates to the university's or institution's existing or
48 proposed information technology systems.

49 (2) Those portions of a public meeting as specified in s.
50 286.011 which would reveal data and information described in
51 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I
52 of the State Constitution. No exempt portion of an exempt
53 meeting may be off the record. All exempt portions of such a
54 meeting must be recorded and transcribed. The recording and
55 transcript of the meeting must remain confidential and exempt
56 from disclosure under s. 119.07(1) and s. 24(a), Art. 1 of the
57 State Constitution unless a court of competent jurisdiction,
58 following an in camera review, determines that the meeting was
59 not restricted to the discussion of data and information made
60 confidential and exempt by this section. In the event of such a
61 judicial determination, only that portion of the transcript
62 which reveals nonexempt data and information may be disclosed to
63 a third party.

64 (3) The records and portions of public meeting recordings
65 and transcripts described in subsection (1) must be available
66 to: the Auditor General; the Cybercrime Office of the Department

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

67 of Law Enforcement; for a state university, the Board of
68 Governors; and for a Florida College System institution, the
69 State Board of Education. Such records and portions of meetings,
70 recordings, and transcripts may be made available to a state or
71 federal agency for security purposes or in furtherance of the
72 agency's official duties.

73 (4) The exemptions listed in this section apply to such
74 records or portions of public meetings, recordings, and
75 transcripts held by the university or institution before, on, or
76 after the effective date of this act.

77 (5) This section is subject to the Open Government Sunset
78 Review Act in accordance with s. 119.15 and shall stand repealed
79 on October 2, 2022, unless reviewed and saved from repeal
80 through reenactment by the Legislature.

81 Section 2. (1)(a) The Legislature finds that it is a
82 public necessity that the following data or information from
83 technology systems owned, under contract, or maintained by a
84 state university or a Florida College System institution be
85 confidential and exempt from s. 119.07(1), Florida Statutes, and
86 s. 24(a), Article I of the State Constitution:

87 1. Records held by the university or institution which
88 identify detection, investigation, or response practices for
89 suspected or confirmed information technology security
90 incidents, including suspected or confirmed breaches, if the
91 disclosure of such records would facilitate unauthorized access

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

92 to or unauthorized modification, disclosure, or destruction of:

93 a. Data or information, whether physical or virtual; or

94 b. Information technology resources, which include:

95 (I) Information relating to the security of the

96 university's or institution's technologies, processes, and

97 practices designed to protect networks, computers, data

98 processing software, and data from attack, damage, or

99 unauthorized access; or

100 (II) Security information, whether physical or virtual,

101 which relates to the university's or institution's existing or

102 proposed information technology systems.

103 2. Those portions of risk assessments, evaluations,

104 audits, and other reports of the university's or institution's

105 information technology security program for its data,

106 information, and information technology resources which are held

107 by the university or institution, if the disclosure of such

108 records would facilitate unauthorized access to or the

109 unauthorized modification, disclosure, or destruction of:

110 a. Data or information, whether physical or virtual; or

111 b. Information technology resources, which include:

112 (I) Information relating to the security of the

113 university's or institution's technologies, processes, and

114 practices designed to protect networks, computers, data

115 processing software, and data from attack, damage, or

116 unauthorized access; or

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

117 (II) Security information, whether physical or virtual,
118 which relates to the university's or institution's existing or
119 proposed information technology systems.

120 (b) The Legislature also finds that those portions of a
121 public meeting as specified in s. 286.011, Florida Statutes,
122 which would reveal data and information described in subsection
123 (1) are exempt from s. 286.011, Florida Statutes, and s. 24(b),
124 Article I of the State Constitution. The recording and
125 transcript of the meeting must remain confidential and exempt
126 from disclosure under s. 119.07(1), Florida Statutes, and s.
127 24(a), Article 1 of the State Constitution unless a court of
128 competent jurisdiction, following an in camera review,
129 determines that the meeting was not restricted to the discussion
130 of data and information made confidential and exempt by this
131 section. In the event of such a judicial determination, only
132 that portion of the transcript which reveals nonexempt data and
133 information may be disclosed to a third party.

134 (c) The Legislature further finds that it is a public
135 necessity that records held by a state university or Florida
136 College System institution which identify detection,
137 investigation, or response practices for suspected or confirmed
138 information technology security incidents, including suspected
139 or confirmed breaches, be made confidential and exempt from s.
140 119.07(1), Florida Statutes, and s. 24(a), Article I of the
141 State Constitution if the disclosure of such records would

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

142 facilitate unauthorized access to or the unauthorized
143 modification, disclosure, or destruction of:

144 1. Data or information, whether physical or virtual; or
145 2. Information technology resources, which include:

146 a. Information relating to the security of the
147 university's or institution's technologies, processes, and
148 practices designed to protect networks, computers, data
149 processing software, and data from attack, damage, or
150 unauthorized access; or

151 b. Security information, whether physical or virtual,
152 which relates to the university's or institution's existing or
153 proposed information technology systems.

154 (d) Such records must be made confidential and exempt for
155 the following reasons:

156 1. Records held by a state university or Florida College
157 System institution which identify information technology
158 detection, investigation, or response practices for suspected or
159 confirmed information technology security incidents or breaches
160 are likely to be used in the investigations of the incidents or
161 breaches. The release of such information could impede the
162 investigation and impair the ability of reviewing entities to
163 effectively and efficiently execute their investigative duties.
164 In addition, the release of such information before an active
165 investigation is completed could jeopardize the ongoing
166 investigation.

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

167 2. An investigation of an information technology security
168 incident or breach is likely to result in the gathering of
169 sensitive personal information, including identification
170 numbers, personal financial and health information, and
171 educational records exempt from disclosure under the Family
172 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g, and ss.
173 1002.225 and 1006.52, Florida Statutes. Such information could
174 be used to commit identity theft or other crimes. In addition,
175 release of such information could subject possible victims of
176 the security incident or breach to further harm.

177 3. Disclosure of a record, including a computer forensic
178 analysis, or other information that would reveal weaknesses in a
179 state university's or Florida College System institution's data
180 security could compromise that security in the future if such
181 information were available upon conclusion of an investigation
182 or once an investigation ceased to be active.

183 4. Such records are likely to contain proprietary
184 information about the security of the system at issue. The
185 disclosure of such information could result in the
186 identification of vulnerabilities and further breaches of that
187 system. In addition, the release of such information could give
188 business competitors an unfair advantage and weaken the security
189 technology supplier supplying the proprietary information in the
190 marketplace.

191 5. The disclosure of such records could potentially

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

192 compromise the confidentiality, integrity, and availability of
193 state university and Florida College System institution data and
194 information technology resources, which would significantly
195 impair the administration of vital educational programs. It is
196 necessary that this information be made confidential in order to
197 protect the technology systems, resources, and data of the
198 universities and institutions. The Legislature further finds
199 that this public records exemption be given retroactive
200 application because it is remedial in nature.

201 (2) (a) The Legislature also finds that it is a public
202 necessity that portions of risk assessments, evaluations,
203 audits, and other reports of a state university's or Florida
204 College System institution's information technology security
205 program for its data, information, and information technology
206 resources which are held by the university or institution be
207 made confidential and exempt from s. 119.07(1), Florida
208 Statutes, and s. 24(a), Article I of the State Constitution if
209 the disclosure of such portions of records would facilitate
210 unauthorized access to or the unauthorized modification,
211 disclosure, or destruction of:

212 1. Data or information, whether physical or virtual; or
213 2. Information technology resources, which include:
214 a. Information relating to the security of the
215 university's or institution's technologies, processes, and
216 practices designed to protect networks, computers, data

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

217 processing software, and data from attack, damage, or
218 unauthorized access; or

219 b. Security information, whether physical or virtual,
220 which relates to the university's or institution's existing or
221 proposed information technology systems.

222 (b) The Legislature finds that it is valuable, prudent,
223 and critical to a state university or Florida College System
224 institution to have an independent entity conduct a risk
225 assessment, an audit, or an evaluation or complete a report of
226 the university's or institution's information technology program
227 or related systems. Such documents would likely include an
228 analysis of the university's or institution's current
229 information technology program or systems which could clearly
230 identify vulnerabilities or gaps in current systems or processes
231 and propose recommendations to remedy identified
232 vulnerabilities.

233 (3) (a) The Legislature further finds that it is a public
234 necessity that those portions of a public meeting which could
235 reveal information described in subsections (1) and (2) be made
236 exempt from s. 286.011, Florida Statutes, and s. 24(b), Article
237 I of the State Constitution. It is necessary that such meetings
238 be made exempt from the open meetings requirements in order to
239 protect institutional information technology systems, resources,
240 and data. The information disclosed during portions of meetings
241 would clearly identify a state university's or Florida College

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

242 System institution's information technology systems and its
243 vulnerabilities. This disclosure would jeopardize the
244 information technology security of the institution and
245 compromise the integrity and availability of state university or
246 Florida College System institution data and information
247 technology resources, which would significantly impair the
248 administration of educational programs.

249 (b) The Legislature further finds that it is a public
250 necessity that the recording and transcript of those portions of
251 meetings specified in paragraph (a) be made confidential and
252 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
253 Article I of the State Constitution unless a court determines
254 that the meeting was not restricted to the discussion of data
255 and information made confidential and exempt by this act. It is
256 necessary that the resulting recordings and transcripts be made
257 confidential and exempt from the public record requirements in
258 order to protect institutional information technology systems,
259 resources, and data. The disclosure of such recordings and
260 transcripts would clearly identify a state university's or
261 Florida College System institution's information technology
262 systems and its vulnerabilities. This disclosure would
263 jeopardize the information technology security of the
264 institution and compromise the integrity and availability of
265 state university or Florida College System institution data and
266 information technology resources, which would significantly

790853 - h0501-strike.docx

Published On: 4/5/2017 9:23:58 PM



Amendment No. 1

267 impair the administration of educational programs.

268 (c) The Legislature further finds that this public meeting
269 and public records exemption must be given retroactive
270 application because it is remedial in nature.

271 Section 3. The Division of Law Revision and Information is
272 directed to replace the phrase "the effective date of this act"
273 wherever it occurs in this act with the date this act becomes a
274 law.

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

276

277

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

278 Remove everything before the enacting clause and insert:

279 A bill to be entitled

280 An act relating to public records and public meetings;
281 creating s. 1004.055, F.S.; creating an exemption from
282 public records requirements for certain records held
283 by a state university or Florida College System
284 institution which identify detection, investigation,
285 or response practices for suspected or confirmed
286 information technology security incidents; creating an
287 exemption from public records requirements for certain
288 portions of risk assessments, evaluations, audits, and
289 other reports of a university's or institution's
290 information technology security program; creating an
291



Amendment No. 1

292 exemption from public meetings requirements for
293 portions of public meetings which would reveal such
294 data and information; providing an exemption from
295 public records requirements for a specified period for
296 the recording and transcript of a closed meeting;
297 authorizing disclosure of confidential and exempt
298 information to certain agencies and officers;
299 providing retroactive application; providing for
300 future legislative review and repeal of the
301 exemptions; providing statements of public necessity;
302 providing a directive to the Division of Law Revision
303 and Information; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 655 Exceptional Student Instruction
SPONSOR(S): Porter and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1368

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	Hassell

SUMMARY ANALYSIS

Exceptional Student Education (ESE) is specially designed instruction and services that are provided to students with disabilities and students identified as gifted. Student enrollment in ESE programs is one factor considered in determining the funding a school district receives. With regard to students with disabilities, the federal Individuals with Disabilities Education Act (IDEA) requires school districts to make free appropriate public education (FAPE) available to such students ages three through 21.

An exceptional student with a disability who resides in a residential facility and receives special instruction or services is considered a resident of the state in which the student's parent is a resident.

Within 10 business days after receiving the notification that an exceptional student is located in a residential facility, the receiving school district must review the student's individual educational plan (IEP) to determine if it can be implemented by the receiving school district or by a provider or facility under contract with the receiving school district. The receiving school district must:

- provide educational instruction to the student;
- contract with another provider or facility to provide the educational instruction;
- contract with the residential care facility in which the student resides to provide the educational instruction; or
- decline to provide or contract for educational instruction.

The bill removes the option for school districts receiving an exceptional student with a disability who resides in a residential facility to decline to provide or contract for educational instruction.

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

Educational Student Education (ESE) is specially designed instruction and related services that are provided to students with disabilities and students who are identified as gifted.¹ Student enrollment in ESE programs is one factor considered in determining the funding a school district receives.²

With regard to students with disabilities, the Individuals with Disabilities Education Act (IDEA) requires school districts to make free appropriate public education (FAPE) available to such students ages three through 21.³ A school district, at its discretion, may provide services to eligible infants and toddlers below three years of age with disabilities.⁴ A FAPE must include special education and related services⁵ that are provided by the public school district at no cost to the parent, which meet the standards of the state and which are in conformity with the student's IEP.⁶

Each district school board must provide an appropriate program of special instruction, facilities and services for exceptional students. Each district program must:

- provide the necessary professional services for diagnosis and evaluation of exceptional students;
- provide the special instruction, classes and services within the district school system, in cooperation with the other district school systems or through contractual arrangements with the approved private school or community facilities;
- annually provide information describing all programs and methods of instruction available to parents of a sensory impaired student; and
- provide instruction to homebound or hospitalized students.⁷

An exceptional student with a disability who resides in a residential facility and receives special instruction or services is considered a resident of the state in which the student's parent is a resident. The cost of such instruction, facilities and services for a nonresident student with a disability shall be provided by the placing authority in the student's state of residence, such as a public school entity, other placing authority or parent. A nonresident student with a disability may not be reported by any school district for full-time equivalent student funding in the Florida Education Finance Program.⁸

¹ Section 1003.57(1)(b), F.S.; rule 6A-6.03411(1)(m) and (n), F.A.C. The Office of Program Policy Analysis and Government Accountability (OPPAGA) identified the advantages and disadvantages of classifying gifted students as exceptional students by reviewing available research and holding focus group discussions with parents, gifted students, teachers, and district administrators. See Office of Program Policy Analysis and Government Accountability, *Florida Gifted Grew Faster Than the Overall School Enrollment*, Report No. 08-01, at 11 (Jan. 2008), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0801rpt.pdf> [hereinafter *OPPAGA Report No. 08-01*].

² See s. 1011.62(1)(c), F.S.

³ 20 U.S.C. s. 1400(d)(1)(A); 34 C.F.R. s. 300.101; rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

⁴ Rules 6A-6.0331 and 6A-6.03026, F.A.C.

⁵ "Related services" means "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes." "Related services" also include school health services and school nurse services, social work services in schools, and parent counseling and training. 34 C.F.R. s. 300.34 (a).

⁶ 34 C.F.R. s. 300.17; Rule 6A-6.03411(1)(p), F.A.C.

⁷ Section 1003.57(1)(b), F.S.

⁸ Section 1003.57(2)(a), F.S.

Within 10 business days after an exceptional student is placed in a residential care facility, the agency or private residential care facility licensed by the agency, as appropriate, shall provide written notification of the placement to the school district where the student is currently counted for funding and the receiving school district. The exceptional student shall be enrolled in school and receive a FAPE, special education and related services while the notice and procedures regarding payment are pending.⁹

Within 10 business days after receiving the notification, the receiving school district must review the student's IEP to determine if it can be implemented by the receiving school district or by a provider or facility under contract with the receiving school district. The receiving school district must:

- provide educational instruction to the student;
- contract with another provider or facility to provide the educational instruction;
- contract with the private residential care facility in which the student resides to provide the educational instruction; or
- decline to provide or contract for educational instruction.¹⁰

If the receiving school district declines to provide or contract for the educational instruction, the school district in which the legal residence of the student is located shall provide or contract for the educational instruction to the student. The school district that provides educational instruction or contracts to provide educational instruction shall report the student for funding purposes.

Effect of Proposed Changes

The bill removes the option for school districts receiving an exceptional student with a disability, who resides in a residential facility, to decline to provide or contract for educational instruction.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.57, F.S., relating to exceptional students.

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.

⁹ Section 1003.57(3)(b), F.S.

¹⁰ Section 1003.57(3)(c), 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:

None.

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 exceptional student instruction;
 3 amending s. 1003.57, F.S.; prohibiting certain school
 4 districts from declining to provide or contract for
 5 certain students' educational instruction; providing
 6 for funding of such students; providing an effective
 7 date.

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

10
 11 Section 1. Subsection (3) of section 1003.57, Florida
 12 Statutes, is amended to read:

13 1003.57 Exceptional students instruction.—

14 (3) (a) For purposes of this subsection and subsection (4),
 15 the term:

16 1. "Agency" means the Department of Children and Families
 17 or its contracted lead agency, the Agency for Persons with
 18 Disabilities, and the Agency for Health Care Administration.

19 2. "Exceptional student" means an exceptional student, as
 20 defined in s. 1003.01, who has a disability.

21 3. "Receiving school district" means the district in which
 22 a private residential care facility is located.

23 4. "Placement" means the funding or arrangement of funding
 24 by an agency for all or a part of the cost for an exceptional
 25 student to reside in a private residential care facility and the

26 placement crosses school district lines.

27 (b) Within 10 business days after an exceptional student
 28 is placed in a private residential care facility by an agency,
 29 the agency or private residential care facility licensed by the
 30 agency, as appropriate, shall provide written notification of
 31 the placement to the school district where the student is
 32 currently counted for funding purposes under s. 1011.62 and the
 33 receiving school district. The exceptional student shall be
 34 enrolled in school and receive a free and appropriate public
 35 education, special education, and related services while the
 36 notice and procedures regarding payment are pending. This
 37 paragraph applies when the placement is for the primary purpose
 38 of addressing residential or other noneducational needs and the
 39 placement crosses school district lines.

40 (c) Within 10 business days after receiving the
 41 notification, the receiving school district must review the
 42 student's individual educational plan (IEP) to determine if the
 43 student's IEP can be implemented by the receiving school
 44 district or by a provider or facility under contract with the
 45 receiving school district. The receiving school district shall:

- 46 1. Provide educational instruction to the student;
- 47 2. Contract with another provider or facility to provide
- 48 the educational instruction; or
- 49 3. Contract with the private residential care facility in
- 50 which the student resides to provide the educational

51 | instruction; ~~or~~

52 | 4. ~~Decline to provide or contract for educational~~
53 | ~~instruction.~~

54 |

55 | ~~If the receiving school district declines to provide or contract~~
56 | ~~for the educational instruction, the school district in which~~
57 | ~~the legal residence of the student is located shall provide or~~
58 | ~~contract for the educational instruction to the student. The~~
59 | receiving school district providing that provides educational
60 | instruction or contracting ~~contracts~~ to provide educational
61 | instruction shall report the student for funding purposes
62 | pursuant to s. 1011.62.

63 | (d)1. The Department of Education, in consultation with
64 | the agencies and school districts, shall develop procedures for
65 | written notification to school districts regarding the placement
66 | of an exceptional student in a residential care facility. The
67 | procedures must:

68 | a. Provide for written notification of a placement that
69 | crosses school district lines; and

70 | b. Identify the entity responsible for the notification
71 | for each facility that is operated, licensed, or regulated by an
72 | agency.

73 | 2. The State Board of Education shall adopt the procedures
74 | by rule pursuant to ss. 120.536(1) and 120.54, and the agencies
75 | shall implement the procedures.

76
77 The requirements of paragraphs (c) and (d) do not apply to
78 written agreements among school districts which specify each
79 school district's responsibility for providing and paying for
80 educational services to an exceptional student in a residential
81 care facility. However, each agreement must require a school
82 district to review the student's IEP within 10 business days
83 after receiving the notification required under paragraph (b).

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 833 Student Eligibility for K-12 Virtual Instruction
SPONSOR(S): PreK-12 Appropriations Subcommittee; Sullivan and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 692

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	15 Y, 0 N, As CS	Seifert	Potvin
3) Education Committee		Dehmer	Hassell

SUMMARY ANALYSIS

Florida has a variety of virtual instruction options for K-12 students. However, students in 2nd through 5th grades are not eligible for enrollment in part-time virtual instruction unless they were enrolled in public school in the prior year, are dependent children of military personnel or have a sibling currently enrolled in a virtual instruction program and the sibling was enrolled at the end of the prior year. As a result, many 2nd through 5th grade students are not eligible for enrollment in part-time virtual instruction.

The bill removes the prior year in public school requirement and provides that all K-12 students, including home education and private school students, are eligible for both full-time and part-time virtual instruction options.

The bill removes passage of an online content assessment, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes, as an option to fulfill the online course requirement.

The bill also provides a student the option of taking either an online course or a blended learning course to satisfy the requirements for a standard high school diploma.

The fiscal impact of the bill will be absorbed within the funding distribution of the Florida Education Finance Program (FEFP).

The bill takes effect July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Student Eligibility for Virtual Instruction

Present Situation

Florida law establishes a variety of options to make virtual instruction accessible to K-12 students. These options include:

- full-time or part-time enrollment in a school district virtual instruction program (VIP);¹
- full-time enrollment in a virtual charter school;²
- enrollment in individual virtual courses offered by school districts and approved by the Florida Department of Education (DOE);³ and
- full-time or part-time enrollment in the Florida Virtual School (FLVS) or school district FLVS franchises⁴

Student enrollment in a full-time or part-time school district VIP, a full-time virtual charter school or a school district virtual course offering is open to any student residing in the district who:⁵

- attended a Florida public school during the prior year and was enrolled and reported for funding during the October and February Florida Education Finance Program (FEFP) surveys;
- is the dependent child of a member of the U.S. military who, within 12 months of the parent's permanent change of station order, transferred to Florida from another state or from a foreign country;
- was enrolled in a school district VIP or a full-time FLVS program during the prior school year;
- has a sibling who is currently enrolled in a school district VIP and the sibling was enrolled in such program at the end of the prior school year;
- is eligible to enter kindergarten or first grade; or
- is eligible to enter grades 2 through 5 and is enrolled full-time in a school district VIP, virtual charter school or FLVS.⁶

FLVS or a district FLVS franchise may provide full-time and part-time instruction for K-12 students. However, students in kindergarten through grade 5 must meet at least one of the eligibility criteria listed above to access part-time instruction in such programs.⁷

¹ Section 1002.45, F.S.

² Sections 1002.33(1) and 1002.45(1)(d), F.S.

³ Section 1003.498, F.S.

⁴ Sections 1002.37 and 1002.45(1)(a)1. and (c)1., F.S.

⁵ Sections 1002.45(5) and 1002.455(2), F.S.

⁶ Section 1002.455(2), F.S.

⁷ Section 1002.37(8)(a), F.S.

Eligibility for Virtual Instruction							
Students Not Enrolled in Public School During the Previous School Year							
Grade Level	Full-Time			Part-Time			
	FLVS	District VIP	District FLVS Franchise	FLVS	District VIP	District FLVS Franchise	District Virtual Course
K							
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
KEY							
	Student is Eligible						
	Student must meet prior public school requirement						
	No part-time virtual options for students who were not enrolled in public school during the prior year						

Consequently, students in 2nd through 5th grades are not eligible for enrollment in part-time virtual instruction unless they were enrolled in public school in the prior year or are dependent children of military personnel, or have a sibling currently enrolled in a VIP and the sibling was enrolled at the end of the prior year.⁸

Effect of Proposed Changes

The bill provides that all K-12 students, including home education and private school students, are eligible for full-time and part-time virtual instruction programs including:

- full-time or part-time enrollment in a school district VIP;
- full-time enrollment in a virtual charter school;
- enrollment in individual virtual courses offered by school districts and approved by the DOE; and,
- full-time or part-time enrollment in the FLVS or school district FLVS franchises.

This change will open various virtual education options that are not currently available to students who did not attend public school in the prior year, as follows:

- Students in 6th through 12th grades may enroll in full-time school district VIP programs.
- Students in 2nd through 5th grades may enroll in part-time FLVS or district FLVS franchises.
- Students in 2nd through 12th grades may enroll in part-time school district VIP.
- Students in 2nd through 12th grades may enroll in school district virtual course offerings.

⁸ Section 1002.455(2), F.S.
 STORAGE NAME: h0833d.EDC.DOCX
 DATE: 4/4/2017

Most notably, this change gives students in 2nd through 5th grades who did not attend public school in the prior year the ability to enroll in part-time virtual instruction, whereas under current law, these students have no such options.

The bill also deletes obsolete language regarding a one-time Florida Virtual School operational audit.

Requirements for High School Diploma

Present Situation

Receipt of a standard high school diploma requires successful completion of 24 credits, an International Baccalaureate curriculum or an Advanced International Certificate of Education curriculum.⁹ At least one course must be completed through online learning.¹⁰ An online course provided by the FLVS, a virtual education provider approved by the State Board of Education, a high school or an online dual enrollment course taken in 6th, 7th or 8th grade fulfill the online course requirement.¹¹ A school board or charter school governing board may offer the following options to satisfy the online course requirement:

- Completion of a course where the student earns a nationally recognized industry certification in information technology or passage of the information technology certification exam without enrolling in the corresponding course.
- Passage of an online content assessment, without enrollment in or completion of the corresponding course, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes.

Effect of Proposed Changes

The bill removes passage of an online content assessment, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes, as an option to fulfill the online course requirement.

The bill provides a student the option of taking either an online course or a blended learning course to satisfy the requirements for a standard high school diploma.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.37, F.S., relating to the Florida Virtual School.

Section 2. Amends s. 1002.455, F.S., relating to student eligibility for K12 virtual instruction.

Section 3. Amends s. 1003.4282, F.S., relating to requirements for high school diplomas.

Section 4. Amends s. 1002.33, F.S., relating to charter schools.

Section 5. Amends s. 1002.45, F.S., relating to virtual instruction programs.

Section 6. Amends s. 1003.498, F.S., relating to school district virtual course offerings.

⁹ Section 1003.4282(1)(a), F.S.

¹⁰ Section 1003.4282(4), F.S.

¹¹ Section 1003.4282(4)(a), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill revises s. 1002.455, F.S., relating to student eligibility for K-12 virtual instruction. These changes will open various virtual education options that are not currently available to students who did not attend public school in the prior year. The estimated fiscal impact to the Florida Education Finance Program (FEFP) to fund the expansion of student eligibility for public virtual education is expected to be incorporated within the FEFP calculation, and is estimated at \$4,363,075.

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 28, 2017, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment allows the online course requirement to be completed through online or blended learning.

1 A bill to be entitled
 2 An act relating to student eligibility for K-12
 3 virtual instruction; amending s. 1002.37, F.S.;
 4 revising eligibility requirements for specified
 5 students to receive part-time instruction at the
 6 Florida Virtual School; removing provisions requiring
 7 the Auditor General to conduct an operational audit of
 8 the Florida Virtual School; amending s. 1002.455,
 9 F.S.; authorizing all students, including home
 10 education and private school students, to participate
 11 in specified virtual instruction options; deleting the
 12 eligibility criteria for a student to participate in
 13 virtual instruction; amending s. 1003.4282, F.S.;
 14 revising the options that a district school board or
 15 charter school governing board may offer for a student
 16 to satisfy certain online course requirements;
 17 amending ss. 1002.33, 1002.45, 1003.498, and 1011.62,
 18 F.S.; conforming provisions and cross-references to
 19 changes made by the act; providing an effective date.

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

22
 23 Section 1. Paragraph (a) of subsection (8) and subsection
 24 (11) of section 1002.37, Florida Statutes, are amended to read:
 25 1002.37 The Florida Virtual School.—

26 (8)(a) The Florida Virtual School may provide full-time
 27 and part-time instruction for students in kindergarten through
 28 grade 12. ~~To receive part-time instruction in kindergarten~~
 29 ~~through grade 5, a student must meet at least one of the~~
 30 ~~eligibility criteria in s. 1002.455(2).~~

31 ~~(11) The Auditor General shall conduct an operational~~
 32 ~~audit of the Florida Virtual School, including Florida Virtual~~
 33 ~~School Global. The scope of the audit shall include, but not be~~
 34 ~~limited to, the administration of responsibilities relating to~~
 35 ~~personnel; procurement and contracting; revenue production;~~
 36 ~~school funds, including internal funds; student enrollment~~
 37 ~~records; franchise agreements; information technology~~
 38 ~~utilization, assets, and security; performance measures and~~
 39 ~~standards; and accountability. The final report on the audit~~
 40 ~~shall be submitted to the President of the Senate and the~~
 41 ~~Speaker of the House of Representatives no later than January~~
 42 ~~31, 2014.~~

43 Section 2. Section 1002.455, Florida Statutes, is amended
 44 to read:

45 1002.455 Student eligibility for K-12 virtual
 46 instruction.-

47 (1) All students, including home education and private
 48 school students, are eligible to participate in any of the
 49 following ~~A student may participate in virtual instruction in~~
 50 ~~the school district in which he or she resides if the student~~

51 ~~meets the eligibility criteria in subsection (2).~~

52 ~~(2) A student is eligible to participate in virtual~~
 53 ~~instruction if:~~

54 ~~(a) The student spent the prior school year in attendance~~
 55 ~~at a public school in the state and was enrolled and reported by~~
 56 ~~the school district for funding during October and February for~~
 57 ~~purposes of the Florida Education Finance Program surveys;~~

58 ~~(b) The student is a dependent child of a member of the~~
 59 ~~United States Armed Forces who was transferred within the last~~
 60 ~~12 months to this state from another state or from a foreign~~
 61 ~~country pursuant to a permanent change of station order;~~

62 ~~(c) The student was enrolled during the prior school year~~
 63 ~~in a virtual instruction program under s. 1002.45 or a full-time~~
 64 ~~Florida Virtual School program under s. 1002.37(8)(a);~~

65 ~~(d) The student has a sibling who is currently enrolled in~~
 66 ~~a virtual instruction program and the sibling was enrolled in~~
 67 ~~that program at the end of the prior school year;~~

68 ~~(e) The student is eligible to enter kindergarten or first~~
 69 ~~grade; or~~

70 ~~(f) The student is eligible to enter grades 2 through 5~~
 71 ~~and is enrolled full-time in a school district virtual~~
 72 ~~instruction program, virtual charter school, or the Florida~~
 73 ~~Virtual School.~~

74 ~~(3) The virtual instruction options for which this~~
 75 ~~eligibility section applies include:~~

76 ~~(1)(a)~~ School district operated part-time or full-time
 77 kindergarten through grade 12 virtual instruction programs under
 78 s. 1002.45(1)(b) for students enrolled in the school district.

79 ~~(2)(b)~~ Full-time virtual charter school instruction
 80 authorized under s. 1002.33.

81 ~~(3)(e)~~ Virtual courses offered in the course code
 82 directory to students within the school district or to students
 83 in other school districts throughout the state pursuant to s.
 84 1003.498.

85 (4) Florida Virtual School instructional services
 86 authorized under s. 1002.37.

87 Section 3. Subsection (4) of section 1003.4282, Florida
 88 Statutes, is amended to read:

89 1003.4282 Requirements for a standard high school
 90 diploma.-

91 (4) ONLINE COURSE REQUIREMENT.--At least one course within
 92 the 24 credits required under this section must be completed
 93 through online or blended learning.

94 (a) An online course taken in grade 6, grade 7, or grade 8
 95 fulfills the requirements of this subsection. The requirement is
 96 met through an online course offered by the Florida Virtual
 97 School, a virtual education provider approved by the State Board
 98 of Education, a high school, or an online dual enrollment
 99 course. A student who is enrolled in a full-time or part-time
 100 virtual instruction program under s. 1002.45 meets the

101 requirement.

102 (b) A district school board or a charter school governing
 103 board, as applicable, may allow a student ~~offer students the~~
 104 ~~following options~~ to satisfy the online or blended learning
 105 course requirements of this subsection by completing+

106 1. ~~Completion of a course in which the~~ a student earns a
 107 nationally recognized industry certification in information
 108 technology that is identified on the CAPE Industry Certification
 109 Funding List pursuant to s. 1008.44 or passing ~~passage of the~~
 110 information technology certification examination without
 111 enrolling ~~enrollment in or completing~~ ~~completion of the~~
 112 corresponding course or courses, as applicable.

113 2. ~~Passage of an online content assessment, without~~
 114 ~~enrollment in or completion of the corresponding course or~~
 115 ~~courses, as applicable, by which the student demonstrates skills~~
 116 ~~and competency in locating information and applying technology~~
 117 ~~for instructional purposes.~~

118
 119 For purposes of this subsection, a school district may not
 120 require a student to take the online or blended learning course
 121 outside the school day or in addition to a student's courses for
 122 a given semester. This subsection does not apply to a student
 123 who has an individual education plan under s. 1003.57 which
 124 indicates that an online or blended learning course would be
 125 inappropriate or to an out-of-state transfer student who is

126 enrolled in a Florida high school and has 1 academic year or
 127 less remaining in high school.

128 Section 4. Subsection (1) of section 1002.33, Florida
 129 Statutes, is amended to read:

130 1002.33 Charter schools.—

131 (1) AUTHORIZATION.—Charter schools shall be part of the
 132 state's program of public education. All charter schools in
 133 Florida are public schools. A charter school may be formed by
 134 creating a new school or converting an existing public school to
 135 charter status. A charter school may operate a virtual charter
 136 school pursuant to s. 1002.45(1)(d) to provide full-time online
 137 instruction to ~~eligible~~ students, pursuant to s. 1002.455, in
 138 kindergarten through grade 12. An existing charter school that
 139 is seeking to become a virtual charter school must amend its
 140 charter or submit a new application pursuant to subsection (6)
 141 to become a virtual charter school. A virtual charter school is
 142 subject to the requirements of this section; however, a virtual
 143 charter school is exempt from subsections (18) and (19),
 144 subparagraphs (20)(a)2., 4., 5., and 7., paragraph (20)(c), and
 145 s. 1003.03. A public school may not use the term charter in its
 146 name unless it has been approved under this section.

147 Section 5. Subsection (5) of section 1002.45, Florida
 148 Statutes, is amended to read:

149 1002.45 Virtual instruction programs.—

150 (5) STUDENT ELIGIBILITY.—A student may enroll in a virtual

151 instruction program provided by the school district or by a
 152 virtual charter school operated in the district in which he or
 153 she resides ~~if the student meets eligibility requirements for~~
 154 ~~virtual instruction~~ pursuant to s. 1002.455.

155 Section 6. Subsection (2) of section 1003.498, Florida
 156 Statutes, is amended to read:

157 1003.498 School district virtual course offerings.—

158 (2) School districts may offer virtual courses for
 159 students enrolled in the school district. These courses must be
 160 identified in the course code directory. Students ~~who meet the~~
 161 ~~eligibility requirements of s. 1002.455~~ may participate in these
 162 virtual course offerings pursuant to s. 1002.455.

163 (a) Any ~~eligible~~ student who is enrolled in a school
 164 district may register and enroll in an online course offered by
 165 his or her school district.

166 (b)1. Any ~~eligible~~ student who is enrolled in a school
 167 district may register and enroll in an online course offered by
 168 any other school district in the state. The school district in
 169 which the student completes the course shall report the
 170 student's completion of that course for funding pursuant to s.
 171 1011.61(1)(c)1.b.(VI), and the home school district shall not
 172 report the student for funding for that course.

173 2. The full-time equivalent student membership calculated
 174 under this subsection is subject to the requirements in s.
 175 1011.61(4). The Department of Education shall establish

176 | procedures to enable interdistrict coordination for the delivery
 177 | and funding of this online option.

178 | Section 7. Subsection (11) of section 1011.62, Florida
 179 | Statutes, is amended to read:

180 | 1011.62 Funds for operation of schools.—If the annual
 181 | allocation from the Florida Education Finance Program to each
 182 | district for operation of schools is not determined in the
 183 | annual appropriations act or the substantive bill implementing
 184 | the annual appropriations act, it shall be determined as
 185 | follows:

186 | (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may
 187 | annually provide in the Florida Education Finance Program a
 188 | virtual education contribution. The amount of the virtual
 189 | education contribution shall be the difference between the
 190 | amount per FTE established in the General Appropriations Act for
 191 | virtual education and the amount per FTE for each district and
 192 | the Florida Virtual School, which may be calculated by taking
 193 | the sum of the base FEFP allocation, the discretionary local
 194 | effort, the state-funded discretionary contribution, the
 195 | discretionary millage compression supplement, the research-based
 196 | reading instruction allocation, and the instructional materials
 197 | allocation, and then dividing by the total unweighted FTE. This
 198 | difference shall be multiplied by the virtual education
 199 | unweighted FTE for programs and options identified in s.
 200 | 1002.455 ~~s. 1002.455(3)~~ and the Florida Virtual School and its

CS/HB 833

2017

201 | franchises to equal the virtual education contribution and shall
202 | be included as a separate allocation in the funding formula.

203 | Section 8. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 859 Postsecondary Distance Education
SPONSOR(S): Higher Education Appropriations Subcommittee; Post-Secondary Education Subcommittee; Mariano
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 668

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	14 Y, 0 N, As CS	Dehmer	Bishop
2) Higher Education Appropriations Subcommittee	12 Y, 0 N, As CS	deNagy	Lloyd
3) Education Committee		Dehmer	Hassell

SUMMARY ANALYSIS

The bill establishes the Postsecondary Reciprocal Distance Education Coordinating Council within the Florida Department of Education (DOE), consisting of members of Florida's postsecondary education system, which will:

- administer the State Authorization Reciprocity Agreements (SARA) with other states to authorize institutions to offer postsecondary distance education in such states;
- review and approve applications from institutions in Florida to participate in the SARA;
- establish an appeals process for institutions that are denied participation in the SARA;
- ensure Florida SARA institutions comply with the terms and provisions of the SARA;
- comply with the terms and provisions of the SARA relating to any state, territory or district approved to participate in the SARA;
- comply with the reporting requirements in the SARA;
- develop and administer a complaint resolution process for complaints related to the SARA;
- delegate any responsibilities to the Commission for Independent Education (CIE) necessary for Florida's participation in the SARA;
- recommend rules necessary to administer the SARA to the Florida State Board of Education (SBE);
- collect fees from each Florida SARA institution; and
- have the authority to revoke a Florida SARA institution's participation in the SARA if the institution is not in compliance with the terms of the SARA.

The bill provides that the decisions of the council are not subject to the administrative hearing procedures of chapter 120, F.S.

SARA states are required to have one portal entity for all of the participating institutions. The Postsecondary Reciprocal Distance Education Coordinating Council the bill creates will act as the portal entity for the state. This is not a requirement of the current Southern Regional Educational Board's Electronic Regional Reciprocity Agreement. The bill provides a fee schedule and collect fees from each Florida SARA institution. The fees are voluntary and will only be assessed if an institution wishes to be a SARA institution. The fees will fund the administrative cost of the council the bill creates. SEE FISCAL SECTION.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Authorization Reciprocity Agreements (SARA) are voluntary agreements between states that establish comparable national standards for interstate offerings of postsecondary distance-education courses and programs. SARA is intended to simplify and improve the process for students who take online courses offered by postsecondary institutions based in other states. States, not institutions or students, are members of SARA. As a result, states become members of SARA while colleges and universities participate in SARA. SARA is overseen by a National Council (NC-SARA) and administered by four regional education compacts.¹

In order to be eligible for membership, a state must either be a member of one of the four interstate Regional Compacts that administer SARA or have concluded an agreement with such a compact covering SARA activity. The state agency or entity responsible for joining SARA must have legal authority under state law to enter an interstate agreement that covers all of the elements of SARA.²

SARA centralizes the approval of distance education courses and programs offered across state lines by institutions that already have degree authorization in at least one state. Colleges and universities in a SARA state need only their home state authorization to offer distance education to any other SARA member state.³

Currently, Florida participates in the Southern Regional Educational Board's Electronic Regional Reciprocity Agreement (SECRRA). SECRRA allows Florida's approved colleges and universities to deliver online offerings in Southern Regional Education Board (SREB) member states.⁴ SREB member states include Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North and South Carolina, Oklahoma, Tennessee, Texas, and the Virginias.⁵

All SREB states, other than Florida, currently participate in SARA.⁶ On June 30, 2017, the current SECRRA agreement dissolves.⁷ Many SARA institutions are admitting only out-of-state students from SARA states. As a result, Florida students will be shut out of many SARA institutions if Florida fails to join SARA.⁸

The Commission for Independent Education (CIE) is responsible for matters relating to nonpublic, postsecondary, educational institutions. The CIE's functions include consumer protection, program improvements, institutional policies and administration, data management, the licensure of independent schools, colleges and universities and establishing minimum standards for the approval of employees

¹ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *Basic questions about SARA*, <http://nc-sara.org/content/basic-questions-about-sara> (last visited February 6, 2017).

² See, State Authorization Reciprocity Agreements: Policy and Operations Manual, *Section 2. States and Membership*, http://nc-sara.org/files/docs/NC-SARA_Manual_Final_2016.pdf (last visited February 6, 2017).

³ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *Basic questions about SARA*, <http://nc-sara.org/content/basic-questions-about-sara> (last visited February 6, 2017).

⁴ See, Southern Regional Education Board, *SREB's regional agreement, SECRRA*, <http://www.sreb.org/state-authorization-sara-secrra> (last visited March 6, 2017).

⁵ See, Southern Regional Education Board, *SREB and Member States*, <http://www.sreb.org/sreb-and-member-states> (last visited March 6, 2017).

⁶ See, NC-SARA National Council for State Authorization Reciprocity Agreements, *SARA States & Institutions*, <http://nc-sara.org/sara-states-institutions> (last visited March 7, 2017).

⁷ Email, Southern Regional Education Board, Director of Student Access Programs and Services (March 7, 2017).

⁸ Email, Southern Regional Education Board, Director of Student Access Programs and Services (December 12, 2016).

of independent postsecondary educational institutions.⁹ The CIE may adopt rules to ensure that licensed employees of an independent postsecondary educational institution meet specific standards. An agent or employee of the commission may not solicit prospective students in Florida for enrollment in any independent postsecondary educational institution under the CIE's purview or in any out-of-state independent postsecondary educational institution unless the agent has received a license as prescribed by the CIE.¹⁰

Effect of Proposed Changes

The bill establishes the Postsecondary Reciprocal Distance Education Coordinating Council within the Florida Department of Education (DOE) to administer the SARA. The council shall consist of the Chancellor of the State University System, the Chancellor of the Florida College System, the Chancellor of the Division of Career and Adult Education, the Executive Director of the CIE and the President of the Independent Colleges and Universities of Florida.

The council shall:

- apply for Florida to participate as a member of the SARA pursuant to the procedure established by SREB;
- serve as the single portal entity for the administration of the SARA;
- review and approve applications from institutions in Florida to participate in the SARA;
- establish an appeals process for institutions that are not approved to participate in the SARA;
- ensure compliance by Florida SARA institutions with the terms and provisions of the SARA, including but not limited to, accreditation and institutional quality, consumer information and protection, disclosure and reporting requirements, complaint mechanism and financial responsibility;
- comply with the terms and provisions of the SARA relating to any member state, Florida SARA institution or non-Florida SARA institution;
- comply with the reporting requirements in the SARA and post all such reports on the council's website;
- develop and administer a complaint resolution process, consistent with SARA, to resolve SARA-related complaints after all complaint processes in place at a Florida institution have been exhausted by the complainant;
- delegate any responsibilities, obligations or authorities necessary for the administration of Florida's participation in the SARA to the CIE's staff; and
- recommend rules necessary to administer reciprocity agreements to the Florida State Board of Education (SBE).

The bill provides a fee schedule and collect fees from each Florida SARA institution. The fees are based on a graduated scale of institutional enrollment. All fees collected shall be submitted through the DOE to the Chief Financial Officer for deposit into a separate account within the Institutional Assessment Trust Fund. The bill provides the fees will be assessed as follows:

- \$1,500/year for institutions with fewer than 2,500 FTE students;
- \$3,000/year for institutions between 2,500-9,999 FTE students;
- \$4,500/year for institutions with 10,000 or more FTE students.

All fees collected shall be submitted through the DOE to the Chief Financial Officer for deposit into a separate account within the Institutional Assessment Trust Fund.

⁹ Florida Department of Education, *Commission for Independent Education*, <http://www.fldoe.org/policy/cie> (last visited March 7, 2017); s. 1005.31(11), F.S.

¹⁰ Section 1005.31(11), F.S.

The bill requires the council to submit a yearly report to the Governor and Legislature shows that revenues generated are not higher than the revenues necessary for the council's operation, must include a justification of staff needed for the council, and must report on the number of Florida SARA institutions.

The bill provides that the council may revoke a Florida SARA institution's approval to participate in the SARA if the council determines the institution is not in compliance with the terms and provisions of the SARA. A Florida SARA institution may withdraw from participation as a Florida SARA institution by submitting notice of intent to withdraw to the council. The intent to withdraw becomes effective at the beginning of the academic term after receipt of the notice.

The bill provides that the decisions by the council are not subject to the administrative hearing procedures of chapter 120, F.S.

The bill provides that any non-Florida SARA institution that offers degree programs and conducts activities limited to distance education degree programs and activities in accordance with the SARA are not under the jurisdiction of the CIE.

The bill provides that an employee of an independent postsecondary educational institution may not solicit prospective students in Florida for enrollment in any out-of-state independent postsecondary educational institution unless the employee solicits for a postsecondary educational institution that is not under the jurisdiction of the CIE.

SARA states are required to have one portal entity for all of the participating institutions. The Postsecondary Reciprocal Distance Education Coordinating Council the bill creates will act as the portal entity for the state. This is not a requirement of the current Southern Regional Educational Board's Electronic Regional Reciprocity Agreement.

