Committee on Education Appropriations

Tuesday, April 11, 2006
9:30 a.m. - 12:00 p.m.
212 Knott

Revised

Allan Bense
Speaker

Representative Pickens
Chair

Florida House of Representatives

Fiscal Council
Education Appropriations Committee

Allan Bense
Speaker

Joe Pickens
Chair

Agenda
Date: Tuesday, April 11, 2006
Location: 212 Knott Building
Time: 9:30 a.m. – 12:00 p.m.

I. Call to Order

II. Opening Remarks

III. Consideration of the following bill(s):
   a. **HB 133 CS** Student Voter Education by Anderson
   b. **HB 373 CS** Tuition Waivers by Harrell
   c. **HB 403 CS** School Attendance by McInvale
   d. **HB 505** Community Colleges by Henriquez
   e. **HB 513 CS** Career and Professional Academies by Bilirakis
   f. **HB 535 CS** School Safety by Bogdanoff
   g. **HB 679 CS** Health-Related Education in the Public Schools by Sobel
   h. **HB 999 CS** Suicide Prevention by Adams
   i. **HB 1065** Educational Opportunities for Children and Spouses of Deceased or Disabled Veterans and Servicemembers by Jordan
   j. **HB 1243 CS** Education Personnel by Mahon
   k. **HB 1419** Scuba Diving Instructional Facilities by Attkisson
   l. **HB 1485** Funding for Educational Facilities by Hays
   m. **HJR 1573 CS** Equal Opportunity to Obtain a High Quality Education by Rubio
   n. **HB 1619 CS** District School Boards by Murzin
   o. **HB 7103** Charter Schools by Choice and Innovation; Stargel

IV. Closing Remarks

V. Adjournment

221 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300 (850) 488-6204

HB 133 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 133 CS Student Voter Education
SPONSOR(S): Anderson
TIED BILLS: **IDEN./SIM. BILLS:** SB 110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Ethics & Elections Committee	10 Y, 0 N, w/CS	Mitchell	Mitchell
2) Education Appropriations Committee		Eggers ME	Hamon
3) State Administration Council			
4)			
5)			

SUMMARY ANALYSIS

HB 133 CS permits district school boards and county supervisors of elections to cooperate in conducting voter education for high school students in grade 12. The education is voluntary for public and private high school students. The supervisors of elections may conduct the program for public schools and, if requested, for private schools.

Division of Elections Rule 1S-2.033, F.A.C., currently requires each supervisor of elections to conduct a voter registration/education program at least once per year in each public high school and college campus in the county.

The bill does not appear to have a fiscal impact.

If enacted, HB 133 CS is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – HB 133 CS permits supervisors of elections to provide voter education to public high school students once during each term of the school year. In addition, supervisors of elections may provide voter education to a private school, if requested. This raises the possibility of additional government involvement in student education, but makes such involvement optional at the local level.

Promote personal responsibility – The bill seeks to encourage high school seniors to register to vote and become active in state and local elections.

B. EFFECT OF PROPOSED CHANGES:

In 1994, Florida implemented the National Voter Registration Act of 1993, also know as the *"Motor Voter"* law because it allows people to register to vote at the same time they apply for a driver's license. The Motor Voter law was targeted at increasing voter turnout by increasing voter registration, premised upon the belief that simplifying and expanding opportunities for voter registration would translate into greater turnout at the polls.

Indeed, since the passage of the implementing legislation[1] in 1994, registration numbers have experienced a robust increase. As of January 2006, there were 11,391,734 registered voters in Florida.[2] To date, the *Motor Voter* law has succeeded in increasing the number of registered voters, but has not affected voter turnout.

A person must be 18 years of age to register to vote in Florida, but pre-registration is allowed at age 17. [3] A person who is otherwise qualified may pre-register on or after that person's 17th birthday and may vote in any election occurring on or after his or her 18th birthday.[4]

The Secretary of State is responsible for providing technical assistance to the supervisors of elections on voter education and for providing voter education assistance to the public. As part of its election reform package, the 2001 Legislature made revisions to the provisions in the Florida Election Code (ch. 2001-40, Laws of Fla., effective January 1, 2002) pertaining to voter education. Current law requires the adoption of administrative rules by the Secretary that prescribe minimum standards for nonpartisan voter education. The standards must include the following subjects:

- Voter registration;
- Balloting procedures, absentee and polling place;
- Voter rights and responsibilities;
- Distribution of sample ballots; and
- Public service announcements.

Supervisors of elections are charged with implementing the minimum voter education standards and conducting additional nonpartisan education efforts to ensure that voters have a working

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[1] Florida Voter Registration Act; ch. 94-224, Laws of Fla.
[2] *Voter Registration Report*, January 2006, Florida Department of State.
[3] s. 97.041, F.S.
[4] s. 97.041(1)(b), F.S.

knowledge of the voting process. Division of Elections Rule 1S-2.033, F.A.C., provides general standards for nonpartisan voter education. Subsections (3) and (4) of the rule require each supervisor of elections to conduct a voter registration/education program at least once a year in each public high school and college campus in the county.

HB 133 CS would permit supervisors of elections to provide voter education in public *and* nonpublic high school students in grade 12, and require that the following subjects be addressed in the program, if provided:

- How to register and pre-register to vote;
- The operation of voting machines;
- How, when and where to vote; and
- The importance of voting.

Supervisors of elections would be permitted to conduct the presentation for eligible public high school students, and if requested to do so, for nonpublic high school students. Any presentations would further be conducted during school hours and once per term of the school year.

Finally, the bill requires that any program provide students with sufficient opportunity, information and time to complete a voter registration application for submission to the supervisor of elections. Again, this is because a person who is otherwise qualified may pre-register on or after that person's 17th birthday and may vote in any election occurring on or after his or her 18th birthday.[5]

The provisions of HB 133 CS are effective July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law authorizing district school boards and county supervisors of elections to cooperate to provide a program of voter education for high school seniors in public and private schools.

Section 2: 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.

[5] s. 97.041(1)(b), F.S.

2. Expenditures:

None. Supervisors of elections are currently required to provide voter registration/education to high school students once per year, pursuant to Division of Elections' rule.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Ethics & Elections Committee adopted a strike-all amendment on March 29, 2006, which has been incorporated into HB 133 CS. The bill, as amended, now *permits*, rather than requires, supervisors of elections to conduct voter education programs in high schools, and imposes no additional requirements on supervisors or district school boards.

CHAMBER ACTION

The Ethics & Elections Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to student voter education; authorizing district school boards and county supervisors of elections to cooperate to provide a program of voter education for high school seniors; providing guidelines for the content of the educational program; requiring that the program of voter education be conducted during school hours; providing an effective date.

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

Section 1. (1) Each district school board and county supervisor of elections may cooperate to provide voter education to high school students who are in grade 12. The voter education may be in the form of a presentation and is voluntary for public high schools and nonpublic high schools. Each supervisor of elections may conduct the presentation for the public high schools and, upon request, for the nonpublic high schools.

23 (2) If provided, the voter education must include
24 information concerning:
25 (a) How to register and preregister to vote.
26 (b) The operation of voting machines.
27 (c) How, when, and where to vote.
28 (d) The importance of voting.
29 (3) If provided, the voter education program must provide
30 students with the opportunity, sufficient information, and
31 sufficient time to complete and hand in to the supervisor of
32 elections applications for voter registration.
33 (4) If provided, the voter education program shall be
34 conducted during school hours each term of the school year in
35 order to reach a maximum number of students in the most
36 effective and efficient manner.
37 (5) If voter education is provided, a student may not be
38 excluded from the voter education program due to an irregular
39 class schedule, and students enrolled in a magnet school must be
40 provided the same opportunity for voter education.
41 Section 2. This act shall take effect July 1, 2006.

HB 373 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 373 CS Tuition Waivers
SPONSOR(S): Harrell and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 122

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Veteran Affairs Committee	8 Y, 0 N	Marino	Cutchins
2) Community Colleges & Workforce Committee	7 Y, 0 N, w/CS	Thomas	Ashworth
3) Education Appropriations Committee		Hamon	Hamon
4) State Administration Council			
5)			

SUMMARY ANALYSIS

The bill establishes a new tuition fee waiver for recipients of the Purple Heart in s. 1009.26, F.S. Section 1009.26, F.S. specifically provides fee waivers for universities and community colleges.

The bill allows state universities and community colleges to waive undergraduate tuition for a recipient of a Purple Heart who:

- Is admitted as a full-time, part-time, or summer-school student in an undergraduate program of study leading to a degree or certificate.
- Is currently a Florida resident and at the time of the military action that resulted in them receiving the Purple Heart was a Florida resident.
- Submits to the state university and community college the DD-214 form issued at the time of separation from service as documentation verifying that they are a recipient of the Purple Heart.

The Purple Heart is awarded to any member of the Armed Forces or any civilian national under the United States who has been wounded in combat. The U.S military recognizes order of precedence of awards and the Purple Heart is listed in the 16th position. The Purple Heart is unique in that an individual is not recommended for, but rather is entitled to this decoration when wounded in combat.

The actual number of recipients of the Purple Heart currently residing in Florida is difficult to determine. The Florida Department of Veteran Affairs has reported that 2,482 Purple Heart recipients are registered members of the Florida Chapter of the Military Order of the Purple Heart. However, it is unknown how many recipients are not registered and how many of those registered still reside in Florida.

The fiscal impact is indeterminate due to the uncertainty of the number of recipients of the Purple Heart and the number of recipients that would take advantage of the fee waiver. The fiscal impact has been based on the 783 Purple Heart recipients registered for the three recent major conflicts (Operation Iraqi Freedom, Operation Enduring Freedom and Persian Gulf War/Desert Shield/Storm) involving the Armed Forces at proposed fiscal year 2006-2007 tuition rates. If all estimated 783 Florida recipients of the Purple Heart participated in the fee waiver, the fiscal year 2006-2007 cost could range from $577,000 to $1.8 million depending on whether the recipients attend full-time or part-time at a community college or university.

The bill would take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – This bill would waive undergraduate tuition fees for Purple Heart recipients in Florida.

Empower Families – This bill would increase the opportunity for recipients of the Purple Heart who return home wounded to learn a new skill to support family and find self worth.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Fee Waivers
Section 1009.26, F.S., lists fee waivers for postsecondary educational institutions. School districts, community colleges, university boards of trustees, the State Board of Education, and state universities may waive certain fees, such as tuition or application fees, charged to students and, in some cases, only on a space-available basis.

Those eligible for certain fee waivers under this section can include: persons who supervise student interns for a state university; full-time university employees; Florida residents 60 years of age or older; graduate students enrolled in certain state-approved school psychology training programs; certain out-of-state nondegree-seeking students; certain spouses of deceased state employees; and some active members of the Florida National Guard (FNG). Section 1009.26(8), F.S., specifically mentions the fee waiver for certain members of the FNG and references s. 250.10(8), F.S., which establishes the State Tuition Exemption Program (STEP) program. The Florida Department of Education reports that 82[1] community college students used the National Guard Fee Waiver in 2004-2005.

Purple Heart
The Purple Heart was established by General George Washington during the Revolutionary War. The Purple Heart is awarded to any member of the Armed Forces or any civilian national of the United States who has been wounded in combat. A wound can be an injury to any part of the body from an outside force or agent. Injuries which clearly justify receiving the Purple heart include, but are not limited to, injury caused by mine or trap, or enemy released chemical, biological, or nuclear agent. A person will not be eligible for the Purple Heart for certain wounds or injuries such as battle fatigue, heat stroke, or disease not directly caused by enemy agents. The Purple Heart is unique among other military awards, in that an individual is not recommended for, but rather is entitled to the decoration.

The U.S. military recognizes order of precedence of awards. Each award carries a level of significance and its own eligibility requirements. The Purple Heart is 16th in order of precedence according to Army Regulation 670-1, updated February 2005. The awards in precedence from Medal of Honor to the Purple Heart are:

(1) Medal of Honor (Army, Navy, Air Force);
(2) Distinguished Service Cross;
(3) Navy Cross;
(4) Air Force Cross;
(5) Defense Distinguished Service Medal;
(6) Distinguished Service Medal (Army, Navy, Air Force, Coast Guard);

[1] Florida Department of Education correspondence. January 13, 2006.

(7) Silver Star;
(8) Defense Superior Service Medal;
(9) Legion of Merit;
(10) Distinguished Flying Cross;
(11) Soldier's Medal;
(12) Navy and Marine Corps Medal;
(13) Airman's Medal;
(14) Coast Guard Medal;
(15) Bronze Star Medal; and
(16) Purple Heart.

The actual number of recipients of the Purple Heart is hard to determine. Of the recent three major conflicts (Operation Iraqi Freedom, Operation Enduring Freedom and Persian Gulf War/Desert Shield/Storm) involving the Armed Forces an estimated 783 Florida residents have been wounded in action (WIA) and would be recipients of the Purple Heart. The number of recipients of the Purple Heart during the Vietnam War is undeterminable at this time.

CONFLICTS	FLORIDA WIA	UNITED STATES TOTAL WIA
Operation Iraqi Freedom	733 [2]	16,825
Operation Enduring Freedom	32	690
Persian Gulf War / Desert Shield/Storm (1990-1991)	18 [3]	467
Vietnam (1964 – 1973)	unavailable	153,303
Korean War (1950 – 1953)	unavailable	103,284
World War II (1941 – 1946)	unavailable	671,846
World War I (1917 – 1918)	unavailable	204,002

(WIA = Wounded In Action)

The Florida Department of Veterans Affairs reported that 2,482 Purple Heart recipients are registered members of the Florida Chapter of the Military Order of the Purple Heart and currently reside in Florida. They are unable to provide an actual number of recipients who are not registered or how many resided in Florida at the time they were awarded the Purple Heart.

Effect of Proposed Changes:

The bill establishes a new tuition fee waiver for recipients of the Purple Heart in s. 1009.26, F.S. Section 1009.26, F.S. specifically provides fee waivers for universities and community colleges.

The bill allows state universities and community colleges to waive undergraduate tuition for a recipient of a Purple Heart who:

- Is admitted as a full-time, part-time, or summer-school student in an undergraduate program of study leading to a degree or certificate.
- Is currently a Florida resident and at the time of the military action that resulted in them receiving the Purple Heart was a Florida resident.
- Submits to the state university or community college the DD-214 form issued at the time of separation from service as documentation verifying that they are a recipient of the Purple Heart.

The bill would take effect July 1, 2006.

[2] Between January 14, 2006 and February 18, 2006 the number of WIA increased by 30
[3] Estimated 4% from the United States Department of Defense

C. SECTION DIRECTORY:

Section 1: Creates 1009.26(9), F.S., establishing a Purple Heart recipient undergraduate tuition waiver for state universities or community colleges beginning in the 2007-2008 academic year under certain circumstances.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   The fiscal impact is indeterminate due to the uncertainty of the number of recipients of the Purple Heart and the number of recipients that would take advantage of the fee waiver. The fiscal impact has been based on the 783 Purple Heart recipients registered for the three recent major conflicts (Operation Iraqi Freedom, Operation Enduring Freedom and Persian Gulf War/Desert Shield/Storm) involving the Armed Forces at proposed fiscal year 2006-2007 tuition rates.

   If all estimated 783 Florida recipients of the Purple Heart participated in the fee waiver the fiscal year 2006-2007 cost could range from $577,000 to $1.8 million depending on whether the recipients attend part-time or full-time at a community college or university.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The chart shows the possible annual savings for a full-time (30 semester hours) and part-time (15 semester hours).

	Community College $49.15 per credit hour	State University $75.15 per credit hour
Full-time (30 hours)	$1,474.50	$2,254.50
Part-time (15 hours)	$737.25	$1,127.25

D. FISCAL COMMENTS:

The costs per credit hour as listed in HB 5001, 2006 General Appropriations Act, for community colleges and state universities for the 2006-2007 fall/spring terms are $49.15 and $75.15 respectively.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Community College and Workforce Committee adopted two amendments. HB 373 CS has the following changes:

- Requires the documentation to the state university or community college to be the DD-214 form issued at the time of separation from service.
- Removes the 2007-2008 beginning academic year, therefore make the benefits effective July 1, 2006.
- Clarifies language.

CHAMBER ACTION

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1 The Community Colleges & Workforce Committee recommends the
2 following:
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4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6 A bill to be entitled
7 An act relating to tuition waivers; amending s. 1009.26,
8 F.S.; requiring state universities and community colleges
9 to waive tuition for a recipient of a Purple Heart who
10 fulfills specified criteria; providing a percentage cap on
11 the number of required credit hours for which a tuition
12 waiver may be received; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Subsection (9) is added to section 1009.26,
17 Florida Statutes, to read:
18 1009.26 Fee waivers.--
19 (9) A state university or community college shall waive
20 undergraduate tuition for each recipient of a Purple Heart who:
21 (a) Is enrolled as a full-time, part-time, or summer-
22 school student in an undergraduate program that terminates in a
23 degree or certificate;

24 (b) Is currently, and was at the time of the military
25 action that resulted in the awarding of the Purple Heart, a
26 resident of this state; and
27 (c) Submits to the state university or the community
28 college the DD-214 form issued at the time of separation from
29 service as documentation that the student has received a Purple
30 Heart.
31
32 Such a waiver for a Purple Heart recipient shall be applicable
33 for 110 percent of the number of required credit hours of the
34 degree or certificate program for which the student is enrolled.
35 Section 2. This act shall take effect July 1, 2006.

HB 403 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 403 CS School Attendance
SPONSOR(S): McInvale
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 772

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	7 Y, 0 N, w/CS	Beagle	Mizereck
2) Juvenile Justice Committee	5 Y, 1 N	White	White
3) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
4) Education Council			
5)			

SUMMARY ANALYSIS

Florida law enables a student to terminate school enrollment prior to high school graduation at age 16. Current law and State Board of Education (SBE) rule provide extensive procedures for the recording and enforcement of school attendance.

House bill 403 clarifies existing law by stating that students aged 16 or older remain subject to compulsory school attendance until a formal declaration of intent to terminate school enrollment is filed. The bill requires school districts to conduct an exit interview with each student who declares their intent to terminate school enrollment.

The bill authorizes district school boards to adopt attendance policies that allow accumulated unexcused tardies and early departures from school to be recorded as unexcused absences. The bill also authorizes district school boards to require referral to a school child study team (CST) when a student has fewer absences than currently required by law.

The bill provides that district school superintendents are responsible for supporting law enforcement efforts to enforce school attendance.

The bill revises the current list of interventions that may be implemented by CSTs by requiring three specific interventions, and making others optional.

The bill has an effective date of July 1, 2006.

This bill does not appear to have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill grants district school boards greater authority in adopting student attendance policies. The bill requires school districts to conduct exit interviews with students who declare their intent to terminate school enrollment.

B. EFFECT OF PROPOSED CHANGES:

ABSENCES AND TARDINESS:

Background Information:

Florida law grants district school boards authority to enforce attendance laws.[1] Section 1003.23(1) requires that attendance of all public K-12 students be recorded and reported. Public schools are required to record the daily presence, absence, or tardiness of each student and maintain attendance records during the 180 day school year.[2] However, there is no express guidance in law that grants school district's the authority to record unexcused accumulated tardies as unexcused absences.

Proposed Changes:

House bill 403 specifies that district school boards may establish student attendance policies that allow accumulated unexcused tardies and early departures from school to be counted as unexcused absences.

COMPULSORY SCHOOL ATTENDANCE:

Background Information:

Compulsory school attendance refers to the minimum and maximum ages in which students must attend school. Current Florida Law provides that the compulsory school attendance minimum age includes all children who are either six years of age, who will be six years old by February 1 of any school year, or who are older than six years of age but who have not attained the age of sixteen years.[3]

In Florida, a student may terminate school enrollment at age sixteen. Such students must file a formal declaration of intent to terminate enrollment with the district school board. The district must notify the student's parent upon receipt of the student's declaration. The student and the student's parent must sign an acknowledgment that terminating school enrollment is likely to impact the student's future earning potential.[4]

Current law states that "a student who attains age sixteen years during the school year is not subject to compulsory school attendance beyond the date upon which he or she attains that age if the student files a formal declaration of intent to terminate school enrollment with the district school board."[5] Some students simply stop attending school without filing a formal declaration. Districts have expressed concern that they are not specifically authorized to compel those students to formally withdraw.

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1 Section 1003.02(1)(b), F.S.

2 State Board of Education Rule 6A-1.044, Pupil Attendance Records.

3 Section 1003.21(1)(a)1., F.S.

4 Section 1003.21(1)(c), F.S.

5 Id.

Proposed Changes:

The bill clarifies existing law by stating that public school students sixteen years of age or older who have not graduated from high school remain subject to compulsory school attendance until they file a formal declaration of intent to terminate school enrollment.

The bill also requires school districts to conduct an exit interview with each student who terminates school enrollment to ascertain the reasons for the student's decision and actions that could be taken to keep the student in school. The district must inform students of educational options that are available to continue their education. To provide policy makers with data on students' reasons for terminating school enrollment, each student must complete a survey designed by the DOE.

ENFORCEMENT OF SCHOOL ATTENDANCE:

Background information:

Florida law provides extensive measures for enforcing school attendance. Section 1003.26, F.S. grants district school superintendents the authority to enforce school attendance. Each superintendent is responsible for recommending attendance policies and procedures to the district school board. District attendance policies must include the following:[6]

- Procedures for contacting parents regarding each student absence;
- Procedures for parents to justify each unexcused absence;
- Procedures for tracking student absences and identifying and preventing the development of patterns of nonattendance; and
- Procedures for referring a student's case to the school's child study team (CST) if the student is identified as having established a pattern of non-attendance (defined as five unexcused absences in a calendar month or ten unexcused absences in a ninety-day periods).

Upon referring the case to a CST, the team meets with the student's parent to identify potential remedies for the student's nonattendance in school. If this initial meeting does not resolve the problem the CST must determine and implement appropriate interventions. After all reasonable measures by the CST to resolve the problem have failed the CST must contact the district superintendent.

Parents who refuse to participate in remedial strategies recommended by the CST may appeal to the district school board. If the board determines that the strategies proposed by the CST are appropriate, and the parent still refuses to cooperate, the school superintendent may seek criminal prosecution against the parent for noncompliance with compulsory school attendance.[7]

Similarly, students who refuse to comply with attempts to enforce school attendance must be referred by the district superintendent or student's parent to a Department of Juvenile Justice case staffing committee. The school superintendent may also file a truancy petition under s. 984.151, F.S.[8]

Section 1003.27, F.S. requires each school principal or designee to notify the district school board of each minor student accumulating 15 unexcused absences in a period of 90 calendar days or who drop

6 Section 1003.26(1)(a),(b) and (c), F.S.

7 Section 1003.26(1)(e), F.S.

8 Section 984.151, F.S., permits the superintendent to file a truancy petition when the child has more than 15 unexcused absences in a 90-calendar-day period or after a CST has acted pursuant to s. 1003.26(1), F.S., and the child has either: (a) five unexcused absences, or absences for which the reasons are unknown within one calendar month; or (b) ten unexcused absences, or absences for which the reasons are unknown within a 90-calendar-day period. A court must hear the petition within 30 days and if it finds that a child has missed any of the alleged days, it must order the child to attend school and the parent/guardian to ensure such attendance. The court is also permitted to order other sanctions for the child and parent that include classes and counseling. The court is required to enforce parent/guardian compliance with its order through its contempt power. If a child fails to comply with the court's order, the child's case must be referred to a case staffing committee with a recommendation to file a child-in-need-of-services petition.

out of school. The district school superintendent must provide the names and identifying information of these students to the Department of Highway Safety and Motor Vehicles (DHSMV). DHSMV may not issue a driver license or learner permit, or may suspend the driving privileges of any reported student until the student has satisfied regular school attendance requirements as outlined in s 322.091, F.S.[9]

Proposed Changes:

The bill provides that district school superintendents' responsibilities include supporting local law enforcement agencies in enforcing school attendance.

The bill specifies that district attendance policies may allow a student with a lesser number of absences than currently provided in law to be referred to a school CST. The bill also revises the current list of optional interventions and requires CSTs to implement:

- Frequent attempts to communicate with parents;
- Evaluation of student for alternative education programs; and
- Attendance contracts.

The bill provides that a CST may implement other interventions to address a student's nonattendance, including referral to other agencies for family services and a recommendation that a truancy petition be filed by the superintendent.

C. SECTION DIRECTORY:

Section 1. Amends s. 1003.02, F.S.; providing that a school district may adopt school attendance policies that address accumulated tardies and count them as unexcused absences; providing that a school district may adopt policies regarding referral to a child study team.

Section 2. Amends s. 1003.21, F.S.; providing that students over age sixteen who have not graduated from high school remain subject to compulsory school attendance until they file a formal declaration of intent to terminate school enrollment.

Section 3. Amends 1003.26, F.S.; providing that district school superintendent responsibilities include supporting law enforcement efforts to enforce school attendance; revising required child study team interventions.

Section 4. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

9 Florida Department of Education, Attendance and Enrollment, Frequently Asked Questions available at http://www.fldoe.org/faq/faq.asp?Dept=107&Cat=54.

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the PreK-12 Committee adopted a strike-all amendment. The strike-all differs from the original bill as follows.

- The original bill amended s. 1003.21, F.S. authorizing a school district to raise the compulsory school attendance age to eighteen. The strike-all specifies that students sixteen years or older remain subject to compulsory school attendance until they file a formal declaration and adds exit interview procedures.

- The original bill amended s. 1003.23, F.S. to require that school attendance records document tardiness. The strike-all amends s. 1003.02 to authorize districts to adopt policies that address accumulated student tardiness and govern the timing for referring a student to a child study team.

- The original bill amended 1003.26, F.S. to remove enforcement of school attendance from superintendent's responsibilities. The strike-all restores this aspect of superintendent authority and adds the responsibility to support law enforcement agencies' enforcement of school attendance.

- Sections of the original bill that conformed cross references were removed.

This bill analysis reflects the bill as amended.

CHAMBER ACTION

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1 The PreK-12 Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to school attendance; amending s. 1003.02,
7 F.S.; authorizing district school board attendance
8 policies to allow accumulated tardies and early departures
9 to be recorded as unexcused absences; authorizing district
10 school board policies for student referral to a child
11 study team under certain circumstances; amending s.
12 1003.21, F.S.; providing that students who have attained
13 16 years of age and have not graduated are subject to
14 compulsory school attendance under certain circumstances;
15 requiring student exit interviews prior to terminating
16 school enrollment; amending s. 1003.26, F.S.; providing
17 district school superintendent's responsibility to support
18 local law enforcement agencies in enforcing school
19 attendance; providing required and authorized child study
20 team interventions; authorizing visits by school
21 representatives; providing an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Paragraph (b) of subsection (1) of section
26 1003.02, Florida Statutes, is amended to read:
27 1003.02 District school board operation and control of
28 public K-12 education within the school district.--As provided
29 in part II of chapter 1001, district school boards are
30 constitutionally and statutorily charged with the operation and
31 control of public K-12 education within their school district.
32 The district school boards must establish, organize, and operate
33 their public K-12 schools and educational programs, employees,
34 and facilities. Their responsibilities include staff
35 development, public K-12 school student education including
36 education for exceptional students and students in juvenile
37 justice programs, special programs, adult education programs,
38 and career education programs. Additionally, district school
39 boards must:
40 (1) Provide for the proper accounting for all students of
41 school age, for the attendance and control of students at
42 school, and for proper attention to health, safety, and other
43 matters relating to the welfare of students in the following
44 fields:
45 (b) Enforcement of attendance laws.--Provide for the
46 enforcement of all laws and rules relating to the attendance of
47 students at school. District school boards are authorized to
48 establish policies that allow accumulated unexcused tardies,
49 regardless of when they occur during the school day, and early
50 departures from school to be recorded as unexcused absences.
51 District school boards are also authorized to establish policies

52 that require referral to a school's child study team for
53 students who have fewer absences than the number required by s.
54 1003.26(1)(b).
55 Section 2. Paragraph (c) of subsection (1) of section
56 1003.21, Florida Statutes, is amended to read:
57 1003.21 School attendance.--
58 (1)
59 (c) A student who attains the age of 16 years during the
60 school year is not subject to compulsory school attendance
61 beyond the date upon which he or she attains that age if the
62 student files a formal declaration of intent to terminate school
63 enrollment with the district school board. Public school
64 students who have attained the age of 16 years and who have not
65 graduated are subject to compulsory school attendance until the
66 formal declaration of intent is filed with the district school
67 board. The declaration must acknowledge that terminating school
68 enrollment is likely to reduce the student's earning potential
69 and must be signed by the student and the student's parent. The
70 school district must notify the student's parent of receipt of
71 the student's declaration of intent to terminate school
72 enrollment. The student's guidance counselor or other school
73 personnel must conduct an exit interview with the student to
74 determine the reasons for the student's decision to terminate
75 school enrollment and actions that could be taken to keep the
76 student in school. The student must be informed of opportunities
77 to continue his or her education in a different environment,
78 including, but not limited to, adult education and GED test
79 preparation. Additionally, the student must complete a survey in

80 a format prescribed by the Department of Education to provide
81 data on student reasons for terminating enrollment and actions
82 taken by schools to keep students enrolled.
83 Section 3. Section 1003.26, Florida Statutes, is amended
84 to read:
85 1003.26 Enforcement of school attendance.--The Legislature
86 finds that poor academic performance is associated with
87 nonattendance and that school districts ~~schools~~ must take an
88 active role in promoting and enforcing attendance as a means of
89 improving student ~~the~~ performance ~~of many students~~. It is the
90 policy of the state that each district school superintendent be
91 responsible for enforcing school attendance of all students
92 subject to the compulsory school age in the school district and
93 supporting enforcement of school attendance by local law
94 enforcement agencies. The responsibility includes recommending
95 policies and procedures to the district school board ~~policies~~
96 ~~and procedures to ensure~~ that require public schools to respond
97 in a timely manner to every unexcused absence, and every ~~or~~
98 absence for which the reason is unknown, of students enrolled in
99 the schools. District school board policies shall ~~must~~ require
100 the ~~each~~ parent of a student to justify each absence of the
101 student, and that justification will be evaluated based on
102 adopted district school board policies that define excused and
103 unexcused absences. The policies must provide that public
104 schools track excused and unexcused absences and contact the
105 home in the case of an unexcused absence from school, or an
106 absence from school for which the reason is unknown, to prevent
107 the development of patterns of nonattendance. The Legislature

108 finds that early intervention in school attendance ~~matters~~ is
109 the most effective way of producing good attendance habits that
110 will lead to improved student learning and achievement. Each
111 public school shall implement the following steps to promote and
112 enforce regular school attendance:
113 (1) CONTACT, REFER, AND ENFORCE.--
114 (a) Upon each unexcused absence, or absence for which the
115 reason is unknown, the school principal or his or her designee
116 shall contact the student's parent to determine the reason for
117 the absence. If the absence is an excused absence, as defined by
118 district school board policy, the school shall provide
119 opportunities for the student to make up assigned work and not
120 receive an academic penalty unless the work is not made up
121 within a reasonable time.
122 (b) If a student has had at least five unexcused absences,
123 or absences for which the reasons are unknown, within a calendar
124 month or 10 unexcused absences, or absences for which the
125 reasons are unknown, within a 90-calendar-day period, the
126 student's primary teacher shall report to the school principal
127 or his or her designee that the student may be exhibiting a
128 pattern of nonattendance. The principal shall, unless there is
129 clear evidence that the absences are not a pattern of
130 nonattendance, refer the case to the school's child study team
131 to determine if early patterns of truancy are developing. If the
132 child study team finds that a pattern of nonattendance is
133 developing, whether the absences are excused or not, a meeting
134 with the parent must be scheduled to identify potential
135 remedies, and the principal shall notify the district school

136 superintendent and the school district contact for home
137 education programs that the referred student is exhibiting a
138 pattern of nonattendance.
139 (c) If an initial meeting does not resolve the problem,
140 the child study team shall implement the following ~~interventions~~
141 ~~that best address the problem. The interventions may include,~~
142 ~~but need not be limited to~~:
143 1. Frequent attempts at communication between the teacher
144 and the family.~~;~~
145 ~~2. Changes in the learning environment;~~
146 ~~3. Mentoring;~~
147 ~~4. Student counseling;~~
148 ~~5. Tutoring, including peer tutoring;~~
149 ~~6. Placement into different classes;~~
150 2.~~7.~~ Evaluation for alternative education programs.~~;~~
151 3.~~8.~~ Attendance contracts.~~;~~
152 ~~9. Referral to other agencies for family services; or~~
153 ~~10. Other interventions, including, but not limited to, a~~
154 ~~truancy petition pursuant to s. 984.151.~~
155
156 The child study team may, but is not required to, implement
157 other interventions, including referral to other agencies for
158 family services or recommendation for filing a truancy petition
159 pursuant to s. 984.151.
160 (d) The child study team shall be diligent in facilitating
161 intervention services and shall report the case to the district
162 school superintendent only when all reasonable efforts to
163 resolve the nonattendance behavior are exhausted.

164 (e) If the parent refuses to participate in the remedial
165 strategies because he or she believes that those strategies are
166 unnecessary or inappropriate, the parent may appeal to the
167 district school board. The district school board may provide a
168 hearing officer, and the hearing officer shall make a
169 recommendation for final action to the district school board. If
170 the district school board's final determination is that the
171 strategies of the child study team are appropriate, and the
172 parent still refuses to participate or cooperate, the district
173 school superintendent may seek criminal prosecution for
174 noncompliance with compulsory school attendance.
175 (f)1. If the parent of a child who has been identified as
176 exhibiting a pattern of nonattendance enrolls the child in a
177 home education program pursuant to chapter 1002, the district
178 school superintendent shall provide the parent a copy of s.
179 1002.41 and the accountability requirements of this paragraph.
180 The district school superintendent shall also refer the parent
181 to a home education review committee composed of the district
182 contact for home education programs and at least two home
183 educators selected by the parent from a district list of all
184 home educators who have conducted a home education program for
185 at least 3 years and who have indicated a willingness to serve
186 on the committee. The home education review committee shall
187 review the portfolio of the student, as defined by s. 1002.41,
188 every 30 days during the district's regular school terms until
189 the committee is satisfied that the home education program is in
190 compliance with s. 1002.41(1)(b). The first portfolio review
191 must occur within the first 30 calendar days of the

192 establishment of the program. The provisions of subparagraph 2.
193 do not apply once the committee determines the home education
194 program is in compliance with s. 1002.41(1)(b).
195 2. If the parent fails to provide a portfolio to the
196 committee, the committee shall notify the district school
197 superintendent. The district school superintendent shall then
198 terminate the home education program and require the parent to
199 enroll the child in an attendance option that meets the
200 definition of "regular school attendance" under s.
201 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon
202 termination of a home education program pursuant to this
203 subparagraph, the parent shall not be eligible to reenroll the
204 child in a home education program for 180 calendar days. Failure
205 of a parent to enroll the child in an attendance option as
206 required by this subparagraph after termination of the home
207 education program pursuant to this subparagraph shall constitute
208 noncompliance with the compulsory attendance requirements of s.
209 1003.21 and may result in criminal prosecution under s.
210 1003.27(2). Nothing contained herein shall restrict the ability
211 of the district school superintendent, or the ability of his or
212 her designee, to review the portfolio pursuant to s.
213 1002.41(1)(b).
214 (g) If a student subject to compulsory school attendance
215 will not comply with attempts to enforce school attendance, the
216 parent or the district school superintendent or his or her
217 designee shall refer the case to the case staffing committee
218 pursuant to s. 984.12, and the district school superintendent or

219 his or her designee may file a truancy petition pursuant to the
220 procedures in s. 984.151.
221 (2) GIVE WRITTEN NOTICE.--
222 (a) Under the direction of the district school
223 superintendent, a designated school representative shall give
224 written notice that requires enrollment or attendance within 3
225 days after the date of notice, in person or by return-receipt
226 mail, to the parent when no valid reason is found for a
227 student's nonenrollment in school. If the notice and requirement
228 are ignored, the designated school representative shall report
229 the case to the district school superintendent, and may refer
230 the case to the case staffing committee, established pursuant to
231 s. 984.12. The district school superintendent shall take such
232 steps as are necessary to bring criminal prosecution against the
233 parent.
234 (b) Subsequent to the activities required under subsection
235 (1), the district school superintendent or his or her designee
236 shall give written notice in person or by return-receipt mail to
237 the parent that criminal prosecution is being sought for
238 nonattendance. The district school superintendent may file a
239 truancy petition, as defined in s. 984.03, following the
240 procedures outlined in s. 984.151.
241 (3) RETURN STUDENT TO PARENT.--A designated school
242 representative may ~~shall~~ visit the home or place of residence of
243 a student and any other place in which he or she is likely to
244 find any student who is required to attend school when the
245 student is not enrolled or is absent from school during school
246 hours without an excuse, and, when the student is found, shall

247 return the student to his or her parent or to the principal or
248 teacher in charge of the school, or to the private tutor from
249 whom absent, or to the juvenile assessment center or other
250 location established by the district school board to receive
251 students who are absent from school. Upon receipt of the
252 student, the parent shall be immediately notified.
253 (4) REPORT TO APPROPRIATE AUTHORITY.--A designated school
254 representative shall report to the appropriate authority
255 designated by law to receive such notices, all violations of the
256 Child Labor Law that may come to his or her knowledge.
257 (5) RIGHT TO INSPECT.--A designated school representative
258 shall have the right of access to, and inspection of,
259 establishments where minors may be employed or detained only for
260 the purpose of ascertaining whether students of compulsory
261 school age are actually employed there and are actually working
262 there regularly. The designated school representative shall, if
263 he or she finds unsatisfactory working conditions or violations
264 of the Child Labor Law, report his or her findings to the
265 appropriate authority.
266 Section 4. This act shall take effect July 1, 2006.

HB 505

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 505 Community Colleges
SPONSOR(S): Henriquez and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1356

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Community Colleges & Workforce Committee	5 Y, 0 N	Thomas	Ashworth
2) Education Appropriations Committee		Hamon	Hamon
3) Governmental Operations Committee			
4) Education Council			
5)			

SUMMARY ANALYSIS

The bill provides that a community college's program of intercollegiate athletics may include intercollegiate football.

Currently, 25 community colleges in Florida sponsor intercollegiate athletic programs, which include baseball, basketball, swimming, golf, fast-pitch softball, volleyball, and tennis. State Board of Education Rule prohibits community colleges from including intercollegiate football.

Under the provisions of the bill, a community college could choose to include an intercollegiate football program. Federal gender equity laws would require adding 1.2 female athletes for every male football player at the college to maintain gender equity.

The estimated cost of a football program in other states ranged from $90,000 to $632,650 for the 2000 season.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill authorizes community colleges to include intercollegiate football as part of the athletic program.

B. EFFECT OF PROPOSED CHANGES:

Present Situation
Community colleges are not required to participate in intercollegiate athletic programs. Of the 28 community colleges in the state of Florida 25 of them sponsor intercollegiate athletic programs and participate in four athletic conferences under the direction of the Florida Community College Activities Association. Athletic programs may include baseball, basketball, swimming, golf, fast-pitch softball, volleyball, and tennis.

Currently, State Board of Education Rule 6A-14.058 states that community colleges are prohibited from including intercollegiate football as an authorized student activity. Statutory authority for this rule is in s. 1001.02(1) and (9), F.S. Section 1001.02(1), F.S., authorizes the State Board of Education to adopt rules to implement provisions of law conferring duties upon the SBOE for the improvement of the education system. Subsection (9) of the same section of law requires that the SBOE rules for community colleges must address program offerings, provisions for program service areas, non-classroom activities, and student services.

The number of community colleges sponsoring National Junior College Athletic Association (NJCAA) intercollegiate football programs is on the decline. In the 1993-94 academic year, 78 community colleges sponsored intercollegiate football. By 2005-06, only 69 community colleges sponsored intercollegiate football.[1]

Effects of Proposed Changes
The bill provides that a community college's program of intercollegiate athletics may include intercollegiate football. The bill does not require a community college to sponsor an intercollegiate football program.

Expense
The estimated cost of a football program in other states ranged from $90,000 to $632,650 for the 2000 season. Additionally, the estimated start-up cost of a football program was $217,700 - $256,700.[2] This figure includes facilities, equipment, coaching and other staffing, scholarships, catastrophic insurance, medical examination and care, and travel.

Gender Equity
Title IX requirements would pose an obstacle for community colleges that sponsored intercollegiate football. The mandate would require adding 1.2 female athletes for every male football player at the college to maintain gender equity.

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[1] http://www.njcaa.org/
[2] Florida Department of Education 2006 Legislative Bill Analysis, (Revised) January 11, 2006, at 2.

C. SECTION DIRECTORY:

Section 1: Amends s. 1001.65, F.S.; providing that a community college's program of intercollegiate athletics may include intercollegiate football.

Section 2: Provides an effective date of July 1, 2006.

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 estimated cost of a football program in other states range from a low $90,000 to a high $632,650 for the 2000 season. Additionally, the estimated start-up cost of a football program was $217,700 - $256,700.[3] This figure includes facilities, equipment, coaching and other staffing, scholarships, catastrophic insurance, medical examination and care, and travel. Community colleges will need to weigh the cost to support an intercollegiate football program against the benefits of having such a program.

According to the 2003-04 Intercollegiate Athletics Financial Report, Student Activity and Service Fees comprise about one-third of the total revenues for athletics for the community college system.[4] Rule 6A-14.057, FAC, requires that expenditure from Student Activity and Service Fees are in accordance with a budget prepared jointly by student and college staff and approved by the president. Other significant sources for funding for community college athletics include college operating funds and financial aid fees.

