

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**EDUCATION PRE-K - 12**  
**Senator Wise, Chair**  
**Senator Bullard, Vice Chair**

**MEETING DATE:** Monday, February 6, 2012  
**TIME:** 3:00 —6:00 p.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Wise, Chair; Senator Bullard, Vice Chair; Senators Alexander, Altman, Benacquisto, Bogdanoff, and Montford

| TAB | BILL NO. and INTRODUCER                      | BILL DESCRIPTION and<br>SENATE COMMITTEE ACTIONS  | COMMITTEE ACTION           |
|-----|--|---|----------------------------|
| 1   | <b>SB 1852</b><br>Wise<br>(Compare CS/H 903) | Charter Schools; Providing that a community college may operate no more than one charter school that serves students in kindergarten through grade 12, if the community college operates an approved teacher preparation program; revising the restriction on the establishment of new charter schools that replicate a high-performing charter school's educational program; authorizing a high-performing charter school that is part of a high-performing charter school system to increase student enrollment, expand grade levels, submit quarterly financial statements, consolidate charters, and modify charter terms, etc.<br><br>ED 01/30/2012 Not Considered<br>ED 02/06/2012 Fav/CS<br>HE<br>BC | Fav/CS<br>Yeas 5 Nays 1    |
| 2   | <b>SB 338</b><br>Detert<br>(Identical H 121) | Public School Student Participation in Fine Arts Courses; Revising the basis for the designation of school grades to include the participation rate of students who are enrolled in fine arts courses, etc.<br><br>ED 02/06/2012 Favorable<br>BC  | Favorable<br>Yeas 6 Nays 0 |
| 3   | <b>SB 494</b><br>Negron<br>(Identical H 273) | Student Safety; Requiring district school board policies to list the emergency response agencies that are responsible for notifying the school district of emergencies; requiring the emergency response agencies to notify private schools in the school district under certain circumstances, etc.<br><br>ED 02/06/2012 Fav/CS<br>MS<br>BC  | Fav/CS<br>Yeas 6 Nays 0    |

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Education Pre-K - 12

Monday, February 6, 2012, 3:00 —6:00 p.m.

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|-----|--|--|-------------------------|
| 4   | <b>SB 620</b><br>Latvala<br>(Compare CS/H 1357)    | District School Boards; Requiring that each district school board organize and elect a chair at a publicly noticed meeting after the first Tuesday after the first Monday in November of each year, but before the end of November; providing an exception if the chair is elected by a districtwide vote, etc.<br><br>ED 02/06/2012 Fav/CS<br>GO<br>BC  | Fav/CS<br>Yeas 6 Nays 0 |
| 5   | <b>SB 750</b><br>Flores<br>(Compare CS/H 465)      | Bonds; Requiring that a district school board determine the schedule of maturities of proposed bonds; authorizing the district school board to approve a longer period before bonds are to be retired; providing that all bonds are callable at times and on terms prescribed by the district school board, etc.<br><br>ED 02/06/2012 Fav/CS<br>BC   | Fav/CS<br>Yeas 6 Nays 0 |
| 6   | <b>SB 808</b><br>Norman<br>(Compare CS/H 431)      | Use of Public School Grounds and Facilities; Providing that a public school that substantially implements specified public uses of its grounds or facilities is not liable for personal injury or property damage unless the injury or damage is due to gross negligence; providing that a student who is not under suspension or expulsion and who is on a public school's grounds or facilities for the purpose of engaging in physical fitness or recreation does not commit a trespass; authorizing a district school board to permit the use of public school facilities and grounds for physical fitness and recreation; encouraging each district school board to enter into a joint use agreement that provides local community access to a public school's grounds and facilities for physical fitness and recreation, etc.<br><br>ED 02/06/2012 Fav/CS<br>JU<br>BC | Fav/CS<br>Yeas 5 Nays 0 |
| 7   | <b>SB 874</b><br>Benacquisto<br>(Compare CS/H 285) | Sick Leave for School District Employees; Authorizing each district school system to provide a policy allowing the donation of accrued sick leave to any district employee, etc.<br><br>ED 02/06/2012 Fav/CS<br>GO   | Fav/CS<br>Yeas 5 Nays 0 |

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|-----|--|--|----------------------------|
| 8   | <b>SB 1402</b><br>Gardiner<br>(Compare H 7063)             | Education; Requiring that the State Board of Education enforce compliance with the law and state board rule by the Florida Virtual School; providing that a full-time Florida Virtual School student who meets specified academic and conduct requirements is eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend; requiring that each student take at least one online course before graduating from high school, unless otherwise expressly excluded by law; authorizing the Florida Virtual School to provide part-time and full-time instruction for students in kindergarten through grade 12; revising the general requirements for high school graduation, etc.<br><br>ED 02/06/2012 Fav/CS<br>BC | Fav/CS<br>Yeas 6 Nays 0    |
| 9   | <b>SB 1462</b><br>Díaz de la Portilla<br>(Identical H 689) | American Founders' Month; Citing this act as the "American Founders' Month Act"; designating the month of September as "American Founders' Month"; requiring district school boards to celebrate the American Founders and the principles inherent in the country's founding documents by observing American Founders' Month; specifying the focus of instruction during the month; providing that instruction may be integrated into the existing school curriculum; requiring distribution to school personnel of certain information, etc.<br><br>ED 02/06/2012 Favorable<br>BC   | Favorable<br>Yeas 6 Nays 0 |
| 10  | <b>SB 1654</b><br>Detert<br>(Identical H 1317)             | Certified School Counselors; Requiring that each school district have an overall ratio of at least one certified school counselor for every 400 students; requiring that each elementary, middle, and high school within the school district have a specified maximum ratio of certified school counselors to students; requiring that each school have a full-time certified school counselor and assign half-time certified school counselors or an additional full-time certified school counselor only after reaching the maximum ratio, etc.<br><br>ED 02/06/2012 Fav/CS<br>BC  | Fav/CS<br>Yeas 6 Nays 0    |

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|-----|--|---|----------------------------|
| 11  | <b>SB 982</b><br>Bogdanoff<br>(Similar CS/H 737) | Tax on Sales, Use, and Other Transactions;<br>Specifying a period during this year when the sale of<br>clothing, wallets, bags, and school supplies are<br>exempt from the tax; providing exceptions;<br>authorizing the Department of Revenue to adopt<br>emergency rules, etc.<br><br>ED 02/06/2012 Favorable<br>BC | Favorable<br>Yeas 5 Nays 0 |

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

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BILL: CS/SB 1852

INTRODUCER: Committee on Education Pre-K - 12 and Senator Wise

SUBJECT: Charter Schools

DATE: February 6, 2012

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR  | REFERENCE | ACTION        |
|----|---------|-----------------|-----------|---------------|
| 1. | Brown   | deMarsh-Mathues | ED        | <b>Fav/CS</b> |
| 2. |         |                 | HE        |               |
| 3. |         |                 | BC        |               |
| 4. |         |                 |           |               |
| 5. |         |                 |           |               |
| 6. |         |                 |           |               |

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary:**

District school boards must annually proportionately share the revenue generated by the millage levy with charter schools in the school district on a per-student basis or be subject to a Florida Education Finance Program (FEFP) recalculation. Recalculated funds are to be submitted by the district school board to its charter schools within 30 days of receipt and are only to be used for capital outlay purposes.

Federal funds issued for the benefit of charter schools and students and sent to a district school board must be distributed in full within 60 days of receipt.

This bill authorizes Florida College System (FCS) institutions that offer an approved teacher preparation program to operate one K-12 charter school in each district that the FCS serves.

A district school board would be required to provide a charter school with training and access to a school district's student achievement database in instances where academic student performance data cannot be given to the charter school.

A formal grievance procedure would be made available to sponsors or charter schools when they are unable to reach resolution and request mediation. The process of a school closing is suspended upon the grievance, pending mediation, unless the charter is terminated for emergency reasons.

A professional development plan provided by charter school cooperative organizations to the State Board of Education would qualify for meeting continuing education requirements.

This bill would allow any type of charter school seeking high-performing status to compensate for being in a state of financial emergency by showing that it has the finances to cover the deficiency, or that the deficiency does not result in a deteriorating financial condition. This exception is currently available only to charter-schools-in-a-workplace.

High-performing charter schools would be authorized to establish a maximum of three new charter schools annually, an increase from the current one new school per year authorized in law.

High-performing charter schools that are part of a system would be given greater flexibility to make changes in the areas of increased student enrollment beyond capacity caps, expansion of grade levels, consolidation of multiple schools and an increase in charter terms. This is the same flexibility currently extended to high-performing charter schools irrespective of whether they are part of a system.

This bill substantially amends sections 163.3180, 1002.32, 1002.33, 1002.331, 1002.332, 1002.34, 1002.345, 1011.68, 1012.32, and 1013.62, of the Florida Statutes.

## **II. Present Situation:**

### **Charter Schools**

Charter schools are governed in law by s. 1002.33, F.S. Charter schools are considered to be public schools.<sup>1</sup> Terms and conditions for charter school operation are to be agreed to by the sponsor and applicant through a written contractual agreement, which represents the charter.<sup>2</sup> Although the initial term of a charter is restricted to four or five years, to facilitate access to long-term financial construction funding, s. 1002.33(7)(a)12., F.S., authorizes charters of up to 15 years for those operated by a municipality or other public entity, or by a private not-for-profit 501(c)(3) corporation.

Various individuals and entities are authorized to file an application for a new charter school, including teachers, parents, a group of individuals, a municipality or a legal entity.<sup>3</sup> District school boards and state universities (regarding the creation of a charter lab school) are authorized to serve as sponsors of charter schools. Sponsors review and approve or deny charter school applications, monitor progress, and ensure compliance with state education goals and participation in the education accountability system.<sup>4</sup>

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<sup>1</sup> s. 1002.33(1), F.S.

<sup>2</sup> s. 1002.33(6)(h), F.S.

<sup>3</sup> s. 1002.33(3), F.S.

<sup>4</sup> s. 1002.33(5), F.S.

Florida College System institutions are authorized to develop charter schools in collaboration with the school district, provided that the charter schools include an option for students to receive an associate degree upon high school graduation.<sup>5</sup>

The 2011 Florida Legislature established the designation of “high-performing charter schools” and “high-performing charter school systems.”<sup>6</sup> A charter school is considered high-performing if it:

- Received at least two “A” grades and no school grade below “B” during each of the previous 3 school years;
- Received an unqualified opinion on each annual financial audit in the last three fiscal years for which audits are available; and
- Did not receive a financial audit that showed one or more financial emergency conditions in the last three fiscal years for which audits are available.

Virtual charter schools cannot be considered for designation as a high-performing charter school.<sup>7</sup>

High-performing charter schools are granted certain benefits by virtue of their designation. These schools are authorized to:

- Increase student enrollment once a year by up to 15 percent more than capacity identified in the charter;
- Expand grade levels within K-12 grades to add grades if the annual enrollment increase is not exceeded;
- Submit a quarterly, rather than monthly financial statement to the sponsor;
- Consolidate charters of multiple, high-performing charter schools under a single charter;
- Receive a modification of its charter to a term of 15 years or a 15 year charter renewal, although it remains subject to annual sponsor review and termination provisions; and
- Replicate at the rate of one charter per year.<sup>8</sup>

Written notification, including an exact enrollment increase and specified grade levels, must be provided to a sponsor by March 1 if a high-performing charter school intends to increase enrollment or expand grade levels the following year.

High-performing charter school systems are defined as an entity that:

- Operates at least three high-performing charter schools in the state;
- Operates a system of charter schools in which at least 50 percent are high-performing and, no charter school received a school grade of “D” or “F”, except in instances where:

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<sup>5</sup> s. 1002.33(5)(j), F.S.

<sup>6</sup> ch. 2011-232, L.O.F.

<sup>7</sup> s. 1002.331(1), F.S.

<sup>8</sup> s. 1002.331(2)(e) and (3)(a), F.S..

- The entity took over operation of a public school with a “D” or “F” grade and in this case, the grade is not to be considered for high-performing purposes for three years; or
- A new charter school is started that serves a student population, the majority of which is in a school zone served by a public school identified as lowest performing. In this case, the grade will not be considered if it maintains a grade that is higher than that public school within three years of establishment; and
- Has not received a financial audit showing one or more financial emergency conditions for any charter school now operated by the entity.

Upon request by an entity, the Commissioner of Education is required to provide a letter of verification that the entity is designated as a high-performing charter school system.

High-performing charter school systems are authorized to replicate schools pursuant to the same method and at the same rate prescribed for high-performing charter school replication.<sup>9</sup>

To date, 115 charter schools have received high-performing designation. As of August 1, 2011, districts received 47 applications from high-performing charter schools requesting replication.<sup>10</sup>

### **District School Tax**

In addition to other millage authorized for current operation, each school board may levy up to 1.5 mills more against the taxable value for school purposes for district schools, including charter schools, at the school board’s discretion, to fund:

- New construction and remodeling, as included in the district’s educational plant survey;
- Maintenance, renovation, and repair of existing school plants or leased facilities to correct deficiencies;
- Purchase, lease-purchase or lease of school buses or of new and replacement equipment, computer hardware;
- Payments for educational facilities and sites due under a lease-purchase agreement up to a specified cap;
- Payment of certain loans, costs required for state and federal compliance, costs of leasing relocatable educational facilities and cost of certain school buses; and
- Payment of the cost of the initial library collection at a new school.<sup>11</sup>

### **III. Effect of Proposed Changes:**

This bill expands the current prohibition on a sponsor’s policies applying to a charter school to include a sponsor’s procedures and prior decisions of the school board.

This bill authorizes Florida College System (FCS) institutions that offer an approved teacher preparation program to operate one K-12 charter school in each district that the FCS serves. This

<sup>9</sup> s. 1002.332(1) and (2), F.S.

<sup>10</sup> DOE Draft Bill Analysis on SB 1852 (January 19, 2012). On file with the Senate Committee on Education Pre-K – 12.

<sup>11</sup> s. 1011.71 (2), F.S.



represents an expansion of grade levels, as this authority is currently limited to development of secondary charter schools. Additionally, by including all districts that the FCS serves, it is unclear how areas of service are determined.

A district school board would be required to provide charter school personnel with training and access to a school district's student achievement database in instances where academic student performance data cannot be given to the charter school. It is unclear how extensive training would need to be, and whether a database would require alteration to accommodate new users. Additionally, it is uncertain whether access to the database would include individual student education records. If so, access to these records would be governed by s. 1002.22, F.S., and the federal Family Educational Rights and Privacy Act (FERPA), pursuant to 20 U.S.C. s. 1232g. The federal and state laws protect the privacy of student records. Section 1002.22, F.S., gives public school elementary and secondary school students and their parents the right to access their educational records, to challenge the content of the records, and to have privacy with respect to the records. Section 1002.221, F.S., prohibits the release of K-12 educational records without written consent of the student or parent except as permitted by the FERPA.

This bill establishes a formal grievance procedure to be made available to sponsors or charter schools when they are unable to reach resolution and request mediation. The process of a school closing is suspended upon the grievance, pending mediation, unless the charter is terminated for emergency reasons (such as for health, safety and welfare purposes.)

Charter school cooperative organizations composed of high-performing charter schools, consortiums, or individual charter schools may satisfy continuing education requirements through provision of a professional development plan to the State Board of Education.

District school boards must annually proportionately share the revenue generated by the millage levy with charter schools in the school district on a per-student basis or be subject to FEFP recalculation. Currently, district school boards have discretionary authority to share this revenue. According to the Department of Education (DOE), currently three school districts provide charter schools with these funds.<sup>12</sup>

Recalculated funds are to be submitted by the district school board to its charter schools within 30 days of receipt and are only to be used for capital outlay purposes.

Federal funds intended for charter schools and students and sent to a district school board must be distributed in full within 60 days of receipt, including funds received through Title I and Title II of the Elementary and Secondary Education Act and the Individuals with Disabilities Education Act (IDEA). A representative from the Lee County School District expresses various concerns about implementing this provision, specifically:

- The language covers too many funding streams in that allocation methods for each grant can vary not only by grant, but by year;

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<sup>12</sup> These are Franklin, Sarasota and Sumter counties. DOE Draft Bill Analysis on SB 1852 (January 19, 2012). On file with the Senate Committee on Education Pre-K – 12.

- The language is imprecise in that there are many subparts to Title I, Title II and IDEA, and each may have different rules for allocations, allowable activities, and set-asides, and the funds might follow a student that leaves a particular school;
- The language proposes a possibly inappropriate use of federal funds, in that school districts do not receive actual federal funds at the beginning of the school year; rather, they receive an award, which permits them to draw down federal funds as needed on an immediate basis (i.e. expenditures taking place in the next day or so);
- The language may result in the unnecessary transfer of funds. For example, if the district transferred cash to a charter school, the charter would have to document all interest earned on that deposit until it was actually expended on the approved grant activity, and return the interest to the school district. Also, throughout the year, each school might have to return funds earmarked to students who have withdrawn, plus interest.<sup>13</sup>

Current law provides for a school to qualify as high-performing if it did not receive an audit showing a financial emergency in the last three years as one of its criteria. An exception is provided exclusively to charter-schools-in-a-workplace if there is an audit showing that the school has the money to cover deficiencies, or that the deficiency does not result in a deteriorating financial condition. This bill makes the exception provided to charter-schools-in-a-workplace available to all charter schools applying for high-performing status.

High-performing charter schools would be authorized to establish a maximum of three new charter schools annually, which is an increase from the current one new school per year authorized in law.

High-performing charter schools that are part of a system would be given greater flexibility to make changes as follows:

- Increase student enrollment once a school year by up to 15 percent more than the capacity authorized in the charter, subject to written notice to the sponsor;
- Expand grade levels within K-12 grades to add grade levels not already served if the annual enrollment increase is within allowable limits, subject to written notice to the sponsor;
- Submit a quarterly, rather than monthly, financial statement to the sponsor;
- Consolidate under a single charter the charters of multiple high-performing charter schools located in the same district by the charter schools' governing boards, irrespective of renewal cycle; and
- Increase the charter term to up to 15 years or a 15-year charter renewal, providing that the charter is compliant with statutory provisions regarding written notification to the sponsor and capacity determination requirements.

This is the same flexibility currently extended to high-performing charter schools irrespective of whether they are part of a system.

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<sup>13</sup> Dr. Jeff McCullers, Director, Grants and Program Development, Liaison, Public Charter Schools, The School District of Lee County, Letter to Martha Asbury, Assistant Deputy Commissioner of Finance and Operations, Department of Education (February 1, 2012). On file with the Committee on Education Pre-K – 12.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Under the authority to increase by three new schools per year, of those charter schools that are governed by a for-profit management organization, high-performing charter schools would be able to expand more quickly. High-performing charter schools that are part of a system would also be able to increase in scope and size more quickly, and also replicate faster under the provisions in the bill.

**C. Government Sector Impact:**

District school boards would be required to equally share the revenue generated through additional millage with charter schools, based upon a set per-student formula. It is unclear what type of fiscal impact this could potentially have on a district school board regarding capital outlay and the reduced ability to repay debt obligation, if any.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by the Committee on Education Pre-K – 12 on February 6, 2012:**

This bill:

- Expands the number of charter schools that an FCS institution is authorized to operate, from one charter school, to one per district in which the FCS institution serves;
- Requires the district school board to provide charter schools with training and access to its student achievement database if the board is unable to provide student performance data;
- Establishes a formal grievance procedure for sponsors and charter schools unable to reach resolution and provides for a cessation of a school closing while the case is pending, unless the charter is terminated for emergency reasons; and
- Authorizes charter school cooperative organizations to submit a professional development plan to satisfy continuing education requirements.

B. Amendments:

None.



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LEGISLATIVE ACTION

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|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/08/2012 | . |       |
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The Committee on Education Pre-K - 12 (Wise) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (h) of subsection (6) of section  
163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(6)

(h)1. In order to limit the liability of local governments,  
a local government may allow a landowner to proceed with  
development of a specific parcel of land notwithstanding a  
failure of the development to satisfy school concurrency, if all



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the following factors are shown to exist:

a. The proposed development would be consistent with the future land use designation for the specific property and with pertinent portions of the adopted local plan, as determined by the local government.

b. The local government's capital improvements element and the school board's educational facilities plan provide for school facilities adequate to serve the proposed development, and the local government or school board has not implemented that element or the project includes a plan that demonstrates that the capital facilities needed as a result of the project can be reasonably provided.

c. The local government and school board have provided a means by which the landowner will be assessed a proportionate share of the cost of providing the school facilities necessary to serve the proposed development.

2. If a local government applies school concurrency, it may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency is satisfied if the developer executes a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property,



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including, but not limited to, the options described in sub-subparagraph a. Options for proportionate-share mitigation of impacts on public school facilities must be established in the comprehensive plan and the interlocal agreement pursuant to s. 163.31777.

a. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; the construction of a charter school that complies with the requirements of s. 1002.33(19) ~~1002.33(18)~~; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased the overall residential density. The district school board must be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

b. If the interlocal agreement and the local government comprehensive plan authorize a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a charter school that



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complies with the requirements of s. 1002.33(19) ~~1002.33(18)~~, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

c. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in the 5-year school board educational facilities plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

3. This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home rule regulatory powers, except as provided in this part.

Section 2. Paragraph (c) of subsection (9) of section 1002.32, Florida Statutes, is amended to read:

1002.32 Developmental research (laboratory) schools.—

(9) FUNDING.—Funding for a lab school, including a charter lab school, shall be provided as follows:

(c) All operating funds provided under this section shall be deposited in a Lab School Trust Fund and shall be expended for the purposes of this section. The university assigned a lab school shall be the fiscal agent for these funds, and all rules of the university governing the budgeting and expenditure of state funds shall apply to these funds unless otherwise provided by law or rule of the State Board of Education. The university board of trustees shall be the public employer of lab school personnel for collective bargaining purposes for lab schools in





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operation prior to the 2002-2003 fiscal year. Employees of charter lab schools authorized prior to June 1, 2003, but not in operation prior to the 2002-2003 fiscal year shall be employees of the entity holding the charter and must comply with the provisions of s. 1002.33(13) ~~1002.33(12)~~.

Section 3. Subsection (1), paragraph (b) of subsection (5), paragraph (c) of subsection (6), paragraph (a) of subsection (7), paragraphs (b) and (g) of present subsection (9), paragraphs (d), (e), (h), and (i) of present subsection (10), present subsection (13), paragraphs (b) and (c) of present subsection (15), present subsection (17), paragraph (a) of present subsection (20), and present subsection (23) of section 1002.33, Florida Statutes, are amended, present subsections (9) through (27) of that section are redesignated as subsections (10) through (28), respectively, and a new subsection (9) is added to that section, to read:

1002.33 Charter schools.—

(1) AUTHORIZATION.—Charter schools shall be part of the state's program of public education. All charter schools in Florida are public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. A charter school may operate a virtual charter school pursuant to s. 1002.45(1)(d) to provide full-time online instruction to eligible students, pursuant to s. 1002.455, in kindergarten through grade 12. A charter school must amend its charter or submit a new application pursuant to subsection (6) to become a virtual charter school. A virtual charter school is subject to the requirements of this section; however, a virtual charter school is exempt from subsections (19) ~~(18)~~ and (20)



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~~(19)~~, subparagraphs (21)(a)2.-5. ~~(20)(a)2.-5.~~, paragraph (21)(c)  
~~(20)(c)~~, and s. 1003.03. A public school may not use the term  
charter in its name unless it has been approved under this  
section.

(5) SPONSOR; DUTIES.—

(b) *Sponsor duties.*—

1.a. The sponsor shall monitor and review the charter  
school in its progress toward the goals established in the  
charter.

b. The sponsor shall monitor the revenues and expenditures  
of the charter school and perform the duties provided in s.  
1002.345.

c. The sponsor may approve a charter for a charter school  
before the applicant has identified space, equipment, or  
personnel, if the applicant indicates approval is necessary for  
it to raise working funds.

d. The sponsor's policies and procedures and previous  
school board decisions, which are not consistent with the  
requirements in this section, shall not apply to a charter  
school unless mutually agreed to by both the sponsor and the  
charter school.

e. The sponsor shall ensure that the charter is innovative  
and consistent with the state education goals established by s.  
1000.03(5).

f. The sponsor shall ensure that the charter school  
participates in the state's education accountability system. If  
a charter school falls short of performance measures included in  
the approved charter, the sponsor shall report such shortcomings  
to the Department of Education.



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g. The sponsor is ~~shall~~ not be liable for civil damages under state law for personal injury, property damage, or death resulting from an act or omission of an officer, employee, agent, or governing body of the charter school.

h. The sponsor is ~~shall~~ not be liable for civil damages under state law for any employment actions taken by an officer, employee, agent, or governing body of the charter school.

i. The sponsor's duties to monitor the charter school shall not constitute the basis for a private cause of action.

j. The sponsor shall not impose additional reporting requirements beyond those contained in this section on a charter school without providing reasonable and specific justification in writing to the charter school.

2. Immunity for the sponsor of a charter school under subparagraph 1. applies only with respect to acts or omissions not under the sponsor's direct authority as described in this section.

3. This paragraph does not waive a district school board's sovereign immunity.

4. A Florida College System institution may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. If a Florida College System institution operates an approved teacher preparation program under s. 1004.04 or s. 1004.85, the Florida College System institution may operate no more than one charter school that serves students in kindergarten through grade 12 in each school district in which the Florida College System



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institution serves. District school boards shall cooperate with and assist the Florida College System institution on the charter application. Florida College System institution applications for charter schools are not subject to the time deadlines outlined in subsection (6) and may be approved by the district school board at any time during the year. Florida College System institutions may not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

(6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:

(c)1. An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the sponsor's decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal. Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward its recommendation to the state board no later than 7 calendar days prior to the date on which the appeal is to be heard.

2. The Charter School Appeal Commission may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant shall have 15 calendar days



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after notice of rejection in which to resubmit an appeal that meets the requirements set forth in State Board of Education rule. An appeal submitted subsequent to such rejection is considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the sponsor's denial of the charter application.

3.a. The State Board of Education shall by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

b. If an appeal concerns an application submitted by a high-performing charter school identified pursuant to s. 1002.331, the State Board of Education shall determine whether the sponsor has shown, by clear and convincing evidence, that:

(I) The application does not materially comply with the requirements in paragraph (a);

(II) The charter school proposed in the application does not materially comply with the requirements in paragraphs (10) (a) - (f) ~~(9) (a) - (f)~~;

(III) The proposed charter school's educational program does not substantially replicate that of the applicant or one of the applicant's high-performing charter schools;

(IV) The applicant has made a material misrepresentation or false statement or concealed an essential or material fact



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during the application process; or

(V) The proposed charter school's educational program and financial management practices do not materially comply with the requirements of this section.