Institutions participating in SARA will be required to comply with annual reporting and disclosure requirements. Specifically, SARA institutions are required to report to NC-SARA: (i) the number of students enrolled in the institution via distance education by state, territory, or district; (ii) the number of complaints from out-of-state students, by institution, appealed to the portal entity; and (iii) the resolution of complaints to the portal entity by SARA institution resolved in favor of the institution, resolved in favor of the complainant, or resolved by agreement as well as the number of pending complaints.¹¹

There are four categories of institutions that can participate in the SARA: institutions in the State University System (SUS), institutions in the Florida College System (FCS), institutions under the CIE's purview, and institutions in the Independent Colleges and Universities of Florida (ICUF). ICUF is a diverse association of 30 private, not-for-profit, higher education institutions that are based in Florida and accredited by the Southern Association of Colleges & Schools.¹²

B. SECTION DIRECTORY:

Section 1. Creates s. 1000.35, F.S., authorizing the Postsecondary Reciprocal Distance Education Coordinating Council to administer reciprocity agreements.

Section 2. Amends s. 1005.06, F.S., relating to institutions not under the jurisdiction of the CIE.

Section 3. Amends s. 1005.31, F.S., relating to licensure of colleges and schools operating in Florida.

Section 4. Amends s. 1010.83, F.S., relating to the Institutional Assessment Trust Fund.

¹¹ "2017 Legislative Bill Analysis," Board of Governors, March 17, 2017. On file with House Higher Education Appropriations Subcommittee staff.

¹² Independent Colleges and Universities of Florida, www.icuf.org, (last visited March 21, 2017)

Section 5. Appropriates trust fund authority and 2 FTE to the Department of Education for the purpose of implementing the requirements of this act.

Section 6. Directs the Division of Law Revision and Information to replace the phrase “the effective date of this act” wherever it occurs with the date the act becomes a law.

Section . The bill provides an effective date upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill provides a fee schedule and collect fees from each Florida SARA institution. The fees are based on a graduated scale of institutional enrollment. All fees collected shall be submitted through the DOE to the Chief Financial Officer for deposit into a separate account within the Institutional Assessment Trust Fund. The bill provides the fees will be assessed as follows:

- \$1,500/year for institutions with fewer than 2,500 FTE students;
- \$3,000/year for institutions between 2,500-9,999 FTE students;
- \$4,500/year for institutions with 10,000 or more FTE students.

The projected number of institutions that are expected to participate in SARA by FTE enrollment are as follows:

Type of Institution	> 2,500	2,500-9,999	< 10,000	Total
ICUF ¹³	6	10	5	21
SUS ¹⁴	0	1	9	10
FCS ¹⁵	2	5	13	20
CIE ¹⁶	13	5	2	20
Total	21	21	29	71

The yearly revenues for the council will be \$225,000. There is a possibility that more institutions could join SARA, creating a potential for an increase in yearly revenues. The bill requires the council to submit a yearly report to the Governor and Legislature which shows that revenues generated are not higher than the revenues necessary for the council's operation, must include a justification of staff needed for the council, and must report on the number of Florida SARA institutions.

2. Expenditures:

The bill appropriates \$225,534 of trust authority in the Institutional Assessment Trust Fund and 2 full time employees the Department of Education of in order to support the operations of the council. See breakout of funds below:

¹³ Projected number of participating ICUF institutions, e-mail from ICUF, on file with House Higher Education Appropriations Subcommittee staff.

¹⁴ “2017 Legislative Bill Analysis,” Board of Governors, March 17, 2017. On file with House Higher Education Appropriations Subcommittee staff.

¹⁵ “Fiscal Impact for Commission for Independent Education Administrative Costs,” Department of Education; March 16, 2017. On file with House Higher Education Appropriations Subcommittee Staff.

¹⁶ *Id.*

Salary Expenses	\$188,534
Travel for Staff to national meetings	\$5,000
Travel for staff to regional meetings	\$4,500
On-site Visits	\$4,500
Equipment & supplies	\$3,000
IT Support/programming	\$10,000
Legal	\$10,000
Total Projected Expenses	\$225,534

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See fiscal comments.

D. FISCAL COMMENTS:

E. SARA states are required to have one portal entity for all of the participating institutions. The Postsecondary Reciprocal Distance Education Coordinating Council the bill creates will act as the portal entity for the state. This is not a requirement of the current Southern Regional Educational Board's Electronic Regional Reciprocity Agreement. The bill provides a fee schedule and collect fees from each Florida SARA institution. The fees are voluntary and will only be assessed if an institution wishes to be a SARA institution. The fees will fund the administrative cost of the council the bill creates.

The SARA institutions will be both public and private colleges and universities. SARA institutions will avoid paying fees to all other SARA states nationwide. Fees vary by state; some are based on a percentage of tuition revenue; some are based on the number of programs offered; some charge a flat fee; and some require surety bonds. There will be cost avoidances for SARA institutions. The institutions will no longer be required to: (1) annually stay abreast of state authorization requirements in all other states as such requirements are created and changed; and (2) submit applications and pay initial and renewal fees to each state that has such requirements and in which the institutions will seek authorization.¹⁷

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

¹⁷ "2017 Legislative Bill Analysis," Board of Governors, March 17, 2017. On file with House Higher Education Appropriations Subcommittee staff.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2017, the Post-Secondary Education subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment differs from the bill in the following ways:

- authorizes Florida to participate specifically in the State Authorization Reciprocity Agreement (SARA);
- requires the counsel to apply to participate in the SARA within 60 days after the effective date of this act;
- specifies the terms and conditions with which Florida SARA institutions must comply, including, but not limited to, accreditation and institutional quality, consumer information and protections, disclosure and reporting requirements, complaint mechanisms and financial responsibility; and
- requires the annual fee schedule, proposed by the counsel, be predicated on a graduated scale based on enrollment.

On March 27, 2017, the Higher Education Appropriations Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. The three amendments did the following:

- Allows for the Institutional Assessment Trust Fund to collect all fees from all institutions related to participating in the SARA.
- Provides a fee schedule and collect fees from each Florida SARA institution. The fees are based on a graduated scale of institutional enrollment. All fees collected shall be submitted through the DOE to the Chief Financial Officer for deposit into a separate account within the Institutional Assessment Trust Fund. The bill provides the fees will be assessed as follows:
 - \$1,500/year for institutions with fewer than 2,500 FTE students;
 - \$3,000/year for institutions between 2,500-9,999 FTE students;
 - \$4,500/year for institutions with 10,000 or more FTE students.
- Provides a reporting requirement for the council.
- Appropriates recurring funds of \$225,534 from the Institutional Assessment Trust Fund and 2 FTE to the Department of Education to implement the requirements of the bill.

The bill analysis is drafted to the committee substitute as adopted by the Higher Education Appropriations Subcommittee.

1 A bill to be entitled
2 An act relating to postsecondary distance education;
3 creating s. 1000.35, F.S.; authorizing this state to
4 participate in the State Authorization Reciprocity
5 Agreement (SARA) for delivery of postsecondary
6 distance education; providing definitions;
7 establishing the Postsecondary Reciprocal Distance
8 Education Coordinating Council within the Department
9 of Education; requiring the Commission for Independent
10 Education to provide administrative support for the
11 council; providing membership and duties of the
12 council; requiring the council to collect annual fees
13 from Florida SARA institutions based on total full-
14 time equivalent enrollment; requiring the council to
15 submit an annual report to the Governor and
16 Legislature by a specified date; providing for deposit
17 of such fees into a specified trust fund; specifying
18 that such fees are nonrefundable unless paid in error;
19 authorizing the council to revoke a Florida SARA
20 institution's participation for noncompliance;
21 authorizing such institution to withdraw from
22 participation in the SARA after providing notice;
23 exempting council decisions from the Administrative
24 Procedure Act; providing that provisions relating to
25 the jurisdiction of the commission are not superseded;

26 requiring the state board to adopt rules; amending s.
 27 1005.06, F.S.; providing that the commission does not
 28 have jurisdiction over certain non-Florida
 29 institutions participating in the SARA; amending s.
 30 1005.31, F.S.; authorizing the solicitation of
 31 prospective students for enrollment in certain
 32 postsecondary educational institutions; amending s.
 33 1010.83, F.S.; requiring that the Institutional
 34 Assessment Trust Fund administered by the department
 35 consist of certain fees; requiring the department to
 36 maintain separate accounts within such trust fund for
 37 specified operations; authorizing the use of funds
 38 from such trust fund for certain expenses related to
 39 administration of the SARA; providing an
 40 appropriation; providing a directive to the Division
 41 of Law Revision and Information; providing an
 42 effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Section 1000.35, Florida Statutes, is created
 47 to read:

48 1000.35 State Authorization Reciprocity Agreement.—
 49 (1) The purpose of this section is to authorize this
 50 state's participation in the State Authorization Reciprocity

51 Agreement (SARA) as established by the Southern Regional
 52 Education Board (SREB) and the National Council for State
 53 Authorization Reciprocity Agreements (NC-SARA) relative to
 54 postsecondary distance education as defined in the SARA. All
 55 parties to the SARA must be willing to accept each other's
 56 authorization of accredited institutions to operate in their
 57 state to offer distance educational services beyond state
 58 boundaries.

59 (2) For purposes of this section, the term:

60 (a) "Commission" means the Commission for Independent
 61 Education.

62 (b) "Complaint" means a formal assertion in writing that a
 63 person, institution, state, agency, or other entity operating
 64 under the SARA has violated the terms of the SARA or the laws,
 65 standards, or regulations incorporated therein.

66 (c) "Council" means the Postsecondary Reciprocal Distance
 67 Education Coordinating Council, which serves as the single
 68 portal entity designated by the state to administer the SARA and
 69 serves as the interstate point of contact for SARA-related
 70 questions, complaints, and other matters related to the SARA.

71 (d) "Department" means the Department of Education.

72 (e) "Florida SARA institution" means a postsecondary
 73 institution in this state approved by the council to participate
 74 in the SARA.

75 (f) "Institution" means a public or private postsecondary

76 degree-granting college or university that is accredited by a
 77 federally recognized accrediting body and that awards, at a
 78 minimum, associate-level degrees requiring at least 2 years of
 79 full-time equivalent college work.

80 (g) "Member state" means a state, territory, or district
 81 within the United States that has been approved to participate
 82 in the SARA.

83 (h) "Non-Florida SARA institution" means an institution
 84 approved by a member state other than this state to participate
 85 in the SARA.

86 (i) "SREB" means the Southern Regional Education Board.

87 (j) "State Authorization Reciprocity Agreement" or "SARA"
 88 means the agreement that establishes reciprocity between member
 89 states that accept other member states' authorization of
 90 accredited institutions to operate in their states to offer
 91 distance educational services beyond state boundaries pursuant
 92 to the terms and conditions set forth in the agreement.

93 (k) "State board" means the State Board of Education.

94 (3) The council is created within the department for the
 95 purpose of administering the SARA. The council shall consist of
 96 the Chancellor of the State University System, the Chancellor of
 97 the Florida College System, the Chancellor of the Division of
 98 Career and Adult Education, the executive director of the
 99 commission, and the president of the Independent Colleges and
 100 Universities of Florida. The commission shall provide

101 administrative support for the council. The council shall:
 102 (a) Within 60 days after the effective date of this act,
 103 apply for this state to participate as a member of the SARA
 104 pursuant to the procedures established by the SREB;
 105 (b) Serve as the single portal entity for administration
 106 of the SARA;
 107 (c) Review and approve applications from institutions in
 108 this state to participate in the SARA and establish an appeals
 109 process for institutions that are not approved to participate in
 110 the SARA;
 111 (d) Ensure compliance by Florida SARA institutions with
 112 the terms and provisions of the SARA, including, but not limited
 113 to, accreditation and institutional quality, consumer
 114 information and protection, disclosure and reporting
 115 requirements, complaint mechanisms, and financial
 116 responsibility;
 117 (e) Comply with the terms and provisions of the SARA
 118 relating to any member state, Florida SARA institution, or non-
 119 Florida SARA institution;
 120 (f) Comply with the reporting requirements in the SARA and
 121 post all such reports on the council's website;
 122 (g) Consistent with the complaint resolution processes in
 123 the SARA, develop and administer a complaint resolution process
 124 to resolve SARA-related complaints after all complaint processes
 125 in place at a Florida SARA institution have been exhausted by

126 the complainant;

127 (h) Delegate any responsibilities, obligations, or
 128 authorities necessary for the administration of this state's
 129 participation in the SARA to the commission's staff; and

130 (i) Recommend rules necessary to administer this section
 131 for adoption by the state board.

132 (4) The council shall collect an annual fee from each
 133 Florida SARA institution. The fee shall be based on the Florida
 134 SARA institution's total full-time equivalent (FTE) enrollment
 135 as shown in the Integrated Postsecondary Education Data System
 136 and shall be assessed as follows:

137 (a) Not to exceed \$1,500 per year for a Florida SARA
 138 institution with fewer than 2,500 total FTE enrollment;

139 (b) Not to exceed \$3,000 per year for a Florida SARA
 140 institution with at least 2,500 but not more than 9,999 total
 141 FTE enrollment;

142 (c) Not to exceed \$4,500 per year for a Florida SARA
 143 institution with 10,000 or more total FTE enrollment.

144
 145 Within the limitations imposed under this subsection, the fee
 146 shall be set at an amount that will generate no more than the
 147 total revenue necessary for the council's operation. The council
 148 shall lower the fee if the total revenue generated is higher
 149 than the total revenue necessary for the council's operation. By
 150 February 15, 2018, and each February 15 thereafter, the council

151 shall submit a report to the Governor, the President of the
 152 Senate, and the Speaker of the House of Representatives. The
 153 report must show that the total revenue generated is not higher
 154 than the total revenue necessary for the council's operation,
 155 must include a justification of staff needed for the council,
 156 and must include the number of Florida SARA institutions. All
 157 fees collected pursuant to this subsection shall be submitted by
 158 the department to the Chief Financial Officer for deposit into a
 159 separate account within the Institutional Assessment Trust Fund.
 160 Any fee collected by the council pursuant to this subsection is
 161 nonrefundable unless paid in error.

162 (5) The council may revoke a Florida SARA institution's
 163 approval to participate in the SARA if the council determines
 164 such institution is not in compliance with the terms and
 165 provisions of the SARA.

166 (6) A Florida SARA institution may withdraw from
 167 participation as a Florida SARA institution by submitting notice
 168 of its intent to withdraw to the council, which shall become
 169 effective at the beginning of the next academic term after
 170 receipt of such notice.

171 (7) Decisions of the council are not subject to chapter
 172 120.

173 (8) This section does not supersede the requirements in
 174 chapter 1005 relating to postsecondary educational institutions
 175 under the jurisdiction of the commission.

176 (9) The state board shall adopt rules to implement this
 177 section.

178 Section 2. Paragraph (h) is added to subsection (1) of
 179 section 1005.06, Florida Statutes, to read:

180 1005.06 Institutions not under the jurisdiction or purview
 181 of the commission.—

182 (1) Except as otherwise provided in law, the following
 183 institutions are not under the jurisdiction or purview of the
 184 commission and are not required to obtain licensure:

185 (h) Any non-Florida institution that has been approved by
 186 a member state to participate in the State Authorization
 187 Reciprocity Agreement (SARA), as those terms are defined in s.
 188 1000.35(2), if the degree programs that may be offered and the
 189 activities that may be conducted by such institution in this
 190 state are limited to the distance education degree programs and
 191 activities provided in and consistent with the terms and
 192 provisions of the SARA.

193 Section 3. Subsection (11) of section 1005.31, Florida
 194 Statutes, is amended to read:

195 1005.31 Licensure of institutions.—

196 (11) The commission shall establish minimum standards for
 197 the approval of agents. The commission may adopt rules to ensure
 198 that licensed agents meet these standards and uphold the intent
 199 of this chapter. An agent may not solicit prospective students
 200 in this state for enrollment in any independent postsecondary

201 educational institution under the commission's purview or in any
 202 out-of-state independent postsecondary educational institution
 203 unless the agent has received a license as prescribed by the
 204 commission or solicits for a postsecondary educational
 205 institution that is not under the jurisdiction of the commission
 206 pursuant to s. 1005.06(1)(h).

207 Section 4. Subsection (1) of section 1010.83, Florida
 208 Statutes, is amended, and paragraph (d) is added to subsection
 209 (2) of that section, to read:

210 1010.83 Institutional Assessment Trust Fund.—

211 (1) Chapter 99-32, Laws of Florida, re-created the
 212 Institutional Assessment Trust Fund to be administered by the
 213 Department of Education pursuant to this section and rules of
 214 the State Board of Education. The trust fund shall consist of:

215 (a) All fees and fines imposed upon nonpublic colleges and
 216 schools pursuant to chapter 1005 and this chapter, including all
 217 fees collected from nonpublic colleges and schools for
 218 participation in the Student Protection Fund pursuant to s.
 219 1005.37.

220 (b) All fees imposed upon nonpublic colleges and schools
 221 for participation in the statewide course numbering system
 222 pursuant to s. 1007.24.

223 (c) All fees collected from institutions for participation
 224 in the State Authorization Reciprocity Agreement (SARA) pursuant
 225 to s. 1000.35.

226
 227 The department shall maintain separate accounts for the
 228 operation of the Commission for Independent Education, the
 229 Student Protection Fund, the SARA, and the Department of
 230 Education ~~all fees and fines imposed upon nonpublic colleges and~~
 231 ~~schools pursuant to this chapter and chapter 1005, including all~~
 232 ~~fees collected from nonpublic colleges and schools for~~
 233 ~~participation in the Student Protection Fund and the statewide~~
 234 ~~course numbering system. The department shall maintain separate~~
 235 ~~accounts for the operation of the Commission for Independent~~
 236 ~~Education; the Student Protection Fund; and the Department of~~
 237 ~~Education.~~

238 (2) Funds from the trust fund shall be used for purposes
 239 including, but not limited to, the following:

240 (d) Expenses authorized by the Department of Education
 241 related to the administration of the SARA.

242 Section 5. For the 2017-2018 fiscal year, the sum of
 243 \$225,534 in recurring funds is appropriated from the
 244 Institutional Assessment Trust Fund to the Department of
 245 Education and two full-time equivalent positions with associated
 246 salary rate of 110,000 are authorized for the purpose of
 247 implementing the requirements of this act.

248 Section 6. The Division of Law Revision and Information is
 249 directed to replace the phrase "the effective date of this act"
 250 wherever it occurs in this act with the date this act becomes a

CS/CS/HB 859

2017

251 | law.

252 | Section 7. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 867 Student Loan Debt

SPONSOR(S): Higher Education Appropriations Subcommittee; Leek and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 396

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	12 Y, 0 N	McAlarney	Bishop
2) Higher Education Appropriations Subcommittee	13 Y, 0 N, As CS	Butler	Lloyd
3) Education Committee		McAlarney	Hassell

SUMMARY ANALYSIS

This bill requires a postsecondary education institution that disburses state financial aid to annually provide students with information regarding their student loans. The term "student loans" is defined as federal loans offered to a student to pay for education-related expenses.

A postsecondary education institution must provide:

- An estimate of:
 - The student's total amount of borrowed student loans,
 - The student's total potential loan repayment amount, including principal and interest, for the total amount of borrowed student loans,
 - The student's monthly loan repayment amounts for the total amounts of borrowed student loans at the time the institution provides the required student loan information, and
 - The percentage of the borrowing limit that the student has reached at the time the information is provided.

An institution is indemnified and does not incur liability for providing loan information to a student.

Current Federal law requires post-secondary institutions to provide entrance and exit counseling to every student who has Federal student loans. This counseling includes providing the debt, repayment and borrowing limit information required in the bill. The National Student Loan Data System maintains information on Federal student loans. The bill requires postsecondary institutions that disburse state financial aid to annually provide students with information about their federal student loans. It is unknown whether the additional requirement of annual notifications will significantly increase institutions' workloads. Universities and colleges may not have adequate staffing and information technology capabilities to fulfill the requirements of the bill; however, the potential costs to institutions are indeterminate.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Students attending Florida colleges, universities, and other postsecondary institutions receive financial aid from a plethora of private and public sources including the federal government, state government, postsecondary education institutions, private individuals, corporations, and non-profits. The aid is used to pay education-related expenses.¹

The federal aid includes grants, loans, and work-study programs.² Federal grant aid is generally not required to be repaid unless, for instance, a student withdraws and owes a refund.³ Federal loans are borrowed money for postsecondary education that must be repaid, with interest.⁴ A student may participate in a federal work-study program through which he or she earns money to assist with the costs of higher education.⁵

Florida provides financial assistance programs through state grants and scholarship programs.⁶ Postsecondary education institutions also offer financial aid from their own institutional funds.⁷ In addition, students may seek aid in the form of scholarships or grants from a nonprofit or private organization to assist with the costs of higher education,⁸ which are generally not required to be repaid. Finally, students may borrow funds from private loan sources to pay for higher education.⁹

Federal Student Loans

The U.S. government offers loans to eligible students for the purpose of assisting with the costs of higher education.¹⁰ A direct loan is a federal student loan, through the William D. Ford Federal Direct Loan Program, for which eligible students and parents borrow directly from the U.S. Department of Education at participating schools.¹¹ Direct loans include the following four types of loans:¹²

- Direct subsidized loans are loans to eligible undergraduate students who demonstrate financial need to help cover the costs of higher education;
- Direct unsubsidized loans are loans to eligible undergraduate, graduate, and professional students that are not need-based;
- Direct PLUS loans are loans to graduate or professional students and parents of dependent undergraduate students to help pay for educational expenses not covered by other financial aid; and
- Direct consolidation loans allow student borrowers to combine all eligible federal student loans into a single loan with a single loan servicer.

¹ U.S. Department of Education, *Types of Aid*, <https://studentaid.ed.gov/sa/types> (last visited Mar. 14, 2017).

² U.S. Department of Education, *Types of Aid*, <https://studentaid.ed.gov/sa/types> (last visited Mar. 14, 2017).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ Florida Department of Education, Office of Student Financial Assistance, *State Scholarships and Grant Programs*, <http://www.floridastudentfinancialaid.org/SSFAD/home/uamain.htm> (last visited Mar. 14, 2017).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ 34 C.F.R. section 668.

¹¹ 34 C.F.R. section 685.100.

¹² *Id.*

The U.S. Department of Education also offers the federal Perkins loan program, a school-based loan program for undergraduates and graduate students with exceptional financial need.¹³ The school is the lender of Perkins loans and the loan amount is capped.¹⁴

Free Application for Federal Student Aid

An eligible student who wishes to receive federal loans is required to annually complete and submit a Free Application for Federal Student Aid (FAFSA).¹⁵ The postsecondary education institution at which the student is enrolled receives the FAFSA and is responsible for distributing the loan award letter, which specifies the amount of loan that the student is eligible for at the school and provides instructions on how to accept all or part of the loan.¹⁶ Students who borrow federal student loans may visit the My Federal Student Aid website to view information about the federal student loans they have borrowed.¹⁷ This website provides students with access to their total loan obligations, repayment calculators, information regarding loan servicers, and other data related to federal student loans.¹⁸

Borrowing Limit

The federal government limits the amount in subsidized and unsubsidized loans that a student may borrow each academic year (annual loan limits) and the total amount the student may borrow for undergraduate and graduate study (aggregate loan limits).¹⁹ The actual loan amount a student is eligible to receive may be less than the annual loan limit depending on the year of study and whether or not the student is a dependent or independent student.²⁰ The student's FAFSA answers determine whether the student is considered dependent or independent.²¹ The FAFSA questions that determine dependency status change annually.²²

A student who reaches the aggregate loan limit is not eligible to receive additional loans, unless the student first makes a payment that reduces his or her outstanding loan debt below the aggregate loan limit.²³ The student may then borrow up to the amount of his or her remaining eligibility under the aggregate loan limit after his or her outstanding loan limit is within the aggregate loan limit established by the federal government.²⁴

¹³ 34 C.F.R. section 674.1.

¹⁴ 34 C.F.R. section 674.12.

¹⁵ 34 C.F.R. section 685.201.

¹⁶ U.S. Department of Education, *Student Loan Types*, <https://studentaid.ed.gov/sa/types/loans/subsidized-unsubsidized#how-much> (last visited Mar. 14, 2017).

¹⁷ U.S. Department of Education, *Understanding Repayment*, <https://studentaid.ed.gov/sa/repay-loans/understand/servicers> (last visited Mar. 14, 2017).

¹⁸ U.S. Department of Education, *My Federal Student Aid*, <https://studentaid.ed.gov/sa/?login=true> (last visited Mar. 14, 2017).

¹⁹ U.S. Department of Education, *Student Loan Types*, <https://studentaid.ed.gov/sa/types/loans/subsidized-unsubsidized#how-much> (last visited last visited Mar. 14, 2017).

²⁰ *Id.*

²¹ U.S. Department of Education, *Filling out the FAFSA*, <https://studentaid.ed.gov/sa/fafsa/filling-out/dependency#dependent-or-independent> (last visited Mar. 14, 2017).

²² *Id.*

²³ U.S. Department of Education, *Student Loan Types*, <https://studentaid.ed.gov/sa/types/loans/subsidized-unsubsidized#how-much> (last visited Mar. 14, 2017).

²⁴ *Id.*

Loan Disclosure Requirements

Federal law requires that every postsecondary education institution eligible to participate in the federal loan programs must provide student borrowers with entrance counseling prior to the initial disbursement of federal funds.²⁵ Specifically, the federal loan entrance counseling must include the following information:²⁶

- The effect of accepting the loan on the eligibility of the borrower for other forms of student financial assistance;
- An explanation of the use of the master promissory note;
- Information on how interest accrues and is capitalized;
- Options for the student to pay interest on specified loans while in school;
- Sample monthly repayment amounts;
- The borrower's obligation to repay the full loan amount;
- Consequences of default on the loan;
- Information on borrower records available on the National Student Loan Data System; and
- Contact information for an individual the borrower may contact with questions regarding the loan.

The federal law requires each postsecondary education institution eligible to participate in federal financial assistance programs to provide exit counseling to student borrowers of federal loans prior to the completion of the borrower's course of study or departure from the institution.²⁷ This exit counseling must include:²⁸

- Available repayment plans;
- Debt management strategies;
- An explanation of repayment options for each loan;
- A general description of any loan forgiveness program;
- A description of any forbearance provisions;
- Default consequences;
- Consolidation options;
- Available tax benefits; and
- Information regarding the National Student Loan System.

State Reporting Requirements

Florida College System (FCS) and state university institutions are required to provide enrolled students, prior to registration, electronic access to the economic security report of employment and earnings outcomes prepared by the Department of Economic Opportunity.²⁹ The economic security report provides estimated earnings potential and salary ranges for specified degree programs offered by the institutions.³⁰ Based on this information, a student may consider various financial aid options, including borrowing loans, to pursue a postsecondary education degree program of their choice.

²⁵ 20 U.S.C. section 1092(l)(1).

²⁶ 20 U.S.C. section 1092(l)(2).

²⁷ 20 U.S.C. section 1092(b)(1)(A).

²⁸ *Id.*

²⁹ Section 1001.706(5)(d), F.S.; Department of Economic Opportunity, *Economic Security Report 2016*, http://www.beyondeducation.org/temp/ER_Report.pdf (last visited Mar. 14, 2017).

³⁰ Section 1001.706(5)(d), F.S.

Board of Governors

The Board of Governors of the State University System of Florida (BOG) must develop an accountability plan for the State University System and each constituent university, which must address institutional and system achievement of the goals and objectives specified in the BOG's strategic plan.³¹ The BOG strategic plan must include, but is not limited to, performance measures and standards for student loan burden and default rates.³²

Each university board of trustees is required to establish a policy for the administration, distribution and use of student financial aid, including student loans, that complies with existing federal or state law relating to financial aid.³³

State Board of Education

The board of trustees of an FCS institution is authorized to create policies related to student financial assistance and other student services, subject to rules of the State Board of Education (SBE).³⁴ Each FCS institution must submit specified financial reports to the Florida Department of Education (DOE) in addition to maintaining enrollment-related financial records.³⁵ SBE rules require that each FCS institution enrolling students who receive state financial aid and tuition assistance:³⁶

- Develop written procedures for the administration of aid programs;
- Provide adequate staff;
- Coordinate institutional, state, federal, and state tuition awards to students;
- Maintain auditable records of state student aid and tuition assistance funds;
- Retain these records for five years;
- Verify and certify student eligibility;
- Disburse state aid and tuition assistance funds;
- Maintain student acknowledgement of receipt of funds;
- Provide reports required by the DOE; and
- Comply with refund policies.

Nonpublic Postsecondary Education Institutions

All nonpublic postsecondary institutions³⁷ must comply with the following student loan related reporting requirements specified in Florida law:³⁸

- Inform each student accurately about financial assistance and obligations for repayment of loans, describe any employment placement services provided and the limitations thereof, and refrain from misinforming the public about guaranteed placement, market availability, or salary amounts.³⁹
 - This disclosure must be in writing and signed and dated by each student applying for and receiving a student loan, to the effect that the student understands that he or she is obligated to repay the loan, the terms and amounts of repayments, and when repayments will begin.⁴⁰

³¹ Section 1001.706(5)(c), F.S.

³² Section 1001.706(5)(b)1., F.S.

³³ Florida Board of Governors Regulation 3.009.

³⁴ Sections 1001.64(1) and (8), F.S.

³⁵ Rule 6A-14.072, F.A.C.

³⁶ Rule 6A-20.002, F.A.C.

³⁷ This includes every institution that is under the jurisdiction of the Commission for Independent Education or that is exempt from the jurisdiction or purview of the Commission pursuant to section 1005.06(1)(c) or (f) and that directly or indirectly solicits student enrollment. Section 1005.04, F.S.

³⁸ Section 1005.04(1), F.S.

³⁹ Section 1005.04(1)(c), F.S.

⁴⁰ Rule 6E-1.0032(6)(h), F.A.C.

- Publish and follow equitable refund policies and follow these refund policies in addition to federal refund guidelines.⁴¹

Effect of Proposed Changes

The bill defines “student loans,” for purposes of the information that must be provided to enrolled students, to mean federal loans disbursed to a student to pay for education-related expenses.

The bill requires public and private postsecondary education institutions that disburse state financial aid to annually provide each student receiving student loans the following information:

- An estimate of:
 - The student’s total amount of borrowed student loans,
 - The student’s total potential loan repayment amount, including principal and interest, for the total amount of borrowed student loans,
 - The student’s monthly loan repayment amounts for the total amounts of borrowed student loans at the time the institution provides the required student loan information, and
 - The percentage of the borrowing limit that the student has reached at the time the information is provided.

The specified requirements may reinforce the information available to students who complete the federal Free Application for Federal Student Aid (FAFSA), regarding federal student loans and obligations related to incurring debt. Consequently, the bill may increase students’ awareness about their aggregate federal student loan debt, estimated repayment obligations, and the consequences of failing to repay federal loans. Students may use this information to consider various financial aid options, including borrowing student loans, in planning to pay for education-related expenses.

The bill provides that an institution does not incur liability for providing the annually required student loan information.

This bill has an effective date of July 1, 2017.

B. SECTION DIRECTORY:

Section 1. Creates s. 1009.894, F.S. which defines the term student loans, requires postsecondary institutions to annually provide students information regarding their federal loans, and indemnifies institutions that provide loan information to students.

Section 2. This bill has 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.

⁴¹ Section 1005.04(1)(f), F.S.
STORAGE NAME: h0867d.EDC.DOCX
DATE: 4/4/2017

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the State University of Florida, Board of Governors, information on student indebtedness and loan repayment is currently available to students in an ongoing manner in compliance with federal law and university regulations and policies. The bill specifies that the information must be provided annually, which will be in addition to ongoing financial counseling and information already provided by SUS institutions to students. This extra layer of reporting may be confusing to students and has the potential to create situations where the student receives conflicting information.⁴²

D. FISCAL COMMENTS:

Provisions of the bill could increase costs for postsecondary institutions; however, those costs are indeterminable. Institutions with significant IT resources would most likely be able to meet these requirements more quickly.⁴³

The State University System provided an analysis of the bill, identifying the potential costs to meet the additional requirements. Based on the proposed bill language, additional staff time may be required to counsel certain students with specified information regarding their loans. Furthermore, if most of the financial aid counseling administered by the universities is automated and conducted online, universities may be required to upgrade existing software, purchase new software, or incur additional programming costs to meet the additional demand for counseling students. Staffing needs and software upgrades and programming costs cannot be determined at this time.

From the university perspective, implementing provisions of the bill may create an administrative burden, as the complexities involved with monitoring and providing accurate loan amounts, interest rates, monthly repayment amounts, percentages of borrowing limits, and payoff amounts may be extremely difficult to provide. Additionally, there are multiple sources that already provide this information, and the information may conflict with university information.

University compliance with implementation of the bill may necessitate adding more staffing positions to provide administrative support. For example, there are approximately 18,000 students who received loans at the University of Florida during the 2015-16 academic year. While this information is currently available to students to use at their discretion via online sources, providing mandatory detailed loan indebtedness and repayment information to each student with every new loan throughout the SUS would possibly require additional funding resources to enhance current personnel and existing automated financial aid systems already in place.⁴⁴

In summary, postsecondary institutions may have increased workload due to increased responsibilities in annually providing students with loan information. It is unknown whether current federally required counseling responsibilities an institution must perform upon a student's entrance and exit from the institution will increase with the annual disclosure requirements. Universities and colleges may not have adequate staffing and information technology capabilities to fulfill the requirements of the bill. The

⁴² 2017 Legislative Bill Analysis, from the State University System of Florida, Board of Governors 3-15-2017

⁴³ 2017 Legislative Bill Analysis from the Florida Department of Education 3-17-2017

⁴⁴ 2017 Legislative Bill Analysis, from the State University System of Florida, Board of Governors 3-15-2017

potential costs to institutions are indeterminate; however, by specifying the required information pertains to "federal loans", the potential costs to institutions are reduced in the committee substitute as compared to the original bill.

No analysis was provided from the Florida College System.

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

On April 3, 2017, the Higher Education Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute.

The amendment modifies the definition of "student loans" to mean "federal student loans" disbursed to a student to pay for education-related expenses.

The bill analysis is drafted to the committee substitute as adopted by the Higher Education Appropriations Subcommittee.

1 A bill to be entitled
 2 An act relating to student loan debt; creating s.
 3 1009.894, F.S.; defining the term "student loans";
 4 requiring postsecondary institutions to annually
 5 provide certain students with specified information
 6 regarding their student loans; providing that an
 7 institution does not incur any liability for providing
 8 such information; providing an effective date.

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

11
 12 Section 1. Section 1009.894, Florida Statutes, is created
 13 to read:

14 1009.894 Student loan information.-

15 (1) As used in this section, the term "student loans"
 16 means federal loans disbursed to a student to pay for education-
 17 related expenses.

18 (2) Beginning with the 2017-2018 academic year, a
 19 postsecondary institution that disburses state financial aid
 20 shall annually provide each student receiving student loans with
 21 the following up-to-date information:

- 22 (a) An estimate of:
 23 1. The student's total amount of borrowed student loans.
 24 2. The student's total potential loan repayment amount,
 25 including principal and interest, for the total amount of

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

26 borrowed student loans.

27 3. The student's monthly loan repayment amounts for the
28 total amount of borrowed student loans at the time the
29 institution provides the student loan information required under
30 this paragraph.

31 (b) The percentage of the borrowing limit that the student
32 has reached at the time the information under paragraph (a) is
33 provided.

34 (3) An institution does not incur liability for providing
35 information to a student under this section.

36 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 Ponder offered the following:

4 **Amendment (with directory and title amendments)**

5 Remove line 14 and insert:
 6 1009.45 Student loan information.-

8 -----

9 **D I R E C T O R Y A M E N D M E N T**

10 Remove line 12 and insert:
 11 Section 1. Section 1009.45, Florida Statutes, is created

13 -----

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

15 Remove line 3 and insert:
 16 1009.45, F.S.; defining the term "student loans";

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 989 Instructional Materials
SPONSOR(S): PreK-12 Quality Subcommittee; Donalds and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1210

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N, As CS	Brink	Duncan
2) PreK-12 Appropriations Subcommittee	12 Y, 2 N	Seifert	Potvin
3) Education Committee		Brink	Hassell

SUMMARY ANALYSIS

To be included in Florida's state-adopted instructional materials list, an instructional material must, among other things, be aligned to the Next Generation Sunshine State Standards, accurate, objective, balanced, noninflammatory, current, and suited to student needs and their ability to comprehend the material presented. However, state funds allocated for the purchase of instructional materials may be used to purchase materials that are not included on the state-adopted list or are not otherwise reviewed for appropriate content and alignment to the standards.

The bill provides for greater transparency in the district-level adoption process and more opportunities to review and challenge materials made available to students by:

- allowing parents and residents of the county to provide the district school board evidence that an instructional material for adoption by the district does not meet the state criteria, contains prohibited content, or is otherwise inappropriate or unsuitable;
- allowing county residents to contest the adoption of an instructional material and object to the use of a material made available to students;
- requiring the process for contesting the adoption of an instructional material to provide for an impartial hearing officer;
- requiring school districts to discontinue use of a material found to be inappropriate or unsuitable;
- requiring school districts to provide access to library materials upon written request;
- requiring school districts to maintain a current list of purchased instructional materials on their websites;
- requiring that instructional materials purchased using the instructional materials allocation be on the state-adopted list unless purchased through a district instructional materials program;
- requiring that instructional materials purchased through a district instructional materials program meet the criteria for inclusion in the state-adopted list, be aligned to the state academic standards, and be consistent with course expectations and course descriptions;
- eliminating the requirement that 50 percent of the instructional materials allocation be used to purchase electronic or digital materials; and
- clarifying that a school district is responsible for the content of all materials made available to students, including those that may not meet the statutory definition of an instructional material.

The bill also specifies that an instructional material must be free of content that is pornographic or harmful to minors in order to be recommended for inclusion in the state-adopted list and that any material used in a classroom must also be free of such content.

The bill does not have a fiscal impact to the state. The fiscal impact of the bill to school districts is indeterminate.

The bill takes effect July 1, 2017.

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

STORAGE NAME: h0989c.EDC.DOCX

DATE: 4/4/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.¹

“Instructional materials” are items having intellectual content that serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.² Other materials that are not by definition an instructional material, such as novels and periodicals, may be used in a classroom, made available in a school library, or included on a course reading list.

Whether adopted and purchased through a district-implemented instructional materials review program, adopted and purchased from the state-adopted list, or otherwise made available in a classroom, the school district is responsible for the content of all instructional materials used in the classroom.³ Any instructional material containing pornography or is a prohibited material that is harmful to minors⁴ may not be used or made available within any public school.⁵

Prior to the purchase of any instructional material, the board must:

- establish a process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the required school board hearing and public meeting. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption;
- conduct an open, noticed school board hearing to receive public comment on the recommended instructional materials;
- conduct an open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased. This public meeting must be held on a different date than the school board hearing;
- provide notice for the school board hearing and the public meeting that specifically states the instructional materials being reviewed and how the instructional materials can be accessed for public review;
- establish a process for public comment on, and review of, the recommended instructional materials.⁶

¹ Section 1006.40(2), F.S. “Adequate instructional materials” means a “sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature.” Section 1006.28(1), F.S. Digital and instructional materials, including software applications, must be provided by each school board, in consultation with the district school superintendent, to students with disabilities in prekindergarten through grade 12. Section 1003.4203(2), F.S.

² Section 1006.29(2), F.S.

³ Section 1006.28(1)(a)1., F.S.

⁴ See s. 847.012, F.S. (establishing a criminal offense for the sale, rent, or distribution of certain materials to minors or posting of such materials at a school).

⁵ Section 1006.34(2)(b), F.S. (flush-left provisions at the end of paragraph (b)).

⁶ Sections 1006.40(5) and 1006.283(2)(b)8., 9., and 11., F.S.

In addition, the school board must establish a process by which the district notifies parents of their ability to access their children’s instructional materials. The notification must be displayed prominently on the school district’s website and provided annually in written format to all parents of enrolled students.⁷

Once instructional materials are adopted and purchased by the district school board pursuant to the state instructional materials program or its own instructional materials program, each district school board must establish a process enabling parents to contest the adoption of a specific instructional material. A parent seeking to challenge an adopted instructional material must file a petition, on a form provided by the school board, within 30 days after the adoption of the material by the school board. The form must be signed by the parent, include the required contact information, and state the objection to the instructional material.⁸ Districts must also establish a process by which parents may challenge their child’s use of an instructional material and which provides for resolution of objections.⁹

Under the law, materials that are not adopted and purchased from the state-adopted list or through a district’s instructional materials program can be made available to students by the school district without undergoing the above notice, review, and comment procedures or the adoption appeal procedures. The law does not expressly require districts to make appeal and objection procedures available to other members of the public, such as residents of the county.

Funding for instructional materials is provided annually by the Legislature in the General Appropriations Act (GAA). The following chart shows a five year history of GAA funding for instructional materials:

Instructional Materials Funding History	
Fiscal Year	Amount
2012-13 ¹⁰	\$211,665,913
2013-14 ¹¹	\$217,277,372
2014-15 ¹²	\$223,382,911
2015-16 ¹³	\$225,830,113
2016-17 ¹⁴	\$228,792,422

Up to 50 percent of the annual allocation provided in the General Appropriations Act for instructional materials may be used by school districts to purchase materials not on the state-adopted list, including library and reference books and nonprint materials, and for the repair and renovation of textbooks and library books. The remainder of the allocation must be used to purchase “digital or electronic instructional materials that align with state standards included on the state-adopted instructional materials list.”¹⁵ Instructional materials funds available after March 1 may be used to purchase hardware for student instruction.¹⁶ In any year in which the total instructional materials allocation for a school district has not been expended or obligated prior to June 30, the district school board must carry forward the unobligated amount and must add that amount to the next year’s allocation.¹⁷

⁷ Section 1006.283(2)(b)11., F.S.

⁸ Section 1006.28(1)(a)3., F.S.

⁹ Section 1006.28(1)(a)2., F.S.

¹⁰ Specific Appropriations 6, s. 1 and 84, s. 2, ch. 2012-118, L.O.F.

¹¹ Specific Appropriations 7, s. 1 and 87, s. 2, ch. 2013-40, L.O.F.

¹² Specific Appropriations 9, s. 1 and 96, s. 2, ch. 2014-51, L.O.F.

¹³ Specific Appropriations 7, s. 1 and 90, s. 2, ch. 2015-232, L.O.F.

¹⁴ Specific Appropriations 7, s. 1 and 94, s. 2, ch. 2016-66, L.O.F.

¹⁵ Sections 1006.28(1)(a)1. and 1006.40(3), F.S. Materials not on the state adopted list include library books, reference books, and non-print materials. Section 1006.40(3)(b)., F.S.

¹⁶ Section 1011.62(6)(b)5., F.S.

¹⁷ Section 1006.40(7), F.S.

Materials purchased by a school district that are not on the state-adopted list or otherwise made available in a classroom might not undergo any adoption review or public review process.¹⁸

State Instructional Materials Adoption

Adoption Process

The Commissioner of Education adopts instructional materials according to a 5-year rotating schedule. However, the commissioner may approve terms of adoption of less than five years for materials in content areas which require more frequent revision.¹⁹ The Department of Education (DOE) annually publishes an official schedule of subject areas calling for adoption for each of the succeeding two years, and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct the DOE to add one or more subject areas to the official schedule.²⁰

Before the adoption of instructional materials in a certain subject area, the DOE publishes specifications for the subjects to be adopted. These specifications detail the courses for which materials are sought and the standards the materials must meet.²¹

Beginning on or before May 15 of the adoption year, the DOE advertises²² a request for sealed bids or proposals from publishers of instructional materials. The advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.²³

Once all bids have been considered, the commissioner selects and adopts, from the list reported by the state instructional materials reviewers as “suitable, usable, and desirable” instructional materials for each grade and subject in the curriculum of public elementary, middle, and high schools in which adoptions are made and in the subject areas designated in the advertisement.²⁴

Reviewers

State instructional materials reviewers are state or national content experts appointed by the Commissioner of Education. The reviewers must be appointed by April 15 of each school year to review the instructional materials slated for adoption and evaluate the content for alignment with applicable state standards.²⁵

State instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.²⁶ After receiving training, the reviewers must review the materials for the level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials must be made electronically available to the reviewers.²⁷

The initial review of the materials is made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer must break the tie. The reviewers must independently make

¹⁸ *E.g.*, novels that are included in a recommended or required reading list or checked out of the school library by the classroom teacher or a student.

¹⁹ Section 1006.36(1), F.S.

²⁰ Section 1006.36(2), F.S.

²¹ Florida Department of Education, Bureau of Curriculum and Instruction, *Policies and Procedures Specifications for the Florida Instructional Materials Adoption*, at 1 (June 2016), incorporated by reference into rule 6A-7.0710, F.A.C.

²² Beginning in FY 2010-11, all advertisements must state that each bidder must furnish electronic sample copies of all instructional materials submitted. Section 1006.33(1)(b), F.S.

²³ Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

²⁴ Section 1006.34(2)(a), F.S.

²⁵ Section 1006.29(1)(b), F.S.

²⁶ Section 1006.29(5), F.S.