[3] *Id.*
[4] *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that counties and municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to community colleges; amending s.
3 1001.65, F.S.; providing that a community college's
4 program of intercollegiate athletics may include
5 intercollegiate football; providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Subsection (8) of section 1001.65, Florida
10 Statutes, is amended to read:
11 1001.65 Community college presidents; powers and
12 duties.--The president is the chief executive officer of the
13 community college, shall be corporate secretary of the community
14 college board of trustees, and is responsible for the operation
15 and administration of the community college. Each community
16 college president shall:
17 (8) Administer the community college's program of
18 intercollegiate athletics<u>, which may include intercollegiate</u>
19 <u>football</u>.
20 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 513 CS Career and Professional Academies
SPONSOR(S): Bilirakis
TIED BILLS: **IDEN./SIM. BILLS:** SB 1480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Community Colleges & Workforce Committee	6 Y, 0 N, w/CS	Thomas	Ashworth
2) Education Appropriations Committee		Hamon	Hamon
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

The bill defines "career and professional academy" (CAP academy) as a research based program that integrates a rigorous and relevant academic curriculum with an industry-driven career curriculum offered by public schools, school districts, or the Florida Virtual School.

The bill requires that each CAP academy:

- Provides a rigorous standards-based academic curriculum integrated with a career curriculum;
- Includes one or more postsecondary or business partnerships;
- Provides creative and tailored student advisement and career counseling;
- Provides a career education certification on the high school diploma;
- Provides instruction in high growth, high demand, and high pay careers;
- Delivers academic content through career-relevant instruction;
- Offers applied courses that combine academic content with technical skills;
- Provides instruction resulting in certification or credentials in workplace skills;
- Provides opportunities for students to obtain a ready-to-work certification; and
- Includes an evaluation plan developed with the Department of Education.

The bill requires CAP academy applied courses combining academic content with technical skills to be submitted to the State Board of Education no later than five months before courses are offered. The State Board then has two months to approve or disapprove the courses.

The bill requires the Department of Education, in consultation with Workforce Florida, Inc., to establish a Career High-Skill Occupational Initiative for Career Education (CHOICE) project. CHOICE academies must meet all the goals and requirements for CAP academies. However, CHOICE academies must include partnerships with businesses *and* at least one postsecondary institution.

As provided in the General Appropriations Act, the bill authorizes one-time startup funds for school districts to develop CHOICE academies. See Fiscal Comments for further details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – The bill provides an opportunity for students to graduate from high school capable of either entering into the workplace and/or furthering their education.

Empower families - The bill provides the opportunity for students who complete the career education program to be able to obtain and sustain a job and realize economic self-sufficiency.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Career education (a term often interchangeably used for vocational education, workforce education, or technical education) is critically important to Florida's students and to Florida's economic development. A significant percentage of Florida's students currently leave high school without adequate preparation to enter a career or continue into a technical center, community college or university program. Of every ten 9th graders, three students drop out and three of the remaining seven do not purse additional education; six students (60%) do not go to college. Only four out of the 10 (40%) attend college.[1] Reformed career education programs in the high school years would not only benefit the six students who do not attend college, but has the potential of benefiting all students.

Career Education Task Force
The Commissioner of Education was directed by the passing of HB 769 (Chapter 2004-357, L.O.F.) to convene a Career Education Task Force (Task Force) to investigate issues related to workforce or career education. The Task Force chaired by the Lieutenant Governor, held several meetings to discuss workforce related issues. The Task Force determined that greater focus on, and support of, career and professional education represents significant opportunities to make Florida's education system more effective. One of the areas that became a focal point of the Task Force was the importance of rigorous and relevant academic curriculum.

Certification on High School Diploma
Currently, school districts may establish career education programs; including career academies, career institutes, and industry certification programs, as well as career education courses that are general in nature and explore various occupations. Section 1003.431, F.S., provides that a career education certification may be placed on a student's diploma. The certification is designed to indicate that a student is prepared for both postsecondary education without the need for remediation and that the student has marketable employment skills. The State Board of Education (SBE) was given authority to adopt rules for a standard format for the career education certification. Currently, the SBE has not adopted rules for career education certification and no school districts have placed the career education certification on high school diplomas.

Industry Certification
Industry certification is an industry-based series of competencies needed to work successfully in a career area. The industry in many cases provides a defined process where the secondary vocational programs can certify that they meet a series of requirements in equipment, curriculum and educational staff requirements. The industry oversees the process and assures continued compliance with industry requirements for recertification at regular intervals. As of 2004, Florida school districts were offering 132

[1] *Career and professional education: preparing Florida's Students for the Knowledge* Economy, Council for Education Policy, Research and Improvement (CEPRI), September 2004

secondary programs that were industry-certified. In a 2004 survey conducted by DOE three types of industry certification for secondary vocational programs offered by the school districts were identified.

Industry Developed Curricula – Specific curricula is created by state or national professional organizations representing various industries. These curricula are based on standards that are recognized and approved by the industry.

Program Accreditation – Programs are accredited by a national accrediting body associated with a specific industry. That industry may also require a program to implement a specific curriculum.

Product Specific Certification – Programs are certified and associated with a specific vender or product. This type of certificate occurs mainly in the area of computer application and network support.

CHOICE Program Model

The CHOICE program engineered by Okaloosa school district engages students to pursue rigorous college preparatory level work while simultaneously preparing for high demand jobs with industry level certification. The CHOICE model provides a structure for organizing career training to ensure that outcomes are focused on viable occupations and industry needs and are based on career clusters as defined by the United States Department of Education (USDOE).[2] The CHOICE Program is outcome-based so that students achieve a high school diploma and industry certification for employment, movement into postsecondary training and college, or both.

Course Code Directory

The Department of Education approves courses for the succeeding school year no less than 180 days prior to that school year. In order for a student to meet graduation requirements, course requirements are set before the school year begins. Currently, school districts may propose a new course to be added to the Course Code Directory by submitting information and details on the course to the Department of Education. In November, information on the courses is presented to the State Board of Education who reviews and approves the Course Code Directory each year.

High School Graduation Requirements

Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits are distributed as follows:

- Four credits in English, with major concentration in literature & composition;
- Three credits in mathematics, 1 must be at Algebra I or higher level, or be a series of courses equivalent to Algebra I;
- Three credits in science, two of which must have a laboratory component;
- Three in social science; one in American history, 1 in world history, ½ in economics and ½ in American government;
- One credit in practical arts career education or one credit in performing fine arts;
- One-half credit in life management skills;
- One credit in physical education; and
- Eight and one-half elective credits.

Acceleration Mechanisms

Acceleration mechanisms serve to shorten the time necessary for students to complete the requirements for a high school diploma and postsecondary degree, broaden the scope of courses available to students, or increase the depth of study available for a particular subject. Acceleration mechanisms that are available to students in Florida include dual enrollment, advanced placement, early admission, credit by examination, the International Baccalaureate Program (IB), and the Advanced International Certificate of Education Program (AICE).

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[2] www.careerclusters.org

Statewide Articulation Agreement
Section 1007.23, F.S., requires the State Board of Education to establish a statewide articulation agreement, which is to include articulation between secondary and postsecondary education and the use of acceleration mechanisms.

High Skills, High Wage Job Projections
Section 216.136(a)2., F.S., requires the Workforce Estimating Conference to review data concerning the local and regional demands for short-term and long-term employment in high skills, high wage jobs, as well as other jobs. Data is generated through surveys conducted as part of the state's internet-based job matching and labor market information system authorized under s. 445.011, F.S. The Workforce Estimating Conference develops the official targeted occupations list based on industry and occupational employment projections and wages prepared by the Labor Market Statistics Office of the Florida Agency for Workforce Innovation. The Workforce Estimating Conference meets semi-annually and makes recommendations to Workforce Florida, Inc. for use as a guide for establishing regional targeted occupations lists.

Office of Program Policy Analysis and Government Accountability Research on Career Academies[3]
The Office of Program Policy Analysis and Government Accountability (OPPAGA) is currently compiling statewide information about career academies. Thirty-seven school districts identified 511 programs that used the term "career academy." OPPAGA received responses from 418 programs operating in 202 high schools and career centers. Of these 418 programs, 396 were operational in the 2004-2005 school year. The findings below relate to the 396 programs.

- *Industry Certification* – 46% reported having some type of industry certification, either by preparing students through a curriculum that leads to industry certification or to sit for a certification exam; or employing teachers that hold industry certification; or having the career academy program itself industry certified.

- *Internship* – 50% require all or some students to complete an internship.

- *Business Support* –Support is primarily through providing guest speakers, hosting field trips, and offering job support.

- *Eligibility* – 69% reported having eligibility requirements for students to be admitted. These include minimum GPA, specific disciplinary record such as limited disciplinary referrals and/or suspensions; a specific attendance record; and/or a minimum FCAT score.

- *Integration of Academic and Career Themes* – Most programs reported integrating both academic and career themes in their classrooms.

- *Articulation with Postsecondary Institutions* – 74% reported having articulation agreements with postsecondary institutions; however, strong relationships do not appear to exist between the articulation agreements and academy themes.

- *University and Scholarship Requirements* –
    - 81% reported that the course requirements meet the requirements for admission to the State University System.
    - 70% reported that their course requirements meet the requirements for both Gold Seal Vocational Scholarships and Medallion/Academic Scholarships.
    - 10% reported that their course requirements meet only Gold Seal requirements.
    - 10% reported that their course requirements meet only Medallion/Academic Scholarship requirements.

[3] Office of Program Policy Analysis and Government Accountability, *Memorandum Regarding Programs Identified as Career Academies*, March 6, 2006.

- 10% reported that they do not align their curriculum with Bright Futures program requirements.

Effect of Proposed Changes

The bill defines career and professional academies and sets goals and requirements for the academies. The bill creates a CHOICE academy project as one model of a career and professional academy.

CAREER AND PROFESSIONAL (CAP) ACADEMIES

The bill defines "career and professional academy" (CAP academy) as a research based program that integrates a rigorous academic curriculum with an industry-driven career curriculum offered by public school, school districts, or the Florida Virtual School. CAP academies may be offered as a school-within-a-school career academy or a total school configuration providing multiple academies. Students who complete the program will receive:

- A standard high school diploma;
- The highest available industry certification; and
- Postsecondary credit if the academy partners with a postsecondary institution.

The goals of the career and professional academies are to:

- Increase student achievement and graduation rates through integrated academic and career curricula.
- Focus on career preparation through rigorous academics, industry certification, and work ethics.
- Support high school graduation requirements, including any revised graduation requirements.
- Promote postsecondary credit while in high school.
- Meet industry needs for skilled employees.

Curriculum, Instruction, Academic Content, and Course Requirements

The bill requires that CAP academies provide a rigorous standard-based academic curriculum integrated with a career curriculum.

- Multiple styles of student learning must be considered.
- Learning must be promoted through application and adaptation.
- Relevance of the subject matter must be maximized.
- Each student's capacity to excel must be enhanced.
- Work habits and work ethics must be emphasized.

CAP academies are required to provide instruction in high growth, high demand and high pay careers as determined by the local workforce development board, the chamber of commerce, or the Agency for Workforce Innovation. Instruction must result in competency, certification, or credentials in workplace skills, including communication skills, interpersonal skills, decisionmaking skills, the importance of attendance and timeliness in the workplace and work ethics.

The bill requires CAP academies to deliver content through instruction relevant to the career. Intensive reading and mathematics intervention must also be delivered through instruction relevant to the career and an emphasis on strengthening reading for information skills must be included.

CAP academies must offer applied courses that combine academic content with technical skills. The courses must be approved or disapproved by the State Board of Education *three months* before the school term in which the courses are to be offered. Courses must be submitted to the Department of Education five months before. The Department of Education must present the courses to the State Board of Education three times each year.

Partnership Requirements

The bill requires that CAP academies include one or more partnerships with postsecondary institutions, local businesses or economic development organizations. The partnerships must provide opportunities for:

- Instruction for highly skilled professionals.
- Internships, externships, and on-the-job training.
- A postsecondary degree, diploma, or certificate.
- The highest available level of industry certification.
- Maximum articulation of credits as provided in the statewide articulation agreement upon completion of program.

Industry Certification Requirements
If an industry does not have a national or state certification process, school districts may establish a local certification working with the local workforce development board, the chamber of commerce, or the Agency for Workforce Innovation.

Student Advisement Requirements
The bill requires CAP academies to provide creative and tailored student advisement, including parent participation and coordination with middle schools to provide career exploration and education planning. Middle school students must be provided with information about secondary and postsecondary career education programs and CAP academies.

Evaluation Plan
Career academies must include an evaluation plan developed with the Department of Education. The evaluation plan must include a self-assessment tool based on standards and outcome measures including graduation rates, enrollment in postsecondary education, business and industry certification, awards of postsecondary credit, and FCAT achievement levels and learning gains.

Other Requirements
The bill requires that CAP academies provide a career education certification on the high school diploma and provide opportunities for students to obtain a ready to work certification.

CAREER HIGH-SKILL OCCUPATIONAL INITIATIVE FOR CAREER EDUCATION (CHOICE) ACADEMY

The bill defines a Career High-Skill Occupational Initiative for Career Education (CHOICE) academy as a career and professional academy that offers a rigorous and relevant academic curriculum leading to industry-recognized certification, college credit, and credit toward a high school diploma. The CHOICE academy must meet all of the requirements of CAP academies.

The bill requires the Department of Education (DOE) to establish a Career High-Skill Occupational Initiative for Career Education (CHOICE) project. The project must consist of a competitive process for selecting and designating school districts as participants and designates CHOICE academies within participating school districts. The bill requires DOE to consult with or work jointly with Workforce Florida, Inc., in the following areas:

- To establish standards for designating specific CHOICE academies in each participating school district.
- Provide technical assistance during the application process, in reorganizing career education, in developing CHOICE academies with appropriate career themes, and in developing funding plans.
- Develop evaluation criteria that must include increased academic performance of students and schools using school-level accountability data.

DOE must also:

- Report to the State Board of Education annually on the CHOICE project, including participation, enrollment, completion, and outcome information. Outcomes may include continuing educational experiences of graduates, business satisfaction, job placement rates, and earnings of graduates.

- Promote CHOICE academies and provide planning and startup resources as available.
- Award one-time startup funds as provided in the General Appropriations Act.

Purpose of CHOICE Academies
The purpose of CHOICE academies is to
- Draw upon ongoing partnerships between education and workforce development or economic development organizations to enhance the quality and opportunities for career education for high school students by exposure to local in-demand career education;
- Build upon the state system of school improvement and education accountability by providing students with a solid academic foundation, opportunities to obtain industry-recognized certification or credentials, and preparation for postsecondary educational experiences in related fields; and
- Prepare graduating high school students to make appropriate choices relative to employment and future educational experiences.

Eligibility Criteria and Requirements for Participating School Districts
The bill authorizes DOE to establish application guidelines for an annual competitive process and eligibility criteria for school district participation. DOE, in consultation with Workforce Florida, Inc., and Enterprise Florida, Inc may designate as many school districts as it deems advisable each year. All school districts designated by the DOE may establish one or more CHOICE academies. Eligibility criteria for school district participation include:
- Willingness and ability of associated businesses or industries to form partnerships with and support CHOICE academies.
- Dedication of school district resources to CHOICE academies.

A participating school district must:
- Identify an appropriate location for classes.
- Ensure flexibility for CHOICE academy to respond to needs of students and businesses.
- Redirect appropriated funding to a CHOICE academy.
- Plan for sustaining the CHOICE academy without additional funding.

Partnership and Plan Requirements for CHOICE Academies
Eligibility criteria for designation of a CHOICE academy within a participating district require that the academy include business *and* postsecondary partnerships and a plan for sustaining the CHOICE academy. Business partnerships must exist with:
- An associated business or industry; and
- A regional workforce board or the primary local economic development organization as recognized by Enterprise Florida, Inc.

The business partnership must be based on the connection with the academy's career theme and must involve future plans for improving the local economy. The business partner must be consulted during the planning stages of the CHOICE academy and provide support and resources for the CHOICE academy. The Consortium of Florida Education Foundations must also be consulted during the planning stages.

At least one partnership and an articulation agreement for credit must be established with a postsecondary institution.

School districts that have previously received funding from Workforce Florida, Inc., including the Okaloosa County School District, for establishing CHOICE academies before July 1, 2006, will receive an expedited review for CHOICE academy designation.

C. SECTION DIRECTORY:

Section 1 Creates s. 1003.493, F.S.; defining the term "career and professional academy" ; providing academy goals and duties; providing ways of offering career and professional academies as small learning communities; requiring certain duties of career and professional academies.

Section 2 Creates s. 1003.494, F.S.; requiring the Department of Education to establish a Career High-Skill Occupational Initiative for Career Education (CHOICE) project as a competitive process for the designation of school district participants and CHOICE academies; defining CHOICE academies; providing purpose of CHOICE academies; providing duties of school districts and the department; providing for the award to certain school districts of startup funds for the development of Choice academies.

Section 3 Amends s. 288.9015, F.S.; requiring Enterprise Florida, Inc., to work with the Department of Education and Workforce Florida, Inc., in the designation of school districts as participants in the CHOICE project.

Section 4 Amends s. 445.004, F.S.; authorizing Workforce Florida, Inc., to work with the Department of Education and Enterprise Florida, Inc., in the implementation of the CHOICE project.

Section 5 Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Education has requested four staff positions to implement the provisions of the bill. Four additional staff positions are estimated to cost $273,585. The bill and House Bill 5001, the proposed General Appropriations Act for 2006-07, do not contain any new staff positions to implement the provisions of the bill.

Career and Professional Academy Startup Funds

During the 2005 legislative session, $6 million dollars was appropriated for the SUCCEED, Florida - Career Paths program to provide startup funds to design and implement career and professional academies for the 2005-06 school year. The funds were designed to offset planning and

implementation costs for partnership between a school district school board and one or more businesses, industries or public postsecondary educational institutions to operate a career and professional academy. These funds were non-recurring state funds.

The Workforce Florida, Inc., in 2005-2006 provided CHOICE Career Institute grants in the amount of $830,572 to four Regional Workforce Boards in conjunction with their respective five school boards districts to replicate the model developed and used by Okaloosa County School District.[4]

The bill authorizes the Department of Education to award on a competitive basis one-time startup funds to school districts designated as participants in the CHOICE project for the development of CHOICE academies. School districts are authorized to establish one or more CHOICE academies without incentive funds. House Bill 5001, the proposed General Appropriations Act for 2006-07, appropriates $3.9 million for the SUCCEED, Florida - Career Paths program for new career and professional academies similar to the CAP academies authorized in this bill and $2.1 million to provide partial second year funding for recipients of SUCCEED, Florida - Career Paths funding in 2005-06.

The Okaloosa County School District and other school districts that have received funding from Workforce Florida, Inc., for the establishment of CHOICE academies prior to July 1, 2006 will receive an expedited review for CHOICE academy designation by the Department of Education.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill gives no specific rulemaking authority; however, DOE is required to establish application guidelines, eligibility criteria, standards and evaluation criteria.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Community College and Workforce Committee passed HB 513 with a Committee Substitute. The bill with the committee substitute differs from the original bill in the following ways:

- Clarified language for goals, requirements, and types of career and professional academies.
- Replaced core course substitution language with language requiring that State Board of Education approve or disapprove applied courses that combine academic content with technical skills.
- Set time lines for approval process of such applied courses.
- Revised purpose of CHOICE academy.
- Authorized, rather than required, DOE to establish application guidelines.
- Removed provision for specific school district to serve in advisory role.
- Clarified eligibility criteria for CHOICE academy designation.

[4] http://www.workforceflorida.com/wages/wfi/bcs/0602_calendar.htm

- Clarified and revised duties of participating school districts in CHOICE project.
- Deleted provision to establish comprehensive career academies.

CHAMBER ACTION

The Community Colleges & Workforce Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to career and professional academies; creating s. 1003.493, F.S.; defining "career and professional academy"; providing academy goals and duties; authorizing an academy to be offered as a described small learning community; creating s. 1003.494, F.S.; requiring the Department of Education to establish a Career High-Skill Occupational Initiative for Career Education (CHOICE) project as a competitive process for the designation of school district participants and CHOICE academies; defining "CHOICE academy" and providing purposes thereof; providing eligibility criteria for such designation and duties of participating school districts and the department; providing for the award to school district participants in the CHOICE project of startup funds for the development of CHOICE academies; amending ss. 288.9015 and 445.004, F.S.; providing duties of

23 Enterprise Florida, Inc., and Workforce Florida, Inc., to
24 conform; providing an effective date.
25
26 Be It Enacted by the Legislature of the State of Florida:
27
28 Section 1. Section 1003.493, Florida Statutes, is created
29 to read:
30 1003.493 Career and professional academies.--
31 (1) A "career and professional academy" is a research-
32 based program that integrates a rigorous academic curriculum
33 with an industry-driven career curriculum. Career and
34 professional academies may be offered by public schools, school
35 districts, or the Florida Virtual School. Students completing
36 career and professional academy programs receive a standard high
37 school diploma, the highest available industry certification,
38 and postsecondary credit if the academy partners with a
39 postsecondary institution.
40 (2) The goals of a career and professional academy are to:
41 (a) Increase student academic achievement and graduation
42 rates through integrated academic and career curricula.
43 (b) Focus on career preparation through rigorous academics
44 and industry certification.
45 (c) Raise student aspiration and commitment to academic
46 achievement and work ethics.
47 (d) Support graduation requirements by providing creative,
48 applied majors as provided by law.
49 (e) Promote acceleration mechanisms, such as dual
50 enrollment, articulated credit, or occupational completion

51 points, so that students may earn postsecondary credit while in
52 high school.
53 (f) Support the state's economy by meeting industry needs
54 for skilled employees in high-demand occupations.
55 (3) A career and professional academy may be offered as
56 one of the following small learning communities:
57 (a) A school-within-a-school career academy, as part of an
58 existing high school, that provides courses in one occupational
59 cluster. Students in the high school are not required to be
60 students in the academy.
61 (b) A total school configuration providing multiple
62 academies, each structured around an occupational cluster. Every
63 student in the school is in an academy.
64 (4) Each career and professional academy must:
65 (a) Provide a rigorous standards-based academic curriculum
66 integrated with a career curriculum. The curriculum must take
67 into consideration multiple styles of student learning; promote
68 learning by doing through application and adaptation; maximize
69 relevance of the subject matter; enhance each student's capacity
70 to excel; and include an emphasis on work habits and work
71 ethics.
72 (b) Include one or more partnerships with postsecondary
73 institutions, businesses, industry, employers, economic
74 development organizations, or other appropriate partners from
75 the local community. Such partnerships must provide
76 opportunities for:
77 1. Instruction from highly skilled professionals.
78 2. Internships, externships, and on-the-job training.

79 3. A postsecondary degree, diploma, or certificate.
80 4. The highest available level of industry certification.
81 Where no national or state certification exists, school
82 districts may establish a local certification in conjunction
83 with the local workforce development board, the chamber of
84 commerce, or the Agency for Workforce Innovation.
85 5. Maximum articulation of credits pursuant to s. 1007.23
86 upon program completion.
87 (c) Provide creative and tailored student advisement,
88 including parent participation and coordination with middle
89 schools to provide career exploration and education planning.
90 Coordination with middle schools must provide information to
91 middle school students about secondary and postsecondary career
92 education programs and academies.
93 (d) Provide a career education certification on the high
94 school diploma pursuant to s. 1003.431.
95 (e) Provide instruction in careers designated as high
96 growth, high demand, and high pay by the local workforce
97 development board, the chamber of commerce, or the Agency for
98 Workforce Innovation.
99 (f) Deliver academic content through instruction relevant
100 to the career, including intensive reading and mathematics
101 intervention, with an emphasis on strengthening reading for
102 information skills.
103 (g) Offer applied courses that combine academic content
104 with technical skills. Such courses must be submitted to the
105 Department of Education no later than 5 months before the
106 beginning of the school term in which such courses are planned

107 to be offered. The State Board of Education must approve or
108 disapprove courses no later than 3 months before the beginning
109 of the school term in which such courses are planned to be
110 offered. The department shall present new courses to the state
111 board for approval a minimum of three times annually.
112 (h) Provide instruction resulting in competency,
113 certification, or credentials in workplace skills, including,
114 but not limited to, communication skills, interpersonal skills,
115 decisionmaking skills, the importance of attendance and
116 timeliness in the work environment, and work ethics.
117 (i) Provide opportunities for students to obtain the
118 Florida Ready to Work Certification as provided by law.
119 (j) Include an evaluation plan developed jointly with the
120 Department of Education. The evaluation plan must include a
121 self-assessment tool based on standards, such as the Career
122 Academy National Standards of Practice, and outcome measures
123 including, but not limited to, graduation rates, enrollment in
124 postsecondary education, business and industry satisfaction,
125 employment and earnings, achievement of industry certification,
126 awards of postsecondary credit, and FCAT achievement levels and
127 learning gains.
128 Section 2. Section 1003.494, Florida Statutes, is created
129 to read:
130 1003.494 Career High-Skill Occupational Initiative for
131 Career Education (CHOICE) academies.--
132 (1) The Department of Education shall establish a Career
133 High-Skill Occupational Initiative for Career Education (CHOICE)
134 project. The project shall consist of a competitive process for

135 selecting and designating school districts as participants in
136 the project and designating CHOICE academies within
137 participating school districts.
138 (2) A "CHOICE academy" is a career and professional
139 academy that meets the goals and requirements specified in s.
140 1003.493 and offers a rigorous and relevant academic curriculum
141 leading to industry-recognized certification, college credit,
142 and credit toward a high school diploma. Existing career
143 education courses may serve as a foundation for the creation of
144 a CHOICE academy.
145 (3) The purposes of a CHOICE academy are to:
146 (a) Draw upon ongoing partnerships between education and
147 workforce development or economic development organizations to
148 enhance the quality and opportunities for career education for
149 high school students by exposure to in-demand career education
150 as identified by such organizations in the local community.
151 (b) Build upon the state system of school improvement and
152 education accountability by providing students with a solid
153 academic foundation, opportunities to obtain industry-recognized
154 certification or credentials, and preparation for postsecondary
155 educational experiences in related fields.
156 (c) Prepare graduating high school students to make
157 appropriate choices relative to employment and future
158 educational experiences.
159 (4) The Department of Education may establish application
160 guidelines for an annual competitive process and eligibility
161 criteria for school district participation. A school district
162 may apply to the department for designation as a CHOICE project

163 participating district, and the department, in consultation with
164 Workforce Florida, Inc., and Enterprise Florida, Inc., may
165 designate as many school districts as it deems advisable each
166 year. Eligibility criteria for designation of a school district
167 as a CHOICE project participant shall include, but not be
168 limited to:
169 (a) The willingness and ability of associated businesses
170 or industries to form partnerships with and support CHOICE
171 academies.
172 (b) The dedication of school district resources to CHOICE
173 academies.
174 (5) The Department of Education, in consultation with
175 Workforce Florida, Inc., shall establish standards for
176 designating specific CHOICE academies in each participating
177 school district. A participating school district may apply to
178 the department for designation of a CHOICE academy within the
179 district. Eligibility criteria for such designation shall
180 include, but not be limited to:
181 (a) Partnerships with an associated business or industry
182 and a regional workforce board or the primary local economic
183 development organization in the county as recognized by
184 Enterprise Florida, Inc. The partnership of the business or
185 industry with the CHOICE academy must be based on the connection
186 of the business or industry with the academy's career theme and
187 must involve future plans for improving the local economy. The
188 business or industry partner must be consulted during the
189 planning stages of a CHOICE academy and provide business or
190 industry support and resources devoted to the CHOICE academy.

191 The Consortium of Florida Education Foundations or a designee
192 must also be consulted during the planning stages of a CHOICE
193 academy and may provide support and resources devoted to the
194 CHOICE academy.
195 (b) At least one established partnership and an
196 articulation agreement for credit with a postsecondary
197 institution.
198 (c) A plan for sustaining the CHOICE academy.
199
200 The Okaloosa County School District and other school districts
201 that have received funding from Workforce Florida, Inc., for the
202 establishment of CHOICE academies prior to July 1, 2006, shall
203 receive an expedited review for CHOICE academy designation by
204 the department.
205 (6) A participating school district shall:
206 (a) Identify an appropriate location for classes.
207 (b) Ensure that a CHOICE academy is flexible enough to
208 respond both to the needs and abilities of students and to the
209 needs of associated businesses or industries.
210 (c) Redirect appropriated funding from ongoing activities
211 to a CHOICE academy.
212 (d) Plan for sustaining a CHOICE academy as an ongoing
213 program without additional funding.
214 (7) The Department of Education shall:
215 (a) With assistance from Workforce Florida, Inc., provide
216 technical assistance to participating school districts in
217 submitting applications for designation of specific CHOICE
218 academies located in specific schools in the school district,

219 reorganizing career education opportunities, developing CHOICE
220 academies with career themes in areas deemed appropriate by
221 Workforce Florida, Inc., or local economic development
222 organizations, and developing funding plans.
223 (b) Jointly with Workforce Florida, Inc., and in
224 consultation with school districts, develop evaluation criteria
225 for CHOICE academies. Such criteria shall include increased
226 academic performance of students and schools using school-level
227 accountability data.
228 (c) Report to the State Board of Education, the Governor,
229 the President of the Senate, and the Speaker of the House of
230 Representatives by July 1 of each year on school district
231 participation in the CHOICE project, designated CHOICE academies
232 with enrollment and completion data for such academies, and
233 appropriate outcomes for students who have completed a CHOICE
234 academy program. Such outcomes may include continuing
235 educational experiences of CHOICE academy graduates, business or
236 industry satisfaction with the CHOICE academies, placement of
237 CHOICE academy graduates in employment, and earnings of such
238 graduates.
239 (d) Promote CHOICE academies and provide planning and
240 startup resources as available.
241 (8) As provided in the General Appropriations Act, the
242 Department of Education shall award one-time startup funds to
243 school districts designated as participants in the CHOICE
244 project for the development of CHOICE academies. All school
245 districts designated by the department are authorized to
246 establish one or more CHOICE academies without incentive funds.

247 Section 3. Subsection (7) is added to section 288.9015,
248 Florida Statutes, to read:
249 288.9015 Enterprise Florida, Inc.; purpose; duties.--
250 (7) Enterprise Florida, Inc., shall work with the
251 Department of Education and Workforce Florida, Inc., in the
252 designation of school districts as participants in the CHOICE
253 project pursuant to s. 1003.494.
254 Section 4. Paragraph (i) is added to subsection (5) of
255 section 445.004, Florida Statutes, to read:
256 445.004 Workforce Florida, Inc.; creation; purpose;
257 membership; duties and powers.--
258 (5) Workforce Florida, Inc., shall have all the powers and
259 authority, not explicitly prohibited by statute, necessary or
260 convenient to carry out and effectuate the purposes as
261 determined by statute, Pub. L. No. 105-220, and the Governor, as
262 well as its functions, duties, and responsibilities, including,
263 but not limited to, the following:
264 (i) Working with the Department of Education and
265 Enterprise Florida, Inc., in the implementation of the CHOICE
266 project pursuant to s. 1003.494.
267 Section 5. This act shall take effect July 1, 2006.

HB 535 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 535 CS School Safety
SPONSOR(S): Bogdanoff and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1384

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	6 Y, 3 N, w/CS	Beagle	Mizereck
2) Juvenile Justice Committee	4 Y, 0 N	White	White
3) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
4) Education Council			
5)			

SUMMARY ANALYSIS

Current Florida law requires school districts to develop student safety and discipline policies. Within the requirements prescribed by law, school districts have considerable discretion as to the contents of these policies. There is no statewide mandate that school districts adopt policies that explicitly prohibit bullying and harassment.

House Bill 535 prohibits bullying and harassment of students in Florida schools, and requires school districts to adopt policies for enforcing this prohibition. The bill defines bullying and harassment, and sets forth specific minimum requirements for school district policies.

The bill has a minimal fiscal impact on school districts. See FISCAL COMMENTS.

The bill takes effect on upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill requires local school districts to adopt policies prohibiting bullying and harassment.

Promote Personal Responsibility-- The bill requires local school districts to establish punishments and interventions for dealing with perpetrators of bullying or harassment.

Safeguard Individual Liberty-- The bill reduces the likelihood that bullying and harassment will interfere with students' learning and social development.

Empower Families-- The bill requires school authorities to report all actions taken to protect a victim of bullying and harassment to the victim's parents.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Student Discipline and School Safety

Florida law requires district school boards to establish student safety and discipline policies governing student conduct on school grounds, at school sponsored activities, and on school buses.[1] Subject to certain requirements, school districts retain considerable flexibility in formulating student discipline policies. Policies must address several issues including:

- A code of student conduct that clearly explains the rights and responsibilities of students regarding respect for persons and property.
- Prohibition against student possession of a firearm or weapon on school grounds or at school sponsored activities and notice to students that violation of this provision may result in expulsion and referral to a criminal or juvenile justice facility.
- Notice that student acts of prohibited behavior at school, on a school bus, at a school bus stop, sexual harassment, and violence against any school district employee are subject to disciplinary action.
- Policies for assigning a violent or disruptive student to an alternative program.
- Consistent policies and procedures for dealing with prohibited acts, including imposition of criminal penalties.

Additionally, Florida law[2] and State Board of Education Rule (SBE)[3] require district school boards to adopt a zero tolerance policy for violent crime, victimization, and substance abuse. District school boards must ensure that students found to have committed certain offenses receive the most severe penalties available under district school board policy.[4] Likewise, district school boards are authorized to attach more severe consequences to disciplinary violations motivated by hostility towards a victim's gender, race, religion, color, sexual orientation, ethnicity, ancestry, national origin, political beliefs, marital status, age, social and family background, linguistic preference, or disability.[5] School officials are required to protect students who are victimized by violent crime, including notifying a victim's

1 Section 1006.07, F.S.

2 Section 1006.13, F.S.

3 State Board of Education Rule 6A-1.0404.

4 Id.

5 Id.

parents that an incident has occurred and of the victim's right to press charges, transferring the perpetrator to another school in the district, and banning the perpetrator from riding the same school bus as the victim.[6]

Florida law assigns specific duties relating to the enforcement of student discipline to certain school district personnel. These duties include:

- District school superintendents are required to recommend student safety and discipline policies to the district school board.[7]
- School principals must collaborate with teachers to establish and enforce classroom rules for student conduct and procedures for disciplinary referrals.[8]
- School principals must comply with certain requirements for reporting incidents of student misconduct.[9] The School Environmental Safety Incident Reporting System (SESIR)[10] requires schools to report serious safety incidents involving students that occur on school grounds, on school transportation, or off-campus at school-sponsored events. School-level data is compiled at the district-level and reported to the Department of Education (DOE).
- School bus drivers are responsible for maintaining order and security on district buses.[11]

Bullying and Harassment

The U.S. Department of Education (U.S. DOE) reports that 7% of students aged 12-18 reported being bullied at school in 2003.[12] State anti-bullying legislation has gained in prevalence since a rash of highly publicized school shootings in the late 1990s.[13] Currently, several states have enacted anti-bullying legislation. These states include Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Louisiana, Maine, Minnesota, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Rhode Island, Tennessee, Texas, Vermont, Virginia, Washington and West Virginia.[14]

Current Florida law does not require school districts to implement a district-wide anti-bullying and harassment policy. According to the DOE, 33 Florida school districts have implemented bullying prevention programs. [15]

- Aggression Replacement Training (ART) – Hernando;
- Aggressors, Victims, Bystanders - Brevard, Collier, Columbia, DeSoto, Dixie, Escambia, FAU Lab School, Flagler, Glades, Lafayette, Levy, Manatee, Okaloosa, Palm Beach, Pinellas, Santa Rosa, Sarasota, St. Lucie, Union, and Volusia;
- Bullying Prevention (Olweus) - FAU Lab School, Orange, Pasco, Pinellas, Sarasota, Seminole, and Sumter;
- Bully-Proofing Your School – Brevard and Volusia;
- Bullying Safe – Lee;
- Foundations: Creating Safe and Civil Schools – Clay and Duval;
- PATHS – Okaloosa;

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6 Section 1006.13(1)(b), (5), F.S.

7 Section 1006.08, F.S.

8 Section 1006.09, F.S.

9 Section 1001.54(3), F.S. and s. 1006.09(6), F.S.

10 Florida Department of Education, *The School Environmental Safety Incident Reporting System (SESIR) District and Statewide Reports, available at* http://www.firn.edu/doe/besss/sesir.htm.

11 Section 1006.10, F.S.

12 The U.S. Department of Education, National Center for Education Statistics, *Indicators of School Crime and Safety: 2005*, NCES 2006-001, November 2005, *available at* http://nces.ed.gov/programs/crimeindicators/Indicators.asp?PubPageNumber=12.

13 Education Commission of the States, *State Anti-Bullying Statutes*, by Jennifer Dounay, April 2005, *available at* http://www.ecs.org/clearinghouse/60/41/6041.htm.

14 Education Commission of the States, *State Anti-Bullying Statutes*, by Jennifer Dounay, April 2005, *available at* http://www.ecs.org/clearinghouse/60/41/6041.htm and Education Commission of the States, *Recent State Policies and Activities Update: Student Discipline: Bullying Statutes, available at* http://www.ecs.org/ecs/ecscat.nsf/WebTopicView?OpenView&RestrictToCategory=Safety/Student+Discipline--Bullying/Conflict+Resolution.

15 Florida Department of Education, Bullying Programs in Florida Districts *available at* http://www.firn.edu/doe/besss/bull_fl.html.

- PeaceBuilders – Franklin and Gulf;
- Positive Action – Charlotte and Leon;
- Project ACHIEVE – Charlotte;
- Safe Schools Ambassadors – Seminole;
- Success in Stages: Build Respect, Stop Bullying – Union; and
- TRUST - Miami-Dade.

Safe Schools Funding
Safe schools funding is a component of the Florida Education Finance Program[16] and is allocated by the legislature as proviso language in the General Appropriations Act.[17] The Legislature appropriated $75,350,000 in safe schools funds for the 2005-2006 school year. Safe schools funds are allocated as follows:

- A basic amount of $50,000 is distributed to each Florida school district or lab school.
- Two-thirds of the remaining balance is allocated based on the latest official Florida Crime Index as provided by the Florida Department of Law Enforcement.
- One-third is allocated based on each district's share of the state's total unweighted student enrollment.

School districts may use safe schools funds to implement after school programs, conflict resolution strategies, alternative school programs for adjudicated youth, and other improvements to make the school a safe place to learn. School districts have flexibility to determine how much of its total allocation to use for each authorized Safe Schools activity.

Effect of Proposed Changes:

Prohibition of Bullying and Harassment
House bill 535 prohibits bullying and harassment on school grounds, at school sponsored functions, on school buses, and in conjunction with school district controlled computer equipment and networks. The bill defines "bullying" as systematic or chronic infliction of physical hurt or psychological distress that may involve teasing, social exclusion, threats, intimidation, stalking, physical violence, theft, sexual or racial harassment, public humiliation, or destruction of property. "Harassment" is defined to include threatening, insulting, or dehumanizing gestures, use of a computer, and written, verbal, or physical conduct targeted at a student or school employee that:

- Causes the student or school employee to reasonably fear harm to person or property;
- Substantially interferes with the student's educational performance; or
- Substantially disrupts the orderly operation of the school.

Also falling within the bill's scope are certain acts of retaliation against individuals who report an act of bullying or harassment, acts that incite or coerce others to perpetrate an act of bullying or harassment, accessing or causing others to access another student's computer data or software for bullying and harassment purposes via school operated computers, and other acts having the effect of bullying and harassment.

Bullying and Harassment Policies
The bill requires each school district to adopt a policy prohibiting bullying and harassment. The policies must apply evenly to all students and explicitly prohibits a school district from creating special classifications of protected students based on student characteristics. Each school district must involve a variety of stakeholders in devising its bullying and harassment policy. The bill further requires each school district to integrate its bullying and harassment policy into the district's year round school

16 Section 1011.62(5)(b)3., F.S.

17 Line Item 73 of the Conference Committee Report on SB 2600, Enrolled Chapter 2005-70, Laws of Florida.

curriculum, discipline policies, and violence prevention efforts. Moreover, the bill provides conditions for immunity from suit for specified individuals who report an incident of bullying or harassment. The bill bars perpetrators who access a computer to bully or harass from raising the location or time of access of the computer as a defense.

Additionally, school district bullying and harassment policies must contain the following components:

- A definition of bullying and harassment and statement that such conduct is prohibited;
- Clearly stated consequences for committing or falsely accusing another of bullying or harassment;
- A procedure for reporting a proscribed act;
- A procedure for investigating whether a reported incident of bullying and harassment is within the scope of the school district's policy. Acts determined to be outside the scope of the school district's policy are to be referred to the appropriate authorities;
- A procedure for providing victim's parents a list of all local agencies where criminal charges may be brought against a perpetrator of bullying or harassment;
- A procedure for referring a victim or perpetrator of bullying or harassment to counseling;
- A procedure including incidents of bullying and harassment in its SESIR;
- A procedure for training students, parents, school volunteers and school staff in effective tactics for identifying and addressing incidents of bullying and harassment; and
- A procedure for reporting all measures taken to protect a victim of bullying and harassment to a victim's parents.

The bill requires the DOE to adopt model bullying and harassment policies to assist school districts. The bill also requires each school district to publish its policy in the district's code of student conduct and all employee handbooks. The bill further requires the Commissioner to report to the education committees of the Legislature as to the progress made by districts in implementing the bill's provisions.