The State Board of Education shall approve or reject the sponsor's denial of an application no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The State Board of Education shall remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the Administrative Procedure Act, chapter 120.

(7) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing board of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and



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professional standards.

a. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Sunshine State Standards and grounded in scientifically based reading research.

b. In order to provide students with access to diverse instructional delivery models, to facilitate the integration of technology within traditional classroom instruction, and to provide students with the skills they need to compete in the 21st century economy, the Legislature encourages instructional methods for blended learning courses consisting of both traditional classroom and online instructional techniques. Charter schools may implement blended learning courses that ~~which~~ combine traditional classroom instruction and virtual instruction. Students in a blended learning course must be full-time students of the charter school and receive the online instruction in a classroom setting at the charter school. Instructional personnel certified pursuant to s. 1012.55 who provide virtual instruction for blended learning courses may be employees of the charter school or may be under contract to provide instructional services to charter school students. At a minimum, such instructional personnel must hold an active state or school district adjunct certification under s. 1012.57 for the subject area of the blended learning course. The funding and performance accountability requirements for blended learning courses are the same as those for traditional courses.

3. The current incoming baseline standard of student



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academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description of:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established.

b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system. If academic student performance data cannot be provided to a charter school, the district school board shall provide the charter school with training and access to the school district's student achievement databases.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. The methods shall provide a means for the charter school to ensure accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program created under s. 1008.22.





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5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 1003.428, s. 1003.429, or s. 1003.43.

6. A method for resolving conflicts between the governing board of the charter school and the sponsor.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school will achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

9. The financial and administrative management of the school, including a reasonable demonstration of the professional experience or competence of those individuals or organizations applying to operate the charter school or those hired or retained to perform such professional services and the description of clearly delineated responsibilities and the policies and practices needed to effectively manage the charter school. A description of internal audit procedures and establishment of controls to ensure that financial resources are properly managed must be included. Both public sector and private sector professional experience shall be equally valid in such a consideration.

10. The asset and liability projections required in the application which are incorporated into the charter and shall be compared with information provided in the annual report of the charter school.

11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of



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losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance, and, if so, the terms and conditions thereof and the amounts of coverage.

12. The term of the charter, which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for 4 or 5 years. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the district school board. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the district school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only according to the provisions set forth in subsection (8).

13. The facilities to be used and their location.

14. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.



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15. The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (13)(i) ~~(12)(i)~~.

16. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

17. In the case of an existing public school that is being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements are ~~shall~~ not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university that ~~which~~ grants the charter to the lab school.

18. Full disclosure of the identity of all relatives employed by the charter school who are related to the charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority. For the purpose of this subparagraph, the term "relative" means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother,



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stepsister, half brother, or half sister.

19. Implementation of the activities authorized under s. 1002.331 or s. 1002.332 by the charter school when it satisfies the eligibility requirements for a high-performing charter school. A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable.

(9) FORMAL GRIEVANCES; MEDIATION.—A charter school or sponsor may file a formal grievance with the Department of Education and request mediation if the charter school or sponsor is unable to resolve any outstanding issues between the charter school and the sponsor. Upon the filing of such formal grievance and request for mediation, any activities associated with the closing of a charter school shall cease until a resolution is reached, unless the charter is terminated pursuant to paragraph (8) (d) .

(10) ~~(9)~~ CHARTER SCHOOL REQUIREMENTS.—

(b) A charter school shall admit students as provided in subsection (11) ~~(10)~~.

(g) In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:

1. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools"; or



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2. At the discretion of the charter school's governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph. A charter school shall provide a monthly financial statement to the sponsor unless the charter school is designated as a high-performing charter school pursuant to s. 1002.331 or s. 1002.332, in which case the high-performing charter school may provide a quarterly financial statement. The financial statement required under this paragraph shall be in a form prescribed by the Department of Education.

(11)~~(10)~~ ELIGIBLE STUDENTS.—

(d) A charter school may give enrollment preference to the following student populations:

1. Students who are siblings of a student enrolled in the charter school.

2. Students who are the children of a member of the governing board of the charter school.

3. Students who are the children of an employee of the charter school.



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4. Students who are the children of:

a. An employee of the business partner of a charter school-in-the-workplace established under paragraph (16) (b) ~~(15) (b)~~ or a resident of the municipality in which such charter school is located; or

b. A resident of a municipality that operates a charter school-in-a-municipality pursuant to paragraph (16) (c) ~~(15) (e)~~.

5. Students who have successfully completed a voluntary prekindergarten education program under ss. 1002.51-1002.79 provided by the charter school or the charter school's governing board during the previous year.

6. Students who are the children of an active duty member of any branch of the United States Armed Forces.

(e) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.

2. Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.

3. Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality established pursuant to subsection (16) ~~(15)~~.

4. Students residing within a reasonable distance of the charter school, as described in paragraph (21) (c) ~~(20) (e)~~. Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (7) (a) 8. or any federal provisions that require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools



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in the same school district.

5. Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school and included in the charter school application and charter or, in the case of existing charter schools, standards that are consistent with the school's mission and purpose. Such standards shall be in accordance with current state law and practice in public schools and may not discriminate against otherwise qualified individuals.

6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.

7. Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$10 million to be used as a charter school for the development. Students living in the development shall be entitled to 50 percent of the student stations in the charter school. The students who are eligible for enrollment are subject to a random lottery, the racial/ethnic balance provisions, or any federal provisions, as described in subparagraph 4. The remainder of the student stations shall be filled in accordance with subparagraph 4.

(h) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection unless the charter school is designated as a high-performing charter school pursuant to s. 1002.331 or s. 1002.332. A sponsor may not require a charter school to waive the provisions of s. 1002.331 or s. 1002.332 or



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require a student enrollment cap that prohibits a high-performing charter school from increasing enrollment in accordance with s. 1002.331(2) or s. 1002.332(2)(c) as a condition of approval or renewal of a charter.

(i) The capacity of a high-performing charter school identified pursuant to s. 1002.331 or s. 1002.332 shall be determined annually by the governing board of the charter school. The governing board shall notify the sponsor of any increase in enrollment by March 1 of the school year preceding the increase.

(14) ~~(13)~~ CHARTER SCHOOL COOPERATIVES.—Charter schools may enter into cooperative agreements to form charter school cooperative organizations that may provide the following services: charter school planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development. A charter school cooperative organization that includes high-performing charter schools, a consortium of charter schools, or individual charter schools may submit a professional development plan on behalf of its member schools to the State Board of Education for the purpose of meeting continuing education requirements.

(16) ~~(15)~~ CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-A-MUNICIPALITY.—

(b) A charter school-in-the-workplace may be established when a business partner provides the school facility to be used; enrolls students based upon a random lottery that involves all





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of the children of employees of that business or corporation who are seeking enrollment, as provided for in subsection (11) ~~(10)~~; and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. Any portion of a facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(c) A charter school-in-a-municipality designation may be granted to a municipality that possesses a charter; enrolls students based upon a random lottery that involves all of the children of the residents of that municipality who are seeking enrollment, as provided for in subsection (11) ~~(10)~~; and enrolls students according to the racial/ethnic balance provisions described in subparagraph (7)(a)8. When a municipality has submitted charter applications for the establishment of a charter school feeder pattern, consisting of elementary, middle, and senior high schools, and each individual charter application is approved by the district school board, such schools shall then be designated as one charter school for all purposes listed pursuant to this section. Any portion of the land and facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(18) ~~(17)~~ FUNDING.—Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a charter lab school shall be as provided in s. 1002.32.

(a) Each charter school shall report its student enrollment



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to the sponsor as required in s. 1011.62, and in accordance with the definitions in s. 1011.61. The sponsor shall include each charter school's enrollment in the district's report of student enrollment. All charter schools submitting student record information required by the Department of Education shall comply with the Department of Education's guidelines for electronic data formats for such data, and all districts shall accept electronic data that complies with the Department of Education's electronic format.

(b) The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law shall be entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation. Total funding for each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education.



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(c) Each district school board may annually proportionately share the revenue generated by the millage levy pursuant to s. 1011.71(2) with charter schools in the school district on a per-student basis. If a district school board does not proportionately share the revenue generated by the millage levy pursuant to s. 1011.71(2), the Florida Education Finance Program allocation for that school district shall be recalculated so that each charter school in the school district receives, on a per-student basis, the same amount of funds that it would have received if the district school board shared the millage levy revenue with charter schools on a per-student, pro rata basis. The school district shall, within 30 days after receipt, distribute the recalculated funds to each charter school in the district. Charter schools may use these recalculated funds only for capital outlay purposes.

(d) ~~(e)~~ If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board. All federal funds received by a district school board for the benefit of charter schools, charter school students, or charter school students as public school students in the school district, including, but not limited to, Title I, Title II, and IDEA funds, shall be paid in total to charter schools within 60 days after receipt by the district school board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months



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after the charter school first opens and within 5 months after any subsequent expansion of enrollment.

(e)~~(d)~~ Charter schools shall be included by the Department of Education and the district school board in requests for federal stimulus funds in the same manner as district school board-operated public schools, including Title I and IDEA funds and shall be entitled to receive such funds. Charter schools are eligible to participate in federal competitive grants that are available as part of the federal stimulus funds.

(f)~~(e)~~ District school boards shall make timely and efficient payment and reimbursement to charter schools, including processing paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a charter school for up to 3 months based on the projected full-time equivalent student membership of the charter school. Thereafter, the results of full-time equivalent student membership surveys shall be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds. If a warrant for payment is not issued within 10 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 10 working days until such time as the warrant is issued.

(g)~~(f)~~ Funding for a virtual charter school shall be as



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provided in s. 1002.45(7).

(21)~~(20)~~ SERVICES.—

(a)1. A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the charter school, are provided by the school district at the request of the charter school, that any funds due to the charter school under the federal lunch program be paid to the charter school as soon as the charter school begins serving food under the federal lunch program, and that the charter school is paid at the same time and in the same manner under the federal lunch program as other public schools serviced by the sponsor or the school district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district.

2. A total administrative fee for the provision of such



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services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (18) (b) ~~(17) (b)~~ for all students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 250 students. For charter schools with a population of 251 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2).

3. For high-performing charter schools, as defined in ch. 2011-232, a sponsor may withhold a total administrative fee of up to 2 percent for enrollment up to and including 250 students per school.

4. In addition, a sponsor may withhold only up to a 5-percent administrative fee for enrollment for up to and including 500 students within a system of charter schools which meets all of the following:

a. Includes both conversion charter schools and nonconversion charter schools;

b. Has all schools located in the same county;

c. Has a total enrollment exceeding the total enrollment of at least one school district in the state;

d. Has the same governing board; and

e. Does not contract with a for-profit service provider for management of school operations.

5. The difference between the total administrative fee calculation and the amount of the administrative fee withheld pursuant to subparagraph 4. may be used for instructional and administrative purposes as well as for capital outlay purposes



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specified in s. 1013.62(2).

6. For a high-performing charter school system that also meets the requirements in subparagraph 4., a sponsor may withhold a 2-percent administrative fee for enrollments up to and including 500 students per system.

7. Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee withheld pursuant to this paragraph.

8. The sponsor of a virtual charter school may withhold a fee of up to 5 percent. The funds shall be used to cover the cost of services provided under subparagraph 1. and for the school district's local instructional improvement system pursuant to s. 1006.281 or other technological tools that are required to access electronic and digital instructional materials.

(24) ~~(23)~~ ANALYSIS OF CHARTER SCHOOL PERFORMANCE.—Upon receipt of the annual report required by paragraph (10) (k) ~~(9) (k)~~, the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the Governor, the President of the Senate, and the Speaker of the House of Representatives an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the statewide assessment program, versus comparable public school students in the district as determined by the statewide assessment program currently administered in the school district, and other assessments administered pursuant to s. 1008.22(3).

Section 4. Paragraph (c) of subsection (1), paragraph (c)



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of subsection (2), and paragraph (b) of subsection (3) of section 1002.331, Florida Statutes, are amended to read:

1002.331 High-performing charter schools.—

(1) A charter school is a high-performing charter school if it:

(c) Did not receive a financial audit that revealed one or more of the financial emergency conditions set forth in s. 218.503(1) in the most recent 3 fiscal years for which such audits are available. However, this requirement is deemed met ~~for a charter school in the workplace~~ if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition pursuant to s. 1002.345(1)(a)3.

A virtual charter school established under s. 1002.33 is not eligible for designation as a high-performing charter school.

(2) A high-performing charter school is authorized to:

(c) Submit a quarterly, rather than a monthly, financial statement to the sponsor pursuant to s. 1002.33(10)(g) ~~1002.33(9)(g)~~.

A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable.

(3)

(b) A high-performing charter school may not establish more





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than three ~~one~~ charter schools ~~school~~ within the state under paragraph (a) in any year. A subsequent application to establish a charter school under paragraph (a) may not be submitted unless each charter school established in this manner achieves high-performing charter school status.

Section 5. Paragraph (c) is added to subsection (2) of section 1002.332, Florida Statutes, to read:

1002.332 High-performing charter school system.—

(2)

(c) A high-performing charter school that is part of a high-performing charter school system may:

1. Increase its student enrollment once per school year by up to 15 percent more than the capacity identified in the charter.

2. Expand grade levels within kindergarten through grade 12 to add grade levels not already served if any annual enrollment increase resulting from grade level expansion is within the limit established in subparagraph 1.

3. Submit a quarterly, rather than a monthly, financial statement to the sponsor pursuant to s. 1002.33(10)(g).

4. Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the charter schools' governing boards, regardless of the renewal cycle.

5. Receive a modification of its charter to a term of 15 years or a 15-year charter renewal. The charter may be modified or renewed for a shorter term at the option of the high-performing charter school. The charter must be consistent with s. 1002.33(7)(a)19. and (11)(h) and (i), is subject to annual



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review by the sponsor, and may be terminated during its term pursuant to s. 1002.33(8).

A high-performing charter school that is part of a high-performing charter school system shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment increase and the grade levels that will be added, as applicable.

Section 6. Paragraph (c) of subsection (10) and subsection (13) of section 1002.34, Florida Statutes, are amended to read:

1002.34 Charter technical career centers.—

(10) EXEMPTION FROM STATUTES.—

(c) A center must comply with the antidiscrimination provisions in s. 1000.05 and the provisions in s. 1002.33(25) ~~1002.33(24)~~ which relate to the employment of relatives.

(13) BOARD OF DIRECTORS AUTHORITY.—The board of directors of a center may decide matters relating to the operation of the school, including budgeting, curriculum, and operating procedures, subject to the center's charter. The board of directors is responsible for performing the duties provided in s. 1002.345, including monitoring the corrective action plan. The board of directors must comply with s. 1002.33(27) ~~1002.33(26)~~.

Section 7. Paragraphs (a) and (d) of subsection (1) and paragraph (b) of subsection (2) of section 1002.345, Florida Statutes, are amended to read:

1002.345 Determination of deteriorating financial conditions and financial emergencies for charter schools and



883798

charter technical career centers.—This section applies to charter schools operating pursuant to s. 1002.33 and to charter technical career centers operating pursuant to s. 1002.34.

(1) EXPEDITED REVIEW; REQUIREMENTS.—

(a) A charter school or a charter technical career center is subject to an expedited review by the sponsor if one of the following occurs:

1. Failure to provide for an audit required by s. 218.39.

2. Failure to comply with reporting requirements pursuant to s. 1002.33(10) ~~1002.33(9)~~ or s. 1002.34(11)(f) or (14).

3. A deteriorating financial condition identified through an annual audit pursuant to s. 218.39(5) or a monthly financial statement pursuant to s. 1002.33(10)(g) ~~1002.33(9)(g)~~ or s. 1002.34(11)(f). "Deteriorating financial condition" means a circumstance that significantly impairs the ability of a charter school or a charter technical career center to generate enough revenues to meet its expenditures without causing the occurrence of a condition described in s. 218.503(1).

4. Notification pursuant to s. 218.503(2) that one or more of the conditions specified in s. 218.503(1) have occurred or will occur if action is not taken to assist the charter school or charter technical career center.

(d) The governing board shall include the corrective action plan and the status of its implementation in the annual progress report to the sponsor which is required pursuant to s. 1002.33(10)(k) ~~1002.33(9)(k)~~ or s. 1002.34(14).

(2) FINANCIAL EMERGENCY; REQUIREMENTS.—

(b) The governing board shall include the financial recovery plan and the status of its implementation in the annual



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883 progress report to the sponsor which is required under s.  
884 1002.33(10)(k) ~~1002.33(9)(k)~~ or s. 1002.34(14).

885 Section 8. Section 1011.68, Florida Statutes, is amended to  
886 read:

887 1011.68 Funds for student transportation.—The annual  
888 allocation to each district for transportation to public school  
889 programs, including charter schools as provided in s.

890 1002.33(18)(b) ~~1002.33(17)(b)~~, of students in membership in  
891 kindergarten through grade 12 and in migrant and exceptional  
892 student programs below kindergarten shall be determined as  
893 follows:

894 (1) Subject to the rules of the State Board of Education,  
895 each district shall determine the membership of students who are  
896 transported:

897 (a) By reason of living 2 miles or more from school.

898 (b) By reason of being students with disabilities or  
899 enrolled in a teenage parent program, regardless of distance to  
900 school.

901 (c) By reason of being in a state prekindergarten program,  
902 regardless of distance from school.

903 (d) By reason of being career, dual enrollment, or students  
904 with disabilities transported from one school center to another  
905 to participate in an instructional program or service; or  
906 students with disabilities, transported from one designation to  
907 another in the state, provided one designation is a school  
908 center and provided the student's individual educational plan  
909 (IEP) identifies the need for the instructional program or  
910 service and transportation to be provided by the school  
911 district. A "school center" is defined as a public school



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center, Florida College System institution, state university, or other facility rented, leased, or owned and operated by the school district or another public agency. A "dual enrollment student" is defined as a public school student in membership in both a public secondary school program and a Florida College System institution or a state university program under a written agreement to partially fulfill ss. 1003.435 and 1007.23 and earning full-time equivalent membership under s. 1011.62(1)(i).

(e) With respect to elementary school students whose grade level does not exceed grade 6, by reason of being subjected to hazardous walking conditions en route to or from school as provided in s. 1006.23. Such rules shall, when appropriate, provide for the determination of membership under this paragraph for less than 1 year to accommodate the needs of students who require transportation only until such hazardous conditions are corrected.

(f) By reason of being a pregnant student or student parent, and the child of a student parent as provided in s. 1003.54, regardless of distance from school.

(2) The allocation for each district shall be calculated annually in accordance with the following formula:

$T = B + EX$ . The elements of this formula are defined as follows: T is the total dollar allocation for transportation. B is the base transportation dollar allocation prorated by an adjusted student membership count. The adjusted membership count shall be derived from a multiplicative index function in which the base student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price



883798

level index, average bus occupancy, and the extent of rural population in the district. EX is the base transportation dollar allocation for disabled students prorated by an adjusted disabled student membership count. The base transportation dollar allocation for disabled students is the total state base disabled student membership count weighted for increased costs associated with transporting disabled students and multiplying it by an average per student cost for transportation as determined by the Legislature. The adjusted disabled student membership count shall be derived from a multiplicative index function in which the weighted base disabled student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. Each adjustment factor shall be designed to affect the base allocation by no more or less than 10 percent.

(3) The total allocation to each district for transportation of students shall be the sum of the amounts determined in subsection (2). If the funds appropriated for the purpose of implementing this section are not sufficient to pay the base transportation allocation and the base transportation allocation for disabled students, the Department of Education shall prorate the available funds on a percentage basis. If the funds appropriated for the purpose of implementing this section exceed the sum of the base transportation allocation and the base transportation allocation for disabled students, the base transportation allocation for disabled students shall be limited to the amount calculated in subsection (2), and the remaining balance shall be added to the base transportation allocation.



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(4) No district shall use funds to purchase transportation equipment and supplies at prices which exceed those determined by the department to be the lowest which can be obtained, as prescribed in s. 1006.27(1).

(5) Funds allocated or apportioned for the payment of student transportation services may be used to pay for transportation of students to and from school on local general purpose transportation systems. Student transportation funds may also be used to pay for transportation of students to and from school in private passenger cars and boats when the transportation is for isolated students, or students with disabilities as defined by rule. Subject to the rules of the State Board of Education, each school district shall determine and report the number of assigned students using general purpose transportation private passenger cars and boats. The allocation per student must be equal to the allocation per student riding a school bus.

(6) Notwithstanding other provisions of this section, in no case shall any student or students be counted for transportation funding more than once per day. This provision includes counting students for funding pursuant to trips in school buses, passenger cars, or boats or general purpose transportation.

Section 9. Paragraph (b) of subsection (2) of section 1012.32, Florida Statutes, is amended to read:

1012.32 Qualifications of personnel.—

(2)

(b) Instructional and noninstructional personnel who are hired or contracted to fill positions in any charter school and members of the governing board of any charter school, in



883798

compliance with s. 1002.33(13)(g) ~~1002.33(12)(g)~~, must, upon employment, engagement of services, or appointment, undergo background screening as required under s. 1012.465 or s. 1012.56, whichever is applicable, by filing with the district school board for the school district in which the charter school is located a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.

Fingerprints shall be submitted to the Department of Law Enforcement for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation for federal criminal records checks. A person subject to this subsection who is found ineligible for employment under s. 1012.315, or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in any position that requires direct contact with students. Probationary persons subject to this subsection terminated because of their criminal record have the right to appeal such decisions. The cost of the background screening may be borne by the district school board, the charter school, the employee, the contractor, or a person subject to this subsection.

Section 10. Paragraphs (a) and (e) of subsection (1) and subsection (2) of section 1013.62, Florida Statutes, are amended to read:

1013.62 Charter schools capital outlay funding.—

(1) In each year in which funds are appropriated for





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charter school capital outlay purposes, the Commissioner of Education shall allocate the funds among eligible charter schools.

(a) To be eligible for a funding allocation, a charter school must:

1.a. Have been in operation for 3 or more years;

b. Be governed by a governing board established in the state for 3 or more years which operates both charter schools and conversion charter schools within the state;

c. Be an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds;

d. Have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools; or

e. Serve students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s. 1002.33(16)(b) ~~1002.33(15)(b)~~.

2. Have financial stability for future operation as a charter school.

3. Have satisfactory student achievement based on state accountability standards applicable to the charter school.

4. Have received final approval from its sponsor pursuant to s. 1002.33 for operation during that fiscal year.

5. Serve students in facilities that are not provided by the charter school's sponsor.

(e) Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school is determined by multiplying the school's projected student enrollment by one-fifteenth of the cost-per-student station



883798

specified in s. 1013.64(6)(b) for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. However, a charter school or charter lab school may not receive state charter school capital outlay funds greater than the one-fifteenth cost per student station formula if the charter school's combination of state charter school capital outlay funds, capital outlay funds calculated through the reduction in the administrative fee provided in s. 1002.33(21) ~~1002.33(20)~~, and capital outlay funds allowed in s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per student station formula.

(2) A charter school's governing body may use charter school capital outlay funds for the following purposes:

(a) Purchase of real property.

(b) Construction of school facilities.

(c) Purchase, lease-purchase, or lease of permanent or relocatable school facilities.

(d) Purchase of vehicles to transport students to and from the charter school.

(e) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.

(f) Effective July 1, 2008, purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated



883798

reporting requirements.

(g) Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.

(h) Purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.

Conversion charter schools may use capital outlay funds received through the reduction in the administrative fee provided in s. 1002.33(21) ~~1002.33(20)~~ for renovation, repair, and maintenance of school facilities that are owned by the sponsor.

Section 11. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to charter schools; amending ss. 163.3180 and 1002.32, F.S.; conforming cross-references to conform to changes made by the act; amending s. 1002.33, F.S.; providing that a sponsor's policies and procedures and previous school board decisions do not apply to a charter school under certain circumstances; clarifying provisions that prohibit a sponsor from imposing additional reporting requirements on a charter school; providing that a



883798

Florida College System institution may operate no more than one charter school that serves students in kindergarten through grade 12 in each school district in which the institution serves, if the institution operates an approved teacher preparation program; requiring that a district school board provide a charter school with training and access to a school district's student achievement databases, if academic student performance data cannot be provided; conforming provisions to changes made by the act relating to authorized activities of a high-performing charter school that is part of a high-performing charter school system; authorizing a charter school or sponsor to file a formal grievance with the Department of Education and to request mediation if the charter school or sponsor is unable to resolve any outstanding issues between the charter school and sponsor; requiring that any activities associated with the closing of a charter school cease, upon the filing of such formal grievance and request for mediation, until a resolution is reached, unless terminated under certain circumstances; authorizing a charter school cooperative organization to submit a professional development plan on behalf of its member schools to the State Board of Education for the purpose of meeting continuing education requirements; authorizing each district school board to share revenue generated by its capital outlay millage levy with charter schools on a per-student, pro rata basis; providing



883798

1144 for recalculation of a school district's Florida  
1145 Education Finance Program allocation if the millage  
1146 levy revenue is not shared; providing for distribution  
1147 of recalculated funds; requiring payment to charter  
1148 schools of certain federal funds received by a  
1149 district school board; amending s. 1002.331, F.S.;  
1150 revising requirements for designation as a high-  
1151 performing charter school; conforming a cross-  
1152 reference; revising the restriction on the  
1153 establishment of new charter schools that replicate a  
1154 high-performing charter school's educational program;  
1155 amending s. 1002.332, F.S.; authorizing a high-  
1156 performing charter school that is part of a high-  
1157 performing charter school system to increase student  
1158 enrollment, expand grade levels, submit quarterly  
1159 financial statements, consolidate charters, and modify  
1160 charter terms; amending ss. 1002.34, 1002.345,  
1161 1011.68, 1012.32, and 1013.62, F.S.; conforming cross-  
1162 references; providing an effective date.



971574

LEGISLATIVE ACTION

| Senate      | . | House |
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| Comm: UNFAV | . |       |
| 02/08/2012  | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with title amendment)**

Delete lines 622 - 680  
and insert:

(c) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board. All federal funds received by a district school board for



971574

13 the benefit of charter schools, charter school students, or  
14 charter school students as public school students in the school  
15 district, including, but not limited to, Title I, Title II, and  
16 IDEA funds, shall be paid in total to charter schools within 60  
17 days after receipt by the district school board. Pursuant to  
18 provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall  
19 receive all federal funding for which the school is otherwise  
20 eligible, including Title I funding, not later than 5 months  
21 after the charter school first opens and within 5 months after  
22 any subsequent expansion of enrollment.