²⁷ Section 1006.29(1)(b), F.S.

recommendations to the commissioner regarding materials that should be placed on the state-adopted list through an electronic feedback review system.²⁸

Each state instructional materials reviewer must sign an affidavit stating that he or she:

- will faithfully discharge the duties imposed as a state instructional materials reviewer;
- has no interest in any publishing or manufacturing organization that produces or sells instructional materials;
- is in no way connected with the distribution of the instructional materials;
- does not have any direct or indirect pecuniary interest in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in public schools;
- will not accept any emolument or promise of future reward from anyone intending to bias his or her judgment in the selection of materials to be adopted; and
- understands that it is unlawful to discuss matters relating to instructional materials submitted for adoption with any publisher or manufacturer of instructional materials, except during the period when the publisher or manufacturer is providing a presentation for the reviewer.²⁹

The law specifies standards that reviewers must use when reviewing instructional materials. Reviewers must:

- only recommend instructional materials that are accurate, objective, balanced, noninflammatory, current, and suited to student needs and their ability to comprehend the material;
- include only instructional materials that accurately portray the ethnic, socioeconomic, cultural, religious, physical, and racial diversity of our society;
- include only materials that accurately portray, whenever appropriate, humankind's place in ecological systems;
- include materials that encourage thrift, fire prevention, and humane treatment of people and animals;
- require, when appropriate to the comprehension of students, that materials for social science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States; and
- only recommend instructional materials that do not reflect unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, religion, disability, socioeconomic status, or occupation.³⁰

Each district school superintendent, at the request of the commissioner, must nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts must ensure that these district reviewers are provided with the support and time necessary to accomplish a thorough review of the instructional materials. District reviewers must independently rate the recommended submissions on the instructional usability of the resources.³¹ Persons selected as school district reviewers must complete training, developed by DOE, related to the evaluation and selection of instructional materials.³²

District Instructional Materials Programs

A district school board, or consortium of school districts, choosing to implement its own instructional materials program is not required to purchase instructional materials from the state-adopted list,³³

²⁸ *Id.*

²⁹ Section 1006.30, F.S.

³⁰ Section 1006.31(2), F.S.

³¹ Section 1006.29(1)(c), F.S.

³² Section 1006.29(5), F.S.

³³ Section 1006.40(8), F.S.

requisition instructional materials from the publisher's depository,³⁴ or follow the same review cycle used for state instructional materials adoption.³⁵

If a district school board chooses to implement its own instructional materials program, the school board must adopt rules implementing the program. The rules must include its processes, criteria, and requirements for:

- selecting instructional materials reviewers, one or more of which must be a parent with children in public schools;
- reviewing and selecting instructional materials, including a thorough review of curriculum content;
- providing for reviewer recommendations;
- adopting instructional materials by the district school board; and
- purchasing instructional materials.³⁶

The rules must also:³⁷

- identify, by subject area, a review cycle for instructional materials;
- specify the qualifications for, selection process for, and the duties of instructional materials reviewers, including compliance with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties;
- require that all instructional materials recommended by a reviewer be accompanied by the reviewer's statement that the materials align with the applicable state standards;
- establish a process for certifying the accuracy of instructional materials;
- require reviewer and publisher compliance with the law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials,³⁸ and
- incorporate the requirements of state law regarding publisher duties, responsibilities, and requirements.³⁹

Further, the rules must provide for:

- conducting an open, noticed school board hearing to receive public comment on the instructional materials recommended for adoption by the district school board;
- conducting an open, noticed meeting, held on a different date, to approve an annual plan for adopting instructional materials; and
- posting student editions of instructional materials recommended for adoption by the district school board on the school district website at least 20 days in advance of public hearings and public meetings.⁴⁰

Notices for public meetings and hearings must specifically identify the materials up for review and adoption and the manner in which the materials can be accessed by the public.⁴¹

³⁴ Section 1006.37(3), F.S.

³⁵ See s. 1006.283(2)(b), F.S. However, the district school superintendent must certify to the Department of Education by March 31 of each year that all instructional materials for core courses used by the district are aligned with applicable state standards. A list of the core instructional materials that will be used or purchased for use by the school district must be included in the certification. Section 1006.283(1), F.S.

³⁶ Section 1006.283(2)(a), F.S.

³⁷ Section 1006.283(2)(b), F.S.

³⁸ Like state instructional materials reviewers, district reviewers must sign an affidavit required under s. 1006.30, F.S., stating, in part, that they will faithfully discharge their duties and not accept payment or benefit from anyone for their recommendations. Section 1006.283(2)(b)3., F.S.

³⁹ See s. 1006.38, F.S.

⁴⁰ Section 1006.283(2)(b)8., F.S.

⁴¹ Sections 1006.283(2)(b)8. and 1006.40(5)(b), F.S. Reasonable safeguards must be established against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment. Section 1006.283(2)(b)8.a., F.S.

The district must establish a process that enables the public to submit comments regarding the recommended instructional materials to the school board for the board members to review. The rules must also specify a process for notifying parents of their ability to access their child's instructional materials. This notification must be displayed on the school district's website and provided annually, in writing, to all parents of enrolled students.⁴²

Requirements related to the adoption and purchase of instructional materials do not apply to charter schools.⁴³

Effect of Proposed Changes

The bill clarifies that a district school board is responsible for any material used in a classroom, made available in a school library, or included on a reading list.

The bill also revises provisions relating to instructional materials content by:

- specifying that instructional materials reviewers must certify that recommended instructional materials are free of pornography and material harmful to minors;
- specifying that any materials purchased using the instructional materials allocation must be:
 - free of pornography and material harmful to minors;
 - suited to student needs and their ability to comprehend the material presented; and
 - appropriate for the grade level and age group for which the materials are used or made available; and
- specifying that instructional materials that are purchased by a school district but are not included on the state-adopted list must meet the criteria for state-adopted materials, be aligned to the state academic standards, and be consistent with course expectations based on the district's student progression plan⁴⁴ and course descriptions adopted in state board rule.

The bill expands requirements related to reviewing instructional materials and other materials used in a classroom or school library by:

- specifying that the school district public hearing for recommended instructional materials must allow the parent of a public school student or a resident of the county to proffer evidence that a recommended instructional material does not meet the criteria for state-adopted materials, taking into consideration course expectations in the district's student progression plan and course descriptions adopted in state board rule;
- requiring school districts, upon written request, to provide access to any instructional material or book specified in the request that is maintained in a district school system library and is available for review; and
- Requiring school districts to maintain a current list of all instructional materials, by grade level, purchased by the district.

The bill revises provisions relating to a school district's instructional material objection process by:

- expressly allowing a resident of the county to object to the use of an instructional material; and
- requiring a school district's objection process to allow a parent or resident of the county to proffer evidence to the district school board that:
 - for an instructional material that was not subject to adoption and public review and comment procedures, it does not meet the criteria for state-adopted materials, contains pornography or content harmful to minors, or is inappropriate for the grade level or age group for which it is used; or

⁴² Sections 1006.283(2)(b)9. and 11. and 1006.40(5)(b), F.S.

⁴³ See s. 1002.33(16), F.S.

⁴⁴ Each district school board must establish a comprehensive plan for student progression which provides for a student's progression from one grade to another based on the student's mastery of the state academic standards, specifically in English language arts, mathematics, science, and social studies. See s. 1008.25(2), F.S.

- any material used in a classroom, made available in a school library, or included on a reading list contains content that is pornographic or harmful to minors, is not suited to student needs and their ability to comprehend the material, or is inappropriate for the grade level and age group for which it is used.
- requiring the school district to discontinue use of a material that is found to contain inappropriate or unsuitable material.

The bill revises provisions relating to a school district's process for challenging the adoption of an instructional material by:

- allowing a resident of the county to challenge the school district's adoption of an instructional material; and
- requiring the process to meet the procedural safeguards of ss. 120.569 and 120.57 of the Administrative Procedures Act, making appropriate provision for the appointment of an unbiased and qualified hearing officer. The officer may not be an employee, agent, or contractor of the school district.

The bill revises provisions relating to the use of instructional materials allocation funds by:

- deleting the requirement that at least 50 percent of the annual allocation amount be used to purchase digital or electronic instructional materials;
- requiring that a district without its own instructional materials program must use the annual allocation only for the purchase of instructional materials on the state-adopted list; however, up to 50 percent of the allocation may be used to purchase:
 - library and reference books and nonprint materials;
 - the purchase of other materials that assist in the instruction of a subject or course, including novels; and
 - the repair and renovation of textbooks and library books and replacements for items which were part of previously purchased instructional materials; and
- clarifying that a district school board is responsible for the content of all materials purchased using the allocation and used in the classroom or otherwise made available to students, including materials that do not meet the definition of an "instructional material."

The bill expressly prohibits a state instructional materials reviewer from recommending for adoption any instructional material that contains content that is pornographic or harmful to minors.

B. SECTION DIRECTORY:

Section 1. Amends s. 1006.28, F.S., revising provisions relating to a district school board's responsibilities; requiring a school district to maintain certain information on its website; allowing a resident of a county to challenge the use or adoption of instructional materials; revising requirements for instructional materials objection and appeal processes; requiring a school district to discontinue use of materials in certain circumstances; requiring compliance with certain procedural safeguards for a challenge to the adoption of an instructional material; requiring a school district to provide access to school library materials upon written request.

Section 2. Amends s. 1006.283, F.S., revising requirements for an instructional materials adoption public hearing.

Section 3. Amends s. 1006.31, F.S., revising requirements for recommending an instructional material.

Section 4. Amends s. 1006.40, F.S., revising requirements for use of the instructional materials allocation; making conforming changes.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

District school boards may incur costs associated with the procedures for challenging an instructional material as provided in the bill. However, these costs are indeterminate.

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

On March 27, 2017, the House PreK-12 Quality Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The proposed committee substitute differs from the bill as originally filed by:

- eliminating changes to provisions related to the state's academic standards;

- requiring a district school board to provide an unbiased, qualified hearing officer for challenges to the adoption of an instructional material and preserving language stating a that district school board's decision is not subject to further petition or review;
- requiring that county residents have the opportunity to object to the use of a material and challenge the adoption of an instructional material;
- eliminating language granting persons who pay ad valorem or sales tax in the state the ability to object to the use of an instructional material;
- eliminating language requiring the use of an "instructional materials review committee" as part of the instructional materials adoption process;
- deleting superfluous language referring to instructional materials which are leased, licensed, acquired, or used as well as those that are purchased;
- deleting language requiring schools to provide parents and persons who pay ad valorem or sales taxes in the state "full access" to materials in school libraries and instead requiring districts to provide access to library materials upon written request; and
- requiring a school district to maintain a list on its website of instructional materials purchased by the district.

The analysis is drafted to reflect the committee substitute.

1 A bill to be entitled
 2 An act relating to instructional materials; amending
 3 s. 1006.28, F.S.; revising provisions relating to a
 4 district school board's responsibilities relating to
 5 instructional materials; requiring a school district
 6 to maintain certain information on its website;
 7 allowing a resident of a county to challenge the use
 8 or adoption of instructional materials; revising the
 9 requirements relating to the district school board
 10 process for objecting to or appealing the use or
 11 adoption of instructional materials; requiring a
 12 school district to discontinue use of materials under
 13 certain circumstances; requiring compliance with
 14 certain procedural safeguards for a challenge to the
 15 adoption of instructional materials; requiring a
 16 school district to provide access to school library
 17 materials upon written request; amending s. 1006.283,
 18 F.S.; revising the requirements for an instructional
 19 materials adoption public hearing; amending s.
 20 1006.31, F.S.; revising the requirements for
 21 evaluation of instructional materials to conform to
 22 changes made by the act; amending s. 1006.40, F.S.;
 23 revising provisions relating to the use of the
 24 instructional materials allocation to conform to
 25 changes made by the act; providing an effective date.

26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

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

Section 1. Subsection (1) of section 1006.28, Florida Statutes, is amended to read:

1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—

(1) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The term "instructional materials" has the same meaning as provided in s. 1006.29(2).

The term "adequate instructional materials" means a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core subject areas of mathematics, language arts, social studies, science, reading, and literature. The district school board has the following specific duties and responsibilities:

(a) *Courses of study; adoption.*—Adopt courses of study, including instructional materials, for use in the schools of the

51 district.

52 1. Each district school board is responsible for the
 53 content of all instructional materials and any other materials
 54 used in a classroom, made available in a school library, or
 55 included on a reading list, whether adopted and purchased from
 56 the state-adopted instructional materials list, adopted and
 57 purchased through a district instructional materials program
 58 under s. 1006.283, or otherwise purchased or made available ~~in~~
 59 ~~the classroom~~. Each district school board shall maintain on its
 60 website a current list of instructional materials, by grade
 61 level, purchased by the district.

62 2. Each district school board must adopt a policy
 63 regarding an a parent's objection by a parent or a resident of
 64 the county to the his or her child's use of a specific
 65 instructional material, which clearly describes a process to
 66 handle all objections and provides for resolution. The process
 67 must provide the parent or resident the opportunity to proffer
 68 evidence to the district school board that:

69 a. An instructional material does not meet the criteria of
 70 s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in
 71 a course or otherwise made available to students in the school
 72 district but was not subject to the public notice, review,
 73 comment, and hearing procedures under s. 1006.283(2)(b)8., 9.,
 74 and 11.

75 b. Any material used in a classroom, made available in a

76 school library, or included on a reading list contains content
77 that is pornographic or prohibited under s. 847.012, is not
78 suited to student needs and their ability to comprehend the
79 material presented, or is inappropriate for the grade level and
80 age group for which the material is used.

81
82 If the district school board finds that an instructional
83 material does not meet the criteria under sub-subparagraph a. or
84 that any other material contains prohibited content under sub-
85 subparagraph b., the school district shall discontinue use of
86 the material for any grade level or age group for which such use
87 is inappropriate or unsuitable.

88 3. Each district school board must establish a process by
89 which the parent of a public school student or a resident of the
90 county may contest the district school board's adoption of a
91 specific instructional material. The parent or resident must
92 file a petition, on a form provided by the school board, within
93 30 calendar days after the adoption of the material by the
94 school board. The school board must make the form available to
95 the public and publish the form on the school district's
96 website. The form must be signed by the parent or resident,
97 include the required contact information, and state the
98 objection to the instructional material based on the criteria of
99 s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-
100 day period has expired, the school board must, for all petitions

101 timely received, conduct at least one open public hearing
 102 providing as a minimum the procedural safeguards of ss. 120.569
 103 and 120.57, making appropriate provision for the appointment of
 104 unbiased and qualified hearing officers. A hearing officer may
 105 not be an employee, agent, or contractor of the school district
 106 ~~on all petitions timely received and provide the petitioner~~
 107 ~~written notification of the date and time of the hearing at~~
 108 ~~least 7 days before the hearing. All instructional materials~~
 109 ~~contested must be made accessible online to the public at least~~
 110 ~~7 days before a public hearing.~~

111
 112 The school board's decision after convening a hearing is final
 113 and not subject to further petition or review.

114 (b) *Instructional materials.*—Provide for proper
 115 requisitioning, distribution, accounting, storage, care, and use
 116 of all instructional materials and furnish such other
 117 instructional materials as may be needed. Instructional
 118 materials used must be consistent with the district goals and
 119 objectives and the course descriptions established in rule of
 120 the State Board of Education, as well as with the applicable
 121 Next Generation Sunshine State Standards provided for in s.
 122 1003.41.

123 (c) *Other instructional materials.*—Provide such other
 124 teaching accessories and aids as are needed for the school
 125 district's educational program.

126 (d) *School library media services; establishment and*
 127 *maintenance.*—Establish and maintain a program of school library
 128 media services for all public schools in the district, including
 129 school library media centers, or school library media centers
 130 open to the public, and, in addition such traveling or
 131 circulating libraries as may be needed for the proper operation
 132 of the district school system. Upon written request, a school
 133 district shall provide access to any instructional material or
 134 book specified in the request that is maintained in a district
 135 school system library and is available for review.

136 Section 2. Paragraph (b) of subsection (2) of Section
 137 1006.283, Florida Statutes, is amended to read:

138 1006.283 District school board instructional materials
 139 review process.—

140 (2)

141 (b) District school board rules must also:

142 1. Identify, by subject area, a review cycle for
 143 instructional materials.

144 2. Specify the qualifications for an instructional
 145 materials reviewer and the process for selecting reviewers; list
 146 a reviewer's duties and responsibilities, including compliance
 147 with the requirements of s. 1006.31; and provide that all
 148 instructional materials recommended by a reviewer be accompanied
 149 by the reviewer's statement that the materials align with the
 150 state standards pursuant to s. 1003.41 and the requirements of

151 s. 1006.31.

152 3. State the requirements for an affidavit to be made by
 153 each district instructional materials reviewer which
 154 substantially meet the requirements of s. 1006.30.

155 4. Comply with s. 1006.32, relating to prohibited acts.

156 5. Establish a process that certifies the accuracy of
 157 instructional materials.

158 6. Incorporate applicable requirements of s. 1006.31,
 159 which relates to the duties of instructional materials
 160 reviewers.

161 7. Incorporate applicable requirements of s. 1006.38,
 162 relating to the duties, responsibilities, and requirements of
 163 publishers of instructional materials.

164 8. Establish the process by which instructional materials
 165 are adopted by the district school board, which must include:

166 a. A process to allow student editions of recommended
 167 instructional materials to be accessed and viewed online by the
 168 public at least 20 calendar days before the school board hearing
 169 and public meeting as specified in this subparagraph. This
 170 process must include reasonable safeguards against the
 171 unauthorized use, reproduction, and distribution of
 172 instructional materials considered for adoption.

173 b. An open, noticed school board hearing to receive public
 174 comment on the recommended instructional materials.

175 c. An open, noticed public meeting to approve an annual

176 instructional materials plan to identify any instructional
 177 materials that will be purchased through the district school
 178 board instructional materials review process pursuant to this
 179 section. This public meeting must be held on a different date
 180 than the school board hearing.

181 d. Notice requirements for the school board hearing and
 182 the public meeting that must specifically state which
 183 instructional materials are being reviewed and the manner in
 184 which the instructional materials can be accessed for public
 185 review. The hearing must allow the parent of a public school
 186 student or a resident of the county to proffer evidence that a
 187 recommended instructional material does not meet the criteria
 188 provided in s. 1006.31(2), taking into consideration course
 189 expectations based on the district's comprehensive plan for
 190 student progression under s. 1008.25(2) and course descriptions
 191 in the course code directory.

192 9. Establish the process by which the district school
 193 board shall receive public comment on, and review, the
 194 recommended instructional materials.

195 10. Establish the process by which instructional materials
 196 will be purchased, including advertising, bidding, and
 197 purchasing requirements.

198 11. Establish the process by which the school district
 199 will notify parents of their ability to access their children's
 200 instructional materials through the district's local

201 instructional improvement system and by which the school
 202 district will encourage parents to access the system. This
 203 notification must be displayed prominently on the school
 204 district's website and provided annually in written format to
 205 all parents of enrolled students.

206 Section 3. Subsection (2) of section 1006.31, Florida
 207 Statutes, is amended to read:

208 1006.31 Duties of the Department of Education and school
 209 district instructional materials reviewer.—The duties of the
 210 instructional materials reviewer are:

211 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To use the
 212 selection criteria listed in s. 1006.34(2)(b) and recommend for
 213 adoption only those instructional materials aligned with the
 214 Next Generation Sunshine State Standards provided for in s.
 215 1003.41. Instructional materials recommended by each reviewer
 216 shall be, to the satisfaction of each reviewer, accurate,
 217 objective, balanced, noninflammatory, current, free of
 218 pornography and material prohibited under s. 847.012, and suited
 219 to student needs and their ability to comprehend the material
 220 presented. Reviewers shall consider for recommendation materials
 221 developed for academically talented students, such as students
 222 enrolled in advanced placement courses. When recommending
 223 instructional materials, each reviewer shall:

224 (a) Include only instructional materials that accurately
 225 portray the ethnic, socioeconomic, cultural, religious,

226 physical, and racial diversity of our society, including men and
 227 women in professional, career, and executive roles, and the role
 228 and contributions of the entrepreneur and labor in the total
 229 development of this state and the United States.

230 (b) Include only materials that accurately portray,
 231 whenever appropriate, humankind's place in ecological systems,
 232 including the necessity for the protection of our environment
 233 and conservation of our natural resources and the effects on the
 234 human system of the use of tobacco, alcohol, controlled
 235 substances, and other dangerous substances.

236 (c) Include materials that encourage thrift, fire
 237 prevention, and humane treatment of people and animals.

238 (d) Require, when appropriate to the comprehension of
 239 students, that materials for social science, history, or civics
 240 classes contain the Declaration of Independence and the
 241 Constitution of the United States. A reviewer may not recommend
 242 any instructional materials that contain any matter reflecting
 243 unfairly upon persons because of their race, color, creed,
 244 national origin, ancestry, gender, religion, disability,
 245 socioeconomic status, or occupation.

246 Section 4. Subsections (3) through (8) of section 1006.40,
 247 Florida Statutes, are amended to read:

248 1006.40 Use of instructional materials allocation;
 249 instructional materials, library books, and reference books;
 250 repair of books.-

251 (3) (a) Except for a school district or a consortium of
 252 school districts that implements an instructional materials
 253 program pursuant to s. 1006.283 ~~Beginning with the 2015-2016~~
 254 ~~fiscal year~~, each district school board shall use ~~at least 50~~
 255 ~~percent of~~ the annual allocation only for the purchase of
 256 ~~digital or electronic~~ instructional materials that align with
 257 state standards and are included on the state-adopted list,
 258 except as otherwise authorized in paragraphs (b) and (c).

259 (b) Up to 50 percent of the annual allocation may be used
 260 for:

261 1. The purchase of instructional materials, including
 262 library and reference books and nonprint materials, not included
 263 on the state-adopted list and for the repair and renovation of
 264 textbooks and library books.

265 2. The purchase of other materials having intellectual
 266 content which assist in the instruction of a subject or course.
 267 These materials may be available in bound, unbound, kit, or
 268 package form and may consist of hardbacked or softbacked
 269 textbooks, novels, electronic content, consumables, learning
 270 laboratories, manipulatives, electronic media, computer
 271 courseware or software, and other commonly accepted
 272 instructional tools as prescribed by district school board rule.

273 3. The repair and renovation of textbooks and library
 274 books and replacements for items which were part of previously
 275 purchased instructional materials.

276 (c) District school boards may use 100 percent of that
 277 portion of the annual allocation designated for the purchase of
 278 instructional materials for kindergarten, and 75 percent of that
 279 portion of the annual allocation designated for the purchase of
 280 instructional materials for first grade, to purchase materials
 281 not on the state-adopted list.

282 (d) Any materials purchased pursuant to this section must
 283 be:

284 1. Free of pornography and material prohibited under s.
 285 847.012.

286 2. Suited to student needs and their ability to comprehend
 287 the material presented.

288 3. Appropriate for the grade level and age group for which
 289 the materials are used or made available.

290 ~~(4) The funds described in subsection (3) which district~~
 291 ~~school boards may use to purchase materials not on the state-~~
 292 ~~adopted list shall be used for the purchase of instructional~~
 293 ~~materials or other items having intellectual content which~~
 294 ~~assist in the instruction of a subject or course. These items~~
 295 ~~may be available in bound, unbound, kit, or package form and may~~
 296 ~~consist of hardbacked or softbacked textbooks, electronic~~
 297 ~~content, replacements for items which were part of previously~~
 298 ~~purchased instructional materials, consumables, learning~~
 299 ~~laboratories, manipulatives, electronic media, computer~~
 300 ~~courseware or software, and other commonly accepted~~

301 ~~instructional tools as prescribed by district school board rule.~~

302 (4)~~(5)~~ Each district school board is responsible for the
 303 content of all ~~instructional~~ materials used in a classroom or
 304 otherwise made available to students, whether purchased through
 305 ~~an adoption process or otherwise purchased or made available in~~
 306 ~~the classroom.~~ Each district school board shall adopt rules, and
 307 each district school superintendent shall implement procedures,
 308 that:

309 (a) Maximize student use of the district-approved
 310 instructional materials.

311 (b) Provide a process for public review of, public comment
 312 on, and the adoption of instructional materials that satisfies
 313 the requirements of s. 1006.283(2)(b)8., 9., and 11.

314 (5)~~(6)~~ District school boards may issue purchase orders
 315 subsequent to February 1 in an aggregate amount which does not
 316 exceed 20 percent of the current year's allocation, and
 317 subsequent to April 1 in an aggregate amount which does not
 318 exceed 90 percent of the current year's allocation, for the
 319 purpose of expediting the delivery of instructional materials
 320 which are to be paid for from the ensuing year's allocation.
 321 This subsection does not apply to a district school board or a
 322 consortium of school districts that implements an instructional
 323 materials program pursuant to s. 1006.283.

324 (6)~~(7)~~ In any year in which the total instructional
 325 materials allocation for a school district has not been expended

326 or obligated prior to June 30, the district school board shall
 327 carry forward the unobligated amount and shall add it to the
 328 next year's allocation.

329 ~~(7)(8) Subsections (3), (4), and (6) do not apply to A~~
 330 district school board or a consortium of school districts that
 331 implements an instructional materials program pursuant to s.
 332 1006.283 may use the annual allocation to purchase instructional
 333 materials not on the state-adopted list. However, except that,
 334 by the 2015-2016 fiscal year, each district school board shall
 335 use at least 50 percent of the annual instructional materials
 336 allocation for the purchase of digital or electronic
 337 instructional materials purchased pursuant to this section which
 338 are not included on the state-adopted list must meet the
 339 criteria of s. 1006.31(2), that align with state standards
 340 adopted by the State Board of Education pursuant to s. 1003.41,
 341 and be consistent with course expectations based on the
 342 district's comprehensive plan for student progression and course
 343 descriptions adopted in state board rule.

344 Section 5. 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 Donalds offered the following:

Amendment (with title amendment)

Remove lines 34-47 and insert:

(1) DEFINTIONS.-

(a) As used in this section, the term:

8 1. "Adequate instructional materials" means a sufficient
 9 number of student or site licenses or sets of materials that are
 10 available in bound, unbound, kit, or package form and may
 11 consist of hardbacked or softbacked textbooks, electronic
 12 content, consumables, learning laboratories, manipulatives,
 13 electronic media, and computer courseware or software that serve
 14 as the basis for instruction for each student in the core
 15 subject areas of mathematics, language arts, social studies,
 16 science, reading, and literature.



Amendment No. 1

17 2. "Instructional materials" has the same meaning as in s.
18 1006.29(2).

19 (b) As used in this section and s. 1006.283, the term
20 "resident" means a person who has maintained his or her
21 residence in this state for the preceding year, has purchased a
22 home that is occupied by him or her as his or her residence, or
23 has established a domicile in this state pursuant to s. 222.17.

24 (c) As used in this section and ss. 1006.283, 1006.32,
25 1006.35, 1006.37, 1006.38, 1006.40, and 1006.42, the term
26 "purchase" includes purchase, lease, license, and acquire.

27 (2)(1) ~~DISTRICT SCHOOL BOARD.~~—The district school board
28 has the constitutional duty and responsibility to select and
29 provide adequate instructional materials for all students in
30 accordance with the requirements of this part. ~~The term~~
31 ~~"adequate instructional materials" means a sufficient number of~~
32 ~~student or site licenses or sets of materials that are available~~
33 ~~in bound, unbound, kit, or package form and may consist of~~
34 ~~hardbacked or softbacked textbooks, electronic content,~~
35 ~~consumables, learning laboratories, manipulatives, electronic~~
36 ~~media, and computer courseware or software that serve as the~~
37 ~~basis for instruction for each student in the core subject areas~~
38 ~~of mathematics, language arts, social studies, science, reading,~~
39 ~~and literature.~~ The district school board also has

40 -----
41 -----



Amendment No. 1

42
43
44

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

Remove line 3 and insert:
defining terms; revising provisions relating to a



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment

Remove lines 101-110 and insert:

3
 4
 5
 6 timely received, conduct at least one open public hearing before
 7 an unbiased and qualified hearing officer. The hearing officer
 8 may not be an employee or agent of the school district on all
 9 petitions timely received and provide the petitioner written
 10 notification of the date and time of the hearing at least 7 days
 11 before the hearing. All instructional materials contested must
 12 be made accessible online to the public at least 7 days before a
 13 public hearing. The hearing is not subject to the provisions of
 14 chapter 120; however, the hearing must provide sufficient
 15 procedural protections to allow each petitioner an adequate and



Amendment No. 2

16 | fair opportunity to be heard and present evidence to the hearing
17 | officer.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1079 Pub. Rec. and Meetings/Campus Emergency Response for Public Postsecondary Educational Institutions
SPONSOR(S): Oversight, Transparency & Administration Subcommittee; Rommel and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1224

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	14 Y, 0 N	McAlarney DM	Bishop
2) Oversight, Transparency & Administration Subcommittee	13 Y, 0 N, As CS	Moore	Harrington
3) Education Committee		McAlarney DM	Hassell

SUMMARY ANALYSIS

The bill creates an exemption from public record and public meeting requirements for information associated with a campus emergency response of a public postsecondary educational institution. "Campus emergency response" is defined as a public postsecondary educational institution's response to or plan for responding to an act of terrorism or other public safety crisis or emergency.

The bill provides that any portion of a campus emergency response held by a public postsecondary educational institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management is exempt from public record requirements. This exemption applies to plans held by a custodial agency before, on, or after the effective date of the bill.

The bill also provides that the portion of a public meeting which would reveal information related to a campus emergency response is exempt from public meeting requirements.

The bill provides for repeal of the exemptions on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record.

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district at which official acts are to be taken or at which public business of such body is to be transacted or discussed be open and noticed to the public.

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires that all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, at which official acts are to be taken be open to the public at all times.¹ The board or commission must provide reasonable notice of all public meetings.² Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.³ Minutes of a public meeting must be promptly recorded and open to public inspection.⁴

Public Record and Public Meeting Exemptions

The Legislature may provide by general law for the exemption of records and meetings from the requirements of Article I, s. 24(a) and (b) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.⁵

Furthermore, the Open Government Sunset Review Act⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:⁷

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;

¹ Section 286.011(1), F.S.

² *Id.*

³ Section 286.011(6), F.S.

⁴ Section 286.011(2), F.S.

⁵ Art. I, s. 24(c), Fla. Const.

⁶ Section 119.15, F.S.

⁷ Section 119.15(6)(b), F.S.

- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protects trade or business secrets.

The Open Government Sunset Review Act requires the automatic repeal of a newly created exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.⁸

Current Security Plans

Section 119.071(3), F.S. provides that "security system plans" for any property owned by or leased to the state or any of its political subdivisions or any privately owned or leased property held by an agency are confidential and exempt from public record requirements. Security system plans include:⁹

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems;¹⁰
- Threat assessments conducted by any agency or any private entity;¹¹
- Threat response plans;¹²
- Emergency evacuation plans;¹³
- Sheltering arrangements;¹⁴ or
- Manuals for security personnel, emergency equipment, or security training.¹⁵

In addition, a portion of a meeting that would reveal a security system plan or portion thereof is exempt from public meeting requirements.¹⁶

Assuming that Florida public universities are considered "owned by or leased to the state," there is an open question as to whether a discussion or record concerning a campus emergency plan would be exempt. Courts would likely decide the applicability of the security exception to state universities on a case-by-case basis.

Effect of Proposed Changes

The bill creates an exemption from public record requirements for information associated with the campus emergency response of a public postsecondary educational institution.

"Campus emergency response" is defined as a public postsecondary educational institution's response to or plan for responding to an act of terrorism or other public safety crisis or emergency. Specifically, the term includes:

- Records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof.
- Threat assessments conducted by any agency or private entity.
- Threat response plans.
- Emergency evacuation plans.
- Sheltering arrangements.

⁸ Section 119.15(3), F.S.

⁹ Section 119.071(3)(a) 1., F.S.

¹⁰ Section 119.071(3)(a)1.a, F.S.

¹¹ Section 119.071(3)(a)1.b., F.S.

¹² Section 119.071(3)(a)1.c., F.S.

¹³ Section 119.071(3)(a)1.d., F.S.

¹⁴ Section 119.071(3)(a)1.e., F.S.

¹⁵ Section 119.071(3)(a)1.f., F.S.

¹⁶ Section 286.0113, F.S.

- Manuals for security personnel, emergency equipment, or security training.
- Security systems or plans.
- Vulnerability analyses.
- Post-disaster activities, including provisions for emergency power, communications, food, and water.
- Post-disaster transportation.
- Supplies, including drug caches.
- Staffing.
- Emergency equipment.
- Individual identification of students, faculty, and staff; the transfer of records; and methods of responding to family inquiries.

The bill provides that any portion of a campus emergency response held by a public postsecondary educational institution, a state or local law enforcement agency, a county or municipal emergency management agency, the Executive Office of the Governor, the Department of Education, the Board of Governors of the State University System, or the Division of Emergency Management is exempt¹⁷ from public record requirements. The bill is remedial in nature in that the public record exemptions apply to campus emergency responses held by a custodial agency before, on, or after the bill's effective date.

The bill specifies that the exempt information may be disclosed:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

The bill also addresses public meetings. The portion of a public meeting which would reveal information related to a campus emergency response is exempt from the open meeting laws.

The bill provides that the exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.0962, F.S., to provide public record and public meeting exemptions associated with campus emergency response plans of a public postsecondary educational institution.

Section 2. Provides a statement of public necessity as required by the State Constitution.

Section 3. Provides an effective date of July 1, 2017.

¹⁷ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in statute. See Attorney General Opinion 85-62 (August 1, 1985).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may create a minimal fiscal impact on state universities and FCS institutions because staff responsible for complying with public record requests could require training related to creation of the public record exemption. In addition, state universities and FCS institutions could incur costs associated with redacting the exempt information prior to releasing a record. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the universities and institutions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

Vote Requirement

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

Public Necessity Statement

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

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for information associated with campus emergency responses of a public postsecondary educational institution, in addition to a public meeting exemption for any portion of a meeting wherein such information is discussed. The exemptions do not appear to be in conflict with the constitutional requirement that the exemptions be no broader than necessary to accomplish the stated purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2017, the Oversight, Transparency & Administration Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment corrected a drafting error and specified that the exempt information may be disclosed:

- To another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; or
- Upon a showing of good cause before a court of competent jurisdiction.

The analysis is drafted to the committee substitute as adopted by the Oversight, Transparency & Administration Subcommittee.

1 A bill to be entitled
 2 An act relating to public records and public meetings;
 3 creating s. 1004.0962, F.S.; providing an exemption
 4 from public records requirements for those portions of
 5 a campus emergency response which address the response
 6 of a public postsecondary educational institution to
 7 an act of terrorism or other public safety crisis or
 8 emergency; providing for the disclosure of exempt
 9 information under certain circumstances; providing an
 10 exemption from public meeting requirements for any
 11 portion of a public meeting which would reveal those
 12 portions of a campus emergency response which address
 13 the response of a public postsecondary educational
 14 institution to an act of terrorism or other public
 15 safety crisis or emergency; providing for future
 16 legislative review and repeal of the exemptions;
 17 providing a statement of public necessity; providing
 18 an effective date.

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

21
 22 Section 1. Section 1004.0962, Florida Statutes, is created
 23 to read:

24 1004.0962 Campus emergency response of a public
 25 postsecondary educational institution; public records exemption;

26 public meetings exemption.-

27 (1) As used in this section, the term "campus emergency
 28 response" means a public postsecondary educational institution's
 29 response to or plan for responding to an act of terrorism, as
 30 defined by s. 775.30, or other public safety crisis or
 31 emergency, and includes information relating to:

32 (a) Records, information, photographs, audio and visual
 33 presentations, schematic diagrams, surveys, recommendations, or
 34 consultations or portions thereof.

35 (b) Threat assessments conducted by any agency or private
 36 entity.

37 (c) Threat response plans.

38 (d) Emergency evacuation plans.

39 (e) Sheltering arrangements.

40 (f) Manuals for security personnel, emergency equipment,
 41 or security training.

42 (g) Security systems or plans.

43 (h) Vulnerability analyses.

44 (i) Postdisaster activities, including provisions for
 45 emergency power, communications, food, and water.

46 (j) Postdisaster transportation.

47 (k) Supplies, including drug caches.

48 (l) Staffing.

49 (m) Emergency equipment.

50 (n) Individual identification of students, faculty, and

51 staff; the transfer of records; and methods of responding to
 52 family inquiries.

53 (2) (a) Any portion of a campus emergency response held by
 54 a public postsecondary educational institution is exempt from s.
 55 119.07(1) and s. 24(a), Art. I of the State Constitution.

56 (b) Any portion of a campus emergency response held by a
 57 state or local law enforcement agency, a county or municipal
 58 emergency management agency, the Executive Office of the
 59 Governor, the Department of Education, the Board of Governors of
 60 the State University System, or the Division of Emergency
 61 Management is exempt from s. 119.07(1) and s. 24(a), Art. I of
 62 the State Constitution.

63 (3) The public records exemptions provided by this section
 64 are remedial in nature, and it is the intent of the Legislature
 65 that the exemptions apply to campus emergency responses held by
 66 a custodial agency before, on, or after the effective date of
 67 this section.

68 (4) Information made exempt by this section may be
 69 disclosed:

70 (a) To another governmental entity if disclosure is
 71 necessary for the receiving entity to perform its duties and
 72 responsibilities; or

73 (b) Upon a showing of good cause before a court of
 74 competent jurisdiction.

75 (5) That portion of a public meeting which would reveal

76 information related to a campus emergency response is exempt
 77 from s. 286.011 and s. 24(b), Art. I of the State Constitution.

78 (6) This section is subject to the Open Government Sunset
 79 Review Act in accordance with s. 119.15 and shall stand repealed
 80 on October 2, 2022, unless reviewed and saved from repeal
 81 through reenactment by the Legislature.


82 Section 2. The Legislature finds that those portions of a
 83 campus emergency response held by a public postsecondary
 84 educational institution which address the response of a public
 85 postsecondary educational institution to an act of terrorism and
 86 those portions of a campus emergency response of a public
 87 postsecondary educational institution which are filed or shared
 88 with a state or local law enforcement agency, a county or
 89 municipal emergency management agency, the Executive Office of
 90 the Governor, the Department of Education, the Board of
 91 Governors of the State University System, or the Division of
 92 Emergency Management must be made exempt from s. 119.07(1),
 93 Florida Statutes, and s. 24(a), Art. I of the State
 94 Constitution. It is also the finding of the Legislature that any
 95 portion of a public meeting which would reveal information
 96 related to a campus emergency response be made exempt from s.
 97 286.011, Florida Statutes, and s. 24(b), Art. I of the State
 98 Constitution. A campus emergency response affects the health and
 99 safety of the students, faculty, staff, and the public at large.
 100 If campus emergency responses were made publicly available for

101 inspection or copying, they could be used to hamper or disable
102 the response of a public postsecondary educational institution
103 to an act of terrorism, or other public safety crisis or
104 emergency. If a public postsecondary educational institution's
105 response to these events were hampered or disabled, an increase
106 in the number of Floridians subjected to fatal injury would
107 occur. There is ample existing evidence of the capabilities of
108 terrorists and other criminals to plot, plan, and coordinate
109 complicated acts of terror and violence on university and
110 college campuses all over the country. The aftermath of these
111 events has also showed the importance of viable plans by which
112 public postsecondary educational institutions can respond to
113 terrorist attacks and other public safety crises or emergencies.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1111 Teacher Certification
SPONSOR(S): Plasencia
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1474

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N	Brink	Duncan
2) PreK-12 Appropriations Subcommittee	13 Y, 0 N	Seifert	Potvin
3) Education Committee		Brink	 Hassell

SUMMARY ANALYSIS

The bill revises the requirements for a district professional development certification and educator competence program. Under the bill, a temporary certificate holder who completes a Florida Department of Education (DOE) approved program and earns a highly effective rating will qualify for a renewable professional certificate without having to complete additional classwork or pass the Professional Education Test.

The bill allows charter schools and charter management organizations to offer a professional development certification and educator competence program and requires the mentorship and induction component of the program to, at a minimum, provide weekly opportunities for mentoring and induction activities, including:

- common planning time;
- ongoing professional development targeted to the teacher's needs;
- opportunities to observe other teachers;
- co-teaching experiences; and
- reflection and follow-up discussions.

The mentorship and induction activities must be provided for a teacher's first year in the program and may be provided until the teacher attains his or her professional certificate.

The bill requires the DOE to adopt standards for approving a professional development certification and educator competence program, including the mentorship and induction component.

With respect to professional development, the bill allows mentoring activities, including serving as a mentor, to count towards a teacher's inservice requirements for certification renewal. The bill requires professional development activities to provide training to mentors. The training must include components on teacher development, peer coaching, time management, and other related topics as determined by the DOE. The bill requires model professional development programs disseminated by the DOE to include effective mentorship activities to new teachers and training to mentors.

The bill also streamlines the temporary certificate application process.

The bill has no state fiscal impact.

The bill takes effect July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Educator Certification

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the Florida Department of Education (DOE).¹ Persons seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must be certified.² The purpose of certification is to require school-based personnel to “possess the credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in the public schools.”³

The DOE issues three types of educator certificates:

- **Professional Certificate.** The professional certificate is Florida’s highest type of full-time educator certification.⁴ The professional certificate is valid for five years and is renewable.⁵
- **Temporary Certificate.** The temporary certificate covers employment in full-time positions for which educator certification is required.⁶ The temporary certificate is valid for three years and is nonrenewable.⁷
- **Athletic Coaching Certificate.** The athletic coaching certificate covers full-time and part-time employment as a public school’s athletic coach.⁸ DOE issues two types of athletic coaching certificates – one is valid for five years and may be issued for subsequent five-year periods while the other is valid for three years and may be issued only once.⁹ The five-year certificate requires satisfaction of certain specialization requirements established in rule.¹⁰

In addition, school districts are authorized to issue adjunct teaching certificates to part-time teachers who have expertise in the subject area to be taught. An adjunct teaching certificate is valid through the term of the annual contract between the educator and the school district.¹¹

¹ Sections 1012.55(1) and 1002.33(12)(f), F.S.

² Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

³ Section 1012.54, F.S.; *see* rule 6A-4.001(1), F.A.C.

⁴ Rule 6A-4.004(2), F.A.C.

⁵ Section 1012.56(7)(a), F.S.; *see* rule 6A-4.0051(3)(c), F.A.C. (validity period is expressed as 5 years from July 1 of the school fiscal year). DOE also issues a nonrenewable 5-year professional certificate that allows an applicant with a bachelor’s degree in the area of speech-language impairment to complete a master’s degree in speech-language impairment. Section 1012.56(7)(c), F.S.; rule 6A-4.004(3), F.A.C.

⁶ Rule 6A-4.004(1)(a)2., F.A.C.

⁷ Section 1012.56(7), F.S. (flush-left provisions at end of subsection; validity period is expressed in school fiscal years); rule 6A-4.004(1)(a), F.A.C. DOE also issues a nonrenewable temporary certificate, which is valid for 2 years, in the area of speech-language impairment. Sections 1012.56(7)(c) and 1012.54, F.S.; rule 6A-4.001(1), F.A.C.

⁸ Section 1012.55(2), F.S.

⁹ Rule 6A-4.004(4), F.A.C. (validity periods expressed in school fiscal years).

¹⁰ *See* rule 6A-4.0282, F.A.C.

¹¹ Section 1012.57(1) and (4), F.S. An additional annual certification and an additional annual contract may be awarded by the district at its discretion only if the adjunct teacher is rated effective or highly effective during each year of teaching under the adjunct certification. Section 1012.57(4), F.S.

To be eligible for an educator certificate, a person must:¹²

- be at least 18 years of age;
- sign an affidavit attesting that the applicant will uphold the U.S. and State Constitutions;
- earn a bachelor's or higher degree from an accredited institution of higher learning¹³ or from a nonaccredited institution identified by the DOE as having a quality program resulting in a bachelor's or higher degree;¹⁴
- submit to fingerprinting and background screening and not have a criminal history that requires the applicant's disqualification from certification or employment;
- be of good moral character; and
- be competent and capable of performing the duties, functions, and responsibilities of a teacher.

In addition, each applicant must submit an application and the required fee to the DOE.¹⁵ Although most of the application process is conducted electronically, certain portions of the process, like notifications of deficiencies in an application and supporting documentation, are sent through conventional postal delivery services which can delay the process. These notices are expected to be fully electronic by November of 2017.¹⁶

To receive a temporary certificate, an applicant must:

- meet the basic eligibility requirements for certification;¹⁷
- obtain full-time employment in a position that requires a Florida educator certificate by a school district or private school that has a DOE-approved professional education competence demonstration program;¹⁸ and
- do one of the following:
 - demonstrate mastery of subject area knowledge (e.g., passage of the appropriate subject area test);¹⁹ or
 - complete the required degree or content courses specified in state board rule for subject area specialization²⁰ and attain at least a 2.5 grade point average on a 4.0 scale in the subject area courses.²¹

An educator who is employed under a temporary certificate must demonstrate mastery of general knowledge within one calendar year after employment in order to remain employed in a position that requires a certificate.²² If the educator is employed under contract, the calendar year deadline for demonstrating mastery of general knowledge may be extended through the end of the school year.²³ A temporary certificate is valid for 3 years and is nonrenewable.²⁴

¹² Section 1012.56(2)(a)-(f), F.S.

¹³ Section 1012.56(2)(c), F.S.; rule 6A-4.003(1), F.A.C. (approved accrediting agencies); *see also* 34 C.F.R. ss. 602.1-602.50; U.S. Department of Education, *Regional and National Institutional Accrediting Agencies*, https://www2.ed.gov/admins/finaid/accred/accreditation_pg6.html#NationallyRecognized (last visited Mar. 9, 2017) (list of accrediting agencies approved by the U.S. Department of Education).

¹⁴ Section 1012.56(2)(c), F.S.; rule 6A-4.003(2), F.A.C. (criteria for approval of nonaccredited institutions of higher learning). For initial certification, an applicant must attain at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. Section 1012.56(2)(c), F.S.

¹⁵ Section 1012.56(1), F.S.; *see s.* 1012.59, F.S. The fee for initial certification is \$75 per subject area. Rule 6A-4.0012(1)(a)1. and 2., F.A.C.