The bill makes disbursements of safe schools funding to school districts contingent upon the district's adopting a bullying and harassment policy for the 2007-2008 school year. To receive disbursements of safe schools funding in subsequent school years, school districts must comply with all reporting requirements set forth in the bill. A school district's failure to comply with either of these requirements will result in a withholding of safe schools funding.

C. SECTION DIRECTORY:

Section 1: Creates section 1006.147, F.S., prohibiting bullying and harassment in Florida schools; requiring each school district to adopt a policy for preventing and addressing incidents of bullying and harassment.

Section 2: Provides that the bill is effective upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures. See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

Safe Schools funds of $75.35 million were appropriated to school districts as part of the Florida Education Finance Program in the 2005-06 fiscal year. The funds are to be expended to maintain a safe learning environment in the schools. School districts that fail to adopt a bullying and harassment policy by the 2007-2008 school year may have their Safe Schools funds withheld. Subsequent disbursements of safe schools funds may be withheld to school districts that fail to comply with any reporting provisions contained in the bill.

The bill requires DOE to adopt model bullying and harassment policies for district use and to report implementation progress to the Legislature. The costs associated with these additional responsibilities, if any, are expected to be small and can be absorbed within existing resources.

School districts may incur costs in developing bullying and harassment policies, and in providing the required training to students, parents, school volunteers, and school employees. The costs associated with this bill, if any, are expected to be small.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill requires two reports on bullying and harassment to be submitted to the President of the Senate and the Speaker of the House of Representatives. Because of the content similarity of the reports, it is not clear if there are two separate reports or one report. The first report is to be submitted by the Department of Education by January 1 and is to include aggregated data on the incidences of reported bullying and harassment in school districts and the resulting consequences, including discipline and referrals. The second report is to be submitted by the Commissioner of Education on or before January (no specific date in the bill) regarding the implementation of this bill and is to include pertinent data such as incidences of bullying and harassment identified by school districts.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the PreK-12 Committee adopted a strike-all amendment. The strike-all amended the bill as follows:

- Deletes legislative intent language.
- Adds stalking to the definition of "bullying."
- Specifies that definitions in s. 815.03, F.S., relating to computer crimes and s. 784.048, F.S., relating to stalking are applicable to bullying and harassment.
- Adds the requirement to school district policy that parents of victims are notified of all local agencies where criminal charges may be filed.
- Deletes a reference to the federal Family Educational Rights and Privacy Act of 1974 under the policy requirement for notifying the victim's family of the actions taken to protect the victim.
- Adds language stating that nothing in the bill shall be construed to abridge the rights of students or school employees that are protected by the First Amendment to the Constitution of the United States.

CHAMBER ACTION

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1 The PreK-12 Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to school safety; creating s. 1006.147,
7 F.S.; prohibiting bullying and harassment during education
8 programs and activities, on school buses, or through use
9 of data or computer software accessed through computer
10 systems of certain educational institutions; providing
11 definitions; requiring each school district to adopt a
12 policy prohibiting such bullying and harassment; providing
13 minimum requirements for the contents of the policy;
14 requiring the Department of Education to develop model
15 policies; providing immunity; providing restrictions with
16 respect to defense of an action and application of the
17 section; requiring department approval of a school
18 district's policy and school district compliance with
19 reporting procedures as prerequisites to receipt of safe
20 schools funds; requiring a report on implementation;
21 providing an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 1006.147, Florida Statutes, is created
26 to read:
27 1006.147 Bullying and harassment prohibited.--
28 (1) Bullying or harassment of any student or school
29 employee is prohibited:
30 (a) During any education program or activity conducted by
31 a public K-12 educational institution;
32 (b) During any school-related or school-sponsored program
33 or activity or on a school bus of a public K-12 educational
34 institution; or
35 (c) Through the use of data or computer software that is
36 accessed through a computer, computer system, or computer
37 network of a public K-12 educational institution.
38 (2) For purposes of this section:
39 (a) "Bullying" means systematically and chronically
40 inflicting physical hurt or psychological distress on one or
41 more students and may involve:
42 1. Teasing;
43 2. Social exclusion;
44 3. Threat;
45 4. Intimidation;
46 5. Stalking;
47 6. Physical violence;
48 7. Theft;
49 8. Sexual or racial harassment;
50 9. Public humiliation; or
51 10. Destruction of property.

52 (b) "Harassment" means any threatening, insulting, or
53 dehumanizing gesture, use of data or computer software, or
54 written, verbal, or physical conduct directed against a student
55 or school employee that:
56 1. Places a student or school employee in reasonable fear
57 of harm to his or her person or damage to his or her property;
58 2. Has the effect of substantially interfering with a
59 student's educational performance, opportunities, or benefits;
60 or
61 3. Has the effect of substantially disrupting the orderly
62 operation of a school.
63 (c) Definitions in s. 815.03 relating to computer crimes
64 and s. 784.048 relating to stalking are applicable to this
65 section.
66 (d) The terms "bullying" and "harassment" include:
67 1. Retaliation against a student or school employee by
68 another student or school employee for asserting or alleging an
69 act of bullying or harassment. Reporting an act of bullying or
70 harassment that is not made in good faith is considered
71 retaliation.
72 2. Perpetuation of conduct listed in paragraph (a) or
73 paragraph (b) by an individual or group with intent to demean,
74 dehumanize, embarrass, or cause physical harm to a student or
75 school employee by:
76 a. Incitement or coercion;
77 b. Accessing or knowingly causing or providing access to
78 data or computer software through a computer, computer system,

79 or computer network within the scope of the district school
80 system; or
81 c. Acting in a manner that has an effect substantially
82 similar to the effect of bullying or harassment.
83 (3) By September 1, 2006, each school district shall adopt
84 a policy prohibiting bullying and harassment on school property,
85 at a school-related or school-sponsored program or activity, on
86 a school bus, or through the use of data or computer software
87 that is accessed through a computer, computer system, or
88 computer network within the scope of the district school system.
89 The school district policy shall not establish categories of
90 students but shall afford all students the same protection
91 regardless of their status under law. The school district shall
92 involve students, parents, teachers, administrators, school
93 staff, school volunteers, community representatives, and local
94 law enforcement agencies in the process of adopting the policy.
95 The school district policy must be implemented in a manner that
96 is ongoing throughout the school year and integrated with a
97 school's curriculum, a school's discipline policies, and other
98 violence prevention efforts. The school district policy must
99 contain, at a minimum, the following components:
100 (a) A statement prohibiting bullying and harassment.
101 (b) A definition of bullying and a definition of
102 harassment.
103 (c) A description of the type of behavior expected from
104 each student and school employee.
105 (d) The consequences for a person who commits an act of
106 bullying or harassment.

107 (e) The consequences for a person who is found to have
108 wrongfully and intentionally accused another of an act of
109 bullying or harassment.
110 (f) A procedure for reporting an act of bullying or
111 harassment, including provisions that permit a person to
112 anonymously report such an act. However, this paragraph does not
113 permit formal disciplinary action to be based solely on an
114 anonymous report.
115 (g) A procedure for the prompt investigation of a report
116 of bullying or harassment and the persons responsible for the
117 investigation. The investigation of a reported act of bullying
118 or harassment is deemed to be a school-related activity and
119 begins with a report of such an act.
120 (h) A process to investigate whether a reported act of
121 bullying or harassment is within the scope of the district
122 school system and, if not, a process for referral of such an act
123 to the appropriate jurisdiction.
124 (i) A procedure for providing immediate notification to
125 the parents of a victim of bullying or harassment of all local
126 agencies where criminal charges may be pursued against the
127 perpetrator.
128 (j) A procedure to refer victims and perpetrators of
129 bullying or harassment for counseling.
130 (k) A procedure for including incidents of bullying or
131 harassment in the school's report of safety and discipline data
132 required under s. 1006.09(6). The report must include each
133 incident of bullying or harassment and the resulting
134 consequences, including discipline and referrals. The report

135 must include in a separate section each reported incident of
136 bullying or harassment that does not meet the criteria of a
137 prohibited act under this section with recommendations regarding
138 such incidents. The Department of Education shall aggregate
139 information contained in the reports and submit an annual report
140 to the President of the Senate and the Speaker of the House of
141 Representatives by January 1.
142 (l) A procedure for providing instruction to students,
143 parents, teachers, school administrators, counseling staff, and
144 school volunteers on identifying, preventing, and responding to
145 bullying or harassment.
146 (m) A procedure for regularly reporting to a victim's
147 parents the actions taken to protect the victim.
148 (n) A procedure for publicizing the policy, which must
149 include its publication in the code of student conduct required
150 under s. 1006.07(2) and in all employee handbooks.
151 (4) To assist school districts in developing policies for
152 the prevention of bullying and harassment, the Department of
153 Education shall develop model policies, which must be provided
154 to school districts no later than July 1, 2006.
155 (5) A school employee, school volunteer, student, or
156 parent who promptly reports in good faith an act of bullying or
157 harassment to the appropriate school official designated in the
158 school district's policy and who makes this report in compliance
159 with the procedures set forth in the policy is immune from a
160 cause of action for damages arising out of the reporting itself
161 or any failure to remedy the reported incident.

162 (6)(a) The physical location or time of access of a
163 computer-related incident cannot be raised as a defense in any
164 disciplinary action or prosecution initiated under this section.
165 (b) This section does not apply to any person who uses
166 data or computer software that is accessed through a computer,
167 computer system, or computer network when acting within the
168 scope of his or her lawful employment or investigating a
169 violation of this section in accordance with school district
170 policy.
171 (7) Distribution of safe schools funds to a school
172 district provided in the 2007-2008 General Appropriations Act is
173 contingent upon Department of Education approval of the school
174 district's bullying and harassment policy. Distribution of safe
175 schools funds provided to a school district in fiscal year 2008-
176 2009 and thereafter shall be contingent upon the school
177 district's compliance with all reporting procedures contained in
178 this section.
179 (8) On or before January of each year, the Commissioner of
180 Education shall report to the Senate and House of
181 Representatives committees on education on the implementation of
182 this section. The report shall include pertinent data such as
183 incidences of bullying and harassment identified by the school
184 districts.
185 (9) Nothing in this section shall be construed to abridge
186 the rights of students or school employees that are protected by
187 the First Amendment to the Constitution of the United States.
188 Section 2. This act shall take effect upon becoming a law.

HB 679 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 679 CS Health-Related Education in the Public Schools
SPONSOR(S): Sobel and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2602

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	8 Y, 1 N, w/CS	Hassell	Mizereck
2) Health Care General Committee	6 Y, 0 N	Ciccone	Brown-Barrios
3) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
4) Education Council			
5)			

SUMMARY ANALYSIS

The bill requires each school district to submit a copy of the wellness policy required by federal law and its physical education policy to the Department of Education (DOE), who shall post online links to each district's policy on its website. The bill requires the DOE to post health and nutrition resources on its website.

The bill encourages school districts to provide training on first aid and CPR, and to provide 150 minutes of physical education a week for students in grades K-5 and 225 minutes each week for students in grades 6-8. The bill requires a certified physical education instructor to review all physical education programs and curricula.

The bill requires that districts annually provide parents with information on ways to help their children be physically active and eat healthy foods. It also revises the membership of the school health advisory committee so that members represent the eight component areas of the coordinated school health model.

The bill appears to have no fiscal impact. See FISCAL COMMENTS for details.

The bill provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- The bill increases the responsibilities of the Department of Education.

Empower families – The bill increases the amount of available information to parents and families regarding school district's wellness and physical education policies.

B. EFFECT OF PROPOSED CHANGES:

Background

Presently, section 1003.42, Florida Statutes, provides that each school board shall provide appropriate instruction that meets State Board of Education standards, also known as the Sunshine State Standards, in specific subject areas including health and physical education.

In 2004, the Legislature enacted CS/CS/SB 354 which included several requirements regarding physical education. The 2004 bill directed the Department of Education (DOE) to conduct a study to determine the status of physical education instruction in the public schools and to develop recommendations for changes. The study did not recommend any Legislative action.

In 2004, the Legislature enacted s.1003.455, F.S., which required district school boards to adopt written physical education policies by December 1, 2004, that detailed the district's physical education program and expected program outcomes. Districts that did not adopt physical education policies by the deadline were required to implement a program requiring, at a minimum, 30 minutes of physical education for kindergarten through fifth-graders for three days a week.

The federal Child Nutrition and WIC Reauthorization Act (PL 108-265-June 30, 2004) requires each local education agency participating in the National School Lunch Act or the Child Nutrition Act of 1966 to establish a local school wellness policy, which must include nutritional education, physical activity, and other school based efforts to promote wellness.

Effects of Proposed Changes

The bill requires each school district to submit a copy of the wellness policy and its physical education policy to the Florida Department of Education. The bill requires each district to annually review its policies, provide a procedure for public input and revisions, and send any updated policies to the Department. By December 1, 2006, the Department is required to post online links to each district's policies.

The bill requires the Department to post on its website online links to resources that include information regarding:

- Classroom instruction on the benefits of exercise and healthy eating.
- Classroom instruction on health hazards related to tobacco.
- The 8 components of a coordinated school health program.[1]
- The core measures for school health and wellness.
- Access to the nutritional content of foods and beverages and healthy food choices.

[1] http://www.cdc.gov/healthyyouth/CSHP/. The eight components of a coordinated school health model include healthy school environment, counseling, psychological and social services, nutrition services, health services, health promotion for staff, family/community involvement, health education, and physical education.

- Multiple examples of school wellness policies.
- Examples of wellness classes to support staff wellness.

The bill encourages school districts to provide basic first aid training to students, including CPR, beginning in grade 6 and every two years thereafter and to provide 150 minutes of physical education a week for students in K-5 and 225 minutes each week for students in grades 6-8.

The bill requires a certified physical education instructor to review all physical education programs and curricula.

The bill requires that districts annually provide parents with information on ways to help their children be physically active and eat healthy foods. Lastly, it revises the membership of the school health advisory committee so that members represent the eight component areas of the coordinated school health model as defined by the Centers for Disease Control and Prevention.[2] It also encourages the committees to address the school health model in the school district's school wellness policy.

C. SECTION DIRECTORY:

Section 1. Creates s. 1003.453, F.S., requiring each school district to submit copies of the school district's wellness policy and physical education policy; requiring the department to post online links to policies and health and nutrition resources on its website.

Section 2. Amends s. 1003.455, F.S., requiring approval of physical education programs and curricula; encouraging districts to provide physical education for a specified amount of time; deleting obsolete language.

Section 3. Amends s. 381.0056, F.S., revising the composition of the school health advisory council.

Section 4. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures. See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures. See FISCAL COMMENTS.

[2] Id.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

Posting of nutritional information by districts and district wellness policies by DOE should be able to be carried out within existing resources and not have a fiscal impact.

Each district should have at least one certified physical education instructor who is able to review all physical education programs and curricula and as such should not have a fiscal impact.

School districts are encouraged, not required, to provide the activities in the bill not already required by federal law and as such do not have a fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006 the PreK-12 Committee adopted a strike-all amendment to the bill.

- The strike-all removes the "whereas clauses" from the bill.
- The original bill required DOE to post each school's wellness policy on its website. Instead, the strike-all requires DOE to post online links to district policies.
- The original bill required DOE to provide a model wellness policy on its website that contained specified components. The strike-all removes this requirement, and states that DOE must provide online links to resources to information addressing items formerly listed as policy components.
- The original bill required DOE to provide nutritional information in rubric format on its website. The strike-all removes this requirement.
- The original bill required school districts to provide first aid training to students. The strike-all encourages that such training be provided.

CHAMBER ACTION

The PreK-12 Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to health-related education in the public schools; creating s. 1003.453, F.S.; requiring each school district to submit to the Department of Education, by a specified deadline, copies of the district's school wellness policy and physical education policy; requiring the school district to review those policies annually; requiring the department and school districts to post links to those policies on their websites; requiring the department to provide website links to certain resources and prescribing the types of information those resources must provide; encouraging school districts to provide basic training in first aid to students in certain grade levels; amending s. 1003.455, F.S.; requiring that school district physical education programs and curricula be reviewed by a certified physical education instructor; encouraging school districts to provide physical education for a specified amount of time; deleting obsolete language; amending s. 381.0056, F.S., the "School Health

24 Services Act"; requiring schools to annually provide
25 certain information to students' parents; providing
26 requirements relating to membership of school health
27 advisory committees; encouraging the committees to address
28 specified matters; providing an effective date.
29
30 Be It Enacted by the Legislature of the State of Florida:
31
32 Section 1. Section 1003.453, Florida Statutes, is created
33 to read:
34 1003.453 School wellness and physical education policies;
35 nutrition guidelines.--
36 (1) By September 1, 2006, each school district shall
37 submit to the Department of Education a copy of its school
38 wellness policy as required by the Child Nutrition and WIC
39 Reauthorization Act of 2004 and a copy of its physical education
40 policy required under s. 1003.455. Each school district shall
41 annually review its school wellness policy and physical
42 education policy and provide a procedure for public input and
43 revisions. In addition, each school district shall send an
44 updated copy of its wellness policy and physical education
45 policy to the department when a change or revision is made.
46 (2) By December 1, 2006, the department shall post links
47 to each school district's school wellness policy and physical
48 education policy on its website so that the policies can be
49 accessed and reviewed by the public. Each school district shall
50 provide the most current versions of its school wellness policy
51 and physical education policy on the district's website.

52 (3) By December 1, 2006, the department must provide on
53 its website links to resources that include information
54 regarding:
55 (a) Classroom instruction on the benefits of exercise and
56 healthful eating.
57 (b) Classroom instruction on the health hazards of using
58 tobacco and being exposed to tobacco smoke.
59 (c) The eight components of a coordinated school health
60 program, including health education, physical education, health
61 services, and nutrition services.
62 (d) The core measures for school health and wellness, such
63 as the School Health Index.
64 (e) Access for each student to the nutritional content of
65 foods and beverages and to healthful food choices in accordance
66 with the dietary guidelines of the United States Department of
67 Agriculture.
68 (f) Multiple examples of school wellness policies for
69 school districts.
70 (g) Examples of wellness classes that provide nutrition
71 education for teachers and school support staff, including
72 encouragement to provide classes that are taught by a licensed
73 nutrition professional from the school nutrition department.
74 (4) School districts are encouraged to provide basic
75 training in first aid, including cardiopulmonary resuscitation,
76 for all students, beginning in grade 6 and every 2 years
77 thereafter. Private and public partnerships for providing
78 training or necessary funding are encouraged.

79 Section 2. Section 1003.455, Florida Statutes, is amended
80 to read:
81 1003.455 Physical education; assessment.--
82 (1) It is the responsibility of each district school board
83 to develop a physical education program that stresses physical
84 fitness and encourages healthful ~~healthy~~, active lifestyles and
85 to encourage all students in prekindergarten through grade 12 to
86 participate in physical education. Physical education shall
87 consist of physical activities of at least a moderate intensity
88 level and for a duration sufficient to provide a significant
89 health benefit to students, subject to the differing
90 capabilities of students. All physical education programs and
91 curricula must be reviewed by a certified physical education
92 instructor.
93 (2) Each district school board shall~~, no later than~~
94 ~~December 1, 2004,~~ adopt a written physical education policy that
95 details the school district's physical education program and
96 expected program outcomes. ~~Each district school board shall~~
97 ~~provide a copy of its written policy to the Department of~~
98 ~~Education by December 15, 2004.~~
99 (3) Each district school board is encouraged to provide
100 150 minutes of physical education each week for students in
101 kindergarten through grade 5 and 225 minutes each week for
102 students in grades 6 through 8. ~~Any district that does not adopt~~
103 ~~a physical education policy by December 1, 2004, shall, at a~~
104 ~~minimum, implement a mandatory physical education program for~~
105 ~~kindergarten through grade 5 which provides students with 30~~
106 ~~minutes of physical education each day, 3 days a week.~~

107 Section 3. Subsections (2) and (5) of section 381.0056,
108 Florida Statutes, are amended to read:
109 381.0056 School health services program.--
110 (2) The Legislature finds that health services conducted
111 as a part of the total school health program should be carried
112 out to appraise, protect, and promote the health of students.
113 School health services supplement, rather than replace, parental
114 responsibility and are designed to encourage parents to devote
115 attention to child health, to discover health problems, and to
116 encourage use of the services of their physicians, dentists, and
117 community health agencies. Each school shall annually provide
118 parents with information on ways that they can help their
119 children to be physically active and to eat healthful foods.
120 (5)(a) Each county health department shall develop,
121 jointly with the district school board and the local school
122 health advisory committee, a school health services plan; and
123 the plan must ~~shall~~ include, at a minimum, provisions for:
124 1.~~(a)~~ Health appraisal;
125 2.~~(b)~~ Records review;
126 3.~~(c)~~ Nurse assessment;
127 4.~~(d)~~ Nutrition assessment;
128 5.~~(e)~~ A preventive dental program;
129 6.~~(f)~~ Vision screening;
130 7.~~(g)~~ Hearing screening;
131 8.~~(h)~~ Scoliosis screening;
132 9.~~(i)~~ Growth and development screening;
133 10.~~(j)~~ Health counseling;

134 11. ~~(k)~~ Referral and followup of suspected or confirmed
135 health problems by the local county health department;
136 12. ~~(l)~~ Meeting emergency health needs in each school;
137 13. ~~(m)~~ County health department personnel to assist school
138 personnel in health education curriculum development;
139 14. ~~(n)~~ Referral of students to appropriate health
140 treatment, in cooperation with the private health community
141 whenever possible;
142 15. ~~(o)~~ Consultation with a student's parent or guardian
143 regarding the need for health attention by the family physician,
144 dentist, or other specialist when definitive diagnosis or
145 treatment is indicated;
146 16. ~~(p)~~ Maintenance of records on incidents of health
147 problems, corrective measures taken, and such other information
148 as may be needed to plan and evaluate health programs; except,
149 however, that provisions in the plan for maintenance of health
150 records of individual students must be in accordance with s.
151 1002.22;
152 17. ~~(q)~~ Health information which will be provided by the
153 school health nurses, when necessary, regarding the placement of
154 students in exceptional student programs and the reevaluation at
155 periodic intervals of students placed in such programs; and
156 18. ~~(r)~~ Notification to the local nonpublic schools of the
157 school health services program and the opportunity for
158 representatives of the local nonpublic schools to participate in
159 the development of the cooperative health services plan.
160 (b) Each school health advisory committee must, at a
161 minimum, include members who represent the eight component areas

162 of the Coordinated School Health model as defined by the Centers
163 for Disease Control and Prevention. School health advisory
164 committees are encouraged to address the eight components of the
165 Coordinated School Health model in the school district's school
166 wellness policy pursuant to s. 1003.453.
167 Section 4. This act shall take effect July 1, 2006.

HB 999 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 999 CS Suicide Prevention
SPONSOR(S): Adams
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1876

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	8 Y, 0 N, w/CS	Hatfield	Mizereck
2) Future of Florida's Families Committee	7 Y, 0 N	Preston	Collins
3) Education Appropriations Committee		Hammock	Hamon
4) Education Council			
5)			

SUMMARY ANALYSIS

The bill establishes a pilot program on suicide and depression prevention to be conducted by the Signs of Suicide Prevention Program (SOS) for secondary schools in Brevard, Orange, Osceola, and Seminole counties during the 2006-2007 fiscal year.

In order for a county included in the pilot to receive funding, a proposal must be submitted to the Department of Education (DOE) by September 1, 2006.

The bill requires that local school personnel in each participating county receive materials necessary for program implementation. The parent of each student must be provided with a copy of a screening form and program information to assist the parent in the identification of depression and suicidal tendencies and to help initiate family discussions.

The bill requires a report to the President of the Senate and Speaker of the House of Representatives by January 1, 2007.

The bill appropriates $600,000 from the General Revenue Fund to the DOE for the 2006-2007 fiscal year for distribution to the Michael Buonauro Foundation for the SOS pilot program. The foundation must provide matching funds in the amount of $600,000 to receive this appropriation. See FISCAL ANALYSIS for further details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides Limited Government-- The bill establishes a pilot program for secondary schools in selected counties on suicide and depression prevention.

Empower Families-- The bill requires parents of each student in a participating school to be provided with information that may assist the parent in the identification of depression and suicidal tendencies and to help initiate family discussions.

B. EFFECT OF PROPOSED CHANGES:

Background

According to the National Center for Health Statistics, the suicide rate for youths and young adults aged 15-24 years has tripled since 1950, and suicide is now the third leading cause of death in this age group. Recent studies indicate that the incidence of suicide attempts among adolescents may exceed 10% annually, although it is difficult to obtain reliable estimates because of the accompanying stigma with attempting suicide.[1]

A relatively new approach to reducing the incidence of suicide among adolescents is found in Signs of Suicide (SOS), a school-based prevention program.[2] According to Screening for Mental Health, Inc., (SMH), the SOS Program is a nationally recognized, easily implemented, cost-effective program of suicide prevention for secondary school students. It is the only school-based program to:

- Show a reduction in suicide attempts (by 40%) in a randomized controlled study (American Journal of Public Health, March, 2004).
- Be selected by the Substance Abuse and Mental Health Services Administration (SAMHSA) for its National Registry of Evidence-based Programs and Practices (NREPP).

The SOS Program has also documented a dramatic increase in help-seeking. (Adolescent and Family Health, 2003).[3]

Secondary schools participating in the SOS program may choose from program materials including a video and discussion guide and screening forms. The SOS program's primary objectives are to educate teens that depression is a treatable illness and to equip them to respond to a potential suicide involving a friend or family member using the SOS technique. SOS is an action-oriented approach instructing students how to **ACT** (**A**cknowledge, **C**are, and **T**ell) in the face of this mental health emergency.[4]

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[1] Robert H. Aseltine Jr, Ph.D., and Robert DeMartino, M.D., *An Outcome Evaluation of the SOS Suicide Prevention Program*, American Journal of Public Health, March 2004, Vol. 94, No. 3, at 446.
[2] Id.
[3] www.mentalhealthscreening.org/highschool/
[4] Id.

According to SAMHSA, the average amount of time to implement the program across 376 schools was approximately 2.5 days, although almost 40% of schools reported that they completed the program in one day. Results of a multi-site evaluation revealed:

- The average number of youth seeking counseling for depression/suicidality in the 30 days following the program (9.59) was significantly higher when compared with the average number of youth seeking help per month over the past year (3.93). This was an increase of almost 150%.
- There was a 70% increase in the average number of youth seeking counseling for depression/suicidality on behalf of a friend in the 30 days following the program (3.79) when compared with the average number of youth seeking help for a friend per month over the past year (2.25).
- The average number of youth seeking counseling for depression/suicidality remained high in the 3 months following the program (9.74) per month, and was significantly higher than the previous school year (3.93). There was also a 25% increase in the number of youths seeking help for a friend 3 months after implementation (2.78) when compared to the past year (2.25).[5]

The Michael Buonauro Foundation

Judy and Frank Buonauro, whose son Michael died by suicide May 28, 2004, created the Michael Buonauro Foundation. The Foundation secured the SOS program for all public high school students in Orange County, Florida, for the 2005-2006 school year. Private schools were also invited to participate in the program.[6]

Effects of Proposed Changes

The bill establishes a pilot program on suicide and depression prevention for secondary schools in Brevard, Orange, Osceola, and Seminole counties during the 2006-2007 fiscal year.

The bill provides legislative intent including support and funding for the pilot program and encourages collaboration with local mental health facilities and individual professionals.

In order for one of the counties authorized to participate in this pilot program to receive funding, the bill requires an SOS entity to submit a program proposal to the DOE by September 1, 2006.

The bill requires the pilot program to provide local school personnel in each participating county with the materials necessary for implementation. The parent of each student in a participating school must be provided with program information and a copy of a screening form to assist the parent in the identification of depression and suicidal tendencies and to help initiate family discussions.

The bill requires the SOS pilot program to provide a report to the President of the Senate and Speaker of the House of Representatives by January 1, 2007. The report must include the following:

- An itemized list of program costs;

[5] http://modelprograms.samhsa.gov/
[6] http://www.southwestorlandobulletin.com

- An evaluation of participating schools;
- An assessment of the quality of the program components;
- An assessment of the safety of program implementation;
- An assessment of the burden on school support staff after implementation;
- An assessment of the efficacy of the program; and
- Recommendations regarding program effects and outcomes.

The information must be reported for the pilot program in the aggregate, for each participating county, and for each participating school in each participating county.

The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Provides for a pilot program to be conducted by the Signs of Suicide Prevention Program for secondary schools in specified counties.

Section 2: Provides conditions for program funding.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill appropriates $600,000 from the General Revenue Fund to the DOE for the 2006-2007 fiscal year for the Signs of Suicide Prevention pilot program for secondary schools in Brevard, Orange, Osceola, and Seminole counties. Release of funds to the Michael Buonauro Foundation is contingent upon the Foundation providing equivalent matching funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In order for one of the counties authorized to participate in this pilot program to receive funding, the bill requires an SOS entity to submit a program proposal to the DOE by September 1, 2006. The bill also requires the SOS pilot program to provide a report to the President of the Senate and Speaker of the House of Representatives by January 1, 2007, containing the following:

- An itemized list of program costs;
- An evaluation of participating schools;
- An assessment of the quality of the program components;
- An assessment of the safety of program implementation;
- An assessment of the burden on school support staff after implementation;
- An assessment of the efficacy of the program; and
- Recommendations regarding program effects and outcomes.

The amount of time between September 1, 2006 and January 1, 2007 may not allow enough time for the information required in the report to be obtained.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the PreK-12 Committee adopted a strike-all amendment. This bill analysis reflects the bill as amended.

CHAMBER ACTION

The PreK-12 Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to suicide prevention; providing legislative intent; providing for a pilot program to be conducted by the Signs of Suicide Prevention Program for secondary schools in specified counties; requiring the submission of proposals to the Department of Education; providing for student participation in the pilot program and for the provision of certain information to parents; requiring a report to the Legislature; providing an appropriation; providing an effective date.

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

Section 1. Signs of Suicide Prevention Program for secondary schools; pilot program; legislative intent.--

(1) It is the intent of the Legislature to provide support and funding for a suicide and depression prevention pilot program conducted by the Signs of Suicide Prevention Program for secondary schools, hereinafter referred to as "SOS." The pilot

24 program shall encourage collaboration with local mental health
25 facilities and individual professionals.
26 (2) During the 2006-2007 fiscal year, an SOS pilot program
27 shall be conducted in Brevard, Orange, Osceola, and Seminole
28 counties. In order to receive funding under this act, an SOS
29 entity for a county authorized to participate in the pilot
30 program must submit to the Department of Education by September
31 1, 2006, a proposal for suicide and depression prevention for
32 secondary school students who attend school in that county. The
33 pilot program shall provide school personnel in each
34 participating school with the materials necessary for
35 implementation.
36 (3) The parent of each student in a participating school
37 shall be provided with a copy of program information and a
38 screening form to assist the parent in the identification of
39 depression and suicidal tendencies and to help initiate family
40 discussions.
41 (4) By January 1, 2007, the district school board of each
42 participating county shall provide to the President of the
43 Senate and the Speaker of the House of Representatives a report
44 that includes an itemized list of program costs, an evaluation
45 of participating schools, an assessment of the quality of the
46 program components, an assessment of the safety of program
47 implementation, an assessment of the burden on school support
48 staff after implementation of the program, an assessment of the
49 efficacy of the program, and recommendations regarding program
50 effects and outcomes. The information shall be reported for the

51 pilot program in the aggregate, for each participating county,
52 and for each participating school in each participating county.
53 Section 2. The sum of $600,000 is appropriated from the
54 General Revenue Fund to the Department of Education for the
55 2006-2007 fiscal year to be distributed to the Michael Buonauro
56 Foundation to implement the Signs of Suicide Prevention Program
57 as a pilot program for secondary schools in Brevard, Orange,
58 Osceola, and Seminole counties in accordance with this act. The
59 Michael Buonauro Foundation shall provide matching funds in the
60 amount of $600,000 in order to receive the appropriation from
61 the General Revenue Fund.
62 Section 3. This act shall take effect July 1, 2006.

HB 1065

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1065 Educational Opportunities for Children and Spouses of Deceased or Disabled Veterans and Servicemembers
SPONSOR(S): Jordan
TIED BILLS: **IDEN./SIM. BILLS:** SB 2034

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Community Colleges & Workforce Committee	6 Y, 0 N	Thomas	Ashworth
2) Military & Veteran Affairs Committee	7 Y, 0 N	Marino	Cutchins
3) Education Appropriations Committee		Hammock	Hamon
4) Education Council			
5)			

SUMMARY ANALYSIS

The bill provides educational opportunity for spouses of deceased or certain disabled service members with the following requirements:

- An unremarried spouse of a deceased servicemember qualifies if:
  - spouse and servicemember were residents of the state for 1 year preceding the servicemember's death; and
  - unremarried spouse applies to use the benefit within 5 years after the servicemember's death.
- A dependent spouse of a disabled servicemember qualifies:
  - if married to the servicemember for 1 year; and
  - if spouse and servicemember were residents of the state for 1 year preceding the occurrence of the servicemember's disability and the disability is a service-connected 100-percent permanent and total disability as determined by the United States Department of Veterans Affairs or its predecessors; and
  - only during the duration of the marriage and up to the point of termination of the marriage by dissolution or annulment.

The bill provides that the funds appropriated for this provision may only be used for tuition and registration fees at state-supported institutions of higher learning, including community colleges and career centers.

The effective date provided is July 1, 2006.

The fiscal impact of the bill is indeterminate. Please see "Fiscal Comments" for further information.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families – The bill allows educational opportunity for spouses of deceased or certain disabled servicemembers.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Scholarships for Children of Deceased or Disabled Veterans

Section 295.01, F.S., provides educational opportunity at state expense for children of a member of the U.S. Armed Forces if the military member entered the Armed Forces while a resident of Florida and died from service-related injuries, disease, or disability while on active-duty or was determined by the U.S. Department of Veterans Affairs to have a 100-percent permanent and total service-related disability. In addition, the parents must have been residents of Florida for one year preceding the death or occurrence of such disability.

Effective July 1, 2005, the statute was amended to include children of deceased or disabled military personnel who die or become disabled in Operation Iraqi Freedom, and reduced the number of years required for the parents to be Florida residents preceding the death or disability from five years to one year. As a result, the projected number of awards has increased for fiscal years 2005-2006 and 2006-2007.

The chart below tracks the program's appropriations and cost, and the number of participating students over the last few years[1] as well as projections for fiscal years 2005-2006 and 2006-2007.

Fiscal Year	Number of Awards	Average Award*	Expended Funds	Appropriation Amount
1999-00	142	$1,513	$214,861	$333,250
2000-01	158	$1,590	$251,191	$333,250
2001-02	168	$1,768	$297,062	$333,250
2002-03	151	$1,961	$296,130	$333,250
2003-04	157	$2,053	$322,294	$333,250
2004-05	149	$2,105	$313,691	$333,250
2005-06	170**	$2,254**	TBD	$383,250
2006-07	197**	$2,323**	TBD	$457,723***

*The maximum award differs per student as it is equal to the tuition and fees at a public postsecondary institution.
** Projected
***HB 5001, 2006 General Appropriations Act

Student Eligibility for Children of Deceased or Disabled Veterans

Eligible students are required to:
- Submit a completed Florida Financial Aid Application for students by April 1.

[1] Office of Student Financial Assistance, Florida Department of Education, "2003-04 Annual Report to the Commissioner," November 2004, page 19.

- Be a dependent child between the ages of 16 years and 22 years of a Florida qualified veteran by the Florida Department of Veterans' Affairs.
- Meet Florida's general eligibility requirements.
- Be enrolled in an undergraduate degree or certificated program.
- Be enrolled for a minimum of six credit hours, 180 clock hours, or the equivalent, per term at an eligible postsecondary institution.
- Not be in default on any federal Title IV or state student loan program unless satisfactory arrangements to repay have been made.
- Not have previously received a bachelor's degree.

Federal Law:

Under current federal legislation, U. S. Department of Veterans Affairs education benefits are available to qualifying spouses and children of veterans who died of a service-connected disability.

Benefits include payment of a monthly education or training allowance and may be awarded for pursuit of associate, bachelor, or graduate degrees at colleges and universities, including independent study, cooperative training and study abroad programs. Funds may be used to cover more than tuition and books.

Courses leading to a certificate or diploma from business, technical or vocational schools also may be taken.

Effective Oct. 1, 2004, the rate of compensation is $803 a month for full-time school attendance, with lesser amounts for part-time training. A person may receive educational assistance for full-time training for up to 45 months or the equivalent in part-time training.

Payments to a spouse end 10 years from the date the individual is found eligible or from the date of the death of the veteran. Children generally must be between the ages of 18 and 26 to receive education benefits, though extensions may be granted.

Effect of Proposed Changes:

The bill provides educational opportunity for spouses of deceased or certain disabled service members with the following requirements:

- An unremarried spouse of a deceased servicemember qualifies if:
  - spouse and servicemember were residents of the state for 1 year preceding the servicemember's death; and
  - unremarried spouse applies to use the benefit within 5 years after the servicemember's death.
- A dependent spouse of a disabled servicemember qualifies:
  - if married to the servicemember for 1 year; and
  - if spouse and servicemember were residents of the state for 1 year preceding the occurrence of the servicemember's disability and the disability is a service-connected 100-percent permanent and total disability as determined by the United States Department of Veterans Affairs or its predecessors; and
  - only during the duration of the marriage and up to the point of termination of the marriage by dissolution or annulment.

Though the bill provides for spouses or deceased or disabled servicemembers rather than veterans, which by statute are two different classifications (s. 1.01(14) and 250.01 respectively), the bill requires the same deceased and disability eligibility requirements as required for children of deceased and disabled veterans. (s. 295.01(1)).

The bill provides that the funds appropriated for this provision may only be used for tuition and registration fees at state-supported institutions of higher learning, including community colleges and career centers.

C. SECTION DIRECTORY:

Section 1. Amends s. 295.01, F.S.; providing that it is the declared policy of the state to provide educational opportunity at state expense for spouses of deceased or certain disabled servicemembers; providing criteria for qualification for such benefits for unremarried spouses of deceased servicemembers and dependent spouses of certain disabled servicemembers; specifying uses of funds appropriated for such educational opportunities.

Section 2. Amends s. 295.03, F.S.; relating to withdrawal of benefits upon failure to comply with minimum educational requirements; revising terminology.

Section 3. Amends s. 295.05, F.S.; relating to enrollment as a prerequisite to receipt of benefits; revising terminology.

Section 4. Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   The fiscal impact on state government expenditures is indeterminate. It is unknown how many students would be eligible and apply for this benefit. 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:

It is unknown how many 100-percent permanently and totally disabled veterans entered the military in Florida, were residents for one year preceding disability, or were married at the time of their disability. It is also unknown the number of spouses without children who might also be eligible.

The Department of Education has projected 197 eligible children awardees for fiscal year 2006-2007. Assuming each awardee has a parent that would be eligible, the additional number of awardees would be 197. To maintain the award level in HB 5001, 2006 General Appropriations Act, the appropriation of $457,723 would need to be doubled.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

The State Board of Education currently has rulemaking authority regarding this issue under s. 295.01, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to educational opportunities for children
3 and spouses of deceased or disabled veterans and
4 servicemembers; amending s. 295.01, F.S.; providing that
5 it is the declared policy of the state to provide
6 educational opportunity at state expense for spouses of
7 deceased or disabled servicemembers; providing criteria
8 for qualification for such benefits for unremarried
9 spouses of deceased servicemembers and dependent spouses
10 of disabled servicemembers; specifying uses of funds
11 appropriated for such educational opportunities; amending
12 s. 295.03, F.S., relating to withdrawal of benefits upon
13 failure to comply with minimum educational requirements;
14 revising terminology; amending s. 295.05, F.S., relating
15 to enrollment as a prerequisite to receipt of benefits;
16 revising terminology; providing an effective date.
17
18 Be It Enacted by the Legislature of the State of Florida:
19
20 Section 1. Section 295.01, Florida Statutes, is amended to
21 read:
22 295.01 Children of deceased or disabled veterans; <u>spouses</u>
23 <u>of deceased or disabled servicemembers;</u> education.--
24 (1) It is hereby declared to be the policy of the state to
25 provide educational opportunity at state expense for dependent
26 children either of whose parents entered the Armed Forces and:
27 (a) Died as a result of service-connected injuries,
28 disease, or disability sustained while on active duty; or

29 (b) Has been:
30 1. Determined by the United States Department of Veterans
31 Affairs or its predecessor to have a service-connected 100-
32 percent total and permanent disability rating for compensation;
33 2. Determined to have a service-connected total and
34 permanent disability rating of 100 percent and is in receipt of
35 disability retirement pay from any branch of the United States
36 Armed Services; or
37 3. Issued a valid identification card by the Department of
38 Veterans' Affairs in accordance with s. 295.17,
39
40 when the parents of such children have been ~~bona fide~~ residents
41 of the state for 1 year immediately preceding the death or
42 occurrence of such disability, and subject to the rules,
43 restrictions, and limitations set forth in this section.
44 (2) It is also the declared policy of the state to provide
45 educational opportunity at state expense for spouses of deceased
46 or disabled servicemembers.
47 (a) The unremarried spouse of a deceased servicemember, as
48 defined in s. 250.01, qualifies for the benefits under this
49 section:
50 1. If the servicemember and his or her spouse had been
51 residents of the state for 1 year immediately preceding the
52 servicemember's death and the servicemember's death occurred
53 under the circumstances provided in subsection (1); and
54 2. If the unremarried spouse applies to use the benefit
55 within 5 years after the servicemember's death.