23 (d) Charter schools shall be included by the Department of  
24 Education and the district school board in requests for federal  
25 stimulus funds in the same manner as district school board-  
26 operated public schools, including Title I and IDEA funds and  
27 shall be entitled to receive such funds. Charter schools are  
28 eligible to participate in federal competitive grants that are  
29 available as part of the federal stimulus funds.

30 (e) District school boards shall make timely and efficient  
31 payment and reimbursement to charter schools, including  
32 processing paperwork required to access special state and  
33 federal funding for which they may be eligible. The district  
34 school board may distribute funds to a charter school for up to  
35 3 months based on the projected full-time equivalent student  
36 membership of the charter school. Thereafter, the results of  
37 full-time equivalent student membership surveys shall be used in  
38 adjusting the amount of funds distributed monthly to the charter  
39 school for the remainder of the fiscal year. The payment shall  
40 be issued no later than 10 working days after the district  
41 school board receives a distribution of state or federal funds.



971574

If a warrant for payment is not issued within 10 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 10 working days until such time as the warrant is issued.

(f) Funding for a virtual charter school shall be as provided in s. 1002.45(7).

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

And the title is amended as follows:

Delete lines 1140 - 1147

and insert:

meeting continuing education requirements; requiring  
payment to charter





124586

LEGISLATIVE ACTION

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| Senate     | . | House |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with title amendment)**

Delete lines 625 - 636  
and insert:  
student basis. Charter schools that receive this distribution may not use the funds received pursuant to this section to supplant funds in the approved operating budget for the current fiscal year. All budgeted funds shall be expended at a rate not less than that which would have been expended had the funds under this section not been received, and the funds are subject to ss. 1013.31, 1013.37, 1013.371, and 1013.64 (1)(d), (e), (f),



124586

(3) (b), (5), and (6). Charter school students shall be included  
in the capital outlay full-time equivalent membership  
determination made by the department under s. 1013.64(3)(a).

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

And the title is amended as follows:

Delete lines 1143 - 1147

and insert:

schools on a per-student, pro rata basis; prohibiting  
charter schools from using such funds for certain  
purposes; limiting the rate at which such funds are  
expended; requiring charter school students to be  
included in a specific determination of full-time  
equivalent membership; requiring payment to charter



318864

LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: FC   | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with title amendment)**

Delete line 636  
and insert:  
for capital outlay purposes. The allocation of such funds is  
subject to whether the owner of the land upon which and the  
building in which the nonprofit charter school is located  
complies with the State Requirements for Educational Facilities.  
The value of the millage levy revenue disbursed to the charter  
school on an annual basis shall be recorded as a lien against  
the charter school's property in favor of the district school



318864

board, which shall be satisfied in full at such time as the  
asset is sold, transferred, or otherwise assigned. Such local  
option millage levy liens shall be cumulative and are superior  
to any mortgages, liens, or encumbrances on the charter school's  
property. Priority of subsequent disbursements shall relate back  
to the date of the original disbursement. Local option millage  
levy liens shall have the same priority as real estate taxes.  
The recording of a certified copy of the local option millage  
levy liens is not required in order to perfect such liens. Any  
unexpended millage levy revenue allocations at the close of the  
school year shall be reimbursed to the district school board,  
and the lien on the property shall be adjusted accordingly. A  
charter school that is housed in leased space is not eligible  
for a share of local option millage levy revenue.

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

And the title is amended as follows:

Delete line 1147

and insert:

of recalculated funds; providing that the allocation  
of such funds is subject to whether the owner of the  
land upon which and the building in which the  
nonprofit charter school is located complies with the  
State Requirements for Educational Facilities;  
requiring that the value of the millage levy revenue  
disbursed to the charter school be recorded as a lien;  
providing that a charter school that is housed in  
leased space is not eligible for a share of local  
option millage levy revenue; requiring payment to



318864

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charter



771170

LEGISLATIVE ACTION

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| Senate     | . | House |
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| 02/08/2012 | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798)**

Delete lines 622 - 625  
and insert:

(c)1. Each district school board may annually proportionately share the revenue generated by the millage levy pursuant to s. 1011.71(2) with charter schools in the school district on a per-student basis. If a district school board does share the millage levy revenue with charter schools on a per-student, pro rata basis, the calculation of funds shall be reduced by:

a. Funds received pursuant to s. 1013.62;



771170

13        b. Funds shared with charter schools pursuant to s.  
14 1011.71(2) before July 1, 2012, including the value of projects  
15 built on the campuses of charter schools at the expense of  
16 districts, by calculating the total amount spent or shared per  
17 school, divided by the current number of enrolled students and  
18 amortized over a 10-year period;

19        c. Capital outlay funds calculated through the reduction in  
20 the administrative fee provided in subparagraph (20)(a)2.; and

21        d. Payments for any existing debt service obligation  
22 entered into before June 30, 2012, and the annual cost of  
23 property and casualty insurance.

24        2. If a district school board does not



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LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: FC   | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798)**

Delete lines 1056 - 1068  
and insert:

enrollment by one-thirtieth ~~one-fifteenth~~ of the cost-per-student station specified in s. 1013.64(6)(b) for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. However, a charter school or charter lab school may not receive state charter school capital outlay funds greater than the one-





395008

13 thirtieth ~~one-fifteenth~~ cost per student station formula if the  
14 charter school's combination of state charter school capital  
15 outlay funds, capital outlay funds calculated through the  
16 reduction in the administrative fee provided in s. 1002.33(21)  
17 ~~1002.33(20)~~, and capital outlay funds allowed in s.  
18 1002.32(9) (e) and (h) exceeds the one-thirtieth ~~one-fifteenth~~  
19 cost per student station formula.



622258

LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: FC   | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798)**

Delete lines 642 - 647  
and insert:

board. Federal funds, including, but not limited to, Title I, Title II, Title III, and IDEA funds, received by a district school board may be provided to a charter school for the benefit of charter school students. The district shall allocate the federal funds or equitable services on a per-student basis solely for the allowable use of such federal funds, if the charter school qualifies under federal regulations. The district



622258

13 shall provide the federal funds to the charter schools on a  
14 reimbursement basis within 60 days after receiving an invoice  
15 from the charter school evidencing such procured services.  
16 Additionally, upon disbursement of the federal funds for the  
17 services procured by the charter school, the district is  
18 released of additional responsibility to provide further  
19 services. The charter school must comply with all federal  
20 regulations, including Office of Management and Budget circular  
21 A-87 and A-133 and Education Department General Administrative  
22 regulations. Pursuant to



812772

LEGISLATIVE ACTION

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|------------|---|-------|
| Senate     | . | House |
| Comm: FC   | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with title amendment)**

Delete lines 801 - 833.

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

And the title is amended as follows:

Delete lines 1155 - 1160

and insert:

amending ss. 1002.34, 1002.345,



305546

LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: FC   | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with title amendment)**

Delete lines 766 - 800.

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

And the title is amended as follows:

Delete lines 1149 - 1154

and insert:

district school board;



192472

LEGISLATIVE ACTION

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|------------|---|-------|
| Senate     | . | House |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with directory and title amendments)**

Between lines 467 and 468  
insert:

(q) A charter school may not advertise, accept student applications, or enroll students in the charter school until the charter school application has been approved by the sponsor and the charter between the governing board and the sponsor has been executed.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====



192472

And the directory clause is amended as follows:

Delete line 112

and insert:

1002.33, Florida Statutes, are amended, a paragraph (q) is added  
to present subsection (9), present subsections (9)

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

And the title is amended as follows:

Delete line 1136

and insert:

certain circumstances; prohibiting a charter school  
from advertising, accepting student applications, and  
enrolling students until the charter school  
application has been approved; authorizing a charter  
school



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LEGISLATIVE ACTION

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| Senate     | . | House |
| Comm: FC   | . |       |
| 02/08/2012 | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with directory and title amendments)**

Between lines 467 and 468  
insert:

(q) Each charter school shall maintain an Internet website that enables the public to obtain information regarding the school, its personnel, and its programs. The website must include information or online links to information regarding any entity that owns, operates, or manages the school, including any nonprofit or for-profit entity, the names of all governing officers and administrative personnel of the entity, and any





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fees that the school pays to the entity. The information or  
online links must be prominently displayed and easily accessible  
to visitors of the website.

===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

And the directory clause is amended as follows:

    Delete line 112

and insert:

1002.33, Florida Statutes, are amended, paragraph (q) is added  
to present subsection (9), present subsections (9)

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

And the title is amended as follows:

    Delete line 1136

and insert:

    certain circumstances; requiring that each charter  
    school maintain an Internet website that includes  
    certain information; authorizing a charter school



975598

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: FC   | . |       |
| 02/08/2012 | . |       |
|            | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with directory and title amendments)**

Delete lines 428 - 436.

===== D I R E C T O R Y   C L A U S E   A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 107 - 115

and insert:

(7), paragraphs (b) and (g) of subsection (9), paragraphs (d), (e), (h), and (i) of subsection (10), subsection (13), paragraphs (b) and (c) of subsection (15), subsection (17),



975598

paragraph (a) of subsection (20), and subsection (23) of section  
1002.33, Florida Statutes, are amended to read:

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

And the title is amended as follows:

Delete lines 1127 - 1136

and insert:

charter school system; authorizing a charter school



319426

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: FC   | . |       |
| 02/08/2012 | . |       |
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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with directory and title amendments)**

Between lines 427 and 428  
insert:

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

(a) The sponsor may choose not to renew or may terminate the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.



319426

2. Failure to meet generally accepted standards of fiscal management.

3. Violation of law.

4. Other good cause shown.

The sponsor may not renew a charter if the charter school has received a grade of "F" pursuant to s. 1008.34 for 2 years within the 3-year period prior to renewal. The sponsor shall terminate a charter if the charter school has received a grade of "F" pursuant to s. 1008.34 for 2 years within a 3-year period.

===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 107

and insert:

(7), paragraph (a) of subsection (8), paragraphs (b) and (g) of present subsection (9),

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

And the title is amended as follows:

Delete line 1127

and insert:

charter school system; prohibiting a sponsor from renewing a charter if the charter school has received a grade of "F" for a specified period before renewal; requiring that the sponsor terminate a charter if the charter school has received a grade of "F" for a specified period; authorizing a charter school or



357128

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: FC   | . |       |
| 02/08/2012 | . |       |
|            | . |       |
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|            | . |       |

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The Committee on Education Pre-K - 12 (Montford) recommended the following:

**Senate Amendment to Amendment (883798) (with title amendment)**

Delete line 783  
and insert:  
eligible for designation as a high-performing charter school. A high-performing charter school may not be established in a district that has an existing replication of such high-performing charter school that is low-performing or does not have a proven track record.

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



357128

And the title is amended as follows:

Delete line 1151

and insert:

performing charter school; prohibiting the  
establishment of a high-performing charter school in a  
district that has an existing replication of such  
high-performing charter school that is low-performing  
or does not have a proven track record; conforming a  
cross-

By Senator Wise

5-01409-12

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1 A bill to be entitled  
 2 An act relating to charter schools; amending s.  
 3 1002.33, F.S.; providing that a community college may  
 4 operate no more than one charter school that serves  
 5 students in kindergarten through grade 12, if the  
 6 community college operates an approved teacher  
 7 preparation program; conforming provisions to changes  
 8 made by the act relating to authorized activities of a  
 9 high-performing charter school that is part of a high-  
 10 performing charter school system; authorizing each  
 11 district school board to share revenue generated by  
 12 its capital outlay millage levy with charter schools  
 13 on a per-student, pro rata basis; providing for  
 14 recalculation of a school district's Florida Education  
 15 Finance Program allocation if the millage levy revenue  
 16 is not shared; providing for distribution of  
 17 recalculated funds; requiring payment to charter  
 18 schools of certain federal funds received by a  
 19 district school board; amending s. 1002.331, F.S.;  
 20 revising requirements for designation as a high-  
 21 performing charter school; revising the restriction on  
 22 the establishment of new charter schools that  
 23 replicate a high-performing charter school's  
 24 educational program; amending s. 1002.332, F.S.;  
 25 authorizing a high-performing charter school that is  
 26 part of a high-performing charter school system to  
 27 increase student enrollment, expand grade levels,  
 28 submit quarterly financial statements, consolidate  
 29 charters, and modify charter terms; providing an

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

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30 effective date.  
 31  
 32 Be It Enacted by the Legislature of the State of Florida:  
 33  
 34 Section 1. Paragraph (b) of subsection (5), paragraph (a)  
 35 of subsection (7), paragraph (g) of subsection (9), paragraphs  
 36 (h) and (i) of subsection (10), and subsection (17) of section  
 37 1002.33, Florida Statutes, are amended to read:  
 38 1002.33 Charter schools.—  
 39 (5) SPONSOR; DUTIES.—  
 40 (b) *Sponsor duties*.—  
 41 1.a. The sponsor shall monitor and review the charter  
 42 school in its progress toward the goals established in the  
 43 charter.  
 44 b. The sponsor shall monitor the revenues and expenditures  
 45 of the charter school and perform the duties provided in s.  
 46 1002.345.  
 47 c. The sponsor may approve a charter for a charter school  
 48 before the applicant has identified space, equipment, or  
 49 personnel, if the applicant indicates approval is necessary for  
 50 it to raise working funds.  
 51 d. The sponsor's policies shall not apply to a charter  
 52 school unless mutually agreed to by both the sponsor and the  
 53 charter school.  
 54 e. The sponsor shall ensure that the charter is innovative  
 55 and consistent with the state education goals established by s.  
 56 1000.03(5).  
 57 f. The sponsor shall ensure that the charter school  
 58 participates in the state's education accountability system. If

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



5-01409-12 20121852

a charter school falls short of performance measures included in the approved charter, the sponsor shall report such shortcomings to the Department of Education.

g. The sponsor ~~is shall~~ not be liable for civil damages under state law for personal injury, property damage, or death resulting from an act or omission of an officer, employee, agent, or governing body of the charter school.

h. The sponsor ~~is shall~~ not be liable for civil damages under state law for any employment actions taken by an officer, employee, agent, or governing body of the charter school.

i. The sponsor's duties to monitor the charter school shall not constitute the basis for a private cause of action.

j. The sponsor may ~~shall~~ not impose additional reporting requirements on a charter school without providing reasonable and specific justification in writing to the charter school.

2. Immunity for the sponsor of a charter school under subparagraph 1. applies only with respect to acts or omissions not under the sponsor's direct authority as described in this section.

3. This paragraph does not waive a district school board's sovereign immunity.

4. A Florida College System institution may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. If a community college operates an approved teacher preparation program under s. 1004.04 or s. 1004.85, the community college may operate no more than one charter school that serves students

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in kindergarten through grade 12. District school boards shall cooperate with and assist the Florida College System institution on the charter application. Florida College System institution applications for charter schools are not subject to the time deadlines outlined in subsection (6) and may be approved by the district school board at any time during the year. Florida College System institutions may not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

(7) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing board of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards.

a. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies

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for reading must be consistent with the Sunshine State Standards and grounded in scientifically based reading research.

b. In order to provide students with access to diverse instructional delivery models, to facilitate the integration of technology within traditional classroom instruction, and to provide students with the skills they need to compete in the 21st century economy, the Legislature encourages instructional methods for blended learning courses consisting of both traditional classroom and online instructional techniques. Charter schools may implement blended learning courses that ~~which~~ combine traditional classroom instruction and virtual instruction. Students in a blended learning course must be full-time students of the charter school and receive the online instruction in a classroom setting at the charter school. Instructional personnel certified pursuant to s. 1012.55 who provide virtual instruction for blended learning courses may be employees of the charter school or may be under contract to provide instructional services to charter school students. At a minimum, such instructional personnel must hold an active state or school district adjunct certification under s. 1012.57 for the subject area of the blended learning course. The funding and performance accountability requirements for blended learning courses are the same as those for traditional courses.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description of:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established.

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b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. The methods shall provide a means for the charter school to ensure accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program created under s. 1008.22.

5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 1003.428, s. 1003.429, or s. 1003.43.

6. A method for resolving conflicts between the governing board of the charter school and the sponsor.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school will achieve a

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175 racial/ethnic balance reflective of the community it serves or  
176 within the racial/ethnic range of other public schools in the  
177 same school district.

178 9. The financial and administrative management of the  
179 school, including a reasonable demonstration of the professional  
180 experience or competence of those individuals or organizations  
181 applying to operate the charter school or those hired or  
182 retained to perform such professional services and the  
183 description of clearly delineated responsibilities and the  
184 policies and practices needed to effectively manage the charter  
185 school. A description of internal audit procedures and  
186 establishment of controls to ensure that financial resources are  
187 properly managed must be included. Both public sector and  
188 private sector professional experience shall be equally valid in  
189 such a consideration.

190 10. The asset and liability projections required in the  
191 application which are incorporated into the charter and shall be  
192 compared with information provided in the annual report of the  
193 charter school.

194 11. A description of procedures that identify various risks  
195 and provide for a comprehensive approach to reduce the impact of  
196 losses; plans to ensure the safety and security of students and  
197 staff; plans to identify, minimize, and protect others from  
198 violent or disruptive student behavior; and the manner in which  
199 the school will be insured, including whether or not the school  
200 will be required to have liability insurance, and, if so, the  
201 terms and conditions thereof and the amounts of coverage.

202 12. The term of the charter, which shall provide for  
203 cancellation of the charter if insufficient progress has been

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204 made in attaining the student achievement objectives of the  
205 charter and if it is not likely that such objectives can be  
206 achieved before expiration of the charter. The initial term of a  
207 charter shall be for 4 or 5 years. In order to facilitate access  
208 to long-term financial resources for charter school  
209 construction, charter schools that are operated by a  
210 municipality or other public entity as provided by law are  
211 eligible for up to a 15-year charter, subject to approval by the  
212 district school board. A charter lab school is eligible for a  
213 charter for a term of up to 15 years. In addition, to facilitate  
214 access to long-term financial resources for charter school  
215 construction, charter schools that are operated by a private,  
216 not-for-profit, s. 501(c)(3) status corporation are eligible for  
217 up to a 15-year charter, subject to approval by the district  
218 school board. Such long-term charters remain subject to annual  
219 review and may be terminated during the term of the charter, but  
220 only according to the provisions set forth in subsection (8).

221 13. The facilities to be used and their location.

222 14. The qualifications to be required of the teachers and  
223 the potential strategies used to recruit, hire, train, and  
224 retain qualified staff to achieve best value.

225 15. The governance structure of the school, including the  
226 status of the charter school as a public or private employer as  
227 required in paragraph (12)(i).

228 16. A timetable for implementing the charter which  
229 addresses the implementation of each element thereof and the  
230 date by which the charter shall be awarded in order to meet this  
231 timetable.

232 17. In the case of an existing public school that is being

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converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements are ~~shall~~ not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university that ~~which~~ grants the charter to the lab school.

18. Full disclosure of the identity of all relatives employed by the charter school who are related to the charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority. For the purpose of this subparagraph, the term "relative" means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

19. Implementation of the activities authorized under s. 1002.331 or s. 1002.332 by the charter school when it satisfies the eligibility requirements for a high-performing charter school. A high-performing charter school shall notify its sponsor in writing by March 1 if it intends to increase enrollment or expand grade levels the following school year. The written notice shall specify the amount of the enrollment

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increase and the grade levels that will be added, as applicable.

(9) CHARTER SCHOOL REQUIREMENTS.—

(g) In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:

1. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools"; or

2. At the discretion of the charter school's governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph. A charter school shall provide a monthly financial statement to the sponsor unless the charter school is designated as a high-performing charter school pursuant to s. 1002.331 or s. 1002.332, in which case the high-performing charter school may provide a quarterly financial statement. The financial statement required under this paragraph shall be in a form

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prescribed by the Department of Education.

(10) ELIGIBLE STUDENTS.—

(h) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection unless the charter school is designated as a high-performing charter school pursuant to s. 1002.331 or s. 1002.332. A sponsor may not require a charter school to waive the provisions of s. 1002.331 or s. 1002.332 or require a student enrollment cap that prohibits a high-performing charter school from increasing enrollment in accordance with s. 1002.331(2) or s. 1002.332(2)(c) as a condition of approval or renewal of a charter.

(i) The capacity of a high-performing charter school identified pursuant to s. 1002.331 or s. 1002.332 shall be determined annually by the governing board of the charter school. The governing board shall notify the sponsor of any increase in enrollment by March 1 of the school year preceding the increase.

(17) FUNDING.—Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a charter lab school shall be as provided in s. 1002.32.

(a) Each charter school shall report its student enrollment to the sponsor as required in s. 1011.62, and in accordance with the definitions in s. 1011.61. The sponsor shall include each charter school's enrollment in the district's report of student enrollment. All charter schools submitting student record

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information required by the Department of Education shall comply with the Department of Education's guidelines for electronic data formats for such data, and all districts shall accept electronic data that complies with the Department of Education's electronic format.

(b) The basis for the agreement for funding students enrolled in a charter school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the charter school. Charter schools whose students or programs meet the eligibility criteria in law shall be entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program by the Legislature, including transportation. Total funding for each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education.

(c) Each district school board may annually proportionately share the revenue generated by the millage levy pursuant to s. 1011.71(2) with charter schools in the school district on a per-student basis. If a district school board does not

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proportionately share the revenue generated by the millage levy pursuant to s. 1011.71(2), the Florida Education Finance Program allocation for that school district shall be recalculated so that each charter school in the school district receives, on a per-student basis, the same amount of funds that it would have received if the district school board shared the millage levy revenue with charter schools on a per-student, pro rata basis. The school district shall, within 30 days after receipt, distribute the recalculated funds to each charter school in the district. Charter schools may use these recalculated funds only for capital outlay purposes.

(d) (e) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board. All federal funds received by a district school board for the benefit of charter schools, charter school students, or charter school students as public school students in the school district, including, but not limited to, Title I, Title II, and IDEA funds, shall be paid in total to charter schools within 60 days after receipt by the district school board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months after the charter school first opens and within 5 months after any subsequent expansion of enrollment.

(e) (d) Charter schools shall be included by the Department of Education and the district school board in requests for

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federal stimulus funds in the same manner as district school board-operated public schools, including Title I and IDEA funds and shall be entitled to receive such funds. Charter schools are eligible to participate in federal competitive grants that are available as part of the federal stimulus funds.

(f) (e) District school boards shall make timely and efficient payment and reimbursement to charter schools, including processing paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a charter school for up to 3 months based on the projected full-time equivalent student membership of the charter school. Thereafter, the results of full-time equivalent student membership surveys shall be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds. If a warrant for payment is not issued within 10 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 10 working days until such time as the warrant is issued.

(g) (f) Funding for a virtual charter school shall be as provided in s. 1002.45(7).

Section 2. Paragraph (c) of subsection (1) and paragraph (b) of subsection (3) of section 1002.331, Florida Statutes, are amended to read:

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407 1002.331 High-performing charter schools.-

408 (1) A charter school is a high-performing charter school if  
409 it:

410 (c) Did not receive a financial audit that revealed one or  
411 more of the financial emergency conditions set forth in s.  
412 218.503(1) in the most recent 3 fiscal years for which such  
413 audits are available. However, this requirement is deemed met  
414 ~~for a charter school in the workplace~~ if there is a finding in  
415 an audit that the school has the monetary resources available to  
416 cover any reported deficiency or that the deficiency does not  
417 result in a deteriorating financial condition pursuant to s.  
418 1002.345(1) (a)3.

419  
420 A virtual charter school established under s. 1002.33 is not  
421 eligible for designation as a high-performing charter school.

422 (3)

423 (b) A high-performing charter school may not establish more  
424 than three ~~one~~ charter schools ~~school~~ within the state under  
425 paragraph (a) in any year. A subsequent application to establish  
426 a charter school under paragraph (a) may not be submitted unless  
427 each charter school established in this manner achieves high-  
428 performing charter school status.

429 Section 3. Paragraph (c) is added to subsection (2) of  
430 section 1002.332, Florida Statutes, to read:

431 1002.332 High-performing charter school system.-

432 (2)

433 (c) A high-performing charter school that is part of a  
434 high-performing charter school system may:

435 1. Increase its student enrollment once per school year by

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436 up to 15 percent more than the capacity identified in the  
437 charter.

438 2. Expand grade levels within kindergarten through grade 12  
439 to add grade levels not already served if any annual enrollment  
440 increase resulting from grade level expansion is within the  
441 limit established in subparagraph 1.

442 3. Submit a quarterly, rather than a monthly, financial  
443 statement to the sponsor pursuant to s. 1002.33(9)(g).

444 4. Consolidate under a single charter the charters of  
445 multiple high-performing charter schools operated in the same  
446 school district by the charter schools' governing boards,  
447 regardless of the renewal cycle.

448 5. Receive a modification of its charter to a term of 15  
449 years or a 15-year charter renewal. The charter may be modified  
450 or renewed for a shorter term at the option of the high-  
451 performing charter school. The charter must be consistent with  
452 s. 1002.33(7)(a)19. and (10)(h) and (i), is subject to annual  
453 review by the sponsor, and may be terminated during its term  
454 pursuant to s. 1002.33(8).

455  
456 A high-performing charter school that is part of a high-  
457 performing charter school system shall notify its sponsor in  
458 writing by March 1 if it intends to increase enrollment or  
459 expand grade levels the following school year. The written  
460 notice shall specify the amount of the enrollment increase and  
461 the grade levels that will be added, as applicable.

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

**Testimony of Dr. Richard M. Swier, Ed.D., LTC, U.S. Army (Ret.) before the Florida Senate on Monday, February 6, 2012**

In Florida there are 517 public charter schools in 44 counties serving nearly 180,000 students. One out of 15 students statewide is in a public charter school. In Sarasota County, Florida over 1 in 10 parents have chosen to send their child to a public charter school. Many are asking why their child is not benefiting from their local tax contributions. Many, like me, have made the false assumption that their local tax effort follows their child or grandchild.

As a local taxpayer and the grandfather of two grandchildren Emma and Ethan, I just learned that because my son sends them to a charter school they do not get equal funding as do other public school students. My grandchildren do not benefit from my "significant local tax contribution". By the way, Sarasota County is a donor district and sends money back to Tallahassee to be redistributed to other, less property rich districts.

How are my grandchildren penalized because they attend a public charter school?

According to a soon to be released study by Florida Tax Watch, "The required local effort funds a significant portion of total per student funding", however, "funding from these optional local sources is mostly absent for charter schools in Florida." The Florida Tax Watch analysis "shows a discrepancy in revenues between charter schools and district schools per student – such that charter schools receive between 68 and 71 percent of the revenues that districts do on a per FTE basis. This [local] funding differential is substantial – up to 10% of FEFP funding." In Sarasota County this differential is \$1,286 per child. For Emma and Ethan that equals \$2,572 and for their school that means \$726,590. That is the equivalent of 12 new teachers making \$60,000 a year, or 19 teacher's aides making \$40,000 a year.