¹⁶ Telephone interview with Bureau Chief, Florida Department of Education, Bureau of Educator Certification (Feb. 23, 2017).

¹⁷ Section 1012.56(2)(a)-(f) and (7)(b), F.S.

¹⁸ Section 1012.56(1)(b), F.S.; rule 6A-4.004(1)(a)2., F.A.C.

¹⁹ Section 1012.56(7)(b), F.S.; Florida Department of Education, *Subject Area Knowledge*, http://www.fldoe.org/edcert/mast_sub.asp (last visited April 28, 2016).

²⁰ Section 1012.56(7)(b), F.S. The degree and content requirements are specified in ch. 6A-4, F.A.C.

²¹ Section 1012.56(2)(c), F.S.; *see* Florida Department of Education, *Certificate Types and Requirements*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/index.shtml> (last visited Mar. 9, 2017).

²² Section 1012.56(7), F.S. (flush-left provisions at end of subsection).

²³ *Id.*

²⁴ *Id.*

An applicant seeking a professional certificate must:

- meet the basic eligibility requirements for certification;²⁵
- demonstrate mastery of general knowledge;²⁶
- demonstrate mastery of subject area knowledge;²⁷ and
- demonstrate mastery of professional preparation and education competence.²⁸

A professional certificate is valid for five years and is renewable.²⁹

Pathways to a professional certificate include:

- successfully completing an approved teacher preparation program at a postsecondary educational institution in Florida or a teacher preparation program from an out-of-state accredited or DOE-approved institution and achieving a passing score on the Professional Education Test (PET), Subject Area Examination (SAE), and General Knowledge Test (GKT) required by state board rule;³⁰
- successfully completing a competency-based professional development certification program offered by a school district or an educator preparation institute (EPI) and passing the PET, SAE, and GKT;³¹
- completing 15 semester hours in professional preparation courses specified in state board rule³² or completing the Professional Training Option for Content Majors;³³ completing requirements for practical experience in teaching;³⁴ completing an approved professional education competence demonstration program;³⁵ and passing the PET, SAE, and GKT;³⁶
- providing documentation of a valid professional standard teaching certificate issued by another U.S. state or by the National Board Professional Teaching Standards (NBPTS);³⁷
- providing documentation of a valid professional standard teaching certificate issued by the American Board for Certification of Teacher Excellence (ABCTE) and completing an approved professional education competence demonstration program;³⁸ or
- completing two semesters of part-time or full-time college teaching experience at an accredited community college, state university, or private college or university that awards associate's or

²⁵ Section 1012.56(2)(a)-(f), F.S.; *see supra* text accompanying notes 12-15.

²⁶ Section 1012.56(2)(g) and (3), F.S.; Florida Department of Education, *General Knowledge*, http://www.fldoe.org/edcert/mast_gen.asp (last visited Mar. 9, 2017).

²⁷ Section 1012.56(2)(h) and (5), F.S.

²⁸ Section 1012.56(2)(i) and (6), F.S.; Florida Department of Education, *Professional Preparation and Education Competence*, http://www.fldoe.org/edcert/mast_prof.asp (last visited Mar. 9, 2017) [hereinafter *Professional Preparation and Education Competence*].

²⁹ Sections 1012.56(7)(a) and 1012.585, F.S.; rule 6A-4.0051(1), F.A.C. *See supra* text accompanying note 5.

³⁰ Section 1012.56(6)(a) and (b), F.S.; *see s.* 1004.04, F.S.; rule 6A-4.003(1) and (4), F.A.C. (accreditation of teacher education programs). The Professional Education Test is part of the Florida Teacher Certification Examinations. Rule 6A-4.0021(8), F.A.C.

³¹ Section 1012.56(6)(g)-(h), F.S.; *see ss.* 1004.85 and 1012.56(8), F.S.; rule 6A-5.066(2)(b)1.d. and (c)1.d., F.A.C.

³² Section 1012.56(6)(f), F.S.; rule 6A-4.006(2)(a), F.A.C. Separate professional preparation course requirements are established for certification in Agriculture (grades 6-12). Rule 6A-4.006(3)(a), F.A.C.

³³ The Professional Training Option for Content Majors authorizes an approved teacher preparation program at a postsecondary institution in Florida to allow students who do not major in education but do major or minor in a content area (*e.g.*, English major) to satisfy professional preparation course requirements. Rule 6A-5.066(3), F.A.C.

³⁴ *Professional Preparation and Education Competence*, *supra* note 28; *see rules* 6A-4.002(5) and 6A-4.006(2)(b), F.A.C.

³⁵ Section 1012.56(6)(f), F.S. Each school district must, and a state-supported public or private school may, establish a professional education competence demonstration program that allows the district's or school's instructional staff to demonstrate mastery of professional preparation and education competence through a performance evaluation plan, which documents the staff's classroom application and instructional performance. *See s.* 1012.56(8)(b), F.S.

³⁶ Section 1012.56(6)(f), F.S.

³⁷ Section 1012.56(6)(c)-(d), F.S.; *see rule* 6A-4.002(1)(i)-(j), F.A.C.

³⁸ Section 1012.56(6)(d), F.S.; rule 6A-4.002(1)(j), F.A.C.; *Professional Preparation and Education Competence*, *supra* note 28; *see supra* notes 34 (American Board for Certification of Teacher Excellence certificate satisfies all requirements for a professional certificate, except the professional education competence demonstration requirement) and 48 (description of professional education competence demonstration program).

higher degrees or at a nonaccredited institution of higher education identified by the DOE as having a quality program and passing the SAE and PET.³⁹

In 2016, the law was amended to allow an individual to earn a professional certificate covering grades 6 through 12 in a Science, Technology, Engineering, or Mathematics (STEM) subject without having to complete coursework associated with professional preparation and education competence, if the individual:

- meets the basic eligibility requirements for certification;
- demonstrates mastery of general knowledge;
- holds a master's or higher degree in science, technology, engineering, or mathematics;
- passes the PET and the SAE for the correlated educator certificate;
- teaches a high school course in the subject area of the advanced degree; and
- is rated highly effective under the school district's performance evaluation system based in part on student performance as measured by a statewide standardized assessment or an Advanced Placement, Advance International Certificate of Education, or International Baccalaureate examination.⁴⁰

Several of the pathways allow a temporary certificate holder to complete the general knowledge and professional preparation and education competence requirements for a professional certificate while serving as a classroom teacher. These include the college coursework option, EPIs, district professional development certification and education competency programs (professional development certification program), professional training option programs, and the STEM secondary certification pathway. Data from the DOE show that 35 percent of temporary certificate holders do not complete the requirements for a professional certificate by the end of their 3-year temporary certificate.⁴¹

A professional certificate must be renewed every five years.⁴² An educator must submit an application,⁴³ pay a fee,⁴⁴ and earn at least six college credits or 120 inservice points to renew professional certification.⁴⁵ At least three college credits or 60 inservice points must be earned in each subject area for which renewal is sought.⁴⁶ The renewal period may be extended to include two successive renewal periods up to 10 years to enable educators who are certified in three or more subject areas to earn the required credits or inservice points in each subject area.⁴⁷ In addition to credits or inservice points required in the subject area, credits or inservice points may be earned in

³⁹ Section 1012.56(6)(e), F.S. A non-accredited institution of higher learning is approved as having a quality program if the institution meets one of the following criteria: is accepted for certification purposes by the state department of education where the institution is located; holds a certificate of exemption pursuant to s. 1005.06, F.S.; is a newly created Florida public college or university that offers a bachelor's or higher degree program; is located outside the U.S. and awards a degree that is the equivalent to a bachelor's or higher degree awarded by an accredited or approved institution in the U.S.; or the degree from the institution was accepted by an accredited or approved institution either in transfer or as a basis for admission into the graduate program which resulted in the conferral of a higher degree. Rule 6A-4.003(2), F.A.C.

⁴⁰ Chapter 2016-117, L.O.F.

⁴¹ Florida Department of Education, *Pathways to the Professional Certificate: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

⁴² Section 1012.585(2)(a), F.S.

⁴³ Rule 6A-4.0051(3)(b), F.A.C. The DOE processes certification renewals for individuals who are not employed by district school boards. Section 1012.585(1)(b), F.S. District school boards are responsible for processing certificate renewals for school district employees. Section 1012.585(1)(a), F.S.

⁴⁴ The fee for a certification renewal is \$75. Rules 6A-4.0051(3)(b), F.A.C. and 6A-4.0012(1)(a)1.

⁴⁵ Section 1012.585(3)(a), F.S. Applicants may combine college credits and inservice points to meet this requirement. One semester hour of college credit is equivalent to 20 inservice points. Rule 6A-4.0051(1)(a)2., F.A.C. College credits must be earned at an accredited or state board-approved institution. Inservice points must be earned through participation in state board-approved school district inservice activities. Rule 6A-4.0051(1)(a), F.A.C.; see rule 6A-4.003(1) and (2), F.A.C. (list of approved accrediting agencies and guidelines for nonaccredited approved institutions).

⁴⁶ Section 1012.585(3)(a), F.S.

⁴⁷ Section 1012.585(3)(c), F.S.; rule 6A-4.0051(2)(c), F.A.C.

courses in clinical educator training, literacy and computational skills acquisition, exceptional student education, child development, drug abuse, child abuse, limited English proficiency, dropout prevention, and other topics.⁴⁸

State board rule includes special provisions for teachers of limited English proficient students, teachers of students with disabilities and teachers of reading.⁴⁹ The law allows a professional certificate holder to use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in teaching reading in excess of six semester hours during one certificate validity period toward renewal of the professional certificate during the subsequent validity periods.⁵⁰ Temporary certificate holders may use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in teaching reading toward renewal of the teacher's first professional certificate; however, the training must not have been included within the degree program, and the temporary and professional certificates must be issued for consecutive school years.⁵¹

Applicants for renewal of a professional certificate must earn at least one college credit or the equivalent amount of inservice points in the area of instruction for teaching students with disabilities.⁵²

Certification in subject areas may also be renewed by earning a passing score on the corresponding Florida-developed subject area test or standardized examination specified in state board rule.⁵³ Certification by NBPTS is deemed to meet certification renewal requirements for the life of the certificate, in the corresponding certification subject area.⁵⁴

Teacher Preparation

There are various teacher preparation programs that individuals may use to receive the training needed to attain teaching credentials, including.⁵⁵

- **Initial Teacher Preparation programs** are "traditional" teacher preparation programs that require candidates to demonstrate mastery of subject area knowledge in one or more specific subject areas(s), mastery of general knowledge, and mastery of professional preparation and education competence. Such programs result in qualification for a professional educator certificate.⁵⁶
- **Educator Preparation Institutes** are alternative certification programs offered by postsecondary institutions and private providers for baccalaureate degree holders. These programs provide professional preparation for career-changers and recent college graduates who do not already possess a Professional Educator Certificate and require mastery of general knowledge, mastery of subject area knowledge and mastery of professional preparation and education competence.
- **District Professional Development Certification and Education Competency Programs** are cohesive, competency-based professional preparation certification programs offered by Florida public school districts, by which a school district's instructional staff can satisfy the mastery of professional preparation and education competence requirements. In addition to completing the

⁴⁸ Section 1012.585(3)(a), F.S.

⁴⁹ Rule 6A-4.0051(5), F.S.

⁵⁰ Section 1012.585(3)(d)1., F.S.

⁵¹ Section 1012.585(3)(d)2., F.S.

⁵² Section 1012.585(4), F.S. This required training may not add to the total hours required by the DOE for continuing education or inservice training. *Id.*

⁵³ Section 1012.585(3)(b), F.S. For the purposes of renewing a professional certificate, passage of a subject area examination is equivalent to three semester hours of college credit. Rule 6A-4.0051(1)(b), F.A.C.

⁵⁴ Section 1012.585(2)(b), F.S.; rule 6A-4.0051(1)(c), F.A.C.

⁵⁵ Florida Department of Education, *Educator Preparation*, <http://www.fldoe.org/teaching/preparation> (last visited Mar. 9, 2017). See also rule 6A-5.066, F.A.C.

⁵⁶ Rule 6A-5.066, F.A.C.

district program, candidates must demonstrate mastery of general knowledge and subject area knowledge.

Professional Development

Florida law requires a number of entities, including the DOE, public postsecondary educational institutions, public school districts, public schools, state education foundations, consortia, and professional organizations, to work collaboratively to develop a coordinated system of professional development. The purpose of the system is to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.⁵⁷

Part of the DOE's responsibility in the professional development system is to disseminate to the school community research-based professional development methods and programs that have demonstrated success in meeting identified student needs.⁵⁸ At least one method of dissemination must be through a web-based statewide performance support system, including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available assistance.⁵⁹ In addition, the DOE must disseminate, using the web-based statewide performance-support system, proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and engagement, and meeting identified school needs.⁶⁰ The DOE must also disseminate, using web-based technology, research-based best practice methods by which the state and district school boards may evaluate and improve the professional development system.⁶¹

Each school district is required to develop a professional development system in consultation with teachers, teacher-educators of Florida College System (FCS) institutions and state universities, business and community representatives, and local education foundations, consortia, and professional organizations.⁶² The system must:

- be approved by the DOE, with all substantial revisions thereto also approved by the DOE;
- be based on analyses of student achievement data and instructional strategies and methods that support rigorous, relevant, and challenging curricula for all students;
- provide in-service activities with follow-up support appropriate to accomplish district-level and school-level improvement goals and standards;
- include a master plan for inservice activities, which must be aligned to and support school-based inservice plans and school improvement plans and be approved annually by the district school board;
- include inservice activities for school administrative personnel that address updated skills necessary for instructional leadership and effective school management;
- provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs;
- provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs;
- provide for the continuous evaluation of the quality and effectiveness of professional developmental programs in order to eliminate ineffective programs and strategies and expand effective ones; and
- for middle grades, emphasize:
 - interdisciplinary planning, collaboration, and instruction;

⁵⁷ Section 1012.98(1), F.S.

⁵⁸ Section 1012.98(4)(a), F.S. The web-based statewide performance support system can be accessed at <https://www.floridaschoolleaders.org>.

⁵⁹ *Id.*

⁶⁰ Section 1012.98(11), F.S.

⁶¹ Section 1012.98(7), F.S.

⁶² Section 1012.98(4)(b), F.S.

- alignment of curriculum and instructional materials to the state academic standards; and
- use of small learning communities; problem-solving, inquiry-driven research and analytical approaches for students; strategies and tools based on student needs; competency-based instruction; integrated digital instruction; and project-based instruction.⁶³

A district school board may contract with independent entities for professional development services and inservice education if the district school board can demonstrate to the Commissioner of Education that, through such a contract, a better product can be acquired or its goals for education improvement can be better met.⁶⁴

Teacher Mentoring and Induction

Teacher induction programs “aim to improve the performance and retention of new hires and to enhance the skills and prevent the loss of new teachers with the ultimate goal of improving student’s growth and learning.”⁶⁵ Data show that recent concerns over staffing shortages are primarily related to retaining new teachers rather than recruiting them, as beginning teachers leave the profession at a higher clip than experienced ones or teachers who retire.⁶⁶ Beginning teachers who leave the profession often report a lack of adequate administrative support as a motivating factor.⁶⁷ This has led to a significant portion of the teacher workforce consisting more of beginning teachers as well as an increase in participation in teacher induction programs.⁶⁸ However, there is great variation in the quality of induction opportunities offered to new teachers between states and school districts.⁶⁹

Generally, teacher induction has a positive effect on retaining new teachers. Further, participation in certain activities is correlated with higher rates of retention, including having a peer mentor in the subject area and having common planning time.⁷⁰

Florida law has no provisions related to new teacher induction other than requiring the assignment of a peer mentor as part of a district program.⁷¹ Although a peer mentor must hold a valid professional certificate, have at least 3 years of teaching experience in prekindergarten through grade 12, and have a rating of effective or highly effective on the prior year’s performance evaluation,⁷² the law does not expressly establish mentor training and mentoring activities requirements.

Effect of Proposed Changes

To help districts recruit and retain new teachers, the bill enhances requirements for the peer mentor component of a district program and establishes a mentorship and induction-based pathway to a professional educator certificate. Under the bill, a temporary certificate holder who completes a DOE-approved district program and who has a highly effective district performance evaluation rating will receive a professional certificate without having to sit for additional coursework or take the Professional Education Test (PET).

⁶³ Section 1012.98(4)(b), F.S.

⁶⁴ Section 1012.98(9), F.S.

⁶⁵ Richard Ingersoll, *Beginning Teacher Induction: What the Data Tell Us*, http://www.edweek.org/ew/articles/2012/05/16/kappan_ingersoll.h31.html (last visited Mar. 6, 2017).

⁶⁶ *See id.*

⁶⁷ *Id.*

⁶⁸ *See id.*

⁶⁹ *See id.* See also The New Teacher Center, *Support from the Start: A 50-State Review of Policies on New Educator Induction and Mentoring* (2016) at iii-iv, available at <https://newteachercenter.org/wp-content/uploads/2016ExecSummaryStatePolicies.pdf>.

⁷⁰ See RICHARD INGERSOLL, *Beginning Teacher Induction: What the Data Tell Us*, http://www.edweek.org/ew/articles/2012/05/16/kappan_ingersoll.h31.html (last visited Mar. 6, 2017).

⁷¹ See s. 1012.56(8)(a)3., F.S.

⁷² *Id.* School district personnel evaluation systems differentiate among four levels of performance: Highly Effective; Effective; Needs improvement (or Developing for instructional personnel in their first 3 years of employment who need improvement); and Unsatisfactory. Section 1012.34(2)(e), F.S.

The bill requires that the mentorship and induction component of a district's professional development certification program, at a minimum, provide weekly opportunities for mentoring and induction activities, including:

- common planning time;
- ongoing professional development targeted to a mentee teacher's needs;
- opportunities to observe other teachers;
- co-teaching experiences; and
- reflection and follow-up discussions.

The bill requires that the mentorship and induction activities must be provided for the teacher's first year in the program and may be provided until the teacher attains his or her professional certificate. The bill requires that a principal who is rated highly effective must be provided flexibility in selecting professional development activities for the mentorship and induction component so long as they are approved by the DOE.

The bill allows charter schools and charter management organizations to offer a DOE-approved professional development certification program.

The bill requires the DOE to adopt standards for the approval of professional development certification programs, including standards for the teacher mentorship and induction component, by December 31, 2017. The standards for the teacher mentorship and induction component must include:

- program administration and evaluation;
- mentor roles, selection, and training;
- beginning teacher assessment and professional development; and
- teacher content knowledge and practices aligned to the Florida Educator Accomplished Practices.

Each school district, charter school, or charter management organization, wishing to provide a professional development certification program must submit its program, including the teacher mentorship and induction component, to the DOE for approval no later than June 30, 2018. Beginning January 1, 2019, a teacher may not satisfy requirements for a professional certificate through a professional development certification program unless the program has been approved by the DOE. As a result, teachers can complete the requirements for a professional certificate based on current program requirements through December 31, 2018, at the latest.

The bill allows participation in a district program as a mentor or a mentee to count toward a teacher's inservice specialization requirements for renewal of a professional certificate. The bill also requires each district professional development system to provide inservice activities and support targeted to the individual needs of teachers participating in the district program.

The bill requires professional development activities designed to implement the School Community Professional Development Act to provide training to mentors as part of the district program. The training must include components on teacher development, peer coaching, time management, and other related topics as determined by the DOE. The bill requires model professional development programs disseminated by the DOE to include effective mentorship activities to new teachers and training to mentors.

The bill also streamlines the temporary certificate application process by requiring the DOE to electronically issue a temporary certificate to a qualifying applicant within 14 calendar days after it receives a request from the applicant's employing school district or private school. The DOE must also electronically provide an official statement of status of eligibility at the time the certificate is issued. The statement must include each method by which an applicant can complete the qualifications for a professional certificate.

B. SECTION DIRECTORY:

Section 1. Amends s. 1012.56, F.S.; requiring the Department of Education to issue a temporary educator certificate within a specified period; requiring the department to provide electronic notice of the issuance of a temporary certificate to specified entities; requiring the department to provide the applicant an official statement of status of eligibility upon issuance of a temporary certificate; providing content requirements for the statement of status of eligibility; revising the criteria instructional personnel must meet to be issued a professional certificate; providing that an applicant for professional certification is not required to take or pass a specified examination under certain circumstances; authorizing charter schools and charter management organizations to develop a professional development certification and education competency program; revising program requirements; requiring the department to adopt standards for the approval of such programs by a specified date; providing requirements for such standards; requiring each school district and charter school to submit its program for approval by a specified date; providing that certification requirements may not be met in a program that is not approved by the department after a specified date.

Section 2. Amends s. 1012.585, F.S.; revising college credit and inservice hour requirements for renewal of a professional certificate to include participation in specified activities.

Section 3. Amends s. 1012.98, F.S.; revising the activities designed to implement the school community professional development act to include specified training relating to a professional development certification and education competency program; revising requirements for school district professional development systems; requiring the department to disseminate professional development programs that meet specified criteria.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost savings to teachers who participate in a professional development certification program because they would not be required to enroll in additional college coursework or take the Professional Education Test to earn their professional certificate.

D. FISCAL COMMENTS:

While the Department of Education indicated an additional FTE would be required to review and approve districts' professional development certification programs, insufficient data was provided to substantiate the request.

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

None.

1 A bill to be entitled
2 An act relating to teacher certification; amending s.
3 1012.56, F.S.; requiring the Department of Education
4 to issue a temporary educator certificate within a
5 specified period; requiring the department to provide
6 electronic notice of the issuance of a temporary
7 certificate to specified entities; requiring the
8 department to provide the applicant an official
9 statement of status of eligibility upon issuance of a
10 temporary certificate; providing content requirements
11 for the statement of status of eligibility; revising
12 the criteria instructional personnel must meet to be
13 issued a professional certificate; providing that an
14 applicant for professional certification is not
15 required to take or pass a specified examination under
16 certain circumstances; authorizing charter schools and
17 charter management organizations to develop a
18 professional development certification and education
19 competency program; revising program requirements;
20 requiring the department to adopt standards for the
21 approval of such programs by a specified date;
22 providing requirements for such standards; requiring
23 each school district and charter school to submit its
24 program for approval by a specified date; providing
25 that certification requirements may not be met in a

26 program that is not approved by the department after a
 27 specified date; amending s. 1012.585, F.S.; revising
 28 college credit and inservice hour requirements for
 29 renewal of a professional certificate to include
 30 participation in specified activities; amending s.
 31 1012.98, F.S.; revising the activities designed to
 32 implement the school community professional
 33 development act to include specified training relating
 34 to a professional development certification and
 35 education competency program; revising requirements
 36 for school district professional development systems;
 37 requiring the department to disseminate professional
 38 development programs that meet specified criteria;
 39 providing an effective date.

40

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

42

43 Section 1. Paragraph (c) of subsection (8) of section
 44 1012.56, Florida Statutes, is redesignated as paragraph (d),
 45 subsection (1), paragraph (a) of subsection (7), and paragraph
 46 (a) of subsection (8) are amended, and a new paragraph (c) is
 47 added to subsection (8) of that section, to read:

48 1012.56 Educator certification requirements.—

49 (1) APPLICATION.—Each person seeking certification
 50 pursuant to this chapter shall submit a completed application

51 containing the applicant's social security number to the
 52 Department of Education and remit the fee required pursuant to
 53 s. 1012.59 and rules of the State Board of Education. Pursuant
 54 to the federal Personal Responsibility and Work Opportunity
 55 Reconciliation Act of 1996, each party is required to provide
 56 his or her social security number in accordance with this
 57 section. Disclosure of social security numbers obtained through
 58 this requirement is limited to the purpose of administration of
 59 the Title IV-D program of the Social Security Act for child
 60 support enforcement.

61 (a) Pursuant to s. 120.60, the department shall issue
 62 within 90 calendar days after the stamped receipted date of the
 63 completed application.

64 ~~(a) If the applicant meets the requirements,~~ a professional
 65 certificate to a qualifying applicant covering the
 66 classification, level, and area for which the applicant is
 67 deemed qualified and a document explaining the requirements for
 68 renewal of the professional certificate.

69 (b) The department shall issue a temporary certificate to
 70 a qualifying applicant within 14 calendar days after receipt of
 71 a request from ~~if the applicant meets the requirements and if~~
 72 ~~requested by~~ an employing school district or an employing
 73 private school with a professional education competence
 74 demonstration program pursuant to paragraphs (6)(f) and (8)(b).
 75 The, a temporary certificate must cover ~~covering~~ the

76 classification, level, and area for which the applicant is
 77 deemed qualified. The department shall electronically notify the
 78 applicant's employing school district or employing private
 79 school that the temporary certificate has been issued and
 80 provide the applicant an official statement of status of
 81 eligibility at the time the certificate is issued. ~~and an~~
 82 ~~official statement of status of eligibility; or~~

83 (c) Pursuant to s. 120.60, the department shall issue
 84 within 90 calendar days after the stamped receipted date of the
 85 completed application, if an applicant does not meet the
 86 requirements for either certificate, an official statement of
 87 status of eligibility.

88
 89 The statement of status of eligibility must be provided
 90 electronically and must advise the applicant of any
 91 qualifications that must be completed to qualify for
 92 certification. Each method by which an applicant can complete
 93 the qualifications for a professional certificate must be
 94 included in the statement of status of eligibility. Each
 95 statement of status of eligibility is valid for 3 years after
 96 its date of issuance, except as provided in paragraph (2)(d).

97 (7) TYPES AND TERMS OF CERTIFICATION.—

98 (a) The Department of Education shall issue a professional
 99 certificate for a period not to exceed 5 years to any applicant
 100 who fulfills one of the following:

101 1. Meets all the requirements outlined in subsection (2).

102 2. ~~or,~~ For a professional certificate covering grades 6

103 through 12, ~~any applicant who:~~

104 a.1. Meets the requirements of paragraphs (2)(a)-(h).

105 b.2. Holds a master's or higher degree in the area of

106 science, technology, engineering, or mathematics.

107 c.3. Teaches a high school course in the subject of the

108 advanced degree.

109 d.4. Is rated highly effective as determined by the

110 teacher's performance evaluation under s. 1012.34, based in part

111 on student performance as measured by a statewide, standardized

112 assessment or an Advanced Placement, Advanced International

113 Certificate of Education, or International Baccalaureate

114 examination.

115 e.5. Achieves a passing score on the Florida professional

116 education competency examination required by state board rule.

117 3. Meets the requirements of paragraphs (2)(a)-(h) and

118 completes a professional preparation and education competence

119 program approved by the department pursuant to paragraph (8)(c).

120 An applicant who completes the program and is rated highly

121 effective as determined by his or her performance evaluation

122 under s. 1012.34 is not required to take or achieve a passing

123 score on the professional education competency examination in

124 order to be awarded a professional certificate.

125

126 Each temporary certificate is valid for 3 school fiscal years
 127 and is nonrenewable. However, the requirement in paragraph
 128 (2) (g) must be met within 1 calendar year of the date of
 129 employment under the temporary certificate. Individuals who are
 130 employed under contract at the end of the 1 calendar year time
 131 period may continue to be employed through the end of the school
 132 year in which they have been contracted. A school district shall
 133 not employ, or continue the employment of, an individual in a
 134 position for which a temporary certificate is required beyond
 135 this time period if the individual has not met the requirement
 136 of paragraph (2) (g). The State Board of Education shall adopt
 137 rules to allow the department to extend the validity period of a
 138 temporary certificate for 2 years when the requirements for the
 139 professional certificate, not including the requirement in
 140 paragraph (2) (g), were not completed due to the serious illness
 141 or injury of the applicant or other extraordinary extenuating
 142 circumstances. The department shall reissue the temporary
 143 certificate for 2 additional years upon approval by the
 144 Commissioner of Education. A written request for reissuance of
 145 the certificate shall be submitted by the district school
 146 superintendent, the governing authority of a university lab
 147 school, the governing authority of a state-supported school, or
 148 the governing authority of a private school.

149 (8) PROFESSIONAL DEVELOPMENT CERTIFICATION AND EDUCATION
 150 COMPETENCY PROGRAM.—

151 (a) The Department of Education shall develop and each
 152 school district, charter school, and charter management
 153 organization may provide a cohesive competency-based
 154 professional development certification and education competency
 155 program by which ~~members of a school district's~~ instructional
 156 staff may satisfy the mastery of professional preparation and
 157 education competence requirements specified in subsection (6)
 158 and rules of the State Board of Education. Participants must
 159 hold a state-issued temporary certificate. A school district,
 160 charter school, or charter management organization that
 161 implements the program shall provide a competency-based
 162 certification program developed by the Department of Education
 163 or developed by the district, charter school, or charter
 164 management organization and approved by the Department of
 165 Education. The program shall include the following:

166 1. A minimum period of initial preparation before assuming
 167 duties as the teacher of record.

168 2. An option for collaboration with ~~between school~~
 169 ~~districts and~~ other supporting agencies or educational entities
 170 for implementation.

171 3. A teacher mentorship and induction ~~An experienced peer-~~
 172 ~~mentor~~ component.

173 a. Each individual selected by the district as a ~~peer~~
 174 mentor:

175 I. Must hold a valid professional certificate issued

176 pursuant to this section;~~;~~

177 II. Must have earned at least 3 years of teaching
 178 experience in prekindergarten through grade 12;~~;~~and

179 III. Must have completed specialized training in clinical
 180 supervision and participate in ongoing mentor training provided
 181 through the coordinated system of professional development under
 182 s. 1012.98(3)(e);

183 IV. Must have earned an effective or highly effective
 184 rating on the prior year's performance evaluation under s.
 185 1012.34; and

186 V. May ~~or~~ be a peer evaluator under the district's
 187 evaluation system approved under s. 1012.34.

188 b. The teacher mentorship and induction component must, at
 189 a minimum, provide weekly opportunities for mentoring and
 190 induction activities, including common planning time, ongoing
 191 professional development targeted to a teacher's needs,
 192 opportunities for a teacher to observe other teachers, co-
 193 teaching experiences, and reflection and followup discussions.
 194 Mentorship and induction activities must be provided for an
 195 applicant's first year in the program and may be provided until
 196 the applicant attains his or her professional certificate in
 197 accordance with this section. A principal who is rated highly
 198 effective as determined by his or her performance evaluation
 199 under s. 1012.34 must be provided flexibility in selecting
 200 professional development activities under this paragraph;

201 however, the activities must be approved by the department as
 202 part of the district's, charter school's, or charter management
 203 organization's program.

204 4. An assessment of teaching performance aligned to the
 205 district's system for personnel evaluation under s. 1012.34
 206 which provides for:

207 a. An initial evaluation of each educator's competencies
 208 to determine an appropriate individualized professional
 209 development plan.

210 b. A summative evaluation to assure successful completion
 211 of the program.

212 5. Professional education preparation content knowledge,
 213 which must be included in the mentoring and induction activities
 214 under subparagraph 3., that includes, but is not limited to, the
 215 following:

216 a. The state standards provided under s. 1003.41,
 217 including scientifically based reading instruction, content
 218 literacy, and mathematical practices, for each subject
 219 identified on the temporary certificate.

220 b. The educator-accomplished practices approved by the
 221 state board.

222 c. A variety of data indicators for monitoring student
 223 progress.

224 d. Methodologies for teaching students with disabilities.

225 e. Methodologies for teaching students of limited English

226 proficiency appropriate for each subject area identified on the
 227 temporary certificate.

228 f. Techniques and strategies for operationalizing the role
 229 of the teacher in assuring a safe learning environment for
 230 students.

231 6. Required achievement of passing scores on the subject
 232 area and professional education competency examination required
 233 by State Board of Education rule. Mastery of general knowledge
 234 must be demonstrated as described in subsection (3).

235 (c) No later than December 31, 2017, the department shall
 236 adopt standards for the approval of professional development
 237 certification and education competency programs, including
 238 standards for the teacher mentorship and induction component,
 239 under paragraph (a). Standards for the teacher mentorship and
 240 induction component must include program administration and
 241 evaluation; mentor roles, selection, and training; beginning
 242 teacher assessment and professional development; and teacher
 243 content knowledge and practices aligned to the Florida Educator
 244 Accomplished Practices. Each school district or charter school
 245 with a program under this subsection must submit its program,
 246 including the teacher mentorship and induction component, to the
 247 department for approval no later than June 30, 2018. After
 248 December 31, 2018, a teacher may not satisfy requirements for a
 249 professional certificate through a professional development
 250 certification and education competency program under paragraph

251 (a) unless the program has been approved by the department
 252 pursuant to this paragraph.

253 Section 2. Paragraph (a) of subsection (3) of section
 254 1012.585, Florida Statutes, is amended to read:

255 1012.585 Process for renewal of professional
 256 certificates.—

257 (3) For the renewal of a professional certificate, the
 258 following requirements must be met:

259 (a) The applicant must earn a minimum of 6 college credits
 260 or 120 inservice points or a combination thereof. For each area
 261 of specialization to be retained on a certificate, the applicant
 262 must earn at least 3 of the required credit hours or equivalent
 263 inservice points in the specialization area. Education in
 264 "clinical educator" training pursuant to s. 1004.04(5)(b);
 265 participation in mentorship and induction activities, including
 266 as a mentor, pursuant to s. 1012.56(8)(a); and credits or points
 267 that provide training in the area of scientifically researched,
 268 knowledge-based reading literacy and computational skills
 269 acquisition, exceptional student education, normal child
 270 development, and the disorders of development may be applied
 271 toward any specialization area. Credits or points that provide
 272 training in the areas of drug abuse, child abuse and neglect,
 273 strategies in teaching students having limited proficiency in
 274 English, or dropout prevention, or training in areas identified
 275 in the educational goals and performance standards adopted

276 pursuant to ss. 1000.03(5) and 1008.345 may be applied toward
 277 any specialization area. Credits or points earned through
 278 approved summer institutes may be applied toward the fulfillment
 279 of these requirements. Inservice points may also be earned by
 280 participation in professional growth components approved by the
 281 State Board of Education and specified pursuant to s. 1012.98 in
 282 the district's approved master plan for inservice educational
 283 training, including, but not limited to, serving as a trainer in
 284 an approved teacher training activity, serving on an
 285 instructional materials committee or a state board or commission
 286 that deals with educational issues, or serving on an advisory
 287 council created pursuant to s. 1001.452.

288 Section 3. Paragraph (e) is added to subsection (3) of
 289 section 1012.98, Florida Statutes, and paragraph (b) of
 290 subsection (4) and subsections (10) and (11) are amended, to
 291 read:

292 1012.98 School Community Professional Development Act.—

293 (3) The activities designed to implement this section
 294 must:

295 (e) Provide training to teacher mentors as part of the
 296 professional development certification and education competency
 297 program under s. 1012.56(8)(a). The training must include
 298 components on teacher development, peer coaching, time
 299 management, and other related topics as determined by the
 300 Department of Education.

301 (4) The Department of Education, school districts,
 302 schools, Florida College System institutions, and state
 303 universities share the responsibilities described in this
 304 section. These responsibilities include the following:

305 (b) Each school district shall develop a professional
 306 development system as specified in subsection (3). The system
 307 shall be developed in consultation with teachers, teacher-
 308 educators of Florida College System institutions and state
 309 universities, business and community representatives, and local
 310 education foundations, consortia, and professional
 311 organizations. The professional development system must:

312 1. Be approved by the department. All substantial
 313 revisions to the system shall be submitted to the department for
 314 review for continued approval.

315 2. Be based on analyses of student achievement data and
 316 instructional strategies and methods that support rigorous,
 317 relevant, and challenging curricula for all students. Schools
 318 and districts, in developing and refining the professional
 319 development system, shall also review and monitor school
 320 discipline data; school environment surveys; assessments of
 321 parental satisfaction; performance appraisal data of teachers,
 322 managers, and administrative personnel; and other performance
 323 indicators to identify school and student needs that can be met
 324 by improved professional performance.

325 3. Provide inservice activities coupled with followup

326 support appropriate to accomplish district-level and school-
 327 level improvement goals and standards. The inservice activities
 328 for instructional personnel shall focus on analysis of student
 329 achievement data, ongoing formal and informal assessments of
 330 student achievement, identification and use of enhanced and
 331 differentiated instructional strategies that emphasize rigor,
 332 relevance, and reading in the content areas, enhancement of
 333 subject content expertise, integrated use of classroom
 334 technology that enhances teaching and learning, classroom
 335 management, parent involvement, and school safety.

336 4. Provide inservice activities and support targeted to
 337 the individual needs of new teachers participating in the
 338 professional development certification and education competency
 339 program under s. 1012.56(8)(a).

340 5.4. Include a master plan for inservice activities,
 341 pursuant to rules of the State Board of Education, for all
 342 district employees from all fund sources. The master plan shall
 343 be updated annually by September 1, must be based on input from
 344 teachers and district and school instructional leaders, and must
 345 use the latest available student achievement data and research
 346 to enhance rigor and relevance in the classroom. Each district
 347 inservice plan must be aligned to and support the school-based
 348 inservice plans and school improvement plans pursuant to s.
 349 1001.42(18). Each district inservice plan must provide a
 350 description of the training that middle grades instructional

351 personnel and school administrators receive on the district's
 352 code of student conduct adopted pursuant to s. 1006.07;
 353 integrated digital instruction and competency-based instruction
 354 and CAPE Digital Tool certificates and CAPE industry
 355 certifications; classroom management; student behavior and
 356 interaction; extended learning opportunities for students; and
 357 instructional leadership. District plans must be approved by the
 358 district school board annually in order to ensure compliance
 359 with subsection (1) and to allow for dissemination of research-
 360 based best practices to other districts. District school boards
 361 must submit verification of their approval to the Commissioner
 362 of Education no later than October 1, annually. Each school
 363 principal may establish and maintain an individual professional
 364 development plan for each instructional employee assigned to the
 365 school as a seamless component to the school improvement plans
 366 developed pursuant to s. 1001.42(18). An individual professional
 367 development plan must be related to specific performance data
 368 for the students to whom the teacher is assigned, define the
 369 inservice objectives and specific measurable improvements
 370 expected in student performance as a result of the inservice
 371 activity, and include an evaluation component that determines
 372 the effectiveness of the professional development plan.

373 6.5. Include inservice activities for school
 374 administrative personnel that address updated skills necessary
 375 for instructional leadership and effective school management

376 pursuant to s. 1012.986.

377 ~~7.6.~~ Provide for systematic consultation with regional and
 378 state personnel designated to provide technical assistance and
 379 evaluation of local professional development programs.

380 ~~8.7.~~ Provide for delivery of professional development by
 381 distance learning and other technology-based delivery systems to
 382 reach more educators at lower costs.

383 ~~9.8.~~ Provide for the continuous evaluation of the quality
 384 and effectiveness of professional development programs in order
 385 to eliminate ineffective programs and strategies and to expand
 386 effective ones. Evaluations must consider the impact of such
 387 activities on the performance of participating educators and
 388 their students' achievement and behavior.

389 ~~10.9.~~ For middle grades, emphasize:

390 a. Interdisciplinary planning, collaboration, and
 391 instruction.

392 b. Alignment of curriculum and instructional materials to
 393 the state academic standards adopted pursuant to s. 1003.41.

394 c. Use of small learning communities; problem-solving,
 395 inquiry-driven research and analytical approaches for students;
 396 strategies and tools based on student needs; competency-based
 397 instruction; integrated digital instruction; and project-based
 398 instruction.

399

400 Each school that includes any of grades 6, 7, or 8 must include

401 in its school improvement plan, required under s. 1001.42(18), a
 402 description of the specific strategies used by the school to
 403 implement each item listed in this subparagraph.

404 (10) For instructional personnel and administrative
 405 personnel who have been evaluated as less than effective, a
 406 district school board shall require participation in specific
 407 professional development programs as provided in subparagraph
 408 (4) (b) 5. ~~(4) (b) 4.~~ as part of the improvement prescription.

409 (11) The department shall disseminate to the school
 410 community proven model professional development programs that
 411 have demonstrated success in increasing rigorous and relevant
 412 content, increasing student achievement and engagement, ~~and~~
 413 meeting identified student needs, and providing effective
 414 mentorship activities to new teachers and training to teacher
 415 mentors. The methods of dissemination must include a web-based
 416 statewide performance-support system including a database of
 417 exemplary professional development activities, a listing of
 418 available professional development resources, training programs,
 419 and available technical assistance.

420 Section 4. 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	_____	

Committee/Subcommittee hearing bill: Education Committee

Representative Plasencia offered the following:

Amendment (with title amendment)

Remove lines 136-142 and insert:

of paragraph (2)(g). At least 1 year before an individual's temporary certificate is set to expire, the department shall electronically notify the individual of the date on which his or her certificate will expire and provide a list of each method by which the qualifications for a professional certificate can be completed. The State Board of Education shall adopt rules to allow the department to extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including the requirement in paragraph (2)(g), were not completed due to the serious illness or injury of the applicant or other extraordinary extenuating

718159 - h1111-line 136.docx

Published On: 4/5/2017 9:31:08 PM



Amendment No. 1

17 circumstances or for 1 year if the temporary certificate holder
18 is rated effective or highly effective based solely on a
19 learning growth formula approved by the Commissioner of
20 Education pursuant to s. 1012.34(8). The department shall
21 reissue the temporary
22

23 -----

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

25 Remove line 13 and insert:

26 issued a professional certificate; requiring the department to
27 provide electronic notification of the expiration of a temporary
28 educator certificate; requiring the State Board of Education to
29 adopt rules providing for the extension of a temporary educator
30 certificate; providing that an

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1131 Shared Use of Public School Playground Facilities

SPONSOR(S): PreK-12 Appropriations Subcommittee; Drake and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 984

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, As CS	Seifert	Potvin
3) Education Committee		Dehmer	Hassell

SUMMARY ANALYSIS

While obesity flourishes due in part to inactivity, many of the state's playgrounds and athletic facilities on the grounds of public schools are closed to the public due in part to a lack in shared use agreements between a school district and a governmental or nongovernmental entity. The bill:

- requires the Department of Education (DOE) to provide technical assistance to school districts to promote community use of shared facilities; and
- creates a Shared Use Task Force to identify barriers in creating shared use agreements and to make recommendations to facilitate the shared use of school facilities generally and in high-need communities.

The bill has no fiscal impact to the state.

The bill may have a minimal indeterminate fiscal impact on school districts that elect to utilize the provisions created by this bill.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Overweight Children and Adults

The Centers for Disease Control and Prevention (CDC) estimates that 37.9% of American adults are obese and another 32.8% are overweight. The CDC also estimates that 17.4% of children age 6-11 and 20.6% of children age 12-19 are obese.¹ The prevalence of obesity among children has more than tripled since the 1970s.² The Surgeon General estimates 300,000 deaths per year may be attributed to obesity and reports that individuals who are obese have a 50-100% increased risk of premature death from all causes, when compared to individuals with a healthy weight.³

According to the CDC, youth who have access to opportunities for physical activity during non-school hours have higher overall levels of physical activity and are less likely to be overweight or obese.⁴ The CDC cites increasing access to safe and appealing places to play and being active as strategies that communities can employ to combat youth obesity.⁵ CDC's research indicates that approximately half of Florida's youth have access to parks and community centers in their neighborhood.⁶

Public Access to Public School Facilities

Florida law broadly authorizes district school boards and the boards of trustees of Florida College System institutions, state universities, and the Florida School for the Deaf and the Blind to allow the public access to educational facilities and grounds for any legal assembly, as a community use center, or a polling location.⁷ Additionally, the law specifically requires each county and municipality located within the geographic area of a school district to enter into an interlocal agreement with the district school board to coordinate their respective growth and development plans and processes. Among other things, the interlocal agreement must include a process for determining where and how the school boards and local governments can share facilities for mutual benefit and efficiency.⁸ Some district school boards currently authorize, through their interlocal agreements, public access to sports and recreational facilities on school campuses. The specific details related to such access, such as the hours the facility will be open and which party is liable for any damages or injuries sustained on the property, are contained in a separate "joint-use" agreement.⁹

¹ Centers for Disease Control and Prevention, *Obesity and Overweight*, <http://www.cdc.gov/nchs/fastats/overwt.htm> (last visited Mar. 17, 2017).

² Centers for Disease Control and Prevention, Data and Statistics, *Childhood Obesity Facts*, <https://www.cdc.gov/healthyschools/obesity/facts.htm> (last visited Mar. 17, 2017).

³ Office of the Surgeon General, *Overweight and Obesity as Public Health Problems in America*, <https://www.ncbi.nlm.nih.gov/books/NBK44210/> (last visited Mar. 17, 2017).

⁴ Centers for Disease Control and Prevention, *Overweight and Obesity: A Growing Problem*, <http://www.cdc.gov/obesity/childhood/problem.html> (last visited Mar. 17, 2017).

⁵ Centers for Disease Control and Prevention, *Strategies to Prevent Obesity and Other Chronic Diseases, The CDC Guide to Strategies to Increase Physical Activity in the Community*, https://www.cdc.gov/obesity/downloads/PA_2011_WEB.pdf (last visited Mar. 17, 2017).

⁶ Centers for Disease Control and Prevention, *Florida Action Plan*, https://www.cdc.gov/physicalactivity/downloads/state_pdfs/14_248165_fl_tag508.pdf (last visited Mar. 17, 2017).

⁷ Section 1013.10, F.S.; see also s. 1013.01(3), F.S. (defines "Board").

⁸ Sections 163.31777(1) and (2)(g) and 1013.33(2) F.S.

⁹ See, e.g., *Interlocal Agreement between Pinellas County, Florida, et al. and the School Board of Pinellas County, Florida*, at 4 (2012), available at www.pinellascounty.org/Plan/pdf_files/1906_IA.pdf [hereinafter *Pinellas County Agreement*] (last visited Mar. 15, 2017).