56 (b) The dependent spouse of a disabled servicemember, as
57 defined in s. 250.01, qualifies for the benefits under this
58 section:
59 1. If the servicemember and his or her spouse have been
60 married to each other for 1 year; and
61 2. If the servicemember and his or her spouse have been
62 residents of the state for 1 year immediately preceding the
63 occurrence of the servicemember's disability and the disability
64 meets the criteria set forth in subsection (1); and
65 3. Only during the duration of the marriage and up to the
66 point of termination of the marriage by dissolution or
67 annulment.
68
69 Notwithstanding s. 295.02, funds appropriated to carry out the
70 provisions of this subsection may only be used for tuition and
71 registration fees at state-supported institutions of higher
72 learning, including community colleges and career centers. All
73 rules, restrictions, and limitations set forth in this section
74 shall apply.
75 (3) ~~(2)~~ Sections 295.03, 295.04, 295.05, and 1009.40 shall
76 apply.
77 (4) ~~(3)~~ The State Board of Education shall adopt rules for
78 administering this section.
79 Section 2. Section 295.03, Florida Statutes, is amended to
80 read:
81 295.03 Minimum requirements.--Upon failure of any student
82 ~~child~~ benefited by the provisions of this chapter to comply with
83 the ordinary and minimum requirements of the institution

84 attended, both as to discipline and scholarship, the benefits
85 thereof shall be withdrawn as to the student ~~child~~ and no
86 further moneys expended for his or her benefits so long as such
87 failure or delinquency continues.
88 Section 3. Section 295.05, Florida Statutes, is amended to
89 read:
90 295.05 Admission; enrollment.--Eligibility for admission
91 is not affected by this chapter, but all students ~~children~~
92 receiving benefits under this chapter shall be enrolled
93 according to the customary rules and requirements of the
94 institution attended.
95 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1243 CS Education Personnel
SPONSOR(S): Mahon
TIED BILLS: HJR 447 CS **IDEN./SIM. BILLS:** SB 1148

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	6 Y, 2 N, w/CS	Beagle	Mizereck
2) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

Regional professional development academies (RPDA) are a component of Florida's statewide system of professional development and inservice training. RPDAs collaborate with local business partners to develop educator training programs, and in turn market those programs to area teachers, administrators, schools and school districts.

RPDAs are initially funded through public matching start-up funds and must be self-sufficient after one year of operation.

The bill enables RPDAs to receive additional public funding after year one of operation and specifies that an RPDA is not part of a school district or governmental unit that it serves.

The bill has an indeterminate fiscal impact. See FISCAL ANALYSIS for details.

The bill takes effect on July 1, 2006, if HJR 447 or similar legislation is adopted in the same Legislative session.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides Limited Government: The bill enables regional professional development academies to receive state funding after their first year of operation.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Current Florida law provides for a coordinated system of professional development for teachers, managers, and administrators to enable the education community to meet state and local student achievement standards and state education goals.[1] Each school district must develop a professional development system and master plan for inservice activities. The Department of Education (DOE) must develop model plans, including use of student achievement data to align professional development programs with identified student needs.[2] School district plans must be approved by the DOE.

Similarly, s. 1012.985, F.S., establishes a system of inservice training designed to upgrade the skills of teachers, managers, and administrative personnel. RPDAs are the delivery mechanism in this system. RPDAs collaborate with local business partners to develop training programs, and in turn market those programs to schools in the region.[3] The Schultz Center for Teaching and Leadership is the only RPDA established to date.

Initial funding for RPDAs may be provided through start-up funds from the DOE or as otherwise provided in the General Appropriations Act. To be eligible for start-up funds, the RPDA must meet the following criteria:

- Demonstrate collaboration with local business, district school boards, and postsecondary education institutions which may award college credit for courses offered by RPDA programs;
- Demonstrate capacity to improve teaching skills, provide ongoing follow-up and coaching, and meet professional development needs relating to improving student achievement;
- Be operated under contract with its public partners and governed by an independent board;
- Match start-up funds with an equal or greater amount of funding from private sources during its first year of operation, unless the RPDA is operated by a regional educational consortia;
- Demonstrate the ability to be self-supporting within one-year after opening through fees for service, grants, or private funds; and
- Own or lease a facility for providing programs.

The RPDA must contract with participating school districts to provide professional development services and may also market services to other school districts, private schools, or individuals not under contract.

Effect of Proposed Changes:

Currently, a RPDA must be self-sufficient after its first year of operation. House bill 1243 enables RPDAs to receive funding from DOE or as otherwise provided in the General Appropriations Act after their first year of operation. Subsequent funding may be used for the purposes of developing or

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[1] Section 1012.98, F.S.
[2] Id.
[3] Section 1012.985, F.S.

expanding existing programs, assessing inservice training or professional development, or to create additional programs.

The bill stipulates that a RPDA is not a component of any school district or governmental unit to which it provides service. However, this will not inhibit the Auditor General's authority[4] to review agreements between school districts and RPDAs, nor will it exempt RPDAs from public records[5] laws. The bill's effective date is contingent upon passage of HJR 447 (related to class size reduction and 65% of funding for classroom instruction) during the Legislative session.

C. SECTION DIRECTORY:

Section 1. Amends s. 1012.985, F.S.; providing that a RPDA may receive public funding subsequent to its first year of operation; providing that a RPDA is not part of a school district or governmental entity to which it provides services.

Section 2. Provides an effective date of July 1, 2006 contingent on the passage of HJR 447 or similar legislation in the 2006 Legislative session.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   The fiscal impact of the bill on state expenditures depends on the extent additional public funds are provided by the Department of Education or in the General Appropriations Act. HB 5001, 2006 General Appropriations Act, provides $350,000 to the Schultz Center for Teaching and Leadership.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Increased public funding may allow RPDAs to expand programs and services, thus generating additional revenues for these public-private partnerships.

D. FISCAL COMMENTS:

Current law requires that RPDAs be self-sufficient after year one of operation. The bill enables RPDAs to receive additional public funding after year one of operation.

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[4] Senate Bill Analysis on Senate Bill 1148.

[5] Florida Department of Education, Legislative Bill Analysis on Senate Bill 1148.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that counties and municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the PreK-12 Committee adopted one amendment to the bill. The amendment provides that the bill's effective date is contingent upon passage of HJR 447 (related to class size reduction and 65% of funding for classroom instruction) during the 2006 Legislative session.

This bill analysis reflects the bill as amended.

CHAMBER ACTION

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1 The PreK-12 Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to education personnel; amending s.
7 1012.985, F.S.; authorizing a regional professional
8 development academy to receive funds from certain sources
9 for the purpose of developing programs and services;
10 providing that a regional professional development academy
11 is not a component of any school district or governmental
12 unit to which it provides services; providing a contingent
13 effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Section 1012.985, Florida Statutes, is amended
18 to read:
19 1012.985 Statewide system for inservice professional
20 development.--
21 (1) The intent of this section is to establish a statewide
22 system of professional development that provides a wide range of
23 targeted inservice training to teachers, managers, and

24 administrative personnel designed to upgrade skills and
25 knowledge needed to reach world class standards in education.
26 The system shall consist of a network of professional
27 development academies in each region of the state which ~~that~~ are
28 operated in partnership with area business partners to develop
29 and deliver high-quality training programs purchased by school
30 districts. The academies shall be established to meet the human
31 resource development needs of professional educators, schools,
32 and school districts. Funds appropriated for the initiation of
33 professional development academies shall be allocated by the
34 Commissioner of Education, unless otherwise provided in an
35 appropriations act. To be eligible for startup funds, the
36 academy must:
37 (a) ~~(1)~~ Be established by the collaborative efforts of one
38 or more district school boards, members of the business
39 community, and the postsecondary educational institutions which
40 may award college credits for courses taught at the academy.
41 (b) ~~(2)~~ Demonstrate the capacity to provide effective
42 training to improve teaching skills in the areas of elementary
43 reading and mathematics, the use of instructional technology,
44 high school algebra, and classroom management, and to deliver
45 such training using face-to-face, distance learning, and
46 individualized computer-based delivery systems.
47 (c) ~~(3)~~ Propose a plan for responding in an effective and
48 timely manner to the professional development needs of teachers,
49 managers, administrative personnel, schools, and school
50 districts relating to improving student achievement and meeting
51 state and local education goals.

52 (d) ~~(4)~~ Demonstrate the ability to provide high-quality
53 trainers and training, appropriate followup and coaching for all
54 participants, and support school personnel in positively
55 impacting student performance.
56 (e) ~~(5)~~ Be operated under contract with its public partners
57 and governed by an independent board of directors, which should
58 include at least one district school superintendent and one
59 district school board chair from the participating school
60 districts, the president of the collective bargaining unit that
61 represents the majority of the region's teachers, and at least
62 three individuals who are not employees or elected or appointed
63 officials of the participating school districts. Regional
64 educational consortia as defined in s. 1001.451 satisfy the
65 requirements of this paragraph ~~subsection~~.
66 (f) ~~(6)~~ Be financed during the first year of operation by
67 an equal or greater match from private funding sources and
68 demonstrate the ability to be self-supporting within 1 year
69 after opening through fees for services, grants, or private
70 contributions. Regional educational consortia as defined in s.
71 1001.451 which serve rural areas of critical economic concern
72 are exempt from the funding match required by this paragraph
73 ~~subsection~~.
74 (g) ~~(7)~~ Own or lease a facility that can be used to deliver
75 training onsite and through distance learning and other
76 technology-based delivery systems. The participating district
77 school boards may lease a site or facility to the academy for a
78 nominal fee and may pay all or part of the costs of renovating a

79 facility to accommodate the academy. The academy is responsible
80 for all operational, maintenance, and repair costs.
81 (h) ~~(8)~~ Provide professional development services for the
82 participating school districts as specified in the contract and
83 may provide professional development services to other school
84 districts, private schools, and individuals on a fee-for-
85 services basis.
86 (2) Upon compliance with the requirements for the first
87 year of operation in paragraph (1)(f), a regional professional
88 development academy:
89 (a) May receive funds from the Department of Education or
90 as provided in the General Appropriations Act for the purpose of
91 developing programs, expanding services, assessing inservice
92 training and professional development, or other programs that
93 are consistent with the mission of the academy and the needs of
94 the state and region; and
95 (b) Is not, by virtue of providing services to one or more
96 school districts, a component of any school district or any
97 governmental unit to which the regional professional development
98 academy provides services.
99 Section 2. This act shall take effect July 1, 2006, if
100 House Joint Resolution 447 or similar legislation is adopted in
101 the same legislative session.

HB 1419

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1419 Scuba Diving Instructional Facilities
SPONSOR(S): Attkisson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Community Colleges & Workforce Committee	6 Y, 0 N	Thomas	Ashworth
2) Education Appropriations Committee		Hammock	Hamon
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

The bill provides that scuba diving instructional facilities may be exempt for licensure requirements by the Commission of Independent Education (the Commission) under s. 1005.06, F.S., if:

- They are approved or certified by a dive training organization whose standards have been evaluated and approved by the Commission of Independent Education.

The Commission of Independent Education must find that the dive training organization's standards are substantially equivalent to their licensure standards.

The bill defines a dive training organization as an organization that publishes definitive courses of recreational diver instruction, courses for the training of recreational diver instructors, and instructor standards of conduct and training procedures.

Scuba diving facilities would no longer be required to pay costs associated with being licensed by the Commission. The Commission currently has 19 licensed scuba diving instructional facilities. The average cost of the license is approximately $3,000. Although no fees would be collected, the Commission would still have a workload associated with evaluating and approving the standards of the dive training organization.

The Commission is statutorily required to generate fees sufficient to support the annual appropriations of its operation. The loss of revenue of approximately $57,000 would have to be recovered by increasing the fees assessed to other institutions licensed by the Commission.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the house principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 1005, F.S., provides for the licensure of nonpublic postsecondary educational institutions and establishes the Commission for Independent Education to function in matters concerning independent postsecondary educational institutions in consumer protection, program improvement, and licensure for institutions under its purview (s. 1005.21, F.S.)

The purpose of the chapter, pursuant to s.1005.01, F.S., includes encouraging privately supported higher education, aiding in protecting the health, education and welfare of persons who receive educational services from independent postsecondary educational institutions in this state, and aiding in protecting independent postsecondary educational institutions that currently operate or intend to begin operating in Florida. Both individuals and independent postsecondary educational institutions benefit from a state system that assures that all institutions satisfactorily meet minimum educational standards.

Section 1005.02(11), F.S., defines "independent postsecondary educational institution" as any postsecondary educational institution that operates in this state or makes application to operate in this state, and is not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government.

The definition of "school" in s. 1005.02(16), F.S., includes any nonpublic postsecondary noncollegiate educational institution, association, corporation, person partnership, or organization of any type which provides an complete postsecondary program of instruction through the students' attendance in the presence of an instructor; in a classroom or other practicum setting, or receives remuneration from the student.

Section 1005.06, F.S., references the institutions that are not required to obtain licensure and therefore are not under the jurisdiction or purview of the commission. That would include institutions that offer only avocational programs, contract training programs, religious colleges with a sworn affidavit, institutions regulated by the Federal Aviation Administration, another agency of the Federal Government or an agency of the state whose regulatory laws are similar in nature to those of the commission.

Commission of Independent Education
Though administratively served by the Department of Education, the Commission exercises independently all powers, duties and functions as prescribed by law. The revenue for the operation of the Commission is generated from the fees established annually by the Commission.

Scuba Diving Instructional Facility
Currently, scuba diving instructional facilities request licensure through the Commission of Independent Education. Applicants are required to achieve 12 standards before the application is presented to the Commission of Independent Education Board for approval. The applications are reviewed by staff who responds to the applicant within 30 days from the date the application is received. The Commission holds board meetings every 2 months where applications are reviewed by the commissioners on the board. The Commission has currently 19 scuba diving instructional facilities licensed by them.

The Commission's sub-committee that examines dive schools has identified four reputable dive organizations listed below.[1] These dive organizations currently do not have to receive any type of licensure from the Commission of Independent Education.

National Association of Underwater Instructors (NAUI)
P.O. Box 89789
Tampa, FL 33689-0413
800-553-6284
www.naui.org

Professional Association of Diving Instructors (PADI)
30151 Tomas Street
Rancho Santa Margarita, CA 92688-2125
800-729-7234
www.padi.com

Scuba Schools International (SSI)
2619 Canton Court
Fort Collins, CO 80525
970-482-0883
www.ssiusa.com

Scuba Diving International (SDI)
18 Elm Street
Topsham, Maine 04086
888-778-9073
worldhq@tdisdi.com

Effect of Proposed Changes

The bill provides that scuba diving instructional facilities may be exempt for licensure requirements by the Commission of Independent Education if they are approved or certified by a dive training organization whose standards have been evaluated and approved by the Commission of Independent Education.

The Commission must find that the dive training organization's standards are substantially equivalent to their licensure standards.

The bill defines a dive training organization as an organization that publishes definitive courses of recreational diver instruction, courses for the training of recreational diver instructors, and instructor standards of conduct and training procedures.

C. SECTION DIRECTORY:

Section 1. Amends s. 1005.05, F.S., providing that certain scuba diving instructional facilities are not under the jurisdiction or purview of the Commission for Independent Education.

Section 2. Provides and effective date of July 1, 2006

[1] Commission for Independent Education March 22, 2006, Bill Analysis

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See fiscal comments.

2. Expenditures:

   See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The scuba diving facilities would no longer be required to pay costs associated with being licensed by the Commission. The average cost of the scuba diving instructional facility license is approximately $3,000 dollars per year. Actual costs vary per license as outlined below:

- New scuba diving instructional facilities have an initial annual license cost of $2,000 and $200 per program.
- Existing scuba diving facilities have a renewal fee of $1,500 per year and $50 per program.
  - Facilities that have been licensed by the Commission for one year and have less than 100 students have a base fee of $300
  - Facilities that have been licensed by the Commission for one year and have more than 100 students have a base fee of $900.

D. FISCAL COMMENTS:

Section 1005.35(1), F.S., states that the Commission shall annually establish a fee schedule to generate, from fees, the amount of revenue appropriated for its operation. Though the bill requires the Commission to evaluate and approve the standards of the dive training organization to determine if the standards are substantially equivalent to the licensure of the Commission, no fees would be collected.

The revenue loss to the Commission will be approximately $57,000 (19 dive schools @ $3,000 annual license fee.) The approximately 800 schools the Commission currently licenses could have fees increased to compensate for the revenue loss.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditures of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that counties and municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to scuba diving instructional facilities;
3 amending s. 1005.06, F.S.; providing that certain scuba
4 diving instructional facilities are not under the
5 jurisdiction or purview of the Commission for Independent
6 Education and are not required to obtain licensure;
7 providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Paragraph (h) is added to subsection (1) of
12 section 1005.06, Florida Statutes, to read:
13 1005.06 Institutions not under the jurisdiction or purview
14 of the commission.--
15 (1) Except as otherwise provided in law, the following
16 institutions are not under the jurisdiction or purview of the
17 commission and are not required to obtain licensure:
18 (h) A scuba diving instructional facility that is approved
19 or certified by a recognized dive training organization whose
20 standards have been evaluated and approved by the commission as
21 standards substantially equivalent to the licensure standards of
22 the commission. For purposes of this paragraph, a recognized
23 dive training organization is an organization that publishes
24 definitive courses of recreational diver instruction, courses
25 for the training of recreational diver instructors, and
26 instructor standards of conduct and training procedures.
27 Section 2. This act shall take effect July 1, 2006.

HB 1485

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1485 Funding for Educational Facilities
SPONSOR(S): Hays
TIED BILLS: **IDEN./SIM. BILLS:** SB 2480

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education Appropriations Committee		Eggers ME	Hamon Ku.H.
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

The bill increases funding for the Classrooms for Kids Program through the Public Education Capital Outlay and Debt Service Trust Fund from $41.75 million to $75 million.

The bill revises eligibility criteria and allocation methodology for the High Growth District Capital Outlay Assistance Grant Program.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Educational Facilities Funding

Funding for educational facilities is addressed in Part IV of Chapter 1013, F.S. Each district school board is required to adopt a capital outlay budget for the upcoming year, as part of the annual budget.[1] The board is prohibited from expending any funds on any project that is not included in the budget. Prior to adoption of the capital outlay budget, each district school board is required to prepare its tentative district educational facilities plan.[2]

Section 1013.64, F.S., addresses funds for comprehensive educational plant needs, and provides for specific allocations from the Public Education Capital Outlay and Debt Service Trust Fund (PECO). The Legislature is required to give priority consideration to remodeling, renovation, maintenance, repairs, and site improvement for existing satisfactory facilities for appropriations allocated to district school boards from the total amount of PECO.[3]

Each district school board is required to meet all educational plant space needs of its elementary, middle, and high schools, prior to spending funds from PECO or the School District and Community College District Capital Outlay and Debt Service Trust Fund for any ancillary plant or any other new construction, renovation, or remodeling of ancillary space.[4]

PECO consists of the following sources:

- Proceeds, premiums, and accrued interest from the sale of public education bonds and that portion of revenues accruing from the gross receipts tax, investment interest, and federal interest subsidies;
- General revenue funds appropriated to the fund for educational capital outlay purposes;
- All capital outlay funds previously appropriated and certified forward; and
- Funds paid pursuant to the excise tax on documents.[5]

Section 1013.64(3)(a)2., F.S., directs that 60 percent of each year's appropriation for new public school construction facilities be allocated to districts based on growth in capital outlay full-time equivalent (FTE) student membership and 40 percent allocated on base capital outlay FTE. State PECO funds are only one portion of the funds available to a district for its school facility construction needs. For most districts, the majority of the capital outlay funds are generated at the local level.

Section 1013.64(2)(a), F.S., authorizes as a part of the PECO Trust Fund, a separate account, in an amount determined by the Legislature, for the "Special Facility Construction Account" program, which is used to provide construction funds to school districts with urgent construction needs and insufficient local resources to meet those needs. The district must also pledge to use all of the school district's

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[1] s. 1013.64, F.S.
[2] *Id.*
[3] s. 1013.64(1)(a), F.S.
[4] s. 1013.64(6)(a), F.S.
[5] s. 1013.65(s)(a), F.S.

other capital outlay resources toward the project, with the understanding that the state will provide the remaining unfunded portion of the cost of the project.

Classrooms for Kids Program

Section 1013.735, F.S., provides for the allocation of funds for the Classrooms for Kids Program, the purpose of which is to increase capacity to reduce class size.[6] The 2005 Legislature provided for an annual appropriation of $41.75 million of PECO funds emanating from the excise tax to fund the Classrooms for Kids Program. A specific formula is provided in statute representing each district school board's share of the annual appropriation for the Classroom for Kids Program.[7] To be eligible to participate in the Program, a district school board is required to enter into an interlocal agreement; and certify that the district's inventory of facilities listed in the Florida Inventory of School Houses is accurate and current. Funds received are limited to certain expenditures involving construction, purchase, or lease-purchase.[8]

High Growth District Capital Outlay Assistance Grant Program

The 2005 Legislature established the High Growth District Capital Outlay Assistance Grant Program to provide additional money to high growth districts without sufficient capital outlay revenue[9] for the construction of student stations needed due to the rapid increase in the student population. The high growth districts targeted have comparatively low property tax bases. The program is funded through moneys provided in the General Appropriations Act.

To be eligible to participate in the Program, a school district must comply with the following:

- The district must have levied the full two mills of nonvoted discretionary capital outlay millage for each of the past four fiscal years;
- Fifty percent of the revenue derived from the two mill nonvoted discretionary capital outlay millage for the past four fiscal years, when divided by the district's growth in capital outlay FTE students over this period, produces a value that is less than the average cost per student station and weighted by statewide growth in capital outlay FTE students in elementary, middle, and high schools for the past four fiscal years;
- The district must have reached at least twice the statewide average of growth in capital outlay FTE students over this same four year period;
- The Commissioner of Education must have released all funds allocated to the district from the Classrooms First Program, which were fully expended by the district as of February 1 of the current fiscal year; and
- The total capital outlay FTE students of the district are more than 15,000 students.[10]

A $30 million appropriation in the 2005-06 fiscal year, subsequently vetoed by the Governor, was allocated based on the following methodology:

- For each eligible district, the Department of Education is required to calculate the value of 50 percent of the revenue derived from the two mill nonvoted discretionary capital outlay millage for the previous four fiscal years, divided by the increase in capital outlay FTE students for the same period;
- The Department of Education is required to determine, for each eligible district, the amount that must be added to the calculated value to produce the weighted average value per student station;

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[6] The Legislation established the Program in 2003 (Chapter 2003-391, L.O.F.)
[7] s. 1013.735(1), F.S.
[8] s. 1013.735(3), F.S.
[9] Chapter 2005-290, L.O.F.
[10] s. 1013.738(2), F.S.

- The value calculated for each eligible district is to be multiplied by the average increase in capital outlay FTE students for the previous four fiscal years to determine the maximum grant award; and
- If the funds are insufficient to fully fund the maximum grants calculation, the Department is required to allocate the funds based on each district's prorated share of the total maximum award amount calculated for all eligible districts.[11]

Seven districts, Clay, Hernando, Hillsborough, Lake, Osceola, St. Johns, and St. Lucie qualified for the grant. In terms of capital outlay FTE growth, the districts ranked 2nd, 7th, 8th, 9th, 14th, 15th, and 17th among the 67 school districts. Of the top twenty growth districts, ten districts did not qualify due to the two mill revenue and average cost per student station requirement, two districts did not qualify due to not levying the full two mills, and one district did not qualify due to having less than 15,000 students.

Proposed Changes:

This bill increases the annual appropriation to the Public Education Capital Outlay and Debt Service Trust Fund (PECO) authorized to fund the Classrooms for Kids Program from $41.75 million to $75 million.

This bill additionally amends the qualifying formula for school district eligibility for High Growth District Capital Outlay Assistance Grants as follows:

- Regarding the nonvoted discretionary capital outlay criteria, the bill shortens the fiscal year requirement to the past three years, and offers the following alternative: where the district can show that it currently receives an amount from the school capital outlay surtax, that, when added to the nonvoted discretionary capital outlay millage, equals the amount that would be generated otherwise;
- The district must receive revenue in the current fiscal year from the collection of a school impact fee and revenue collected from:
    - Local government infrastructure sales surtax;
    - School capital outlay surtax, subject to certain requirements; or
    - Local bond referendum;
- The district must have equaled or exceeded three times the statewide average of growth in capital outlay FTE students over the prior three year period; and
- The district must not have received an appropriation from the special facilities construction program in the current fiscal year or any of the two fiscal years prior to the current fiscal year.

The allocation formula is revised as follows:

- The Department will calculate a three-year weighted average cost per student station using the average cost per student station and the statewide average growth in capital outlay FTE students in elementary, middle, and high schools for the past three fiscal years.
- The revenue derived from the 2 mill nonvoted discretionary capital outlay millage for the past three fiscal years is to be divided by the increase in capital outlay FTE for the same period.
- The maximum potential grant for each eligible district is calculated by subtracting the amount calculated above from the three-year weighted average and multiplying the result by the average increase in capital outlay FTE students over the past three fiscal years.
- The Department is to prorate the appropriated funds based on each eligible district's prorated share of the total maximum award if the General Appropriations Act does not provide sufficient funding for the maximum grants calculated.

Based on the most recent information available, the following six districts would receive grants under the new methodology: Clay, Hernando, Lake, Osceola, St. Johns, and St. Lucie. It is important to note that district allocations for an appropriation made in the 2006-07 fiscal year would be based on data

[11] s. 1013.738(3), F.S.

that is updated one year to include data from the 2005-06 fiscal year, which may result in the same or different districts receiving the grant.

C. SECTION DIRECTORY:

Section 1. Amends section 1013.65(2)(a)4.a., F.S., revising the appropriation for the Classrooms for Kids Program.

Section 2. Amends section 1013.738 F.S., revising the eligibility criteria and funding methodology for the High Growth District Capital Outlay Assistance Grant Program.

Section 3. 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 does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

This bill increases the annual transfer to the Public Education Capital Outlay and Debt Service Trust Fund (PECO) authorized to fund the Classrooms for Kids Program from $41.75 million to $75 million.

The bill revises eligibility criteria and allocation methodology for the High Growth District Capital Outlay Assistance Grant Program. The following seven districts would have received funds under the current program, had the Governor not vetoed the $30 million appropriation: Clay, Hernando, Hillsborough, Lake, Osceola, St. Johns, and St. Lucie. Based on the revised criteria proposed by the bill, the following six districts would qualify for the program: Clay, Hernando, Lake, Osceola, St. Johns, and St. Lucie.

It is important to note that district allocations for an appropriation, if any, made in the 2006-07 fiscal year would be based on data that is updated one year to include the 2005-06 fiscal year, which may result in the same or different districts receiving the grant.

House Bill 5005 amends section 201.15(1)(d)3., F.S., deleting the $75 million transfer to the Classrooms for Kids Program and deleting the $30 million transfer to the High Growth District Capital Outlay Assistance Grant Program. House Bill 5005 transfers the entire $105 million to PECO for the

Classroom Capacity Assistance Grant Program. House Bill 5001, the House proposed General Appropriations Act for 2006-07, appropriates the $105 million for the Classroom Capacity Assistance Grant Program, which is created in House Bill 5005.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to funding for educational facilities;
3 amending s. 1013.65, F.S.; revising the sum appropriated
4 for the Classrooms for Kids Program; amending s. 1013.738,
5 F.S.; revising the eligibility criteria for the High
6 Growth District Capital Outlay Assistance Grant Program;
7 revising provisions for allocation of funds; providing
8 calculations; providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Paragraph (a) of subsection (2) of section
13 1013.65, Florida Statutes, is amended to read:
14 1013.65 Educational and ancillary plant construction
15 funds; Public Education Capital Outlay and Debt Service Trust
16 Fund; allocation of funds.--
17 (2)(a) The Public Education Capital Outlay and Debt
18 Service Trust Fund shall be comprised of the following sources,
19 which are hereby appropriated to the trust fund:
20 1. Proceeds, premiums, and accrued interest from the sale
21 of public education bonds and that portion of the revenues
22 accruing from the gross receipts tax as provided by s. 9(a)(2),
23 Art. XII of the State Constitution, as amended, interest on
24 investments, and federal interest subsidies.
25 2. General revenue funds appropriated to the fund for
26 educational capital outlay purposes.
27 3. All capital outlay funds previously appropriated and
28 certified forward pursuant to s. 216.301.

29 4.a. Funds paid pursuant to s. 201.15(1)(d).
30 b. The sum of $75 ~~$41.75~~ million of such funds shall be
31 appropriated annually for expenditure to fund the Classrooms for
32 Kids Program created in s. 1013.735 and shall be distributed as
33 provided by that section.
34 Section 2. Subsections (2) and (3) of section 1013.738,
35 Florida Statutes, are amended to read:
36 1013.738 High Growth District Capital Outlay Assistance
37 Grant Program.--
38 (2) In order to qualify for a grant, a school district
39 must meet the following criteria:
40 (a) The district must have levied the full 2 mills of
41 nonvoted discretionary capital outlay millage authorized in s.
42 1011.71(2) for each of the past 3 ~~4~~ fiscal years or currently
43 receive an amount from the school capital outlay surtax
44 authorized in s. 212.055(6) that, when added to the nonvoted
45 discretionary capital outlay millage collected, equals the
46 amount that would be generated if the full 2 mills of nonvoted
47 discretionary capital outlay millage had been collected over the
48 past 3 fiscal years.
49 (b) The district must receive in the current fiscal year
50 revenue from the collection of one of the following:
51 1. An educational impact fee.
52 2. A local government infrastructure sales surtax
53 authorized in s. 212.055(2).
54 3. A school capital outlay surtax authorized in s.
55 212.055(6). If the school capital outlay surtax is used to meet
56 the conditions of paragraph (a), the amount of the school

57 capital outlay surtax collected must be in excess of the amount
58 in paragraph (a).
59 4. A local bond referendum as authorized in ss. 1010.40-
60 1010.55.
61 ~~(b) Fifty percent of the revenue derived from the 2-mill~~
62 ~~nonvoted discretionary capital outlay millage for the past 4~~
63 ~~fiscal years, when divided by the district's growth in capital~~
64 ~~outlay FTE students over this period, produces a value that is~~
65 ~~less than the average cost per student station calculated~~
66 ~~pursuant to s. 1013.72(2), and weighted by statewide growth in~~
67 ~~capital outlay FTE students in elementary, middle, and high~~
68 ~~schools for the past 4 fiscal years.~~
69 (c) The district must have equaled or exceeded ~~twice~~ the
70 statewide average of growth in capital outlay FTE students over
71 the previous 3-year ~~this same 4-year~~ period.
72 (d) The district must not have received an appropriation
73 from the special facilities construction program in the current
74 fiscal year or the previous fiscal year. ~~The Commissioner of~~
75 ~~Education must have released all funds allocated to the district~~
76 ~~from the Classrooms First Program authorized in s. 1013.68, and~~
77 ~~these funds were fully expended by the district as of February 1~~
78 ~~of the current fiscal year.~~
79 ~~(e) The total capital outlay FTE students of the district~~
80 ~~is greater than 15,000 students.~~
81 (3) The funds provided in the General Appropriations Act
82 shall be allocated pursuant to the following methodology:
83 (a) The Department of Education shall calculate a 3-year
84 weighted average cost per student station using the average cost

85 per student station calculated under s. 1013.72(2) and the
86 statewide average growth in capital outlay FTE students in
87 elementary, middle, and high schools for the past 3 fiscal
88 years.
89 (b) For each eligible district, the revenue derived from
90 the 2-mill nonvoted discretionary capital outlay millage for the
91 past 3 fiscal years shall be divided by the increase in capital
92 outlay FTE for the same period.
93 (c) To determine the maximum potential grant for each
94 eligible district, the amount derived in paragraph (b) shall be
95 subtracted from the amount derived in paragraph (a) and
96 multiplied by the average increase in capital outlay FTE
97 students over the past 3 fiscal years.
98 (d) If the funds provided in the General Appropriations
99 Act are insufficient to fully fund the maximum grants calculated
100 pursuant to paragraph (c), the Department of Education shall
101 prorate the funds based on each eligible district's prorated
102 share of the total maximum award.
103 ~~(a) For each eligible district, the Department of~~
104 ~~Education shall calculate the value of 50 percent of the revenue~~
105 ~~derived from the 2-mill nonvoted discretionary capital outlay~~
106 ~~millage for the past 4 fiscal years divided by the increase in~~
107 ~~capital outlay FTE students for the same period.~~
108 ~~(b) The Department of Education shall determine, for each~~
109 ~~eligible district, the amount that must be added to the value~~
110 ~~calculated pursuant to paragraph (a) to produce the weighted~~
111 ~~average value per student station calculated pursuant to~~
112 ~~paragraph (2)(b).~~

113 ~~(c) The value calculated for each eligible district~~
114 ~~pursuant to paragraph (b) shall be multiplied by the average~~
115 ~~increase in capital outlay FTE students for the past 4 fiscal~~
116 ~~years to determine the maximum amount of a grant that may be~~
117 ~~awarded to a district pursuant to this section.~~
118 ~~(d) In the event the funds provided in the General~~
119 ~~Appropriations Act are insufficient to fully fund the maximum~~
120 ~~grants calculated pursuant to paragraph (c), the Department of~~
121 ~~Education shall allocate the funds based on each district's~~
122 ~~prorated share of the total maximum award amount calculated for~~
123 ~~all eligible districts.~~
124 Section 3. This act shall take effect July 1, 2006.

HB 1573 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1573 CS PCS FOR HJR 1573 Equal Opportunity to Obtain a High Quality Education
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee	5 Y, 2 N, w/CS	Hassell	Kooi
1) Education Appropriations Committee		Hamon K.W.H.	Hamon K.W.H.
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

This joint resolution proposes to create a new section in Article IX of the Florida Constitution relating to education. The joint resolution states that every child deserves an equal opportunity to obtain a high quality education and would apply to education programs for students in prekindergarten through college. It also clarifies that the joint resolution does not establish a right to an education program not provided by law.

The joint resolution would require that for kindergarten through grade 12, school districts must spend at least 65 percent of school funds on classroom instruction instead of administration. The joint resolution would also authorize the Legislature to create and expend public funds on education programs, regardless of whether some of those funds are directed to non-public providers or to participants that are religiously affiliated.

This joint resolution creates section 8, Article IX, of the Florida Constitution.

This is a joint resolution which requires passage by 3/5 vote of each chamber.

The Division of Elections with the Department of State estimates that the non-recurring cost of compliance with the publication requirements would be approximately $50,000 in the 2006-2007 fiscal year.

If certain scholarship programs ceased to exist, the state could experience increased costs of approximately $39.0 million in the Florida Education Finance Program (FEFP). See FISCAL COMMENTS.

If the joint resolution is passed in the 2006 Legislative session, the proposed amendment would be placed before the electorate at the 2006 general election, and if adopted will take effect January 2, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The joint resolution would authorize enhanced options for an equal opportunity to obtain a high quality education for every child from prekindergarten through college, as provided by law.

Safeguard individual liberty- The joint resolution would authorize enhanced options for an equal opportunity to obtain a high quality education for every child from prekindergarten through college, as provided by law.

Empower families- The joint resolution would authorize enhanced options for an equal opportunity to obtain a high quality education for every child from prekindergarten through college, as provided by law.

B. EFFECT OF PROPOSED CHANGES:

CONSTITUTIONAL AMENDMENT

Background

Florida's Free Public Schools Provision

As revised in 1998, Article IX, section 1(a) of the Florida Constitution states in pertinent part:

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

The revisions made to article IX, section 1, affirmed the understanding that education is and will continue to be a "fundamental value" and "a paramount duty of the state." The sole purpose of the Constitution Revision Commission's revision to article IX was "to increase the state's constitutional duty by raising the constitutional standard for adequate education, making the standard high quality."[1] There was no mention, at the time, of an intent to make public schools the exclusive manner by which the Legislature could make provision for educating children. In fact, a proposal to preclude educational vouchers was presented to the Commission by the public, but never accepted.[2]

Opportunity Scholarship Program

Following the Constitutional revision of 1998, the Legislature enacted the Opportunity Scholarship Program (OSP) as part of the A+ Education Plan in 1999,[3] based on a finding that a public school student should not be compelled to remain in a school deemed by the state to be failing for a minimum

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[1] Jon Mills and Timothy McLendon, *Setting a New Standard for Public Education: Revision 6 Increases the Duty of the State to Make "Adequate Provision" for Florida Schools,* 52 Fla. L. Rev. 329, 331 (2000).
[2] *Id.*
[3] ch. 99-398, Laws of Fla.

of two years during a four- year period.[4] The OSP was designed to provide the parents of a student attending, or assigned to attend, a failing school with the opportunity to send their child to a satisfactorily performing public school, or to an *eligible* private school of their choice. The program also provides students entering kindergarten or the first grade of a failing school with the same opportunity to choose an alternate public or private school.[5]

All private schools have the option to participate in the OSP so long as the schools meet the criteria set forth in statute and have registered to participate with the Department of Education (DOE).[6] The DOE is responsible for verifying the student's initial admission acceptance and continued enrollment and attendance in the chosen private school. After DOE provides proper documentation, the Chief Financial Officer makes four equal installments, known as warrants, payable to the student's parent. The warrant is mailed by the DOE to the chosen private school and the student's parent is then required to restrictively endorse the warrants to the private schools for receipt of the OSP funds.[7]

Participation of students and private schools has steadily increased as additional public schools have been deemed failing.[8] Currently, there are 733 students attending 53 private schools. Of the private schools participating in the OSP, 71.7 percent are sectarian, and 55.3 percent of the OSP students utilizing opportunity scholarships are attending those sectarian schools. The majority of private schools accepting OSP students have fewer than 10 students utilizing opportunity scholarships.[9] There are a few private schools in the Miami-Dade and Palm Beach County school districts, however, with larger numbers of scholarship students.

Bush v. Holmes I

The OSP has been the subject of a constitutional challenge since it was implemented in 1999. In 2000, the trial court held that OSP violates the free public schools provision of article IX, section 1, of the state Constitution.[10] On appeal, however, the First District Court of Appeal reversed the lower court's ruling and found that "nothing in article IX, section 1 clearly prohibits the Legislature from allowing the well-delineated use of public funds for private school education, particularly in circumstances where the Legislature finds such use necessary."[11] The appellate court declined to address the other constitutional issues raised, and remanded the case to the trial court for further proceedings.[12] The Florida Supreme Court denied discretionary review.[13]

Bush v. Holmes II - First DCA opinion

The trial court, on remand, held that OSP violated the no-aid provision of article I, section 3 of the Florida Constitution.[14] Article 1, section 3 of the Florida Constitution states in pertinent part:

> No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect,

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[4] Section 1002.38(1), F.S., provides that a failing school is a school that has received grade of "F" for two years in a four-year period.
[5] Section 1002.38(2) F.S., provides for student eligibility.
[6] Section 1002.38(4), F.S., provides eligibility requirements.
[7] Section 1002.38(6), F.S., provides methodology for funding and payment.
[8] Preliminary numbers for the 2005-2006 school year, however, show that there are 30 fewer students attending private schools on opportunity scholarships than the previous year.
[9] Based upon numbers provided by the Department of Education (DOE) for September 2005 voucher payments.
[10] *Bush v. Holmes et al.,* 767 So. 2d 668, 674 (Fla. 1st DCA 2000). The trial court applied the canon of construction *expression unius est exclusion alterius.*
[11] *Id.* at 675.
[12] *Id.*at 677.
[13] *See Holmes v. Bush,* 790 So. 2d 1104 (Fla. 2001).
[14] *Bush. v. Holmes*, 886 So. 2d 345 (Fla. 1st DCA 2004) (hereinafter *Holmes* II). The plaintiffs voluntarily dismissed their claims under the federal Establishment Clause and the school fund provision of Article IX, section 6, of the Florida constitution.

or religious denomination or in aid of any sectarian institution.