The report states, "That due to recent changes in the FEFP funding formula charter schools are harder hit by the funding cuts. Estimates for the 2011-12 school years are a reduction of 1.25% per unweighted FTE in district schools, but a reduction of 4.75% for charter schools."

Florida Tax Watch goes on to say, "Among charter schools that are eligible for capital outlay funding, they receive, on average, 40% of what district schools do."

I submit to you that any funding gap inextricably leads to an unequal educational opportunity for Emma and Ethan.

Florida Tax Watch recommends the following policy options to relieve these funding gaps:

1. Allow public charter schools to be their own Local Education Agencies, thus allowing them to receive state or federal funding directly as is done in 24 of the 42 states and Washington, D.C. with public charter schools;
2. Mandate that public charter schools receive equitable per student funding from all local millage levies and;
3. Adjust FTE funding to offset the lost locally-derived optional operating funding and both PECO and local capital outlay dollars.

By adopting these public policy options parity is immediately realized.

Why discriminate against Emma and Ethan and the other 179,930 public charter school students in Florida?



This inequality is both unfair and immoral. It is unfair on the face of it. It is immoral because it keeps Emma and Ethan and all of their classmates from receiving an equal educational opportunity. That is the great tragedy and travesty in this flawed funding system.

As the holder of a Doctorate of Education, Retired U.S. Army Lieutenant Colonel and combat veteran with the 101<sup>st</sup> Airborne Division in Vietnam I hold dear the words of former U.S. Senator Edward Everett, who was the featured speaker at the dedication of the first National Cemetery at Gettysburg, Pennsylvania in 1863, who said, "Education is a better safeguard of liberty than a standing army."

I humbly ask you to do the right thing and let each child acquire an equal education by equally funding Emma and Ethan by supporting SB 1852 as a major step toward that goal.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

*Spoke*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12  
Meeting Date

Topic SB 1852 Charter Schools

Bill Number 1852

Name Joy Frank

Amendment Barcode 971574  
*and all the rest* (if applicable)

Job Title General Counsel

Address 208 S. Monroe St

Phone 850-577-5787

Tallahassee FL 32301  
City State Zip

E-mail JFRANK@FLASSOCIATION.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Amendments (A116 thru) FL Assoc. of District School Supt.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Spoke

2/6/12

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic Charter Schools

Bill Number SB1852

Name Tracie Mendez-Castaya

Amendment Barcode 971574  
(if applicable)

Job Title Assist. Superintendent

Address 1450 NE 2nd Ave RM 931

Phone 305 995-1497

Miami Dade County Public Schools  
City State Zip

E-mail imendez@cbdesa.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Miami Florida 33132

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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2/6/12  
Meeting Date

Topic CHARTER SCHOOLS

Bill Number 1852  
(if applicable)

Name STEVE SWARTZEL

Amendment Barcode 971574  
(if applicable)

Job Title PR. GOVT SENIOR

Address 301 4th St  
Street

Phone 727-638-3470

Largo FL  
City State Zip

E-mail SWARTZEL@PCSB.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Pineellas School Bd.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2-6-12  
Meeting Date

Topic Center School Capital Outlay

Bill Number SB 1852  
(if applicable)

Name Georgia Slack

Amendment Barcode 971574  
(if applicable)

Job Title Legislative Consultant

Address 9693 Ridgewood Ct  
Street

Phone 305-608-5110

DAVIE FLA 33328  
City State Zip

E-mail slackg@emcast.net

Speaking: ☐ For ☐ Against ☐ Information

Representing Broward County Public Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2/6/12

Meeting Date

Topic Charter Schools - Capital outlay

Bill Number 1852

Name Beth Sweeney

Amendment Barcode 971547  
(if applicable)

Job Title Coordinator of Govt. Relations

Address 40 orange street

Phone 8904-547-7033

St. Augustine FL 32084  
City State Zip

E-mail \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Representing St. Johns Co. School district

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE  
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(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12

Meeting Date

Waive

Topic

Name

Job Title

Address

Street

City

State

Zip

Bill Number

Amendment Barcode

(if applicable)

(if applicable)

Phone

E-mail

Speaking:

☒ For

☐ Against

☐ Information

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Spoke

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12  
Meeting Date

Topic CHARTER FUNDING

Bill Number SB 1852  
(if applicable)

Name DR. RICH SWIER

Amendment Barcode 971574  
(if applicable)

Job Title SENATOR

Address 6713 PASSEO CASTLE  
Street

941  
Phone 9220578

City State Zip

E-mail RSWIER@FLSENATE.GOV

Speaking: ☐ For ☒ Against ☐ Information

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

Spoke

02/06/12

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Meeting Date

Topic Charter Schools

Bill Number 1852  
(if applicable)

Name John J Sullivan

Amendment Barcode 471574  
(if applicable)

Job Title Director of Grassroots Charter School Advocacy

Address 113 S. Monroe Street

Phone 305-338-2916

Tallahassee, FL 32301  
City State Zip

E-mail j.sullivan@floridacharterschools

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Consortium of Public Charter Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

*Spoke*

2/6/2012

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic

Charter School Capital Outlay

Bill Number

SB 1852

Name

Bob Cerra

Amendment Barcode

971574

(if applicable)

Job Title

Governmental Consultant

Address

206 South Monroe Street #104

Phone

850-222-4428

Street

Tallahassee

State

FL

Zip

32301

E-mail

bobcerra@comcast.net

City

Speaking:



For



Against



Information

Representing

Lee County School Board

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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*Spoke*

2/26/12

Meeting Date

Topic SB 1852, Amendment 971574

Bill Number SB 1852  
(if applicable)

Name Colleen Wood

Amendment Barcode 971574  
(if applicable)

Job Title Parent

Address 450-106 SR 13, #142  
Street

Phone 904-591-3207

St. Johns FL 32259  
City State Zip

E-mail colleen@50thno  
more.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Amendment  
50th No More

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
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Spoke

2/6/12

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic Amendment Martford - 971974

Bill Number #1852  
(if applicable)

Name Chris Ott

Amendment Barcode 971974  
(if applicable)

Job Title Teacher

Address 2436 NW 28 PL  
Street

Phone (352) 222-9498

Gainesville, FL 32605  
City State Zip

E-mail ottcd@cox.net

Speaking: ☐ For ☐ Against ☐ Information

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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2/6/12

Meeting Date

Topic Charter

Bill Number 1852  
(if applicable)

Name Scott White

Amendment Barcode 971 574  
(if applicable)

Job Title Educator

Address 2404 Gallachadion ct

Phone 843-3134

Street

Tallahassee

City

State

Zip

E-mail \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2.6.12

Meeting Date

2 mil Amendment

Topic

Name

Doug Rodriguez

Job Title

Principal

Address

1060 BRICKER AVE

Street

Miami, FL

City

State

33131

Zip

Speaking:

☐

For

☒

Against

☐

Information

Representing

Doral Academy

Bill Number

Spoke  
1852  
~~1828~~

Amendment Barcode

971574

(if applicable)

(if applicable)

Phone

E-mail

drodriguez4145@gmail.com

gmail.com

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-12

Meeting Date

Topic Charter Schools Bill Number 1852  
Name Scott Howat Amendment Barcode 971574 <sup>(if applicable)</sup>  
771178 <sup>(if applicable)</sup>  
Job Title SR. Dir. Legislative + Labor Relations  
Address 445 W. Amelia St. Phone 407-317-3337  
Orlando FL 32801 E-mail howats@ocps.net  
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Orange Co Public Schools

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

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BILL: SB 338

INTRODUCER: Senator Detert

SUBJECT: Student Participation in Fine Arts Courses

DATE: February 6, 2012

REVISED: \_\_\_\_\_

|    | ANALYST  | STAFF DIRECTOR  | REFERENCE | ACTION           |
|----|----------|-----------------|-----------|------------------|
| 1. | Carrouth | deMarsh-Mathues | ED        | <b>Favorable</b> |
| 2. |          |                 | BC        |                  |
| 3. |          |                 |           |                  |
| 4. |          |                 |           |                  |
| 5. |          |                 |           |                  |
| 6. |          |                 |           |                  |

---

**I. Summary:**

The bill would amend the school grading formula to add the participation of students enrolled in fine arts courses to the list of non-FCAT (Florida Comprehensive Assessment Test) and end-of-course assessment (EOC) factors used to calculate K-12 school grades.

This bill substantially amends section 1008.34 of the Florida Statutes.

**II. Present Situation:**

*School Grading System*

Section 1008.34, F.S., establishes the requirements for Florida's school grading system.

Designation of school grades is based on the following:

- Student achievement scores, including achievement on all FCAT assessments,<sup>1</sup> EOC assessments,<sup>2</sup> and achievement scores for students seeking a special diploma.
- Student learning gains in reading and mathematics as measured by FCAT and EOC assessments.<sup>3</sup> Learning gains for students seeking a special diploma, as measured by an alternate assessment tool, must be included not later than the 2009-2010 school year.
- Improvement of the lowest 25<sup>th</sup> percentile of students in the school in reading and mathematics on the FCAT or EOC assessments,<sup>4</sup> unless these students are exhibiting satisfactory performance.

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<sup>1</sup> s. 1008.22(3)(c)1., F.S.

<sup>2</sup> s.1008.22(3)(c)2.a., F.S.

<sup>3</sup> ss. 1008.22(3)(c)1. and 2.a., F.S.



*Additional Factors Included in Middle School Grades*

Beginning with the 2011-2012 school year, middle school grades include the performance and participation of students enrolled in high school level courses with EOC assessments.<sup>5</sup>

Performance and participation must be weighted equally. As valid data becomes available, the school grades must include the student's attainment of national industry certification identified in the Industry Certification Funding List pursuant to rules adopted by the State Board of Education (SBE).

*Additional Factors Included in High School Grades*

In addition to student achievement on the FCAT and EOC assessments, student learning gains in reading and mathematics, and improvement of the school's lowest quartile of students in reading and mathematics, and beginning with the 2009-2010 school year, 50 percent of a high school grades are based on the following factors:

- The high school graduation rate of the school;
- As valid data becomes available, the performance and participation of the school's students in College Board Advanced Placement (AP) courses, International Baccalaureate (IB) courses, dual enrollment courses, and Advanced International Certificate of Education (AICE) courses; and the students' achievement of national industry certification identified in the Industry Certification Funding List, pursuant to SBE rules;
- Postsecondary readiness of the school's students as measured by the SAT, ACT, or the common placement test;
- The high school graduation rate of at-risk students who scored at Level 2 or lower on the grade eight FCAT reading and mathematics examinations;
- As valid data becomes available, the performance of the school's students on statewide standardized EOC assessments;<sup>6</sup> and
- The growth or decline in the components listed above from year to year.

In addition, high school grades shall also be based on the following data as the Department of Education (DOE) determines such data are valid and available:

- The high school graduation rate of the school as calculated by the DOE;
- The participation rate of all eligible students enrolled in the school and enrolled in AP courses; IB courses; dual enrollment courses; AICE courses; and courses or sequences of courses leading to national industry certification identified in the Industry Certification Funding List, pursuant to SBE rules;
- The aggregate scores of all eligible students enrolled in the school in AP courses, IB courses, and AICE courses;
- Earning of college credit by all eligible students enrolled in the school in dual enrollment programs;<sup>7</sup>

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<sup>4</sup> s. 1008.22(3)(c)2.a., F.S.

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

<sup>6</sup> s. 1008.22(3)(c)2.c. and d., F.S.

<sup>7</sup> s. 1007.271, F.S.

- Earning of a national industry certification identified in the Industry Certification Funding List, pursuant to SBE rules;
- The aggregate scores of all eligible students enrolled in the school in reading, mathematics, and other subjects as measured by the SAT, the ACT, and the common placement test for postsecondary readiness;
- The high school graduation rate of all eligible at-risk students enrolled in the school who scored at Level 2 or lower on the grade eight FCAT reading and mathematics examinations;
- The performance of the school's students on statewide standardized EOC assessments;<sup>8</sup> and
- The growth or decline in the data components listed above from year to year.

### III. Effect of Proposed Changes:

Under the bill, school grades for all K-12 schools would be based, in part, on participation and enrollment of students in fine arts courses. This provision differs significantly from current factors used in the calculation of school grades. High performing student achievement and learning growth would not be required. Instead, the bill requires only that students enroll in fine arts courses and participate. Additionally, the bill does not clarify how these provisions would be calculated for K-5 schools, as elementary students are not enrolled in individual courses.

The bill would require that the DOE revise rules and formulas associated with school grading policies.

Potentially, school grades would be artificially inflated, irrespective of student achievement or growth. As a result, schools eligible for the Florida School Recognition Program<sup>9</sup> would increase. The following schools are currently eligible for school recognition bonus funding:<sup>10</sup>

- Schools that sustain high performance by receiving a school grade of "A":
- Schools that demonstrate exemplary improvement due to innovation and effort by improving at least one letter grade;
- Schools that improve more than one letter grade and sustain the improvement the following school year; or
- Schools designated as alternative schools that receive a school improvement rating of "Improving" or improve at least one level.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>8</sup> s. 1008.22(3)(c)2.c. and d., F.S.

<sup>9</sup> Section 1008.36, F.S., authorizes the Florida School Recognition Program to award bonus funding to schools based on student achievement and improvement from the preceding school year.

<sup>10</sup> See <http://www.fldoe.org/faq/default.asp?ALL=Y&Dept=177&ID=613>.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is estimated that the bill would result in an increased number of schools eligible for the Florida School Recognition Program.<sup>11</sup> The estimated fiscal impact is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>11</sup> In 2011, each recognized school received \$70 per full-time equivalent (FTE) student. *See* [http://www.fldoe.org/news/2011/2011\\_06\\_30.asp](http://www.fldoe.org/news/2011/2011_06_30.asp).

By Senator Detert

23-00354-12

2012338\_\_

A bill to be entitled

An act relating to public school student participation in fine arts courses; amending s. 1008.34, F.S.; revising the basis for the designation of school grades to include the participation rate of students who are enrolled in fine arts courses; correcting terminology; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (3) of section 1008.34, Florida Statutes, are amended to read:

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

(3) DESIGNATION OF SCHOOL GRADES.—

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

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

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

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

23-00354-12

2012338\_\_

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

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

a. The high school graduation rate of the school;

b. As valid data becomes available, the performance and participation of the school's students in College Board Advanced Placement courses, International Baccalaureate courses, dual enrollment courses, and Advanced International Certificate of Education courses; and the students' achievement of national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

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

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

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

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

4. Beginning with the 2012-2013 school year, for schools comprised of any of grades kindergarten through grade 12, the school's grade shall include the participation rate of students who are enrolled in fine arts courses, which are visual arts, music, dance, and theatre.

(c) Student assessment data and participation rates used in determining school grades shall include:

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

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

3. The achievement scores and learning gains of eligible

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students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53. The term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice. The student performance data for eligible students identified in this subparagraph shall be included in the calculation of the home school's grade. As used in this subparagraph and s. 1008.341, the term "home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. If an alternative school chooses to be graded under this section, student performance data for eligible students identified in this subparagraph shall not be included in the home school's grade but shall be included only in the calculation of the alternative school's grade. A school district that fails to assign the FCAT and end-of-course assessment as described in s. 1008.22(3)(c)2.a. scores of each of its students to his or her home school or to the alternative school that receives a grade shall forfeit Florida School Recognition Program funds for 1 fiscal year. School districts must require collaboration between the home school and the alternative school in order to promote student success. This collaboration must include an annual discussion between the principal of the alternative school and the principal of each student's home school concerning the most appropriate school assignment of the student.

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2012338

4. The achievement scores and learning gains of students who are hospitalized ~~designated as hospital~~ or homebound. Student assessment data for students who are hospitalized ~~designated as hospital~~ or homebound shall be assigned to their home school for the purposes of school grades. As used in this subparagraph, the term "home school" means the school to which a student would be assigned if the student were not assigned to a hospital/homebound ~~hospital or homebound~~ program.

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

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

b. The participation rate of all eligible students enrolled in the school and enrolled in College Board Advanced Placement courses; International Baccalaureate courses; dual enrollment courses; Advanced International Certificate of Education courses; and courses or sequences of courses leading to national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

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

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

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

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

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

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

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

6. Beginning with the 2012-2013 school year, for schools comprised of any of grades kindergarten through grade 12, the participation rate of students in the school who are enrolled in fine arts courses, which are visual arts, music, dance, and theatre.

The State Board of Education shall adopt appropriate criteria for each school grade. The criteria must also give added weight to student achievement in reading. Schools designated with a grade of "C," making satisfactory progress, shall be required to demonstrate that adequate progress has been made by students in the school who are in the lowest 25th percentile in reading and mathematics on the FCAT and end-of-course assessments as described in s. 1008.22(3)(c)2.a., unless these students are

23-00354-12 2012338\_\_

175 exhibiting satisfactory performance. Beginning with the 2009-  
176 2010 school year for schools comprised of high school grades 9,  
177 10, 11, and 12, or grades 10, 11, and 12, the criteria for  
178 school grades must also give added weight to the graduation rate  
179 of all eligible at-risk students, as defined in this paragraph.  
180 Beginning in the 2009-2010 school year, in order for a high  
181 school to be designated as having a grade of "A," making  
182 excellent progress, the school must demonstrate that at-risk  
183 students, as defined in this paragraph, in the school are making  
184 adequate progress.

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Waive*

2/6/2012

*Meeting Date*

Topic Public School Participation in Fine Arts

Bill Number 338  
*(if applicable)*

Name Dawn Steward

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 2130 Blossom Lane  
*Street*

Phone 407.645.0273

Winter Park FL 32789  
*City State Zip*

E-mail stu2130@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida PTA Vice President of Education

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

*Spoke*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-12

*Meeting Date*

Topic Commissioner of Education

Bill Number 338  
*(if applicable)*

Name Patricia Levesque

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Executive Director, Foundation for Florida's Future

Address 215 South Monroe Street

Phone 850-391-3070

*Street*

Tallahassee

FL

32302

*City*

*State*

*Zip*

E-mail patricia@afloridapromise.org

Speaking: ☐ For ☒ Against ☐ Information

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

*Spoke*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12

Meeting Date

Topic Fine Art

Bill Number SB 338  
(if applicable)

Name Scott White

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Teacher

Address 2904 Ballahadon ct.  
Street

Phone \_\_\_\_\_

Tallahassee FL  
City State Zip

E-mail \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Representing Teacher

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12  
Meeting Date

Topic \_\_\_\_\_

Bill Number 338  
(if applicable)

Name Frank Meiners

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address PO Box 1033  
Tall FL 32301  
City State Zip

Phone 850 591-0177

E-mail frank@chqmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Center for Fine Arts Education

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12

Meeting Date

Topic \_\_\_\_\_

Bill Number SB 338  
(if applicable)

Name Kathleen Sanz

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Executive Director

Address 402 Office Plaza  
Street

Phone 850 878 6844

Tallahassee FL 32301  
City State Zip

E-mail kdsanz@flmusiced.org

Speaking: ☒ For ☐ Against ☒ Information

Representing Florida Music Educators Association / Center for Fine Arts Education

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Waiver

Meeting Date \_\_\_\_\_

Topic \_\_\_\_\_

Bill Number 338  
(if applicable)

Name Lynda Russell

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 213 S. Adams  
Street

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

E-mail \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Representing Florida Ed Assn

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

---

BILL: CS/SB 494

INTRODUCER: Education Pre-K - 12 Committee and Senator Negron

SUBJECT: Student Safety

DATE: February 6, 2012

REVISED: \_\_\_\_\_

| ANALYST     | STAFF DIRECTOR  | REFERENCE | ACTION        |
|-------------|-----------------|-----------|---------------|
| 1. Carrouth | deMarsh-Mathues | ED        | <b>Fav/CS</b> |
| 2. _____    | _____           | MS        | _____         |
| 3. _____    | _____           | BC        | _____         |
| 4. _____    | _____           | _____     | _____         |
| 5. _____    | _____           | _____     | _____         |
| 6. _____    | _____           | _____     | _____         |

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary:**

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board's emergency response policy and in its model emergency management and preparedness procedures. The emergency response agencies listed must notify private schools in the school district of occurrences that threaten student safety, if the private school requests such notification by opting into the district school board's emergency notification procedures.

The bill authorizes both public and private schools to maintain a supply of epinephrine auto-injectors in a secure location for use in an emergency situation by authorized students. The bill also permits a physician to prescribe epinephrine auto-injectors in the school's name to be used in emergency situations for students authorized to self-administer the epinephrine.

This bill amends sections 1002.20, 1002.42, and 1006.07 of the Florida Statutes.

## II. Present Situation:

### *Emergency Preparedness*

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.<sup>1</sup> Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies.<sup>2</sup>

Florida law does not expressly require that school district emergency response policies and model emergency management and preparedness procedures list the agencies responsible for notifying the school district regarding emergencies. However, cooperation with emergency response agencies is incorporated into the *Safety and Security Best Practices*, a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies.<sup>3</sup> Among other best practices, the self-assessment suggests that school districts:

- Make arrangements to work with local emergency officials, including, without limitation, law enforcement, fire departments, emergency management, hospitals, mental health and health agencies, social services agencies, and court officials.
- Share comprehensive school safety plans and emergency procedures with appropriate emergency response agencies.
- Implement procedures for contacting all district schools simultaneously regarding an emergency.<sup>4</sup>

Private school emergency policies are not regulated by the state.<sup>5</sup> Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency.<sup>6</sup> Despite such arrangements, private schools do not always receive notification.<sup>7</sup> Florida law does not expressly authorize private schools to opt into district school board emergency

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<sup>1</sup> s. 1006.07(4)(a), F.S.

<sup>2</sup> s. 1006.07(4)(b), F.S.

<sup>3</sup> s. 1006.07(6), F.S.

<sup>4</sup> s. 1006.07(6), F.S. Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp>. The Best Practices are developed by the Office of Program Policy Analysis and Government Accountability. Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting. See <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=01-57>.

<sup>5</sup> s. 1002.42(2)(h), F.S., states, in part, "It is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions..."

<sup>6</sup> Telephone correspondence with the Executive Director, Florida Council of Independent Schools, February 2, 2012.

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

notification procedures for the purpose of receiving notification of emergencies from an emergency response agency.<sup>8</sup>

#### *Epinephrine Auto-injection*

Epinephrine is prescribed by a physician to be used in emergencies to treat very serious allergic reactions (anaphylactic reaction) to insect stings or bites, foods, drugs, or other substances. It is normally administered by a one-dose auto-injector, known as an EpiPen or Twinject.<sup>9</sup>

Epinephrine acts quickly to improve breathing, stimulate the heart, raise a dropping blood pressure, reverse hives, and reduce swelling of the face, lips, and throat. The effects of epinephrine are rapid, but not long-lasting.<sup>10</sup>

State Board of Education rule for the use of epinephrine auto-injectors dispensation is based solely on self-administration.<sup>11</sup> The rule provides that the auto-injector is a prescription medication in a specific dose-for-weight device that is packaged for self-delivery in the event of a life-threatening allergic reaction. Written authorization is required from the physician and parent for a student to carry an epinephrine auto-injector and self-administer epinephrine. The rule requires a school nurse to develop an annual child-specific action plan for an anticipated health emergency in the school setting.<sup>12</sup>

### **III. Effect of Proposed Changes:**

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board's emergency response policy and in its model emergency management and preparedness procedures. The emergency response agencies listed must notify private schools in the school district of occurrences that threaten student safety if the private school requests such notification by opting into the district school board's emergency notification procedures. This provision will ensure that all schools are notified in the event of an emergency.

The bill authorizes both public and private schools to maintain a supply of epinephrine auto-injectors in a secure location for use by authorized students in an emergency situation. An authorized student would be one who has previously been evaluated by a physician and prescribed epinephrine to be used in the event of a severe allergic reaction.

The bill authorizes a physician to prescribe epinephrine auto-injectors in the name of a school. This practice may contravene current statutory or legal obligations placed upon a licensed physician.

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<sup>8</sup> s. 1002.42, F.S.

<sup>9</sup> U.S. Department of Health and Human Services, National Institutes of Health, U.S. National Library of Medicine. See: <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a603002.html>.

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

<sup>11</sup> Rule 6A-6.0251, F.A.C., pursuant to s. 1002.20(3)(i), F.S.

<sup>12</sup> *Id.* The annual plan is developed in cooperation with the student, parent, healthcare provider, and school personnel for the student with life-threatening allergies and must specify that the emergency number 911 will be called immediately for an anaphylaxis event. It must also describe a plan of action if the student is unable to perform self-administration of the epinephrine auto-injector.



**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The cost, if any, incurred by emergency response agencies to implement the bill is unknown.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by the Committee on Education Pre-K – 12 on February 6, 2012:**

The committee substitute:

- Authorizes both public and private schools to maintain a supply of epinephrine auto-injectors in a secure location for use by authorized students in an emergency situation; and
- Permits a physician to prescribe epinephrine auto-injectors to the school to be used in emergency situations for students authorized to self-administer the epinephrine.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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260672

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/08/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Education Pre-K - 12 (Bogdanoff) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 42 - 51  
and insert:

Section 2. Paragraph (i) of subsection (3) of section 1002.20, Florida Statutes, is amended to read:

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



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(3) HEALTH ISSUES.—

(i) *Epinephrine use and supply.*—

1. A student who has experienced or is at risk for life-threatening allergic reactions may carry an epinephrine auto-injector and self-administer epinephrine by auto-injector while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if the school has been provided with parental and physician authorization. The State Board of Education, in cooperation with the Department of Health, shall adopt rules for such use of epinephrine auto-injectors that shall include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. A school district, county health department, public-private partner, and their employees and volunteers shall be indemnified by the parent of a student authorized to carry an epinephrine auto-injector for any and all liability with respect to the student's use of an epinephrine auto-injector pursuant to this paragraph.

2. A public school may maintain in a locked, secure location on its premises a supply of epinephrine auto-injectors. A physician may prescribe epinephrine auto-injectors in the name of the school to be maintained for emergency use when any student is having an anaphylactic reaction. The supply of epinephrine auto-injectors may be provided to and used by any student authorized to self-administer epinephrine by auto-injector under subparagraph 1.

Section 3. Subsections (16) and (17) are added to section 1002.42, Florida Statutes, to read:

1002.42 Private schools.—



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(16) EMERGENCY PROCEDURES.—The emergency response agencies identified in a district school board's emergency response policy pursuant to s. 1006.07(4) that are responsible for notifying the school district of an occurrence that threatens student safety shall also notify private schools in the district that request such notification by opting into the district school board's emergency notification procedures.