According to the Florida Department of Education (DOE), school district facilities personnel have informally expressed support for providing public access to recreation and sports facilities. However, such personnel indicate that reaching a joint-use agreement to provide such access is highly dependent on variables related to individual facilities. Thus, agreements are typically considered on a facility-by-facility basis. Such personnel indicate that one barrier to expanding joint-use of, and public access to, school facilities is premises liability concerns.¹⁰

District school boards are not limited to partnering with governmental entities in joint-use agreements. If authorized by the school board's interlocal agreements, boards may establish joint-use agreements with private entities. For example, in 2003, a Best Financial Management Practices Review of the Duval County School District indicated that the school district had established 47 joint-use agreements with the City of Jacksonville, the YMCA and various community groups for the use of school facilities.¹¹

Effect of Proposed Changes

The bill requires the DOE to provide technical assistance to school districts including, but not limited to:

- individualized assistance;
- the creation of a shared use technical assistance toolkit containing useful information for school districts; and
- the development of a publicly accessible online database of shared use resources and existing shared use agreements.

The bill creates a Shared Use Task Force to identify barriers in creating shared use agreements and to make recommendations to facilitate the shared use of school facilities generally and in high-need communities. The task force is composed of seven members appointed by the DOE, including a chair and vice chair, and shall submit a report of its findings and recommendations to the Senate President and the Speaker of the House by June 30, 2018.

B. SECTION DIRECTORY:

Section 1. Creates s. 1013.101, F.S., relating to shared use agreements.

Section 2. Creates the Shared Use Task Force.

Section 3. 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.

¹⁰ Florida Department of Education, *Legislative Bill Analysis for HB 431* (2012). For example, the Pinellas County interlocal agreement with the School Board of Pinellas County, among others, authorizes the parties to establish an agreement "for each instance of collocation and shared use to address legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation or shared use." *Pinellas County Agreement*, *supra* note 6, at 4.

¹¹ Office of Program Policy Analysis and Government Accountability, *Best Financial Management Practices Review of the Duval County School District*, Report No. 03-41, ch. 7 Facilities Construction, at 18-19 (Aug. 2003), available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=03-41> (last visited Mar. 15, 2017).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal indeterminate fiscal impact on school districts that elect to utilize the provisions created by this bill.

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

On April 3, 2017, the PreK-12 Appropriations Subcommittee adopted two amendments and reported the bill favorably. Amendment one removed the short-term grant funding as no funds are provided in PCB APC 17-01, the proposed House General Appropriations Act. Amendment two removes the rule making authority to implement the grant program.

The bill analysis is drafted to reflect the adopted amendments.

1 A bill to be entitled
 2 An act relating to the shared use of public school
 3 playground facilities; creating s. 1013.101, F.S.;
 4 providing legislative findings and intent; defining
 5 terms; requiring the Department of Education to
 6 provide specified assistance to school districts;
 7 creating the Shared Use Task Force within the
 8 department; specifying the purpose and membership of
 9 the task force; providing requirements for electing a
 10 task force chair and vice chair and conducting its
 11 meetings; requiring the department to provide the task
 12 force with necessary staff; requiring the task force
 13 to submit a report to the Legislature by a specified
 14 date; providing for expiration of the task force;
 15 providing an effective date.

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

18
 19 Section 1. Section 1013.101, Florida Statutes, is created
 20 to read:

21 1013.101 Shared use agreements.-

22 (1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds
 23 that greater public access to recreation and sports facilities
 24 is needed to reduce the impact of obesity, diabetes, and other
 25 chronic diseases on personal health and health care

26 expenditures. Public schools are equipped with taxpayer-funded
27 indoor and outdoor recreation facilities that offer easily
28 accessible opportunities for physical activity for residents of
29 the community. The Legislature also finds that it is the policy
30 of the state for district school boards to allow the shared use
31 of school buildings and property by adopting policies allowing
32 for shared use and implementing shared use agreements with local
33 governmental entities and nonprofit organizations. The
34 Legislature intends to increase the number of school districts
35 that open their playground facilities to community use outside
36 of school hours.

37 (2) DEFINITIONS.—As used in this section, the term:

38 (a) "High-need communities" means communities in which at
39 least 50 percent of children are eligible to receive free or
40 reduced-price meals at the school that will be the subject of
41 the shared use agreement.

42 (b) "Shared use" means allowing access to school
43 playground facilities by community members for recreation or
44 another purpose of importance to the community through a shared
45 use agreement or a school district or school policy that opens
46 school facilities for use by government or nongovernmental
47 entities or the public.

48 (c) "Shared use agreement" means a written agreement
49 between a school district and a government or nongovernmental
50 entity which defines the roles, responsibilities, terms, and

51 conditions for community use of a school-owned facility for
 52 recreation or other purposes.

53 (3) PROMOTION OF COMMUNITY USE OF SHARED FACILITIES.—The
 54 department shall provide technical assistance to school
 55 districts, including, but not limited to, individualized
 56 assistance, the creation of a shared use technical assistance
 57 toolkit containing useful information for school districts, and
 58 the development of a publicly accessible online database of
 59 shared use resources and existing shared use agreements.

60 Section 2. Shared Use Task Force.—The Shared Use Task
 61 Force, a task force as defined in s. 20.03, Florida Statutes, is
 62 created within the Department of Education. The task force is
 63 created to identify barriers in creating shared use agreements
 64 and to make recommendations to facilitate the shared use of
 65 school facilities generally and in high-need communities.

66 (1) The task force is composed of 7 members appointed by
 67 the department, as follows:

68 (a) Two representatives from school districts, including 1
 69 representative from school districts 1 through 33 and 1
 70 representative from school districts 34 through 67;

71 (b) One representative from a public health department;

72 (c) Two representatives from community-based programs in
 73 high-need communities; and

74 (d) Two representatives from recreational organizations.

75 (2) The task force shall elect a chair and vice chair. The

76 chair and vice chair may not be representatives from the same
 77 member category. Members of the task force shall serve without
 78 compensation, but are entitled to reimbursement for per diem and
 79 travel expenses pursuant to s. 112.061, Florida Statutes.

80 (3) The task force shall meet by teleconference or other
 81 electronic means, if possible, to reduce costs.

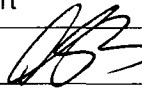
82 (4) The department shall provide the task force with staff
 83 necessary to assist the task force in the performance of its
 84 duties.

85 (5) The task force shall submit a report of its findings
 86 and recommendations to the President of the Senate and the
 87 Speaker of the House of Representatives by June 30, 2018. Upon
 88 submission of the report, the task force shall expire.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1331 Education
SPONSOR(S): PreK-12 Quality Subcommittee and Grall
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1598

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N, As CS	Brink	Duncan
2) PreK-12 Appropriations Subcommittee	9 Y, 4 N	Seifert	Potvin
3) Education Committee		Brink 	Hassell

SUMMARY ANALYSIS

The bill establishes the Schools of Excellence Program to provide administrative flexibility to the state's highest performing schools. The bill requires the State Board of Education to designate a school as a School of Excellence if it has a school grades score in the 80th percentile or higher, statewide, for schools of its type (elementary, middle, high, or combination) for 2 of the last 3 school years. A school retains its designation for 3 years unless it earns a school grade lower than a "B" during that span. A school may renew its designation if it remains in the 80th percentile or higher for 2 of the 3 years and does not receive a grade lower than a "B." The bill provides the following administrative flexibilities to a School of Excellence:

- Exemption from any provision in law or rule that expressly requires a minimum period of daily or weekly instruction in reading.
- The same autonomy over personnel and budgetary decisions for the school's principal as provided to principals participating in the Principal Autonomy Pilot Project Initiative.
- Exemption from district-set starting and stopping times for the school day.
- Allowing a teacher to substitute 1 school year of employment at a School of Excellence for 20 inservice points toward the renewal of their professional certificate, up to 60 inservice points.
- Calculation for compliance with maximum class size at the school level rather than the classroom level.

Under the bill, a temporary certificate holder who completes an approved professional development certification program and earns a highly effective rating will qualify for a renewable professional certificate without having to complete additional classwork or pass the Professional Education Test.

The bill allows charter schools and charter management organizations to offer a professional development certification and educator competence program and requires the mentorship and induction component of a program to, at a minimum, provide weekly opportunities for specified mentoring and induction activities. The mentorship and induction activities must be provided for a teacher's first year in the program and may be provided until the teacher attains his or her professional certificate. The bill requires the DOE to adopt standards for approving a professional development certification and educator competence program, including the mentorship and induction component.

The bill allows mentoring activities, including serving as a mentor, to count towards a teacher's inservice requirements for certification renewal. The bill requires professional development activities to provide training to mentors. The bill requires model professional development programs disseminated by the DOE to include effective mentorship activities to new teachers and training to mentors.

The bill also streamlines the temporary certificate application process.

This bill has no state fiscal impact.

The bill takes effect July 1, 2017

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

STORAGE NAME: h1331e.EDC.DOCX

DATE: 4/4/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Schools of Excellence

Present Situation

Recognizing High-Performing Schools: School Grades and School Recognition

One function of Florida's statewide accountability system is to identify and recognize schools that perform well based on school quality metrics established in law. Initially implemented in 1999 as the A+ Plan for Education,¹ Florida's system has evolved and increased accountability for schools and educators by using student achievement and learning gains data from statewide, standardized assessments and other measures of school quality to assign schools grades on an A through F scale. The School Recognition Program was established to financially reward high-performing schools as indicated by the school grades.²

School Grades

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.³ School grades are also used to determine whether a school must select or implement a turnaround option⁴ or whether a school is eligible for school recognition funds as appropriated by the Legislature.⁵

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 points⁶

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.⁷ 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).

¹ See ch. 1999-398, L.O.F.; Florida Department of Education, *Evaluation and Reporting, Florida School Recognition Program*, Frequently Asked Questions, <http://www.fldoe.org/accountability/accountability-reporting/fl-school-recognition-program/FAQ.stml> (last visited Mar. 13, 2017).

² Section 3, ch. 1997-212, L.O.F.

³ 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.

⁴ See s. 1008.33(4), F.S.

⁵ See s. 1008.26, F.S.

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

⁷ See s. 1008.34(3)(b), F.S.; rule 6A-1.09981(4)(a)-(c), F.A.C.

School Grades Models							
Basic/Elementary (700 Points)			Middle School (Basic +200 Points)		High School (Basic+300 Points)		
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	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%) ⁸
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%)			(0% to 100%)			

Schools with a combination of grade groups (combination schools), such as K-8 or 6-12, have a school grades calculation that is based on the components that are applicable based on the grade groups served by the school. By example, a school that serves students in K-8 would have a school grade calculation based on the basic model plus the middle grades components but not the high school components, for a total of 900 possible points.

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.⁹

School Recognition

The Florida School Recognition Program was created in 1997 to recognize the "outstanding faculty and staff in highly productive [public] schools."¹⁰ The program provides public recognition and financial awards to schools sustaining high student performance or schools that demonstrate exemplary improvement in student performance.¹¹ Funds were first awarded to eligible schools in the 1999-2000 school year.¹²

Public schools, including charter schools, that receive a school grade of "A," improve at least one letter grade from the prior year, or improve more than one letter grade and sustain the improvement the following year are eligible for awards.¹³ In addition, alternative schools that maintain a "commendable" rating or improve at least one improvement-rating level are also eligible for awards.¹⁴

⁸ 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.

⁹ See s. 1008.34(3)(a), F.S.

¹⁰ Section 3, ch. 1997-212, L.O.F., initially codified at s. 231.2905 (1), F.S., redesignated in 2002 as s. 1008.36 (1), F.S.

¹¹ Section 1008.36(2), F.S.; Florida Department of Education, Accountability Reporting, *Florida School Recognition Program: Frequently Asked Questions*, <http://www.fldoe.org/how-do-i/evaluation-reporting.stml> (last visited Mar. 13, 2017).

¹² *Id.*

¹³ Section 1008.36(2) and (3), F.S. A school that serves any combination of students in kindergarten through grade 3 that does not receive a school grade because its students are not tested and not included in the school grading system receives the school grade designation of a K-3 feeder pattern school, if at least 60 percent of the students in the K-3 school are scheduled to be assigned to the graded school. Section 1008.34(3)(a)2., F.S.

¹⁴ Section 1008.34(1)(2), F.S. Alternative schools have the option of receiving a school improvement rating. There are 3 ratings: commendable, maintaining, and unsatisfactory. *Id.*

Financial awards may be used for:

- Nonrecurring bonuses for faculty and staff;
- Nonrecurring expenditures for educational equipment or materials; or
- Temporary personnel to assist in maintaining and improving student performance.¹⁵

Although the law provides recognition in the form of publicly reported school grades and financial incentives through the School Recognition Program, the law does not provide consistently, highly successful schools any relief from prescriptive state- or district-level regulations that may hinder a school from implementing additional, effective practices that further improve student outcomes.

Principal Autonomy Pilot Program Initiative

In 2016, the Legislature established the Principal Autonomy Pilot Program Initiative (PAPPI) within the Department of Education (DOE) to provide the principal of a participating school with increased autonomy and authority regarding allocation of resources and staffing to improve student achievement and school management.¹⁶ School district participation in PAPPI is voluntary, and only open to school districts in Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas and Seminole Counties. School districts seeking to participate in PAPPI must submit a principal autonomy proposal to the State Board of Education for approval. A participating school must have received at least two school grades of “D” or “F” during the previous three school years, and a participating principal must have earned a highly effective rating on the prior year’s performance evaluation.¹⁷

The program exempts participating schools from the K-20 Education Code and state board rules implementing such provisions, with some exceptions.¹⁸ In addition, a principal at a participating school may select qualified instructional personnel for placement at the school and refuse placement or transfer of instructional personnel by the district school superintendent, in any case.¹⁹ The principal also has greater budgeting authority to allocate resources to help improve student achievement.²⁰

Professional Certification Renewal

Instructional personnel with a professional educator certificate must apply to renew their certificate every five years.²¹ In order to qualify for renewal, the applicant must earn at least six college credits or 120 inservice (professional development) points during the 5-year cycle.²² At least three college credits or 60 inservice points must be earned in each subject area for which renewal is sought.²³ In addition to credits or inservice points required in the subject area, credits or inservice points may be earned in courses in clinical educator training, literacy and computational skills acquisition, exceptional student education, child development, drug abuse, child abuse, limited English proficiency, dropout prevention, and other topics.²⁴

¹⁵ Section 1008.36(5), F.S.

¹⁶ Chapter 2016-223, L.O.F. *Codified at* ss. 1012.28(8), and 1011.6202, F.S.

¹⁷ Section 1011.6202(2)(a)1. and 2., F.S.

¹⁸ *See* s. 1011.6202(3), F.S.

¹⁹ Section 1012.28(8)(a), F.S.

²⁰ Section 1012.28(8)(b), F.S.

²¹ Section 1012.585(2)(a), F.S.

²² Section 1012.585(3)(a), F.S. Applicants may combine college credits and inservice points to meet this requirement. One semester hour of college credit is equivalent to 20 inservice points. Rule 6A-4.0051(1)(a)2., F.A.C. College credits must be earned at an accredited or state board-approved institution. Inservice points must be earned through participation in state board-approved school district inservice activities. Rule 6A-4.0051(1)(a), F.A.C.; *see* rule 6A-4.003(1) and (2), F.A.C. (list of approved accrediting agencies and guidelines for nonaccredited approved institutions).

²³ Section 1012.585(3)(a), F.S.

²⁴ *Id.*

Applicants for renewal of a professional certificate must earn at least one college credit or the equivalent amount of inservice points in the area of instruction for teaching students with disabilities.²⁵

Effect of Proposed Changes

The bill establishes the Schools of Excellence Program to provide administrative flexibility to the state's highest performing schools.

The bill requires the State Board of Education to designate a school as a School of Excellence when the school's percentage of possible points earned in its school grades calculation is in the 80th percentile or higher for schools within the same grade group (elementary schools, middle schools, high schools, or combination schools) for 2 of the last 3 school years. In order to qualify, the school must have data for each school grades component for its grade group.

Under the bill, a school retains its designation as a School of Excellence for 3 years so long as it does not receive a school grade lower than a "B" during that span. The school may renew its designation for another 3 years if it remains in the 80th percentile or higher for 2 of the 3 years and does not receive a grade lower than a "B" in any of the years. The bill provides that a School of Excellence that receives a grade lower than "B" may not continue to be designated as a School of Excellence and loses its administrative flexibility during the remainder of the 3-year period.

The bill provides the following administrative flexibilities to a School of Excellence:

- Exemption from any provision in law or rule that expressly requires a minimum period of daily or weekly instruction in reading.
- The same autonomy over personnel and budgetary decisions for the school's principal as provided to principals participating in the Principal Autonomy Pilot Project Initiative.
- Exemption from district-set starting and stopping times for the school day.
- Calculation for compliance with maximum class size at the school level rather than the classroom level.

In addition, the bill allows a teacher to substitute 1 school year of employment at a School of Excellence for 20 inservice points toward the renewal of their professional certificate. The provision allows the teacher to earn up to 60 inservice points out of the 120 points required to renew a professional educator certificate at the end of the 5-year certification cycle. The bill provides that the principal of a School of Excellence may still require instructional personnel to participate in professional development implemented by the school.

Educator Certification

Present Situation

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the Florida Department of Education (DOE).²⁶ Persons seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must be certified.²⁷ The purpose of certification is to require school-based

²⁵ Section 1012.585(4), F.S. This required training may not add to the total hours required by the DOE for continuing education or inservice training. *Id.*

²⁶ Sections 1012.55(1) and 1002.33(12)(f), F.S.

²⁷ Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

personnel to “possess the credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in the public schools.”²⁸

The DOE issues three types of educator certificates:

- **Professional Certificate.** The professional certificate is Florida's highest type of full-time educator certification.²⁹ The professional certificate is valid for five years and is renewable.³⁰
- **Temporary Certificate.** The temporary certificate covers employment in full-time positions for which educator certification is required.³¹ The temporary certificate is valid for three years and is nonrenewable.³²
- **Athletic Coaching Certificate.** The athletic coaching certificate covers full-time and part-time employment as a public school's athletic coach.³³ DOE issues two types of athletic coaching certificates – one is valid for five years and may be issued for subsequent five-year periods while the other is valid for three years and may be issued only once.³⁴ The five-year certificate requires satisfaction of certain specialization requirements established in rule.³⁵

In addition, school districts are authorized to issue adjunct teaching certificates to part-time teachers who have expertise in the subject area to be taught. An adjunct teaching certificate is valid through the term of the annual contract between the educator and the school district.³⁶

To be eligible for an educator certificate, a person must:³⁷

- be at least 18 years of age;
- sign an affidavit attesting that the applicant will uphold the U.S. and State Constitutions;
- earn a bachelor's or higher degree from an accredited institution of higher learning³⁸ or from a nonaccredited institution identified by the DOE as having a quality program resulting in a bachelor's or higher degree;³⁹
- submit to fingerprinting and background screening and not have a criminal history that requires the applicant's disqualification from certification or employment;
- be of good moral character; and
- be competent and capable of performing the duties, functions, and responsibilities of a teacher.

In addition, each applicant must submit an application and the required fee to the DOE.⁴⁰ Although most of the application process is conducted electronically, certain portions of the process, like

²⁸ Section 1012.54, F.S.; see rule 6A-4.001(1), F.A.C.

²⁹ Rule 6A-4.004(2), F.A.C.

³⁰ Section 1012.56(7)(a), F.S.; see rule 6A-4.0051(3)(c), F.A.C. (validity period is expressed as 5 years from July 1 of the school fiscal year). DOE also issues a nonrenewable 5-year professional certificate that allows an applicant with a bachelor's degree in the area of speech-language impairment to complete a master's degree in speech-language impairment. Section 1012.56(7)(c), F.S.; rule 6A-4.004(3), F.A.C.

³¹ Rule 6A-4.004(1)(a)2., F.A.C.

³² Section 1012.56(7), F.S. (flush-left provisions at end of subsection; validity period is expressed in school fiscal years); rule 6A-4.004(1)(a), F.A.C. DOE also issues a nonrenewable temporary certificate, which is valid for 2 years, in the area of speech-language impairment. Sections 1012.56(7)(c) and 1012.54, F.S.; rule 6A-4.001(1), F.A.C.

³³ Section 1012.55(2), F.S.

³⁴ Rule 6A-4.004(4), F.A.C. (validity periods expressed in school fiscal years).

³⁵ See rule 6A-4.0282, F.A.C.

³⁶ Section 1012.57(1) and (4), F.S. An additional annual certification and an additional annual contract may be awarded by the district at its discretion only if the adjunct teacher is rated effective or highly effective during each year of teaching under the adjunct certification. Section 1012.57(4), F.S.

³⁷ Section 1012.56(2)(a)-(f), F.S.

³⁸ Section 1012.56(2)(c), F.S.; rule 6A-4.003(1), F.A.C. (approved accrediting agencies); see also 34 C.F.R. ss. 602.1-602.50; U.S. Department of Education, *Regional and National Institutional Accrediting Agencies*, https://www2.ed.gov/admins/finaid/accred/accreditation_pg6.html#NationallyRecognized (last visited Mar. 9, 2017) (list of accrediting agencies approved by the U.S. Department of Education).

³⁹ Section 1012.56(2)(c), F.S.; rule 6A-4.003(2), F.A.C. (criteria for approval of nonaccredited institutions of higher learning). For initial certification, an applicant must attain at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. Section 1012.56(2)(c), F.S.

notifications of deficiencies in an application and supporting documentation, are sent through conventional postal delivery services which can delay the process. These notices are expected to be fully electronic by November of 2017.⁴¹

To receive a temporary certificate, an applicant must:

- meet the basic eligibility requirements for certification;⁴²
- obtain full-time employment in a position that requires a Florida educator certificate by a school district or private school that has a DOE-approved professional education competence demonstration program;⁴³ and
- do one of the following:
 - demonstrate mastery of subject area knowledge (e.g., passage of the appropriate subject area test);⁴⁴ or
 - complete the required degree or content courses specified in state board rule for subject area specialization⁴⁵ and attain at least a 2.5 grade point average on a 4.0 scale in the subject area courses.⁴⁶

An educator who is employed under a temporary certificate must demonstrate mastery of general knowledge within one calendar year after employment in order to remain employed in a position that requires a certificate.⁴⁷ If the educator is employed under contract, the calendar year deadline for demonstrating mastery of general knowledge may be extended through the end of the school year.⁴⁸ A temporary certificate is valid for 3 years and is nonrenewable.⁴⁹

An applicant seeking a professional certificate must:

- meet the basic eligibility requirements for certification;⁵⁰
- demonstrate mastery of general knowledge;⁵¹
- demonstrate mastery of subject area knowledge;⁵² and
- demonstrate mastery of professional preparation and education competence.⁵³

A professional certificate is valid for five years and is renewable.⁵⁴

Pathways to a professional certificate include:

- successfully completing an approved teacher preparation program at a postsecondary educational institution in Florida or a teacher preparation program from an out-of-state accredited or DOE-approved institution and achieving a passing score on the Professional

⁴⁰ Section 1012.56(1), F.S.; *see s.* 1012.59, F.S. The fee for initial certification is \$75 per subject area. Rule 6A-4.0012(1)(a)1. and 2., F.A.C.

⁴¹ Telephone interview with Bureau Chief, Florida Department of Education, Bureau of Educator Certification (Feb. 23, 2017).

⁴² Section 1012.56(2)(a)-(f) and (7)(b), F.S.

⁴³ Section 1012.56(1)(b), F.S.; rule 6A-4.004(1)(a)2., F.A.C.

⁴⁴ Section 1012.56(7)(b), F.S.; Florida Department of Education, *Subject Area Knowledge*, http://www.fldoe.org/edcert/mast_sub.asp (last visited April 28, 2016).

⁴⁵ Section 1012.56(7)(b), F.S. The degree and content requirements are specified in ch. 6A-4, F.A.C.

⁴⁶ Section 1012.56(2)(c), F.S.; *see* Florida Department of Education, *Certificate Types and Requirements*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/index.shtml> (last visited Mar. 9, 2017).

⁴⁷ Section 1012.56(7), F.S. (flush-left provisions at end of subsection).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Section 1012.56(2)(a)-(f), F.S.; *see supra* text accompanying notes 37-40.

⁵¹ Section 1012.56(2)(g) and (3), F.S.; Florida Department of Education, *General Knowledge*, http://www.fldoe.org/edcert/mast_gen.asp (last visited Mar. 9, 2017).

⁵² Section 1012.56(2)(h) and (5), F.S.

⁵³ Section 1012.56(2)(i) and (6), F.S.; Florida Department of Education, *Professional Preparation and Education Competence*, http://www.fldoe.org/edcert/mast_prof.asp (last visited Mar. 9, 2017) [hereinafter *Professional Preparation and Education Competence*].

⁵⁴ Sections 1012.56(7)(a) and 1012.585, F.S.; rule 6A-4.0051(1), F.A.C. *See supra* note 30.

Education Test (PET), Subject Area Examination (SAE), and General Knowledge Test (GKT) required by state board rule;⁵⁵

- successfully completing a competency-based professional development certification program offered by a school district or an educator preparation institute (EPI) and passing the PET, SAE, and GKT;⁵⁶
- completing 15 semester hours in professional preparation courses specified in state board rule⁵⁷ or completing the Professional Training Option for Content Majors;⁵⁸ completing requirements for practical experience in teaching;⁵⁹ completing an approved professional education competence demonstration program;⁶⁰ and passing the PET, SAE, and GKT;⁶¹
- providing documentation of a valid professional standard teaching certificate issued by another U.S. state or by the National Board Professional Teaching Standards (NBPTS);⁶²
- providing documentation of a valid professional standard teaching certificate issued by the American Board for Certification of Teacher Excellence (ABCTE) and completing an approved professional education competence demonstration program;⁶³ or
- completing two semesters of part-time or full-time college teaching experience at an accredited community college, state university, or private college or university that awards associate's or higher degrees or at a nonaccredited institution of higher education identified by the DOE as having a quality program and passing the SAE and PET.⁶⁴

In 2016, the law was amended to allow an individual to earn a professional certificate covering grades 6 through 12 in a Science, Technology, Engineering, or Mathematics (STEM) subject without having to complete coursework associated with professional preparation and education competence, if the individual:

- meets the basic eligibility requirements for certification;
- demonstrates mastery of general knowledge;
- holds a master's or higher degree in science, technology, engineering, or mathematics;
- passes the PET and the SAE for the correlated educator certificate;
- teaches a high school course in the subject area of the advanced degree; and
- is rated highly effective under the school district's performance evaluation system based in part on student performance as measured by a statewide standardized assessment or an Advanced Placement, Advance International Certificate of Education, or International Baccalaureate examination.⁶⁵

⁵⁵ Section 1012.56(6)(a) and (b), F.S.; see s. 1004.04, F.S.; rule 6A-4.003(1) and (4), F.A.C. (accreditation of teacher education programs). The Professional Education Test is part of the Florida Teacher Certification Examinations. Rule 6A-4.0021(8), F.A.C.

⁵⁶ Section 1012.56(6)(g)-(h), F.S.; see ss. 1004.85 and 1012.56(8), F.S.; rule 6A-5.066(2)(b)1.d. and (c)1.d., F.A.C.

⁵⁷ Section 1012.56(6)(f), F.S.; rule 6A-4.006(2)(a), F.A.C. Separate professional preparation course requirements are established for certification in Agriculture (grades 6-12). Rule 6A-4.006(3)(a), F.A.C.

⁵⁸ The Professional Training Option for Content Majors authorizes an approved teacher preparation program at a postsecondary institution in Florida to allow students who do not major in education but do major or minor in a content area (e.g., English major) to satisfy professional preparation course requirements. Rule 6A-5.066(3), F.A.C.

⁵⁹ *Professional Preparation and Education Competence*, supra note 53; see rules 6A-4.002(5) and 6A-4.006(2)(b), F.A.C.

⁶⁰ Section 1012.56(6)(f), F.S. Each school district must, and a state-supported public or private school may, establish a professional education competence demonstration program that allows the district's or school's instructional staff to demonstrate mastery of professional preparation and education competence through a performance evaluation plan, which documents the staff's classroom application and instructional performance. See s. 1012.56(8)(b), F.S.

⁶¹ Section 1012.56(6)(f), F.S.

⁶² Section 1012.56(6)(c)-(d), F.S.; see rule 6A-4.002(1)(i)-(j), F.A.C.

⁶³ Section 1012.56(6)(d), F.S.; rule 6A-4.002(1)(j), F.A.C.; *Professional Preparation and Education Competence*, supra note 53.

⁶⁴ Section 1012.56(6)(e), F.S. A non-accredited institution of higher learning is approved as having a quality program if the institution meets one of the following criteria: is accepted for certification purposes by the state department of education where the institution is located; holds a certificate of exemption pursuant to s. 1005.06, F.S.; is a newly created Florida public college or university that offers a bachelor's or higher degree program; is located outside the U.S. and awards a degree that is the equivalent to a bachelor's or higher degree awarded by an accredited or approved institution in the U.S.; or the degree from the institution was accepted by an accredited or approved institution either in transfer or as a basis for admission into the graduate program which resulted in the conferral of a higher degree. Rule 6A-4.003(2), F.A.C.

⁶⁵ Chapter 2016-117, L.O.F.

Several of the pathways allow a temporary certificate holder to complete the general knowledge and professional preparation and education competence requirements for a professional certificate while serving as a classroom teacher. These include the college coursework option, EPIs, district professional development certification and education competency programs (professional development certification program), professional training option programs, and the STEM secondary certification pathway. Data from the DOE show that 35 percent of temporary certificate holders do not complete the requirements for a professional certificate by the end of their 3-year temporary certificate.⁶⁶

A professional certificate must be renewed every five years.⁶⁷ An educator must submit an application,⁶⁸ pay a fee,⁶⁹ and earn at least six college credits or 120 inservice points to renew professional certification.⁷⁰ At least three college credits or 60 inservice points must be earned in each subject area for which renewal is sought.⁷¹ The renewal period may be extended to include two successive renewal periods up to 10 years to enable educators who are certified in three or more subject areas to earn the required credits or inservice points in each subject area.⁷² In addition to credits or inservice points required in the subject area, credits or inservice points may be earned in courses in clinical educator training, literacy and computational skills acquisition, exceptional student education, child development, drug abuse, child abuse, limited English proficiency, dropout prevention, and other topics.⁷³

State board rule includes special provisions for teachers of limited English proficient students, teachers of students with disabilities and teachers of reading.⁷⁴ The law allows a professional certificate holder to use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in teaching reading in excess of six semester hours during one certificate validity period toward renewal of the professional certificate during the subsequent validity periods.⁷⁵ Temporary certificate holders may use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in teaching reading toward renewal of the teacher's first professional certificate; however, the training must not have been included within the degree program, and the temporary and professional certificates must be issued for consecutive school years.⁷⁶

Applicants for renewal of a professional certificate must earn at least one college credit or the equivalent amount of inservice points in the area of instruction for teaching students with disabilities.⁷⁷

⁶⁶ Florida Department of Education, *Pathways to the Professional Certificate: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

⁶⁷ Section 1012.585(2)(a), F.S.

⁶⁸ Rule 6A-4.0051(3)(b), F.A.C. The DOE processes certification renewals for individuals who are not employed by district school boards. Section 1012.585(1)(b), F.S. District school boards are responsible for processing certificate renewals for school district employees. Section 1012.585(1)(a), F.S.

⁶⁹ The fee for a certification renewal is \$75. Rules 6A-4.0051(3)(b), F.A.C. and 6A-4.0012(1)(a)1.

⁷⁰ Section 1012.585(3)(a), F.S. Applicants may combine college credits and inservice points to meet this requirement. One semester hour of college credit is equivalent to 20 inservice points. Rule 6A-4.0051(1)(a)2., F.A.C. College credits must be earned at an accredited or state board-approved institution. Inservice points must be earned through participation in state board-approved school district inservice activities. Rule 6A-4.0051(1)(a), F.A.C.; see rule 6A-4.003(1) and (2), F.A.C. (list of approved accrediting agencies and guidelines for nonaccredited approved institutions).

⁷¹ Section 1012.585(3)(a), F.S.

⁷² Section 1012.585(3)(c), F.S.; rule 6A-4.0051(2)(c), F.A.C.

⁷³ Section 1012.585(3)(a), F.S.

⁷⁴ Rule 6A-4.0051(5), F.S.

⁷⁵ Section 1012.585(3)(d)1., F.S.

⁷⁶ Section 1012.585(3)(d)2., F.S.

⁷⁷ Section 1012.585(4), F.S. This required training may not add to the total hours required by the DOE for continuing education or inservice training. *Id.*

Certification in subject areas may also be renewed by earning a passing score on the corresponding Florida-developed subject area test or standardized examination specified in state board rule.⁷⁸ Certification by NBPTS is deemed to meet certification renewal requirements for the life of the certificate, in the corresponding certification subject area.⁷⁹

Teacher Preparation

There are various teacher preparation programs that individuals may use to receive the training needed to attain teaching credentials, including.⁸⁰

- **Initial Teacher Preparation programs** are “traditional” teacher preparation programs that require candidates to demonstrate mastery of subject area knowledge in one or more specific subject areas(s), mastery of general knowledge, and mastery of professional preparation and education competence. Such programs result in qualification for a professional educator certificate.⁸¹
- **Educator Preparation Institutes** are alternative certification programs offered by postsecondary institutions and private providers for baccalaureate degree holders. These programs provide professional preparation for career-changers and recent college graduates who do not already possess a Professional Educator Certificate and require mastery of general knowledge, mastery of subject area knowledge and mastery of professional preparation and education competence.
- **District Professional Development Certification and Education Competency Programs** are cohesive, competency-based professional preparation certification programs offered by Florida public school districts, by which a school district’s instructional staff can satisfy the mastery of professional preparation and education competence requirements. In addition to completing the district program, candidates must demonstrate mastery of general knowledge and subject area knowledge.

Professional Development

Florida law requires a number of entities, including the DOE, public postsecondary educational institutions, public school districts, public schools, state education foundations, consortia, and professional organizations, to work collaboratively to develop a coordinated system of professional development. The purpose of the system is to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.⁸²

Part of the DOE’s responsibility in the professional development system is to disseminate to the school community research-based professional development methods and programs that have demonstrated success in meeting identified student needs.⁸³ At least one method of dissemination must be through a web-based statewide performance support system, including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available assistance.⁸⁴ In addition, the DOE must disseminate, using the web-based statewide performance-support system, proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and

⁷⁸ Section 1012.585(3)(b), F.S. For the purposes of renewing a professional certificate, passage of a subject area examination is equivalent to three semester hours of college credit. Rule 6A-4.0051(1)(b), F.A.C.

⁷⁹ Section 1012.585(2)(b), F.S.; rule 6A-4.0051(1)(c), F.A.C.

⁸⁰ Florida Department of Education, *Educator Preparation*, <http://www.fldoe.org/teaching/preparation> (last visited Mar. 9, 2017). See also rule 6A-5.066, F.A.C.

⁸¹ Rule 6A-5.066, F.A.C.

⁸² Section 1012.98(1), F.S.

⁸³ Section 1012.98(4)(a), F.S. The web-based statewide performance support system can be accessed at <https://www.floridaschoolleaders.org>.

⁸⁴ *Id.*

engagement, and meeting identified school needs.⁸⁵ The DOE must also disseminate, using web-based technology, research-based best practice methods by which the state and district school boards may evaluate and improve the professional development system.⁸⁶

Each school district is required to develop a professional development system in consultation with teachers, teacher-educators of Florida College System (FCS) institutions and state universities, business and community representatives, and local education foundations, consortia, and professional organizations.⁸⁷ The system must:

- be approved by the DOE, with all substantial revisions thereto also approved by the DOE;
- be based on analyses of student achievement data and instructional strategies and methods that support rigorous, relevant, and challenging curricula for all students;
- provide in-service activities with follow-up support appropriate to accomplish district-level and school-level improvement goals and standards;
- include a master plan for inservice activities, which must be aligned to and support school-based inservice plans and school improvement plans and be approved annually by the district school board;
- include inservice activities for school administrative personnel that address updated skills necessary for instructional leadership and effective school management;
- provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs;
- provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs;
- provide for the continuous evaluation of the quality and effectiveness of professional developmental programs in order to eliminate ineffective programs and strategies and expand effective ones; and
- for middle grades, emphasize:
 - interdisciplinary planning, collaboration, and instruction;
 - alignment of curriculum and instructional materials to the state academic standards; and
 - use of small learning communities; problem-solving, inquiry-driven research and analytical approaches for students; strategies and tools based on student needs; competency-based instruction; integrated digital instruction; and project-based instruction.⁸⁸

A district school board may contract with independent entities for professional development services and inservice education if the district school board can demonstrate to the Commissioner of Education that, through such a contract, a better product can be acquired or its goals for education improvement can be better met.⁸⁹

Teacher Mentoring and Induction

Teacher induction programs “aim to improve the performance and retention of new hires and to enhance the skills and prevent the loss of new teachers with the ultimate goal of improving students’ growth and learning.”⁹⁰ Data show that recent concerns over staffing shortages are primarily related to retaining new teachers rather than recruiting them, as beginning teachers leave the profession at a higher clip than experienced ones or teachers who retire.⁹¹ Beginning teachers who leave the profession often report a lack of adequate administrative support as a motivating factor.⁹² This has led

⁸⁵ Section 1012.98(11), F.S.

⁸⁶ Section 1012.98(7), F.S.

⁸⁷ Section 1012.98(4)(b), F.S.

⁸⁸ Section 1012.98(4)(b), F.S.

⁸⁹ Section 1012.98(9), F.S.

⁹⁰ Richard Ingersoll, *Beginning Teacher Induction: What the Data Tell Us*, http://www.edweek.org/ew/articles/2012/05/16/kappan_ingersoll.h31.html (last visited Mar. 6, 2017).

⁹¹ *See id.*

⁹² *Id.*

to a significant portion of the teacher workforce consisting more of beginning teachers as well as an increase in participation in teacher induction programs.⁹³ However, there is great variation in the quality of induction opportunities offered to new teachers between states and school districts.⁹⁴

Generally, teacher induction has a positive effect on retaining new teachers. Further, participation in certain activities is correlated with higher rates of retention, including having a peer mentor in the subject area and having common planning time.⁹⁵

Florida law has no provisions related to new teacher induction other than requiring the assignment of a peer mentor as part of a district program.⁹⁶ Although a peer mentor must hold a valid professional certificate, have at least 3 years of teaching experience in prekindergarten through grade 12, and have a rating of effective or highly effective on the prior year's performance evaluation,⁹⁷ the law does not expressly establish mentor training and mentoring activities requirements.

Effect of Proposed Changes

To help districts recruit and retain new teachers, the bill enhances requirements for the peer mentor component of a district program and establishes a mentorship and induction-based pathway to a professional educator certificate. Under the bill, a temporary certificate holder who completes a DOE-approved district program and who has a highly effective district performance evaluation rating will receive a professional certificate without having to sit for additional coursework or take the Professional Education Test (PET).

The bill requires that the mentorship and induction component of a district's professional development certification program, at a minimum, provide weekly opportunities for mentoring and induction activities, including:

- common planning time;
- ongoing professional development targeted to a mentee teacher's needs;
- opportunities to observe other teachers;
- co-teaching experiences; and
- reflection and follow-up discussions.

The bill requires that the mentorship and induction activities must be provided for the teacher's first year in the program and may be provided until the teacher attains his or her professional certificate. The bill requires that a principal who is rated highly effective must be provided flexibility in selecting professional development activities for the mentorship and induction component so long as they are approved by the DOE.

The bill allows charter schools and charter management organizations to offer a DOE-approved professional development certification program.

The bill requires the DOE to adopt standards for the approval of professional development certification programs, including standards for the teacher mentorship and induction component, by December 31, 2017. The standards for the teacher mentorship and induction component must include:

- program administration and evaluation;

⁹³ See *id.*

⁹⁴ See *id.* See also The New Teacher Center, *Support from the Start: A 50-State Review of Policies on New Educator Induction and Mentoring* (2016) at iii-iv, available at <https://newteachercenter.org/wp-content/uploads/2016ExecSummaryStatePolicies.pdf>.

⁹⁵ See RICHARD INGERSOLL, *Beginning Teacher Induction: What the Data Tell Us*, http://www.edweek.org/ew/articles/2012/05/16/kappan_ingersoll.h31.html (last visited Mar. 6, 2017).

⁹⁶ See s. 1012.56(8)(a)3., F.S.

⁹⁷ *Id.* School district personnel evaluation systems differentiate among four levels of performance: Highly Effective; Effective; Needs improvement (or Developing for instructional personnel in their first 3 years of employment who need improvement); and Unsatisfactory. Section 1012.34(2)(e), F.S.

- mentor roles, selection, and training;
- beginning teacher assessment and professional development; and
- teacher content knowledge and practices aligned to the Florida Educator Accomplished Practices.

Each school district, charter school, or charter management organization, wishing to provide a professional development certification program must submit its program, including the teacher mentorship and induction component, to the DOE for approval no later than June 30, 2018. Beginning January 1, 2019, a teacher may not satisfy requirements for a professional certificate through a professional development certification program unless the program has been approved by the DOE. As a result, teachers can complete the requirements for a professional certificate based on current program requirements through December 31, 2018, at the latest.

The bill allows participation in a district program as a mentor or a mentee to count toward a teacher's inservice specialization requirements for renewal of a professional certificate. The bill also requires each district professional development system to provide inservice activities and support targeted to the individual needs of teachers participating in the district program.

The bill requires professional development activities designed to implement the School Community Professional Development Act to provide training to mentors as part of the district program. The training must include components on teacher development, peer coaching, time management, and other related topics as determined by the DOE. The bill requires model professional development programs disseminated by the DOE to include effective mentorship activities to new teachers and training to mentors.

The bill also streamlines the temporary certificate application process by requiring the DOE to electronically issue a temporary certificate to a qualifying applicant within 14 calendar days after it receives a request from the applicant's employing school district or private school. The DOE must also electronically provide an official statement of status of eligibility at the time the certificate is issued. The statement must include each method by which an applicant can complete the qualifications for a professional certificate.

B. SECTION DIRECTORY:

Section 1. Creates s. 1003.631, F.S.; creating the Schools of Excellence Program; providing for designation as a School of Excellence; providing requirements for a School of Excellence; providing for redesignation; authorizing Schools of Excellence to have specified administrative flexibilities; authorizing certain teachers to earn a professional certificate by completing a specified program.

Section 2. Amends s. 1012.56, F.S.; requiring the Department of Education to issue a temporary educator certificate within a specified period; requiring the department to provide electronic notice of the issuance of a temporary certificate to specified entities; requiring the department to provide the applicant an official statement of status of eligibility upon issuance of a temporary certificate; providing content requirements for the statement of status of eligibility; revising the criteria instructional personnel must meet to be issued a professional certificate; providing that an applicant for professional certification is not required to take or pass a specified examination under certain circumstances; authorizing charter schools and charter management organizations to develop a professional development certification and education competency program; revising program requirements; requiring the department to adopt standards for the approval of such programs by a specified date; providing requirements for such standards; requiring each school district and charter school to submit its program for approval by a specified date; providing that certification requirements may not be met in a program that is not approved by the department after a specified date.

Section 3. Amends s. 1012.585, F.S.; revising college credit and inservice hour requirements for renewal of a professional certificate to include participation in specified activities.

Section 4. Amends s. 1012.98, F.S.; revising the activities designed to implement the school community professional development act to include specified training relating to a professional development certification and education competency program; revising requirements for school district professional development systems; requiring the department to disseminate professional development programs that meet specified criteria.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost savings to teachers who participate in a professional development certification program because they would not be required to enroll in additional college coursework or take the Professional Education Test to earn their professional certificate.

D. FISCAL COMMENTS:

While the Department of Education indicated an additional FTE would be required to review and approve districts' professional development certification programs, insufficient data was provided to substantiate the request.

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 bill was amended and reported favorably by the PreK-12 Quality Subcommittee as a committee substitute. The two amendments:

- include calculation of class size at the school level, rather than classroom level, as an additional flexibility for a School of Excellence;
- clarify that the exemption from a minimum period of instruction applies only to reading; and
- delete a provision granting autonomy to principals newly assigned to a "D" or "F" school.

The bill analysis is drafted to the bill as amended.

1 A bill to be entitled
 2 An act relating to education; creating s. 1003.631,
 3 F.S.; creating the Schools of Excellence Program;
 4 providing for designation as a School of Excellence;
 5 providing requirements for a School of Excellence;
 6 providing for redesignation; authorizing Schools of
 7 Excellence to have specified administrative
 8 flexibilities; authorizing certain teachers to earn a
 9 professional certificate by completing a specified
 10 program; amending s. 1012.56, F.S.; requiring the
 11 Department of Education to issue a temporary educator
 12 certificate within a specified period; requiring the
 13 department to provide electronic notice of the
 14 issuance of a temporary certificate to specified
 15 entities; requiring the department to provide the
 16 applicant an official statement of status of
 17 eligibility upon issuance of a temporary certificate;
 18 providing content requirements for the statement of
 19 status of eligibility; revising the criteria
 20 instructional personnel must meet to be issued a
 21 professional certificate; providing that an applicant
 22 for professional certification is not required to take
 23 or pass a specified examination under certain
 24 circumstances; authorizing charter schools and charter
 25 management organizations to develop a professional

26 development certification and education competency
 27 program; revising program requirements; requiring the
 28 department to adopt standards for the approval of such
 29 programs by a specified date; providing requirements
 30 for such standards; requiring each school district and
 31 charter school to submit its program for approval by a
 32 specified date; providing that certification
 33 requirements may not be met in a program that is not
 34 approved by the department after a specified date;
 35 amending s. 1012.585, F.S.; revising college credit
 36 and inservice hour requirements for renewal of a
 37 professional certificate to include participation in
 38 specified activities; amending s. 1012.98, F.S.;
 39 revising the activities designed to implement the
 40 school community professional development act to
 41 include specified training relating to a professional
 42 development certification and education competency
 43 program; revising requirements for school district
 44 professional development systems; requiring the
 45 department to disseminate professional development
 46 programs that meet specified criteria; providing an
 47 effective date.