While the case was pending on remand, the U.S. Supreme Court upheld a program similar to the OSP. In *Zelman v. Simmons-Harris,* the Court held that the Ohio Pilot Project Scholarship Program was constitutional under the federal Establishment Clause.[15] The federal clause provides that "Congress shall make no law respecting an establishment of religion...."[16] Subsequently, the challengers to the OSP voluntarily dismissed their claims under the federal Establishment Clause and "the school fund provision" of the Florida Constitution.[17] The only remaining issue for the trial court to decide was whether the OSP violated the no-aid provision of the Florida Constitution.[18]

On appeal, a divided en banc panel of the First District Court of Appeal upheld the trial court's ruling that the OSP violates article I, section 3, of the Florida Constitution.[19] In so holding, the Court cited concerns over the fact that state revenues were being used to fund the scholarships, that the "direct or indirect" language in the constitution was a broad prohibition on the use of state revenues, and that the prohibition included many of the schools receiving the scholarships due to their religious affiliation.[20] The appellate court certified to the Florida Supreme Court the following question: "Does the Florida Opportunity Scholarship Program, section 229.0537, Florida Statutes (1999), violate article I, section 3 [the no-aid provision] of the Florida Constitution?"[21]

As noted above, the no-aid provision was the only constitutional ground upon which the trial and district courts based their opinions when *Bush v. Holmes* was heard a second time. Because the U.S. Supreme Court in *Zelman* held that a program similar to the OSP does not violate the federal Establishment Clause, the district court's majority opinion concentrated on how Florida's no-aid provision is more restrictive than the federal clause. The district court held that while the first sentence of Florida's provision is synonymous with the federal clause, the additional language of the state's no-aid provision expands restrictions on aid to religion by specifically prohibiting the expenditure of public funds "directly or indirectly" to aid sectarian institutions.[22]

The district court invalidated the OSP to the extent that it authorizes state funds to eventually reach sectarian schools.[23] The court went on to invalidate the entire statute because it could not find that the Legislature would have intended for provisions of the statute to be severable *or* that the Legislature would have adopted the OSP without the intent that vouchers would be used at private sectarian schools.[24]

Bush v. Holmes II – Supreme Court majority opinion

After granting certification, the court held that the OSP violates the free public school provision's requirement that adequate provision be made for a "uniform, efficient, safe, secure, and high quality system of free public schools."[25] The court found that the provision acted as a "limitation on the

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[15] See 536 U.S. 639 (2002). The Ohio program allowed parents of Cleveland schoolchildren to receive a tuition voucher redeemable either in participating Cleveland private schools or public schools in adjacent districts.
[16] U.S. CONST. amend I.
[17] Article IX, section 6, Fla Const.
[18] *Holmes II*, 886 So. 2d at 345.
[19] *Id.* at 340.
[20] *Id.* at 352-354.
[21] *Id.* at 367. Judge Benton wrote the majority opinion which was joined by seven other judges. He also wrote a separate opinion finding that OSP violated article 9, section 1, which was joined by only four out of the fourteen judges on the panel. Section 229.0537 F.S., cited by the court, was renumbered as a result of chapter 2002-387, Laws of Florida, and is now Section 1002.38, F.S.
[22] *Id.* at 344.
[23] *Id.* at 352.
[24] *Id.* at 346, FN 4. In an opinion concurring in part and dissenting in part, Judge Wolf would have upheld the provision allowing students to utilize vouchers at non-sectarian private schools (*id.* at 371).
[25] *Holmes v. Bush,* 919 So. 2d at 410. The court also noted that article IX, section 6, or the state school fund provision, limiting disbursement of funds to the "support and maintenance of free public schools," reinforced its opinion invalidating the OSP.

Legislature's power because it provides both a mandate to provide for children's education and a restriction on the execution of that mandate."[26] The court reasoned that the sentences comprising the free public schools provision must be read together.[27] The sentence mandating that "adequate provision" for public education be made must be read in conjunction with the successive sentence prescribing the manner for carrying out that mandate. Following the first trial court's reasoning, the Supreme Court found that the two sentences read together create an implied prohibition against the Legislature providing state funds for any means of education other than the public school system.[28]

Applying the doctrine of *expressio unius est exclusio alterius*, meaning the expression or inclusion of one thing implies the exclusion of alternatives, the Court read the constitutional directive to the state to provide for a "uniform, efficient, safe, secure, and high quality system of free public schools..." to prohibit any other program in addition to the uniform system of free public schools that is currently provided.[29]

The court also expressed concern that the private schools that students attend on opportunity scholarships are "not subject to the *uniformity* requirements of the public school system," mentioned in the constitution.[30] Though OSP students must take statewide assessment tests, the court noted that a private schools' curriculum and teachers are not subject to the same standards or supervision applied to public schools.[31] Without state regulation, the court opined, private school curriculum standards may vary greatly depending on the accrediting body.[32] Based upon this reasoning, the court found the alternative system of private schools receiving funding through the OSP did not meet the uniformity requirement.

The Court concluded its opinion by declining to address the no-aid provision in their opinion but stated that the Court "...neither approve[s] or disapprove[s] the First District's determination that the OSP violates the "no-aid" provision in Article 1, section 3 of the Florida Constitution...."[33]

Bush v. Holmes II – Supreme Court dissenting opinion

The dissent responded that the constitutional provision at issue was clear and unambiguous and that it should be given its plain and obvious meaning. Accordingly, there was no reason to resort to canons of statutory interpretation and construction in construing the intent of the provision.[34]

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[26] *Id.* at 406.
[27] *Id.* at 406-407 (employing the principal of statutory construction *in pari materia,* which means the provisions are to be construed together to ascertain the general meaning).
[28] *Id.* See *supra* note 11, at 2, for discussion of the statutory construction *expressio unius est exlusio alterius.*
[29] *Id.* at 406-407.
[30] *Id.* at 412. (emphasis added)
[31] *Id.* at 409-410.
[32] *Id.* at 410.
[33] *Id.* at 413.
[34] *See Holmes II,* 919 So. 2d 392, 420 (Bell, J. dissenting). The dissent recognized the significant expansion of the Court's authority through the use of *expressio unius* to interpret the free public schools provision and cited to the fact that courts nationwide generally agree that it is a maxim of statutory construction that should rarely, if ever, be used in construing the state constitution, and then, only with great caution. (Citing State ex rel. Jackman v. Court of Common Pleas of Cuyahoga County, 224 N.E. 2d 906, 910 (Ohio 1967) (recognizing that the *expressio unius* maxim should be applied with caution to constitutional provisions ... relating to the legislative branch of government, since [the maxim] cannot be made to restrict the plenary power of the legislature") (citing 16 C.J.S. *Constitutional Law* § 69 (2005) (stating "the maxim 'expressio unius est exclusion alterius' does not apply with the same force to a constitution as to a statute ..., and it should be used sparingly"); Reale v. Bd. of Real Estate Appraisers, 880 P.2d 1205, 1213 (Colo. 1994) (declaring that the *expressio unius* maxim is "inapt" when used to imply a limitation in a state constitution because the "powers not specifically limited [in the constitution] are presumptively retained by the people's representatives."); Penrod v. Crowley, 356 P.2d 73, 80 (Idaho 1960) (stating that *expressio unius* does not apply when interpreting the provisions of the state constitution.); Baker v. Martin, 410 S.E.2d 887, 891 (N.C. 1991) (stating that *expressio unius* has never been applied to interpret the state constitution because the maxim "flies in the face" of the principle that "[a]ll power which is not *expressly limited* ... in our State Constitution remains with the people, and an act of the people through their representatives in the legislature is valid unless prohibited by that Constitution.")

The dissent noted that unlike the federal constitution, the state constitution is a limitation upon the power of government rather than a grant of that power.[35] As such, the courts are without authority to invalidate the legislative enactment "unless it is clearly contrary to an express or necessarily implied prohibition within the constitution."[36]

The dissent pointed out that nothing in the text of article IX, section 1 clearly prohibits or necessarily implies the prohibition of the use of funds to provide other educational opportunities outside of the uniform system required by the provision. The text is devoid of language indicating an exclusive intent in that it does not state that "the government's provision for education shall be "by" or "through" a system of free public schools." It does require adequate provision "for" a system of free public schools which would not preclude additional programs. The dissent argued that "without language of exclusion or preclusion, there is no support for the majority's finding that public schools are the exclusive means by or through which the government may fulfill its duty to make adequate provision for the education of every child in Florida."[37] Consequently, the Court was without authority to declare OSP unconstitutional.[38]

Effect on Other Educational Choice Programs

The Supreme Court's opinion invalidating the OSP provided that the ruling is to apply prospectively at the end of the current school year to avoid disrupting the education of the scholarship students.[39] Similar to the district court's opinion, which sought to limit its application to the OSP, the Supreme Court attempted to limit its ruling, stating that the effect of its decision on other programs would be speculation.[40] The Court specifically noted, however, that prekindergarten, community colleges, adult education, and general welfare programs are not implicated by this decision.[41]

Nevertheless, despite the tenor of the court's ruling, there are other educational programs that could still be open to challenge under *either* the Supreme Court's ruling on the free public schools provision *or* the district court of appeal's ruling on the no-aid provision.[42]

John M. McKay Scholarship Program

In the 1999-2000 school year, the John M. McKay Scholarships for Students with Disabilities Program (McKay) was a pilot program in which two students chose to utilize a McKay scholarship to attend a school of their choice. Just six years later the popularity of the program has soared as 16,812 students chose to utilize a McKay scholarship in the 2005-2006 school year to attend a school of their choice.

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[35] *Id.* at 414, citing *Chiles v. Phelps,* 714 So.2d 453, 458 (Fla.1998) (citing *Savage v. Board of Public Instruction,* 101 Fla. 1362, 133 So. 341, 344 (1931), for the proposition that "[t]he Constitution of this state is not a grant of power to the Legislature, but a limitation only upon legislative power, and unless legislation be clearly contrary to some express or necessarily implied prohibition found in the Constitution, the courts are without authority to declare legislative [a]cts invalid" and recognizing that "[t]he legislature's power is inherent, though it may be limited by the constitution"); *see also State ex rel. Green v. Pearson,* 153 Fla. 314, 14 So.2d 565, 567 (1943) ("It is a familiarly accepted doctrine of constitutional law that the power of the Legislature is inherent.... The legislative branch looks to the Constitution not for sources of power but for limitations upon power.").

[36] *Id.,* citing *Chapman v. Reddick,* 41 Fla. 120, 25 So. 673, 677 (1899) ("[U]nless legislation duly passed be clearly contrary to some express or implied prohibition contained [in the constitution], the courts have no authority to pronounce it invalid.").

[37] *Id.* at 416.

[38] *Id.* at 413.

[39] *Id.*

[40] *Id.*

[41] *Id.* The Court found that these programs were not implicated because pre-kindergarten is addressed separately in the free public schools section and does not have a requirement that it be provided by particular means; community colleges and adult general education programs are not within the general conception of free public schools or institutions of higher learning; and many of the other private welfare programs are not affected by the constitutional provision upon which this opinion is based – article IX.

[42] Given that the First DCA is the only court to address the no-aid provision and its effect on a program such as OSP, it is binding statewide unless and until the Supreme Court addresses the issue. See *Stanfill v. State,* 384 So. 2d 141, 143 (Fla. 1980).

The McKay program allows parents of students with disabilities whose parent is "dissatisfied with the student's progress" at the child's assigned public school to choose the best academic environment for their child.[43] The McKay program is similarly structured to the OSP to the extent that parents of eligible students may choose from any private school, religious or non-religious, so long as the school meets the criteria set forth in statute.[44] Also, the manner in which McKay scholarship funds are distributed is similar to that of the OSP.[45]

Corporate Tax Credit Scholarship Program

The Corporate Tax Credit Scholarship Program (CTC) was established by the 2001 Legislature to provide an income tax credit for corporations that contribute money to nonprofit scholarship-funding organizations (SFO) that award scholarships to students within the state who qualify for free or reduced-price school lunches under the National School Lunch Program.[46] The corporations receive a dollar for dollar tax credit for these donations.

The CTC Program is similar to the OSP to the extent parents may choose any private school so long as the school meets the criteria set forth in statute.[47] However, there are differences in the way the CTC program is funded that may be significant with regard to potential constitutional challenges.

Unlike OSP, the CTC scholarships are funded solely through private donations. Although the donors receive a dollar for dollar tax credit for the donations, the money never becomes part of the state treasury and therefore, cannot be considered a government appropriation of funds. For example, in *Johnson v. Presbyterian Homes of Synod of Florida, Inc.,* the Florida Supreme Court held that a tax exemption for a property owned by the Presbyterian Synod of Florida "did not involve a disbursement from the public treasury." [48]

Likewise, tax credits similar to those provided in the CTC program have been found not to be violative of a constitutional provision similar to the language in article I, section 3, due to the fact that they do not involve a government appropriation of funds.[49] Nevertheless, there is no Florida case squarely on point involving a tax credit.

In the 2005-2006 school year, 14,084 students chose to utilize a CTC scholarship to attend a school of their choice, with approximately 82% of the students choosing to attend a sectarian school.[50] Of the 14,084 scholarship students 41.9% are African American, 23.1% are White, non-Hispanic and 22.1% are Hispanic.[51]

Voluntary Prekindergarten Education Program

In 2002, the electors of Florida approved Amendment No. 8 to the state Constitution.[52] The Amendment required the Legislature to establish a new early childhood development and education program for every four-year-old child in the state by the 2005 school year. The 2004 Legislature created the Voluntary Prekindergarten Education Program (VPK), which allows a parent to enroll his or her child in a voluntary, free prekindergarten program offered during the year before the child is eligible for admission to kindergarten.

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[43] Section 1002.39(2), F.S.
[44] Section 1002.39(4), F.S.
[45] Section 1002.39(6), F. S. Approximately 47.8% of the 16,812 students chose to attend a religiously affiliated school.
[46] Chapter 2001-225, L.O.F.; section 220.187(2)(e), F. S., defines qualified student.
[47] Section 220.187(6), F. S., provides for eligible nonpublic school obligations.
[48] 239 So. 2d 256 (Fla. 1970).
[49] *Kotterman v. Killian,* 972 P. 2d 606, 612-613, 620 (Ariz. 1999).
[50] Florida Department of Education, Corporate Tax Credit Scholarship Program February Quarterly Report 2006.
[51] *Id.*
[52] Article IX, section 1(b), Fla. Const.

The program allows public and non-public schools that educate four year- olds to receive funding from the state. However, apart from allowing religiously affiliated providers, the eligibility criteria for program providers are dissimilar to the OSP and McKay provider requirements.[53] As of January 31, 2006, there are 93,681 children enrolled in the VPK program of which 13,227 children are being served by faith based providers.[54] While the VPK program was expressly distinguished from OSP by the Florida Supreme Court majority, it remains vulnerable under the standing First DCA opinion.

Other Programs Potentially Affected

In addition to the McKay and VPK programs, the following list of State Funded Financial Aid Programs provides an account of how many students may be affected by the First District of Appeal's reasoning in that they are attending an institution with a religious affiliation and received financial aid in the 2004-2005 fiscal year.[55]

- The Bright Futures Scholarship Program is a lottery-funded scholarship program created by the 1997 Legislature to reward high school graduates who merit recognition of high academic achievement and enroll in a degree program, certificate program, or applied technology program at an eligible public or private Florida postsecondary institution.[56] 3,647 of the 130,597 Bright Futures Scholarship recipients attended an institution with a religious affiliation.
- The Florida Residence Access Grant (FRAG) is a tuition assistance program for students registered at eligible independent, nonprofit colleges or universities in Florida.[57] 16,275 of the 35,502 FRAG recipients attended an institution with a religious affiliation.
- The Florida Student Assistance Grant (FSAG) Program consists of three state-funded financial assistance programs that are available to undergraduate students who demonstrate financial need.[58] 6,637 of the 11,896 Florida Private Student Assistance Grant (FSAG-PR) recipients and 133 of the 10,745 of the Florida Postsecondary Student Assistance Grant (FSAG-PO) recipients attended an institution with a religious affiliation.
- The Mary McLeod Bethune Scholarship (MMB) Program provides matching grants for private sources that raise money for scholarships to be awarded to students who attend Florida Agricultural and Mechanical University, Bethune-Cookman College, Edward Waters College, or Florida Memorial College.[59] 223 of the 262 MMB recipients attended an institution with a religious affiliation.

Classroom Instruction Expenditure

The joint resolution would require that all districts spend no less than 65 cents out of every dollar received in the classroom than on administration costs. Classroom instruction and administration shall be defined by law. According to the National Center for Education Statistics (NCES), the average percentage of such expenditures within Florida's 67 school districts during the 2003-2004 school year was 59.19%.[60]

Effects of Proposed Changes

The joint resolution proposes to offer to the voters of Florida a new section of Article IX of the Florida Constitution that requires school funding to be prioritized toward classroom instruction and provides the Legislature with the authority to enact and publicly fund educational programs, for the purpose of

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[53] Sections 1002.71 and 1002.55, F.S.
[54] The Agency for Workforce Innovation
[55] Florida Department of Education Office of Student Financial Assistance
[56] Sections 1009.53 and 1009.5333, F.S.
[57] Section 1009.89, F.S. and Rule 6A-20.007, F.A.C.
[58] Sections 1009.50 - 1009.52, F.S. and Rules 6A-20.031 – 6A-20.033, F.A.C.
[59] Section 1009.73, F.S. and Rule 6A-20.029, F.A.C.
[60] This figure was determined through data provided by the Florida Department of Education and has not been finalized by NCES.

providing every child in the state with the opportunity to receive a high quality education. The joint resolution also clarifies that the amendment does not establish a right to an education program not provided by law.

Prioritizing Public School Funds to the Classroom

By Constitutional mandate, the Legislature has the duty to make adequate provision for the education of all children in the state of Florida.[61] The joint resolution states that in order to make such adequate provision for high quality public K-12 education, school districts must spend at least 65% of their funding on classroom instruction, rather than administration.

It also provides that the Legislature will define classroom instruction and administration in statute. Accordingly, should the resolution be approved by the electors in the November 2006 election, implementing legislation would determine the details of what constitutes classroom instruction and administrative expenditures.

As a result of the resolution, school districts will be required to focus their attention on how much of their educational funds are being spent in the classroom and prioritize their use of funds so that public school funding can be targeted to areas that will produce increased student performance.

Providing for Options that Include Non-Public Schools

The joint resolution also addresses the Legislature's authority to enact and fund public or non-public prekindergarten through college educational programs that provide options that include non-public schools.

This provision clearly addresses the constitutional viability of the McKay and CTC scholarship programs under Article IX, section 1 by specifically referencing students with disabilities and those who are economically disadvantaged. It also protects the VPK program, which is available to all 4 year-old children without regard to family income or disability, by clarifying the Legislature's authority to provide choice to any child whose parents request alternatives to traditional public education programs.

The joint resolution also clarifies the Legislature's authority to provide for and fund educational programs that allow for the participation of religious and non-religious individuals and non-public providers. This provision protects the McKay, VPK, Bright Futures, FRAG, FSAG, MMB and any other programs that might involve participation by religiously affiliated providers from challenge based upon the ruling by the First District Court of Appeal regarding Article I, section 3.

The joint resolution does not absolve the Legislature from funding the system of free public schools required by the Florida Constitution.[62] In contrast, it simply provides that the Legislature is not limited to one particular system, nor is it required to exclude the participation of religiously affiliated providers in its efforts to meet the mandate of providing high quality education to the citizens of Florida. Consequently, the joint resolution will preserve the ability of 16,812 McKay Scholarship students, 14,084 Corporate Tax Credit Scholarship students, 13,227 Voluntary Prekindergarten students, and 26,915 postsecondary education students to attend a non-public school of their choice, as provided by law.

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[61] Article IX, s. 1(a), Fla. Const.
[62] *Id.*

REVISION OR AMENDMENT TO THE STATE CONSTITUTION

Background

Amendments to Florida's Constitution can be proposed by five distinct methods: 1) joint legislative resolution, 2) the Constitutional Revision Commission, 3) citizen's initiative, 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.[63]

Depending on the method, all proposed amendments or revisions to the Constitution must be submitted to the electors at the next general election 1) held more than ninety days after the joint resolution, 2) 180 days after the report of the Constitutional Revision Commission or Taxation Budget Reform Commission, or 3) for citizen initiatives, if all the required signatures were submitted prior to February 1 of the year in which the general election is to be held.[64]

Article XI, s.1, of the Florida Constitution provides for proposed changes to the Constitution originating with the Legislature:

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

Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.[65] If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.[66]

The Florida Constitution provides that if the proposed amendment or revision is approved by the vote of electors, it is effective as an amendment to or revision of the Constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.[67]

Effects of Proposed Changes

This joint resolution proposes to create a new section of Article XI of the Florida Constitution relating to education. If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, and if adopted will take effect January 2, 2007.

C. SECTION DIRECTORY:

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections.

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[63] *See* Art. XI, ss. 1-4, and 6, Fla. Const.
[64] *See* Art. XI, ss 2, 5, and 6, Fla. Const.
[65] *See* Art. XI, s. 5(c), Fla. Const.
[66] *See* Art. XI, s.5(a), Fla. Const.
[67] *See* Art. XI, s.5(e), Fla. Const.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

   Revision of State Constitution

   The Division of Elections with the Department of State estimates that the non-recurring cost of compliance with the publication requirements would be approximately $50,000 in 2006-2007 fiscal year.

Non-Recurring	**FY 2006-07**
Department of State, Division of Elections	
Publication Costs	$50,000 (General Revenue)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The joint resolution does not appear to have any impact on local government revenues.

2. Expenditures:

   The joint resolution does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

For the 2004-05 fiscal year, payments for McKay Scholarships and Opportunity Scholarships totaled $100,167,925 and $3,127,115, respectively for a total for both programs of $103,295,040. The scholarship payment is the lesser of the FEFP funds generated or tuition and fees. There were some instances where tuition and fees were less than the FEFP funds, which resulted in a reversion or savings to the state of $1.6 million in FEFP funds.

In the 2005-06 fiscal year, the CTC Program scholarship amount is $3,500 per student, while the state average per student FEFP funding amount is $6,152.67, resulting in a state savings of $2,652.67 or $37.4 million for 14,084 students.

If the scholarship programs ceased to exist, the state would experience increased costs in the FEFP program of $39.0 million ($1.6 million + $37.4 million).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The municipality/county mandates provision relates only to general bills and therefore would not apply to this joint resolution.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The joint resolution does not raise the need for rules or rulemaking authority or direct an agency to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This is a joint resolution which requires passage by a 3/5 vote of each chamber.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 4, 2006, the Choice and Innovation Committee adopted one amendment and reported the bill favorably with a Committee Substitute (CS). The amendment clarifies that the proposed joint resolution does not establish a right to an education program not provided by law, and it revises the ballot summary accordingly.

The analysis is drawn to the CS.

CHAMBER ACTION

The Choice & Innovation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

House Joint Resolution

A joint resolution proposing the creation of Section 8 of Article IX of the State Constitution relating to education.

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

That the following creation of Section 8 of Article IX of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IX

EDUCATION

SECTION 8. Equal opportunity to obtain a high quality education.--Every child deserves an equal opportunity to obtain a high quality education, regardless of his or her family's income, religion, or race.

23 (a) Funding for a high quality public K-12 education
24 through classroom instruction is fundamental. To make adequate
25 provision for a high quality public K-12 education, at least
26 sixty-five percent of school funding received by school
27 districts shall be spent on classroom instruction, rather than
28 administration. Classroom instruction and administration shall
29 be defined by law.
30 (b) Students in prekindergarten through college who have
31 disabilities, are economically disadvantaged, or whose parents
32 request alternatives to traditional public education programs
33 may participate, as provided by law, in education programs that
34 include non-public schools. The legislature may enact and
35 publicly fund prekindergarten through college education
36 programs, without regard to the religious nature of any
37 participant or non-public provider, notwithstanding any other
38 provision of this Article or Section 3 of Article I of this
39 constitution.
40
41 Nothing in this section establishes a right to an education
42 program not provided by law.
43 BE IT FURTHER RESOLVED that the following statement be
44 placed on the ballot:
45 CONSTITUTIONAL AMENDMENT
46 ARTICLE IX, SECTION 8
47 EQUAL OPPORTUNITY TO OBTAIN A HIGH QUALITY
48 EDUCATION.--Proposing an amendment to the State Constitution to
49 provide that every child deserves an equal opportunity to obtain
50 a high quality education, regardless of his or her family's

51 income, religion, or race; to provide that funding for high
52 quality public K-12 education through classroom instruction is
53 fundamental; to provide that to make adequate provision for a
54 high quality public K-12 education, at least sixty-five percent
55 of school funding received by school districts shall be spent on
56 classroom instruction rather than administration; to provide
57 that classroom instruction and administration shall be defined
58 by law; to provide that students in prekindergarten through
59 college who have disabilities, are economically disadvantaged,
60 or whose parents request alternatives to traditional public
61 education programs may participate, as provided by law, in
62 education programs that include non-public schools; to provide
63 that the Legislature may enact and publicly fund prekindergarten
64 through college education programs, without regard to the
65 religious nature of any participant or non-public provider,
66 notwithstanding any other provision of this Article or of
67 Section 3 of Article I of the State Constitution; and to provide
68 that nothing in this amendment to the State Constitution
69 establishes a right to an education program that is not provided
70 by law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1619 CS Supplemental Powers and Duties of District School Boards
SPONSOR(S): Murzin
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	6 Y, 0 N, w/CS	Hassell	Mizereck
2) Education Appropriations Committee		Eggers ME	Hamon KWH
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

The bill includes several provisions impacting district school boards in the areas of student dress codes, selection of class ring vendors, senior photographs, and student transportation.

The bill may increase the number of students who choose to buy class rings or senior photographs from vendors not under contract with the district school board.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides Limited Government-- The bill places certain requirements on district school boards' selection of class ring vendors and photographers.

Safeguard Individual Liberty-- The bill requires districts to provide information so that students know they may purchase class rings from vendors not under contract with the school district. The bill allows students to wear sun-protective clothing while outside during the school day.

B. EFFECT OF PROPOSED CHANGES:

Dress Codes and Sun-Protective Clothing
Section 1001.43, F.S. grants district school boards authority to adopt dress codes and school uniform policies. House bill 1377 specifically allows students to wear sun-protective clothing while outside during school hours.

Class Ring Vendors
Florida law grants local district school boards authority to control K-12 education operations in the district. Educational curricula, facilities operation and maintenance, student discipline and attendance policies, transportation, reporting and record keeping are among the duties prescribed to district school boards in statute. [1]

The bill establishes criteria that district school boards must follow in selecting vendors to market class rings. The bill requires school districts that choose to contract with a class ring vendor to contract with at least two vendors. The bill requires that selected vendors may not intimidate students and that students be allowed to purchase class rings from any vendor and participate in class ring ceremonies regardless of their choice of class ring vendor. The bill requires district school boards to provide written notification to students and parents that students may purchase a class ring through any vendor, regardless of the district's contractual arrangements.

Senior Yearbook Photographs
The bill requires school districts that contract with a photographer for the purpose of taking student yearbook photos to contract with at least two photographers. The bill specifies that a student's senior photo must be allowed to appear in the school yearbook regardless of the student's choice of photographer, so long as the photo meets the specifications of the school principal and yearbook staff.

Student Transportation
Florida law governing student transportation limits the types of vehicles that may be used to transport students.[2] Subject to limited exceptions, students must be transported on school buses. Currently, students may not be transported to school related activities in school or school district-owned passenger vehicles or light trucks. This has caused particular disruptions to agricultural education programs.

The bill specifies that school or school district-owned passenger vehicles or light trucks may be used to transport students to and from school sites or agricultural education related events or competitions. The bill also allows students to drive the vehicle on school or private property for limited purposes relating to the agricultural education curriculum.

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[1] Section 1003.02, F.S.
[2] Section 1006.22, F.S.

The bill takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Amends s. 1001.43, F.S.; providing that students may wear sun protective clothing while outside during school hours.

Section 2. Amends s. 1003.02, F.S.; providing certain requirements pertaining to class ring vendors and yearbook photographs.

Section 3. Amends s. 1006.22, F.S.; providing an exception to student transportation requirements.

Section 4. Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may increase the number of students choosing to buy class rings or senior photos from vendors not under contract with the district school board.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds.

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006 the PreK-12 Committee adopted a strike-all amendment and one amendment to the strike-all.

- The strike-all amendment adds provisions pertaining to sun-protective clothing, class ring vendors, and student transportation to the contents of the bill
- The amendment to the strike-all states that a student's senior photo must meet the specifications of the school principal and yearbook staff. The original bill stated that it need only meet the specifications of the yearbook staff.

CHAMBER ACTION

The PreK-12 Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to district school boards; amending s. 1001.43, F.S., relating to district school board powers and duties; allowing students to wear sun-protective items while outdoors during school hours; amending s. 1003.02, F.S.; authorizing district school boards to select vendors to market student class rings; providing criteria for selection of such vendors; requiring district school boards to notify students and parents that the purchase of a class ring may be through any vendor marketing class rings and that a student may participate in related ceremonies or activities regardless of the vendor through which the purchase was made; authorizing district school boards to contract with photographers for the purpose of taking student yearbook photographs and providing requirements; permitting the inclusion of certain photographs in student yearbooks; amending s. 1006.22, F.S.; revising provisions for district school board transportation of students in vehicles other than school

24 buses; authorizing use of such vehicles for mid-day trips
25 and other trips to and from certain sites and activities;
26 revising criteria for such vehicles and their use;
27 requiring district school boards and charter schools to
28 adopt a policy that addresses procedures and liability for
29 trips using vehicles other than school buses; providing an
30 effective date.
31
32 Be It Enacted by the Legislature of the State of Florida:
33
34 Section 1. Paragraph (b) of subsection (1) of section
35 1001.43, Florida Statutes, is amended to read:
36 1001.43 Supplemental powers and duties of district school
37 board.--The district school board may exercise the following
38 supplemental powers and duties as authorized by this code or
39 State Board of Education rule.
40 (1) STUDENT MANAGEMENT.--The district school board may
41 adopt programs and policies to ensure the safety and welfare of
42 individuals, the student body, and school personnel, which
43 programs and policies may:
44 (b) Require uniforms to be worn by the student body, or
45 impose other dress-related requirements, if the district school
46 board finds that those requirements are necessary for the safety
47 or welfare of the student body or school personnel. <u>However,</u>
48 <u>students may wear sunglasses, hats, or other sun-protective wear</u>
49 <u>while outdoors during school hours, such as when students are at</u>
50 <u>recess.</u>

51 Section 2. Subsections (5) and (6) are added to section
52 1003.02, Florida Statutes, to read:
53 1003.02 District school board operation and control of
54 public K-12 education within the school district.--As provided
55 in part II of chapter 1001, district school boards are
56 constitutionally and statutorily charged with the operation and
57 control of public K-12 education within their school district.
58 The district school boards must establish, organize, and operate
59 their public K-12 schools and educational programs, employees,
60 and facilities. Their responsibilities include staff
61 development, public K-12 school student education including
62 education for exceptional students and students in juvenile
63 justice programs, special programs, adult education programs,
64 and career education programs. Additionally, district school
65 boards must:
66 (5)(a) If selecting a vendor to market class rings to
67 students, select at least two vendors. Vendors selected by the
68 district school board must not intimidate students with respect
69 to the purchase of class rings or discriminate against a student
70 who purchases a class ring from another vendor by excluding the
71 student from participating in any ceremony or activity relating
72 to the receipt of a class ring.
73 (b) Notify in writing each student and his or her parent
74 that the student may purchase his or her class ring through any
75 vendor regardless of the fact that the district school board may
76 contract with vendors for marketing class rings. The
77 notification must include an explanation of the right of each

78 student purchasing a class ring to participate in any ceremony
79 or activity relating to the receipt of a class ring.
80 (6) If entering into a contract with a photographer for
81 the purpose of taking student yearbook photographs, select at
82 least two photographers. A student's senior photograph must be
83 allowed to appear in the yearbook when taken by a photographer
84 not under contract with the district school board if the
85 photograph meets the reasonable specifications of the principal
86 and yearbook staff for senior photographs.
87 Section 3. Subsection (1) of section 1006.22, Florida
88 Statutes, is amended to read:
89 1006.22 Safety and health of students being
90 transported.--Maximum regard for safety and adequate protection
91 of health are primary requirements that must be observed by
92 district school boards in routing buses, appointing drivers, and
93 providing and operating equipment, in accordance with all
94 requirements of law and rules of the State Board of Education in
95 providing transportation pursuant to s. 1006.21:
96 (1)(a) District school boards shall use school buses, as
97 defined in s. 1006.25, for all regular transportation. Regular
98 transportation or regular use means transportation of students
99 to and from school or school-related activities that are part of
100 a scheduled series or sequence of events to the same location.
101 "Students" means, for the purposes of this section, students
102 enrolled in the public schools in prekindergarten disability
103 programs and in kindergarten through grade 12. District school
104 boards may regularly use motor vehicles other than school buses
105 only under the following conditions:

106 1.~~(a)~~ When the transportation is for physically
107 handicapped or isolated students and the district school board
108 has elected to provide for the transportation of the student
109 through written or oral contracts or agreements.
110 2.~~(b)~~ When the transportation is a part of a comprehensive
111 contract for a specialized educational program between a
112 district school board and a service provider who provides
113 instruction, transportation, and other services.
114 3.~~(c)~~ When the transportation is provided through a public
115 transit system.
116 4.~~(d)~~ When the transportation is for mid-day trips to and
117 from school sites or agricultural education sites or for trips
118 to and from agricultural education-related events or
119 competitions. ~~When the transportation of students is necessary~~
120 ~~or practical in a motor vehicle owned or operated by a district~~
121 ~~school board other than a school bus, such transportation must~~
122 ~~be provided in designated seating positions in a passenger car~~
123 ~~not to exceed 8 students or in a multipurpose passenger vehicle~~
124 ~~designed to transport 10 or fewer persons which meets all~~
125 ~~applicable federal motor vehicle safety standards. Multipurpose~~
126 ~~passenger vehicles classified as utility vehicles with a~~
127 ~~wheelbase of 110 inches or less which are required by federal~~
128 ~~motor vehicle standards to display a rollover warning label may~~
129 ~~not be used.~~
130
131 ~~When students are transported in motor vehicles, the occupant~~
132 ~~crash protection system provided by the vehicle manufacturer~~

133 ~~must be used unless the student's physical condition prohibits~~
134 ~~such use.~~
135 (b) When the transportation of students is provided, as
136 authorized in this subsection, in a vehicle other than a school
137 bus that is owned, operated, rented, contracted, or leased by a
138 school district or charter school, the following provisions
139 shall apply:
140 1. The vehicle must be a passenger car or multipurpose
141 passenger vehicle or truck, as defined in Title 49 C.F.R. part
142 571, designed to transport fewer than 10 students. Students must
143 be transported in designated seating positions and must use the
144 occupant crash protection system provided by the manufacturer
145 unless the student's physical condition prohibits such use.
146 2. An authorized vehicle may not be driven by a student on
147 a public right-of-way. An authorized vehicle may be driven by a
148 student on school or private property as part of the student's
149 educational curriculum if no other student is in the vehicle.
150 3. The driver of an authorized vehicle transporting
151 students must maintain a valid driver's license and must comply
152 with the requirements of the school district's locally adopted
153 safe driver plan, which includes review of driving records for
154 disqualifying violations.
155 4. The district school board or charter school must adopt
156 a policy that addresses procedures and liability for trips under
157 this paragraph, including a provision that school buses are to
158 be used whenever practical and specifying consequences for
159 violation of the policy.
160 Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7103 PCB CI 06-03 Charter Schools
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 2424

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee	7 Y, 0 N, w/CS	Hassell	Kooi
1) Education Appropriations Committee		Eggers ME	Hamon K.W.H.
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill substantially amends provisions of s. 1002.33, F.S. related to charter schools. The bill adds new fiscal accountability requirements related to the charter school's annual financial report and new academic accountability requirements for charter schools graded D or F. The bill revises the responsibilities of the Department of Education (DOE), of charter school sponsors, and charter school governing boards.

The bill makes changes to the application process, review and appeal, the initial term and renewal of charter agreements, and procedures for nonrenewal, termination and immediate termination of charter schools. It requires the DOE to offer technical assistance to charter school applicants, to develop a uniform, on-line charter school accountability report and a standard charter and renewal format, and to regularly convene a Charter School Review Panel.

As amended, the requires district school boards to make timely payments to charters and authorizes the Commissioner of Education to withhold lottery funds from a school district that repeatedly fails to do so. Furthermore, the bill authorizes the State Board of Education to impose fines or withhold lottery funds for districts that violate the procedural requirements for charter school application, termination, or nonrenewal appeals.

The bill adds exceptional student education evaluation services to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request.

The bill extends educator professional liability coverage to all full-time charter school instructional personnel, eliminates priority given to transitioning students of military families, provides transportation funding to eligible charter schools, and revises capital outlay funding for charter schools.

The bill makes conforming changes to the provisions of law related to financial management.

The bill authorizes lab schools to participate in student transportation funding, for which the estimated cost is $764,000. See the FISCAL COMMENTS section of the analysis.

The bill provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires the Department of Education (DOE) to staff the Charter School Review Panel and to create a standard charter format and charter renewal format to be used as guidelines by charter school sponsors.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Legislature authorized charter schools in 1996. Since their introduction in 1996, the number of charter schools operating in Florida has grown from 5 to 333.[1] In 1996, the 5 schools served 574 students and in 2005-06 the 333 schools currently serve approximately 92,158 students.[2] The legislative principles guiding Florida charter schools are to meet high standards of student achievement while increasing parental choice within the public school system, align responsibility with accountability, and provide parents with sufficient information relating to their child's reading level and learning gains.[3]

As provided in s. 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under current law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application.[4] Additionally, four state universities are currently authorized to grant charters and sponsor development research (laboratory) schools created under 1002.32, F.S.[5] The charter is an agreement signed by the governing body of the school and the sponsor that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Charter schools are often free from many state and local regulations and mandates, but are held accountable to the sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

Effects of Proposed Changes

Purpose of Charter Schools

The statutory purpose of charter schools is to improve student learning and academic achievement, increase learning opportunities of all students, create new professional opportunities for teachers, encourage the use of innovative learning methods, and measure learning outcomes.[6] Currently, charter schools may fulfill the following purposes: create innovative measurement tools, provide rigorous competition within the public school district, expand the capacity of the public school system, and mitigate the educational impact created by the development of new residential dwelling units.

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[1] www.floridaschoolchoice.org
[2] *Id.*
[3] FLA. STAT. ch. 1002.33(2)
[4] FLA. STAT. ch. 1002.33(5),(6)
[5] S. 1002.32(2), F.S., provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.
[6] s. 1002.33(2)(b), F.S.

As amended, the bill requires charter schools to improve student learning and academic achievement, increase learning opportunities for all students with emphasis on low-performing students, encourage the use of innovative learning methods, and to require the measurement of learning outcomes. Also, it revises the list of purposes that a charter school may fulfill to include the option of creating new professional opportunities for teachers.

Application for Charter Status

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.[7] Alternatively, a public school that has been in operation for at least two years may convert to a charter school pursuant to an application by the district school board, the principal, teachers, parents, and/or the school advisory council.[8] The bill clarifies that a public school-within-a-school that is designated as a school by the district school board may also submit an application to convert to charter status.

Under current law, district school boards must notify conversion charter school applicants that their application has been denied within 30 days of the school board meeting denying their application. On the other hand, district school boards only have 10 days after the meeting to notify charter school applicants that their application has been denied. Thus, the bill makes consistent the requirement that district school boards notify both conversion charter school applicants and charter school applicants within 10 days of the meeting denying their application.

Sponsor Duties

Currently, only a district school board may sponsor a charter school in the county where the district school board has jurisdiction.[9] However, a state university may grant a charter to a lab school in which case the university is considered to be the charter lab school's sponsor.[10] Sponsor duties include, but are not limited to, monitoring and reviewing the charter school's progress towards the established goals, monitoring the charter school's revenues and expenditures, and ensuring that the charter school participates in the state's education accountability system.[11]

The bill provides that the sponsor's policies do not apply to charters schools unless they are mutually agreed to by the sponsor and the charter school. Additionally, sponsors must provide charter schools with reasonable and specific justification before imposing additional reporting requirements on charter schools. These provisions provide additional measures to ensure that sponsors do not place unnecessary requirements on charter schools.

Application Process and Review

Section 1002.33(6), F.S., provides for the application process and review of a charter school. A person or entity wishing to open a charter school prepares and submits an application to be considered by a district school board on or before September 1 of each calendar year. Applications are required to be approved or denied by majority vote within 60 calendar days after the application is received, unless the applicant and the district school board mutually agree to postpone the vote to a specific date. If the district school board fails to act on the application then the applicant may appeal to the bill. If the district school board denies an application, the board must notify the applicant in writing and cite specific reasons based upon good cause for denying the application.

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[7] s. 1002.33(3), F.S.
[8] *Id.*
[9] s. 1002.33(5), F.S.
[10] *Id.*
[11] s. 1002.33(5)(b), F.S.

Current law provides charter school applicants with procedures for appeal to the Charter School Appeal Commission if the charter has been denied, not renewed, or terminated or if mediation has failed to resolve disputes over contract negotiations.[12] The Charter School Appeal Commission may receive and review documents forwarded to the SBE, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. Decisions by the Charter School Appeal Commission are not subject to the provisions of the Administrative Procedures Act. The SBE must consider the commissioner's recommendation; however, the SBE is not bound by the recommendation.

Subsequent to the approval of the charter school application, the DOE is required to provide mediation services for any dispute relating to the charter's provisions and any dispute relating to the approved charter, except for disputes relating to charter school application denials. A dispute, except a dispute pertaining to charter school application denial, may be appealed to an administrative law judge if the Commissioner of Education determines that the dispute cannot be settled through mediation.[13]

The bill provides that beginning with the 2007-2008 school year, the charter school application deadline is changed from September 1 to August 1. Also, in instances where the district school board denies an application, the bill requires the board to provide the applicant and the DOE with supporting documentation stating the specific reason for the denial of the charter application.

The bill clarifies that the SBE's decision is final action subject to judicial review in the district court of appeal and that an administrative law judge may not rule on issues relating to the denial of an application or on issues relating to the termination or nonrenewal of a charter. Also, the bill removes the provision that allows disputes over contract negotiations that have not been resolved through mediation to go before the Charter School Appeal Commission.

The bill directs the DOE to offer training and technical assistance to charter school applicants on issues related to the financial and business side of charter school operation. According to OPPAGA, charter schools face considerable challenges related to start-up and facilities related costs that put charter schools at risk for chronic financial deficits. More specifically, new charter schools may underestimate the high start-up and facilities related costs associated with opening a charter school and are unable to obtain sufficient funds to cover these costs associated with opening.[14] Thus, the bill requires that the assistance offered by the DOE must address estimating start-up costs, projecting enrollment, and identifying the types and amounts of state and federal financial assistance the charter school will be eligible to receive.