(17) EPINEPHRINE SUPPLY.—A private school may maintain in a locked, secure location on its premises a supply of epinephrine auto-injectors. A physician may prescribe epinephrine auto-injectors in the name of the private school to be maintained for emergency use when any student is having an anaphylactic reaction. The supply of epinephrine auto-injectors may be provided to and used by any student authorized to self-administer epinephrine by auto-injector under s. 1002.20(3)(i).

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

And the title is amended as follows:

Delete lines 2 - 8

and insert:

An act relating to student health and safety; amending s. 1006.07, F.S.; requiring district school board policies to list the emergency response agencies that are responsible for notifying the school district of emergencies; amending s. 1002.20, F.S.; authorizing a public school to maintain a supply of epinephrine auto-injectors; providing that a physician may prescribe epinephrine auto-injectors to be maintained for emergency use when any student is having an



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71 anaphylactic reaction; providing that the supply of  
72 epinephrine auto-injectors may be provided to and used  
73 by any student authorized to self-administer  
74 epinephrine by auto-injector; amending s. 1002.42,  
75 F.S.; requiring the emergency response agencies to  
76 notify private schools in the school district under  
77 certain circumstances; authorizing a private school to  
78 maintain a supply of epinephrine auto-injectors;  
79 providing that a physician may prescribe epinephrine  
80 auto-injectors to be maintained for emergency use when  
81 any student is having an anaphylactic reaction;  
82 providing that the supply of epinephrine auto-  
83 injectors may be provided to and used by any student  
84 authorized to self-administer epinephrine by auto-  
85 injector;

By Senator Negrón

28-00569-12

2012494\_\_

A bill to be entitled

An act relating to student safety; amending s. 1006.07, F.S.; requiring district school board policies to list the emergency response agencies that are responsible for notifying the school district of emergencies; amending s. 1002.42, F.S.; requiring the emergency response agencies to notify private schools in the school district under certain circumstances; providing an effective date.

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

Section 1. Subsection (4) of section 1006.07, Florida Statutes, is amended to read:

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

(4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

(a) Formulate and prescribe policies and procedures for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, and bomb threats, for all the public schools of the district which comprise grades K-12. District school board policies shall include commonly used alarm system responses for specific types of emergencies and verification by each school that drills have been provided as required by law and fire protection codes. The emergency

Page 1 of 2

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

28-00569-12

2012494\_\_

response agency that is responsible for notifying the school district for each type of emergency must be listed in the district's emergency response policy.

(b) ~~The district school board shall~~ Establish model emergency management and emergency preparedness procedures, including emergency notification procedures pursuant to paragraph (a), for the following life-threatening emergencies:

1. Weapon-use and hostage situations.
2. Hazardous materials or toxic chemical spills.
3. Weather emergencies, including hurricanes, tornadoes, and severe storms.
4. Exposure as a result of a manmade emergency.

Section 2. Subsection (16) is added to section 1002.42, Florida Statutes, to read:

1002.42 Private schools.—

(16) EMERGENCY PROCEDURES.—The emergency response agencies identified in a district school board's emergency response policy pursuant to s. 1006.07(4) that are responsible for notifying the school district of an occurrence that threatens student safety shall also notify private schools in the district that request such notification by opting into the district school board's emergency notification procedures.

Section 3. This act shall take effect July 1, 2012.

Page 2 of 2

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

waive

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/2012

Meeting Date

Topic Student safety Bill Number 494  
(if applicable)

Name James Herzog Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Associate Director for Education

Address 201 W Park Ave Phone 205-6823  
Street

Tallahassee FL 32301 E-mail jherzog@flacathconf.org  
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Catholic Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/2012

*Meeting Date*

Topic Student Safety

Bill Number 494  
*(if applicable)*

Name Dawn Steward

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 2130 Blossom Lane  
*Street*

Phone 407.645.0273

Winter Park FL 32789  
*City State Zip*

E-mail stu2130@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida PTA Vice President of Education

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

---

BILL: CS/SB 620

INTRODUCER: Education Pre-K-12 Committee and Senator Latvala

SUBJECT: District School Boards

DATE: February 7, 2012

REVISED: \_\_\_\_\_

| ANALYST   | STAFF DIRECTOR  | REFERENCE | ACTION        |
|-----------|-----------------|-----------|---------------|
| 1. Abrams | deMarsh-Mathues | ED        | <b>Fav/CS</b> |
| 2. _____  | _____           | GO        | _____         |
| 3. _____  | _____           | BC        | _____         |
| 4. _____  | _____           | _____     | _____         |
| 5. _____  | _____           | _____     | _____         |
| 6. _____  | _____           | _____     | _____         |

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary:**

The bill provides flexibility for a school district in scheduling the election of the school board chair by expanding the time period in which school districts are required to hold their school board organizational meetings in non-election years. The bill provides for the meeting to be held in November of each year, except during election years. During election years, the organization meeting must be held on the same day in which newly elected members begin their terms. The bill only applies to school districts where school board chairs are not elected by a district-wide vote.

This bill substantially amends section 1001.371 of the Florida Statutes.

**II. Present Situation:**

**Constitution Requirements**

Article IX, section 4 of the Florida Constitution provides for five or more member district school boards selected by vote of the electors and requires staggered four-year terms, as provided by law. School boards operate, control and supervise the public schools within their respective districts.

**District School Board Election Requirements**

General elections are held in each county on the first Tuesday after the first Monday in November of each even-numbered year.<sup>1</sup> In general elections, the successors for district officers with expiring terms are chosen.<sup>2</sup> School board members are elected for terms of four years with terms beginning on the second Tuesday following the general election in which they are elected.<sup>3</sup> This means the terms for newly elected school board members can begin any time from November 16<sup>th</sup> to November 22<sup>nd</sup>.

Current law requires each district school board to organize by electing a chair on the third Tuesday after the first Monday in November of each year.<sup>4</sup> This means the terms for newly elected school board members have already begun by the time the organizational meeting takes place, and thus, newly elected members may participate in the district school board's electing a chair. Also, the district school board may elect a vice chair, and the district school superintendent must act ex officio as the secretary.<sup>5</sup> If a vacancy occurs in the position of chair, the district school board is required to elect a chair at the next ensuing regular or special meeting. The district school superintendent acts as the chair at the organizational meeting or until organization is complete. These provisions do not apply to school districts where school board chairs are elected by a district-wide vote.<sup>6</sup>

**Notice Requirements for District School Board Meetings**

All regular and special meetings of district school boards are required to take place in the office of the district school superintendent or in a room convenient to that office and regularly designated as the district school board meeting room unless public notice is given to hold a meeting at another appropriate public place in the county.<sup>7</sup> Further, district school boards must comply with the public meeting requirements in chapter 286, F.S., and the Florida Constitution.<sup>8</sup>

**III. Effect of Proposed Changes:**

This bill expands the time period in which school districts are required to hold the school board organizational meetings each year in school districts where school board chairs are not elected by a district-wide vote. Instead of requiring the meeting to take place on the third Tuesday after the first Monday in November, the bill allows the meeting to be held anytime in November. However, during election years, the bill requires the organization meeting to take place on the same date upon which newly elected members' terms begin.<sup>9</sup> This means the organization

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<sup>1</sup> This means that a general election is held, depending on the year, between November 2<sup>nd</sup> and November 9<sup>th</sup>.

<sup>2</sup> s. 100.031, F.S. This includes school board members, pursuant to s. 100.041(3)(a), F.S.

<sup>3</sup> s. 100.041(3)(a), F.S.

<sup>4</sup> s. 1001.371, F.S.

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

<sup>6</sup> Section 1001.372(2), F.S., provides for the alternate procedure for election of a district school board chair by district-wide vote.

<sup>7</sup> s. 1001.372(2), F.S.

<sup>8</sup> s. 286.011, F.S., and art I, s. 24(b), Fla. Const.

<sup>9</sup> Pursuant to s. 100.041 (3)(a), F.S., a newly elected board member's term begins on the second Tuesday following the general election in which the member is elected. The general election is held on the first Tuesday after the first Monday in November of each even-numbered year pursuant to s. 100.031, F.S. For example, in 2012, the terms for newly elected board members will begin on November 20<sup>th</sup>.

meeting must take place on a specific date each year on or between November 16<sup>th</sup> and November 22<sup>nd</sup>, depending on the year. The election year specific date requirement ensures that newly elected board members will be eligible to vote during the organization meeting. Thus, district school boards are afforded greater flexibility in determining when to hold the annual organizational meeting, but only in non-election years.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education Pre-K - 12 Committee on February 6, 2012:**

The committee substitute allows the organizational meeting of district school boards to take place at any time during November of each year, except during election years.

During election years, the organizational meeting must take place on the same date as newly elected school board members' begin their terms.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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141200

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RS   | . |       |
| 02/07/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

The Committee on Education Pre-K - 12 (Altman) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 15 - 19  
and insert:

1001.371 Organization of district school board. ~~On the third Tuesday after the first Monday~~ In November of each year, the district school board shall organize by electing a chair which, during an election year, shall occur pursuant to the requirements in s. 100.041(3)(a). It may elect a vice chair, and the district

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



141200

13 And the title is amended as follows:

14 Delete lines 3 - 7

15 and insert:

16 1001.371, F.S.; requiring that each district school  
17 board organize and elect a chair in November of each  
18 year which, during an election year, must occur  
19 pursuant to the requirements in s. 100.041, F.S.;  
20 providing an exception if the chair is



608330

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/07/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

The Committee on Education Pre-K - 12 (Altman) recommended the following:

**Senate Substitute for Amendment (141200) (with title amendment)**

Delete lines 15 - 19

and insert:

1001.371 Organization of district school board. ~~On the third Tuesday after the first Monday~~ In November of each year, the district school board shall organize by electing a chair which, during an election year, shall coincide with the date upon which newly elected members' terms begin pursuant to s. 100.041(3)(a). It may elect a vice chair, and the district





608330

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

And the title is amended as follows:

Delete lines 3 - 7

and insert:

1001.371, F.S.; requiring that each district school  
board organize and elect a chair in November of each  
year which, during an election year, must coincide  
with the date upon which newly elected members' terms  
begin pursuant to s. 100.041, F.S.; providing an  
exception if the chair is

By Senator Latvala

16-00430A-12

2012620\_\_

A bill to be entitled

An act relating to district school boards; amending s. 1001.371, F.S.; requiring that each district school board organize and elect a chair at a publicly noticed meeting after the first Tuesday after the first Monday in November of each year, but before the end of November; providing an exception if the chair is elected by a districtwide vote; providing an effective date.

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

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

1001.371 Organization of district school board.—At a publicly noticed meeting after the first on the third Tuesday after the first Monday in November of each year, but before the end of November, the district school board shall organize by electing a chair. It may elect a vice chair, and the district school superintendent shall act ex officio as the secretary. If a vacancy should occur in the position of chair, the district school board shall proceed to elect a chair at the next ensuing regular or special meeting. At the organization meeting, the district school superintendent shall act as chair until the organization is completed. The chair and secretary shall then make and sign a copy of the proceedings of organization, including the schedule for regular meetings and the names and addresses of all district school officers, and annex their affidavits that the same is a true and correct copy of the

Page 1 of 2

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

16-00430A-12

2012620\_\_

original, and the secretary shall file the document within 2 weeks with the Department of Education. This section does not apply to any school district with a district school board chair who is elected by districtwide vote.

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

Page 2 of 2

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Waive

2/6/2012  
Meeting Date

Topic School BOARD - organizational meeting

Bill Number SB 620  
(if applicable)

Name Wayne Stanton

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Exec. Director

Address 203 S. Monroe St.  
Street

Phone 414-2578

Tallahassee FLA 32301  
City State Zip

E-mail stanton@fla.org

Speaking: ☒ For ☐ Against ☐ Information

Representing FLA. School Boards ASC

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12  
Meeting Date

Topic School BOARDS

Bill Number 620  
(if applicable)

Name STEVE SWARTZEL

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Dir. Gov't Relations

Address 304 4th St. SW  
Street

Phone 727-638-3478

Largo FL  
City State Zip

E-mail SWARTZELS.@PCSB.org

Speaking: ☒ For ☐ Against ☐ Information

Representing PINELLAS School Board

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

2-6-12

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic School Board Bill Number 620  
Name Connie Milito Amendment Barcode \_\_\_\_\_  
Job Title Chief Gov Relations officer (if applicable)  
Address 901 E Kennedy Blvd Phone 813 624-5000  
Street City State Zip E-mail cmilito@sdhc.us

Speaking: ☒ For ☐ Against ☐ Information

Representing Hillsborough County Public Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-12  
Meeting Date

Topic District School Boards

Bill Number 620  
(if applicable)

Name Wendy Dodge

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Dir. - Govt Affairs

Address PO Box 391  
Street  
Barrow FL 33831  
City State Zip

Phone 863-838-3632

E-mail wendy.dodge@polk-fl.  
NET

Speaking: ☒ For ☐ Against ☐ Information

Representing POLK COUNTY SCHOOLS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Transportation, *Chair*  
Budget - Subcommittee on General Government  
Appropriations  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Environmental Preservation and Conservation  
Governmental Oversight and Accountability  
Health Regulation  
Reapportionment

**SENATOR JACK LATVALA**

16th District

February 6, 2012

The Honorable Senator Stephen Wise, Chairman  
Senate Committee on Education/ Pre-K-12  
415 Knott Building  
Tallahassee, FL 32399-1100

Dear Chairman Wise:

This letter is to request permission for Jennifer Wilson, my Legislative Assistant, to present SB 620 on my behalf today during the meeting of the Senate Committee on Education/Pre-K-12. My attendance is otherwise required at the meeting of the Senate Committee on Environmental Preservation and Conservation, which will convene at the same time as the Committee on Education/Pre-K-12.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jack Latvala".

Jack Latvala  
State Senator  
District 16

CC: Lynda DeMarsh-Mathues, Staff Director; Elizabeth Wells, Administrative Assistant

### REPLY TO:

- ☐ 12425 28th Street North, Suite 102, St. Petersburg, Florida 33716 (727) 556-6500
- ☐ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5075

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**MIKE HARIDOPOLOS**  
President of the Senate

**MICHAEL S. "MIKE" BENNETT**  
President Pro Tempore

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: CS/SB 750

INTRODUCER: Education Pre-K-12 Committee and Senator Flores

SUBJECT: School District Bonds

DATE: February 6, 2012

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR  | REFERENCE | ACTION        |
|----|---------|-----------------|-----------|---------------|
| 1. | Harkey  | deMarsh-Mathues | ED        | <b>Fav/CS</b> |
| 2. |         |                 | BC        |               |
| 3. |         |                 |           |               |
| 4. |         |                 |           |               |
| 5. |         |                 |           |               |
| 6. |         |                 |           |               |

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary:**

This bill would revise requirements for school district bonds to provide school districts increased flexibility in issuing bonds that are paid for by ad valorem taxes or a sales tax surcharge. The bill extends the maximum duration of bonds from 20 years to 30 years unless a longer period is approved by the Department of Education (DOE). The bill authorizes school districts to determine the callability<sup>1</sup> of the bonds.

This bill amends s. 1010.49, Florida Statutes.

**II. Present Situation:**

The State Constitution authorizes school districts to levy ad valorem taxes up to 10 mills<sup>2</sup> and authorizes school districts and other local governmental bodies with taxing powers to issue bonds payable from ad valorem taxes for the following purposes:

<sup>1</sup> A callable bond is redeemable before the bond reaches its date of maturity.

<sup>2</sup> Fla. Const., art. VII, s. 12.



- To finance or refinance capital projects authorized by law and only when approved by the taxpayers in a referendum; or
- To refinance bonds at a lower net average interest.

Section 215.055(6), F.S., authorizes a school district to issue a discretionary sales surtax of up to 0.5 percent, upon approval of the voters in a referendum, to fund capital outlay projects. A school board may bond the surtax revenues.

Section 1010.49, F.S., prescribes the form and denomination of school board bonds. The schedule of maturities of the bonds must be so arranged that the total payments required each year will be as nearly equal as practicable. The schedule must provide that all bonds are to be retired within a period of 20 years from the date of issuance unless a longer period is required and has been specifically approved by the Department of Education (DOE). All bonds that bear interest in excess of 2.99 percent must be callable on terms prescribed by the district school board, beginning not later than 10 years from the date of issuance.

### **III. Effect of Proposed Changes:**

This bill would revise requirements for the form and duration of school district bonds to:

- Allow debt for a period of 30 years rather than 20 years unless the DOE approves a longer period; and
- Remove restrictions on times when bonds must be callable, thus permitting a school district to set the date on which bonds are callable or to issue non-callable bonds.

Callability allows a school district to redeem the bond and refinance the debt at a lower rate of interest. A non-callable bond is not redeemable before the date of maturity.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

Ad valorem taxes or sales tax surcharges to pay the debt service on the bonds would have to be approved by voters in a referendum and would be assessed on local property owners or purchasers of goods.

**B. Private Sector Impact:**

The effect on ad valorem taxes of the flexibility in structuring bonds that the bill affords to school districts is indeterminate.

**C. Government Sector Impact:**

In structuring debt for locally-funded capital outlay projects, school districts would have the flexibility to pay off the debt over a period of 30 years rather than 20, or over a longer period of time if the DOE approved the longer period. The school district would have the discretion to set the time when a bond is callable or to issue non-callable bonds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education Pre-K-12 on February 6, 2012:**

The committee substitute:

- Maintains the current statutory requirement for yearly payments to be as equal as practicable; and
- Establishes the maximum duration for bonds at 30 years unless the DOE approves a longer period.

**B. Amendments:**

None.



767936

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/07/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Education Pre-K - 12 (Bogdanoff) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 15 - 31  
and insert:

1010.49 Form and denomination of bonds.—The district school board may prescribe the denomination of the bonds to be issued, and such bonds may be issued with or without interest coupons in the discretion of the board. The form of the bonds to be issued may be prescribed by the State Board of Education on the recommendation of the Department of Legal Affairs. The schedule of maturities of the proposed bonds shall be so arranged that the total payments required each year shall be as nearly equal



767936

as practicable. The schedule shall provide that all bonds are to be retired within a period of 30 ~~20~~ years from the date of issuance unless a longer period is required and has been specifically approved by the Department of Education. All bonds issued under this section ~~that bear interest in excess of 2.99 percent~~ shall be callable at the times and upon the ~~on~~ terms prescribed by the district school board ~~beginning not later than 10 years from the date of issuance.~~

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

And the title is amended as follows:

Delete lines 3 - 7

and insert:

revising the period for which bonds are to be retired;  
providing that all bonds are callable at times and  
upon terms prescribed by

By Senator Flores

38-00687-12

2012750

A bill to be entitled

An act relating to bonds; amending s. 1010.49, F.S.; requiring that a district school board determine the schedule of maturities of proposed bonds; authorizing the district school board to approve a longer period before bonds are to be retired; providing that all bonds are callable at times and on terms prescribed by the district school board; providing an effective date.

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

Section 1. Section 1010.49, Florida Statutes, is amended to read:

1010.49 Form and denomination of bonds.—The district school board may prescribe the denomination of the bonds to be issued, ~~and such bonds may be issued with or without interest coupons in the discretion of the board.~~ The form of the bonds to be issued may be prescribed by the State Board of Education on the recommendation of the Department of Legal Affairs. The district school board shall determine the schedule of maturities of the proposed bonds ~~shall be so arranged that the total payments required each year shall be as nearly equal as practicable.~~ The schedule shall provide that all bonds are to be retired within a ~~period of~~ 20 years after ~~from~~ the date of issuance unless a longer period is required and has been specifically approved by the district school board ~~Department of Education~~. All bonds issued under this section are that bear interest in excess of ~~2.99 percent shall be callable at times and on terms prescribed~~

Page 1 of 2

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

38-00687-12

2012750

by the district school board ~~beginning not later than 10 years from the date of issuance.~~

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

Page 2 of 2

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Waive

Meeting Date \_\_\_\_\_

Topic BONDS

Bill Number SB 750  
(if applicable)

Name TOM CERRA

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title EX. DIRECTOR

Address 9737 NW 41st #359

Phone 305-513-9995

DORAL FL 33178  
City State Zip

E-mail tomcerra@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing GREATER FL. CONSORTIUM OF SCHOOL BOARDS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

waive

2-6-12

Meeting Date

Topic Bonding

Bill Number 750  
(if applicable)

Name Georgia S. Fack

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title legislative consultant

Address 9693 Ridgcrest Ct

Phone 305-608-5110

Street

DAVIE FL 33328

City

State

Zip

E-mail slackgeconsult.net

Speaking: ☒ For ☐ Against ☐ Information

Representing Broward Public Schools

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Waive*

2/6/12

Meeting Date

Topic

General Obligation Bonds

Bill Number

750

(if applicable)

Name

Irada Mendez-Castaya

Amendment Barcode

(if applicable)

Job Title

Assist. Superintendent

Address

1450 NE 2nd Ave Rm 931

Phone

305 995-1497

Street

Miami

FL

33132

City

State

Zip

E-mail

imendez@badeschools

Speaking:

☒

For

☐

Against

☐

Information

Representing

Miami Dade County Public Schools

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: CS/SB 808

INTRODUCER: Committee on Education Pre-K - 12 and Senator Norman

SUBJECT: Use of Public School Grounds and Facilities

DATE: February 6, 2012

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR  | REFERENCE | ACTION        |
|----|---------|-----------------|-----------|---------------|
| 1. | Brown   | deMarsh-Mathues | ED        | <b>Fav/CS</b> |
| 2. |         |                 | JU        |               |
| 3. |         |                 | BC        |               |
| 4. |         |                 |           |               |
| 5. |         |                 |           |               |
| 6. |         |                 |           |               |

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary:**

This bill grants immunity from personal injury liability to public schools that implement certain public use of their property unless gross negligence or intentional misconduct is established.

This bill enables, and encourages district school boards and a local government or a private organization to adopt written policies on joint use agreements regarding shared public recreational space at school grounds and facilities. District school boards are also encouraged to develop an appeals procedure for failed negotiations.

The Department of Education (DOE) is required to develop a model joint use agreement for publication on its website, as well as actual joint-use agreements submitted by district school boards, and to develop criteria for a grant application process.

This bill substantially creates sections 768.072 and 1013.105 of the Florida Statutes.

## **II. Present Situation:**

### **Public Use of School Grounds**

District school boards are authorized to allow public access for use of educational facilities and grounds for public assemblies, community use centers, or voting locations.

### **Standards of Negligence**

The standard of gross negligence, as applied to tort cases where punitive damages are sought, is defined in Florida law as follows:

...the defendant's conduct was so reckless or wanting in care that it constituted a conscious disregard or indifference to the life, safety, or rights of persons exposed to such conduct."<sup>1</sup>

By way of contrast, the higher standard of intentional misconduct requires proof that the defendant possessed:

...actual knowledge of the wrongfulness of the conduct and the high probability that injury or damage to the claimant would result and, despite that knowledge, intentionally pursued that course of conduct, resulting in injury or damage.<sup>2</sup>

### **Sovereign Immunity**

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of such governments unless the immunity is expressly waived.

Article X, s. 13, of the Florida Constitution recognizes sovereign immunity and gives the Legislature the right to waive immunity. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Accordingly, officers, employees, and agents of the state are generally exempt from tort liability for damages unless certain high-level intent can be shown. However, these provisions are considered to represent a limited waiver as they allow for some recovery, currently capped at \$200,000 per person and \$300,000 per incident.<sup>3</sup> Limits may be exceeded through the claims process, initiated through the filing of a legislative claims bill. Still, the review and award of a claim is entirely at the prerogative of the Legislature.

State agencies and subdivisions, for purposes of sovereign immunity, are defined to include:

---

<sup>1</sup> s. 768.72(2)(b), F.S.

<sup>2</sup> s. 768.72(2)(a), F.S.

<sup>3</sup> s. 768.28(5), F.S. These amounts represent a recent increase from \$100,000 a person and \$200,000 per incident, which took effect October 1, 2011, subsequent to a change in the law during the 2010 Legislative Session (ch. 2010-26, L.O.F.)

The executive departments, the Legislature, the judicial branch, and the independent establishments of the state, including...counties and municipalities....<sup>4</sup>

Section 768.28(19), F.S., clarifies that the state, its agencies, and subdivisions do not waive sovereign immunity upon entering into a contractual relationship with another agency or subdivision of the state.

### **III. Effect of Proposed Changes:**

Absent gross negligence or intentional misconduct, this bill extends immunity from personal injury liability to public schools that authorize public access to students for recreational purposes. Gross negligence is defined in this bill as an intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting life or property.

The standard of gross negligence is generally considered to be a medium level of care. Among other degrees of negligence, it ranks somewhere in between ordinary, or simple negligence and culpable, or an intentional harm type of negligence. Conceptually, gross negligence is considered to exist “if the likelihood of injury to others is known by the actor to be imminent or clear and present.”<sup>5</sup> Although not exactly aligned, the definition provided in this bill appears to be consistent with the prevailing standard.

The immunity from liability provided to school districts that enter into joint-use agreements is placed in the section of law that addresses torts, negligence and sovereign immunity. Although arguably this bill presents as an absolute immunity from liability, it is more likely that a court would consider it to be an extension of sovereign immunity to these specific instances. Therefore, it would be subject to the limited waiver of sovereign immunity, and claimants would presumably have the claims process available.

This bill encourages the development of an appeals process as a mechanism for mediation over failed joint-use negotiations. It is possible that a claimant could argue that a blanket refusal by a district school board to even negotiate entry into a particular agreement represents grounds for appeal.

A grant application process is provided in the bill. It is unclear what the source of funding would be.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

---

<sup>4</sup> s. 768.28(2), F.S.

<sup>5</sup> *Personal Injury Law and Practice with Wrongful Death Actions*, West’s Florida Practice Series (6 FLPRAC s. 2:12) 2011-2012 ed.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The DOE would be required to develop a model joint use agreement and grant criteria, for publication on its website, and also provide a link to district school boards' actual joint use agreements.

Superintendents would be required to preside over appeals between district school boards and parties seeking to establish joint-use agreements.

This bill appears to provide for open access to the public, subject to certain time and condition restrictions. Should supervision be envisioned, it is anticipated that there will be some cost involved in maintaining a school oversight presence after-hours. It is unknown whether such a presence would be provided by the school or by the entity availing itself of the grounds.

Schools may also incur costs for maintenance due to increased use of shared facilities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by the Committee on Education Pre-K – 12 on February 6, 2012:**

This bill:

- Encourages district school boards to adopt written policies that outline the outdoor recreation and sports facilities that are open to the public and the hours the facilities are open;
- Encourages district school boards to adopt an appeal process for failed negotiations over joint-use agreements;
- Provides a deadline by requiring district school boards to submit a copy of a policy or a joint-use agreement to the DOE within 30 days after its adoption;
- Clarifies that the purpose of grants is for shared facility implementation and requires the DOE to develop and post grant criteria;
- Removes trespass language; and
- Places immunity from liability language in the section of law on torts and negligence; and
- Redefines the term “gross negligence” as a higher standard.