48
 49 Be It Enacted by the Legislature of the State of Florida:
 50

51 Section 1. Section 1003.631, Florida Statutes, is created
 52 to read:

53 1003.631 Schools of Excellence.—The Schools of Excellence
 54 Program is established to provide administrative flexibility to
 55 the state's top schools so that the instructional personnel and
 56 administrative staff at such schools can continue to serve their
 57 communities and increase student learning to the best of their
 58 professional ability.

59 (1) DESIGNATION.—

60 (a) The State Board of Education shall designate a school
 61 as a School of Excellence if the school's percentage of possible
 62 points earned in its school grade calculation is in the 80th
 63 percentile or higher for schools comprised of the same grade
 64 groupings, including elementary schools, middle schools, high
 65 schools, and schools with a combination of grade levels, for at
 66 least 2 of the last 3 school years. The school must have data
 67 for each applicable school grade component pursuant to s.
 68 1008.34(3) to be eligible for designation as a School of
 69 Excellence. A qualifying school shall retain the designation as
 70 a School of Excellence for up to 3 years, at the end of which
 71 time the school may renew the designation, if:

72 1. The school was in the 80th percentile or higher
 73 pursuant to this subsection for 2 of the previous 3 years; and

74 2. The school did not receive a school grade lower than
 75 "B" pursuant to s. 1008.34 during any of the previous 3 years.

76 (b) A school that earns a school grade lower than "B"
77 pursuant to s. 1008.34 during the 3-year period may not continue
78 to be designated as a School of Excellence during the remainder
79 of that 3-year period and loses the administrative flexibilities
80 provided in subsection (2).

81 (2) ADMINISTRATIVE FLEXIBILITIES.—A School of Excellence
82 must be provided the following administrative flexibilities:

83 (a) Exemption from any provision of law or rule that
84 expressly requires a minimum period of daily or weekly
85 instruction in reading.

86 (b) Principal autonomy as provided under s. 1012.28(8).

87 (c) For instructional personnel, the substitution of 1
88 school year of employment at a School of Excellence for 20
89 inservice points toward the renewal of a professional
90 certificate, up to 60 inservice points in a 5-year cycle,
91 pursuant to s. 1012.585(3).

92 (d) Exemption from compliance with district policies or
93 procedures that establish times for the start and completion of
94 the school day.

95 (e) Calculation for compliance with maximum class size
96 pursuant to s. 1003.03(4) based on the average number of
97 students at the school level.

98 (3) TEACHER CERTIFICATION.—A temporary certificateholder
99 under s. 1012.56(7)(b) who is employed by a School of Excellence
100 may earn a professional certificate by meeting the requirements

101 of s. 1012.56(7)(a)3.

102 Section 2. Paragraph (c) of subsection (8) of section
 103 1012.56, Florida Statutes, is redesignated as paragraph (d),
 104 subsection (1), paragraph (a) of subsection (7), and paragraph
 105 (a) of subsection (8) are amended, and a new paragraph (c) is
 106 added to subsection (8) of that section, to read:

107 1012.56 Educator certification requirements.—

108 (1) APPLICATION.—Each person seeking certification
 109 pursuant to this chapter shall submit a completed application
 110 containing the applicant's social security number to the
 111 Department of Education and remit the fee required pursuant to
 112 s. 1012.59 and rules of the State Board of Education. Pursuant
 113 to the federal Personal Responsibility and Work Opportunity
 114 Reconciliation Act of 1996, each party is required to provide
 115 his or her social security number in accordance with this
 116 section. Disclosure of social security numbers obtained through
 117 this requirement is limited to the purpose of administration of
 118 the Title IV-D program of the Social Security Act for child
 119 support enforcement.

120 (a) Pursuant to s. 120.60, the department shall issue
 121 within 90 calendar days after the stamped receipted date of the
 122 completed application.

123 ~~(a) If the applicant meets the requirements,~~ a professional
 124 certificate to a qualifying applicant covering the
 125 classification, level, and area for which the applicant is

126 deemed qualified and a document explaining the requirements for
 127 renewal of the professional certificate.~~+~~

128 (b) The department shall issue a temporary certificate to
 129 a qualifying applicant within 14 calendar days after receipt of
 130 a request from ~~if the applicant meets the requirements and if~~
 131 ~~requested by~~ an employing school district or an employing
 132 private school with a professional education competence
 133 demonstration program pursuant to paragraphs (6)(f) and (8)(b).
 134 The~~a~~ temporary certificate must cover ~~covering~~ the
 135 classification, level, and area for which the applicant is
 136 deemed qualified. The department shall electronically notify the
 137 applicant's employing school district or employing private
 138 school that the temporary certificate has been issued and
 139 provide the applicant an official statement of status of
 140 eligibility at the time the certificate is issued. ~~and an~~
 141 ~~official statement of status of eligibility; or~~

142 (c) Pursuant to s. 120.60, the department shall issue
 143 within 90 calendar days after the stamped receipted date of the
 144 completed application, if an applicant does not meet the
 145 requirements for either certificate, an official statement of
 146 status of eligibility.

147
 148 The statement of status of eligibility must be provided
 149 electronically and must advise the applicant of any
 150 qualifications that must be completed to qualify for

151 certification. Each method by which an applicant can complete
 152 the qualifications for a professional certificate must be
 153 included in the statement of status of eligibility. Each
 154 statement of status of eligibility is valid for 3 years after
 155 its date of issuance, except as provided in paragraph (2)(d).

156 (7) TYPES AND TERMS OF CERTIFICATION.—

157 (a) The Department of Education shall issue a professional
 158 certificate for a period not to exceed 5 years to any applicant
 159 who fulfills one of the following:

160 1. Meets all the requirements outlined in subsection (2).

161 2. ~~or,~~ For a professional certificate covering grades 6
 162 through 12, ~~any applicant who:~~

163 a.1. Meets the requirements of paragraphs (2)(a)-(h).

164 b.2. Holds a master's or higher degree in the area of
 165 science, technology, engineering, or mathematics.

166 c.3. Teaches a high school course in the subject of the
 167 advanced degree.

168 d.4. Is rated highly effective as determined by the
 169 teacher's performance evaluation under s. 1012.34, based in part
 170 on student performance as measured by a statewide, standardized
 171 assessment or an Advanced Placement, Advanced International
 172 Certificate of Education, or International Baccalaureate
 173 examination.

174 e.5. Achieves a passing score on the Florida professional
 175 education competency examination required by state board rule.

176 3. Meets the requirements of paragraphs (2)(a)-(h) and
 177 completes a professional preparation and education competence
 178 program approved by the department pursuant to paragraph (8)(c).
 179 An applicant who completes the program and is rated highly
 180 effective as determined by his or her performance evaluation
 181 under s. 1012.34 is not required to take or achieve a passing
 182 score on the professional education competency examination in
 183 order to be awarded a professional certificate.

184
 185 Each temporary certificate is valid for 3 school fiscal years
 186 and is nonrenewable. However, the requirement in paragraph
 187 (2)(g) must be met within 1 calendar year of the date of
 188 employment under the temporary certificate. Individuals who are
 189 employed under contract at the end of the 1 calendar year time
 190 period may continue to be employed through the end of the school
 191 year in which they have been contracted. A school district shall
 192 not employ, or continue the employment of, an individual in a
 193 position for which a temporary certificate is required beyond
 194 this time period if the individual has not met the requirement
 195 of paragraph (2)(g). The State Board of Education shall adopt
 196 rules to allow the department to extend the validity period of a
 197 temporary certificate for 2 years when the requirements for the
 198 professional certificate, not including the requirement in
 199 paragraph (2)(g), were not completed due to the serious illness
 200 or injury of the applicant or other extraordinary extenuating

201 | circumstances. The department shall reissue the temporary
 202 | certificate for 2 additional years upon approval by the
 203 | Commissioner of Education. A written request for reissuance of
 204 | the certificate shall be submitted by the district school
 205 | superintendent, the governing authority of a university lab
 206 | school, the governing authority of a state-supported school, or
 207 | the governing authority of a private school.

208 | (8) PROFESSIONAL DEVELOPMENT CERTIFICATION AND EDUCATION
 209 | COMPETENCY PROGRAM.—

210 | (a) The Department of Education shall develop and each
 211 | school district, charter school, and charter management
 212 | organization may provide a cohesive competency-based
 213 | professional development certification and education competency
 214 | program by which ~~members of a school district's~~ instructional
 215 | staff may satisfy the mastery of professional preparation and
 216 | education competence requirements specified in subsection (6)
 217 | and rules of the State Board of Education. Participants must
 218 | hold a state-issued temporary certificate. A school district,
 219 | charter school, or charter management organization that
 220 | implements the program shall provide a competency-based
 221 | certification program developed by the Department of Education
 222 | or developed by the district, charter school, or charter
 223 | management organization and approved by the Department of
 224 | Education. The program shall include the following:

- 225 | 1. A minimum period of initial preparation before assuming

226 duties as the teacher of record.

227 2. An option for collaboration with ~~between school~~
 228 ~~districts and~~ other supporting agencies or educational entities
 229 for implementation.

230 3. A teacher mentorship and induction ~~An experienced peer-~~
 231 ~~mentor~~ component.

232 a. Each individual selected by the district as a ~~peer~~
 233 mentor:

234 I. Must hold a valid professional certificate issued
 235 pursuant to this section;;

236 II. Must have earned at least 3 years of teaching
 237 experience in prekindergarten through grade 12;;and

238 III. Must have completed specialized training in clinical
 239 supervision and participate in ongoing mentor training provided
 240 through the coordinated system of professional development under
 241 s. 1012.98(3)(e);

242 IV. Must have earned an effective or highly effective
 243 rating on the prior year's performance evaluation under s.
 244 1012.34; and

245 V. May ~~or~~ be a peer evaluator under the district's
 246 evaluation system approved under s. 1012.34.

247 b. The teacher mentorship and induction component must, at
 248 a minimum, provide weekly opportunities for mentoring and
 249 induction activities, including common planning time, ongoing
 250 professional development targeted to a teacher's needs,

251 opportunities for a teacher to observe other teachers, co-
252 teaching experiences, and reflection and followup discussions.
253 Mentorship and induction activities must be provided for an
254 applicant's first year in the program and may be provided until
255 the applicant attains his or her professional certificate in
256 accordance with this section. A principal who is rated highly
257 effective as determined by his or her performance evaluation
258 under s. 1012.34 must be provided flexibility in selecting
259 professional development activities under this paragraph;
260 however, the activities must be approved by the department as
261 part of the district's, charter school's, or charter management
262 organization's program.

263 4. An assessment of teaching performance aligned to the
264 district's system for personnel evaluation under s. 1012.34
265 which provides for:

266 a. An initial evaluation of each educator's competencies
267 to determine an appropriate individualized professional
268 development plan.

269 b. A summative evaluation to assure successful completion
270 of the program.

271 5. Professional education preparation content knowledge,
272 which must be included in the mentoring and induction activities
273 under subparagraph 3., that includes, but is not limited to, the
274 following:

275 a. The state standards provided under s. 1003.41,

276 including scientifically based reading instruction, content
 277 literacy, and mathematical practices, for each subject
 278 identified on the temporary certificate.

279 b. The educator-accomplished practices approved by the
 280 state board.

281 c. A variety of data indicators for monitoring student
 282 progress.

283 d. Methodologies for teaching students with disabilities.

284 e. Methodologies for teaching students of limited English
 285 proficiency appropriate for each subject area identified on the
 286 temporary certificate.

287 f. Techniques and strategies for operationalizing the role
 288 of the teacher in assuring a safe learning environment for
 289 students.

290 6. Required achievement of passing scores on the subject
 291 area and professional education competency examination required
 292 by State Board of Education rule. Mastery of general knowledge
 293 must be demonstrated as described in subsection (3).

294 (c) No later than December 31, 2017, the department shall
 295 adopt standards for the approval of professional development
 296 certification and education competency programs, including
 297 standards for the teacher mentorship and induction component,
 298 under paragraph (a). Standards for the teacher mentorship and
 299 induction component must include program administration and
 300 evaluation; mentor roles, selection, and training; beginning

301 teacher assessment and professional development; and teacher
 302 content knowledge and practices aligned to the Florida Educator
 303 Accomplished Practices. Each school district or charter school
 304 with a program under this subsection must submit its program,
 305 including the teacher mentorship and induction component, to the
 306 department for approval no later than June 30, 2018. After
 307 December 31, 2018, a teacher may not satisfy requirements for a
 308 professional certificate through a professional development
 309 certification and education competency program under paragraph
 310 (a) unless the program has been approved by the department
 311 pursuant to this paragraph.

312 Section 3. Paragraph (a) of subsection (3) of section
 313 1012.585, Florida Statutes, is amended to read:

314 1012.585 Process for renewal of professional
 315 certificates.—

316 (3) For the renewal of a professional certificate, the
 317 following requirements must be met:

318 (a) The applicant must earn a minimum of 6 college credits
 319 or 120 inservice points or a combination thereof. For each area
 320 of specialization to be retained on a certificate, the applicant
 321 must earn at least 3 of the required credit hours or equivalent
 322 inservice points in the specialization area. Education in
 323 "clinical educator" training pursuant to s. 1004.04(5)(b);
 324 participation in mentorship and induction activities, including
 325 as a mentor, pursuant to s. 1012.56(8)(a); and credits or points

326 that provide training in the area of scientifically researched,
 327 knowledge-based reading literacy and computational skills
 328 acquisition, exceptional student education, normal child
 329 development, and the disorders of development may be applied
 330 toward any specialization area. Credits or points that provide
 331 training in the areas of drug abuse, child abuse and neglect,
 332 strategies in teaching students having limited proficiency in
 333 English, or dropout prevention, or training in areas identified
 334 in the educational goals and performance standards adopted
 335 pursuant to ss. 1000.03(5) and 1008.345 may be applied toward
 336 any specialization area. Credits or points earned through
 337 approved summer institutes may be applied toward the fulfillment
 338 of these requirements. Inservice points may also be earned by
 339 participation in professional growth components approved by the
 340 State Board of Education and specified pursuant to s. 1012.98 in
 341 the district's approved master plan for inservice educational
 342 training, including, but not limited to, serving as a trainer in
 343 an approved teacher training activity, serving on an
 344 instructional materials committee or a state board or commission
 345 that deals with educational issues, or serving on an advisory
 346 council created pursuant to s. 1001.452.

347 Section 4. Paragraph (e) is added to subsection (3) of
 348 section 1012.98, Florida Statutes, and paragraph (b) of
 349 subsection (4) and subsections (10) and (11) are amended, to
 350 read:

351 1012.98 School Community Professional Development Act.-

352 (3) The activities designed to implement this section
 353 must:

354 (e) Provide training to teacher mentors as part of the
 355 professional development certification and education competency
 356 program under s. 1012.56(8)(a). The training must include
 357 components on teacher development, peer coaching, time
 358 management, and other related topics as determined by the
 359 Department of Education.

360 (4) The Department of Education, school districts,
 361 schools, Florida College System institutions, and state
 362 universities share the responsibilities described in this
 363 section. These responsibilities include the following:

364 (b) Each school district shall develop a professional
 365 development system as specified in subsection (3). The system
 366 shall be developed in consultation with teachers, teacher-
 367 educators of Florida College System institutions and state
 368 universities, business and community representatives, and local
 369 education foundations, consortia, and professional
 370 organizations. The professional development system must:

371 1. Be approved by the department. All substantial
 372 revisions to the system shall be submitted to the department for
 373 review for continued approval.

374 2. Be based on analyses of student achievement data and
 375 instructional strategies and methods that support rigorous,

376 relevant, and challenging curricula for all students. Schools
377 and districts, in developing and refining the professional
378 development system, shall also review and monitor school
379 discipline data; school environment surveys; assessments of
380 parental satisfaction; performance appraisal data of teachers,
381 managers, and administrative personnel; and other performance
382 indicators to identify school and student needs that can be met
383 by improved professional performance.

384 3. Provide inservice activities coupled with followup
385 support appropriate to accomplish district-level and school-
386 level improvement goals and standards. The inservice activities
387 for instructional personnel shall focus on analysis of student
388 achievement data, ongoing formal and informal assessments of
389 student achievement, identification and use of enhanced and
390 differentiated instructional strategies that emphasize rigor,
391 relevance, and reading in the content areas, enhancement of
392 subject content expertise, integrated use of classroom
393 technology that enhances teaching and learning, classroom
394 management, parent involvement, and school safety.

395 4. Provide inservice activities and support targeted to
396 the individual needs of new teachers participating in the
397 professional development certification and education competency
398 program under s. 1012.56(8)(a).

399 5.4. Include a master plan for inservice activities,
400 pursuant to rules of the State Board of Education, for all

401 district employees from all fund sources. The master plan shall
402 be updated annually by September 1, must be based on input from
403 teachers and district and school instructional leaders, and must
404 use the latest available student achievement data and research
405 to enhance rigor and relevance in the classroom. Each district
406 inservice plan must be aligned to and support the school-based
407 inservice plans and school improvement plans pursuant to s.
408 1001.42(18). Each district inservice plan must provide a
409 description of the training that middle grades instructional
410 personnel and school administrators receive on the district's
411 code of student conduct adopted pursuant to s. 1006.07;
412 integrated digital instruction and competency-based instruction
413 and CAPE Digital Tool certificates and CAPE industry
414 certifications; classroom management; student behavior and
415 interaction; extended learning opportunities for students; and
416 instructional leadership. District plans must be approved by the
417 district school board annually in order to ensure compliance
418 with subsection (1) and to allow for dissemination of research-
419 based best practices to other districts. District school boards
420 must submit verification of their approval to the Commissioner
421 of Education no later than October 1, annually. Each school
422 principal may establish and maintain an individual professional
423 development plan for each instructional employee assigned to the
424 school as a seamless component to the school improvement plans
425 developed pursuant to s. 1001.42(18). An individual professional

426 development plan must be related to specific performance data
 427 for the students to whom the teacher is assigned, define the
 428 inservice objectives and specific measurable improvements
 429 expected in student performance as a result of the inservice
 430 activity, and include an evaluation component that determines
 431 the effectiveness of the professional development plan.

432 ~~6.5.~~ Include inservice activities for school
 433 administrative personnel that address updated skills necessary
 434 for instructional leadership and effective school management
 435 pursuant to s. 1012.986.

436 ~~7.6.~~ Provide for systematic consultation with regional and
 437 state personnel designated to provide technical assistance and
 438 evaluation of local professional development programs.

439 ~~8.7.~~ Provide for delivery of professional development by
 440 distance learning and other technology-based delivery systems to
 441 reach more educators at lower costs.

442 ~~9.8.~~ Provide for the continuous evaluation of the quality
 443 and effectiveness of professional development programs in order
 444 to eliminate ineffective programs and strategies and to expand
 445 effective ones. Evaluations must consider the impact of such
 446 activities on the performance of participating educators and
 447 their students' achievement and behavior.

448 ~~10.9.~~ For middle grades, emphasize:

449 a. Interdisciplinary planning, collaboration, and
 450 instruction.

451 b. Alignment of curriculum and instructional materials to
452 the state academic standards adopted pursuant to s. 1003.41.

453 c. Use of small learning communities; problem-solving,
454 inquiry-driven research and analytical approaches for students;
455 strategies and tools based on student needs; competency-based
456 instruction; integrated digital instruction; and project-based
457 instruction.

458
459 Each school that includes any of grades 6, 7, or 8 must include
460 in its school improvement plan, required under s. 1001.42(18), a
461 description of the specific strategies used by the school to
462 implement each item listed in this subparagraph.

463 (10) For instructional personnel and administrative
464 personnel who have been evaluated as less than effective, a
465 district school board shall require participation in specific
466 professional development programs as provided in subparagraph
467 (4)(b)5. ~~(4)(b)4.~~ as part of the improvement prescription.

468 (11) The department shall disseminate to the school
469 community proven model professional development programs that
470 have demonstrated success in increasing rigorous and relevant
471 content, increasing student achievement and engagement, ~~and~~
472 meeting identified student needs, and providing effective
473 mentorship activities to new teachers and training to teacher
474 mentors. The methods of dissemination must include a web-based
475 statewide performance-support system including a database of

CS/HB 1331

2017

476 | exemplary professional development activities, a listing of
477 | available professional development resources, training programs,
478 | and available technical assistance.

479 | Section 5. 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 Grall offered the following:

4 **Amendment (with title amendment)**

5 Remove lines 195-201 and insert:

6 of paragraph (2)(g). At least 1 year before an individual's
 7 temporary certificate is set to expire, the department shall
 8 electronically notify the individual of the date on which his or
 9 her certificate will expire and provide a list of each method by
 10 which the qualifications for a professional certificate can be
 11 completed. The State Board of Education shall adopt rules to
 12 allow the department to extend the validity period of a
 13 temporary certificate for 2 years when the requirements for the
 14 professional certificate, not including the requirement in
 15 paragraph (2)(g), were not completed due to the serious illness
 16 or injury of the applicant or other extraordinary extenuating



Amendment No. 1

17 circumstances or for 1 year if the temporary certificate holder
18 is rated effective or highly effective based solely on a
19 learning growth formula approved by the Commissioner of
20 Education pursuant to s. 1012.34(8). The department shall
21 reissue the temporary
22

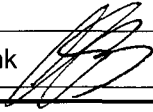
23 -----

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

25 Remove line 21 and insert:
26 professional certificate; requiring the department to provide
27 electronic notification of the expiration of a temporary
28 educator certificate; requiring the State Board of Education to
29 adopt rules providing for the extension of a temporary educator
30 certificate; providing that an applicant

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7057 PCB PKQ 17-01 Civic Literacy
SPONSOR(S): PreK-12 Appropriations Subcommittee; PreK-12 Quality Subcommittee, Raburn
TIED BILLS: **IDEN./SIM. BILLS:** SB 1710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Quality Subcommittee	15 Y, 0 N	Brink	Duncan
1) PreK-12 Appropriations Subcommittee	15 Y, 0 N, As CS	Seifert	Potvin
2) Education Committee		Brink 	Hassell

SUMMARY ANALYSIS

Civic literacy is recognized as integral to the maintenance and improvement of constitutional democracy in the United States. Florida law incorporates several aspects of civic instruction into the public education system, including:

- academic standards for civics at all grade levels K-12;
- required instruction on the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government;
- civics and U.S. government course requirements in middle school and high school, respectively;
- a civics end-of-course assessment that constitutes 30 percent of a student's final grade for the middle grades civics course; and
- Celebrate Freedom Week, during which public school students must receive specified instruction on the Declaration of Independence and recite the Declaration at the beginning of each school day.

Currently, there are no civics education requirements for students enrolled in public postsecondary institutions in Florida.

To bolster civics instruction in Florida and prepare students to be civically engaged, knowledgeable adults, the bill:

- designates the month of September as "American Founders' Month" and authorizes the Governor to issue a proclamation urging public and private organizations within the state to celebrate the month;
- encourages all public schools to coordinate instruction on the founding fathers with "American Founders' Month;"
- requires the Just Read, Florida! Office to develop sequenced, content-rich programming to help elementary schools incorporate social studies, science, and fine arts content into literacy skills instruction;
- provides that it is a priority of the K-20 public education system to prepare students to become civically engaged and knowledgeable adults who make positive contributions to their community;
- requires students entering a Florida College System or State University System institution in 2018-2019 or thereafter to demonstrate competence in civic literacy either through a general education civics course or by passing an assessment adopted by the State Board of Education (SBE) or the Board of Governors (BOG); and
- requiring the chairs of the SBE and BOG to jointly appoint a faculty committee to:
 - develop a new course in civic literacy or revise an existing general education core course; and
 - establish competencies and identify outcomes for the course.

The bill does not appear to have a fiscal impact.

The bill takes effect July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Required Instruction

Florida law requires each district school board to provide instruction regarding the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government.¹ The law also requires districts to provide a character-development program in kindergarten through grade 12. Each school district must develop or adopt a curriculum for its K-12 character-development program and submit it to the Department of Education for approval.² The curriculum must “stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation.”³ For grades 9-12, the character-development program must include instruction on:

- Developing leadership skills, interpersonal skills, organization skills, and research skills;
- Creating a resume;
- Developing and practicing the skills necessary for employment interviews;
- Managing stress and expectations; and
- Developing skills that enable students to become more resilient and self-motivated.⁴

Civics Instruction

Currently, Florida’s Next Generation Sunshine State Standards for social studies include civics content in kindergarten through grade 8 and in grades 9-12.⁵ The standards were initially adopted after a review process in 2008 and then revised in 2014 by the State Board of Education (SBE).⁶

Each middle grades student must successfully complete three middle school or higher courses in social studies in order to be promoted to high school.⁷ One semester of the three courses must be in civics. Students enrolled in the civics course must take the statewide Civics end-of-course (EOC) assessment. The Civics EOC assessment, which was administered initially in the 2012-2013 school year, counts toward 30 percent of the student’s course grade; however, students are not required to pass the assessment in order to be promoted. Results from the assessment are included in the school grades calculation for middle schools.⁸

The percentage of 7th grade students achieving a Level 3 (passing score) or a Level 4 on the Civics EOC assessment has steadily increased since the 2013-14 school year.⁹

¹ Section 1003.42(2)(a)-(d), F.S.

² Section 1003.42(2)(s), F.S.

³ *Id.*

⁴ *Id.*

⁵ See CPALMS, *Browse and Search Standards*, <http://www.cpalms.org/Public/search/Standard> (last visited Feb. 27, 2017) (providing the Next Generation Sunshine State Standards for each subject area, by grade level).

⁶ See rule 6A-1.09401, F.A.C. See also Lou Frey Institute, *Civic Education in Florida: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at

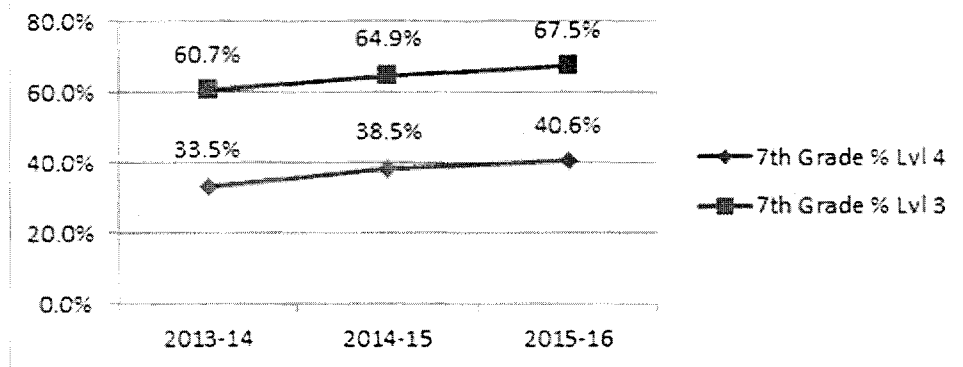
<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

⁷ Section 1003.4156(1)(c), F.S.

⁸ See ss. 1003.4156(1)(c), 1008.34(3)(b)1.i., F.S.

⁹ Florida Department of Education, PK-12 Education Information Portal: *Civics EOC*, <https://edstats.fldoe.org/SASPortal/public> (last visited Feb. 27, 2017).

7th Grade Civics EOC Assessment Performance



In addition to the middle grades civics requirement, each public high school student must earn a one-half course credit each in U.S. Government and economics, including financial literacy, and one credit each in World History and U.S. History.¹⁰ Like middle grades Civics, the U.S. History course includes an EOC assessment that counts as 30 percent of a student's final course grade.¹¹

Although the law provides for civics-related academic standards and promotion and graduation requirements, there is no postsecondary civics course requirement in Florida.¹² Currently, students entering postsecondary education at a Florida College System (FCS) or State University System (SUS) institution must complete at least one social sciences course as part of the general education core course requirement.¹³ The six courses that students can select to satisfy the social sciences requirement include:

- American History;
- Government;
- Economics;
- Anthropology;
- Sociology; and
- Psychology.¹⁴

Of the FCS and SUS students who took a general education core course in social sciences in the 2014-2015 school year, only 16 percent took Government. The most popular social sciences course was Psychology, in which 35 percent of the students enrolled.¹⁵ Currently, only nine states have postsecondary civics education requirements, including Texas, Oklahoma, Utah, Arkansas, California, Georgia, Massachusetts, Missouri, and Nevada.¹⁶

¹⁰ Section 1003.4282(3)(d), F.S.

¹¹ *Id.*

¹² Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

¹³ See s. 1007.25(3), F.S.

¹⁴ See rule 6A-14.0303(1)(e), F.A.C. (establishing FCS general core course options for social sciences); Florida Board of Governors Regulation 8.005(1)(e) (establishing SUS general core course options for social sciences).

¹⁵ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

¹⁶ See *id.*

Without a postsecondary requirement for demonstrating competence in civics, little data exists on the effectiveness of K-12 civics instruction and accountability initiatives.

Background Knowledge

Research has shown that a student's background knowledge—the prior knowledge students need to master new ideas—is positively correlated with his or her ability to comprehend text, remember new concepts, and solve problems.¹⁷ This is because a person with a broad depth of background knowledge and a knowledge-related vocabulary can successfully make the necessary inferences to understand texts, express viewpoints, and apply knowledge.¹⁸ Generally, the earlier children develop a large vocabulary, the greater their reading comprehension will be in later grades. Because developing a vocabulary is a gradual process, it must begin in early grades to put students in a position for reading success.¹⁹

Studies have shown that K-3 teachers spend only 16 minutes on social studies each day, with daily science instruction receiving 19 minutes. The difference in time spent on instruction in literacy skills as compared to science and social studies instruction has been associated with students' decreased reading comprehension.²⁰

Average Number of Minutes per Day Spent Teaching Each Subject in Self-Contained Classes, by Grades		
	Grades K-3	Grades 4-6
Reading/Language Arts	89 mins.	83 mins.
Mathematics	54 mins.	61 mins.
Science	19 mins.	24 mins.
Social Studies	16 mins.	21 mins.

Only teachers who indicated they teach reading/language arts, mathematics, science and social studies to one class of students were included in these analyses.

21

Some districts, such as the Washington D.C. public school system, have adopted English language arts scope and sequence guides to help integrate information-rich texts covering social studies, science, and literary content in order to gradually develop a broad base of student knowledge.²² The State of New York has adopted a model Core Knowledge Language Arts curriculum to help local districts increase background knowledge and literacy skills for students in kindergarten through grade 2.²³ Students in New York classrooms that participated in a 3-year pilot program using the curriculum

¹⁷ Daniel Wilingham, *How Knowledge Helps*, <http://www.aft.org/periodical/american-educator/spring-2006/how-knowledge-helps> (last visited Feb. 28, 2017).

¹⁸ See Doug Lemov, *How Knowledge Powers Reading*, <http://www.ascd.org/publications/educational-leadership/feb17/vol74/num05/How-Knowledge-Powers-Reading.aspx> (last visited Feb. 28, 2017). See also E.D. Hirsch, Jr., *Building Knowledge: The Case for Bringing Content into the Language Arts Block and for a Knowledge-Rich Curriculum Core for all Children*, <http://www.aft.org/periodical/american-educator/spring-2006/building-knowledge> (last visited Feb. 28, 2017).

¹⁹ See *id.*

²⁰ Knowledge Matters Campaign, *Restoring Wonder and Excitement to the Classroom* (2012) at 5, available at <http://knowledgematterscampaign.org/wp-content/uploads/2016/03/WhyKnowledgeMatters-1.pdf>.

²¹ *Id.* at 5.

²² See, e.g., District of Columbia Public Schools, *Scope and Sequence: Fifth Grade* (2014), available at <http://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/SY14-15%20ELA%20Grade%205%20SAS.pdf>.

²³ New York State Education Department, *New York State ELA Curriculum*, <https://www.engageny.org/english-language-arts> (last visited Feb. 28, 2017).

were shown to have greater gains in reading, science, and social studies than students in comparison schools.²⁴

Just Read, Florida! Office

In 2001, Florida Governor Jeb Bush established the Just Read, Florida! initiative, which aimed at helping students become successful, independent readers.²⁵ The Legislature formally created the Just Read, Florida! Office within the Department of Education in 2006.²⁶

Among other things, the Office must:

- create multiple designations of effective reading instruction, with accompanying credentials, which encourage all teachers to integrate reading instruction into their content areas;
- train K-12 teachers and school principals on effective content-area-specific reading strategies (these strategies must be developed for all content areas in the K-12 curriculum-- for secondary teachers, emphasis must be on technical text);
- provide parents with information and strategies for assisting their children in reading in the content area;
- work with the Florida Center for Reading Research to provide information on research-based reading programs and effective reading in the content area strategies;
- periodically review teacher certification examinations, including alternative certification exams, to ascertain whether the examinations measure the skills needed for research-based reading instruction and instructional strategies for teaching reading in the content areas; and
- work with initial teacher preparation programs to integrate research-based reading instructional strategies and reading in the content area instructional strategies into teacher preparation programs.²⁷

Effect of Proposed Changes

The bill designates the month of September as “American Founders’ Month” and authorizes the Governor to issue a proclamation urging public and private organizations within the state to celebrate the month. The bill encourages all public schools in the state to coordinate instruction related to the nation’s founding fathers with “American Founders’ Month.”

The bill revises the statutory priorities for Florida’s K-20 education system under s. 1000.03, F.S., to expressly state that it is a priority of the system to prepare students to become “civically engaged and knowledgeable adults who make positive contributions to their community.”

To help increase background knowledge and literacy skills, the bill requires the Just Read, Florida! Office to develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students’ background knowledge and literacy skills, including attainment of the Next Generation Sunshine State Standards in social studies, science, and the arts.

The bill also requires that, beginning with the 2018-2019 school year, students who enter a FCS or SUS institution for the first time demonstrate competency in civic literacy. Competency may be demonstrated either by completion of a civic literacy course or by passing an assessment adopted in state board rule or in Board of Governors (BOG) regulation depending on the type of institution in which the student is enrolled. The chair of the SBE and the chair of the BOG, or their respective designees, must jointly appoint a faculty committee to:

²⁴ The Core Knowledge Foundation, *The NYC Core Knowledge Early Literacy Pilot* (2012) at 13, available at http://www.coreknowledge.org/mimik/mimik_uploads/documents/712/CK%20Early%20Literacy%20Pilot%203%2012%2012.pdf.

²⁵ Exec. Order No. 01-260 (2001).

²⁶ Section 8, ch. 2006-74, L.O.F.

²⁷ Section 1001.215, F.S.

- develop a new course in civic literacy or revise an existing general education core course; and
- establish course competencies and identify outcomes that include, at a minimum:
 - an understanding of the basic principles of American democracy and how they are applied in our nation’s republican form of government;
 - an understanding of the U.S. Constitution;
 - knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance; and
 - an understanding of landmark Supreme Court cases and their impact on law and society.

The assessment must be an existing assessment that measures competencies consistent with the minimum course competencies under the bill.

B. SECTION DIRECTORY:

Section 1. Creates s. 683.1455, F.S., designating the month of September as “American Founders’ Month.”

Section 2. Amends s. 1000.03, F.S., revising the priorities of Florida’s K-20 education system.

Section 3. Amends s. 1001.215, F.S., revising the duties of the Just Read, Florida! Office to including developing and providing access to certain resources for elementary schools.

Section 4. Amends s. 1003.44, F.S., encouraging districts to provide instruction on founding fathers during “American Founders’ Month.”

Section 5. Amends s. 1007.25, F.S., providing that postsecondary students must demonstrate competency in civic literacy; providing requirements for demonstrating competency in civic literacy; providing for the development of a new course or revision of an existing course in civic literacy; providing for the establishment of course competencies.

Section 6. Amends s. 943.22, F.S., conforming a cross reference.

Section 7. Amends s. 1001.64, F.S., conforming cross references.

Section 8. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE and the BOG to identify in rule and regulation, as applicable, one or more assessments that students can pass in order to demonstrate competency in civic literacy.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2017, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified that an existing civics assessment must be used to demonstrate student competency, instead of creating a new assessment. The amendment removed any possible fiscal to create a new assessment.

The analysis is drafted to reflect the bill as amended.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A bill to be entitled
 An act relating to civic literacy; creating s.
 683.1455, F.S.; designating the month of September
 annually as "American Founders' Month"; authorizing
 the Governor to annually issue a proclamation
 containing specified information; amending s. 1000.03,
 F.S.; revising the priorities of Florida's K-20
 education system to include civic literacy; amending
 s. 1001.215, F.S.; revising the duties of the Just
 Read, Florida! Office to include developing and
 providing access to certain resources for elementary
 schools; amending s. 1003.44, F.S.; encouraging public
 schools to coordinate certain instruction with
 American Founders' Month; amending s. 1007.25, F.S.;
 requiring postsecondary students to demonstrate
 competency in civic literacy and providing
 requirements therefor; providing for the appointment
 of a faculty committee; requiring the committee to
 develop or revise certain courses and establish
 specified course competencies; amending ss. 943.22 and
 1001.64, F.S.; conforming cross-references; providing
 an effective date.

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

26 Section 1. Section 683.1455, Florida Statutes, is created
 27 to read:

28 683.1455 American Founders' Month.-

29 (1) The month of September of each year is designated as
 30 "American Founders' Month."

31 (2) The Governor may annually issue a proclamation
 32 designating the month of September as "American Founders' Month"
 33 and urging all civic, fraternal, and religious organizations and
 34 public and private educational institutions to recognize and
 35 observe this occasion through appropriate programs, meetings,
 36 services, or celebrations in which state, county, and local
 37 governmental officials are invited to participate.

38 Section 2. Paragraphs (c) through (g) of subsection (5) of
 39 section 1000.03, Florida Statutes, are redesignated as
 40 paragraphs (d) through (h), respectively, and a new paragraph
 41 (c) is added to that subsection to read:

42 1000.03 Function, mission, and goals of the Florida K-20
 43 education system.-

44 (5) The priorities of Florida's K-20 education system
 45 include:

46 (c) Civic literacy.-Students are prepared to become
 47 civically engaged and knowledgeable adults who make positive
 48 contributions to their communities.

49 Section 3. Subsections (4) through (11) of section
 50 1001.215, Florida Statutes, are renumbered as subsections (5)

51 through (12), respectively, and a new subsection (4) is added to
 52 that section to read:

53 1001.215 Just Read, Florida! Office.—There is created in
 54 the Department of Education the Just Read, Florida! Office. The
 55 office shall be fully accountable to the Commissioner of
 56 Education and shall:

57 (4) Develop and provide access to sequenced, content-rich
 58 curriculum programming, instructional practices, and resources
 59 that help elementary schools use state-adopted instructional
 60 materials to increase students' background knowledge and
 61 literacy skills, including student attainment of the Next
 62 Generation Sunshine State Standards for social studies, science,
 63 and the arts.

64 Section 4. Subsection (3) is added to section 1003.44,
 65 Florida Statutes, to read:

66 1003.44 Patriotic programs; rules.—

67 (3) All public schools in the state, including charter
 68 schools, are encouraged to coordinate, at all grade levels,
 69 instruction related to our nation's founding fathers with
 70 "American Founders' Month" pursuant to s. 683.1455.

71 Section 5. Subsections (4) through (11) of section
 72 1007.25, Florida Statutes, are renumbered as subsections (5)
 73 through (12), respectively, and a new subsection (4) is added to
 74 that section to read:

75 1007.25 General education courses; common prerequisites;

76 other degree requirements.—

77 (4) Beginning with students initially entering a Florida
 78 College System institution or state university in the 2018-2019
 79 school year and thereafter, each student must demonstrate
 80 competency in civic literacy. Students must have the option to
 81 demonstrate competency through successful completion of a civic
 82 literacy course or by achieving a passing score on an
 83 assessment. The State Board of Education must adopt in rule and
 84 the Board of Governors must adopt in regulation at least one
 85 existing assessment that measures competencies consistent with
 86 the required course competencies outlined in paragraph (b). The
 87 chair of the State Board of Education and the chair of the Board
 88 of Governors, or their respective designees, shall jointly
 89 appoint a faculty committee to:

90 (a) Develop a new course in civic literacy or revise an
 91 existing general education core course to include civic
 92 literacy.

93 (b) Establish course competencies and identify outcomes
 94 that include, at a minimum, an understanding of the basic
 95 principles of American democracy and how they are applied in our
 96 republican form of government, an understanding of the United
 97 States Constitution, knowledge of the founding documents and how
 98 they have shaped the nature and functions of our institutions of
 99 self-governance, and an understanding of landmark Supreme Court
 100 cases and their impact on law and society.

101 Section 6. Paragraph (c) of subsection (1) of section
 102 943.22, Florida Statutes, is amended to read:

103 943.22 Salary incentive program for full-time officers.—

104 (1) For the purpose of this section, the term:

105 (c) "Community college degree or equivalent" means
 106 graduation from an accredited community college or having been
 107 granted a degree pursuant to s. 1007.25(11) ~~s. 1007.25(10)~~ or
 108 successful completion of 60 semester hours or 90 quarter hours
 109 and eligibility to receive an associate degree from an
 110 accredited college, university, or community college.

111 Section 7. Subsection (7) and paragraph (d) of subsection
 112 (8) of section 1001.64, Florida Statutes, are amended to read:

113 1001.64 Florida College System institution boards of
 114 trustees; powers and duties.—

115 (7) Each board of trustees has responsibility for:
 116 ensuring that students have access to general education courses
 117 as identified in rule; requiring no more than 60 semester hours
 118 of degree program coursework, including 36 semester hours of
 119 general education coursework, for an associate in arts degree;
 120 notifying students that earned hours in excess of 60 semester
 121 hours may not be accepted by state universities; notifying
 122 students of unique program prerequisites; and ensuring that
 123 degree program coursework beyond general education coursework is
 124 consistent with degree program prerequisite requirements adopted
 125 pursuant to s. 1007.25(6) ~~s. 1007.25(5)~~.

CS/HB 7057

2017

126 (8) Each board of trustees has authority for policies
 127 related to students, enrollment of students, student records,
 128 student activities, financial assistance, and other student
 129 services.

130 (d) Boards of trustees shall identify their general
 131 education curricula pursuant to s. 1007.25(7) ~~s. 1007.25(6)~~.

132 Section 8. 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 Raburn offered the following:

3

4 **Amendment**

5 Remove lines 91-92 and insert:

6 existing general education core course in American History or

7 American Government to include civic literacy.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7101 PCB PKI 17-01 K-12 Education

SPONSOR(S): PreK-12 Appropriations Subcommittee; PreK-12 Innovation Subcommittee, Cortes, B.

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Innovation Subcommittee	12 Y, 2 N	Dehmer	Healy
1) PreK-12 Appropriations Subcommittee	12 Y, 2 N, As CS	Seifert	Potvin
2) Education Committee		Dehmer	Hassell

SUMMARY ANALYSIS

The bill:

- requires sponsors to use the standard charter contract developed by the Department of Education (DOE) without any alterations;
- removes the cap on high-performing charter schools that wish to replicate in low-performing areas;
- provides a high-performing charter school whose application for replication has been denied a hearing through the Charter School Appeals Commission;
- provides for a streamlined application for a high-performing charter school system wishing to replicate schools;
- clarifies that student performance data from eligible students attending an alternative charter school shall be included in the calculation of the home school's grade as well as high school students who transfer to a private school for which the school district subsidizes, in whole or in part, the enrollment fees;
- includes the charter school in the waiver of sovereign immunity in cases of tort liability;
- clarifies administrative fees for charter schools, high-performing charter schools and charter school systems;
- removes the requirement that the online learning portion of a blended learning model be in a classroom setting at the charter school;
- clarifies that charter school cooperatives may form to further educational, operational and administrative initiatives;
- specifies that a not-for-profit or municipal entity operating a charter school may use unrestricted surplus or net assets of their charter school(s) for K-12 educational purposes in their other schools;
- extends the option for local education agency status to other charter schools by redefining "charter school system;"
- requires the DOE to develop and administer a survey for charter schools to report on the timeliness and effectiveness of administrative services provided by sponsors;
- changes the charter school application deadline from August 1 to February 1;
- deletes language regarding federal funds that conflicts with federal requirements for distribution of such funds; and
- deletes the charter school student achievement comparison report.

The bill has no fiscal impact to the state.

The bill takes effect July, 1 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter School Applications

Present Situation

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”¹ The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.² One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.”³

An application for a new charter school may be made by an individual, teachers, parents, and a group of individuals, a municipality or a legal entity organized under Florida law.⁴ The school must be operated by a Florida College System (FCS) institution, municipality or nonprofit organization. While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.⁵ A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.⁶

A person or entity seeking to open a charter school must submit an application using the model application form prepared by the Department of Education (DOE).⁷ A sponsor must receive and review all charter school applications using an evaluation instrument developed by the DOE. The deadline for submission of charter school applications is August 1 of each year for schools to be opened the following year. An applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor must review and provide feedback as to material deficiencies in the application by July 1. The applicant then has until August 1 to resubmit a revised and final application. The sponsor may approve the draft application.⁸

Effect of Proposed Changes

The bill revises the date a sponsor must receive all charter school applications from August 1, to February 1, for a charter school to open 18 months later or at a time agreed to by the applicant and the sponsor.