Charter Agreement

A charter is a written contractual agreement between the sponsor and the charter school's governing board that sets forth the terms and conditions for the operation of a charter school. The initial term of a charter may be 3, 4, or 5 years and is to be renewed every 5 years if the criteria have been successfully accomplished and if none of the grounds for nonrenewal are documented. For easier access to long-term financial resources for facility construction, current law allows a charter school operated by a municipality or other public entity or a charter lab school to be eligible for up to a 15-year charter. However, a charter school that is operated by a private, not-for-profit, s. 501(c)(3) status corporation is only eligible for up to a 10-year charter.

As amended, the bill requires that initial proposed contract be provided to the charter school within 60 days and the applicant and the sponsor then have 75 days thereafter to negotiate the final terms of the contract. It requires the proposed charter to be provided to the charter school at least 7 days prior to the vote of the sponsor. This gives the charter school an opportunity to review the proposed charter

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[12] s. 1002.33(6), F.S.
[13] *Id.*
[14] OPPAGA Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 7.

and to ensure that all provisions of the agreement have been codified in the charter. Also, the bill changes the initial charter term to 4 or 5 years and revises the provision so that a charter school operated by a private, not-for-profit, s. 501(c)(3) status corporation is also eligible for up to a 15-year charter.

The bill provides that a charter is to be automatically renewed if the criteria have been successfully accomplished and if none of the grounds for nonrenewal were documented. Additionally, the bill provides that the 15-year charter renewal shall be granted if the school has received a grade of "A" or "B" in 3 of the past 4 years and is not in a state of financial emergency or a deficit financial position.

Financial Oversight

Lack of expertise in education budgeting and finance and with government accounting conventions are additional challenges facing charter schools. Identifying and assisting charter schools with deteriorating financial conditions is challenging without complete, accurate, and timely financial data.[15] According to an OPPAGA report, it is important for the DOE to take a more proactive approach with charter schools in their first years of operation and to have more effective methods to identify and assist charter schools either at risk of financial difficulty or in need of assistance to overcome financial deficit.[16] Furthermore, in the November 1, 2004-October 31, 2005 Florida Auditor General Annual Report[17], the Auditor General determined that the laws governing charter schools do not contain comparable reporting requirements for charter schools operating with deteriorating financial conditions.[18] Therefore, the Auditor General recommended that, at a minimum, the auditor notify the governing board of the charter school of the deficit financial position and that those charter schools should be required to file a detailed financial recovery plan with the sponsoring district school board.[19]

The bill addresses the OPPAGA findings and the Auditor General recommendations by detailing procedures the charter school, the sponsor, and the charter school governing board must follow when a state of financial emergency exists. The charter is required to specify that the auditors of a charter school whose internal audit or an annual financial audit reveals a state of financial emergency or deficit financial position must notify the charter governing board, the sponsor, and the DOE. [20] The auditor is also required to report, within 7 working days, such findings in the form of an exit interview to the principal or principal administrator of the charter school and the chair of the governing board. Charter schools that are found to be in a state of financial emergency must file a detailed financial recovery plan with the sponsor and the DOE is required to establish guidelines for the development of such plans. The governing board is also required to maintain oversight of the charter school by ensuring an annual audit report is conducted, reviewing and approving the report and monitoring a financial recovery plan, if implemented.

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[15] OPPAGA Report Number 05-11*: Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 1.

[16] *Id.* at 11. OPPAGA recommended clarifying the Department of Education's role to include the following responsibilities: ensuring that technical assistance is available to charter schools for developing business plans and estimating costs and income is available; ensuring that training and technical assistance is provided for administrators in planning, budget, management, and financial reporting; developing a monitoring system that includes a comprehensive list of financial indicators to be used for the early identification of charter schools at greatest risk for financial difficulty; ensuring that training and technical assistance is provided to charter schools in deteriorating financial conditions; annually reporting schools identified as being at risk for financial difficulties and the actions that have been taken to assist the school; and developing a modified annual financial report for charter schools with additional guidelines for expenditure reporting.

[17] The Auditor General Annual Report Numbers 2005-054 and 2006-034, *Report on Significant Findings and Financial Trends in Charter Schools and Charter Technical Career Center Audit Reports Prepared by Independent CPAs,* November2004 – October 2005.

[18] FLA. STAT. ch. 219.39(5), requires the auditor of a local governmental entity or district school board to notify each member of the governing board for which deteriorating financial conditions exist that may result in a state of financial emergency as defined by Section 218.503, Florida Statutes.

[19] The Auditor General Annual Report Numbers 2005-054 and 2006-034; OPPAGA at 12.

[20] *See* s. 218.503, F.S., Determination of financial emergency

Nonrenewal or Termination of Charter

Current law provides that sponsors may choose not to renew or terminate the charter if the charter school fails to participate in the state's education accountability system, fails to meet generally accepted standards of fiscal management, violates a state law, or if other good cause is shown.[21] Sponsors are required to notify the governing body of the school of the proposed action at least 90 days prior to the nonrenewal or termination. The charter school may request, within 14 days after receiving the notice, an informal hearing before the sponsor. The informal hearing must be conducted within 30 days by the sponsor. The charter school's governing board may appeal the sponsor's decision to not renew or terminate within 14 days after receiving the sponsor's decision.

The PCB specifies that a sponsor may choose not to renew, terminate or immediately terminate a charter based on the sponsor's determination that the health, safety, and welfare of the students is threatened rather than for the current law provision of good cause shown. As amended, it also provides the sponsor with the authority to not renew or terminate a charter for material breach or repeated violations of the term of the charter. In the event of nonrenewal, termination, or immediate termination, the bill revises the notification requirements and appeals procedure so that they are consistent with the procedures that a sponsor and an applicant must follow when an application for charter status has been denied.[22]

Currently, when a charter is not renewed or is terminated, the school is dissolved and any unencumbered public funds, except capital outlay funds, from the charter school revert to the district school board. The unencumbered capital outlay funds revert to the DOE for redistribution among eligible schools. The bill revises this provision so that the unencumbered public funds, except capital outlay funds and federal charter school program grant funds, revert to the sponsor when a charter is not renewed or is terminated and the school is dissolved. Likewise, the unencumbered federal charter school program grant funds would revert to the DOE for redistribution among eligible schools.

Charter School Requirements

Charter school requirements include, but are not limited to, the following: charter schools must be nonsectarian in their programs, admission policies, employment practices, and operations; charter schools must be accountable to their sponsors for performance; charter schools must meet all applicable state and local health, safety, and civil rights requirements; charter schools must provide for an annual financial audit; charter schools must maintain all financial records which constitute their accounting system; charter schools' governing boards must annually adopt and maintain an operating budget, exercise continuing oversight on charter school operations, and annually report progress to their sponsor; and charter schools must provide instruction for at least the number of days required by law.[23]

The bill expands the duties of governing boards relating to academic oversight for charter schools that receive a grade of D or F. The director and a representative of the governing board of a charter school that has received a school grade of D are required to appear before the sponsor at least once a year to present information on each contract component having noted deficiencies. The sponsor is also required to communicate at the meeting the services provided to the school to help address the noted deficiencies. The governing body of a charter school that receive a grade of D for 2 consecutive years or a grade of F is required to submit to the sponsor a school improvement plan to raise student achievement. The governing body is required to appear before the sponsor at least once a year to present information on the corrective strategies that are being implement pursuant to the school improvement plan. The bill establishes requirements for the school improvement plan and makes

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[21] s. 1002.33(8), F.S.
[22] *see* Application for Charter Status on p. 3
[23] S. 1002.33(9), F.S.

available corrective actions that charter school governing boards must follow if there is not an improvement in student performance.

The bill requires the DOE to offer technical assistance and training to the governing board and establish guidelines for developing, submitting, and approving school improvement plans. Also, the DOE is required to develop a uniform, on-line annual accountability report for charter schools to complete. The governing board of the charter school is required to use this standard form to report its annual progress to the Commissioner of Education.

Funding of Charter School Student Enrollment

Currently, students enrolled in a charter school are funded in the same way as all other public school students in the school district. Thus, each charter school must report its student enrollment to the school district and the school district must include each charter school's student enrollment in its report of student enrollment that is submitted to the state in October and February of each school year.[24] Current law provides that district school boards are required to make every effort to ensure that charter schools receive timely and efficient reimbursement.[25]

The bill requires the district school boards to make timely and efficient payments and reimbursements to charter schools and allows the Commissioner of Education to withhold lottery funds if districts repeatedly fail to do so. Further, if a warrant for payment is not issued within 10 working days, rather than the current law requirement of 30 working days, after receipt of funding by the district school board then the district school board is required to pay the charter school the amount of the scheduled disbursement and interest at a rate of 5% per month. This changes the interest rate from 1% to 5% per month. Also, the interest rate is calculated on a daily basis on the unpaid balance from the expiration of the 10-day period until the warrant is issued. Increasing the interest rate may influence school district to make timely disbursements.

The bill provides the SBE authority to impose a fine, not to exceed $10,000, or withhold lottery funds for districts that violate the procedural requirements for charter school application, termination, and non-renewal appeals regardless of whether the violation effects the fairness of the appeal process or the correctness of the action taken by the district. The bill provides for procedural requirements for the imposition of such penalties. However, the SBE is required to provide the district with notice of the proposed fine and the opportunity to be heard at a subsequent meeting of the SBE prior to the imposition of the fine or withholding of lottery funds.

Facilities

The bill clarifies that a start-up charter school, not the current law requirement of a charter school, is required to utilize facilities that comply with the Florida Building Code[26] except for the State Requirements for Educational Facilities (SREF). The bill requires conversion charter schools to comply with SREF if the district and the charter school have entered into a mutual management plan with sufficient funding from the district to comply with SREF.

Current law provides that any facility or a portion of the facility that is used to house an approved charter school is exempt from ad valorem taxes pursuant to s. 196.1983.[27] The bill specifies that the following facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations: libraries, community service facilities, museums, performing arts facilities, theatres, cinemas, churches, community colleges, colleges, and universities.

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[24] s. 1002.33(17), F.S.
[25] s. 1002.33(17)(d), F.S.
[26] Pursuant to chapter 533.
[27] s. 1002.33(18)(c), F.S.

Current law provides that charter school facilities are exempt from assessments of fees for building permits and licenses and impact fees or service availability fees. [28] The bill provides that charter school facilities are also exempt from payment of fees for occupational licenses.

Any facility or property of the district school board that becomes available because it is surplus, marked for disposal, or otherwise unused is made available to the charter school on the same basis as it is made available to other public schools in the district.[29] The bill provides that the charter school, not the charter organizer, is required to agree to reasonable maintenance provisions that ensure that the facility is maintained in a manner similar to district school board standards.

Services

Currently, a school district provides the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.[30] Administrative fees for the above services that may be charged by the district to a charter school are 5% of the available per student FEFP funds.

The bill provides for exceptional student education evaluation services in addition to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request. As amended, the bill clarifies that sponsors are required to provide charter schools the performance data for each student in their school in the same manner provided to other public schools in the district. The bill allows school districts to withhold 5% or less of the administrative fee.

Capital Outlay Funding

Current law provides that the year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education is required to allocate the funds among eligible schools.[31] To be eligible for a funding allocation, a charter school must be in operation for 3 or more years, be an expanded feeder chain of a charter school within the same school district that is currently receiving capital outlay funds, or be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; have financial stability for future operation as a charter school; have satisfactory student achievement; have received final approval from their sponsor for operation during that year; and serve students in facilities that are not provided by the charter school's sponsor.[32]

Section 1013.62(7), F.S., details how capital outlay funds are required to be allocated if the funds received are no greater than the funds appropriated in 2002-2003, if the funds are less than the funds appropriated in 2002-2003, and if the funds are greater than the funds appropriated in 2002-2003.

If the capital outlay appropriation is greater than the funds appropriated in 2002-2003, the bill changes the funding allocation for an eligible school that "has satisfactory student achievement" to a school that has received a school grade of "A" or "B", pursuant to s. 1008.34, F.S., during 3 of the last 4 school years.

Charter schools with long-term debt or long-term lease are the first priority for allocating the excess amount of the 2002-2003 appropriation. The excess amount is required to be prorated among these

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[28] Exemption from assessment of fees for building permits except as provided in s. 553.80, F.S.
[29] s. 1002.33(18)(f), F.S.
[30] s. 1002.33(20), F.S.
[31] s. 1013.62, F.S.
[32] *Id.*

schools to the extent that the initial allocation is insufficient to provide one fifteenth of the cost-per-student station and second priority to be all other eligible charter schools.

Current law provides that capital outlay funds may be used by the charter school's governing body for the following purposes: purchase of real property; construction of school facilities; purchase, lease-purchase, or lease of permanent or relocatable school facilities; purchase of vehicles for transportation of students; and renovation, repair, and maintenance of school facilities owned by the charter school or being purchased or lease-purchase by the charter school. [33] The bill provides that capital outlay funds may also be used for furnishing and for the purchasing of equipment for charter school facilities.

Public Information on Charter Schools

The DOE is required to provide information directly to the public and through sponsors regarding how to form and operate a charter school and how to enroll in a charter school.[34] The bill provides that in addition to the standard application format, the DOE is required to create a standard charter format and standard charter renewal format that are to be used as guidelines by charter school sponsors.

Charter School Review Panel and Legislative Review

The bill provides that the DOE is required to staff and regularly convene a Charter School Review Panel to review issues, practices, and policies relating to charter schools. The bill requires a review of the operation of charter schools during the 2010 Regular Session of the Legislature.

Personnel

Beginning July 1, 2007, the bill provides for educator professional liability coverage for all full-time charter school instructional personnel, requires that educator professional liability coverage be extended at cost to all part-time charter school instructional personnel, and requires that educator professional liability coverage be extended at cost to all administrative personnel.

Student Preference

The bill eliminates the priority given to transitioning students from military families on admission to charter schools.

Charter Lab Schools

The bill provides that a charter lab school that attempts to fulfill its requirement to have a representative student population[35] and elects to provide student transportation to accomplish this is eligible for transportation funding pursuant to s. 1001.68, F.S.

C. SECTION DIRECTORY:

Section 1. Amends s. 1002.33, F.S., relating to charter schools; revising the purpose of charter schools; revising the charter school application process and sponsor duties; requiring the DOE to provide technical assistance to charter school applicants; revising provisions relating to charter agreement, including nonrenewal or termination of charter; revising charter school requirements, including procedural requirements for charter schools found to be in a state of financial emergency; revising duties of charter school governing boards; providing procedures for charter schools to raise student achievement; revising provisions relating to funding of charter school student enrollment; authorizing zoning

[33] s. 1013.62(2), F.S.
[34] s. 1002.33(21), F.S.
[35] Pursuant to 1002.32(4), F.S.

and land use designations; revising exemptions; revising provisions relating to services and the administrative fee requirement.

Section 2. Amends s. 218.39, F.S., adding references relating to charter schools and annual financial audit reports.

Section 3. Amends s. 218.50, F.S., revising the short title of ss. 218.50-218.504, F.S., to include charter schools.

Section 4. Amends s. 218.501, F.S., adding a charter school reference.

Section 5. Amends s. 218.503, F.S., adding references relating to charter schools and the determination of financial emergency.

Section 6. Amends s. 218.504, F.S., adding references relating to charter schools and the cessation of state action.

Section 7. Amends s. 11.45, F.S., conforming provisions relating to charter schools.

Section 8. Amends s. 166.271, F.S., correcting cross references.

Section 9. Amends s. 1002.32, F.S., providing that charter lab schools are eligible for transportation funding.

Section 10. Amends s. 1003.05, F.S., removing charter school reference from assistance to transitioning students from military families.

Section 11. Amends s. 1012.74, F.S., requiring educator professional liability insurance to cover charter school personnel.

Section 12. Amends s. 1013.62, F.S., revising provisions related to capital outlay funding.

Section 14. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In the 2005-06 fiscal year, 39.37% of public school students were reported for student transportation funding, earning an average per student funding amount of $434. Lab schools would earn $764,113 in student transportation funding if 39.37% of the 4,472 lab school FTE students were eligible for transportation funding in the 2005-06 fiscal year. The appropriation for the student transportation categorical is appropriated annually in the General Appropriations Act, and would have to be increased $764,113 so that the funds to the 67 school districts are not decreased due to the inclusion of lab schools.

The Department of Education is required to staff the Charter School Review Panel and to create a uniform on-line accountability report for charter schools, and a standard charter format and charter renewal format. The estimated administrative costs of these requirements are indeterminate at this time.

The bill adds exceptional student education evaluation services to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request. The additional cost to school districts to provide these services are indeterminate but believed to be small.

Section 1013.62(7), F.S., details how capital outlay funds are required to be allocated to the charter schools. If the capital outlay appropriation is greater than the funds appropriated in 2002-2003, the bill changes the funding allocation for an eligible school that "has satisfactory student achievement" to a school that has received a school grade of "A" or "B", pursuant to s. 1008.34, F.S., during 3 of the last 4 school years. Charter schools with long-term debt or long-term lease are the first priority for allocating the excess amount of the 2002-2003 appropriation. The excess amount is required to be prorated among these schools to the extent that the initial allocation is insufficient to provide one fifteenth of the cost-per-student station and second priority to be all other eligible charter schools.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

   The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

   This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

This bill does not create any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Choice and Innovation Committee adopted seven amendments and reported the bill favorably as amended. The amendments did the following:

Amendment 1 – Clarifies that sponsors are required to provide charter schools the student performance data for each student in their charter school in the same manner provided to other public schools in the district.

Amendment 2- Restores the current law requirement that charter schools must require the measurement of learning outcomes.

Amendment 3- Technical change to conform to Amendment 3.

Amendment 4 – Revises the length of time that charter school applicants and sponsors have to negotiate the provisions of the final charter contract.

Amendment 5 – Changes the initial term of the contract to 4 or 5 years.

Amendment 6 – Provides that the sponsor may not renew or terminate a contract for material breach or repeated violations of the terms of the charter.

Amendment 7 – Clarifies that the Commissioner of Education may withhold lottery fund from school districts for repeatedly failing to make timely and efficient payments to charter schools.

This analysis is drawn to the bill as amended.

1 A bill to be entitled
2 An act relating to charter schools; amending s. 1002.33,
3 F.S.; revising charter school purposes; modifying
4 provisions relating to duties of sponsors, the application
5 process, denial of an application, and review of appeals;
6 requiring the Department of Education to provide technical
7 assistance to charter school applicants; providing
8 requirements relating to charter contracts; providing
9 procedures when a state of financial emergency exists;
10 revising provisions relating to charter terms and renewal;
11 revising nonrenewal and termination provisions, including
12 procedures for immediate termination; revising provisions
13 relating to the reversion of funds; revising duties of a
14 charter school governing body relating to audits;
15 requiring the department to develop a uniform
16 accountability report; providing procedures with respect
17 to charter schools with deficiencies; requiring a school
18 improvement plan to raise student achievement; providing
19 for probation and corrective actions; revising provisions
20 relating to payment and reimbursement to a charter school
21 by a school district and authorizing the withholding of
22 lottery funds under certain circumstances; authorizing the
23 State Board of Education to impose a fine on or withhold
24 lottery funds from a school district for certain
25 violations; requiring conversion charter schools to comply
26 with certain facility requirements under specific
27 situations; authorizing certain zoning and land use
28 designations for certain charter school facilities;

29 revising exemption from assessment of fees; providing for
30 additional services to charter schools and revising
31 administrative fee requirements; requiring the department
32 to develop a standard format for applications, charters,
33 and charter renewals; requiring legislative review of
34 charter schools in 2010; amending s. 218.39, F.S.;
35 requiring the governing body of a charter school to be
36 notified of certain deteriorating financial conditions;
37 amending s. 218.50, F.S.; modifying a short title;
38 amending s. 218.501, F.S.; including charter schools in
39 the statement of purpose relating to financial management;
40 amending s. 218.503, F.S.; providing for charter schools
41 to be subject to provisions governing financial
42 emergencies; providing procedures; amending s. 218.504,
43 F.S.; providing for cessation of state action related to a
44 state of financial emergency; amending s. 11.45, F.S.;
45 conforming provisions; amending s. 1002.32, F.S.;
46 providing that a charter lab school that elects to provide
47 student transportation is eligible for funding for that
48 purpose; amending s. 1003.05, F.S.; modifying the list of
49 special academic programs for transitioning students from
50 military families; amending s. 1012.74, F.S.; providing
51 that educator professional liability insurance shall cover
52 charter school personnel; amending s. 1013.62, F.S.;
53 revising provisions relating to eligibility for and
54 allocation of charter school capital outlay funding;
55 revising purposes for which capital outlay funds may be
56 used; providing effective dates.

57
58 Be It Enacted by the Legislature of the State of Florida:
59
60 Section 1. Section 1002.33, Florida Statutes, is amended
61 to read:
62 1002.33 Charter schools.--
63 (1) AUTHORIZATION.--Charter schools shall be part of the
64 state's program of public education. All charter schools in
65 Florida are public schools. A charter school may be formed by
66 creating a new school or converting an existing public school to
67 charter status. A public school may not use the term charter in
68 its name unless it has been approved under this section.
69 (2) GUIDING PRINCIPLES; PURPOSE.--
70 (a) Charter schools in Florida shall be guided by the
71 following principles:
72 1. Meet high standards of student achievement while
73 providing parents flexibility to choose among diverse
74 educational opportunities within the state's public school
75 system.
76 2. Promote enhanced academic success and financial
77 efficiency by aligning responsibility with accountability.
78 3. Provide parents with sufficient information on whether
79 their child is reading at grade level and whether the child
80 gains at least a year's worth of learning for every year spent
81 in the charter school.
82 (b) Charter schools shall fulfill the following purposes:
83 1. Improve student learning and academic achievement.
84 2. Increase learning opportunities for all students, with

85 special emphasis on low-performing students and reading.
86 ~~3. Create new professional opportunities for teachers,~~
87 ~~including ownership of the learning program at the school site.~~
88 3.~~4.~~ Encourage the use of innovative learning methods.
89 4.~~5.~~ Require the measurement of learning outcomes.
90 (c) Charter schools may fulfill the following purposes:
91 1. Create innovative measurement tools.
92 2. Provide rigorous competition within the public school
93 district to stimulate continual improvement in all public
94 schools.
95 3. Expand the capacity of the public school system.
96 4. Mitigate the educational impact created by the
97 development of new residential dwelling units.
98 5. Create new professional opportunities for teachers,
99 including ownership of the learning program at the school site.
100 (3) APPLICATION FOR CHARTER STATUS.--
101 (a) An application for a new charter school may be made by
102 an individual, teachers, parents, a group of individuals, a
103 municipality, or a legal entity organized under the laws of this
104 state.
105 (b) An application for a conversion charter school shall
106 be made by the district school board, the principal, teachers,
107 parents, and/or the school advisory council at an existing
108 public school that has been in operation for at least 2 years
109 prior to the application to convert.~~, including~~ A public school-
110 within-a-school that is designated as a school by the district
111 school board may also submit an application to convert to
112 charter status. An application submitted proposing to convert an

113 existing public school to a charter school shall demonstrate the
114 support of at least 50 percent of the teachers employed at the
115 school and 50 percent of the parents voting whose children are
116 enrolled at the school, provided that a majority of the parents
117 eligible to vote participate in the ballot process, according to
118 rules adopted by the State Board of Education. A district school
119 board denying an application for a conversion charter school
120 shall provide notice of denial to the applicants in writing
121 within 10 ~~30~~ days after the meeting at which the district school
122 board denied the application. The notice must articulate in
123 writing ~~specify~~ the specific ~~exact~~ reasons for denial and must
124 provide documentation supporting those reasons. A private
125 school, parochial school, or home education program shall not be
126 eligible for charter school status.
127 (4) UNLAWFUL REPRISAL.--
128 (a) No district school board, or district school board
129 employee who has control over personnel actions, shall take
130 unlawful reprisal against another district school board employee
131 because that employee is either directly or indirectly involved
132 with an application to establish a charter school. As used in
133 this subsection, the term "unlawful reprisal" means an action
134 taken by a district school board or a school system employee
135 against an employee who is directly or indirectly involved in a
136 lawful application to establish a charter school, which occurs
137 as a direct result of that involvement, and which results in one
138 or more of the following: disciplinary or corrective action;
139 adverse transfer or reassignment, whether temporary or
140 permanent; suspension, demotion, or dismissal; an unfavorable

141 performance evaluation; a reduction in pay, benefits, or
142 rewards; elimination of the employee's position absent of a
143 reduction in workforce as a result of lack of moneys or work; or
144 other adverse significant changes in duties or responsibilities
145 that are inconsistent with the employee's salary or employment
146 classification. The following procedures shall apply to an
147 alleged unlawful reprisal that occurs as a consequence of an
148 employee's direct or indirect involvement with an application to
149 establish a charter school:
150 1. Within 60 days after the date upon which a reprisal
151 prohibited by this subsection is alleged to have occurred, an
152 employee may file a complaint with the Department of Education.
153 2. Within 3 working days after receiving a complaint under
154 this section, the Department of Education shall acknowledge
155 receipt of the complaint and provide copies of the complaint and
156 any other relevant preliminary information available to each of
157 the other parties named in the complaint, which parties shall
158 each acknowledge receipt of such copies to the complainant.
159 3. If the Department of Education determines that the
160 complaint demonstrates reasonable cause to suspect that an
161 unlawful reprisal has occurred, the Department of Education
162 shall conduct an investigation to produce a fact-finding report.
163 4. Within 90 days after receiving the complaint, the
164 Department of Education shall provide the district school
165 superintendent of the complainant's district and the complainant
166 with a fact-finding report that may include recommendations to
167 the parties or a proposed resolution of the complaint. The fact-
168 finding report shall be presumed admissible in any subsequent or

169 related administrative or judicial review.
170 5. If the Department of Education determines that
171 reasonable grounds exist to believe that an unlawful reprisal
172 has occurred, is occurring, or is to be taken, and is unable to
173 conciliate a complaint within 60 days after receipt of the fact-
174 finding report, the Department of Education shall terminate the
175 investigation. Upon termination of any investigation, the
176 Department of Education shall notify the complainant and the
177 district school superintendent of the termination of the
178 investigation, providing a summary of relevant facts found
179 during the investigation and the reasons for terminating the
180 investigation. A written statement under this paragraph is
181 presumed admissible as evidence in any judicial or
182 administrative proceeding.
183 6. The Department of Education shall either contract with
184 the Division of Administrative Hearings under s. 120.65, or
185 otherwise provide for a complaint for which the Department of
186 Education determines reasonable grounds exist to believe that an
187 unlawful reprisal has occurred, is occurring, or is to be taken,
188 and is unable to conciliate, to be heard by a panel of impartial
189 persons. Upon hearing the complaint, the panel shall make
190 findings of fact and conclusions of law for a final decision by
191 the Department of Education.
192
193 It shall be an affirmative defense to any action brought
194 pursuant to this section that the adverse action was predicated
195 upon grounds other than, and would have been taken absent, the
196 employee's exercise of rights protected by this section.

197 (b) In any action brought under this section for which it
198 is determined reasonable grounds exist to believe that an
199 unlawful reprisal has occurred, is occurring, or is to be taken,
200 the relief shall include the following:
201 1. Reinstatement of the employee to the same position held
202 before the unlawful reprisal was commenced, or to an equivalent
203 position, or payment of reasonable front pay as alternative
204 relief.
205 2. Reinstatement of the employee's full fringe benefits
206 and seniority rights, as appropriate.
207 3. Compensation, if appropriate, for lost wages, benefits,
208 or other lost remuneration caused by the unlawful reprisal.
209 4. Payment of reasonable costs, including attorney's fees,
210 to a substantially prevailing employee, or to the prevailing
211 employer if the employee filed a frivolous action in bad faith.
212 5. Issuance of an injunction, if appropriate, by a court
213 of competent jurisdiction.
214 6. Temporary reinstatement to the employee's former
215 position or to an equivalent position, pending the final outcome
216 of the complaint, if it is determined that the action was not
217 made in bad faith or for a wrongful purpose, and did not occur
218 after a district school board's initiation of a personnel action
219 against the employee that includes documentation of the
220 employee's violation of a disciplinary standard or performance
221 deficiency.
222 (5) SPONSOR; DUTIES.--
223 (a) Sponsoring entities.--
224 1. A district school board may sponsor a charter school in

225 the county over which the district school board has
226 jurisdiction.
227 2. A state university may grant a charter to a lab school
228 created under s. 1002.32 and shall be considered to be the
229 school's sponsor. Such school shall be considered a charter lab
230 school.
231 (b) Sponsor duties.--
232 1. The sponsor shall monitor and review the charter school
233 in its progress toward the goals established in the charter.
234 2. The sponsor shall monitor the revenues and expenditures
235 of the charter school.
236 3. The sponsor may approve a charter for a charter school
237 before the applicant has secured space, equipment, or personnel,
238 if the applicant indicates approval is necessary for it to raise
239 working funds ~~capital~~.
240 4. The sponsor's policies shall not apply to a charter
241 school unless mutually agreed to by both the sponsor and the
242 charter school.
243 5. The sponsor shall ensure that the charter is innovative
244 and consistent with the state education goals established by s.
245 1000.03(5).
246 6. The sponsor shall ensure that the charter school
247 participates in the state's education accountability system. If
248 a charter school falls short of performance measures included in
249 the approved charter, the sponsor shall report such shortcomings
250 to the Department of Education.
251 7. The sponsor shall not impose additional reporting
252 requirements on a charter school without providing reasonable

253 and specific justification in writing to the charter school.
254
255 A community college may work with the school district or school
256 districts in its designated service area to develop charter
257 schools that offer secondary education. These charter schools
258 must include an option for students to receive an associate
259 degree upon high school graduation. District school boards shall
260 cooperate with and assist the community college on the charter
261 application. Community college applications for charter schools
262 are not subject to the time deadlines outlined in subsection (6)
263 and may be approved by the district school board at any time
264 during the year. Community colleges shall not report FTE for any
265 students who receive FTE funding through the Florida Education
266 Finance Program.
267 (6) APPLICATION PROCESS AND REVIEW.--Charter school
268 ~~Beginning September 1, 2003,~~ applications are subject to the
269 following requirements:
270 (a) A person or entity wishing to open a charter school
271 shall prepare an application that:
272 1. Demonstrates how the school will use the guiding
273 principles and meet the statutorily defined purpose of a charter
274 school.
275 2. Provides a detailed curriculum plan that illustrates
276 how students will be provided services to attain the Sunshine
277 State Standards.
278 3. Contains goals and objectives for improving student
279 learning and measuring that improvement. These goals and
280 objectives must indicate how much academic improvement students

281 are expected to show each year, how success will be evaluated,
282 and the specific results to be attained through instruction.
283 4. Describes the reading curriculum and differentiated
284 strategies that will be used for students reading at grade level
285 or higher and a separate curriculum and strategies for students
286 who are reading below grade level. A sponsor shall deny a
287 charter if the school does not propose a reading curriculum that
288 is consistent with effective teaching strategies that are
289 grounded in scientifically based reading research.
290 5. Contains an annual financial plan for each year
291 requested by the charter for operation of the school for up to 5
292 years. This plan must contain anticipated fund balances based on
293 revenue projections, a spending plan based on projected revenues
294 and expenses, and a description of controls that will safeguard
295 finances and projected enrollment trends.
296 (b) A district school board shall receive and review all
297 applications for a charter school. Beginning with the 2007-2008
298 school year, a district school board shall receive and consider
299 charter school applications received on or before August
300 ~~September~~ 1 of each calendar year for charter schools to be
301 opened at the beginning of the school district's next school
302 year, or to be opened at a time agreed to by the applicant and
303 the district school board. A district school board may receive
304 applications later than this date if it chooses. A sponsor may
305 not charge an applicant for a charter any fee for the processing
306 or consideration of an application, and a sponsor may not base
307 its consideration or approval of an application upon the promise
308 of future payment of any kind.

309 1. In order to facilitate an accurate budget projection
310 process, a district school board shall be held harmless for FTE
311 students who are not included in the FTE projection due to
312 approval of charter school applications after the FTE projection
313 deadline. In a further effort to facilitate an accurate budget
314 projection, within 15 calendar days after receipt of a charter
315 school application, a district school board or other sponsor
316 shall report to the Department of Education the name of the
317 applicant entity, the proposed charter school location, and its
318 projected FTE.
319 2. In order to ensure fiscal responsibility, an
320 application for a charter school shall include a full accounting
321 of expected assets, a projection of expected sources and amounts
322 of income, including income derived from projected student
323 enrollments and from community support, and an expense
324 projection that includes full accounting of the costs of
325 operation, including start-up costs.
326 3. A district school board shall by a majority vote
327 approve or deny an application no later than 60 calendar days
328 after the application is received, unless the district school
329 board and the applicant mutually agree in writing to temporarily
330 postpone the vote to a specific date, at which time the district
331 school board shall by a majority vote approve or deny the
332 application. If the district school board fails to act on the
333 application, an applicant may appeal to the State Board of
334 Education as provided in paragraph (c). If an application is
335 denied, the district school board shall, within 10 calendar
336 days, articulate in writing the specific reasons for ~~based upon~~

337 ~~good cause supporting~~ its denial of the charter application and
338 shall provide the letter of denial and supporting documentation
339 to the applicant and to the Department of Education supporting
340 those reasons.
341 4. For budget projection purposes, the district school
342 board or other sponsor shall report to the Department of
343 Education the approval or denial of a charter application within
344 10 calendar days after such approval or denial. In the event of
345 approval, the report to the Department of Education shall
346 include the final projected FTE for the approved charter school.
347 5. Upon approval of a charter application, the initial
348 startup shall commence with the beginning of the public school
349 calendar for the district in which the charter is granted unless
350 the sponsor ~~district school board~~ allows a waiver of this
351 provision for good cause.
352 (c) An applicant may appeal any denial of that applicant's
353 application or failure to act on an application to the State
354 Board of Education no later than 30 calendar days after receipt
355 of the district school board's decision or failure to act and
356 shall notify the district school board of its appeal. Any
357 response of the district school board shall be submitted to the
358 State Board of Education within 30 calendar days after
359 notification of the appeal. Upon receipt of notification from
360 the State Board of Education that a charter school applicant is
361 filing an appeal, the Commissioner of Education shall convene a
362 meeting of the Charter School Appeal Commission to study and
363 make recommendations to the State Board of Education regarding
364 its pending decision about the appeal. The commission shall

365 forward its recommendation to the state board no later than 7
366 calendar days prior to the date on which the appeal is to be
367 heard. The State Board of Education shall by majority vote
368 accept or reject the decision of the district school board no
369 later than 90 calendar days after an appeal is filed in
370 accordance with State Board of Education rule. The Charter
371 School Appeal Commission may reject an appeal submission for
372 failure to comply with procedural rules governing the appeals
373 process. The rejection shall describe the submission errors. The
374 appellant may have up to 15 calendar days from notice of
375 rejection to resubmit an appeal that meets requirements of State
376 Board of Education rule. An application for appeal submitted
377 subsequent to such rejection shall be considered timely if the
378 original appeal was filed within 30 calendar days after receipt
379 of notice of the specific reasons for the district school
380 board's denial of the charter application. The State Board of
381 Education shall remand the application to the district school
382 board with its written decision that the district school board
383 approve or deny the application. The district school board shall
384 implement the decision of the State Board of Education. The
385 decision of the State Board of Education is not subject to the
386 provisions of the Administrative Procedure Act, chapter 120.
387 (d) The district school board shall act upon the decision
388 of the State Board of Education within 30 calendar days after it
389 is received. The State Board of Education's decision is a final
390 action subject to judicial review <u>in the district court of</u>
391 <u>appeal</u>.
392 (e)1. A Charter School Appeal Commission is established to

393 assist the commissioner and the State Board of Education with a
394 fair and impartial review of appeals by applicants whose charter
395 applications have been denied, whose charter contracts have not
396 been renewed, or whose charter contracts have been terminated by
397 their sponsors~~, or whose disputes over contract negotiations~~
398 ~~have not been resolved through mediation~~.
399 2. The Charter School Appeal Commission may receive copies
400 of the appeal documents forwarded to the State Board of
401 Education, review the documents, gather other applicable
402 information regarding the appeal, and make a written
403 recommendation to the commissioner. The recommendation must
404 state whether the appeal should be upheld or denied and include
405 the reasons for the recommendation being offered. The
406 commissioner shall forward the recommendation to the State Board
407 of Education no later than 7 calendar days prior to the date on
408 which the appeal is to be heard. The state board must consider
409 the commission's recommendation in making its decision, but is
410 not bound by the recommendation. The decision of the Charter
411 School Appeal Commission is not subject to the provisions of the
412 Administrative Procedure Act, chapter 120.
413 3. The commissioner shall appoint the members of the
414 Charter School Appeal Commission. Members shall serve without
415 compensation but may be reimbursed for travel and per diem
416 expenses in conjunction with their service. One-half of the
417 members must represent currently operating charter schools, and
418 one-half of the members must represent school districts. The
419 commissioner or a named designee shall chair the Charter School
420 Appeal Commission.