**B. Amendments:**

None.



493638

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/07/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Education Pre-K - 12 (Benacquisto) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 1013.105, Florida Statutes is created to  
read:

1013.105 Joint use of public school facilities.-

(1) The Legislature finds that greater access to recreation  
and sports facilities is needed to reduce the impact of obesity  
on personal health and health care expenditures. The Legislature  
further finds that public schools are equipped with taxpayer-  
funded playgrounds, fields, tracks, courts, and other outdoor



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recreation and sports facilities that offer easily accessible opportunities for physical activity for residents of the community.

(2) Each district school board is encouraged to:

(a) Adopt written policies to promote public access to the outdoor recreation and sports facilities on public school property during nonschool hours when a school-sponsored or school-related activity is not occurring. A public access policy should outline the outdoor recreation and sports facilities that are open to the public and the hours the facilities are open.

(b) Increase the number of joint-use agreements entered into with a local government or a private organization. A joint-use agreement should set forth the terms and conditions for the shared use of outdoor recreation and sports facilities on public school property.

(c) Develop and adopt policies and procedures providing for an appeal process in which a party seeking to enter into a joint-use agreement with a school district pursuant to this section may file an appeal with the district school superintendent when the negotiations for such joint-use agreement fail.

Within 30 days after adopting a public access policy or entering into a joint-use agreement, a district school board must submit a copy of the policy or agreement to the Department of Education.

(3) The Department of Education shall:

(a) Develop a model joint-use agreement and post the model agreement on its website.



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(b) Post on its website links to or copies of all district school board public access policies and joint-use agreements submitted to the department by a district school board.

(c) Develop criteria for the acceptance of grants for implementing joint-use agreements and post the criteria on its website.

Section 2. Section 768.072, Florida Statutes, is created to read:

768.072 Limitation on public school premises liability.—

(1) A district school board is not liable for civil damages for personal injury, property damage, or death that occurs on a public school property that the district school board has opened up to the public, through public access policies or joint-use agreements under s. 1013.105, unless gross negligence or intentional misconduct on the part of the district school board is a proximate cause of the injury, damage, or death.

(2) As used in this section, the term "gross negligence" means the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another.

Section 3. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to the joint use of public school  
facilities; creating s. 1013.105, F.S.; providing





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71 legislative findings; encouraging each district school  
72 board to adopt written policies to promote public  
73 access to outdoor recreation and sports facilities on  
74 school property, increase the number of joint-use  
75 agreements, and develop and adopt policies and  
76 procedures for an appeal process when negotiations for  
77 a joint-use agreement fail; providing duties of  
78 district school boards and the Department of  
79 Education; creating s. 768.072, F.S.; providing  
80 immunity from liability for a district school board  
81 that adopts public access policies or enters into a  
82 joint-use agreement except in instances of gross  
83 negligence or intentional misconduct; defining the  
84 term "gross negligence"; providing an effective date.

By Senator Norman

12-00698-12

2012808\_\_

1 A bill to be entitled  
 2 An act relating to the use of public school grounds  
 3 and facilities; providing that a public school that  
 4 substantially implements specified public uses of its  
 5 grounds or facilities is not liable for personal  
 6 injury or property damage unless the injury or damage  
 7 is due to gross negligence; defining the term "gross  
 8 negligence"; amending s. 810.097, F.S.; providing that  
 9 a student who is not under suspension or expulsion and  
 10 who is on a public school's grounds or facilities for  
 11 the purpose of engaging in physical fitness or  
 12 recreation does not commit a trespass; revising the  
 13 definition of the term "school" to conform to changes  
 14 made by the act; amending s. 1013.10, F.S.; providing  
 15 legislative findings and intent; providing  
 16 definitions; authorizing a district school board to  
 17 permit the use of public school facilities and grounds  
 18 for physical fitness and recreation; encouraging each  
 19 district school board to enter into a joint use  
 20 agreement that provides local community access to a  
 21 public school's grounds and facilities for physical  
 22 fitness and recreation; requiring that each district  
 23 school board provide public access to public school  
 24 playgrounds, courts, tracks, and fields; providing  
 25 that access points to public school recreation  
 26 facilities may be locked during regular school hours,  
 27 but may not be locked during nonschool hours;  
 28 providing that access points may be protected by  
 29 staggered fencing or any other method of restriction

Page 1 of 6

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

12-00698-12

2012808\_\_

30 that prevents vehicles from entering public school  
 31 grounds or facilities; requiring that the Department  
 32 of Education develop a model joint use agreement and  
 33 publish the model agreement on its Internet website;  
 34 requiring that each district school board provide the  
 35 department with copies of or electronic links to joint  
 36 use agreements, upon the department's request;  
 37 requiring that the department publish the copies or  
 38 electronic links on its Internet website; requiring  
 39 that the department adopt rules specifying criteria  
 40 for a grant application process; requiring that each  
 41 district school board adopt rules; providing an  
 42 effective date.  
 43  
 44 WHEREAS, every year an estimated 300,000 people in the  
 45 United States die because they are overweight or obese, and  
 46 WHEREAS, since the 1970's, the number of overweight  
 47 children in the state has increased by 300 percent, and  
 48 WHEREAS, overweight and obese children experience the same  
 49 health risk factors as overweight and obese adults, such as  
 50 heart disease, high blood pressure, high cholesterol levels, and  
 51 type 2 diabetes, once referred to as "adult-onset diabetes," and  
 52 WHEREAS, studies have shown that up to 80 percent of  
 53 overweight adolescents become overweight adults, and  
 54 WHEREAS, 14 percent of cancer deaths in men and 20 percent  
 55 of cancer deaths in women are due to being overweight and obese,  
 56 and  
 57 WHEREAS, the annual economic impact on the United States  
 58 health care system caused by an overweight and obese population

Page 2 of 6

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

12-00698-12 2012808

is estimated by the Centers for Disease Control and Prevention at \$147 billion, and

WHEREAS, a recent study by a major insurance carrier stated that 50 percent of all Americans will have diabetes by the year 2020, which will cost the health care system approximately \$3.35 trillion dollars if current trends in obesity are not abated, and

WHEREAS, many communities, especially more urbanized ones, have little or no access to parks or playgrounds, and

WHEREAS, providing greater access to public school recreation and athletic facilities will make it more convenient for kids and families to exercise and play in multiple locations, NOW, THEREFORE,

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

Section 1. Limitation on public school premises liability.—

(1) A public school that substantially implements the uses of its grounds or facilities pursuant to s. 1013.10, Florida Statutes, is not liable for personal injury or property damage unless the injury or damage is due to gross negligence.

(2) As used in this section, the term "gross negligence" means a lack of proper maintenance or upkeep of public school grounds and facilities or a failure to cordon off or restrict access to a piece of equipment or an area that is in need of repair and that would reasonably endanger a student during normal school hours.

Section 2. Present subsection (5) of section 810.097, Florida Statutes, is renumbered as subsection (6) and amended,

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and a new subsection (5) is added to that section, to read:

810.097 Trespass upon grounds or facilities of a school; penalties; arrest.—

(5) A student who is not under suspension or expulsion and who is on a public school's grounds or facilities for the purpose of engaging in physical fitness or recreation does not commit a trespass as provided in subsection (1).

(6)(5) As used in this section, the term "school" means the grounds or any facility of any kindergarten, elementary school, middle school, junior high school, or secondary school, whether public or nonpublic, unless otherwise specified.

Section 3. Section 1013.10, Florida Statutes, is amended to read:

1013.10 Use of buildings and grounds.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that public schools are equipped with taxpayer-funded playgrounds, fields, tracks, courts, and other facilities that provide quick and easy access to residents regardless of income. The Legislature intends to allow greater access to public school grounds and facilities for the purpose of providing opportunities for physical fitness and recreation and reducing the impact that an increasingly overweight and obese population has on health care expenditures.

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

(a) "Joint use agreement" means a formal agreement between a district school board and a local government or a private organization which sets forth the terms and conditions for the shared public use of a public school's grounds or facilities.

(b) "Public access" means unencumbered access to a public

12-00698-12 2012808  
 117 school's grounds and facilities, including playgrounds, courts,  
 118 tracks, and fields, for the purpose of engaging in physical  
 119 fitness and recreation during nonschool hours, but not during a  
 120 previously scheduled school-related activity.

121 (c) "Access point" means a place where the public can pass  
 122 through to access the public school's grounds or facilities.

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

124 (3) PUBLIC USES.—A district school The board may permit the  
 125 use of public school grounds and facilities ~~educational~~  
 126 ~~facilities and grounds for any legal assembly, or for community~~  
 127 ~~use centers, or physical fitness and recreation or may permit~~  
 128 ~~the same to be used as voting places in any primary, regular, or~~  
 129 ~~special election.~~

130 (4) JOINT USE AGREEMENTS.—Each district school board is  
 131 encouraged to enter into a joint use agreement that provides the  
 132 local community access to a public school's grounds and  
 133 facilities.

134 (5) PUBLIC ACCESS.—Each district school board shall provide  
 135 access to public school grounds and facilities, including  
 136 playgrounds, courts, tracks, and fields. Access points to public  
 137 school grounds and facilities may be locked during regular  
 138 school hours; however, the access points may not be locked  
 139 during nonschool hours. Access points may be restricted by  
 140 staggered fencing or any other method of restriction to prevent  
 141 vehicles from entering public school grounds or facilities.

142 (6) DEPARTMENT.—The department shall develop a model joint  
 143 use agreement and publish the model agreement on its Internet  
 144 website. Upon the department's request, each district school  
 145 board shall provide copies of or electronic links to the

12-00698-12 2012808  
 146 district school board's joint use agreements under this section.  
 147 The department shall publish the copies or electronic links on  
 148 its Internet website. The department shall adopt rules  
 149 specifying criteria for a grant application process pursuant to  
 150 this section.

151 (7) RULES.—Each district school The board shall adopt  
 152 ~~rules, regulations, or policies and procedures necessary to~~  
 153 ~~protect public school grounds and facilities~~ educational  
 154 ~~facilities and grounds when used for the such purposes~~  
 155 authorized in this section and to administer this section.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

*sake*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

6 FEB 2012

Meeting Date

Topic SCHOOL PREMISES LIABILITY

Bill Number 808  
(if applicable)

Name PAUL JESS

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 218 S. MONROE ST

Phone 850-224-9403

Street

TALLAHASSEE FL 32301

City

State

Zip

E-mail \_\_\_\_\_

Speaking: ☐ For ☐ Against ☒ Information

Representing FLORIDA JUSTICE ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

Spoke

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

2-6-12

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Topic \_\_\_\_\_

Bill Number 808  
(if applicable)

Name Bob Harris

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address 2418 Columbia Place

Phone 222-0720

Tallahassee FL  
City State Zip

E-mail bharris@lawfla.com

Speaking: ☒ For ☐ Against ☐ Information

Representing PAEC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Spoke*

2/6/12

Meeting Date

Topic Public Use of School Facility

Bill Number 808  
(if applicable)

Name VERON PICKUP -  
VERON A. PICKUP - GAINES

Amendment Barcode 493638  
(if applicable)

Job Title Leg. Liaison

Address 571 Kingsbury Terrace  
Street

Phone 561-644-2439

Wellington FL 33414  
City State Zip

E-mail veron.pickup@flsen.com

Speaking: ☒ For ☐ Against ☒ Information

Representing Palm Beach School District

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

*Spoken*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 / 6 / 2012

Meeting Date

Topic \_\_\_\_\_

Bill Number 808  
(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727/897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Spoke*

6 Feb 12

Meeting Date

Topic School Premises Liability

Bill Number 808  
(if applicable)

Name James Mosteller

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Government Relations Director

Address 2851 Hemmington Green Circle  
Street Tallahassee FL 32308  
City State Zip

Phone 850/727-3712

E-mail James.Mosteller@heart.org

Speaking: ☒ For ☐ Against ☐ Information

Representing American Heart Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: CS/SB 874

INTRODUCER: Education Pre-K - 12 Committee and Senator Benacquisto

SUBJECT: Sick Leave for School District Employees

DATE: February 7, 2012

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR  | REFERENCE | ACTION        |
|----|---------|-----------------|-----------|---------------|
| 1. | Abrams  | deMarsh-Mathues | ED        | <b>Fav/CS</b> |
| 2. |         |                 | GO        |               |
| 3. |         |                 |           |               |
| 4. |         |                 |           |               |
| 5. |         |                 |           |               |
| 6. |         |                 |           |               |

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary**

The bill grants school districts the option of creating policies which permit district employees to donate their unused sick leave to a non-relative district employee. Recipients must have exhausted all of their own sick leave before using donated leave. Also, districts that implement these policies must require documentation from the physician of the person receiving the sick leave, establish a minimum number of sick leave days needed by the recipient before participating in the program, require unused transferred sick leave to be returned to the donating employee, and establish a minimum number of sick leave days a donating employee must retain after transferring sick leave days. Donated sick leave has no terminal value.

**II. Present Situation:**

Currently, a leave of absence is available to any member of the instructional staff<sup>1</sup> or any other employee of a school district who is employed on a full-time basis and is unable to perform his or her duties due to personal sickness, accident disability, or extended personal illness, or because of illness or death of their father, mother, brother, sister, husband, wife, child, other

<sup>1</sup> "Instructional staff" is not a defined term in s. 1012.61, F.S. Section 1012.01(2), F.S., does, however, define "instructional personnel," which includes employees such as classroom teachers, guidance counselors, librarians, and media specialists.

close relative, or member of their household and needs to be absent from work.<sup>2</sup> Instructional staff members, who are employed on a full-time basis, are entitled to four days of sick leave as of the first day of employment of each contract year, and one day of sick leave for each month of employment, which is credited to them at the end of the month.<sup>3</sup> All other employees must be credited with four sick days at the end of the first month of employment of each contract year and one day of sick leave for each month of employment thereafter.<sup>4</sup>

Each member of the instructional staff and all other employees are entitled to earn no more than one day of leave times the number of months of employment during the year of employment.<sup>5</sup> Sick leave is cumulative from year to year.<sup>6</sup> There is no limit on the number of sick leave days a member of the instructional staff or an educational support employee may accrue, except that at least one-half of this sick leave must be established within the school district granting the leave.<sup>7</sup>

School districts are authorized to adopt rules permitting annual payment for accumulated sick leave that is earned for that year and is unused at the end of the school year. This is based on the daily rate of pay of the employee, multiplied by up to 80 percent.<sup>8</sup> Days for which such payment is received are deducted from an employee's accumulated leave balance.<sup>9</sup> According to the Florida Department of Education, "[t]he extent to which districts have adopted an annual unused sick leave payout policy is not known."<sup>10</sup>

School districts are currently required to provide a policy that allows employees to donate sick leave to a spouse, child, parent, or sibling whom is also employed by the school district.<sup>11</sup> This policy must specify that the recipient may not use the donated sick leave until all of his or her sick leave has been depleted, excluding sick leave from a sick leave pool. Donated sick leave has no terminal value.<sup>12</sup> School districts may also allow employees to donate unused sick leave to a sick leave pool which other employees may use after they have exhausted their own sick leave.<sup>13</sup>

Currently, there is no mechanism for school districts to create policies providing for donation of sick leave to a particular individual who is not a relative. However, sick leave transfer among non-relatives is already an option for state agency employees.<sup>14</sup> The law requires the Department of Management Services to adopt rules governing the management of state employees.<sup>15</sup> In this

---

<sup>2</sup> s. 1012.61(1), F.S.

<sup>3</sup> s. 1012.61(2)(a)1., F.S.

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

<sup>5</sup> *Id.* The statute provides additional rules for terminal leave.

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

<sup>7</sup> *Id.* Educational support employees include those whose job functions are neither administrative nor instructional, but whose work supports the educational process, such as technicians, clerical workers, and skilled craft workers. See 1012.01(6), F.S. The statute does not specify the limitations on sick leave for other types of employees such as school officers or administrative personnel.

<sup>8</sup> s. 1012.61(2)(a)3., F.S.

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

<sup>10</sup> Florida Department of Education, 2012 Agency Bill Analysis of HB 285 (October 31, 2011). On file with the Senate Committee on Education Pre-K – 12.

<sup>11</sup> s. 1012.61(2)(e), F.S.

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

<sup>13</sup> s. 1012.61(3), F.S.

<sup>14</sup> Rule 60L-34.0042(5), F.A.C.

<sup>15</sup> s. 110.1055, F.S.

context, state employees include persons employed by state agencies such as the Public Defender and the Florida Public Service Commission.<sup>16</sup> The Department of Management Services provides for the establishment of a formal sick leave transfer program amongst employees of state agencies.<sup>17</sup>

While school districts are not considered a state agency,<sup>18</sup> the rule provides useful guidance for district policies. The rule specifies that an employee must maintain an 80 hour balance in his or her own sick leave account before donating any sick leave.<sup>19</sup> Additionally, the rule outlines the conditions required for the donation of sick leave, including that the employee receiving the leave has used all accrued sick and annual leave, suffered a documented illness which requires absence from the workplace for a minimum of five days, is not eligible for disability leave, and has not used more than 1040 hours of transferred sick leave credits in the preceding twelve month period.<sup>20</sup> Upon documented termination of the qualifying illness, unused transferred sick leave credit is returned to those employees whose donated credits have not been used.<sup>21</sup> Transferred sick leave has no terminal value.<sup>22</sup>

### III. Effect of Proposed Changes:

The bill authorizes, but does not require, districts to provide a policy which permits employees to donate their unused sick leave to a non-relative recipient. Recipients must have exhausted all of their own sick leave before using donated leave. Donated sick leave has no terminal value.

District school systems that choose to adopt these policies must:

- Require the recipient of sick leave days to provide documentation of the illness, accident, or injury from the treating physician;
- Establish a minimum number of sick leave days needed by the recipient to participate in the sick leave program;
- Require that any unused transferred sick leave be returned to the authorizing employee whose donated sick leave has not been used; and
- Establish a minimum number of sick leave days that an authorizing employee must retain.

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

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

---

<sup>16</sup> s. 216.011(1)(qq), F.S.

<sup>17</sup> Rule 60L-34.0042(5), F.A.C.

<sup>18</sup> s. 216.011(1)(qq), F.S.

<sup>19</sup> Rule 60L-34.0042(5), F.A.C.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill grants district employees options to donate their sick leave to other district employees. This may prevent a loss of income for district employees who have used up all their sick leave.

**C. Government Sector Impact:**

Currently, school districts are permitted to adopt policies which allow for up to 80 percent payout of unused sick leave at the end of each school year, as well as policies that allow for a terminal payout plan for accumulated sick leave.<sup>23</sup> Irrespective of a district's policy, depending on the pay rate of employees who participate in the transfer of leave, school districts may incur extra costs or save money. For example, assuming the district adopted the maximum 80 percent payout for unused sick leave at the end of each year, if the daily wage rate of the recipient is higher than 80 percent of the rate of pay of the employee who transferred the sick leave, the school district will incur additional costs. Similarly, if the recipient's daily rate of pay is less than 80 percent of the daily rate of pay of the employee who transferred the sick leave, the school district will save money. Variations in fiscal impact could also occur if a district has adopted policies regarding a terminal payout plan for accumulated sick leave. Because school districts are permitted to create their own policies, the specific fiscal effects are indeterminate.<sup>24</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>23</sup> s. 1012.61(2)(a)3 and 4., F.S.

<sup>24</sup> Florida Department of Education, 2012 Agency Bill Analysis of HB 285 (October 31, 2011). On file with the Senate Committee on Education Pre-K – 12.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education Pre-K - 12 Committee on February 6, 2012:**

The committee substitute provides that district school board policies which permit district employees to donate their unused sick leave to a non-relative district employee must:

- Require documentation from the treating physician;
- Establish a minimum number of sick leave days needed to participate in the program;
- Require that unused transferred sick leave be returned to the donor employee; and
- Establish a minimum number of sick leave days that an authorizing employee must retain.

- B. **Amendments:**

None.



334684

LEGISLATIVE ACTION

|            |   |       |
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| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/07/2012 | . |       |
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The Committee on Education Pre-K - 12 (Benacquisto) recommended the following:

**Senate Amendment (with title amendment)**

Delete line 22  
and insert:  
use sick leave that has accrued to the authorizing employee. The district policy must:

a. Require that the recipient provide documentation, by the treating physician, of the illness, accident, or injury for which leave is otherwise authorized under subsection (1).

b. Establish a minimum number of sick leave days needed by the recipient to participate in the sick leave program.

c. Require that any unused transferred sick leave be



334684

returned to the authorizing employee whose donated sick leave  
has not yet been used.

d. Establish the minimum number of sick leave days an  
authorizing employee must retain.

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

And the title is amended as follows:

Delete line 6

and insert:

employee; providing standards for a sick leave  
transfer policy; providing an effective date.



By Senator Benacquisto

27-00598-12

2012874\_\_

1 A bill to be entitled  
2 An act relating to sick leave for school district  
3 employees; amending s. 1012.61, F.S.; authorizing each  
4 district school system to provide a policy allowing  
5 the donation of accrued sick leave to any district  
6 employee; providing an effective date.  
7  
8 Be It Enacted by the Legislature of the State of Florida:  
9  
10 Section 1. Paragraph (e) of subsection (2) of section  
11 1012.61, Florida Statutes, is amended to read:  
12 1012.61 Sick leave.—  
13 (2) PROVISIONS GOVERNING SICK LEAVE.—The following  
14 provisions shall govern sick leave:  
15 (e) *Use by family member or other district employee.*—  
16 1. Each district school system must provide a policy under  
17 which a district employee may authorize his or her spouse,  
18 child, parent, or sibling who is also a district employee to use  
19 sick leave that has accrued to the authorizing employee.  
20 2. Each district school system may provide a policy under  
21 which a district employee may authorize any district employee to  
22 use sick leave that has accrued to the authorizing employee.  
23  
24 In developing the policy, the district school board must provide  
25 that the recipient may not use the donated sick leave until all  
26 of his or her sick leave has been depleted, excluding sick leave  
27 from a sick leave pool, if the recipient participates in a sick  
28 leave pool. Donated sick leave under this paragraph shall have  
29 no terminal value as provided in this subsection.

Page 1 of 2

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

27-00598-12

2012874\_\_

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

Page 2 of 2

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Waive*

2 / 6 / 2012

Meeting Date

Topic \_\_\_\_\_

Bill Number 874  
(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH  
Street

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705  
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

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BILL: CS/SB 1402

INTRODUCER: Education Pre-K - 12 Committee and Senator Gardiner

SUBJECT: Virtual Education

DATE: February 6, 2012

REVISED: \_\_\_\_\_

| ANALYST     | STAFF DIRECTOR  | REFERENCE | ACTION        |
|-------------|-----------------|-----------|---------------|
| 1. Carrouth | deMarsh-Mathues | ED        | <b>Fav/CS</b> |
| 2. _____    | _____           | BC        | _____         |
| 3. _____    | _____           | _____     | _____         |
| 4. _____    | _____           | _____     | _____         |
| 5. _____    | _____           | _____     | _____         |
| 6. _____    | _____           | _____     | _____         |

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary:**

The bill revises provisions relating to virtual education access for all K-12 students. The bill:

- Authorizes the Florida Virtual School (FLVS) to provide full-time and part-time instruction for students in grades K-12.
- Specifies that the FLVS's full-time program shall be considered a district school board pertaining to specific statutes;
- Limits the combined total of Full Time Equivalent (FTE) reported by FLVS and the school district to 1.0 FTE for full-time students in grades K-12 and part-time students in grades K-5;
- Deletes the provision that the district of residence report the funding of students who enroll in another district's virtual instruction program;
- Phases in additional grade levels for which students are eligible to participate in virtual instruction programs without meeting the prior school-year enrollment requirements;

- Authorizes funding for exceptional student education (ESE), English for Speakers of Other Languages (ESOL), and other weighted programs for students in a full-time FLVS or district virtual program, and a virtual charter school; and
- Provides standards for participation in interscholastic and intrascholastic extracurricular activities by students in a full-time FLVS or district program, and virtual charter schools.

This bill substantially amends sections 1002.20, 1002.321, 1002.37, 1002.45, 1002.455, 1003.428, 1003.498, 1003.57, 1006.15, 1011.61, and 1011.62 of the Florida Statutes.

## II. Present Situation:

Beginning with the 2009-2010 school year, each school district was required to establish its own virtual instruction program (VIP).<sup>1</sup> In 2011, the Legislature revised the program requirements<sup>2</sup> to establish that each school district be permitted to contract with the FLVS or one or more virtual instruction providers approved by the DOE; establish an FLVS franchise; or participate in multi-district agreements to provide virtual instruction services. In addition, districts may operate their own VIP program and may contract with the providers specified in law or other entities to provide segments of their program.<sup>3</sup> Multidistrict agreements may be executed by regional consortiums on behalf of their member districts.<sup>4</sup> Additionally, a charter school may enter into a joint agreement with the school district in which it is located to have its students participate in the VIP program. Each school district must offer:

- A full-time virtual instruction program for students in kindergarten through grade 12;
- Part-time virtual instruction for students enrolled in grade 9 through 12 courses that are measured by an evaluation method developed by the Department of Education (DOE); and
- A full-time or part-time virtual instruction program for students enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or Florida College System institutions offering a school district virtual instruction program.

Each provider under contract with a school district virtual instruction program (VIP) must participate in the statewide assessment program and the state's education performance accountability system.<sup>5</sup> Each provider receives a school grade or school improvement rating, which is based upon the aggregated assessment scores of all students served by the provider statewide.<sup>6</sup>

### *Provider Qualifications*

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<sup>1</sup>ch. 2008-147, L.O.F.

<sup>2</sup> ch. 2011-137, L.O.F., codified in s. 1002.45(1), F.S.

<sup>3</sup> See DOE, *School District Virtual Instruction Program (2011-2012) Questions and Answers #9*, available at: <http://www.fldoe.org/schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>.

<sup>4</sup> s. 1002.45(1)(c), F.S.

<sup>5</sup> s. 1002.45(8), F.S.

<sup>6</sup> *Id.* School grades or school improvement ratings are published on the DOE website. If a provider receives a school grade of "D" or "F" or a school improvement rating of "Declining," the provider must file with the DOE a school improvement plan for correcting low performance. The school improvement plan must identify causes of the low performance and propose a plan for improvement. If a provider receives a school grade of "D" or "F" for any two years during a four-year period, the provider's contract must be terminated and the provider cannot be approved for at least one year.