The bill removes the provision allowing a charter school applicant to submit a draft application to a sponsor for review.⁹ The bill increases the amount of time the sponsor has to approve or deny an application from 60 to 90 days.

¹ Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

² Section 1002.33(2)(b)3. and (16), F.S.

³ Section 1002.33(2)(a)1., F.S.

⁴ Section 1002.33(3)(a), F.S.

⁵ Section 1002.33(12)(i), F.S.

⁶ Section 1002.33(5)(a)1., F.S.

⁷ Section 1002.33(6)(a), F.S.

⁸ Section 1002.33(6)(b), F.S.

⁹ Note: The number of draft applications submitted declined from 43 in 2014 to 22 in 2015, *see* Annual Authorizer Reports, *available at* <http://www.fldoe.org/schools/school-choice/charter-schools/authorizers/annual-authorizer-reports.stml>.

Charter School Contract

Present Situation

Once an application is approved, the major issues involving the operation of a charter school, which are outlined in current law, must be considered in advance and written into the charter.¹⁰ The Department of Education (DOE) was required to create, through state board rule,¹¹ a standard charter contract in consultation with both school districts and charter schools, and sponsors are required to use this standard contract.¹² However, as a result of negotiations with stakeholders, the contract is used as "...the basis for the initial draft contract..." and may be amended.¹³

Effect of Proposed Changes

The bill requires the sponsor and the charter school governing board to use the standard charter contract which incorporates the approved application and any addenda approved with the application. The standard contract cannot be altered in any way and any term or condition of a proposed contract that differs from the standard contract shall be presumed a limitation on charter school flexibility.

High Performing Charter Schools

Present Situation

A high-performing charter school is a charter school that during each of the three previous years:

- received at least two school grades of "A" and no school grade below "B;"
- has received an unqualified opinion on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.¹⁴

A high-performing charter school may, in any school district in the state, submit an application to establish a new charter school that replicates its educational program. The application must indicate that the charter school is "high-performing" and include the commissioner's eligibility letter.¹⁵ Such applications may only be denied under certain circumstances.¹⁶ A high-performing charter school may only establish one charter school in a year. A subsequent application to establish a charter school may only be submitted when each charter school established through replication achieves high-performing charter school status.¹⁷

If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons supporting the denial and must provide the letter of denial and supporting documentation to the applicant and to the DOE. The

¹⁰ Section 1002.33(7), F.S.

¹¹ Section 1002.33(28), F.S.

¹² Section 1002.33(21)(a), F.S.

¹³ See Rule 6A-6.0786(3), F.A.C., available at <https://www.flrules.org/gateway/ruleNo.asp?id=6A-6.0786>.

¹⁴ Section 1002.331(1), F.S. A financial emergency condition includes failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes or make employer contributions to social security or pensions; or failure for one pay period to pay wages, salaries, and retirement benefits owed. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A "deteriorating financial condition" is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1), F.S. Section 1002.345(1)(a)3., F.S.

¹⁵ Section 1002.331(3)(a), F.S.

¹⁶ Section 1002.33(6)(b)3.b., F.S.

¹⁷ Section 1002.331(3)(b), F.S.

applicant may appeal the sponsor's denial of the application directly to the State Board of Education (SBE).¹⁸

Effect of Proposed Changes

The bill allows a high-performing charter school to establish more than one charter school a year only if it chooses to operate in and serve students from an area where a school is subject to differentiated accountability.¹⁹

The bill provides a high-performing charter school whose application has been denied a hearing by requiring that an appeal of such denial be brought before the Charter School Appeals Commission. The commission will make a recommendation to the SBE in accordance with current law.

High-Performing Charter School System

Present Situation

A high-performing charter school system is an entity that:

- operated at least three high-performing charter schools in the state during each of the previous 3 school years;
- operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools and no charter school earned a school grade of "D" or "F" in any of the previous 3 school years regardless of whether the entity currently operates the charter school, with specified exceptions; and
- did not receive a financial audit that revealed one or more of the financial emergency conditions for any charter school assumed or established by the entity in the most recent 3 fiscal years for which such audits are available.²⁰

A high-performing charter school system may replicate its high-performing charter schools using the current application process outlined in law.²¹

Effect of Proposed Changes

The bill clarifies that a high-performing system may replicate a school in any district in the state and establish a streamlined high-performing standard application form for replicating a high-performing charter school.

The bill requires the high-performing standard application form to:

- contain goals and objectives for improving and measuring student learning, including the expected amount of student yearly academic improvement, methods for evaluating success and the specific results to be attained through instruction;
- contain an annual financial plan for each year requested by the charter for operation of the school for up to 5 years;
- disclose the name of each applicant, governing board member and all proposed education services providers, the name and sponsor of any charter school operated by each applicant, each governing board member and each proposed education services provider that has closed and the reasons for the closure and the academic and financial history of such charter schools, which the sponsor shall consider in deciding whether to approve or deny the application.

¹⁸ Section 1002.33(6)(b)3.c., F.S.

¹⁹ See s. 1008.33, F.S.

²⁰ Section 1002.332(1)(b), F.S.

²¹ Section 1002.332(2), F.S.

The bill requires the review, approval, denial and appeals process for standard high-performing replication applications to comply with current processes in law.

Charter School Cooperatives

Present Situation

The law authorizes charter schools to enter into cooperative agreements with other charter schools to provide planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.²²

Effect of Proposed Changes

The bill deletes the list of specific services that cooperative agreements may provide and instead allows charter schools to enter into cooperative agreements to further any educational, operational or administrative purposes in which participating charter schools share common interests. This change expands the ability of charter schools to collaborate and pool resources for shared objectives.

Distribution of Student Funding

Present Situation

Charter schools are funded through the Florida Education Finance Program (FEFP) the same as traditional public schools based on the number of students. Each charter school reports student enrollment to its sponsor²³ for inclusion in the district's report of student enrollment.²⁴ The following chart summarizes how a charter school's share of FEFP funds is determined:

Calculating a Charter School's Share of FEFP Funds²⁵
Sum of the school district's operating funds from the FEFP as provided in s. 1011.62, F.S., and the General Appropriations Act, including the district's gross state and local funds, discretionary lottery funds, and funds from the district's current operating discretionary tax levies.
÷ The total funded weighted full-time equivalent (FTE) students in the district.
x The weighted FTE students for the charter school.

A charter school is also entitled to receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.²⁶ Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, research-based reading, instructional materials, digital classrooms, classroom supplies and class-size

²² Section 1002.33(13), F.S.

²³ A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.

²⁴ Section 1002.33(17)(a)-(b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year, based upon the October and February FTE enrollment surveys. *See* s. 1002.33(17)(b), F.S.

²⁵ Section 1002.33(17)(b) and (c), F.S.

²⁶ Section 1002.33(17)(b), F.S.

reduction operating funds.²⁷ Sponsors are prohibited from requiring charter schools to adopt the school district's reading curriculum as a condition of receiving the research-based reading allocation.²⁸

Effect of Proposed Changes

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets from that school for K-12 educational purposes in other schools they operate in the state.

Sponsor Services and Fees

Present Situation

A sponsor must provide various administrative services to charter schools in their district including contract management; FTE and student achievement data reporting; exceptional student education program administration; eligibility and reporting for federal school lunch programs; test administration, including payment of the costs of state- or school district-required assessments; processing of teacher certification data and student information services.²⁹ As compensation for services provided, a sponsor may withhold an administrative fee of up to 5 percent of each charter school's total operating funds, based upon weighted FTE students.³⁰ A sponsor may only withhold the administrative fee for the first 250 students enrolled in each charter school.³¹ A sponsor may withhold a 5 percent administrative fee for the first 500 students enrolled within a system of charter schools if the system:

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.³²

If the system meets these criteria and also qualifies for high-performing charter school system status, it may receive a reduction in the administrative fees from 5 percent to 2 percent for enrollments up to and including 500 students per system.³³ The total administrative fee for high-performing charter schools is up to 2 percent for enrollment up to and including 250 students per school.³⁴

When 75 percent or more of the students enrolled in the charter school are exceptional students, including gifted students, the 5 percent administrative fee is calculated based upon unweighted FTE students.³⁵ For virtual charter schools, the sponsor may withhold a fee of up to 5 percent of the school's total operating funds; however, the fee must be used to cover the cost of sponsor-provided services

²⁷ See, e.g., s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categoricals), s. 1011.67, F.S. (instructional materials), s. 1011.62(12), F.S. (digital classrooms); s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction), and s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program).

²⁸ Section 1002.33(17)(b), F.S.

²⁹ Section 1002.33(20)(a)1., F.S. See also, *Florida Attorney General Opinion, AGO 2013-04, stating that the administrative fee includes costs to administer state district assessments, available at <http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6>.*

³⁰ Section 1002.33(20)(a)2., F.S.

³¹ Section 1002.33(20)(a)2., F.S. When a charter school's enrollment exceeds 250 students, it must reserve an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld for capital outlay purposes. *Id.*

³² Section 1002.33(20)(a)4., F.S. When the enrollment within a system of charter schools exceeds 500 students, an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld may only be used for instructional, administrative, or capital outlay purposes. Section 1002.33(20)(a)5., F.S.

³³ Section 1002.33(20)(a)4. and 6., F.S.

³⁴ Section 1002.33(20)(a)3., F.S.

³⁵ Section 1002.33(20)(a)2., F.S.

and for implementation of the school district's digital classrooms plan.³⁶ Sponsors are prohibited from imposing additional fees or surcharges for services provided.³⁷

Effect of Proposed Changes

The bill specifies language regarding administrative fees for charter schools, high-performing charter schools and charter school systems and removes the restrictions on eligible expenditures of the funds resulting from the difference between the total calculated amount of administrative fees and the amount the district may withhold.

The bill also requires charter schools to annually complete and submit a survey to rate the timeliness and effectiveness of administrative services provided by sponsors. The Department of Education must develop and administer the survey, compile the results by district and include them in the annual authorizer report.

Public Information on Charter Schools

Present Situation

The Department of Education (DOE) must annually provide a statewide analysis and comparison of charter school students and traditional public school students, as measured by the statewide assessment program and information reported in each school's annual progress report.³⁸ The DOE's analysis compares the overall performance of charter school and traditional public school students and that of student subgroups, e.g, demographics, low income and students with disabilities. Comparison data must also be broken down by the following grade groupings:

- Grades 3 through 5
- Grades 6 through 8 and
- Grades 9 through 11.³⁹

The report analyzes the assessment results of charter and traditional public schools in 177 different comparisons in terms of proficiency, learning gains and achievement gap.⁴⁰

Effect of Proposed Changes

The bill removes the provision that charter school student performance data be compared to student performance data of traditional public schools.

Local Educational Agency Status for Certain Charter School Systems

Present Situation

A system of charter schools may serve as a local education agency (LEA) if the governing board adopts and files a resolution with its sponsor and the Department of Education (DOE) in which the governing board accepts the full responsibility for all LEA requirements and the system of charter schools:

³⁶ Section 1002.33(20)(a)8., F.S.

³⁷ Section 1002.33(20)(a)7., F.S.

³⁸ Section 1002.33(23), F.S.

³⁹ Section 1002.33(21)(b)3.a., F.S.

⁴⁰ Florida Department of Education, *Student Achievement in Florida's Charter Schools: A Comparison of the Performance of Charter School Students with Traditional Public School Students*, at v (June 2015), available at http://www.fldoe.org/core/fileparse.php/7778/urlt/Charter_Student_Achievement_Report_1314.pdf.

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.⁴¹

Effect of Proposed Changes

The bill revises LEA eligibility status by removing the requirements that a system of charter schools include both conversion charter schools and nonconversion charter schools and the system does not contract with a for-profit service provider for management of school operations.

School Grades

Present Situation

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.⁴² School grades are also used to determine whether a school must select or implement a turnaround option⁴³ or whether a school is eligible for school recognition funds as appropriated by the Legislature.⁴⁴

An alternative school may opt for a school improvement rating instead of a school grade.⁴⁵ The school improvement rating is calculated using student learning gains on statewide, standardized English language arts and Math assessments for all eligible students who are enrolled in the school and who have assessment scores or comparable scores for the preceding school year.⁴⁶ Schools that improve their ratings by at least one level or maintain a "commendable" rating are eligible for school recognition awards.⁴⁷ The school improvement rating identifies an alternative school as having one of the following ratings:

- **Commendable:** a significant percentage of the students attending the school are making learning gains
- **Maintaining:** a sufficient percentage of the students attending the school are making learning gains
- **Unsatisfactory:** an insufficient percentage of the students attending the school are making learning gains⁴⁸

Current law requires that the student performance data for eligible students attending alternative schools that provide dropout prevention and academic intervention are included in the calculation of the home school's grade.⁴⁹ Likewise, student performance data for eligible students in Exceptional Student Education (ESE) Centers are included in the calculation of the home school grade.⁵⁰

⁴¹ Section 1002.33(25), F.S.

⁴² 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.

⁴³ Section 1008.33(4), F.S.

⁴⁴ Section 1008.26, F.S.

⁴⁵ School improvement ratings, which do not include an academic achievement component but instead focus on learning gains, are offered to alternative schools because the students at these schools are often enrolled in more than one school within the school year. All alternative students' learning gains scores are included in either the alternative school or home school accountability report. *See ESEA Flexibility Request at 67, note 34, supra.*

⁴⁶ Section 1008.341(3), F.S.

⁴⁷ Section 1008.341(2), F.S. (flush left provisions at the end of the subsection).

⁴⁸ Section 1008.341(2)(a)-(c), F.S.

⁴⁹ Section 1008.34(3)(d)1., F.S.

⁵⁰ Section 1008.3415, F.S.

Effect of Proposed Changes

The bill provides that student performance data from eligible students attending an alternative charter school shall be included in the calculation of the home school's grade, as well as a high school student who transfers to a private school with which the school district has a contractual agreement. The bill also allows the use of concordant scores, in addition to assessment scores or comparable scores, in determining an alternative school's school improvement rating.

Facilities

Present Situation

Any facility or portion of a facility, used to house a charter school is exempt from ad valorem taxes, and specified entities, including a library, community service, museum, performing arts, theatre, cinema, church, Florida College System institution, college, and university may provide space to charter schools within their facilities under their preexisting zoning and land use designations.⁵¹

Effect of Proposed Changes

The bill clarifies that the entities listed above may provide space to charter schools, and the charter school shall not have to obtain any special exception, rezoning, land use charter or other approval.

Blended Learning

Present Situation

Florida law authorizes brick-and-mortar charter schools to offer blended learning courses. Blended learning courses are provided at the charter school's physical location and consist of both traditional classroom and online instruction. Blended learning courses may be provided by part-time or full-time employees of the charter school or by contracted instructional providers. Instructors must be certified in the subject area of the course. The online portion of a blended learning course may be provided from a remote location.⁵² Students in a blended learning course must be full-time students at the charter school and receive the online instruction in a classroom setting at the charter school.

Effect of Proposed Changes

The bill removes the requirement that students receive online instruction in a classroom setting in order to be eligible for a blended learning course.

College-Preparatory Boarding Academy

Present Situation

In 2011, the Legislature created the College-Preparatory Boarding Academy Pilot Program for the purpose of providing unique educational opportunities to dependent or at-risk children who are academic underperformers but who have the potential to progress from at-risk to college-bound.⁵³

An "eligible student" is a student who:

- is a resident of the state and entitled to attend school in a participating school district;

⁵¹ Section 1002.33(18)(c), F.S.

⁵² Section 1002.33(7)(a)2.b., F.S.

⁵³ Section 1002.3305(1), F.S.

- is at risk of academic failure;
- is currently enrolled in grade 5 or 6;
- is from a family whose gross income is at or below 200 percent of the federal poverty guidelines;
- is eligible for benefits or services funded by Temporary Assistance for Needy Families (TANF) or Title IV-E of the Social Security Act; and
- meets at least one of the following additional risk factors:
 - The child is in foster care or has been declared an adjudicated dependent by a court.
 - The student's head of household is not the student's custodial parent.
 - The student resides in a household that receives a housing voucher or has been determined eligible for public housing assistance.
 - A member of the student's immediate family has been incarcerated.
 - The child is covered under the terms of the state's Child Welfare Waiver Demonstration project with the United States Department of Health and Human Services.⁵⁴

Effect of Proposed Changes

The requirement that a student be currently enrolled in grade 5 or 6 limits the operator from enrolling students in another grade level, even if a space is available. The bill revises this requirement and allows any student currently enrolled in grades 5-12 to be eligible to enter the program, if the operator determines that a seat is available.

Other Provisions

The bill also:

- clarifies that charter schools and their governing boards are subject to the same waiver of sovereign immunity in tort actions as the state, state agencies and or subdivisions;
- deletes language regarding federal funds that conflicts with federal requirements for the distribution of such funds;
- removes the requirement that an eligible dual enrollment program be located and chartered in Florida and revises eligibility requirements for postsecondary institutions to participate in dual enrollment by requiring that the institution be accredited by any regional or national accrediting agency recognized by the U.S. DOE rather than only the Commission of Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools; and
- requires sponsors to notify a charter school if they intend to not renew a contract and provide the charter school with a hearing.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.33, F.S., relating to charter schools.

Section 2. Amends s. 1002.3305, F.S., relating to the College-Preparatory Boarding Academy Pilot Program.

Section 3. Amends s. 1002.331, F.S., relating to high-performing charter schools.

Section 4. Amends s. 1002.332, F.S., relating to high-performing charter school systems.

Section 5. Amends s. 1008.34, F.S., relating to school grading system, school report cards and district grades.

⁵⁴ Section 1002.3305(2)(b), F.S.
 STORAGE NAME: h7101b.EDC.DOCX
 DATE: 4/4/2017

Section 6. Amends s. 1008.341, F.S., relating to the designation of school improvement ratings.

Section 7. Amends s. 1011.62, F.S., relating to the basic operating funding calculation.

Section 8. 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:

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets of the charter school identified in an annual financial audit for K-12 educational purposes for charter schools operated by the not-for-profit or municipal entity organizing or operating the charter school with the surplus. Surplus operating funds shall be used in accordance with s. 1011.62, and surplus capital outlay funds shall be used in accordance with s. 1013.62(2).

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

On April 3, 2017, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably. The amendment removes the two sections of the bill that addressed charter schools and fixed capital outlay eligibility and funding.

The bill analysis is drafted to reflect the adopted amendment.

1 A bill to be entitled
 2 An act relating to K-12 education; amending s.
 3 1002.33, F.S.; revising the charter school application
 4 process; revising the appeals process for a denied
 5 charter school application; requiring the use of the
 6 standard contract by specified entities; revising
 7 eligibility requirements for charter school students
 8 enrolled in blended learning courses; clarifying
 9 provisions relating to charter schools and tort
 10 liability; revising the purpose of charter school
 11 cooperatives; authorizing the use of unrestricted net
 12 assets and unrestricted surplus for specified charter
 13 schools; requiring such funds to be used in accordance
 14 with specified provisions; revising the public
 15 information disclosures of charter schools;
 16 authorizing certain entities to share facilities with
 17 charter schools without additional approval; revising
 18 the administrative fees that a district may withhold
 19 from charter schools; requiring charter schools to
 20 complete and submit an annual survey; deleting a
 21 requirement that the Department of Education compare
 22 certain data; revising eligibility criteria for
 23 designated local educational agency status; amending
 24 1002.3305, F.S.; revising the definition for the term
 25 "eligible student" for purposes of the College-

26 preparatory Boarding Academy Pilot Program; amending
 27 s. 1002.331, F.S.; conforming provisions to changes
 28 made by the act; authorizing a high-performing charter
 29 school to establish more than one charter school in
 30 any year under certain circumstances; amending s.
 31 1002.332, F.S.; authorizing a high-performing charter
 32 school system to replicate its schools in any school
 33 district and providing application requirements
 34 therefor; amending s. 1008.34, F.S.; revising the
 35 student performance data to be included in school
 36 grades; amending s. 1008.341, F.S.; including
 37 concordant scores in the calculation of an alternative
 38 school's school improvement rating; amending s.
 39 1011.62, F.S.; revising eligibility criteria for
 40 postsecondary institutions to participate in the dual
 41 enrollment and early admission programs; providing an
 42 effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Subsection (1), paragraphs (a), (b), (c), and
 47 (h) of subsection (6), subsection (7), paragraph (b) of
 48 subsection (8), paragraph (h) of subsection (12), subsection
 49 (13), paragraphs (b) and (c) of subsection (17), paragraph (c)
 50 of subsection (18), subsection (20), paragraphs (a) and (b) of

51 subsection (21), and subsections (25) and (28) of section
 52 1002.33, Florida Statutes, are amended to read:

53 1002.33 Charter schools.—

54 (1) AUTHORIZATION.—~~Charter schools shall be part of the~~
 55 ~~state's program of public education.~~ All charter schools in
 56 Florida are public schools and shall be part of the state's
 57 program of public education. A charter school may be formed by
 58 creating a new school or converting an existing public school to
 59 charter status. A charter school may operate a virtual charter
 60 school pursuant to s. 1002.45(1)(d) to provide full-time online
 61 instruction to eligible students, pursuant to s. 1002.455, in
 62 kindergarten through grade 12. An existing charter school that
 63 is seeking to become a virtual charter school must amend its
 64 charter or submit a new application pursuant to subsection (6)
 65 to become a virtual charter school. A virtual charter school is
 66 subject to the requirements of this section; however, a virtual
 67 charter school is exempt from subsections (18) and (19),
 68 ~~subparagraphs (20)(a)2., 4., 5., and 7.,~~ paragraph (20)(c), and
 69 s. 1003.03. A public school may not use the term charter in its
 70 name unless it has been approved under this section.

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

73 (a) A person or entity seeking to open a charter school
 74 shall prepare and submit an application on the standard ~~a model~~
 75 application form prepared by the Department of Education which:

76 1. Demonstrates how the school will use the guiding
77 principles and meet the statutorily defined purpose of a charter
78 school.

79 2. Provides a detailed curriculum plan that illustrates
80 how students will be provided services to attain the Sunshine
81 State Standards.

82 3. Contains goals and objectives for improving student
83 learning and measuring that improvement. These goals and
84 objectives must indicate how much academic improvement students
85 are expected to show each year, how success will be evaluated,
86 and the specific results to be attained through instruction.

87 4. Describes the reading curriculum and differentiated
88 strategies that will be used for students reading at grade level
89 or higher and a separate curriculum and strategies for students
90 who are reading below grade level. A sponsor shall deny an
91 application if the school does not propose a reading curriculum
92 that is consistent with effective teaching strategies that are
93 grounded in scientifically based reading research.

94 5. Contains an annual financial plan for each year
95 requested by the charter for operation of the school for up to 5
96 years. This plan must contain anticipated fund balances based on
97 revenue projections, a spending plan based on projected revenues
98 and expenses, and a description of controls that will safeguard
99 finances and projected enrollment trends.

100 6. Discloses the name of each applicant, governing board

101 member, and all proposed education services providers; the name
 102 and sponsor of any charter school operated by each applicant,
 103 each governing board member, and each proposed education
 104 services provider that has closed and the reasons for the
 105 closure; and the academic and financial history of such charter
 106 schools, which the sponsor shall consider in deciding whether to
 107 approve or deny the application.

108 7. Contains additional information a sponsor may require,
 109 which shall be attached as an addendum to the charter school
 110 application described in this paragraph.

111 8. For the establishment of a virtual charter school,
 112 documents that the applicant has contracted with a provider of
 113 virtual instruction services pursuant to s. 1002.45(1)(d).

114 (b) A sponsor shall receive and review all applications
 115 for a charter school using the evaluation instrument developed
 116 by the Department of Education. A sponsor shall receive and
 117 consider charter school applications received on or before
 118 February ~~August~~ 1 of each calendar year for charter schools to
 119 be opened 18 months later at the beginning of the school
 120 district's ~~next~~ school year, or to be opened at a time agreed to
 121 by the applicant and the sponsor. A sponsor may not refuse to
 122 receive a charter school application submitted before February
 123 ~~August~~ 1 and may receive an application submitted later than
 124 February ~~August~~ 1 if it chooses. ~~In order to facilitate greater~~
 125 ~~collaboration in the application process, an applicant may~~

126 ~~submit a draft charter school application on or before May 1~~
 127 ~~with an application fee of \$500. If a draft application is~~
 128 ~~timely submitted, the sponsor shall review and provide feedback~~
 129 ~~as to material deficiencies in the application by July 1. The~~
 130 ~~applicant shall then have until August 1 to resubmit a revised~~
 131 ~~and final application. The sponsor may approve the draft~~
 132 ~~application. Except as provided for a draft application, A~~
 133 sponsor may not charge an applicant for a charter any fee for
 134 the processing or consideration of an application, and a sponsor
 135 may not base its consideration or approval of a final
 136 application upon the promise of future payment of any kind.
 137 Before approving or denying any ~~final~~ application, the sponsor
 138 shall allow the applicant, upon receipt of written notification,
 139 at least 7 calendar days to make technical or nonsubstantive
 140 corrections and clarifications, including, but not limited to,
 141 corrections of grammatical, typographical, and like errors or
 142 missing signatures, if such errors are identified by the sponsor
 143 as cause to deny the final application.

144 1. In order to facilitate an accurate budget projection
 145 process, a sponsor shall be held harmless for FTE students who
 146 are not included in the FTE projection due to approval of
 147 charter school applications after the FTE projection deadline.
 148 In a further effort to facilitate an accurate budget projection,
 149 within 15 calendar days after receipt of a charter school
 150 application, a sponsor shall report to the Department of

151 Education the name of the applicant entity, the proposed charter
152 school location, and its projected FTE.

153 2. In order to ensure fiscal responsibility, an
154 application for a charter school shall include a full accounting
155 of expected assets, a projection of expected sources and amounts
156 of income, including income derived from projected student
157 enrollments and from community support, and an expense
158 projection that includes full accounting of the costs of
159 operation, including start-up costs.

160 3.a. A sponsor shall by a majority vote approve or deny an
161 application no later than 90 ~~60~~ calendar days after the
162 application is received, unless the sponsor and the applicant
163 mutually agree in writing to temporarily postpone the vote to a
164 specific date, at which time the sponsor shall by a majority
165 vote approve or deny the application. If the sponsor fails to
166 act on the application, an applicant may appeal to the State
167 Board of Education as provided in paragraph (c). If an
168 application is denied, the sponsor shall, within 10 calendar
169 days after such denial, articulate in writing the specific
170 reasons, based upon good cause, supporting its denial of the
171 application and shall provide the letter of denial and
172 supporting documentation to the applicant and to the Department
173 of Education.

174 b. An application submitted by a high-performing charter
175 school identified pursuant to s. 1002.331 or a high-performing

176 | charter school system identified pursuant to s. 1002.332 may be
 177 | denied by the sponsor only if the sponsor demonstrates by clear
 178 | and convincing evidence that:

179 | (I) The application does not materially comply with the
 180 | requirements in paragraph (a);

181 | (II) The charter school proposed in the application does
 182 | not materially comply with the requirements in paragraphs
 183 | (9)(a)-(f);

184 | (III) The proposed charter school's educational program
 185 | does not substantially replicate that of the applicant or one of
 186 | the applicant's high-performing charter schools;

187 | (IV) The applicant has made a material misrepresentation
 188 | or false statement or concealed an essential or material fact
 189 | during the application process; or

190 | (V) The proposed charter school's educational program and
 191 | financial management practices do not materially comply with the
 192 | requirements of this section.

193 |
 194 | Material noncompliance is a failure to follow requirements or a
 195 | violation of prohibitions applicable to charter school
 196 | applications, which failure is quantitatively or qualitatively
 197 | significant either individually or when aggregated with other
 198 | noncompliance. An applicant is considered to be replicating a
 199 | high-performing charter school if the proposed school is
 200 | substantially similar to at least one of the applicant's high-

201 performing charter schools and the organization or individuals
 202 involved in the establishment and operation of the proposed
 203 school are significantly involved in the operation of replicated
 204 schools.

205 c. If the sponsor denies an application submitted by a
 206 high-performing charter school or a high-performing charter
 207 school system, the sponsor must, within 10 calendar days after
 208 such denial, state in writing the specific reasons, based upon
 209 the criteria in sub-subparagraph b., supporting its denial of
 210 the application and must provide the letter of denial and
 211 supporting documentation to the applicant and to the Department
 212 of Education. The applicant may appeal the sponsor's denial of
 213 the application in accordance with ~~directly to the State Board~~
 214 ~~of Education and, if an appeal is filed, must provide a copy of~~
 215 ~~the appeal to the sponsor pursuant to~~ paragraph (c).

216 4. For budget projection purposes, the sponsor shall
 217 report to the Department of Education the approval or denial of
 218 an application within 10 calendar days after such approval or
 219 denial. In the event of approval, the report to the Department
 220 of Education shall include the final projected FTE for the
 221 approved charter school.

222 5. Upon approval of an application, the initial startup
 223 shall commence with the beginning of the public school calendar
 224 for the district in which the charter is granted. A charter
 225 school may defer the opening of the school's operations for up

226 to 2 years to provide time for adequate facility planning. The
227 charter school must provide written notice of such intent to the
228 sponsor and the parents of enrolled students at least 30
229 calendar days before the first day of school.

230 (c)1. An applicant may appeal any denial of that
231 applicant's application or failure to act on an application to
232 the State Board of Education no later than 30 calendar days
233 after receipt of the sponsor's decision or failure to act and
234 shall notify the sponsor of its appeal. Any response of the
235 sponsor shall be submitted to the State Board of Education
236 within 30 calendar days after notification of the appeal. Upon
237 receipt of notification from the State Board of Education that a
238 charter school applicant is filing an appeal, the Commissioner
239 of Education shall convene a meeting of the Charter School
240 Appeal Commission to study and make recommendations to the State
241 Board of Education regarding its pending decision about the
242 appeal. The commission shall forward its recommendation to the
243 state board at least 7 calendar days before the date on which
244 the appeal is to be heard. ~~An appeal regarding the denial of an~~
245 ~~application submitted by a high performing charter school~~
246 ~~pursuant to s. 1002.331 shall be conducted by the State Board of~~
247 ~~Education in accordance with this paragraph, except that the~~
248 ~~commission shall not convene to make recommendations regarding~~
249 ~~the appeal. However, the Commissioner of Education shall review~~
250 ~~the appeal and make a recommendation to the state board.~~

251 2. The Charter School Appeal Commission ~~or, in the case of~~
 252 ~~an appeal regarding an application submitted by a high-~~
 253 ~~performing charter school, the State Board of Education~~ may
 254 reject an appeal submission for failure to comply with
 255 procedural rules governing the appeals process. The rejection
 256 shall describe the submission errors. The appellant shall have
 257 15 calendar days after notice of rejection in which to resubmit
 258 an appeal that meets the requirements set forth in State Board
 259 of Education rule. An appeal submitted subsequent to such
 260 rejection is considered timely if the original appeal was filed
 261 within 30 calendar days after receipt of notice of the specific
 262 reasons for the sponsor's denial of the charter application.

263 3.a. The State Board of Education shall by majority vote
 264 accept or reject the decision of the sponsor no later than 90
 265 calendar days after an appeal is filed in accordance with State
 266 Board of Education rule. The State Board of Education shall
 267 remand the application to the sponsor with its written decision
 268 that the sponsor approve or deny the application. The sponsor
 269 shall implement the decision of the State Board of Education.
 270 The decision of the State Board of Education is not subject to
 271 the provisions of the Administrative Procedure Act, chapter 120.

272 b. If an appeal concerns an application submitted by a
 273 high-performing charter school identified pursuant to s.
 274 1002.331 or a high-performing charter school system identified
 275 pursuant to s. 1002.332, the State Board of Education shall

276 determine whether the sponsor's denial was in accordance with
 277 sub-subparagraph (6)(b)3.b. ~~sponsor has shown, by clear and~~
 278 ~~convincing evidence, that:~~

279 ~~(I) The application does not materially comply with the~~
 280 ~~requirements in paragraph (a);~~

281 ~~(II) The charter school proposed in the application does~~
 282 ~~not materially comply with the requirements in paragraphs~~
 283 ~~(9)(a)-(f);~~

284 ~~(III) The proposed charter school's educational program~~
 285 ~~does not substantially replicate that of the applicant or one of~~
 286 ~~the applicant's high-performing charter schools;~~

287 ~~(IV) The applicant has made a material misrepresentation~~
 288 ~~or false statement or concealed an essential or material fact~~
 289 ~~during the application process; or~~

290 ~~(V) The proposed charter school's educational program and~~
 291 ~~financial management practices do not materially comply with the~~
 292 ~~requirements of this section.~~

293
 294 ~~The State Board of Education shall approve or reject the~~
 295 ~~sponsor's denial of an application no later than 90 calendar~~
 296 ~~days after an appeal is filed in accordance with State Board of~~
 297 ~~Education rule. The State Board of Education shall remand the~~
 298 ~~application to the sponsor with its written decision that the~~
 299 ~~sponsor approve or deny the application. The sponsor shall~~
 300 ~~implement the decision of the State Board of Education. The~~

301 ~~decision of the State Board of Education is not subject to the~~
 302 ~~Administrative Procedure Act, chapter 120.~~

303 ~~(h) The terms and conditions for the operation of a~~
 304 ~~charter school shall be set forth by the sponsor and the~~
 305 ~~applicant in a written contractual agreement, called a charter.~~
 306 ~~The sponsor may not impose unreasonable rules or regulations~~
 307 ~~that violate the intent of giving charter schools greater~~
 308 ~~flexibility to meet educational goals. The sponsor has 30 days~~
 309 ~~after approval of the application to provide an initial proposed~~
 310 ~~charter contract to the charter school. The applicant and the~~
 311 ~~sponsor have 40 days thereafter to negotiate and notice the~~
 312 ~~charter contract for final approval by the sponsor unless both~~
 313 ~~parties agree to an extension. The proposed charter contract~~
 314 ~~shall be provided to the charter school at least 7 calendar days~~
 315 ~~prior to the date of the meeting at which the charter is~~
 316 ~~scheduled to be voted upon by the sponsor. The Department of~~
 317 ~~Education shall provide mediation services for any dispute~~
 318 ~~regarding this section subsequent to the approval of a charter~~
 319 ~~application and for any dispute relating to the approved~~
 320 ~~charter, except disputes regarding charter school application~~
 321 ~~denials. If the Commissioner of Education determines that the~~
 322 ~~dispute cannot be settled through mediation, the dispute may be~~
 323 ~~appealed to an administrative law judge appointed by the~~
 324 ~~Division of Administrative Hearings. The administrative law~~
 325 ~~judge has final order authority to rule on issues of equitable~~

326 ~~treatment of the charter school as a public school, whether~~
 327 ~~proposed provisions of the charter violate the intended~~
 328 ~~flexibility granted charter schools by statute, or on any other~~
 329 ~~matter regarding this section except a charter school~~
 330 ~~application denial, a charter termination, or a charter~~
 331 ~~nonrenewal and shall award the prevailing party reasonable~~
 332 ~~attorney's fees and costs incurred to be paid by the losing~~
 333 ~~party. The costs of the administrative hearing shall be paid by~~
 334 ~~the party whom the administrative law judge rules against.~~

335 (7) CHARTER.—The terms and conditions for the operation of
 336 a charter school shall be set forth by the sponsor and the
 337 applicant in a written contractual agreement, called a charter.
 338 The sponsor and the governing board of the charter school shall
 339 use the standard charter contract pursuant to subsection (21),
 340 which shall incorporate the approved application and any addenda
 341 approved with the application. The standard charter contract may
 342 not be altered in any way. Any term or condition of a proposed
 343 charter contract that differs from the standard charter contract
 344 adopted by rule of the State Board of Education shall be
 345 presumed a limitation on charter school flexibility. The sponsor
 346 may not impose unreasonable rules or regulations that violate
 347 the intent of giving charter schools greater flexibility to meet
 348 educational goals ~~The major issues involving the operation of a~~
 349 ~~charter school shall be considered in advance and written into~~
 350 ~~the charter.~~ The charter shall be signed by the governing board

351 of the charter school and the sponsor, following a public
 352 hearing to ensure community input.

353 (a) The charter shall address and criteria for approval of
 354 the charter shall be based on:

355 1. The school's mission, the students to be served, and
 356 the ages and grades to be included.

357 2. The focus of the curriculum, the instructional methods
 358 to be used, any distinctive instructional techniques to be
 359 employed, and identification and acquisition of appropriate
 360 technologies needed to improve educational and administrative
 361 performance which include a means for promoting safe, ethical,
 362 and appropriate uses of technology which comply with legal and
 363 professional standards.

364 a. The charter shall ensure that reading is a primary
 365 focus of the curriculum and that resources are provided to
 366 identify and provide specialized instruction for students who
 367 are reading below grade level. The curriculum and instructional
 368 strategies for reading must be consistent with the Next
 369 Generation Sunshine State Standards and grounded in
 370 scientifically based reading research.

371 b. In order to provide students with access to diverse
 372 instructional delivery models, to facilitate the integration of
 373 technology within traditional classroom instruction, and to
 374 provide students with the skills they need to compete in the
 375 21st century economy, the Legislature encourages instructional

376 methods for blended learning courses consisting of both
 377 traditional classroom and online instructional techniques.
 378 Charter schools may implement blended learning courses which
 379 combine traditional classroom instruction and virtual
 380 instruction. Students in a blended learning course must be full-
 381 time students of the charter school pursuant to s.
 382 1011.61(1)(a)1. ~~and receive the online instruction in a~~
 383 ~~classroom setting at the charter school.~~ Instructional personnel
 384 certified pursuant to s. 1012.55 who provide virtual instruction
 385 for blended learning courses may be employees of the charter
 386 school or may be under contract to provide instructional
 387 services to charter school students. At a minimum, such
 388 instructional personnel must hold an active state or school
 389 district adjunct certification under s. 1012.57 for the subject
 390 area of the blended learning course. The funding and performance
 391 accountability requirements for blended learning courses are the
 392 same as those for traditional courses.

393 3. The current incoming baseline standard of student
 394 academic achievement, the outcomes to be achieved, and the
 395 method of measurement that will be used. The criteria listed in
 396 this subparagraph shall include a detailed description of:

397 a. How the baseline student academic achievement levels
 398 and prior rates of academic progress will be established.

399 b. How these baseline rates will be compared to rates of
 400 academic progress achieved by these same students while

401 attending the charter school.

402 c. To the extent possible, how these rates of progress
 403 will be evaluated and compared with rates of progress of other
 404 closely comparable student populations.

405

406 The district school board is required to provide academic
 407 student performance data to charter schools for each of their
 408 students coming from the district school system, as well as
 409 rates of academic progress of comparable student populations in
 410 the district school system.

411 4. The methods used to identify the educational strengths
 412 and needs of students and how well educational goals and
 413 performance standards are met by students attending the charter
 414 school. The methods shall provide a means for the charter school
 415 to ensure accountability to its constituents by analyzing
 416 student performance data and by evaluating the effectiveness and
 417 efficiency of its major educational programs. Students in
 418 charter schools shall, at a minimum, participate in the
 419 statewide assessment program created under s. 1008.22.

420 5. In secondary charter schools, a method for determining
 421 that a student has satisfied the requirements for graduation in
 422 s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.

423 6. A method for resolving conflicts between the governing
 424 board of the charter school and the sponsor.

425 7. The admissions procedures and dismissal procedures,

426 including the school's code of student conduct. Admission or
427 dismissal must not be based on a student's academic performance.

428 8. The ways by which the school will achieve a
429 racial/ethnic balance reflective of the community it serves or
430 within the racial/ethnic range of other public schools in the
431 same school district.

432 9. The financial and administrative management of the
433 school, including a reasonable demonstration of the professional
434 experience or competence of those individuals or organizations
435 applying to operate the charter school or those hired or
436 retained to perform such professional services and the
437 description of clearly delineated responsibilities and the
438 policies and practices needed to effectively manage the charter
439 school. A description of internal audit procedures and
440 establishment of controls to ensure that financial resources are
441 properly managed must be included. Both public sector and
442 private sector professional experience shall be equally valid in
443 such a consideration.

444 10. The asset and liability projections required in the
445 application which are incorporated into the charter and shall be
446 compared with information provided in the annual report of the
447 charter school.

448 11. A description of procedures that identify various
449 risks and provide for a comprehensive approach to reduce the
450 impact of losses; plans to ensure the safety and security of

451 students and staff; plans to identify, minimize, and protect
 452 others from violent or disruptive student behavior; and the
 453 manner in which the school will be insured, including whether or
 454 not the school will be required to have liability insurance,
 455 and, if so, the terms and conditions thereof and the amounts of
 456 coverage.

457 12. The term of the charter which shall provide for
 458 cancellation of the charter if insufficient progress has been
 459 made in attaining the student achievement objectives of the
 460 charter and if it is not likely that such objectives can be
 461 achieved before expiration of the charter. The initial term of a
 462 charter shall be for 4 or 5 years. In order to facilitate access
 463 to long-term financial resources for charter school
 464 construction, charter schools that are operated by a
 465 municipality or other public entity as provided by law are
 466 eligible for up to a 15-year charter, subject to approval by the
 467 district school board. A charter lab school is eligible for a
 468 charter for a term of up to 15 years. In addition, to facilitate
 469 access to long-term financial resources for charter school
 470 construction, charter schools that are operated by a private,
 471 not-for-profit, s. 501(c)(3) status corporation are eligible for
 472 up to a 15-year charter, subject to approval by the district
 473 school board. Such long-term charters remain subject to annual
 474 review and may be terminated during the term of the charter, but
 475 only according to the provisions set forth in subsection (8).

476 13. The facilities to be used and their location. The
477 sponsor may not require a charter school to have a certificate
478 of occupancy or a temporary certificate of occupancy for such a
479 facility earlier than 15 calendar days before the first day of
480 school.

481 14. The qualifications to be required of the teachers and
482 the potential strategies used to recruit, hire, train, and
483 retain qualified staff to achieve best value.

484 15. The governance structure of the school, including the
485 status of the charter school as a public or private employer as
486 required in paragraph (12)(i).

487 16. A timetable for implementing the charter which
488 addresses the implementation of each element thereof and the
489 date by which the charter shall be awarded in order to meet this
490 timetable.

491 17. In the case of an existing public school that is being
492 converted to charter status, alternative arrangements for
493 current students who choose not to attend the charter school and
494 for current teachers who choose not to teach in the charter
495 school after conversion in accordance with the existing
496 collective bargaining agreement or district school board rule in
497 the absence of a collective bargaining agreement. However,
498 alternative arrangements shall not be required for current
499 teachers who choose not to teach in a charter lab school, except
500 as authorized by the employment policies of the state university

501 | which grants the charter to the lab school.

502 | 18. Full disclosure of the identity of all relatives
 503 | employed by the charter school who are related to the charter
 504 | school owner, president, chairperson of the governing board of
 505 | directors, superintendent, governing board member, principal,
 506 | assistant principal, or any other person employed by the charter
 507 | school who has equivalent decisionmaking authority. For the
 508 | purpose of this subparagraph, the term "relative" means father,
 509 | mother, son, daughter, brother, sister, uncle, aunt, first
 510 | cousin, nephew, niece, husband, wife, father-in-law, mother-in-
 511 | law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
 512 | stepfather, stepmother, stepson, stepdaughter, stepbrother,
 513 | stepsister, half brother, or half sister.

514 | 19. Implementation of the activities authorized under s.
 515 | 1002.331 by the charter school when it satisfies the eligibility
 516 | requirements for a high-performing charter school. A high-
 517 | performing charter school shall notify its sponsor in writing by
 518 | March 1 if it intends to increase enrollment or expand grade
 519 | levels the following school year. The written notice shall
 520 | specify the amount of the enrollment increase and the grade
 521 | levels that will be added, as applicable.

522 | (b) The sponsor has 30 days after approval of the
 523 | application to provide an initial proposed charter contract to
 524 | the charter school. The applicant and the sponsor have 40 days
 525 | thereafter to negotiate and notice the charter contract for

526 final approval by the sponsor unless both parties agree to an
 527 extension. The proposed charter contract shall be provided to
 528 the charter school at least 7 calendar days before the date of
 529 the meeting at which the charter is scheduled to be voted upon
 530 by the sponsor. The Department of Education shall provide
 531 mediation services for any dispute regarding this section
 532 subsequent to the approval of a charter application and for any
 533 dispute relating to the approved charter, except a dispute
 534 regarding a charter school application denial. If the
 535 Commissioner of Education determines that the dispute cannot be
 536 settled through mediation, the dispute may be appealed to an
 537 administrative law judge appointed by the Division of
 538 Administrative Hearings. The administrative law judge has final
 539 order authority to rule on issues of equitable treatment of the
 540 charter school as a public school, whether proposed provisions
 541 of the charter violate the intended flexibility granted charter
 542 schools by statute, or any other matter regarding this section,
 543 except a dispute regarding charter school application denial, a
 544 charter termination, or a charter nonrenewal. The administrative
 545 law judge shall award the prevailing party reasonable attorney
 546 fees and costs incurred during the mediation process,
 547 administrative proceeding, and any appeals, to be paid by the
 548 party whom the administrative law judge rules against.

549 (c)~~(b)~~1. A charter may be renewed provided that a program
 550 review demonstrates that the criteria in paragraph (a) have been

551 successfully accomplished and that none of the grounds for
 552 nonrenewal established by paragraph (8)(a) has been documented.
 553 In order to facilitate long-term financing for charter school
 554 construction, charter schools operating for a minimum of 3 years
 555 and demonstrating exemplary academic programming and fiscal
 556 management are eligible for a 15-year charter renewal. Such
 557 long-term charter is subject to annual review and may be
 558 terminated during the term of the charter.