421 4. The chair shall convene meetings of the commission and
422 shall ensure that the written recommendations are completed and
423 forwarded in a timely manner. In cases where the commission
424 cannot reach a decision, the chair shall make the written
425 recommendation with justification, noting that the decision was
426 rendered by the chair.
427 5. Commission members shall thoroughly review the
428 materials presented to them from the appellant and the sponsor.
429 The commission may request information to clarify the
430 documentation presented to it. In the course of its review, the
431 commission may facilitate the postponement of an appeal in those
432 cases where additional time and communication may negate the
433 need for a formal appeal and both parties agree, in writing, to
434 postpone the appeal to the State Board of Education. A new date
435 certain for the appeal shall then be set based upon the rules
436 and procedures of the State Board of Education. Commission
437 members shall provide a written recommendation to the state
438 board as to whether the appeal should be upheld or denied. A
439 fact-based justification for the recommendation must be
440 included. The chair must ensure that the written recommendation
441 is submitted to the State Board of Education members no later
442 than 7 calendar days prior to the date on which the appeal is to
443 be heard. Both parties in the case shall also be provided a copy
444 of the recommendation.
445 (f) <u>The Department of Education shall offer or arrange for</u>
446 <u>training and technical assistance to charter school applicants</u>
447 <u>in developing business plans and estimating costs and income.</u>
448 <u>This assistance shall address estimating startup costs,</u>

449 projecting enrollment, and identifying the types and amounts of
450 state and federal financial assistance the charter school will
451 be eligible to receive. The department ~~of Education~~ may provide
452 other technical assistance to an applicant upon written request.
453 (g) In considering charter applications for a lab school,
454 a state university shall consult with the district school board
455 of the county in which the lab school is located. The decision
456 of a state university may be appealed pursuant to the procedure
457 established in this subsection.
458 (h) The terms and conditions for the operation of a
459 charter school shall be set forth by the sponsor and the
460 applicant in a written contractual agreement, called a charter.
461 The sponsor shall not impose unreasonable rules or regulations
462 that violate the intent of giving charter schools greater
463 flexibility to meet educational goals. The applicant and sponsor
464 shall have 60 days to provide an initial proposed charter
465 contract to the charter school and 75 days thereafter to
466 negotiate the contract and ~~6 months in which~~ to mutually agree
467 to the provisions of the final charter contract. The proposed
468 charter shall be provided to the charter school at least 7
469 calendar days prior to the date on which the charter is
470 scheduled to be heard by the sponsor. The Department of
471 Education shall provide mediation services for any dispute
472 regarding this section subsequent to the approval of a charter
473 application and for any dispute relating to the approved
474 charter, except disputes regarding charter school application
475 denials. If the Commissioner of Education determines that the
476 dispute cannot be settled through mediation, the dispute may be

477 appealed to an administrative law judge appointed by the
478 Division of Administrative Hearings. The administrative law
479 judge may rule on issues of equitable treatment of the charter
480 school as a public school, whether proposed provisions of the
481 charter violate the intended flexibility granted charter schools
482 by statute, or on any other matter regarding this section except
483 a charter school application denial, a charter termination, or a
484 charter nonrenewal and shall award the prevailing party
485 reasonable attorney's fees and costs incurred to be paid by the
486 losing party. The costs of the administrative hearing shall be
487 paid by the party whom the administrative law judge rules
488 against.
489 (7) CHARTER.--The major issues involving the operation of
490 a charter school shall be considered in advance and written into
491 the charter. The charter shall be signed by the governing body
492 of the charter school and the sponsor, following a public
493 hearing to ensure community input.
494 (a) The charter shall address, and criteria for approval
495 of the charter shall be based on:
496 1. The school's mission, the students to be served, and
497 the ages and grades to be included.
498 2. The focus of the curriculum, the instructional methods
499 to be used, any distinctive instructional techniques to be
500 employed, and identification and acquisition of appropriate
501 technologies needed to improve educational and administrative
502 performance which include a means for promoting safe, ethical,
503 and appropriate uses of technology which comply with legal and
504 professional standards. The charter shall ensure that reading is

505 a primary focus of the curriculum and that resources are
506 provided to identify and provide specialized instruction for
507 students who are reading below grade level. The curriculum and
508 instructional strategies for reading must be consistent with the
509 Sunshine State Standards and grounded in scientifically based
510 reading research.
511 3. The current incoming baseline standard of student
512 academic achievement, the outcomes to be achieved, and the
513 method of measurement that will be used. The criteria listed in
514 this subparagraph shall include a detailed description for each
515 of the following:
516 a. How the baseline student academic achievement levels
517 and prior rates of academic progress will be established.
518 b. How these baseline rates will be compared to rates of
519 academic progress achieved by these same students while
520 attending the charter school.
521 c. To the extent possible, how these rates of progress
522 will be evaluated and compared with rates of progress of other
523 closely comparable student populations.
524
525 The district school board is required to provide academic
526 student performance data to charter schools for each of their
527 students coming from the district school system, as well as
528 rates of academic progress of comparable student populations in
529 the district school system.
530 4. The methods used to identify the educational strengths
531 and needs of students and how well educational goals and
532 performance standards are met by students attending the charter

533 school. Included in the methods is a means for the charter
534 school to ensure accountability to its constituents by analyzing
535 student performance data and by evaluating the effectiveness and
536 efficiency of its major educational programs. Students in
537 charter schools shall, at a minimum, participate in the
538 statewide assessment program created under s. 1008.22.
539 5. In secondary charter schools, a method for determining
540 that a student has satisfied the requirements for graduation in
541 s. 1003.43.
542 6. A method for resolving conflicts between the governing
543 body of the charter school and the sponsor.
544 7. The admissions procedures and dismissal procedures,
545 including the school's code of student conduct.
546 8. The ways by which the school will achieve a
547 racial/ethnic balance reflective of the community it serves or
548 within the racial/ethnic range of other public schools in the
549 same school district.
550 9. The financial and administrative management of the
551 school, including a reasonable demonstration of the professional
552 experience or competence of those individuals or organizations
553 applying to operate the charter school or those hired or
554 retained to perform such professional services and the
555 description of clearly delineated responsibilities and the
556 policies and practices needed to effectively manage the charter
557 school. A description of internal audit procedures and
558 establishment of controls to ensure that financial resources are
559 properly managed must be included. Both public sector and
560 private sector professional experience shall be equally valid in

561 such a consideration.
562 10. The asset and liability projections required in the
563 application which are incorporated into the charter and which
564 shall be compared with information provided in the annual report
565 of the charter school. The charter shall ensure that, if a
566 charter school internal audit or annual financial audit reveals
567 a state of financial emergency as defined in s. 218.503 or
568 deficit financial position, the auditors are required to notify
569 the charter school governing board, the sponsor, and the
570 Department of Education. The internal auditor shall report such
571 findings in the form of an exit interview to the principal or
572 the principal administrator of the charter school and the chair
573 of the governing board within 7 working days after finding the
574 state of financial emergency or deficit position. A final report
575 shall be provided to the entire governing board, the sponsor,
576 and the Department of Education within 14 working days after the
577 exit interview. When a charter school is in a state of financial
578 emergency, the charter school shall file a detailed financial
579 recovery plan with the sponsor. The department, with the
580 involvement of both sponsors and charter schools, shall
581 establish guidelines for developing such plans.
582 11. A description of procedures that identify various
583 risks and provide for a comprehensive approach to reduce the
584 impact of losses; plans to ensure the safety and security of
585 students and staff; plans to identify, minimize, and protect
586 others from violent or disruptive student behavior; and the
587 manner in which the school will be insured, including whether or
588 not the school will be required to have liability insurance,

589 and, if so, the terms and conditions thereof and the amounts of
590 coverage.
591 12. The term of the charter which shall provide for
592 cancellation of the charter if insufficient progress has been
593 made in attaining the student achievement objectives of the
594 charter and if it is not likely that such objectives can be
595 achieved before expiration of the charter. The initial term of a
596 charter shall be for ~~3,~~ 4~~,~~ or 5 years. In order to facilitate
597 access to long-term financial resources for charter school
598 construction, charter schools that are operated by a
599 municipality or other public entity as provided by law are
600 eligible for up to a 15-year charter, subject to approval by the
601 district school board. A charter lab school is eligible for a
602 charter for a term of up to 15 years. In addition, to facilitate
603 access to long-term financial resources for charter school
604 construction, charter schools that are operated by a private,
605 not-for-profit, s. 501(c)(3) status corporation are eligible for
606 up to a 15-year ~~10-year~~ charter, subject to approval by the
607 district school board. Such long-term charters remain subject to
608 annual review and may be terminated during the term of the
609 charter, but only ~~for specific good cause~~ according to the
610 provisions set forth in subsection (8).
611 13. The facilities to be used and their location.
612 14. The qualifications to be required of the teachers and
613 the potential strategies used to recruit, hire, train, and
614 retain qualified staff to achieve best value.
615 15. The governance structure of the school, including the
616 status of the charter school as a public or private employer as

617 required in paragraph (12)(i).
618 16. A timetable for implementing the charter which
619 addresses the implementation of each element thereof and the
620 date by which the charter shall be awarded in order to meet this
621 timetable.
622 17. In the case of an existing public school being
623 converted to charter status, alternative arrangements for
624 current students who choose not to attend the charter school and
625 for current teachers who choose not to teach in the charter
626 school after conversion in accordance with the existing
627 collective bargaining agreement or district school board rule in
628 the absence of a collective bargaining agreement. However,
629 alternative arrangements shall not be required for current
630 teachers who choose not to teach in a charter lab school, except
631 as authorized by the employment policies of the state university
632 which grants the charter to the lab school.
633 (b)1. A charter may be renewed ~~every 5 school years,~~
634 provided that a program review demonstrates that the criteria in
635 paragraph (a) have been successfully accomplished and that none
636 of the grounds for nonrenewal established by paragraph (8)(a)
637 has been documented. In order to facilitate long-term financing
638 for charter school construction, charter schools operating for a
639 minimum of 2 years and demonstrating exemplary academic
640 programming and fiscal management are eligible for a 15-year
641 charter renewal. Such long-term charter is subject to annual
642 review and may be terminated during the term of the charter.
643 2. The 15-year charter renewal that may be granted
644 pursuant to subparagraph 1. shall be granted to a charter school

645 that has received a school grade of "A" or "B" pursuant to s.
646 1008.34 in 3 of the past 4 years and is not in a state of
647 financial emergency or deficit position as defined by this
648 section. Such long-term charter is subject to annual review and
649 may be terminated during the term of the charter pursuant to
650 subsection (8).
651 (c) A charter may be modified during its initial term or
652 any renewal term upon the recommendation of the sponsor or the
653 charter school governing board and the approval of both parties
654 to the agreement.
655 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--
656 (a) ~~At the end of the term of a charter,~~ The sponsor may
657 choose not to renew or may terminate the charter for any of the
658 following grounds:
659 1. Failure to participate in the state's education
660 accountability system created in s. 1008.31, as required in this
661 section, or failure to meet the requirements for student
662 performance stated in the charter.
663 2. Failure to meet generally accepted standards of fiscal
664 management.
665 3. Violation of law.
666 4. Determination by the sponsor that the health, safety,
667 or welfare of the students is threatened ~~Other good cause shown~~.
668 5. Material breach or repeated violations of the terms of
669 the charter.
670 ~~(b) During the term of a charter, the sponsor may~~
671 ~~terminate the charter for any of the grounds listed in paragraph~~
672 ~~(a).~~

673 (b) ~~(c)~~ At least 90 days prior to renewing or terminating a
674 charter, the sponsor shall notify the governing body of the
675 school of the proposed action in writing. The notice shall state
676 in reasonable detail the grounds for the proposed action and
677 stipulate that the school's governing body may, within 14
678 calendar days after receiving the notice, request an informal
679 hearing before the sponsor. The sponsor shall conduct the
680 informal hearing within 30 calendar days after receiving a
681 written request. ~~The charter school's governing body may, within~~
682 ~~14 calendar days after receiving the sponsor's decision to~~
683 ~~terminate or refuse to renew the charter, appeal the decision~~
684 ~~pursuant to the procedure established in subsection (6).~~
685 (c) If a charter is not renewed or is terminated pursuant
686 to paragraph (b), the sponsor shall, within 10 calendar days,
687 articulate in writing the specific reasons for its nonrenewal or
688 termination of the charter and must provide the letter of
689 nonrenewal or termination and documentation supporting the
690 reasons to the charter school governing body, the charter school
691 principal, and the Department of Education. The charter school's
692 governing body may, within 30 calendar days after receiving the
693 sponsor's final written decision to refuse to renew or to
694 terminate the charter, appeal the decision pursuant to the
695 procedure established in subsection (6).
696 (d) A charter may be terminated immediately if the sponsor
697 determines that ~~good cause has been shown or if~~ the health,
698 safety, or welfare of the students is threatened. The sponsor
699 shall notify in writing the charter school's governing body, the
700 charter school principal, and the department if a charter is

701 immediately terminated. The sponsor shall clearly identify the
702 specific issues that resulted in the immediate termination and
703 provide evidence of prior notification of issues resulting in
704 the immediate termination when appropriate. The school district
705 in which the charter school is located shall assume operation of
706 the school under these circumstances. The charter school's
707 governing board may, within 30 ~~14~~ days after receiving the
708 sponsor's decision to terminate the charter, appeal the decision
709 pursuant to the procedure established in subsection (6).
710 (e) When a charter is not renewed or is terminated, the
711 school shall be dissolved under the provisions of law under
712 which the school was organized, and any unencumbered public
713 funds, except for capital outlay funds and federal charter
714 school program grant funds, from the charter school shall revert
715 to the sponsor ~~district school board~~. Capital outlay funds
716 provided pursuant to s. 1013.62 and federal charter school
717 program grant funds that are unencumbered shall revert to the
718 department to be redistributed among eligible charter schools.
719 In the event a charter school is dissolved or is otherwise
720 terminated, all district school board property and improvements,
721 furnishings, and equipment purchased with public funds shall
722 automatically revert to full ownership by the district school
723 board, subject to complete satisfaction of any lawful liens or
724 encumbrances. Any unencumbered public funds from the charter
725 school, district school board property and improvements,
726 furnishings, and equipment purchased with public funds, or
727 financial or other records pertaining to the charter school, in
728 the possession of any person, entity, or holding company, other

729 than the charter school, shall be held in trust upon the
730 district school board's request, until any appeal status is
731 resolved.
732 (f) If a charter is not renewed or is terminated, the
733 charter school is responsible for all debts of the charter
734 school. The district may not assume the debt from any contract
735 for services made between the governing body of the school and a
736 third party, except for a debt that is previously detailed and
737 agreed upon in writing by both the district and the governing
738 body of the school and that may not reasonably be assumed to
739 have been satisfied by the district.
740 (g) If a charter is not renewed or is terminated, a
741 student who attended the school may apply to, and shall be
742 enrolled in, another public school. Normal application deadlines
743 shall be disregarded under such circumstances.
744 (9) CHARTER SCHOOL REQUIREMENTS.--
745 (a) A charter school shall be nonsectarian in its
746 programs, admission policies, employment practices, and
747 operations.
748 (b) A charter school shall admit students as provided in
749 subsection (10).
750 (c) A charter school shall be accountable to its sponsor
751 for performance as provided in subsection (7).
752 (d) A charter school shall not charge tuition or
753 registration fees, except those fees normally charged by other
754 public schools. However, a charter lab school may charge a
755 student activity and service fee as authorized by s. 1002.32(5).
756 (e) A charter school shall meet all applicable state and

757 local health, safety, and civil rights requirements.
758 (f) A charter school shall not violate the
759 antidiscrimination provisions of s. 1000.05.
760 (g) A charter school shall provide for an annual financial
761 audit in accordance with s. 218.39. Financial audits that reveal
762 a state of financial emergency as defined in s. 218.503 and are
763 conducted by a certified public accountant or auditor in
764 accordance with s. 218.39 shall be provided to the governing
765 body of the charter school within 7 working days after finding
766 that a state of financial emergency exists. When a charter
767 school is found to be in a state of financial emergency by a
768 certified public accountant or auditor, the charter school must
769 file a detailed financial recovery plan with the sponsor within
770 30 days after receipt of the audit.
771 (h) No organization shall hold more than 15 charters
772 statewide.
773 (i) In order to provide financial information that is
774 comparable to that reported for other public schools, charter
775 schools are to maintain all financial records which constitute
776 their accounting system:
777 1. In accordance with the accounts and codes prescribed in
778 the most recent issuance of the publication titled "Financial
779 and Program Cost Accounting and Reporting for Florida Schools";
780 or
781 2. At the discretion of the charter school governing
782 board, a charter school may elect to follow generally accepted
783 accounting standards for not-for-profit organizations, but must
784 reformat this information for reporting according to this

785 paragraph.
786
787 Charter schools shall ~~are to~~ provide annual financial report and
788 program cost report information in the state-required formats
789 for inclusion in district reporting in compliance with s.
790 1011.60(1). Charter schools that are operated by a municipality
791 or are a component unit of a parent nonprofit organization may
792 use the accounting system of the municipality or the parent but
793 must reformat this information for reporting according to this
794 paragraph.
795 (j) The governing board of the charter school shall
796 annually adopt and maintain an operating budget.
797 (k) The governing body of the charter school shall
798 exercise continuing oversight over charter school operations.
799 (l) The governing body of the charter school shall be
800 responsible for:
801 1. Ensuring that the charter school has retained the
802 services of a certified public accountant or auditor for the
803 annual financial audit, pursuant to paragraph (g), who shall
804 submit the report to the governing body.
805 2. Reviewing and approving the audit report, including
806 audit findings and recommendations for the financial recovery
807 plan.
808 3. Monitoring a financial recovery plan in order to ensure
809 compliance.
810 (m) ~~(l)~~ The governing body of the charter school shall
811 report its progress annually to its sponsor, which shall forward
812 the report to the Commissioner of Education at the same time as

813 other annual school accountability reports. The Department of
814 Education shall develop a uniform, on-line annual accountability
815 report to be completed by charter schools. This report shall be
816 easy to utilize and contain demographic information, student
817 performance data, and financial accountability information. A
818 charter school shall not be required to provide information and
819 data that is duplicative and already in the possession of the
820 department. The Department of Education shall include in its
821 compilation a notation if a school failed to file its report by
822 the deadline established by the department. The report shall
823 include at least the following components:
824 1. Student achievement performance data, including the
825 information required for the annual school report and the
826 education accountability system governed by ss. 1008.31 and
827 1008.345. Charter schools are subject to the same accountability
828 requirements as other public schools, including reports of
829 student achievement information that links baseline student data
830 to the school's performance projections identified in the
831 charter. The charter school shall identify reasons for any
832 difference between projected and actual student performance.
833 2. Financial status of the charter school which must
834 include revenues and expenditures at a level of detail that
835 allows for analysis of the ability to meet financial obligations
836 and timely repayment of debt.
837 3. Documentation of the facilities in current use and any
838 planned facilities for use by the charter school for instruction
839 of students, administrative functions, or investment purposes.
840 4. Descriptive information about the charter school's

841 personnel, including salary and benefit levels of charter school
842 employees, the proportion of instructional personnel who hold
843 professional or temporary certificates, and the proportion of
844 instructional personnel teaching in-field or out-of-field.
845 (n) ~~(m)~~ A charter school shall not levy taxes or issue
846 bonds secured by tax revenues.
847 (o) ~~(n)~~ A charter school shall provide instruction for at
848 least the number of days required by law for other public
849 schools, and may provide instruction for additional days.
850 (p) The director and a representative of the governing
851 body of a charter school that has received a school grade of "D"
852 under s. 1008.34(2) shall appear before the sponsor or the
853 sponsor's staff at least once a year to present information
854 concerning each contract component having noted deficiencies.
855 The sponsor shall communicate at the meeting, and in writing to
856 the director, the services provided to the school to help the
857 school address its deficiencies.
858 (q) Upon notification that a charter school receives a
859 school grade of "D" for 2 consecutive years or a school grade of
860 "F" under s. 1008.34(2), the charter school sponsor or the
861 sponsor's staff shall require the director and a representative
862 of the governing body to submit to the sponsor for approval a
863 school improvement plan to raise student achievement and to
864 implement the plan. The sponsor has the authority to approve a
865 school improvement plan that the charter school will implement
866 in the following school year. The Department of Education shall
867 offer technical assistance and training to the charter school
868 and its governing body and establish guidelines for developing,

869 submitting, and approving such plans.
870 1. If the charter school fails to improve its student
871 performance from the year immediately prior to the
872 implementation of the school improvement plan, the sponsor shall
873 place the charter school on probation and shall require the
874 charter school governing body to take one of the following
875 corrective actions:
876 a. Contract for the educational services of the charter
877 school;
878 b. Reorganize the school at the end of the school year
879 under a new director or principal who is authorized to hire new
880 staff and implement a plan that addresses the causes of
881 inadequate progress; or
882 c. Reconstitute the charter school.
883 2. A charter school that is placed on probation shall
884 continue the corrective actions required under subparagraph 1.
885 until the charter school improves its student performance from
886 the year prior to the implementation of the school improvement
887 plan.
888 3. Notwithstanding any provision of this paragraph, the
889 sponsor may terminate the charter at any time pursuant to the
890 provisions of subsection (8).
891 (r) The director and a representative of the governing
892 body of a graded charter school that has submitted a school
893 improvement plan or has been placed on probation under paragraph
894 (q) shall appear before the sponsor or the sponsor's staff at
895 least once a year to present information regarding the
896 corrective strategies that are being implemented by the school

897 pursuant to the school improvement plan. The sponsor shall
898 communicate at the meeting, and in writing to the director, the
899 services provided to the school to help the school address its
900 deficiencies.
901 (10) ELIGIBLE STUDENTS.--
902 (a) A charter school shall be open to any student covered
903 in an interdistrict agreement or residing in the school district
904 in which the charter school is located; however, in the case of
905 a charter lab school, the charter lab school shall be open to
906 any student eligible to attend the lab school as provided in s.
907 1002.32 or who resides in the school district in which the
908 charter lab school is located. Any eligible student shall be
909 allowed interdistrict transfer to attend a charter school when
910 based on good cause.
911 (b) The charter school shall enroll an eligible student
912 who submits a timely application, unless the number of
913 applications exceeds the capacity of a program, class, grade
914 level, or building. In such case, all applicants shall have an
915 equal chance of being admitted through a random selection
916 process.
917 (c) When a public school converts to charter status,
918 enrollment preference shall be given to students who would have
919 otherwise attended that public school.
920 (d) A charter school may give enrollment preference to the
921 following student populations:
922 1. Students who are siblings of a student enrolled in the
923 charter school.
924 2. Students who are the children of a member of the

925 governing board of the charter school.
926 3. Students who are the children of an employee of the
927 charter school.
928 (e) A charter school may limit the enrollment process only
929 to target the following student populations:
930 1. Students within specific age groups or grade levels.
931 2. Students considered at risk of dropping out of school
932 or academic failure. Such students shall include exceptional
933 education students.
934 3. Students enrolling in a charter school-in-the-workplace
935 or charter school-in-a-municipality established pursuant to
936 subsection (15).
937 4. Students residing within a reasonable distance of the
938 charter school, as described in paragraph (20)(c). Such students
939 shall be subject to a random lottery and to the racial/ethnic
940 balance provisions described in subparagraph (7)(a)8. or any
941 federal provisions that require a school to achieve a
942 racial/ethnic balance reflective of the community it serves or
943 within the racial/ethnic range of other public schools in the
944 same school district.
945 5. Students who meet reasonable academic, artistic, or
946 other eligibility standards established by the charter school
947 and included in the charter school application and charter or,
948 in the case of existing charter schools, standards that are
949 consistent with the school's mission and purpose. Such standards
950 shall be in accordance with current state law and practice in
951 public schools and may not discriminate against otherwise
952 qualified individuals.

953 6. Students articulating from one charter school to
954 another pursuant to an articulation agreement between the
955 charter schools that has been approved by the sponsor.
956 (f) Students with handicapping conditions and students
957 served in English for Speakers of Other Languages programs shall
958 have an equal opportunity of being selected for enrollment in a
959 charter school.
960 (g) A student may withdraw from a charter school at any
961 time and enroll in another public school as determined by
962 district school board rule.
963 (h) The capacity of the charter school shall be determined
964 annually by the governing board, in conjunction with the
965 sponsor, of the charter school in consideration of the factors
966 identified in this subsection.
967 (11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR
968 ACTIVITIES.--A charter school student is eligible to participate
969 in an interscholastic extracurricular activity at the public
970 school to which the student would be otherwise assigned to
971 attend pursuant to s. 1006.15(3)(d).
972 (12) EMPLOYEES OF CHARTER SCHOOLS.--
973 (a) A charter school shall select its own employees. A
974 charter school may contract with its sponsor for the services of
975 personnel employed by the sponsor.
976 (b) Charter school employees shall have the option to
977 bargain collectively. Employees may collectively bargain as a
978 separate unit or as part of the existing district collective
979 bargaining unit as determined by the structure of the charter
980 school.

981 (c) The employees of a conversion charter school shall
982 remain public employees for all purposes, unless such employees
983 choose not to do so.
984 (d) The teachers at a charter school may choose to be part
985 of a professional group that subcontracts with the charter
986 school to operate the instructional program under the auspices
987 of a partnership or cooperative that they collectively own.
988 Under this arrangement, the teachers would not be public
989 employees.
990 (e) Employees of a school district may take leave to
991 accept employment in a charter school upon the approval of the
992 district school board. While employed by the charter school and
993 on leave that is approved by the district school board, the
994 employee may retain seniority accrued in that school district
995 and may continue to be covered by the benefit programs of that
996 school district, if the charter school and the district school
997 board agree to this arrangement and its financing. School
998 districts shall not require resignations of teachers desiring to
999 teach in a charter school. This paragraph shall not prohibit a
1000 district school board from approving alternative leave
1001 arrangements consistent with chapter 1012.
1002 (f) Teachers employed by or under contract to a charter
1003 school shall be certified as required by chapter 1012. A charter
1004 school governing board may employ or contract with skilled
1005 selected noncertified personnel to provide instructional
1006 services or to assist instructional staff members as education
1007 paraprofessionals in the same manner as defined in chapter 1012,
1008 and as provided by State Board of Education rule for charter

1009 school governing boards. A charter school may not knowingly
1010 employ an individual to provide instructional services or to
1011 serve as an education paraprofessional if the individual's
1012 certification or licensure as an educator is suspended or
1013 revoked by this or any other state. A charter school may not
1014 knowingly employ an individual who has resigned from a school
1015 district in lieu of disciplinary action with respect to child
1016 welfare or safety, or who has been dismissed for just cause by
1017 any school district with respect to child welfare or safety. The
1018 qualifications of teachers shall be disclosed to parents.
1019 (g) A charter school shall employ or contract with
1020 employees who have undergone background screening as provided in
1021 s. 1012.32. Members of the governing board of the charter school
1022 shall also undergo background screening in a manner similar to
1023 that provided in s. 1012.32.
1024 (h) For the purposes of tort liability, the governing body
1025 and employees of a charter school shall be governed by s.
1026 768.28.
1027 (i) A charter school shall organize as, or be operated by,
1028 a nonprofit organization. A charter school may be operated by a
1029 municipality or other public entity as provided for by law. As
1030 such, the charter school may be either a private or a public
1031 employer. As a public employer, a charter school may participate
1032 in the Florida Retirement System upon application and approval
1033 as a "covered group" under s. 121.021(34). If a charter school
1034 participates in the Florida Retirement System, the charter
1035 school employees shall be compulsory members of the Florida
1036 Retirement System. As either a private or a public employer, a

1037 charter school may contract for services with an individual or
1038 group of individuals who are organized as a partnership or a
1039 cooperative. Individuals or groups of individuals who contract
1040 their services to the charter school are not public employees.
1041 (13) CHARTER SCHOOL COOPERATIVES.--Charter schools may
1042 enter into cooperative agreements to form charter school
1043 cooperative organizations that may provide the following
1044 services: charter school planning and development, direct
1045 instructional services, and contracts with charter school
1046 governing boards to provide personnel administrative services,
1047 payroll services, human resource management, evaluation and
1048 assessment services, teacher preparation, and professional
1049 development.
1050 (14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS;
1051 INDEMNIFICATION OF THE STATE AND SCHOOL DISTRICT; CREDIT OR
1052 TAXING POWER NOT TO BE PLEDGED.--Any arrangement entered into to
1053 borrow or otherwise secure funds for a charter school authorized
1054 in this section from a source other than the state or a school
1055 district shall indemnify the state and the school district from
1056 any and all liability, including, but not limited to, financial
1057 responsibility for the payment of the principal or interest. Any
1058 loans, bonds, or other financial agreements are not obligations
1059 of the state or the school district but are obligations of the
1060 charter school authority and are payable solely from the sources
1061 of funds pledged by such agreement. The credit or taxing power
1062 of the state or the school district shall not be pledged and no
1063 debts shall be payable out of any moneys except those of the
1064 legal entity in possession of a valid charter approved by a

1065 district school board pursuant to this section.
1066 (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-
1067 A-MUNICIPALITY.--
1068 (a) In order to increase business partnerships in
1069 education, to reduce school and classroom overcrowding
1070 throughout the state, and to offset the high costs for
1071 educational facilities construction, the Legislature intends to
1072 encourage the formation of business partnership schools or
1073 satellite learning centers and municipal-operated schools
1074 through charter school status.
1075 (b) A charter school-in-the-workplace may be established
1076 when a business partner provides the school facility to be used;
1077 enrolls students based upon a random lottery that involves all
1078 of the children of employees of that business or corporation who
1079 are seeking enrollment, as provided for in subsection (10); and
1080 enrolls students according to the racial/ethnic balance
1081 provisions described in subparagraph (7)(a)8. Any portion of a
1082 facility used for a public charter school shall be exempt from
1083 ad valorem taxes, as provided for in s. 1013.54, for the
1084 duration of its use as a public school.
1085 (c) A charter school-in-a-municipality designation may be
1086 granted to a municipality that possesses a charter; enrolls
1087 students based upon a random lottery that involves all of the
1088 children of the residents of that municipality who are seeking
1089 enrollment, as provided for in subsection (10); and enrolls
1090 students according to the racial/ethnic balance provisions
1091 described in subparagraph (7)(a)8. When a municipality has
1092 submitted charter applications for the establishment of a

1093 charter school feeder pattern, consisting of elementary, middle,
1094 and senior high schools, and each individual charter application
1095 is approved by the district school board, such schools shall
1096 then be designated as one charter school for all purposes listed
1097 pursuant to this section. Any portion of the land and facility
1098 used for a public charter school shall be exempt from ad valorem
1099 taxes, as provided for in s. 1013.54, for the duration of its
1100 use as a public school.
1101 (d) As used in this subsection, the terms "business
1102 partner" or "municipality" may include more than one business or
1103 municipality to form a charter school-in-the-workplace or
1104 charter school-in-a-municipality.
1105 (16) EXEMPTION FROM STATUTES.--
1106 (a) A charter school shall operate in accordance with its
1107 charter and shall be exempt from all statutes in chapters 1000-
1108 1013. However, a charter school shall be in compliance with the
1109 following statutes in chapters 1000-1013:
1110 1. Those statutes specifically applying to charter
1111 schools, including this section.
1112 2. Those statutes pertaining to the student assessment
1113 program and school grading system.
1114 3. Those statutes pertaining to the provision of services
1115 to students with disabilities.
1116 4. Those statutes pertaining to civil rights, including s.
1117 1000.05, relating to discrimination.
1118 5. Those statutes pertaining to student health, safety,
1119 and welfare.
1120 (b) Additionally, a charter school shall be in compliance

1121 with the following statutes:
1122 1. Section 286.011, relating to public meetings and
1123 records, public inspection, and criminal and civil penalties.
1124 2. Chapter 119, relating to public records.
1125 (17) FUNDING.--Students enrolled in a charter school,
1126 regardless of the sponsorship, shall be funded as if they are in
1127 a basic program or a special program, the same as students
1128 enrolled in other public schools in the school district. Funding
1129 for a charter lab school shall be as provided in s. 1002.32.
1130 (a) Each charter school shall report its student
1131 enrollment to the district school board as required in s.
1132 1011.62, and in accordance with the definitions in s. 1011.61.
1133 The district school board shall include each charter school's
1134 enrollment in the district's report of student enrollment. All
1135 charter schools submitting student record information required
1136 by the Department of Education shall comply with the Department
1137 of Education's guidelines for electronic data formats for such
1138 data, and all districts shall accept electronic data that
1139 complies with the Department of Education's electronic format.
1140 (b) The basis for the agreement for funding students
1141 enrolled in a charter school shall be the sum of the school
1142 district's operating funds from the Florida Education Finance
1143 Program as provided in s. 1011.62 and the General Appropriations
1144 Act, including gross state and local funds, discretionary
1145 lottery funds, and funds from the school district's current
1146 operating discretionary millage levy; divided by total funded
1147 weighted full-time equivalent students in the school district;
1148 multiplied by the weighted full-time equivalent students for the

1149 charter school. Charter schools whose students or programs meet
1150 the eligibility criteria in law shall be entitled to their
1151 proportionate share of categorical program funds included in the
1152 total funds available in the Florida Education Finance Program
1153 by the Legislature, including transportation. Total funding for
1154 each charter school shall be recalculated during the year to
1155 reflect the revised calculations under the Florida Education
1156 Finance Program by the state and the actual weighted full-time
1157 equivalent students reported by the charter school during the
1158 full-time equivalent student survey periods designated by the
1159 Commissioner of Education.
1160 (c) If the district school board is providing programs or
1161 services to students funded by federal funds, any eligible
1162 students enrolled in charter schools in the school district
1163 shall be provided federal funds for the same level of service
1164 provided students in the schools operated by the district school
1165 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
1166 charter schools shall receive all federal funding for which the
1167 school is otherwise eligible, including Title I funding, not
1168 later than 5 months after the charter school first opens and
1169 within 5 months after any subsequent expansion of enrollment.
1170 (d) District school boards shall make ~~every effort to~~
1171 ~~ensure that charter schools receive~~ timely and efficient payment
1172 and reimbursement to charter schools, including processing
1173 paperwork required to access special state and federal funding
1174 for which they may be eligible. The district school board may
1175 distribute funds to a charter school for up to 3 months based on
1176 the projected full-time equivalent student membership of the

1177 charter school. Thereafter, the results of full-time equivalent
1178 student membership surveys shall be used in adjusting the amount
1179 of funds distributed monthly to the charter school for the
1180 remainder of the fiscal year. The payment shall be issued no
1181 later than 10 working days after the district school board
1182 receives a distribution of state or federal funds. If a warrant
1183 for payment is not issued within 10 ~~30~~ working days after
1184 receipt of funding by the district school board, the school
1185 district shall pay to the charter school, in addition to the
1186 amount of the scheduled disbursement, interest at a rate of 5 ~~1~~
1187 percent per month calculated on a daily basis on the unpaid
1188 balance from the expiration of the 10 working days ~~30 day period~~
1189 until such time as the warrant is issued. The Commissioner of
1190 Education is authorized to withhold lottery funds from school
1191 districts that repeatedly fail to make timely payments and
1192 reimbursements.
1193 (e) The State Board of Education is authorized to impose a
1194 fine on or withhold lottery funds from a school district for any
1195 violation of the procedural requirements for charter school
1196 application, termination, or nonrenewal appeals regardless of
1197 whether the violation affects the fairness of the appeal process
1198 or the correctness of the action taken by the school district.
1199 Prior to the imposition of a fine or the withholding of lottery
1200 funds under this paragraph, the State Board of Education shall
1201 provide the school district with notice of the amount of the
1202 proposed fine or lottery funds to be withheld and an opportunity
1203 to be heard at a subsequent meeting of the State Board of
1204 Education. The funds collected for fines under this paragraph

1205 shall be taken from the school district's administrative fee
1206 under paragraph (20)(a) and disbursed to the prevailing charter
1207 school appellant under this section or, if the charter school
1208 appellant's appeal is denied, in equal amounts to each of the
1209 charter schools within the school district. The imposition of a
1210 fine under this paragraph shall not exceed $10,000 and is a
1211 final action subject to judicial review in the district court of
1212 appeals.
1213 (18) FACILITIES.--
1214 (a) A startup charter school shall utilize facilities
1215 which comply with the Florida Building Code pursuant to chapter
1216 553 except for the State Requirements for Educational
1217 Facilities. Conversion charter schools shall utilize facilities
1218 that comply with the State Requirements for Educational
1219 Facilities, provided that the school district and the charter
1220 school have entered into a mutual management plan with
1221 sufficient funding from the school district to comply with the
1222 State Requirements for Educational Facilities. Charter schools,
1223 with the exception of conversion charter schools, are not
1224 required to comply, but may choose to comply, with the State
1225 Requirements for Educational Facilities of the Florida Building
1226 Code adopted pursuant to s. 1013.37. The local governing
1227 authority shall not adopt or impose local building requirements
1228 or restrictions that are more stringent than those found in the
1229 Florida Building Code. The agency having jurisdiction for
1230 inspection of a facility and issuance of a certificate of
1231 occupancy shall be the local municipality or, if in an
1232 unincorporated area, the county governing authority.

1233 (b) A charter school shall utilize facilities that comply
1234 with the Florida Fire Prevention Code, pursuant to s. 633.025,
1235 as adopted by the authority in whose jurisdiction the facility
1236 is located as provided in paragraph (a).
1237 (c) Any facility, or portion thereof, used to house a
1238 charter school whose charter has been approved by the sponsor
1239 and the governing board, pursuant to subsection (7), shall be
1240 exempt from ad valorem taxes pursuant to s. 196.1983. Library,
1241 community service, museum, performing arts, theatre, cinema,
1242 church, community college, college, and university facilities
1243 may provide space to charter schools within their facilities
1244 under their preexisting zoning and land use designations.
1245 (d) Charter school facilities are exempt from assessments
1246 of fees for building permits, except as provided in s. 553.80,
1247 fees ~~and~~ for building and occupational licenses, and ~~from~~
1248 ~~assessments of~~ impact fees or service availability fees.
1249 (e) If a district school board facility or property is
1250 available because it is surplus, marked for disposal, or
1251 otherwise unused, it shall be provided for a charter school's
1252 use on the same basis as it is made available to other public
1253 schools in the district. A charter school receiving property
1254 from the school district may not sell or dispose of such
1255 property without written permission of the school district.
1256 Similarly, for an existing public school converting to charter
1257 status, no rental or leasing fee for the existing facility or
1258 for the property normally inventoried to the conversion school
1259 may be charged by the district school board to the parents and
1260 teachers organizing the charter school. The charter school

1261 ~~organizers~~ shall agree to reasonable maintenance provisions in
1262 order to maintain the facility in a manner similar to district
1263 school board standards. The Public Education Capital Outlay
1264 maintenance funds or any other maintenance funds generated by
1265 the facility operated as a conversion school shall remain with
1266 the conversion school.
1267 (f) To the extent that charter school facilities are
1268 specifically created to mitigate the educational impact created
1269 by the development of new residential dwelling units, pursuant
1270 to subparagraph (2)(c)4., some of or all of the educational
1271 impact fees required to be paid in connection with the new
1272 residential dwelling units may be designated instead for the
1273 construction of the charter school facilities that will mitigate
1274 the student station impact. Such facilities shall be built to
1275 the State Requirements for Educational Facilities and shall be
1276 owned by a public or nonprofit entity. The local school district
1277 retains the right to monitor and inspect such facilities to
1278 ensure compliance with the State Requirements for Educational
1279 Facilities. If a facility ceases to be used for public
1280 educational purposes, either the facility shall revert to the
1281 school district subject to any debt owed on the facility, or the
1282 owner of the facility shall have the option to refund all
1283 educational impact fees utilized for the facility to the school
1284 district. The district and the owner of the facility may
1285 contractually agree to another arrangement for the facilities if
1286 the facilities cease to be used for educational purposes. The
1287 owner of property planned or approved for new residential
1288 dwelling units and the entity levying educational impact fees

1289 shall enter into an agreement that designates the educational
1290 impact fees that will be allocated for the charter school
1291 student stations and that ensures the timely construction of the
1292 charter school student stations concurrent with the expected
1293 occupancy of the residential units. The application for use of
1294 educational impact fees shall include an approved charter school
1295 application. To assist the school district in forecasting
1296 student station needs, the entity levying the impact fees shall
1297 notify the affected district of any agreements it has approved
1298 for the purpose of mitigating student station impact from the
1299 new residential dwelling units.
1300 (19) CAPITAL OUTLAY FUNDING.--Charter schools are eligible
1301 for capital outlay funds pursuant to s. 1013.62.
1302 (20) SERVICES.--
1303 (a) A sponsor shall provide certain administrative and
1304 educational services to charter schools. These services shall
1305 include contract management services; full-time equivalent and
1306 data reporting services; exceptional student education
1307 administration <u>and evaluation</u> services; <u>services related to</u>
1308 <u>eligibility and reporting duties required to ensure that school</u>
1309 <u>lunch services under the federal lunch program, consistent with</u>
1310 <u>the needs of the charter school, are provided by the school</u>
1311 <u>district at the request of the charter school;</u> test
1312 administration services, including payment of the costs of
1313 state-required or district-required student assessments;
1314 processing of teacher certificate data services; and information
1315 services, including equal access to student information systems
1316 that are used by public schools in the district in which the

1317 charter school is located. Student performance data for each
1318 student in a charter school, including, but not limited to, FCAT
1319 scores, standardized test scores, individual report cards, and
1320 student performance measures, shall be provided by the sponsor
1321 to a charter school in the same manner provided to other public
1322 schools in the district. A total administrative fee for the
1323 provision of such services shall be calculated based upon up to
1324 5 percent of the available funds defined in paragraph (17)(b)
1325 for all students. However, a sponsor may only withhold up to a
1326 5-percent administrative fee for enrollment for up to and
1327 including 500 students. For charter schools with a population of
1328 501 or more students, the difference between the total
1329 administrative fee calculation and the amount of the
1330 administrative fee withheld may only be used for capital outlay
1331 purposes specified in s. 1013.62(4)~~(2)~~. Sponsors shall not
1332 charge charter schools any additional fees or surcharges for
1333 administrative and educational services in addition to the
1334 maximum 5-percent administrative fee withheld pursuant to this
1335 paragraph.
1336 (b) If goods and services are made available to the
1337 charter school through the contract with the school district,
1338 they shall be provided to the charter school at a rate no
1339 greater than the district's actual cost unless mutually agreed
1340 upon by the charter school and the sponsor in a contract
1341 negotiated separately from the charter. When mediation has
1342 failed to resolve disputes over contracted services or
1343 contractual matters not included in the charter, an appeal may
1344 be made for a dispute resolution hearing before the Charter

1345 School Appeal Commission. To maximize the use of state funds,
1346 school districts shall allow charter schools to participate in
1347 the sponsor's bulk purchasing program if applicable.
1348 (c) Transportation of charter school students shall be
1349 provided by the charter school consistent with the requirements
1350 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
1351 body of the charter school may provide transportation through an
1352 agreement or contract with the district school board, a private
1353 provider, or parents. The charter school and the sponsor shall
1354 cooperate in making arrangements that ensure that transportation
1355 is not a barrier to equal access for all students residing
1356 within a reasonable distance of the charter school as determined
1357 in its charter.
1358 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.--The
1359 Department of Education shall provide information to the public,
1360 directly and through sponsors, both on how to form and operate a
1361 charter school and on how to enroll in charter schools once they
1362 are created. This information shall include a standard
1363 application format, charter format, and charter renewal format
1364 which shall include the information specified in subsection (7).
1365 These formats shall ~~This application format may~~ be used as
1366 guidelines by charter school sponsors ~~chartering entities~~.
1367 (22) CHARTER SCHOOL REVIEW PANEL AND LEGISLATIVE REVIEW.--
1368 (a) The Department of Education shall staff and regularly
1369 convene a Charter School Review Panel in order to review issues,
1370 practices, and policies regarding charter schools. The
1371 composition of the review panel shall include individuals with
1372 experience in finance, administration, law, education, and

1373 school governance, and individuals familiar with charter school
1374 construction and operation. The panel shall include two
1375 appointees each from the Commissioner of Education, the
1376 President of the Senate, and the Speaker of the House of
1377 Representatives. The Governor shall appoint three members of the
1378 panel and shall designate the chair. Each member of the panel
1379 shall serve a 1-year term, unless renewed by the office making
1380 the appointment. The panel shall make recommendations to the
1381 Legislature, to the Department of Education, to charter schools,
1382 and to school districts for improving charter school operations
1383 and oversight and for ensuring best business practices at and
1384 fair business relationships with charter schools.
1385 (b) The Legislature shall review the operation of charter
1386 schools during the 2010 ~~2005~~ Regular Session of the Legislature.
1387 (23) ANALYSIS OF CHARTER SCHOOL PERFORMANCE.--Upon receipt
1388 of the annual report required by paragraph (9)(m) ~~(l)~~, the
1389 Department of Education shall provide to the State Board of
1390 Education, the Commissioner of Education, the Governor, the
1391 President of the Senate, and the Speaker of the House of
1392 Representatives an analysis and comparison of the overall
1393 performance of charter school students, to include all students
1394 whose scores are counted as part of the statewide assessment
1395 program, versus comparable public school students in the
1396 district as determined by the statewide assessment program
1397 currently administered in the school district, and other
1398 assessments administered pursuant to s. 1008.22(3).
1399 (24) RULEMAKING.--The Department of Education, after
1400 consultation with school districts and charter school directors,

1401 shall recommend that the State Board of Education adopt rules to
1402 implement specific subsections of this section. Such rules shall
1403 require minimum paperwork and shall not limit charter school
1404 flexibility authorized by statute.
1405 Section 2. Subsection (5) of section 218.39, Florida
1406 Statutes, is amended to read:
1407 218.39 Annual financial audit reports.--
1408 (5) At the conclusion of the audit, the auditor shall
1409 discuss with the chair of each local governmental entity or the
1410 chair's designee, or with the elected official of each county
1411 agency or with the elected official's designee, or with the
1412 chair of the district school board or the chair's designee, or
1413 with the chair of the board of the charter school or the chair's
1414 designee, or with the chair of the charter technical career
1415 center or the chair's designee, as appropriate, all of the
1416 auditor's comments that will be included in the audit report. If
1417 the officer is not available to discuss the auditor's comments,
1418 their discussion is presumed when the comments are delivered in
1419 writing to his or her office. The auditor shall notify each
1420 member of the governing body of a local governmental entity, ~~or~~
1421 district school board, or charter school for which deteriorating
1422 financial conditions exist that may cause a condition described
1423 in s. 218.503(1) to occur if actions are not taken to address
1424 such conditions.
1425 Section 3. Section 218.50, Florida Statutes, is amended to
1426 read:
1427 218.50 Short title.--Sections 218.50-218.504 may be cited
1428 as the "Local Governmental Entity, Charter School, and District

1429 School Board Financial Emergencies Act."
1430 Section 4. Section 218.501, Florida Statutes, is amended
1431 to read:
1432 218.501 Purposes.--The purposes of ss. 218.50-218.504 are:
1433 (1) To promote the fiscal responsibility of local
1434 governmental entities, charter schools, and district school
1435 boards.
1436 (2) To assist local governmental entities, charter
1437 schools, and district school boards in providing essential
1438 services without interruption and in meeting their financial
1439 obligations.
1440 (3) To assist local governmental entities, charter
1441 schools, and district school boards through the improvement of
1442 local financial management procedures.
1443 Section 5. Subsections (1) and (2) of section 218.503,
1444 Florida Statutes, are amended, a new subsection (4) is added,
1445 and subsections (4) and (5) of that section are renumbered as
1446 subsections (5) and (6), respectively, to read:
1447 218.503 Determination of financial emergency.--
1448 (1) Local governmental entities, charter schools, and
1449 district school boards shall be subject to review and oversight
1450 by the Governor, charter school sponsor, or the Commissioner of
1451 Education, as appropriate, when any one of the following
1452 conditions occurs:
1453 (a) Failure within the same fiscal year in which due to
1454 pay short-term loans or failure to make bond debt service or
1455 other long-term debt payments when due, as a result of a lack of
1456 funds.