Qualifications required of providers for approval include submission of a detailed curriculum and a student performance accountability plan for each subject and grade level they intend to provide. The plan must show that courses and programs meet national standards and that instructional content and services align with and measure proficiency using state standards and mechanisms to ensure a student has satisfied requirements for promotion and graduation. In addition, the application requires documentation related to financial solvency, technology, and technical support.<sup>7</sup>

#### *Enrollment Reporting*

Currently, the district of residence is required to report funding for a student who enrolls in another district's VIP program and to transfer funding received to the district of instruction.

#### *Student Eligibility for Enrollment in K-12 Virtual Education*

To be eligible for K-12 virtual instruction, students must meet one of the following criteria:

- The student spent the prior school year in attendance at a public school in the state and was enrolled and reported by the school district for funding during October and February for the purposes of the Florida Education Finance Program (FEFP);
- The student is a dependent child of a member of the United States Armed Forces who was transferred within the last 12 months to this state pursuant to a permanent change of station order;
- The student was enrolled during the prior school year in a virtual instruction program, K-8 Virtual School Program, or the FLVS full-time program;
- The student has a sibling who was enrolled at the end of the prior school year and is currently enrolled in a virtual instruction program; or
- The student is eligible to enter kindergarten or first grade.

#### *Participation in Interscholastic Activities*

Current law provides standards for eligibility of home education and charter school students to participate in interscholastic and intrascholastic extracurricular activities.<sup>8</sup> Although these statutes provide general authority for students participating in various school choice options to participate in extracurricular activities in their district of residence, they do not provide specific language for FLVS full-time students and virtual students.<sup>9</sup> In September, 2011, the Florida High School Activities Association Board of Directors<sup>10</sup> included provisions to facilitate FLVS full-time students' participation in extracurricular activities in their district of residence.<sup>11</sup>

#### *District VIP Programs*

District-operated VIP programs are currently authorized to provide the following:

- Full-time virtual instruction for students in grades K-12;

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<sup>7</sup> s. 1002.45(2), F.S.

<sup>8</sup> s. 1002.20(18)(a), F.S., provides that students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities.

<sup>9</sup> Full-time FLVS students enroll directly with the FLVS at the state level and are not enrolled in a district school.

<sup>10</sup> The Florida High School Athletic Association is the governing body for high school athletics in Florida. See [www.fhsaa.org](http://www.fhsaa.org).

<sup>11</sup> The Board of Directors adopted Policy 16.3.5 on September 26, 2011. See <http://www.fhsaa.org/news/2011/0926>.

- Part-time instruction for students in grades 9-12 courses, measured by learning gains, end-of-course assessments or Advanced Placement exams; and
- Full-time or part-time virtual instruction for students enrolled in dropout prevention, academic intervention, Department of Juvenile Justice (DJJ) programs, core courses to meet class size requirements, or in Florida College System courses.

### *FLVS*

The FLVS is currently governed by a board of trustees appointed by the Governor. The Board is designated as a public agency.<sup>12</sup>

The FLVS currently offers part-time virtual education to students in grades 4-12 and full-time virtual education to students in grades K-12. Public, private, and home education students in grades 6-12 may take individual online courses from FLVS to supplement their education. Also, to encourage academic acceleration and course recovery for struggling students, current law allows for students to take online courses through the FLVS's part-time program beyond the school day and during the summer. Additionally, academically advanced fourth and fifth grade public school students may take online middle school courses from FLVS; however, these students may not earn more than 1.0 FTE for district and FLVS courses combined.<sup>13</sup>

District virtual programs and the FLVS currently provide the entire educational program for their full-time students. The district virtual programs and the FLVS are able to serve ESE students for whom the virtual learning environment is appropriate. At present, the FLVS receives no state or federal funding for its ESE students or the services they provide to ESE students.<sup>14</sup>

### **III. Effect of Proposed Changes:**

The bill allows for a full-time FLVS, VIP, and virtual charter school student to participate in extracurricular activities at the district public school to which the student would be assigned or could choose to attend if he or she meets specific conduct and academic requirements.

The bill establishes that the FLVS full-time program would be considered a district school board as it pertains to the following statutes:

- Section 1001.52, F.S., relating to the reproduction and destruction of district school records;
- Section 1003.22, F.S., relating to school-entry health examinations;
- Section 1003.26, F.S., relating to the enforcement of school attendance;
- Section 1003.33, F.S., relating to report cards;
- Section 1003.4156, F.S., relating to requirements for middle grades promotion;
- Section 1003.42, relating to required instruction;
- Sections 1003.428 and 1003.43, F.S., relating to the general requirements for high school

<sup>12</sup> s. 1002.37, F.S.

<sup>13</sup> FLVS's full-time program began operation in August 2011, and enrolled over 2,700 grades K-12 public school students in its first semester of operation. Full-time students in this school may not earn more than 1.0 FTE. DOE Bill Analysis, January 21, 2012. On file with the Senate Committee on Education Pre-K – 12.

<sup>14</sup> The FLVS is not included in the funding model for ESE programs and is not authorized to report FTE for ESOL programs. Approximately 140 FLVS full-time public school students have individual education plans. DOE Bill Analysis, January 21, 2012. On file with the Senate Committee on Education Pre-K – 12.

- graduation;
- Section 1003.49, F.S., relating to graduation and promotion requirements for publicly operated schools;
- Section 1003.54, F.S., relating to teenage parent programs;
- Section 1003.56, F.S., relating to English language instruction for limited English proficient students;
- Section 1003.571, F.S., relating to instruction for exceptional students who have a disability;
- Section 1006.025, F.S., relating to guidance services;
- Section 1006.07, F.S., relating to student discipline and school safety;
- Section 1007.271, F.S., relating to dual enrollment programs;
- Section 1008.25, F.S., relating to student progression, remedial instruction, and reporting requirements; and
- Section 1008.30, F.S., relating to common placement testing for public postsecondary education, except that school districts are required to administer any statewide test required, pursuant to 1008.30(9)(c), F.S.

These provisions do not limit or eliminate any other obligation imposed upon the FLVS by law.

Under the bill, the FLVS would be able to provide part-time instruction for students in grades K-3, in addition to the current provisions for providing instruction for students in grades 4-5. Additionally, students in grades 4-5 would no longer be restricted to taking only middle school courses.

The funding for students in grades K-12 receiving full-time instruction or students receiving part-time instruction in grades K-5 from FLVS would be limited to no more than 1.0 FTE. This provision will not prohibit public school students in grades 6-12 from enrolling in individual online courses from the FLVS supplemental program in order to accelerate academically or to recover coursework required for promotion.

The bill expands the district VIP program to include part-time instruction in grades K-12. In addition, the bill deletes the provision that the district of residence report students who enroll in another district's virtual instruction program for funding. According to the DOE, this would allow the department to prescribe that the district of instruction report these students, thus eliminating the student confidentiality and other database reporting issues encountered if the district of residence does the reporting.<sup>15</sup> The funding would remain the same for the student.<sup>16</sup>

According to the following schedule, the bill phases-in access to virtual instruction for additional grade levels for students who would no longer have to meet other eligibility criteria:<sup>17</sup>

- In 2012-13, expanding from kindergarten through grade1 to include students in grades 2-5;
- In 2013-14, adding students in grades 6-8; and
- In 2014-15, adding students in grades 9-12.

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<sup>15</sup> DOE Bill Analysis, January 21, 2012. On file with the Senate Committee on Education Pre-K – 12.

<sup>16</sup> *Id.*

<sup>17</sup> s. 1002.455, F.S. establishes student eligibility requirements based upon prior school year enrollment status.

Under these provisions, students taking individual online courses offered by the district would no longer be required to meet the prior school year eligibility requirements.<sup>18</sup>

The expansion of eligibility for students in grades 2-5 would provide access to FLVS and FLVS district franchises by all students at all grade levels. According to the DOE, other virtual options would remain accessible for students in grades K-5, but would mainly be limited to public school students in grades 6-12.<sup>19</sup>

Additional provisions included in the bill would:

- Specify that the online course currently required for purposes of high school graduation would not apply to a student whose individual education plan indicates that an online course is not appropriate or for a student enrolled in a Florida high school for one academic year or less.
- Specify that a student whose individual education plan indicates that a full-time virtual education program is inappropriate may not be enrolled in Florida Virtual School's full-time program.
- Revise provider qualifications for approval to include an annual audit conducted by an independent certified public accountant pursuant to rules adopted by the Auditor General.

Additionally, the bill would prohibit a school district from requiring a student to take the online course outside of the school day. This provision may eliminate opportunities for advanced students to accelerate academically and for struggling students to recover coursework needed for promotion.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

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<sup>18</sup> s. 1003.498(2), F.S. establishes that school districts may offer virtual courses for students enrolled in the school district.

<sup>19</sup> *Id.*



**B. Private Sector Impact:**

According to the DOE, the bill would limit funding for full-time FLVS students and those enrolled in the new part-time elementary program. It is not known how many students reported as 1.0 FTE at the district level are also being reported by the FLVS for additional FTE.

**C. Government Sector Impact:**

According to the DOE, expanding student eligibility to participate in virtual instruction programs would have a fiscal impact, due to the increased number of eligible home-education students, private school students, and out-of-state students. The bill provides for the phasing-in of students by grade levels over the next three years.

Provisions for removing student eligibility requirements for individual online courses offered by the district may also have a fiscal impact. In addition, students from other districts may take these courses if not offered by their own school districts. According to the DOE, over 700 students enrolled in these individual online courses offered by school districts for fiscal year 2011-12.<sup>20</sup> The fiscal impact is indeterminate at this time.

The bill allows for funding of all FEFP programs (Basic, ESE, Career Education, and ESOL) for students in grades K-12 enrolled full-time in the FLVS.<sup>21</sup> Additionally, K-12 students enrolled full-time in district VIP programs and virtual charter schools would be eligible for more heavily weighted funding.

Services for students who require a low to moderate level of special education services are funded through the ESE Student Guaranteed Allocation. The 2011-12 ESE Student Guaranteed Allocation state average per student funding is \$2,084. This is in addition to the \$4,829 average funding per student the FLVS receives for providing services for a basic student in 2011-12. The number of students with disabilities that would be served by the FLVS and funded through the ESE Student Guaranteed Allocation is not known and therefore the fiscal impact is indeterminate.

Students with disabilities who require a significant level of services receive a higher student allocation. Based on 2011-12 funding levels, funding for these programs offered by the FLVS is estimated at between \$13,600 and \$18,700 (including basic allocation), depending upon the level of services needed.<sup>22</sup> According to the DOE, it is unlikely that the services required by these students could be provided through a virtual delivery system.<sup>23</sup>

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<sup>20</sup> DOE Bill Analysis, January 21, 2012. On file with the Senate Committee on Education Pre-K – 12.

<sup>21</sup> In 2011-12, a student enrolled in an ESOL program earns approximately \$265 in additional FEFP funds. DOE Bill Analysis, January 21, 2012. On file with the Senate Committee on Education Pre-K – 12.

<sup>22</sup> DOE Bill Analysis, January 21, 2012. On file with the Senate Committee on Education Pre-K – 12.

<sup>23</sup> *Id.*

**VI. Technical Deficiencies:**

Current law requires the DOE to develop an evaluation methodology for part-time virtual instruction providers based on the FCAT learning gains, end-of-course (EOC) results, and Advanced Placement (AP) exam performance results.<sup>24</sup> The bill expands the current part-time VIP program for students in grades 9-12 to include students in kindergarten through grade eight. The language in the bill specifies that courses for kindergarten through grade 2 are required to have the same outcome measures as the courses for students in grades 9-12. The FCAT and end-of-course assessments are not administered to students in kindergarten through grade 2. Additionally, many courses in the other grades are not measured by the FCAT, EOCs, or AP exams. According to the DOE, the intent of the bill may need to be clarified to specify which outcome measures will apply to part-time providers of virtual instruction for students in kindergarten through grade 2 and for courses that are not measured by the FCAT, EOCs, or AP exams.<sup>25</sup>

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by the Committee on Education Pre-K – 12 on February 6, 2012:**

The committee substitute:

- Removes language that would have required the SBE to enforce compliance with laws and rules by FLVS;
- Adds language to establish that the FLVS full-time program shall be considered a district school board as it pertains to specific statutes,<sup>26</sup> such as:
  - Section 1003.26, F.S., relating to the enforcement of school attendance;
  - Section 1003.4156, F.S., relating to requirements for middle grades promotion;
  - Sections 1003.428 and 1003.43, F.S., relating to the general requirements for high school graduation;
  - Section 1003.56, F.S., relating to English language instruction for limited English proficient students;
  - Section 1003.571, F.S., relating to instruction for exceptional students who have a disability;
  - Section 1008.25, F.S., relating to student progression, remedial instruction, and reporting requirements; and
  - Section 1008.30, F.S., relating to common placement testing for public postsecondary education.

<sup>24</sup> s. 1002.45(8), F.S.

<sup>25</sup> Because the bill still includes reference to these outcome measures, the DOE notes that it is unclear as to whether these other courses are to be included in the evaluation methodology and, if so, how. DOE Bill Analysis, January 21, 2012. On file with the Senate Committee on Education Pre-K – 12.

<sup>26</sup> These provisions do not limit or eliminate any other obligation imposed upon the Florida Virtual School by law.

- Establishes integrity of online courses, prohibiting anyone from taking an online course or examination on behalf of another individual and provides that such conduct constitutes a first degree misdemeanor;
- Requires part-time K-5 FLVS students to meet one of the currently prescribed eligibility requirements;
- Allows for part-time 6-12 FLVS students to earn above the 1.0 FTE;
- Allows for weighted funding (including ESE, ESOL, and Career-Technical) for all full-time virtual students;
- Requires that FLVS students take any required EOC assessments at the school site where they would normally be enrolled;
- Restores current law pertaining to the sparsity supplement for smaller districts that are only held to providing one virtual option for their students;
- Deletes the requirement for a virtual provider to have an independent review of its curriculum;
- Requires providers to have a financial audit conducted in accordance with rules adopted by the Auditor General;
- Establishes parity with respect to eligibility for participation in extracurricular activities for:
  - Students who transfer from the FLVS and enroll in a public school; and
  - Students who are ineligible to participate due to grades or conduct and who transfer from a public or private school to the FLVS;
- Provides for adjustment of FTE, beginning in 2014-15, for students who do not pass required EOC assessments;
- Specifies that the funding, performance, and accountability requirements for blended learning courses are the same as traditional courses; and
- Phases out the eligibility requirements for virtual instruction programs, making virtual options available to all students by the 2014-2015 school year.

**B. Amendments:**

None.



161362

LEGISLATIVE ACTION

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|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/08/2012 | . |       |
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The Committee on Education Pre-K - 12 (Bogdanoff) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Present paragraph (d) of subsection (18) of section 1002.20, Florida Statutes, is redesignated as paragraph (e), and a new paragraph (d) is added to that subsection, to read:

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



161362

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

(18) EXTRACURRICULAR ACTIVITIES.—In accordance with the provisions of s. 1006.15:

(d) Florida Virtual School full-time students.—Florida Virtual School full-time students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies.

Section 2. Paragraph (e) of subsection (4) of section 1002.321, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

1002.321 Digital learning.—

(4) CUSTOMIZED AND ACCELERATED LEARNING.—A school district must establish multiple opportunities for student participation in part-time and full-time kindergarten through grade 12 virtual instruction. Options include, but are not limited to:

(e) Courses delivered in the traditional school setting by personnel providing direct instruction through ~~a~~ virtual instruction environment or through ~~though a~~ blended learning courses consisting of both traditional classroom and online instructional techniques ~~virtual and physical environment~~ pursuant to s. 1003.498.

(5) INTEGRITY OF ONLINE COURSES.—It is unlawful for any person to knowingly and willfully take an online course or examination on behalf of another person. Any person who violates this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.



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Section 3. Section 1002.37, Florida Statutes, is amended,  
to read:

1002.37 The Florida Virtual School.—

(1)(a) The Florida Virtual School is established for the development and delivery of online and distance learning education. The Commissioner of Education shall monitor the school's performance and report its performance to the State Board of Education and the Legislature.

(b) The mission of the Florida Virtual School is to provide students with technology-based educational opportunities to gain the knowledge and skills necessary to succeed. The school shall serve any student in the state who meets the profile for success in this educational delivery context and shall give priority to:

1. Students who need expanded access to courses in order to meet their educational goals, such as home education students and students in inner-city and rural high schools who do not have access to higher-level courses.

2. Students seeking accelerated access in order to obtain a high school diploma at least one semester early.

(c) To ensure students are informed of the opportunities offered by the Florida Virtual School, the commissioner shall provide the board of trustees of the Florida Virtual School access to the records of public school students in a format prescribed by the board of trustees.

The board of trustees of the Florida Virtual School shall identify appropriate performance measures and standards based on student achievement that reflect the school's statutory mission and priorities, and shall implement an accountability system for



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the school that includes assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access.

(2) The Florida Virtual School shall be governed by a board of trustees comprised of seven members appointed by the Governor to 4-year staggered terms. The board of trustees shall be a public agency entitled to sovereign immunity pursuant to s. 768.28, and board members shall be public officers who shall bear fiduciary responsibility for the Florida Virtual School. The board of trustees shall have the following powers and duties:

(a)1. The board of trustees shall meet at least 4 times each year, upon the call of the chair, or at the request of a majority of the membership.

2. The fiscal year for the Florida Virtual School shall be the state fiscal year as provided in s. 216.011(1)(o).

(b) The board of trustees shall be responsible for the Florida Virtual School's development of a state-of-the-art technology-based education delivery system that is cost-effective, educationally sound, marketable, and capable of sustaining a self-sufficient delivery system through the Florida Education Finance Program.

(c) The board of trustees shall aggressively seek avenues to generate revenue to support its future endeavors, and shall enter into agreements with distance learning providers. The board of trustees may acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein. Ownership of all such patents, copyrights, trademarks, licenses, and rights or



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interests thereunder or therein shall vest in the state, with the board of trustees having full right of use and full right to retain the revenues derived therefrom. Any funds realized from patents, copyrights, trademarks, or licenses shall be considered internal funds as provided in s. 1011.07. Such funds shall be used to support the school's marketing and research and development activities in order to improve courseware and services to its students.

(d) The board of trustees shall be responsible for the administration and control of all local school funds derived from all activities or sources and shall prescribe the principles and procedures to be followed in administering these funds.

(e) The Florida Virtual School may accrue supplemental revenue from supplemental support organizations, which include, but are not limited to, alumni associations, foundations, parent-teacher associations, and booster associations. The governing body of each supplemental support organization shall recommend the expenditure of moneys collected by the organization for the benefit of the school. Such expenditures shall be contingent upon the review of the executive director. The executive director may override any proposed expenditure of the organization that would violate Florida law or breach sound educational management.

(f) In accordance with law and rules of the State Board of Education, the board of trustees shall administer and maintain personnel programs for all employees of the board of trustees and the Florida Virtual School. The board of trustees may adopt rules, policies, and procedures related to the appointment,





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employment, and removal of personnel.

1. The board of trustees shall determine the compensation, including salaries and fringe benefits, and other conditions of employment for such personnel.

2. The board of trustees may establish and maintain a personnel loan or exchange program by which persons employed by the board of trustees for the Florida Virtual School as academic administrative and instructional staff may be loaned to, or exchanged with persons employed in like capacities by, public agencies either within or without this state, or by private industry. With respect to public agency employees, the program authorized by this subparagraph shall be consistent with the requirements of part II of chapter 112. The salary and benefits of board of trustees personnel participating in the loan or exchange program shall be continued during the period of time they participate in a loan or exchange program, and such personnel shall be deemed to have no break in creditable or continuous service or employment during such time. The salary and benefits of persons participating in the personnel loan or exchange program who are employed by public agencies or private industry shall be paid by the originating employers of those participants, and such personnel shall be deemed to have no break in creditable or continuous service or employment during such time.

3. The employment of all Florida Virtual School academic administrative and instructional personnel shall be subject to rejection for cause by the board of trustees, and shall be subject to policies of the board of trustees relative to certification, tenure, leaves of absence, sabbaticals,



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remuneration, and such other conditions of employment as the board of trustees deems necessary and proper, not inconsistent with law.

4. Each person employed by the board of trustees in an academic administrative or instructional capacity with the Florida Virtual School shall be entitled to a contract as provided by rules of the board of trustees.

5. All employees except temporary, seasonal, and student employees may be state employees for the purpose of being eligible to participate in the Florida Retirement System and receive benefits. The classification and pay plan, including terminal leave and other benefits, and any amendments thereto, shall be subject to review and approval by the Department of Management Services and the Executive Office of the Governor prior to adoption.

(g) The board of trustees shall establish priorities for admission of students in accordance with paragraph (1)(b).

(h) The board of trustees shall establish and distribute to all school districts and high schools in the state procedures for enrollment of students in courses offered by the Florida Virtual School.

(i) The board of trustees shall establish criteria defining the elements of an approved franchise. The board of trustees may enter into franchise agreements with Florida district school boards and may establish the terms and conditions governing such agreements. The board of trustees shall establish the performance and accountability measures and report the performance of each school district franchise to the Commissioner of Education.



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(j) The board of trustees shall submit to the State Board of Education both forecasted and actual enrollments and credit completions for the Florida Virtual School, according to procedures established by the State Board of Education. At a minimum, such procedures must include the number of public, private, and home education students served by program and by county of residence.

(k) The board of trustees shall provide for the content and custody of student and employee personnel records. Student records shall be subject to the provisions of s. 1002.22. Employee records shall be subject to the provisions of s. 1012.31.

(l) The financial records and accounts of the Florida Virtual School shall be maintained under the direction of the board of trustees and under rules adopted by the State Board of Education for the uniform system of financial records and accounts for the schools of the state.

The Governor shall designate the initial chair of the board of trustees to serve a term of 4 years. Members of the board of trustees shall serve without compensation, but may be reimbursed for per diem and travel expenses pursuant to s. 112.061. The board of trustees shall be a body corporate with all the powers of a body corporate and such authority as is needed for the proper operation and improvement of the Florida Virtual School. The board of trustees is specifically authorized to adopt rules, policies, and procedures, consistent with law and rules of the State Board of Education related to governance, personnel, budget and finance, administration, programs, curriculum and



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instruction, travel and purchasing, technology, students, contracts and grants, and property as necessary for optimal, efficient operation of the Florida Virtual School. Tangible personal property owned by the board of trustees shall be subject to the provisions of chapter 273.

(3) Funding for the Florida Virtual School shall be provided as follows:

(a)1. For a student in grades 9 through 12, a "full-time equivalent student" is one student who has successfully completed six full-credit courses that count toward the minimum number of credits required for high school graduation. A student who completes fewer than six full-credit courses is a fraction of a full-time equivalent student. Half-credit course completions shall be included in determining a full-time equivalent student. Credit completed by a student in excess of the minimum required for that student for high school graduation is not eligible for funding.

2. For a student in kindergarten through grade 8, a "full-time equivalent student" is one student who has successfully completed six courses or the prescribed level of content that counts toward promotion to the next grade. A student who completes fewer than six courses or the prescribed level of content shall be a fraction of a full-time equivalent student.

3. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment. However, no adjustment shall be made for home



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education program students who choose not to take an end-of-course assessment.

For purposes of this paragraph, the calculation of "full-time equivalent student" shall be as prescribed in s. 1011.61(1)(c)1.b.(V).

(b) Full-time equivalent student credit completed through the Florida Virtual School, including credits completed during the summer, shall be reported to the Department of Education in the manner prescribed by the department and shall be funded through the Florida Education Finance Program.

(c) School districts may not limit student access to courses offered through the Florida Virtual School.

(d) Full-time equivalent student credit completion for courses offered through the Florida Virtual School shall be reported only by the Florida Virtual School. School districts shall report full-time equivalent student membership only for courses for which the district provides the instruction.

(e) The district cost differential as provided in s. 1011.62(2) shall be established as 1.000.

(f) The Florida Virtual School shall receive funds for operating purposes in an amount determined as follows: multiply the maximum allowable nonvoted discretionary millage for operations pursuant to s. 1011.71(1) and (3) by the value of 96 percent of the current year's taxable value for school purposes for the state; divide the result by the total full-time equivalent membership of the state; and multiply the result by the full-time equivalent membership of the school. The amount thus obtained shall be discretionary operating funds and shall



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be appropriated from state funds in the General Appropriations Act.

(g) The Florida Virtual School shall receive additional state funds as may be provided in the General Appropriations Act; however, such funds may not be provided for the purpose of fulfilling the class size requirements in ss. 1003.03 and 1011.685.

(h) In addition to the funds provided in the General Appropriations Act, the Florida Virtual School may receive other funds from grants and donations.

(4) School districts operating a virtual school that is an approved franchise of the Florida Virtual School may count full-time equivalent students, as provided in paragraph (3)(a), if such school has been certified as an approved franchise by the Commissioner of Education based on criteria established by the board of trustees pursuant to paragraph (2)(i).

(5) Under no circumstance may the credit of the state be pledged on behalf of the Florida Virtual School.

(6) The board of trustees shall annually submit to the Governor, the Legislature, the Commissioner of Education, and the State Board of Education a complete and detailed report setting forth:

(a) The operations and accomplishments of the Florida Virtual School.

(b) The marketing and operational plan for the Florida Virtual School, including recommendations regarding methods for improving the delivery of education through the Internet and other distance learning technology.

(c) The assets and liabilities of the Florida Virtual



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School at the end of the fiscal year.

(d) A copy of an annual financial audit of the accounts and records of the Florida Virtual School, conducted by an independent certified public accountant and performed in accordance with rules adopted by the Auditor General.

(e) Recommendations regarding the unit cost of providing services to students. In order to most effectively develop public policy regarding any future funding of the Florida Virtual School, it is imperative that the cost of the program is accurately identified. The identified cost of the program must be based on reliable data.

(f) Recommendations regarding an accountability mechanism to assess the effectiveness of the services provided by the Florida Virtual School.

(7) The State Board of Education may adopt rules it deems necessary to implement reporting requirements for the Florida Virtual School.

(8)(a) The Florida Virtual School may provide full-time and part-time instruction for students in kindergarten through grade 12 ~~and part-time instruction for students in grades 4 through 12~~. To receive part-time instruction in kindergarten through grade 5 ~~full-time instruction in grades 2 through 5~~, a student must meet at least one of the eligibility criteria in s. 1002.455(2). ~~Part-time instruction for grades 4 and 5 may be provided only to public school students taking grade 6 through grade 8 courses.~~

(b) For students receiving part-time instruction in kindergarten through grade ~~grades 4 and 5~~ and students receiving full-time instruction in kindergarten through grade 12 from the



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Florida Virtual School, the combined total of all FTE reported by both the school district and the Florida Virtual School may not exceed 1.0 FTE.