559 2. The 15-year charter renewal that may be granted
 560 pursuant to subparagraph 1. shall be granted to a charter school
 561 that has received a school grade of "A" or "B" pursuant to s.
 562 1008.34 in 3 of the past 4 years and is not in a state of
 563 financial emergency or deficit position as defined by this
 564 section. Such long-term charter is subject to annual review and
 565 may be terminated during the term of the charter pursuant to
 566 subsection (8).

567 (d)~~(e)~~ A charter may be modified during its initial term
 568 or any renewal term upon the recommendation of the sponsor or
 569 the charter school's governing board and the approval of both
 570 parties to the agreement. Modification may include, but is not
 571 limited to, consolidation of multiple charters into a single
 572 charter if the charters are operated under the same governing
 573 board and physically located on the same campus, regardless of
 574 the renewal cycle.

575 (e)~~(d)~~ A charter may be terminated by a charter school's

576 governing board through voluntary closure. The decision to cease
 577 operations must be determined at a public meeting. The governing
 578 board shall notify the parents and sponsor of the public meeting
 579 in writing before the public meeting. The governing board must
 580 notify the sponsor, parents of enrolled students, and the
 581 department in writing within 24 hours after the public meeting
 582 of its determination. The notice shall state the charter
 583 school's intent to continue operations or the reason for the
 584 closure and acknowledge that the governing board agrees to
 585 follow the procedures for dissolution and reversion of public
 586 funds pursuant to paragraphs (8)(e)-(g) and (9)(o).

587 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

588 (b) At least 90 days before ~~prior to~~ renewing,
 589 nonrenewing, or terminating a charter, the sponsor shall notify
 590 the governing board of the school of the proposed action in
 591 writing. The notice shall state in reasonable detail the grounds
 592 for the proposed action and stipulate that the school's
 593 governing board may, within 14 calendar days after receiving the
 594 notice, request a hearing. The hearing shall be conducted at the
 595 sponsor's election in accordance with one of the following
 596 procedures:

- 597 1. A direct hearing conducted by the sponsor within 60
 598 days after receipt of the request for a hearing. The hearing
 599 shall be conducted in accordance with ss. 120.569 and 120.57.
 600 The sponsor shall decide upon nonrenewal or termination by a

601 majority vote. The sponsor's decision shall be a final order; or

602 2. A hearing conducted by an administrative law judge
 603 assigned by the Division of Administrative Hearings. The hearing
 604 shall be conducted within 60 days after receipt of the request
 605 for a hearing and in accordance with chapter 120. The
 606 administrative law judge's recommended order shall be submitted
 607 to the sponsor. A majority vote by the sponsor shall be required
 608 to adopt or modify the administrative law judge's recommended
 609 order. The sponsor shall issue a final order.

610 (12) EMPLOYEES OF CHARTER SCHOOLS.—

611 (h) For the purposes of tort liability, the charter
 612 school, including its governing body and employees, ~~of a charter~~
 613 ~~school~~ shall be governed by s. 768.28.

614 (13) CHARTER SCHOOL COOPERATIVES.—Charter schools may
 615 enter into cooperative agreements to form charter school
 616 cooperative organizations that may provide ~~the following~~
 617 services to further educational, operational, and administrative
 618 initiatives in which the participating charter schools share
 619 common interests: ~~charter school planning and development,~~
 620 ~~direct instructional services, and contracts with charter school~~
 621 ~~governing boards to provide personnel administrative services,~~
 622 ~~payroll services, human resource management, evaluation and~~
 623 ~~assessment services, teacher preparation, and professional~~
 624 ~~development.~~

625 (17) FUNDING.—Students enrolled in a charter school,

626 regardless of the sponsorship, shall be funded as if they are in
627 a basic program or a special program, the same as students
628 enrolled in other public schools in the school district. Funding
629 for a charter lab school shall be as provided in s. 1002.32.

630 (b) The basis for the agreement for funding students
631 enrolled in a charter school shall be the sum of the school
632 district's operating funds from the Florida Education Finance
633 Program as provided in s. 1011.62 and the General Appropriations
634 Act, including gross state and local funds, discretionary
635 lottery funds, and funds from the school district's current
636 operating discretionary millage levy; divided by total funded
637 weighted full-time equivalent students in the school district;
638 multiplied by the weighted full-time equivalent students for the
639 charter school. Charter schools whose students or programs meet
640 the eligibility criteria in law are entitled to their
641 proportionate share of categorical program funds included in the
642 total funds available in the Florida Education Finance Program
643 by the Legislature, including transportation, the research-based
644 reading allocation, and the Florida digital classrooms
645 allocation. Total funding for each charter school shall be
646 recalculated during the year to reflect the revised calculations
647 under the Florida Education Finance Program by the state and the
648 actual weighted full-time equivalent students reported by the
649 charter school during the full-time equivalent student survey
650 periods designated by the Commissioner of Education. For charter

651 schools operated by a not-for-profit or municipal entity, any
652 unrestricted surplus or unrestricted net assets identified in
653 the charter school's annual audit may be used for K-12
654 educational purposes for other charter schools in the state
655 operated by the not-for-profit or municipal entity. Surplus
656 operating funds shall be used in accordance with s. 1011.62, and
657 surplus capital outlay funds shall be used in accordance with s.
658 1013.62(2).

659 ~~(c) If the district school board is providing programs or~~
660 ~~services to students funded by federal funds, any eligible~~
661 ~~students enrolled in charter schools in the school district~~
662 ~~shall be provided federal funds for the same level of service~~
663 ~~provided students in the schools operated by the district school~~
664 ~~board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all~~
665 charter schools shall receive all federal funding for which the
666 school is otherwise eligible, including Title I funding, not
667 later than 5 months after the charter school first opens and
668 within 5 months after any subsequent expansion of enrollment.
669 Unless otherwise mutually agreed to by the charter school and
670 its sponsor, and consistent with state and federal rules and
671 regulations governing the use and disbursement of federal funds,
672 the sponsor shall reimburse the charter school on a monthly
673 basis for all invoices submitted by the charter school for
674 federal funds available to the sponsor for the benefit of the
675 charter school, the charter school's students, and the charter

676 school's students as public school students in the school
 677 district. Such federal funds include, but are not limited to,
 678 Title I, Title II, and Individuals with Disabilities Education
 679 Act (IDEA) funds. To receive timely reimbursement for an
 680 invoice, the charter school must submit the invoice to the
 681 sponsor at least 30 days before the monthly date of
 682 reimbursement set by the sponsor. In order to be reimbursed, any
 683 expenditures made by the charter school must comply with all
 684 applicable state rules and federal regulations, including, but
 685 not limited to, the applicable federal Office of Management and
 686 Budget Circulars; the federal Education Department General
 687 Administrative Regulations; and program-specific statutes,
 688 rules, and regulations. Such funds may not be made available to
 689 the charter school until a plan is submitted to the sponsor for
 690 approval of the use of the funds in accordance with applicable
 691 federal requirements. The sponsor has 30 days to review and
 692 approve any plan submitted pursuant to this paragraph.

693 (18) FACILITIES.—

694 (c) Any facility, or portion thereof, used to house a
 695 charter school whose charter has been approved by the sponsor
 696 and the governing board, pursuant to subsection (7), shall be
 697 exempt from ad valorem taxes pursuant to s. 196.1983. Library,
 698 community service, museum, performing arts, theatre, cinema,
 699 church, Florida College System institution, college, and
 700 university facilities may provide space to charter schools

701 within their facilities under their preexisting zoning and land
 702 use designations without obtaining a special exception,
 703 rezoning, a land use charter, or any other form of approval.

704 (20) SERVICES.—

705 (a)1. A sponsor shall provide certain administrative and
 706 educational services to charter schools. These services shall
 707 include contract management services; full-time equivalent and
 708 data reporting services; exceptional student education
 709 administration services; services related to eligibility and
 710 reporting duties required to ensure that school lunch services
 711 under the federal lunch program, consistent with the needs of
 712 the charter school, are provided by the school district at the
 713 request of the charter school, that any funds due to the charter
 714 school under the federal lunch program be paid to the charter
 715 school as soon as the charter school begins serving food under
 716 the federal lunch program, and that the charter school is paid
 717 at the same time and in the same manner under the federal lunch
 718 program as other public schools serviced by the sponsor or the
 719 school district; test administration services, including payment
 720 of the costs of state-required or district-required student
 721 assessments; processing of teacher certificate data services;
 722 and information services, including equal access to student
 723 information systems that are used by public schools in the
 724 district in which the charter school is located. Student
 725 performance data for each student in a charter school,

726 including, but not limited to, FCAT scores, standardized test
 727 scores, previous public school student report cards, and student
 728 performance measures, shall be provided by the sponsor to a
 729 charter school in the same manner provided to other public
 730 schools in the district.

731 2. A sponsor may withhold an administrative fee for the
 732 provision of such services which shall be a percentage of the
 733 available funds defined in paragraph (17)(b) calculated based on
 734 weighted full-time equivalent students. If the charter school
 735 serves 75 percent or more exceptional education students as
 736 defined in s. 1003.01(3), the percentage shall be calculated
 737 based on unweighted full-time equivalent students. The
 738 administrative fee shall be calculated as follows:

739 a. Up to 5 percent for:

740 (I) Enrollment of up to and including 250 students in a
 741 charter school as defined in this section.

742 (II) Enrollment of up to and including 500 students within
 743 a charter school system which meets all of the following:

744 (A) Includes conversion charter schools and nonconversion
 745 charter schools.

746 (B) Has all of its schools located in the same county.

747 (C) Has a total enrollment exceeding the total enrollment
 748 of at least one school district in the state.

749 (D) Has the same governing board for all of its schools.

750 (E) Does not contract with a for-profit service provider

751 for management of school operations.

752 (III) Enrollment of up to and including 250 students in a
 753 virtual charter school.

754 b. Up to 2 percent for enrollment of up to and including
 755 250 students in a high-performing charter school as defined in
 756 s. 1002.331.

757 3. A sponsor may not charge charter schools any additional
 758 fees or surcharges for administrative and educational services
 759 in addition to the maximum percentage of administrative fees
 760 withheld pursuant to this paragraph ~~A total administrative fee~~
 761 ~~for the provision of such services shall be calculated based~~
 762 ~~upon up to 5 percent of the available funds defined in paragraph~~
 763 ~~(17)(b) for all students, except that when 75 percent or more of~~
 764 ~~the students enrolled in the charter school are exceptional~~
 765 ~~students as defined in s. 1003.01(3), the 5 percent of those~~
 766 ~~available funds shall be calculated based on unweighted full-~~
 767 ~~time equivalent students. However, a sponsor may only withhold~~
 768 ~~up to a 5 percent administrative fee for enrollment for up to~~
 769 ~~and including 250 students. For charter schools with a~~
 770 ~~population of 251 or more students, the difference between the~~
 771 ~~total administrative fee calculation and the amount of the~~
 772 ~~administrative fee withheld may only be used for capital outlay~~
 773 ~~purposes specified in s. 1013.62(3).~~

774 ~~3. For high-performing charter schools, as defined in s.~~
 775 ~~1002.331, a sponsor may withhold a total administrative fee of~~

776 ~~up to 2 percent for enrollment up to and including 250 students~~
 777 ~~per school.~~

778 ~~4. In addition, a sponsor may withhold only up to a 5-~~
 779 ~~percent administrative fee for enrollment for up to and~~
 780 ~~including 500 students within a system of charter schools which~~
 781 ~~meets all of the following:~~

782 ~~a. Includes both conversion charter schools and~~
 783 ~~nonconversion charter schools;~~

784 ~~b. Has all schools located in the same county;~~

785 ~~c. Has a total enrollment exceeding the total enrollment~~
 786 ~~of at least one school district in the state;~~

787 ~~d. Has the same governing board; and~~

788 ~~e. Does not contract with a for-profit service provider~~
 789 ~~for management of school operations.~~

790 ~~5. The difference between the total administrative fee~~
 791 ~~calculation and the amount of the administrative fee withheld~~
 792 ~~pursuant to subparagraph 4. may be used for instructional and~~
 793 ~~administrative purposes as well as for capital outlay purposes~~
 794 ~~specified in s. 1013.62(3).~~

795 ~~6. For a high-performing charter school system that also~~
 796 ~~meets the requirements in subparagraph 4., a sponsor may~~
 797 ~~withhold a 2-percent administrative fee for enrollments up to~~
 798 ~~and including 500 students per system.~~

799 ~~7. Sponsors shall not charge charter schools any~~
 800 ~~additional fees or surcharges for administrative and educational~~

801 ~~services in addition to the maximum 5 percent administrative fee~~
 802 ~~withheld pursuant to this paragraph.~~

803 ~~8. The sponsor of a virtual charter school may withhold a~~
 804 ~~fee of up to 5 percent. The funds shall be used to cover the~~
 805 ~~cost of services provided under subparagraph 1. and~~
 806 ~~implementation of the school district's digital classrooms plan~~
 807 ~~pursuant to s. 1011.62.~~

808 (b) If goods and services are made available to the
 809 charter school through the contract with the school district,
 810 they shall be provided to the charter school at a rate no
 811 greater than the district's actual cost unless mutually agreed
 812 upon by the charter school and the sponsor in a contract
 813 negotiated separately from the charter. When mediation has
 814 failed to resolve disputes over contracted services or
 815 contractual matters not included in the charter, an appeal may
 816 be made for a dispute resolution hearing before the Charter
 817 School Appeal Commission. To maximize the use of state funds,
 818 school districts shall allow charter schools to participate in
 819 the sponsor's bulk purchasing program if applicable.

820 (c) Transportation of charter school students shall be
 821 provided by the charter school consistent with the requirements
 822 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
 823 body of the charter school may provide transportation through an
 824 agreement or contract with the district school board, a private
 825 provider, or parents. The charter school and the sponsor shall

826 cooperate in making arrangements that ensure that transportation
 827 is not a barrier to equal access for all students residing
 828 within a reasonable distance of the charter school as determined
 829 in its charter.

830 (d) Each charter school shall annually complete and submit
 831 a survey, provided in a format specified by the Department of
 832 Education, to rate the timeliness and quality of services
 833 provided by the district in accordance with this section. The
 834 department shall compile the results, by district, and include
 835 the results in the report required under sub-sub-subparagraph
 836 (5)(b)1.k.(III).

837 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

838 (a) The Department of Education shall provide information
 839 to the public, directly and through sponsors, on how to form and
 840 operate a charter school and how to enroll in a charter school
 841 once it is created. This information shall include the standard
 842 ~~a model~~ application form, standard charter contract, standard
 843 evaluation instrument, and standard charter renewal contract,
 844 which shall include the information specified in subsection (7)
 845 and shall be developed by consulting and negotiating with both
 846 school districts and charter schools before implementation. The
 847 charter and charter renewal contracts shall be used by charter
 848 school sponsors.

849 (b)1. The Department of Education shall report to each
 850 charter school receiving a school grade pursuant to s. 1008.34

851 or a school improvement rating pursuant to s. 1008.341 the
 852 school's student assessment data.

853 2. The charter school shall report the information in
 854 subparagraph 1. to each parent of a student at the charter
 855 school, the parent of a child on a waiting list for the charter
 856 school, the district in which the charter school is located, and
 857 the governing board of the charter school. This paragraph does
 858 not abrogate the provisions of s. 1002.22, relating to student
 859 records, or the requirements of 20 U.S.C. s. 1232g, the Family
 860 Educational Rights and Privacy Act.

861 ~~3.a. Pursuant to this paragraph, the Department of~~
 862 ~~Education shall compare the charter school student performance~~
 863 ~~data for each charter school in subparagraph 1. with the student~~
 864 ~~performance data in traditional public schools in the district~~
 865 ~~in which the charter school is located and other charter schools~~
 866 ~~in the state. For alternative charter schools, the department~~
 867 ~~shall compare the student performance data described in this~~
 868 ~~paragraph with all alternative schools in the state. The~~
 869 ~~comparative data shall be provided by the following grade~~
 870 ~~groupings:~~

- 871 ~~(I) Grades 3 through 5;~~
- 872 ~~(II) Grades 6 through 8; and~~
- 873 ~~(III) Grades 9 through 11.~~

874 ~~b. Each charter school shall provide the information~~
 875 ~~specified in this paragraph on its Internet website and also~~

876 ~~provide notice to the public at large in a manner provided by~~
 877 ~~the rules of the State Board of Education. The State Board of~~
 878 ~~Education shall adopt rules to administer the notice~~
 879 ~~requirements of this subparagraph pursuant to ss. 120.536(1) and~~
 880 ~~120.54. The website shall include, through links or actual~~
 881 ~~content, other information related to school performance.~~

882 (25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER
 883 SCHOOL SYSTEMS.—A charter school system's governing board shall
 884 be designated a local educational agency for the purpose of
 885 receiving federal funds, the same as though the charter school
 886 system were a school district, if the governing board of the
 887 charter school system has adopted and filed a resolution with
 888 its sponsoring district school board and the Department of
 889 Education in which the governing board of the charter school
 890 system accepts the full responsibility for all local education
 891 agency requirements and the charter school system meets all of
 892 the following:

- 893 ~~(a) Includes both conversion charter schools and~~
 894 ~~nonconversion charter schools;~~
- 895 (a)(b) Has all schools located in the same county;
- 896 (b)(e) Has a total enrollment exceeding the total
 897 enrollment of at least one school district in the state; and
- 898 (c)(d) Has the same governing board; ~~and~~
- 899 ~~(e) Does not contract with a for-profit service provider~~
 900 ~~for management of school operations.~~

901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925

Such designation does not apply to other provisions unless specifically provided in law.

(28) RULEMAKING.—The Department of Education, after consultation with school districts and charter school directors, shall recommend that the State Board of Education adopt rules to implement specific subsections of this section. Such rules shall require minimum paperwork and shall not limit charter school flexibility authorized by statute. The State Board of Education shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to implement a standard charter model application form, standard application form for the replication of charter schools in a high-performing charter school system, standard evaluation instrument, and standard charter and charter renewal contracts in accordance with this section.

Section 2. Paragraph (b) of subsection (2) of section 1002.3305, Florida Statutes, is amended to read:

1002.3305 College-preparatory Boarding Academy Pilot Program for at-risk students.—

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

(b) "Eligible student" means a student who is a resident of the state and entitled to attend school in a participating school district, is at risk of academic failure, is currently enrolled in grades 5-12, if it is determined by the operator that a seat is available ~~grade 5 or 6~~, is from a family whose

926 gross income is at or below 200 percent of the federal poverty
 927 guidelines, is eligible for benefits or services funded by
 928 Temporary Assistance for Needy Families (TANF) or Title IV-E of
 929 the Social Security Act, and meets at least one of the following
 930 additional risk factors:

931 1. The child is in foster care or has been declared an
 932 adjudicated dependent by a court.

933 2. The student's head of household is not the student's
 934 custodial parent.

935 3. The student resides in a household that receives a
 936 housing voucher or has been determined eligible for public
 937 housing assistance.

938 4. A member of the student's immediate family has been
 939 incarcerated.

940 5. The child is covered under the terms of the state's
 941 Child Welfare Waiver Demonstration project with the United
 942 States Department of Health and Human Services.

943 Section 3. Subsection (3) of section 1002.331, Florida
 944 Statutes, is amended to read:

945 1002.331 High-performing charter schools.—

946 (3) (a) 1. A high-performing charter school may submit an
 947 application pursuant to s. 1002.33(6) in any school district in
 948 the state to establish and operate a new charter school that
 949 will substantially replicate its educational program. An
 950 application submitted by a high-performing charter school must

951 state that the application is being submitted pursuant to this
 952 paragraph and must include the verification letter provided by
 953 the Commissioner of Education pursuant to subsection (4).

954 2. If the sponsor fails to act on the application within
 955 90 ~~60~~ days after receipt, the application is deemed approved and
 956 the procedure in s. 1002.33(7) ~~1002.33(6)(h)~~ applies. ~~If the~~
 957 ~~sponsor denies the application, the high-performing charter~~
 958 ~~school may appeal pursuant to s. 1002.33(6).~~

959 (b) A high-performing charter school may not establish
 960 more than one charter school within the state under paragraph
 961 (a) in any year. A subsequent application to establish a charter
 962 school under paragraph (a) may not be submitted unless each
 963 charter school established in this manner achieves high-
 964 performing charter school status. However, a high-performing
 965 charter school may establish more than one charter school within
 966 the state under paragraph (a) in any year if it operates in the
 967 area of a persistently low-performing school and serves students
 968 from that school.

969 Section 4. Paragraph (b) of subsection (2) of section
 970 1002.332, Florida Statutes is amended, and paragraph (c) is
 971 added to that subsection, to read:

972 1002.332 High-performing charter school system.—

973 (2)(b) A high-performing charter school system may
 974 replicate its high-performing charter schools in any school
 975 district in the state. The applicant must submit an application

976 using the standard application form prepared by the Department
 977 of Education which:

978 1. Contains goals and objectives for improving student
 979 learning and a process for measuring student improvement. These
 980 goals and objectives must indicate how much academic improvement
 981 students are expected to demonstrate each year, how success will
 982 be evaluated, and the specific results to be attained through
 983 instruction.

984 2. Contains an annual financial plan for each year
 985 requested by the charter for operation of the school for up to 5
 986 years. This plan must contain anticipated fund balances based on
 987 revenue projections, a spending plan based on projected revenue
 988 and expenses, and a description of controls that will safeguard
 989 finances and projected enrollment trends.

990 3. Discloses the name of each applicant, governing board
 991 member, and all proposed education services providers; the name
 992 and sponsor of any charter school operated by each applicant,
 993 each governing board member, and each proposed education
 994 services provider that has closed and the reasons for the
 995 closure; and the academic and financial history of such charter
 996 schools, which the sponsor shall consider when deciding whether
 997 to approve or deny the application.

998 (c) An application submitted by a high-performing charter
 999 school system must state that the application is being submitted
 1000 pursuant to this section and must include the verification

1001 letter provided by the Commissioner of Education pursuant to
 1002 this subsection. If the sponsor fails to act on the application
 1003 within 90 days after receipt, the application is deemed approved
 1004 and the procedure in s. 1002.33(7) applies pursuant to s.
 1005 1002.331(3).

1006 Section 5. Paragraph (d) of subsection (3) of section
 1007 1008.34, Florida Statutes, is amended to read:

1008 1008.34 School grading system; school report cards;
 1009 district grade.—

1010 (3) DESIGNATION OF SCHOOL GRADES.—

1011 (d) The performance of students attending alternative
 1012 schools and students designated as hospital or homebound shall
 1013 be factored into a school grade as follows:

1014 1. The student performance data for eligible students
 1015 attending alternative schools, including charter alternative
 1016 schools, that provide dropout prevention and academic
 1017 intervention services pursuant to s. 1003.53 shall be included
 1018 in the calculation of the home school's grade. The term
 1019 "eligible students" in this subparagraph does not include
 1020 students attending an alternative school who are subject to
 1021 district school board policies for expulsion for repeated or
 1022 serious offenses, who are in dropout retrieval programs serving
 1023 students who have officially been designated as dropouts, or who
 1024 are in programs operated or contracted by the Department of
 1025 Juvenile Justice. As used in this subparagraph, the term "home

1026 school" means the school to which the student would be assigned
 1027 if the student were not assigned to an alternative school. If an
 1028 alternative school chooses to be graded under this section,
 1029 student performance data for eligible students identified in
 1030 this subparagraph shall not be included in the home school's
 1031 grade but shall be included only in the calculation of the
 1032 alternative school's grade. A school district that fails to
 1033 assign statewide, standardized end-of-course assessment scores
 1034 of each of its students to his or her home school or to the
 1035 alternative school that receives a grade shall forfeit Florida
 1036 School Recognition Program funds for one fiscal year. School
 1037 districts must require collaboration between the home school and
 1038 the alternative school in order to promote student success. This
 1039 collaboration must include an annual discussion between the
 1040 principal of the alternative school and the principal of each
 1041 student's home school concerning the most appropriate school
 1042 assignment of the student.

1043 2. Student performance data for students designated as
 1044 hospital or homebound shall be assigned to their home school for
 1045 the purposes of school grades. As used in this subparagraph, the
 1046 term "home school" means the school to which a student would be
 1047 assigned if the student were not assigned to a hospital or
 1048 homebound program.

1049 3. Student performance data for a high school student who
 1050 transfers to a private school that has a contractual

1051 relationship with the school district shall be assigned to the
 1052 school in which the student was last enrolled.

1053 Section 6. Subsection (3) of section 1008.341, Florida
 1054 Statutes, is amended to read:

1055 1008.341 School improvement rating for alternative
 1056 schools.—

1057 (3) DESIGNATION OF SCHOOL IMPROVEMENT RATING.—Student
 1058 Learning Gains based on statewide, standardized assessments,
 1059 including retakes, administered under s. 1008.22 for all
 1060 eligible students who were assigned to and enrolled in the
 1061 school during the October or February FTE count and who have
 1062 assessment scores, concordant scores, or comparable scores for
 1063 the preceding school year shall be used in determining an
 1064 alternative school's school improvement rating. An alternative
 1065 school's rating shall be based on the following components:

1066 (a) The percentage of eligible students who make Learning
 1067 Gains in English Language Arts as measured by statewide,
 1068 standardized assessments under s. 1008.22(3).

1069 (b) The percentage of eligible students who make Learning
 1070 Gains in mathematics as measured by statewide, standardized
 1071 assessments under s. 1008.22(3).

1072
 1073 Student performance results of students who are subject to
 1074 district school board policies for expulsion for repeated or
 1075 serious offenses, who are in dropout retrieval programs serving

1076 students who have officially been designated as dropouts, or who
1077 are in programs operated or contracted by the Department of
1078 Juvenile Justice may not be included in an alternative school's
1079 school improvement rating.

1080 Section 7. Paragraph (i) of subsection (1) of section
1081 1011.62, Florida Statutes, is amended to read:

1082 1011.62 Funds for operation of schools.—If the annual
1083 allocation from the Florida Education Finance Program to each
1084 district for operation of schools is not determined in the
1085 annual appropriations act or the substantive bill implementing
1086 the annual appropriations act, it shall be determined as
1087 follows:

1088 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
1089 OPERATION.—The following procedure shall be followed in
1090 determining the annual allocation to each district for
1091 operation:

1092 (i) Calculation of full-time equivalent membership with
1093 respect to dual enrollment instruction.—Students enrolled in
1094 dual enrollment instruction pursuant to s. 1007.271 may be
1095 included in calculations of full-time equivalent student
1096 memberships for basic programs for grades 9 through 12 by a
1097 district school board. Instructional time for dual enrollment
1098 may vary from 900 hours; however, the full-time equivalent
1099 student membership value shall be subject to the provisions in
1100 s. 1011.61(4). Dual enrollment full-time equivalent student

1101 membership shall be calculated in an amount equal to the hours
 1102 of instruction that would be necessary to earn the full-time
 1103 equivalent student membership for an equivalent course if it
 1104 were taught in the school district. Students in dual enrollment
 1105 courses may also be calculated as the proportional shares of
 1106 full-time equivalent enrollments they generate for a Florida
 1107 College System institution or university conducting the dual
 1108 enrollment instruction. Early admission students shall be
 1109 considered dual enrollments for funding purposes. Students may
 1110 be enrolled in dual enrollment instruction provided by an
 1111 eligible independent college or university and may be included
 1112 in calculations of full-time equivalent student memberships for
 1113 basic programs for grades 9 through 12 by a district school
 1114 board. However, those provisions of law which exempt dual
 1115 enrolled and early admission students from payment of
 1116 instructional materials and tuition and fees, including
 1117 laboratory fees, shall not apply to students who select the
 1118 option of enrolling in an eligible independent institution. An
 1119 independent college or university, which is located and
 1120 chartered in Florida, is not for profit, is accredited by a
 1121 regional or national accrediting agency recognized by the United
 1122 States Department of Education ~~the Commission on Colleges of the~~
 1123 ~~Southern Association of Colleges and Schools or the Accrediting~~
 1124 ~~Council for Independent Colleges and Schools,~~ and confers
 1125 degrees as defined in s. 1005.02 shall be eligible for inclusion

1126 | in the dual enrollment or early admission program. Students
1127 | enrolled in dual enrollment instruction shall be exempt from the
1128 | payment of tuition and fees, including laboratory fees. No
1129 | student enrolled in college credit mathematics or English dual
1130 | enrollment instruction shall be funded as a dual enrollment
1131 | unless the student has successfully completed the relevant
1132 | section of the entry-level examination required pursuant to s.
1133 | 1008.30.

1134 | Section 8. 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 Cortes, B. offered the following:

4 **Amendment**

5 Remove lines 118-124 and insert:

6 August 1 of each calendar year for charter schools to be opened
 7 at the beginning of the school district's next school year, or
 8 to be opened at a time agreed to by the applicant and the
 9 sponsor. A sponsor may not refuse to receive a charter school
 10 application submitted before August 1 and may receive an
 11 application submitted later than August 1 if it chooses.

12 Beginning in 2018 and thereafter, a sponsor shall receive and
 13 consider charter school applications received on or before
 14 February 1 of each calendar year for charter schools to be
 15 opened 18 months later at the beginning of the school district's
 16 school year, or to be opened at a time agreed to by the

745317 - h7101-line 118.docx

Published On: 4/5/2017 10:08:11 PM



Amendment No. 1

17 applicant and the sponsor. A sponsor may not refuse to receive a
18 charter school application submitted before February 1 and may
19 receive an application submitted later than February 1 if it
20 chooses. ~~In order to facilitate greater~~



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee

2 Representative Cortes, B. offered the following:

3

4 **Amendment**

5 Remove lines 341-342 and insert:

6 approved with the application. Any term or condition of a

7 proposed



Amendment No. 3

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 Cortes, B. offered the following:

Amendment (with title amendment)

Between lines 609 and 610, insert:

(10) ELIGIBLE STUDENTS.—

(a) A charter school may be exempt from the requirements
 of s. 1002.31, when it is shall be open to any student covered
 in an interdistrict agreement and any student ~~or~~ residing in the
 school district in which the charter school is located. +
~~h~~However, in the case of a charter lab school, the charter lab
 school shall be open to any student eligible to attend the lab
 school as provided in s. 1002.32 or who resides in the school
 district in which the charter lab school is located. Any
 eligible student shall be allowed interdistrict transfer to
 attend a charter school when based on good cause. Good cause



Amendment No. 3

17 shall include, but is not limited to, geographic proximity to a
18 charter school in a neighboring school district.

19

20

21

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

22

Remove line 8 and insert:

23

enrolled in blended learning courses; revising student

24

eligibility requirements; clarifying



Amendment No. 4

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 Cortes, B. offered the following:

4 **Amendment (with title amendment)**

5 Between lines 609 and 610, insert:

6 (9) CHARTER SCHOOL REQUIREMENTS.-

7 (n)1. The director and a representative of the governing
 8 board of a charter school that has earned a grade of "D" or "F"
 9 pursuant to s. 1008.34 shall appear before the sponsor to
 10 present information concerning each contract component having
 11 noted deficiencies. The director and a representative of the
 12 governing board shall submit to the sponsor for approval a
 13 school improvement plan to raise student performance. Upon
 14 approval by the sponsor, the charter school shall begin
 15 implementation of the school improvement plan. The department
 16 shall offer technical assistance and training to the charter



Amendment No. 4

17 school and its governing board and establish guidelines for
18 developing, submitting, and approving such plans.

19 2.a. If a charter school earns three consecutive grades of
20 "D," two consecutive grades of "D" followed by a grade of "F,"
21 or two nonconsecutive grades of "F" within a 3-year period, the
22 charter school governing board shall choose one of the following
23 corrective actions:

24 (I) Contract for educational services to be provided
25 directly to students, instructional personnel, and school
26 administrators, as prescribed in state board rule;

27 (II) Contract with an outside entity that has a
28 demonstrated record of effectiveness to operate the school;

29 (III) Reorganize the school under a new director or
30 principal who is authorized to hire new staff; or

31 (IV) Voluntarily close the charter school.

32 b. The charter school must implement the corrective action
33 in the school year following receipt of a third consecutive
34 grade of "D," a grade of "F" following two consecutive grades of
35 "D," or a second nonconsecutive grade of "F" within a 3-year
36 period.

37 c. The sponsor may annually waive a corrective action if
38 it determines that the charter school is likely to improve a
39 letter grade if additional time is provided to implement the
40 intervention and support strategies prescribed by the school
41 improvement plan. Notwithstanding this sub-subparagraph, a



Amendment No. 4

42 charter school that earns a second consecutive grade of "F" is
43 subject to subparagraph 4.

44 d. A charter school is no longer required to implement a
45 corrective action if it improves by at least one letter grade.
46 However, the charter school must continue to implement
47 strategies identified in the school improvement plan. The
48 sponsor must annually review implementation of the school
49 improvement plan to monitor the school's continued improvement
50 pursuant to subparagraph 5.

51 e. A charter school implementing a corrective action that
52 does not improve by at least one letter grade after 2 full
53 school years of implementing the corrective action must select a
54 different corrective action. Implementation of the new
55 corrective action must begin in the school year following the
56 implementation period of the existing corrective action, unless
57 the sponsor determines that the charter school is likely to
58 improve a letter grade if additional time is provided to
59 implement the existing corrective action. Notwithstanding this
60 sub-subparagraph, a charter school that earns a second
61 consecutive grade of "F" while implementing a corrective action
62 is subject to subparagraph 4.

63 3. A charter school with a grade of "D" or "F" that
64 improves by at least one letter grade must continue to implement
65 the strategies identified in the school improvement plan. The
66 sponsor must annually review implementation of the school

501125 - h7101-line 609 am 2.docx

Published On: 4/5/2017 10:10:31 PM



Amendment No. 4

67 improvement plan to monitor the school's continued improvement
68 pursuant to subparagraph 5.

69 4. A charter school's charter contract is automatically
70 terminated if the school earns two consecutive grades of "F"
71 after all school grade appeals are final unless:

72 a. The charter school is established to turn around the
73 performance of a district public school pursuant to s.
74 1008.33(4)(b)3. Such charter schools shall be governed by s.
75 1008.33;

76 b. The charter school serves a student population the
77 majority of which resides in a school zone served by a district
78 public school that earned a grade of "F" in the year before the
79 charter school opened and the charter school earns at least a
80 grade of "D" in its third year of operation. The exception
81 provided under this sub-subparagraph does not apply to a charter
82 school in its fourth year of operation and thereafter; or

83 c. The state board grants the charter school a waiver of
84 termination. The charter school must request the waiver within
85 15 days after the department's official release of school
86 grades. The state board may waive termination if the charter
87 school demonstrates that the Learning Gains of its students on
88 statewide assessments are comparable to or better than the
89 Learning Gains of similarly situated students enrolled in nearby
90 district public schools. ~~The waiver is valid for 1 year and may~~
91 ~~only be granted once. Charter schools that have been in~~

501125 - h7101-line 609 am 2.docx

Published On: 4/5/2017 10:10:31 PM



Amendment No. 4

92 ~~operation for more than 5 years are not eligible for a waiver~~
93 ~~under this sub-subparagraph.~~

94 The sponsor shall notify the charter school's governing
95 board, the charter school principal, and the department in
96 writing when a charter contract is terminated under this
97 subparagraph. The letter of termination must meet the
98 requirements of paragraph (8)(c). A charter terminated under
99 this subparagraph must follow the procedures for dissolution and
100 reversion of public funds pursuant to paragraphs (8)(e)-(g) and
101 (9)(o).

102 5. The director and a representative of the governing
103 board of a graded charter school that has implemented a school
104 improvement plan under this paragraph shall appear before the
105 sponsor at least once a year to present information regarding
106 the progress of intervention and support strategies implemented
107 by the school pursuant to the school improvement plan and
108 corrective actions, if applicable. The sponsor shall communicate
109 at the meeting, and in writing to the director, the services
110 provided to the school to help the school address its
111 deficiencies.

112 6. Notwithstanding any provision of this paragraph except
113 sub-subparagraphs 4.a.-c., the sponsor may terminate the charter
114 at any time pursuant to subsection (8).

115

116



Amendment No. 4

117 T I T L E A M E N D M E N T
118 Remove line 8 and insert:
119 enrolled in blended learning courses; revising the
120 commissioner's waiver authority regarding closure of charter
121 schools; clarifying



Amendment No. 5

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 Cortes, B. offered the following:

4 **Amendment**

5 Remove lines 882-900 and insert:

6 (25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER
 7 SCHOOL SYSTEMS.-

8 (a) A charter school system's governing board shall be
 9 designated a local educational agency for the purpose of
 10 receiving federal funds, the same as though the charter school
 11 system were a school district, if the governing board of the
 12 charter school system has adopted and filed a resolution with
 13 its sponsoring district school board and the Department of
 14 Education in which the governing board of the charter school
 15 system accepts the full responsibility for all local education



Amendment No. 5

16 agency requirements and the charter school system meets all of
17 the following:

18 ~~(a) Includes both conversion charter schools and~~
19 ~~nonconversion charter schools;~~

20 1.(b) Has all schools located in the same county;

21 2.(e) Has a total enrollment exceeding the total
22 enrollment of at least one school district in the state; and

23 3.(d) Has the same governing board; and

24 ~~(e) Does not contract with a for profit service provider~~
25 ~~for management of school operations.~~

26 (b) A charter school system's governing board may be
27 designated a local education agency for the purpose of receiving
28 federal funds for all schools within a school district that are
29 established pursuant to s. 1008.33 and are under the
30 jurisdiction of the governing board. The governing board must
31 adopt and file a resolution with its sponsoring district school
32 board and the Department of Education and accept full
33 responsibility for all local education agency requirements.

34

35



Amendment No. 6

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 Cortes, B. offered the following:

4 **Amendment (with title amendment)**

5 Between lines 1005 and 1006, insert:

6 Section 5. Subsection (1) of s. 1003.498, Florida
 7 Statutes, is amended to read:

8 1003.498 School district virtual course offerings.—

9 (1) School districts may deliver courses in the
 10 traditional school setting by personnel certified pursuant to s.
 11 1012.55 who provide direct instruction through virtual
 12 instruction or through blended learning courses consisting of
 13 both traditional classroom and online instructional techniques.
 14 Students in a blended learning course must be full-time students
 15 of the school pursuant to s. 1011.61(1)(a)1. ~~and receive the~~
 16 ~~online instruction in a classroom setting at the school.~~ The



Amendment No. 6

17 funding, performance, and accountability requirements for
18 blended learning courses are the same as those for traditional
19 courses. To facilitate the delivery and coding of blended
20 learning courses, the department shall provide identifiers for
21 existing courses to designate that they are being used for
22 blended learning courses for the purpose of ensuring the
23 efficient reporting of such courses. A district may report full-
24 time equivalent student membership for credit earned by a
25 student who is enrolled in a virtual education course provided
26 by the district which is completed after the end of the regular
27 school year if the FTE is reported no later than the deadline
28 for amending the final student membership report for that year.

29
30 -----

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

32 Remove line 34 and insert:
33 therefor; revising eligibility requirements for public school
34 students enrolled in blended learning courses; amending

35



Amendment No. 7

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 Cortes, B. offered the following:

4 **Amendment (with title amendment)**

5 Between lines 1005 and 1006, insert:

6 Section 5. Subsection (5), paragraph (j) of subsection
 7 (6), and paragraph (a) of subsection (8) of section 1007.35,
 8 Florida Statutes, are amended to read:

9 1007.35 Florida Partnership for Minority and
 10 Underrepresented Student Achievement.—

11 (5) Each public high school, including, but not limited
 12 to, schools and alternative sites and centers of the Department
 13 of Juvenile Justice, shall provide for the administration of the
 14 Preliminary SAT/National Merit Scholarship Qualifying Test
 15 (PSAT/NMSQT), or the preliminary ACT Aspire to all enrolled 10th
 16 grade students. However, a written notice shall be provided to



Amendment No. 7

17 each parent which must ~~that shall~~ include the opportunity to
18 exempt his or her child from taking the PSAT/NMSQT or the
19 preliminary ACT Aspire.

20 (a) Test results will provide each high school with a
21 database of student assessment data which certified school
22 counselors will use to identify students who are prepared or who
23 need additional work to be prepared to enroll and be successful
24 in AP courses or other advanced high school courses.

25 (b) Funding for the PSAT/NMSQT or the preliminary ACT
26 Aspire for all 10th grade students shall be contingent upon
27 annual funding in the General Appropriations Act.

28 (c) Public school districts must choose either the
29 PSAT/NMSQT or the preliminary ACT Aspire for districtwide
30 administration.

31 (6) The partnership shall:

32 (j) Provide information to students, parents, teachers,
33 counselors, administrators, districts, Florida College System
34 institutions, and state universities regarding PSAT/NMSQT or the
35 preliminary ACT Aspire administration, including, but not
36 limited to:

37 1. Test administration dates and times.

38 2. That participation in the PSAT/NMSQT or the preliminary
39 ACT Aspire is open to all 10th grade students.

40 3. The value of such tests in providing diagnostic
41 feedback on student skills.



Amendment No. 7

42 4. The value of student scores in predicting the
43 probability of success on AP or other advanced course
44 examinations.

45 (8)(a) By September 30 of each year, the partnership shall
46 submit to the department a report that contains an evaluation of
47 the effectiveness of the delivered services and activities.
48 Activities and services must be evaluated on their effectiveness
49 at raising student achievement and increasing the number of AP
50 or other advanced course examinations in low-performing middle
51 and high schools. Other indicators that must be addressed in the
52 evaluation report include the number of middle and high school
53 teachers trained; the effectiveness of the training; measures of
54 postsecondary readiness of the students affected by the program;
55 levels of participation in 10th grade PSAT/NMSQT or the
56 preliminary ACT ~~Aspire~~ testing; and measures of student, parent,
57 and teacher awareness of and satisfaction with the services of
58 the partnership.

59

60

61 -----

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

63 Remove line 34 and insert:
64 therefor; amending s. 1007.35.; revising the name of an ACT
65 assessment; amending s. 1008.34, F.S.; revising the



Amendment No. 8

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 Cortes, B. offered the following:

3

4 **Amendment**

5 Remove lines 1010-1052 and insert:

6 (3) DESIGNATION OF SCHOOL GRADES.-

7 (d) The data performance of students attending alternative
 8 schools, and students designated as hospital or homebound, and
 9 students who transfer to a private school shall be factored into
 10 a school grade as follows:

11 1. The student performance data for eligible students
 12 attending alternative schools that provide dropout prevention
 13 and academic intervention services pursuant to s. 1003.53 shall
 14 be included in the calculation of the home school's grade. The
 15 term "eligible students" in this subparagraph does not include
 16 students attending an alternative school who are subject to



Amendment No. 8

17 district school board policies for expulsion for repeated or
18 serious offenses, who are in dropout retrieval programs serving
19 students who have officially been designated as dropouts, or who
20 are in programs operated or contracted by the Department of
21 Juvenile Justice. As used in this subparagraph, the term "home
22 school" means the school to which the student would be assigned
23 if the student were not assigned to an alternative school. If an
24 alternative school chooses to be graded under this section,
25 student performance data for eligible students identified in
26 this subparagraph shall not be included in the home school's
27 grade but shall be included only in the calculation of the
28 alternative school's grade. A school district that fails to
29 assign statewide, standardized end-of-course assessment scores
30 of each of its students to his or her home school or to the
31 alternative school that receives a grade shall forfeit Florida
32 School Recognition Program funds for one fiscal year. School
33 districts must require collaboration between the home school and
34 the alternative school in order to promote student success. This
35 collaboration must include an annual discussion between the
36 principal of the alternative school and the principal of each
37 student's home school concerning the most appropriate school
38 assignment of the student.

39 2. Student performance data for students designated as
40 hospital or homebound shall be assigned to their home school for
41 the purposes of school grades. As used in this subparagraph, the

185401 - h7101-line 1010.docx

Published On: 4/5/2017 10:23:57 PM



Amendment No. 8

42 term "home school" means the school to which a student would be
43 assigned if the student were not assigned to a hospital or
44 homebound program.

45 3. A high school must include a student in its graduation
46 rate if the student transfers from the high school to a private
47 school with which the school district has a contractual
48 relationship.

49



Amendment No. 9

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 Cortes, B. offered the following:

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

5 Between lines 1133 and 1134, insert:

6 Section 1. Subsection (5) is added to section 1011.69,
7 Florida Statutes, to read:

8 1011.69 Equity in School-Level Funding Act.—

9 (5) To help meet the academic needs of economically
 10 disadvantaged students, school districts shall provide Title I
 11 funds directly to all eligible schools as provided in this
 12 subsection. For purposes of this subsection, an eligible school
 13 is a school that is eligible to receive Title I funds, including
 14 a charter school. The threshold for identifying eligible schools
 15 shall not exceed the statewide percentage of economically
 16 disadvantaged students.

073723 - h7101-line 1133.docx

Published On: 4/5/2017 10:24:37 PM



Amendment No. 9

17 (a) Prior to the allocation of Title I funds to eligible
18 schools, a school district may withhold funds only as follows:

19 1. One percent for parent involvement;

20 2. A necessary and reasonable amount for administration,
21 not to exceed eight percent; and

22 3. A reasonable and necessary amount to provide:

23 a. Homeless programs;

24 b. Delinquent and neglected programs; and

25 c. Private school equitable services.

26 (b) All remaining Title I funds shall be distributed to all
27 eligible schools in accordance with federal law and regulation.

28 An eligible school may use funds under this subsection to
29 participate in discretionary educational services provided by
30 the school district.

31

32

33

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

35 Remove line 41 and insert:

36 enrollment and early admission programs; amending s. 1011.69,
37 F.S., providing a definition; revising requirements for the
38 provision of certain funds to eligible schools; limiting
39 purposes for which certain funds may be withheld; authorizing
40 eligible schools to use funds to participate in certain
41 services; providing an