1457 (b) Failure to pay uncontested claims from creditors
1458 within 90 days after the claim is presented, as a result of a
1459 lack of funds.
1460 (c) Failure to transfer at the appropriate time, due to
1461 lack of funds:
1462 1. Taxes withheld on the income of employees; or
1463 2. Employer and employee contributions for:
1464 a. Federal social security; or
1465 b. Any pension, retirement, or benefit plan of an
1466 employee.
1467 (d) Failure for one pay period to pay, due to lack of
1468 funds:
1469 1. Wages and salaries owed to employees; or
1470 2. Retirement benefits owed to former employees.
1471 (e) An unreserved or total fund balance or retained
1472 earnings deficit, or unrestricted or total net assets deficit,
1473 as reported on the balance sheet or statement of net assets on
1474 the general purpose or fund financial statements, for which
1475 sufficient resources of the local governmental entity, as
1476 reported on the balance sheet or statement of net assets on the
1477 general purpose or fund financial statements, are not available
1478 to cover the deficit. Resources available to cover reported
1479 deficits include net assets that are not otherwise restricted by
1480 federal, state, or local laws, bond covenants, contractual
1481 agreements, or other legal constraints. Fixed or capital assets,
1482 the disposal of which would impair the ability of a local
1483 governmental entity to carry out its functions, are not
1484 considered resources available to cover reported deficits.

1485 (2) A local governmental entity shall notify the Governor
1486 and the Legislative Auditing Committee, a charter school shall
1487 notify the charter school sponsor and the Legislative Auditing
1488 Committee, and a district school board shall notify the
1489 Commissioner of Education and the Legislative Auditing
1490 Committee, when one or more of the conditions specified in
1491 subsection (1) have occurred or will occur if action is not
1492 taken to assist the local governmental entity, charter school,
1493 or district school board. In addition, any state agency must,
1494 within 30 days after a determination that one or more of the
1495 conditions specified in subsection (1) have occurred or will
1496 occur if action is not taken to assist the local governmental
1497 entity, charter school, or district school board, notify the
1498 Governor, charter school sponsor, or the Commissioner of
1499 Education, as appropriate, and the Legislative Auditing
1500 Committee.
1501 (4) Upon notification that one or more of the conditions
1502 in subsection (1) exist, the charter school sponsor or the
1503 sponsor's designee shall contact the charter school governing
1504 body to determine what actions have been taken by the charter
1505 school governing body to resolve the condition. The charter
1506 school sponsor has the authority to require and approve a
1507 financial recovery plan, to be prepared by the charter school
1508 governing body, prescribing actions that will cause the charter
1509 school to no longer be subject to this section. The Department
1510 of Education shall establish guidelines for developing such
1511 plans.
1512 Section 6. Subsection (1) of section 218.504, Florida

1513 Statutes, is amended to read:
1514 218.504 Cessation of state action.--The Governor or the
1515 Commissioner of Education, as appropriate, has the authority to
1516 terminate all state actions pursuant to ss. 218.50-218.504.
1517 Cessation of state action must not occur until the Governor or
1518 the Commissioner of Education, as appropriate, has determined
1519 that:
1520 (1) The local governmental entity, charter school, or
1521 district school board:
1522 (a) Has established and is operating an effective
1523 financial accounting and reporting system.
1524 (b) Has resolved the conditions outlined in s. 218.503(1).
1525 Section 7. Paragraph (e) of subsection (7) and subsection
1526 (8) of section 11.45, Florida Statutes, are amended to read:
1527 11.45 Definitions; duties; authorities; reports; rules.--
1528 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.--
1529 (e) The Auditor General shall notify the Governor or the
1530 Commissioner of Education, as appropriate, and the Legislative
1531 Auditing Committee of any audit report reviewed by the Auditor
1532 General pursuant to paragraph (b) which contains a statement
1533 that a local governmental entity, charter school, or district
1534 school board has met one or more of the conditions specified in
1535 s. 218.503. If the Auditor General requests a clarification
1536 regarding information included in an audit report to determine
1537 whether a local governmental entity, charter school, or district
1538 school board has met one or more of the conditions specified in
1539 s. 218.503, the requested clarification must be provided within
1540 45 days after the date of the request. If the local governmental

1541 entity, charter school, or district school board does not comply
1542 with the Auditor General's request, the Auditor General shall
1543 notify the Legislative Auditing Committee. If, after obtaining
1544 the requested clarification, the Auditor General determines that
1545 the local governmental entity, charter school, or district
1546 school board has met one or more of the conditions specified in
1547 s. 218.503, he or she shall notify the Governor or the
1548 Commissioner of Education, as appropriate, and the Legislative
1549 Auditing Committee.
1550 (8) RULES OF THE AUDITOR GENERAL.--The Auditor General, in
1551 consultation with the Board of Accountancy, shall adopt rules
1552 for the form and conduct of all financial audits performed by
1553 independent certified public accountants pursuant to ss.
1554 215.981, 218.39, 1001.453, 1004.28, and 1004.70. The rules for
1555 audits of local governmental entities, charter schools, and
1556 district school boards must include, but are not limited to,
1557 requirements for the reporting of information necessary to carry
1558 out the purposes of the Local Governmental Entity, Charter
1559 School, and District School Board Financial Emergencies Act as
1560 stated in s. 218.501.
1561 Section 8. Paragraph (a) of subsection (9) and paragraph
1562 (b) of subsection (11) of section 1002.32, Florida Statutes, are
1563 amended to read:
1564 1002.32 Developmental research (laboratory) schools.--
1565 (9) FUNDING.--Funding for a lab school, including a
1566 charter lab school, shall be provided as follows:
1567 (a) Each lab school shall be allocated its proportional
1568 share of operating funds from the Florida Education Finance

1569 Program as provided in s. 1011.62 based on the county in which
1570 the lab school is located and the General Appropriations Act.
1571 The nonvoted ad valorem millage that would otherwise be required
1572 for lab schools shall be allocated from state funds. The
1573 required local effort funds calculated pursuant to s. 1011.62
1574 shall be allocated from state funds to the schools as a part of
1575 the allocation of operating funds pursuant to s. 1011.62. Each
1576 eligible lab school in operation as of September 1, 2002, shall
1577 also receive a proportional share of the sparsity supplement as
1578 calculated pursuant to s. 1011.62. In addition, each lab school
1579 shall receive its proportional share of all categorical funds,
1580 with the exception of s. 1011.68, and new categorical funds
1581 enacted after July 1, 1994, for the purpose of elementary or
1582 secondary academic program enhancement. <u>However, if a lab</u>
1583 <u>school, in the fulfillment of its requirements to have a</u>
1584 <u>representative student population pursuant to subsection (4),</u>
1585 <u>elects to provide student transportation, the lab school shall</u>
1586 <u>be eligible for funding pursuant to s. 1011.68.</u> The sum of funds
1587 available as provided in this paragraph shall be included
1588 annually in the Florida Education Finance Program and
1589 appropriate categorical programs funded in the General
1590 Appropriations Act.
1591 (11) EXCEPTIONS TO LAW.--To encourage innovative practices
1592 and facilitate the mission of the lab schools, in addition to
1593 the exceptions to law specified in s. 1001.23(2), the following
1594 exceptions shall be permitted for lab schools:
1595 (b) With the exception of s. 1001.42(16), s. 1001.42 shall
1596 be held in abeyance<u>, except that a lab school, in the</u>

1597 fulfillment of its requirements to have a representative student
1598 population pursuant to subsection (4), may elect to provide
1599 transportation in accordance with s. 1001.42(8). Reference to
1600 district school boards in s. 1001.42(16) shall mean the
1601 president of the university or the president's designee.
1602 Section 9. Subsection (3) of section 1003.05, Florida
1603 Statutes, is amended to read:
1604 1003.05 Assistance to transitioning students from military
1605 families.--
1606 (3) Dependent children of active duty military personnel
1607 who otherwise meet the eligibility criteria for special academic
1608 programs offered through public schools shall be given first
1609 preference for admission to such programs even if the program is
1610 being offered through a public school other than the school to
1611 which the student would generally be assigned and the school at
1612 which the program is being offered has reached its maximum
1613 enrollment. If such a program is offered through a public school
1614 other than the school to which the student would generally be
1615 assigned, the parent or guardian of the student must assume
1616 responsibility for transporting the student to that school. For
1617 purposes of this subsection, special academic programs include
1618 ~~charter schools,~~ magnet schools, advanced studies programs,
1619 advanced placement, dual enrollment, and International
1620 Baccalaureate.
1621 Section 10. Effective July 1, 2007, subsection (2) of
1622 section 1012.74, Florida Statutes, is amended to read:
1623 1012.74 Florida educators professional liability insurance
1624 protection.--

1625 (2)(a) Educator professional liability coverage for all
1626 instructional personnel, including charter school instructional
1627 personnel, as defined by s. 1012.01(2), who are full-time
1628 personnel, as defined by the district school board policy, shall
1629 be provided by specific appropriations under the General
1630 Appropriations Act.
1631 (b) Educator professional liability coverage shall be
1632 extended at cost to all instructional personnel, including
1633 charter school instructional personnel, as defined by s.
1634 1012.01(2), who are part-time personnel, as defined by the
1635 district school board policy, and choose to participate in the
1636 state-provided program.
1637 (c) Educator professional liability coverage shall be
1638 extended at cost to all administrative personnel, including
1639 administrative personnel in charter schools, as defined by s.
1640 1012.01(3), who choose to participate in the state-provided
1641 program.
1642 Section 11. Section 1013.62, Florida Statutes, is amended
1643 to read:
1644 1013.62 Charter schools capital outlay funding.--
1645 (1) In each year in which funds are appropriated for
1646 charter school capital outlay purposes, the Commissioner of
1647 Education shall allocate the funds among eligible charter
1648 schools. To be eligible for a funding allocation, a charter
1649 school must be one of the following:
1650 (a) The same school that received capital outlay funding
1651 in the 2002-2003 fiscal year.
1652 (b) A charter school that is an expanded feeder pattern of

1653 a charter school that received capital outlay funding in the
1654 2002-2003 fiscal year.
1655 (2) If an appropriation for charter school capital outlay
1656 funds is less than the appropriation in the 2002-2003 fiscal
1657 year, the funds shall be prorated among schools eligible
1658 pursuant to subsection (1).
1659 (3) If an appropriation for charter school capital outlay
1660 funds is greater than the appropriation in the 2002-2003 fiscal
1661 year, the funds shall be allocated to schools eligible pursuant
1662 to subsection (1) and to charter schools that:
1663 (a)1. Have been in operation for 3 or more years;
1664 2. Are ~~Be~~ an expanded feeder chain of a charter school
1665 within the same school district that is currently receiving
1666 charter school capital outlay funds; or
1667 3. Have been accredited by the Commission on Schools of
1668 the Southern Association of Colleges and Schools.
1669 (b) Have financial stability for future operation as a
1670 charter school.
1671 (c) Have received a school grade of "A" or "B," pursuant
1672 to s. 1008.34, during at least 3 of the past 4 school years
1673 ~~satisfactory student achievement based on state accountability~~
1674 ~~standards applicable to the charter school~~.
1675 (d) Have received final approval from its sponsor pursuant
1676 to s. 1002.33 for operation during that fiscal year.
1677 (e) Serve students in facilities that are not provided by
1678 the charter school's sponsor.
1679
1680 First priority for allocating the amount in excess of the

1681 appropriation for the 2002-2003 fiscal year shall be to prorate
1682 the excess funds among charter schools with long-term debt or
1683 long-term leases to the extent that the initial allocation is
1684 insufficient to provide one-fifteenth of the cost-per-student
1685 station specified in s. 1013.64(6)(b) and second priority shall
1686 be to other eligible charter schools. Prior to the release of
1687 capital outlay funds to a school district on behalf of the
1688 charter school, the Department of Education shall ensure that
1689 the district school board and the charter school governing board
1690 enter into a written agreement that includes provisions for the
1691 reversion of any unencumbered funds and all equipment and
1692 property purchased with public education funds to the ownership
1693 of the district school board, as provided for in subsection (5)
1694 ~~(3)~~, in the event that the school terminates operations. Any
1695 funds recovered by the state shall be deposited in the General
1696 Revenue Fund. A charter school is not eligible for a funding
1697 allocation if it was created by the conversion of a public
1698 school and operates in facilities provided by the charter
1699 school's sponsor for a nominal fee or at no charge or if it is
1700 directly or indirectly operated by the school district. Unless
1701 otherwise provided in the General Appropriations Act, the
1702 funding allocation for each eligible charter school shall be
1703 determined by multiplying the school's projected student
1704 enrollment by one-fifteenth of the cost-per-student station
1705 specified in s. 1013.64(6)(b) for an elementary, middle, or high
1706 school, as appropriate. If the funds appropriated are not
1707 sufficient, the commissioner shall prorate the available funds
1708 among eligible charter schools. However, no charter school or

1709 charter lab school shall receive state charter school capital
1710 outlay funds in excess of the one-fifteenth cost per student
1711 station formula if the charter school's combination of state
1712 charter school capital outlay funds, capital outlay funds
1713 calculated through the reduction in the administrative fee
1714 provided in s. 1002.33(20), and capital outlay funds allowed in
1715 s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per
1716 student station formula. Funds shall be distributed on the basis
1717 of the capital outlay full-time equivalent membership by grade
1718 level, which shall be calculated by averaging the results of the
1719 second and third enrollment surveys. The Department of Education
1720 shall distribute capital outlay funds monthly, beginning in the
1721 first quarter of the fiscal year, based on one-twelfth of the
1722 amount the department reasonably expects the charter school to
1723 receive during that fiscal year. The commissioner shall adjust
1724 subsequent distributions as necessary to reflect each charter
1725 school's actual student enrollment as reflected in the second
1726 and third enrollment surveys. The commissioner shall establish
1727 the intervals and procedures for determining the projected and
1728 actual student enrollment of eligible charter schools.
1729 (4) ~~(2)~~ A charter school's governing body may use charter
1730 school capital outlay funds for the following purposes:
1731 (a) Purchase of real property.
1732 (b) Construction of school facilities.
1733 (c) Purchase, lease-purchase, or lease of permanent or
1734 relocatable school facilities.
1735 (d) Purchase of vehicles to transport students to and from
1736 the charter school.

1737 (e) Renovation, repair, furnishing, and maintenance of
1738 school facilities that the charter school owns or is purchasing
1739 through a lease-purchase or long-term lease of 5 years or longer
1740 and purchasing equipment for such facilities.
1741
1742 Conversion charter schools may use capital outlay funds received
1743 through the reduction in the administrative fee provided in s.
1744 1002.33(20) for renovation, repair, and maintenance of school
1745 facilities that are owned by the sponsor.
1746 (5) ~~(3)~~ When a charter school is nonrenewed or terminated,
1747 any unencumbered funds and all equipment and property purchased
1748 with district public funds shall revert to the ownership of the
1749 district school board, as provided for in s. 1002.33(8)(e) and
1750 (f). In the case of a charter lab school, any unencumbered funds
1751 and all equipment and property purchased with university public
1752 funds shall revert to the ownership of the state university that
1753 issued the charter. The reversion of such equipment, property,
1754 and furnishings shall focus on recoverable assets, but not on
1755 intangible or irrecoverable costs such as rental or leasing
1756 fees, normal maintenance, and limited renovations. The reversion
1757 of all property secured with public funds is subject to the
1758 complete satisfaction of all lawful liens or encumbrances. If
1759 there are additional local issues such as the shared use of
1760 facilities or partial ownership of facilities or property, these
1761 issues shall be agreed to in the charter contract prior to the
1762 expenditure of funds.
1763 (6) ~~(4)~~ The Commissioner of Education shall specify
1764 procedures for submitting and approving requests for funding

1765 under this section and procedures for documenting expenditures.
1766 (7) ~~(5)~~ The annual legislative budget request of the
1767 Department of Education shall include a request for capital
1768 outlay funding for charter schools. The request shall be based
1769 on the projected number of students to be served in charter
1770 schools who meet the eligibility requirements of this section. A
1771 dedicated funding source, if identified in writing by the
1772 Commissioner of Education and submitted along with the annual
1773 charter school legislative budget request, may be considered an
1774 additional source of funding.
1775 (8) ~~(6)~~ Unless authorized otherwise by the Legislature,
1776 allocation and proration of charter school capital outlay funds
1777 shall be made to eligible charter schools by the Commissioner of
1778 Education in an amount and in a manner authorized by subsections
1779 (2) and (3) ~~subsection (1)~~.
1780 ~~(7) Notwithstanding the provisions of this section,~~
1781 ~~beginning in the 2003-2004 fiscal year:~~
1782 ~~(a) If the appropriation for charter school capital outlay~~
1783 ~~funds is no greater than the 2002-2003 appropriation, the funds~~
1784 ~~shall be allocated according to the formula outlined in~~
1785 ~~subsection (1) to:~~
1786 ~~1. The same schools that received funding in 2002-2003.~~
1787 ~~2. Schools that are an expanded feeder pattern of schools~~
1788 ~~that received funding in 2002-2003.~~
1789 ~~3. Schools that have an approved charter and are serving~~
1790 ~~students at the start of the 2003-2004 school year and either~~
1791 ~~incurred long-term financial obligations prior to January 31,~~
1792 ~~2003, or began construction on educational facilities prior to~~

1793 ~~December 31, 2002.~~
1794 ~~(b) If the appropriation for charter school capital outlay~~
1795 ~~funds is less than the 2002-2003 appropriation, the funds shall~~
1796 ~~be prorated among the schools eligible in paragraph (a).~~
1797 ~~(c) If the appropriation for charter school capital outlay~~
1798 ~~funds is greater than the 2002-2003 appropriation, the amount of~~
1799 ~~funds provided in the 2002-2003 appropriation shall be allocated~~
1800 ~~according to paragraph (a). First priority for allocating the~~
1801 ~~amount in excess of the 2002-2003 appropriation shall be to~~
1802 ~~prorate the excess funds among the charter schools with long-~~
1803 ~~term debt or long-term lease to the extent that the initial~~
1804 ~~allocation is insufficient to provide one-fifteenth of the cost~~
1805 ~~per student station specified in s. 1013.64(6)(b), and second~~
1806 ~~priority shall be to other eligible charter schools.~~
1807 Section 12. Except as otherwise expressly provided in this
1808 act, this act shall take effect July 1, 2006.

Committee on Education Appropriations

Tuesday, April 11, 2006
9:30 a.m. – 12:00 p.m.
212 Knott

Amendment Packet

Allan Bense
Speaker

Representative Pickens
Chair

HB 373 CS

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative(s) Harrell offered the following:
4
5 **Amendment (with title amendment)**
6 Remove everything after the enacting clause and insert:
7 Section 1. Subsection (9) is added to section 1009.26,
8 Florida Statutes, to read:
9 1009.26 Fee waivers.--
10 (9) A state university or community college shall waive
11 undergraduate tuition for each recipient of a Purple Heart or
12 other combat decoration superior in precedence who:
13 (a) Is enrolled as a full-time, part-time, or summer-
14 school student in an undergraduate program that terminates in a
15 degree or certificate;
16 (b) Is currently, and was at the time of the military
17 action that resulted in the awarding of the Purple Heart or
18 other combat decoration superior in precedence, a resident of
19 this state; and
20 (c) Submits to the state university or the community
21 college the DD-214 form issued at the time of separation from

22 service as documentation that the student has received a Purple
23 Heart or other combat decoration superior in precedence.
24
25 Such a waiver for a recipient of a Purple Heart or other combat
26 decoration superior in precedence shall be applicable for 110
27 percent of the number of required credit hours of the degree or
28 certificate program for which the student is enrolled.
29 Section 2. This act shall take effect July 1, 2006.
30
31 ========== T I T L E A M E N D M E N T ==========
32 Remove the entire title and insert:
33 A bill to be entitled
34 An act relating to tuition waivers; amending s. 1009.26,
35 F.S.; requiring state universities and community colleges
36 to waive tuition for a recipient of a Purple Heart or
37 other combat decoration superior in precedence who
38 fulfills specified criteria; providing a percentage cap on
39 the number of required credit hours for which a tuition
40 waiver may be received; providing an effective date.

HB 679 CS

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Bill No. **679 CS**

COUNCIL/COMMITTEE 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 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative(s) Sobel offered the following:
4
5 **Amendment**
6 Remove line(s) 118 and insert:
7
8 all parents and guardians with information on ways that they can
9 help their
10

HB 999 CS

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Bill No. **999 CS**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative Pickens offered the following:
4
5 **Amendment (with title amendment)**
6 Remove line(s) 18-22 and insert:
7
8 Section 1. Signs of Suicide Prevention Program for
9 secondary schools; pilot program.--
10 (1) Contingent upon funding in the General Appropriations
11 Act, there is established a pilot program to be conducted by the
12 Signs of Suicide Prevention Program for
13
14 ========== T I T L E A M E N D M E N T ==========
15 Remove line(s) 7 and insert:
16 for a pilot program to be

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02

Bill No. **999 CS**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative Pickens offered the following:
4
5 **Amendment (with title amendment)**
6 Remove line(s) 53-61 and insert:
7
8 Section 2. The pilot program shall be implemented
9 contingent upon funding in the 2006-2007 General Appropriations
10 Act. Funds appropriated to the Department of Education for the
11 pilot program shall be distributed to the Michael Buonauro
12 Foundation to implement the pilot program in accordance with
13 this act. In order to receive state funds for this purpose, the
14 Michael Buonauro Foundation shall provide matching funds in an
15 amount equal to the appropriation.
16
17 ========== T I T L E A M E N D M E N T ==========
18 Remove line(s) 13-14 and insert:
19 requiring a report to the Legislature; requiring implementation
20 contingent upon funding; providing an effective date.

HB 1065

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative(s) Jordan offered the following:
4
5 **Amendment (with title amendment)**
6 Remove lines 69 through 78, and insert:
7
8 All rules, restrictions, and limitations set forth in this
9 section shall apply.
10 (3) ~~(2)~~ Sections 295.03, 295.04, 295.05, and 1009.40 shall
11 apply.
12 (4) ~~(3)~~ The State Board of Education shall adopt rules for
13 administering this section.
14 Section 2. Section 295.02, Florida Statutes, is amended to
15 read:
16 295.02 Use of funds; age, etc.--
17 (1) ~~All~~ Sums appropriated and expended to carry out the
18 provisions of s. 295.01(1) ~~under this chapter~~ shall be used to
19 pay tuition and registration fees, board, and room rent and to
20 buy books and supplies for the children of deceased or disabled
21 veterans or service members, as defined and limited in s.

22 295.01, s. 295.016, s. 295.017, s. 295.018, s. 295.0185, or s.
23 295.0195, or of parents classified as prisoners of war or
24 missing in action, as defined and limited in s. 295.015, who are
25 between the ages of 16 and 22 years and who are in attendance at
26 a state-supported institution of higher learning, including a
27 community college or career center. Any child having entered
28 upon a course of training or education under the provisions of
29 this chapter, consisting of a course of not more than 4 years,
30 and arriving at the age of 22 years before the completion of
31 such course may continue the course and receive all benefits of
32 the provisions of this chapter until the course is completed.
33 (2) Sums appropriated and expended to carry out the
34 provisions of s. 295.01(2) shall be used to pay tuition and
35 registration fees for the spouses of deceased or disabled
36 veterans or servicemembers, as defined and limited in s. 295.01,
37 who are enrolled at a state-supported institution of higher
38 learning, including a community college or career center.
39 Notwithstanding the benefits-disbursement provision in s.
40 295.04, such funds shall be applicable for up to 110 percent of
41 the number of required credit hours of an initial baccalaureate
42 degree or certificate program for which the spouse is enrolled.
43 (3) The Department of Education shall administer this
44 educational program subject to regulations of the department.
45
46
47 ========== T I T L E A M E N D M E N T ==========
48 Remove line 10 and insert:
49
50 of disabled servicemembers; amending s. 295.02, F.S.;
51 specifying uses of funds

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative(s) Jordan offered the following:
4
5 **Amendment (with title amendment)**
6 Remove line 95 and insert:
7
8 Section 4. Section 295.015, Florida Statutes, is amended
9 to read:
10 295.015 Children of prisoners of war and persons missing
11 in action; education.--
12 (1) It is hereby declared to be the policy of the state to
13 provide educational opportunity at state expense for dependent
14 children either of whose parents became classified as prisoners
15 of war or missing in action in the service of the Armed Forces
16 of the United States ~~during the Korean Conflict or during the~~
17 ~~Vietnam Era, as defined in s. 1.01(14),~~ or civilian personnel
18 captured while serving with the consent or authorization of the
19 United States Government. Such educational opportunity shall be
20 provided until such time as the parent so classified is returned
21 alive or the parent's remains are recovered; provided that, in

22 order to be eligible, the parents of such children must have
23 been bona fide residents of the state for 5 years next preceding
24 their application for the benefits hereof and must be permanent
25 residents of the state on the effective date of this act.
26 (2) The provisions of ss. 295.03, 295.04, 295.05, and
27 1009.40 shall apply.
28 Section 5. This act shall take effect July 1, 2006.
29
30
31 ========== T I T L E A M E N D M E N T ==========
32 Remove line 16 and insert:
33
34 revising terminology; amending s. 295.015, F.S.; removing a
35 limitation with respect to the provision of educational
36 opportunity at state expense for dependent children either
37 of whose parents became classified as prisoners of war or
38 missing in action in the service of the Armed Forces of the
39 United States or civilian personnel captured while serving
40 with the consent or authorization of the United States
41 Government; providing an effective date.

HB 1485

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative Hays offered the following:
4
5 **Amendment**
6 Remove everything after the enacting clause and insert:
7
8 Section 1. Paragraph (a) of subsection (2) of section
9 1013.65, Florida Statutes, is amended to read:
10 1013.65 Educational and ancillary plant construction
11 funds; Public Education Capital Outlay and Debt Service Trust
12 Fund; allocation of funds.--
13 (2)(a) The Public Education Capital Outlay and Debt
14 Service Trust Fund shall be comprised of the following sources,
15 which are hereby appropriated to the trust fund:
16 1. Proceeds, premiums, and accrued interest from the sale
17 of public education bonds and that portion of the revenues
18 accruing from the gross receipts tax as provided by s. 9(a)(2),
19 Art. XII of the State Constitution, as amended, interest on
20 investments, and federal interest subsidies.

21 2. General revenue funds appropriated to the fund for
22 educational capital outlay purposes.
23 3. All capital outlay funds previously appropriated and
24 certified forward pursuant to s. 216.301.
25 4.a. Funds paid pursuant to s. 201.15(1)(d).
26 b. The sum of $75 ~~$41.75~~ million of such funds shall be
27 appropriated annually for expenditure to fund the Classrooms for
28 Kids Program created in s. 1013.735 and shall be distributed as
29 provided by that section.
30 Section 2. Subsections (2) and (3) of section 1013.738,
31 Florida Statutes, are amended to read:
32 1013.738 High Growth District Capital Outlay Assistance
33 Grant Program.--
34 (2) In order to qualify for a grant, a school district
35 must meet the following criteria:
36 (a) The district must have levied the full 2 mills of
37 nonvoted discretionary capital outlay millage authorized in s.
38 1011.71(2) for each of the past 3 ~~4~~ fiscal years or currently
39 receive an amount from the school capital outlay surtax
40 authorized in s. 212.055(6) that, when added to the nonvoted
41 discretionary capital outlay millage collected, equals the
42 amount that would be generated if the full 2 mills of nonvoted
43 discretionary capital outlay millage had been collected over the
44 past 3 fiscal years.
45 (b) The district must receive, in the current fiscal year,
46 revenue from the collection of an impact fee specifically for
47 schools and revenue from the collection of one of the following:
48 1. A local government infrastructure sales surtax
49 authorized in s. 212.055(2) in which a portion is dedicated for
50 the construction of schools in the current fiscal year.

51 2. A school capital outlay surtax authorized in s.
52 212.055(6). If the school capital outlay surtax is used to meet
53 the conditions of paragraph (a), the amount of the school
54 capital outlay surtax collected must be in excess of the amount
55 in paragraph (a).
56 3. A local bond referendum as authorized in ss. 1010.40-
57 1010.55.
58 ~~(b) Fifty percent of the revenue derived from the 2-mill~~
59 ~~nonvoted discretionary capital outlay millage for the past 4~~
60 ~~fiscal years, when divided by the district's growth in capital~~
61 ~~outlay FTE students over this period, produces a value that is~~
62 ~~less than the average cost per student station calculated~~
63 ~~pursuant to s. 1013.72(2), and weighted by statewide growth in~~
64 ~~capital outlay FTE students in elementary, middle, and high~~
65 ~~schools for the past 4 fiscal years.~~
66 (c) The district must have equaled or exceeded three times
67 ~~twice~~ the statewide average of growth in capital outlay FTE
68 students over this same 3-year ~~4-year~~ period.
69 (d) The district must not have received an appropriation
70 from the special facilities construction program in the current
71 fiscal year. ~~The Commissioner of Education must have released~~
72 ~~all funds allocated to the district from the Classrooms First~~
73 ~~Program authorized in s. 1013.68, and these funds were fully~~
74 ~~expended by the district as of February 1 of the current fiscal~~
75 ~~year.~~
76 ~~(e) The total capital outlay FTE students of the district~~
77 ~~is greater than 15,000 students.~~
78 (3) The funds provided in the General Appropriations Act
79 shall be allocated pursuant to the following methodology:

80 (a) Each eligible district school board shall receive an
81 amount from the Public Education Capital Outlay and Debt Service
82 Trust Fund to be calculated by computing the capital outlay
83 full-time equivalent membership as determined by the department.
84 Such membership must include, but is not limited to:
85 1. K-12 students, except hospital and homebound part-time
86 students; and
87 2. Students who are career education students and adult
88 disabled students, who are enrolled in school district career
89 centers.
90 (b) The capital outlay full-time equivalent membership
91 shall be determined for kindergarten through grade 12 and for
92 career centers by averaging the unweighted full-time equivalent
93 student membership for the second and third surveys and
94 comparing the results on a school-by-school basis with the
95 Florida Inventory for School Houses. The capital outlay full-
96 time equivalent membership by grade-level organization shall be
97 used in making the following calculation: the capital outlay
98 full-time equivalent membership by grade-level organization for
99 the prior year must be used to compute the growth over the
100 highest of the 3 years preceding the prior year.
101 (c) The total amount appropriated by the Legislature
102 pursuant to this subsection shall be allocated among the growth
103 capital outlay full-time equivalent membership. The allocation
104 shall be prorated to the districts based upon each district's
105 percentage of growth capital outlay full-time membership. The
106 most recent 4-year capital outlay full-time equivalent
107 membership data shall be used in each subsequent year's
108 calculation for the allocation of funds pursuant to this
109 subsection. If a change, correction, or recomputation of data

110 during any year results in a reduction or increase of the
111 calculated amount previously allocated to a district, the
112 allocation to that district shall be adjusted correspondingly.
113 If such recomputation results in an increase or decrease of the
114 calculated amount, such additional or reduced amounts shall be
115 added to or reduced from the district's future appropriations.
116 However, no change, correction, or recomputation of data shall
117 be made subsequent to 2 years following the initial annual
118 allocation.

119 ~~(a) For each eligible district, the Department of~~
120 ~~Education shall calculate the value of 50 percent of the revenue~~
121 ~~derived from the 2-mill nonvoted discretionary capital outlay~~
122 ~~millage for the past 4 fiscal years divided by the increase in~~
123 ~~capital outlay FTE students for the same period.~~

124 ~~(b) The Department of Education shall determine, for each~~
125 ~~eligible district, the amount that must be added to the value~~
126 ~~calculated pursuant to paragraph (a) to produce the weighted~~
127 ~~average value per student station calculated pursuant to~~
128 ~~paragraph (2)(b).~~

129 ~~(c) The value calculated for each eligible district~~
130 ~~pursuant to paragraph (b) shall be multiplied by the average~~
131 ~~increase in capital outlay FTE students for the past 4 fiscal~~
132 ~~years to determine the maximum amount of a grant that may be~~
133 ~~awarded to a district pursuant to this section.~~

134 ~~(d) In the event the funds provided in the General~~
135 ~~Appropriations Act are insufficient to fully fund the maximum~~
136 ~~grants calculated pursuant to paragraph (c), the Department of~~
137 ~~Education shall allocate the funds based on each district's~~
138 ~~prorated share of the total maximum award amount calculated for~~
139 ~~all eligible districts.~~

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

Bill No. **1485**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill:
2 Representative Pickens offered the following:
3
4 **Amendment to Amendment (1) by Representative Hays**
5
6 Remove line(s) 25 through 29 and insert:
7
8 4.~~a.~~ Funds paid pursuant to s. 201.15(1)(d).
9 ~~b. The sum of $41.75 million of such funds shall be~~
10 ~~appropriated annually for expenditure to fund the Classrooms for~~
11 ~~Kids Program created in s. 1013.735 and shall be distributed as~~
12 ~~provided by that section.~~
13
14

Bill No. **1485**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative Arza offered the following:
4
5 **Amendment to Amendment (1) by Representative Hays**
6 Between line(s) 139-140 insert the following:
7
8 Section 2. Build Schools Better and Faster Task Force.—The
9 Build Schools Better and Faster Task Force is established.
10 (1) The task force shall consist of: the Secretary of the
11 Department of Management Services or the Secretary's designee,
12 who shall serve as Chair; the Chairman of the State Board of
13 Education or the Chairman's designee, who shall serve as Vice
14 Chair, and five members who are not members of the Legislature
15 or school district officers or employees and who have a broad
16 variety of business experience in the private construction
17 industry sector. The private construction industry members
18 shall be appointed as follows: one member appointed by the
19 Governor, two members appointed by the President of the Senate,
20 and two members appointed by Speaker of the House of
21 Representatives.

22 (2) The members of the task force shall be appointed no
23 later than July 1, 2006, and shall convene for their first
24 meeting no later than August 1, 2006.
25 (3) The task force is assigned to the Department of
26 Education for administrative purposes. Members of the task force
27 are entitled to per diem and travel expenses pursuant to section
28 112.061, Florida Statutes, and shall be subject to the Code of
29 Ethics for Public Officers and Employees under Part III of
30 chapter 112, Florida Statutes.
31 (4) The task force shall make recommendations to the
32 Governor and the Legislature no later than February 1, 2007. The
33 recommendations must include, but are not limited to,
34 recommendations regarding:
35 (a) The feasibility, advisability, and possible
36 methodologies to achieve greater facilities construction cost
37 efficiencies and reduce construction times by establishing a
38 statewide better, faster schools construction and maintenance
39 program.
40 (b) Optimal design and performance standards for safe and
41 functional school facilities that are space efficient and
42 technologically advanced.
43 (c) Optimal construction standards that ensure appropriate
44 industry standards and optimal life cycles, including but not
45 limited to standards for optimal size of core facility space,
46 design-build performance contracting, energy efficiency, and
47 life-cycle systems costing.
48 (d) Maintenance, repair, renovation, remodeling, and site
49 acquisition standards, guidelines, and protocols.
50 (e) Optimal use of permanent versus relocatable facilities
51 and protocols for decision-making regarding each.
52 (f) Protocols for regular assessments of facility capacity
53 to ensure maximization of space utilization.

54 (g) Energy performance contracting with guaranteed annual
55 energy savings.
56
57 Upon delivering its final report and recommendations, the task
58 force shall cease to exist.
59
60

HJR 1573CS

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1573 CS

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative(s) Bendross-Mindingall and Vana offered the
4 following:
5
6 ======= B A L L O T S T A T E M E N T A M E N D M E N T ======
7 Remove line 62 and insert the following:
8
9 education programs that provide vouchers to schools, including
10 non-public schools; to provide
11

HB 1619 CS

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representatives Cretul and Brown offered the following:
4
5 **Amendment (with directory and title amendments)**
6 Between lines 50 and 51 insert:
7
8 (2) FISCAL MANAGEMENT.--The district school board may
9 adopt policies providing for fiscal management of the school
10 district with respect to school purchasing, facilities, nonstate
11 revenue sources, budgeting, fundraising, and other activities
12 relating to the fiscal management of district resources,
13 including, but not limited to, the policies governing:
14 (g) Use of federal funds to purchase food when federal
15 program guidelines permit such use.
16
17
18
19
20 ========== D I R E C T O R Y A M E N D M E N T ==========
21 Remove lines 34 and 35 and insert:

22
23 Section 1. Paragraph (b) of subsection (1) is amended and
24 a new paragraph (g) is added to subsection (2) of section
25 1001.43, Florida Statutes, to read:
26
27
28 ========== T I T L E A M E N D M E N T ==========
29 Remove line 9 and insert:
30 while outdoors during school hours; authorizing district school
31 board to purchase food with federal funds when federal
32 guidelines permit; amending s. 1003.02,

HB 7103

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Bill No. **7103**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative Pickens offered the following:
4
5 **Amendment (with title amendment)**
6 Remove line(s) 1561-1601
7
8 ========== T I T L E A M E N D M E N T ==========
9 Remove line(s) 45-48 and insert:
10
11 conforming provisions; amending s. 1003.05, F.S.; modifying the
12 list of
13

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 02

Bill No. **7103**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative Pickens offered the following:
4
5 **Amendment (with title amendment)**
6 Remove line(s) 1642-1806
7
8
9 ========== T I T L E A M E N D M E N T ==========
10 Remove line(s) 52-56 and insert:
11
12 charter school personnel; providing effective dates.
13

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 03

Bill No. **HB 7103**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Representative(s) Traviesa offered the following:
3
4 **Amendment**
5 Between lines 1299 and 1300 insert:
6 (g) Each school district shall annually provide to the
7 Department of Education as part of their 5 year workplan the
8 number of existing vacant classrooms in each school that the
9 district does not intend to use or does not project will be
10 needed for educational purposes for the following school year.
11 The department may recommend that the district make such space
12 available to an appropriate charter school.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 04

Bill No. **HB 7103**

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative(s) Stargel offered the following:
4
5 **Amendment**
6 Remove line 1307 and insert:
7 administration services; services related to
8
9

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COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Education Appropriations
2 Committee
3 Representative Goldstein offered the following:
4
5 **Amendment (with title amendment)**
6 Remove line(s) 1582-1599 and insert:
7
8 secondary academic program enhancement. However, if a lab school
9 located in a different school district than the site of its
10 sponsoring university, elects to provide student transportation,
11 the lab school shall be eligible for funding pursuant to s.
12 1011.68 in the same manner as other public schools in the
13 district in which the lab school is located. The sum of funds
14 available as provided in this paragraph shall be included
15 annually in the Florida Education Finance Program and
16 appropriate categorical programs funded in the General
17 Appropriations Act.
18 (11) EXCEPTIONS TO LAW.--To encourage innovative practices
19 and facilitate the mission of the lab schools, in addition to
20 the exceptions to law specified in s. 1001.23(2), the following
21 exceptions shall be permitted for lab schools:

22 (b) With the exception of s. 1001.42(16), s. 1001.42 shall
23 be held in abeyance, however, if a lab school located in a
24 different school district than the site of its sponsoring
25 university, elects to provide student transportation, the lab
26 school shall be eligible for funding pursuant to s. 1011.68 in
27 the same manner as other public schools in the district in which
28 the lab school is located. Reference to
29
30 ========== T I T L E A M E N D M E N T ==========
31 Remove line 46 and insert:
32
33 providing that certain charter lab schools that elect to provide