~~(9) Each elementary school principal must notify the parent of each student who scores at Level 4 or Level 5 on FCAT Reading or FCAT Mathematics of the option for the student to take accelerated courses through the Florida Virtual School.~~

~~(9)~~ (10) (a) Public school students receiving full-time instruction in kindergarten through grade 12 by the Florida Virtual School must take all statewide assessments required pursuant to s. 1008.22.

(b) Public school students receiving part-time instruction by the Florida Virtual School in courses requiring statewide end-of-course assessments must take all statewide end-of-course assessments required pursuant to s. 1008.22(3)(c)2.

(c) All statewide assessments must be taken at the school to which the student would be assigned according to district school board attendance area policies ~~within the school district in which the student resides~~. A school district must provide the student with access to the school's ~~district's~~ testing facilities.

~~(10)~~ (11) The Florida Virtual School shall receive a school grade pursuant to s. 1008.34 for students receiving full-time instruction.

(11) The Florida Virtual School is subject to, with respect to its full-time program, and shall be considered a district school board within the context of the following statutes:

(a) Section 1001.52, relating to the reproduction and destruction of district school records;





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(b) Section 1003.22, relating to school-entry health examinations;  
(c) Section 1003.26, relating to the enforcement of school attendance;  
(d) Section 1003.33, relating to report cards;  
(e) Section 1003.4156, relating to requirements for middle grades promotion;  
(f) Section 1003.42, relating to required instruction;  
(g) Sections 1003.428 and 1003.43, relating to the general requirements for high school graduation;  
(h) Section 1003.49, relating to graduation and promotion requirements for publicly operated schools;  
(i) Section 1003.54, relating to teenage parent programs;  
(j) Section 1003.56, relating to English language instruction for limited English proficient students;  
(k) Section 1003.571, relating to instruction for exceptional students who have a disability;  
(l) Section 1006.025, relating to guidance services;  
(m) Section 1006.07, relating to student discipline and school safety;  
(n) Section 1007.271, relating to dual enrollment programs;  
(o) Section 1008.25, relating to student progression, remedial instruction, and reporting requirements; and  
(p) Section 1008.30, relating to common placement testing for public postsecondary education, except that school districts are required to administer any statewide test required, pursuant to paragraph (9) (c) .

This subsection does not limit or eliminate any other obligation



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imposed upon the Florida Virtual School by law.

Section 4. Paragraph (b) of subsection (1), paragraph (a) of subsection (2), and paragraphs (c) and (f) of subsection (7) of section 1002.45, Florida Statutes, are amended to read:

1002.45 Virtual instruction programs.—

(1) PROGRAM.—

(b) Each school district that is eligible for the sparsity supplement pursuant to s. 1011.62(7)(a) and (b) ~~1011.62(7)~~ shall provide all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs. Each school district that is not eligible for the sparsity supplement pursuant to s.

1011.62(7)(a) and (b) shall provide at least three options for part-time and full-time virtual instruction. All school districts must provide parents with timely written notification of at least one ~~an~~ open enrollment period for full-time students of ~~at least~~ 90 days or more which ~~that~~ ends ~~no later than~~ 30 days before ~~prior to~~ the first day of the school year. The purpose of the program is to make quality virtual instruction available to students using online and distance learning technology in the nontraditional classroom. A school district virtual instruction program shall consist of ~~provide~~ the following:

1. Full-time virtual instruction for students enrolled in kindergarten through grade 12.

2. Part-time virtual instruction for students enrolled in kindergarten ~~grades 9~~ through grade 12 courses that are measured pursuant to subparagraph (8)(a)2.

3. Full-time or part-time virtual instruction for students



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enrolled in dropout prevention and academic intervention programs under s. 1003.53, Department of Juvenile Justice education programs under s. 1003.52, core-curricula courses to meet class size requirements under s. 1003.03, or Florida College System institutions under this section.

(2) PROVIDER QUALIFICATIONS.—

(a) The department shall annually publish online a list of providers approved to offer virtual instruction programs. To be approved by the department, a provider must document that it:

1. Is nonsectarian in its programs, admission policies, employment practices, and operations;

2. Complies with the antidiscrimination provisions of s. 1000.05;

3. Locates an administrative office or offices in this state, requires its administrative staff to be state residents, requires all instructional staff to be Florida-certified teachers under chapter 1012, and conducts background screenings for all employees or contracted personnel, as required by s. 1012.32, using state and national criminal history records;

4. Possesses prior, successful experience offering online courses to elementary, middle, or high school students as demonstrated by quantified student learning gains in each subject area and grade level provided for consideration as an instructional program option;

5. Is accredited by a regional accrediting association as defined by State Board of Education rule;

6. Ensures instructional and curricular quality through a detailed curriculum and student performance accountability plan that addresses every subject and grade level it intends to



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provide through contract with the school district, including:

a. Courses and programs that meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board.

b. Instructional content and services that align with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards.

c. Mechanisms that determine and ensure that a student has satisfied requirements for grade level promotion and high school graduation with a standard diploma, as appropriate;

7. Publishes for the general public, in accordance with disclosure requirements adopted in rule by the State Board of Education, as part of its application as a provider and in all contracts negotiated pursuant to this section:

a. Information and data about the curriculum of each full-time and part-time program.

b. School policies and procedures.

c. Certification status and physical location of all administrative and instructional personnel.

d. Hours and times of availability of instructional personnel.

e. Student-teacher ratios.

f. Student completion and promotion rates.

g. Student, educator, and school performance accountability outcomes; ~~and~~

8. If the provider is a Florida College System institution, employs instructors who meet the certification requirements for instructional staff under chapter 1012; and

9. Performs an annual financial audit of its accounts and



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records conducted by an independent certified public accountant which is in accordance with rules adopted by the Auditor General, is conducted in compliance with generally accepted auditing standards, and includes a report on financial statements presented in accordance with generally accepted accounting principles.

(7) VIRTUAL INSTRUCTION PROGRAM AND VIRTUAL CHARTER SCHOOL FUNDING.—

(c) For a student enrolled ~~part-time~~ in a kindergarten grades 6 through grade 12 virtual instruction program, a "full-time equivalent student" has the same meaning as provided in s. 1011.61(1)(c)1.b.(III) and (IV) ~~1011.61(1)(c)1.b.(IV)~~.

(f) The school district providing virtual instruction ~~in which the student resides~~ shall report full-time equivalent students for a virtual instruction program or a virtual charter school to the department in a manner prescribed by the department, and funding shall be provided through the Florida Education Finance Program. ~~Funds received by the school district of residence for a student in a virtual instruction program provided by another school district under this section shall be transferred to the school district providing the virtual instruction program.~~

Section 5. Subsections (2) and (3) of section 1002.455, Florida Statutes, are amended to read:

1002.455 Student eligibility for K-12 virtual instruction.—

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

(a) The student spent the prior school year in attendance at a public school in the state and was enrolled and reported by



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the school district for funding during October and February for purposes of the Florida Education Finance Program surveys;

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

(c) The student was enrolled during the prior school year in a virtual instruction program under s. 1002.45, the K-8 Virtual School Program under s. 1002.415, or a full-time Florida Virtual School program under s. 1002.37(8)(a);

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

(e) The student is eligible to enter kindergarten or first grade.

Notwithstanding this subsection, beginning with the 2012-2013 school year, a student is eligible to participate in a virtual education program if the student is eligible to enter grades 2 through 5. Beginning with the 2013-2014 school year, a student is eligible to participate in a virtual education program if the student is eligible to enter kindergarten through grade 8. Beginning with the 2014-2015 school year, a student is eligible to participate in a virtual education program if the student is eligible to enter kindergarten through grade 12.

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

(a) School district operated part-time or full-time kindergarten through grade 12 virtual instruction programs under



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s. 1002.45(1)(b) for students enrolled in the school district.

(b) Full-time virtual charter school instruction authorized under s. 1002.33.

~~(c) Courses delivered in the traditional school setting by personnel providing direct instruction through a virtual environment or through a blended virtual and physical environment pursuant to s. 1003.498 and as authorized pursuant to s. 1002.321(4)(c).~~

(c)~~(d)~~ Virtual courses offered in the course code directory to students within the school district or to students in other school districts throughout the state pursuant to s. 1003.498.

Section 6. Paragraph (c) of subsection (2) of section 1003.428, Florida Statutes, is amended to read:

1003.428 General requirements for high school graduation; revised.—

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

(c) Beginning with students entering grade 9 in the 2011-2012 school year, at least one course within the 24 credits required in this subsection must be completed through online learning. A school district may not require a student to take the online course outside the school day or in addition to a student's courses for a given semester. ~~However,~~ An online course taken during grades 6 through 8 fulfills this requirement. This requirement shall be met through an online course offered by the Florida Virtual School, an online course offered by the high school, or an online dual enrollment course ~~offered pursuant to a district interinstitutional articulation~~



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~~agreement pursuant to s. 1007.235. A student who is enrolled in~~  
~~a full-time or part-time virtual instruction program under s.~~  
~~1002.45 meets this requirement. This requirement does not apply~~  
~~to a student who has an individual educational plan under s.~~  
~~1003.57 which indicates that an online course would be~~  
~~inappropriate or a student who is enrolled in a Florida high~~  
~~school and has less than 1 academic year remaining in high~~  
~~school.~~

Section 7. Subsection (1) of section 1003.498, Florida  
Statutes, is amended to read:

1003.498 School district virtual course offerings.—

(1) School districts may deliver courses in the traditional  
school setting by personnel certified pursuant to s. 1012.55 who  
provide direct instruction through a virtual instruction  
~~environment~~ or through ~~though~~ a blended learning courses  
consisting of both traditional classroom and online  
instructional techniques ~~virtual and physical environment.~~  
Students in a blended learning course must be full-time students  
of the school and receive the online instruction in a classroom  
setting at the school. The funding, performance, and  
accountability requirements for blended learning courses are the  
same as those for traditional courses.

Section 8. Subsection (5) is added to section 1003.57,  
Florida Statutes, to read:

1003.57 Exceptional students instruction.—

(5) Each full-time virtual instruction program under s.  
1002.37 or s. 1002.45 must fulfill the obligations of a school  
district under this section for public school exceptional  
students who are enrolled in a full-time virtual instruction





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program. A student whose individual educational plan indicates that full-time virtual instruction is appropriate may be enrolled in a full-time virtual instruction program.

Section 9. Paragraphs (e), (f), and (g) are added to subsection (3) of section 1006.15, Florida Statutes, to read:

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

(3)

(e) A student enrolled in the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend, pursuant to district or interdistrict controlled open enrollment policies, if the student:

1. During the period of participation in the interscholastic extracurricular activity, meets the requirements in paragraph (a).

2. Meets any additional requirements as determined by the board of trustees of the Florida Virtual School.

3. Meets the same residency requirements as other students in the school at which he or she participates.

4. Meets the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. Registers his or her intent to participate in interscholastic extracurricular activities with the school before the beginning date of the season for the activity in



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which he or she wishes to participate. A Florida Virtual School student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

(f) A student who transfers from the Florida Virtual School full-time program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year pursuant to paragraph (a).

(g) A public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a Florida Virtual School student until the student successfully completes one grading period in the Florida Virtual School pursuant to paragraph (a).

Section 10. Paragraph (c) of subsection (1) of section 1011.61, Florida Statutes, is amended to read:

1011.61 Definitions.—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(1) A “full-time equivalent student” in each program of the district is defined in terms of full-time students and part-time students as follows:

(c)1. A “full-time equivalent student” is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the



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equivalent of one full-time student based on the following calculations:

(I) A full-time student in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2. The difference between that fraction or sum of fractions and the maximum value as set forth in subsection (4) for each full-time student is presumed to be the balance of the student's time not spent in such special education programs and shall be recorded as time in the appropriate basic program.

(II) A prekindergarten handicapped student shall meet the requirements specified for kindergarten students.

(III) A full-time equivalent student for students in kindergarten through grade 12 ~~5~~ in a full-time virtual instruction program under s. 1002.45 or a virtual charter school under s. 1002.33 shall consist of six full credit completions in programs listed in s. 1011.62(1)(c) ~~a student who has successfully completed a basic program listed in s. 1011.62(1)(c)1.a. or b., and who is promoted to a higher grade level.~~ Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.



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(IV) A full-time equivalent student for students in kindergarten ~~grades 6~~ through grade 12 in a part-time virtual instruction program under s. 1002.45 ~~1002.45(1)(b)1., 2., or 3.~~ ~~or a virtual charter school under s. 1002.33~~ shall consist of six full credit completions in programs listed in s. 1011.62(1)(c)1. and 3. ~~1011.62(1)(c)1.b. or c. and 3.~~ Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.

(V) A Florida Virtual School full-time equivalent student shall consist of six full credit completions or the prescribed level of content that counts toward promotion to the next grade in the programs listed in s. 1011.62(1)(c)1. and 3. ~~1011.62(1)(c)1.a. and b.~~ for students participating in kindergarten through grade 12 part-time virtual instruction & and the programs listed in s. 1011.62(1)(c) ~~1011.62(1)(c)1.e.~~ for students participating in kindergarten through grade 12 full-time virtual instruction ~~grades 9 through 12~~. Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.



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(VI) Each successfully completed full-credit course earned through an online course delivered by a district other than the one in which the student resides shall be calculated as 1/6 FTE.

(VII) Each successfully completed credit earned under the alternative high school course credit requirements authorized in s. 1002.375, which is not reported as a portion of the 900 net hours of instruction pursuant to subparagraph (1)(a)1., shall be calculated as 1/6 FTE.

2. A student in membership in a program scheduled for more or less than 180 school days or the equivalent on an hourly basis as specified by rules of the State Board of Education is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to students enrolled in juvenile justice education programs and the Florida Virtual School.

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department to operate for less than the minimum school day.

Section 11. Paragraph (g) of subsection (1) and subsection (11) of section 1011.62, Florida Statutes, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the



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annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

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

(g) *Education for speakers of other languages.*—A school district or a full-time virtual instruction program is ~~shall be~~ eligible to report full-time equivalent student membership in the ESOL program in the Florida Education Finance Program provided the following conditions are met:

1. The school district or the full-time virtual instruction program has a plan approved by the Department of Education.

2. The eligible student is identified and assessed as limited English proficient based on assessment criteria.

3.a. An eligible student may be reported for funding in the ESOL program for a base period of 3 years. However, a student whose English competency does not meet the criteria for proficiency after 3 years in the ESOL program may be reported for a fourth, fifth, and sixth year of funding, provided his or her limited English proficiency is assessed and properly documented prior to his or her enrollment in each additional year beyond the 3-year base period.

b. If a student exits the program and is later reclassified as limited English proficient, the student may be reported in the ESOL program for funding for an additional year, or extended annually for a period not to exceed a total of 6 years pursuant to this paragraph, based on an annual evaluation of the



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student's status.

4. An eligible student may be reported for funding in the ESOL program for membership in ESOL instruction in English and ESOL instruction or home language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy.

(11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may annually provide in the Florida Education Finance Program a virtual education contribution. The amount of the virtual education contribution shall be the difference between the amount per FTE established in the General Appropriations Act for virtual education and the amount per FTE for each district and the Florida Virtual School, which may be calculated by taking the sum of the base FEFP allocation, the discretionary local effort, the state-funded discretionary contribution, the discretionary millage compression supplement, the research-based reading instruction allocation, and the instructional materials allocation, and then dividing by the total unweighted FTE. This difference shall be multiplied by the virtual education unweighted FTE for programs and options identified in s. 1002.455(3) ~~1002.455(3)(a), (b), and (d)~~ and the Florida Virtual School and its franchises to equal the virtual education contribution and shall be included as a separate allocation in the funding formula.

Section 12. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause



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and insert:

A bill to be entitled

An act relating to digital learning; amending s. 1002.20, F.S.; providing that Florida Virtual School full-time students who meet specified academic and conduct requirements are eligible to participate in interscholastic extracurricular activities at certain public schools; amending s. 1002.321, F.S.; revising provisions relating to customized and accelerated learning through virtual instruction to include blended learning courses; prohibiting any person from taking an online course or examination on behalf of another person; providing a penalty; amending s. 1002.37, F.S.; providing that the Florida Virtual School may provide part-time instruction for students in kindergarten through grade 12; deleting a requirement that an elementary school principal provide certain notification to parents; requiring that statewide assessments be taken at the school to which a student would be assigned according to district school board attendance area policies; requiring that a school district provide a student with access to the school's testing facilities; providing that the Florida Virtual School is subject to certain statutory requirements and is considered a district school board within the context of those statutory requirements; amending s. 1002.45, F.S.; revising provisions relating to school district options for providing full-time and part-time virtual





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instruction programs and the open enrollment period for participation; providing that a part-time virtual instruction program offer instruction for students enrolled in kindergarten through grade 12 courses; requiring an additional qualification for a virtual instruction program provider to obtain approval by the Department of Education; revising provisions relating to the funding of virtual instruction programs and virtual charter schools to conform to changes made by the act; amending s. 1002.455, F.S.; revising provisions relating to the eligibility of students to participate in virtual instruction programs during specified school years; deleting provisions relating to virtual instruction options for which students in the school district are eligible; amending s. 1003.428, F.S.; revising provisions relating to the general requirements for high school graduation; prohibiting a school district from requiring a student to take an online course outside the school day or in addition to the student's courses for a given semester; amending s. 1003.498, F.S.; providing requirements for blended learning courses; amending s. 1003.57, F.S.; providing responsibilities and requirements for each full-time virtual instruction program enrolling public school exceptional students; amending s. 1006.15, F.S.; providing that a student enrolled in the Florida Virtual School's full-time program may participate in any interscholastic extracurricular activity at a public school under



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certain circumstances; amending s. 1011.61, F.S.;  
revising the definition of the term "full-time  
equivalent student" to conform to changes made by the  
act; conforming cross-references; amending s. 1011.62,  
F.S.; providing that full-time virtual instruction  
programs are eligible to report student membership in  
the English for Speakers of Other Languages program  
for funding purposes; conforming a cross-reference;  
providing an effective date.

By Senator Gardiner

9-00486A-12

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1 A bill to be entitled  
 2 An act relating to education; amending s. 1001.03,  
 3 F.S.; requiring that the State Board of Education  
 4 enforce compliance with the law and state board rule  
 5 by the Florida Virtual School; amending s. 1002.20,  
 6 F.S.; providing that a full-time Florida Virtual  
 7 School student who meets specified academic and  
 8 conduct requirements is eligible to participate in  
 9 extracurricular activities at the public school to  
 10 which the student would be assigned or could choose to  
 11 attend; providing that a virtual school student who  
 12 meets specified academic and conduct requirements is  
 13 eligible to participate in extracurricular activities  
 14 at the public school to which the student would be  
 15 assigned or could choose to attend, unless the  
 16 activities are provided by the student's virtual  
 17 school; amending s. 1002.321, F.S.; requiring that  
 18 each student take at least one online course before  
 19 graduating from high school, unless otherwise  
 20 expressly excluded by law; amending s. 1002.37, F.S.;  
 21 authorizing the Florida Virtual School to provide  
 22 part-time and full-time instruction for students in  
 23 kindergarten through grade 12; providing that the  
 24 Florida Virtual School has the same authority and  
 25 responsibilities of a school district under the  
 26 Florida K-20 Education Code regarding the Florida  
 27 Virtual School's full-time program; amending s.  
 28 1002.45, F.S.; revising provisions relating to virtual  
 29 instruction programs; requiring that a school district

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

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30 that is eligible for a sparsity supplement, before a  
 31 wealth adjustment, provide all enrolled public school  
 32 students the option of participating in part-time and  
 33 full-time virtual instruction programs; revising  
 34 virtual instruction program provider qualifications to  
 35 include an independent review of the curriculum for  
 36 each course and student performance accountability;  
 37 requiring that the person performing the independent  
 38 review meet certain qualifications; requiring that a  
 39 provider provide independent audit findings  
 40 documenting financial stability and sound business  
 41 principles and demonstrate sufficient technology  
 42 resources and technical support; revising provisions  
 43 relating to funding; requiring that a school district  
 44 provide to an approved provider information verifying  
 45 that reported enrollment data is accurate for the  
 46 students served by the provider; amending s. 1002.455,  
 47 F.S.; phasing in eligibility for students to  
 48 participate in kindergarten through grade 12 virtual  
 49 instruction; deleting provisions relating to virtual  
 50 instruction options for eligible students; amending s.  
 51 1003.428, F.S.; revising the general requirements for  
 52 high school graduation; providing that the online  
 53 course requirement does not apply to a student whose  
 54 individual education plan indicates that an online  
 55 course would be inappropriate or to a student who is  
 56 enrolled in a Florida high school for 1 academic year  
 57 or less; prohibiting a school district from requiring  
 58 a student to take an online course outside the school

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

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59 day or in addition to the student's courses for any  
 60 given semester; amending s. 1003.49, F.S.; authorizing  
 61 the board of trustees of the Florida Virtual School to  
 62 operate education programs for students in  
 63 kindergarten through grade 12; amending s. 1003.57,  
 64 F.S.; requiring that the Florida Virtual School  
 65 fulfill the obligations of a school district for  
 66 exceptional public school students who are enrolled in  
 67 a full-time Florida Virtual School program; providing  
 68 that a student whose individual education plan  
 69 indicates that a full-time virtual education is  
 70 inappropriate may not be enrolled in a Florida Virtual  
 71 School full-time program; amending s. 1006.15, F.S.;  
 72 providing standards for participation in  
 73 interscholastic and intrascholastic extracurricular  
 74 student activities by full-time students attending the  
 75 Florida Virtual School; amending s. 1008.22, F.S.;  
 76 requiring that all statewide end-of-course assessments  
 77 be administered electronically; amending s. 1008.32,  
 78 F.S.; requiring that the State Board of Education  
 79 oversee the performance of the Florida Virtual School  
 80 and ensure compliance with law and state board rule;  
 81 revising provisions to conform to changes made by the  
 82 act; amending ss. 1011.61 and 1011.62, F.S.; revising  
 83 provisions relating to funding to conform to changes  
 84 made by the act; conforming cross-references;  
 85 providing an effective date.  
 86  
 87 Be It Enacted by the Legislature of the State of Florida:

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88  
 89 Section 1. Subsection (8) of section 1001.03, Florida  
 90 Statutes, is amended to read:  
 91 1001.03 Specific powers of State Board of Education.—  
 92 (8) SYSTEMWIDE ENFORCEMENT.—The State Board of Education  
 93 shall enforce compliance with law and state board rule by all  
 94 school districts, the Florida Virtual School, and public  
 95 postsecondary education ~~educational~~ institutions, except for the  
 96 State University System, in accordance with the provisions of s.  
 97 1008.32.  
 98 Section 2. Present paragraph (d) of subsection (18) of  
 99 section 1002.20, Florida Statutes, is redesignated as paragraph  
 100 (f), and new paragraphs (d) and (e) are added to that  
 101 subsection, to read:  
 102 1002.20 K-12 student and parent rights.—Parents of public  
 103 school students must receive accurate and timely information  
 104 regarding their child's academic progress and must be informed  
 105 of ways they can help their child to succeed in school. K-12  
 106 students and their parents are afforded numerous statutory  
 107 rights including, but not limited to, the following:  
 108 (18) EXTRACURRICULAR ACTIVITIES.—In accordance with the  
 109 provisions of s. 1006.15:  
 110 (d) Full-time Florida Virtual School students.—A full-time  
 111 Florida Virtual School student who meets specified academic and  
 112 conduct requirements is eligible to participate in  
 113 extracurricular activities at the public school to which the  
 114 student would be assigned or could choose to attend according to  
 115 district school board policies.  
 116 (e) Virtual school students.—A virtual school student who

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 117 meets specified academic and conduct requirements is eligible to  
 118 participate in extracurricular activities at the public school  
 119 to which the student would be assigned or could choose to attend  
 120 according to district school board policies, unless the activity  
 121 is provided by the student's virtual school.

122 Section 3. Subsection (3) of section 1002.321, Florida  
 123 Statutes, is amended to read:

124 1002.321 Digital learning.—

125 (3) DIGITAL PREPARATION.—Unless otherwise expressly  
 126 excluded by law, each student must take graduate from high  
 127 school having taken at least one online course before graduating  
 128 from high school, as provided in s. 1003.428.

129 Section 4. Subsection (8) of section 1002.37, Florida  
 130 Statutes, is amended to read:

131 1002.37 The Florida Virtual School.—

132 (8) (a) The Florida Virtual School may provide part-time and  
 133 full-time instruction for students in kindergarten through grade  
 134 12 and part-time instruction for students in grades 4 through  
 135 12. To receive full-time instruction in grades 2 through 5, a  
 136 student must meet at least one of the eligibility criteria in s.  
 137 1002.455(2). Part-time instruction for grades 4 and 5 may be  
 138 provided only to public school students taking grade 6 through  
 139 grade 8 courses.

140 (b) For students receiving part-time instruction or in  
 141 grades 4 and 5 and students receiving full-time instruction in  
 142 kindergarten through grade 12 from the Florida Virtual School,  
 143 the combined total of all FTE reported by both the school  
 144 district and the Florida Virtual School may not exceed 1.0 FTE.  
 145

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 146 Except as otherwise expressly provided by law, the Florida  
 147 Virtual School has the same authority and responsibilities of a  
 148 school district under the Florida K-20 Education Code regarding  
 149 the Florida Virtual School's full-time program.

150 Section 5. Paragraph (b) of subsection (1), paragraph (a)  
 151 of subsection (2), paragraphs (c), (f), and (g) of subsection  
 152 (7), and paragraph (a) of subsection (8) of section 1002.45,  
 153 Florida Statutes, are amended to read:

154 1002.45 Virtual instruction programs.—

155 (1) PROGRAM.—

156 (b) Each school district that is eligible for the sparsity  
 157 supplement, before a wealth adjustment, pursuant to s.  
 158 1011.62(7) shall provide all enrolled public school students  
 159 within its boundaries the option of participating in part-time  
 160 and full-time virtual instruction programs. Each school district  
 161 that is not eligible for the sparsity supplement, before a  
 162 wealth adjustment, shall provide at least three options for  
 163 part-time and full-time virtual instruction. All school  
 164 districts must provide parents with timely written notification  
 165 of an open enrollment period for full-time students of at least  
 166 90 days which that ends no earlier later than 30 days before  
 167 prior to the first day of the school year. The purpose of the  
 168 program is to make quality virtual instruction available to  
 169 students using online and distance learning technology in the  
 170 nontraditional classroom. A school district virtual instruction  
 171 program shall provide, but is not limited to, the following:

172 1. Part-time and full-time virtual instruction for students  
 173 enrolled in kindergarten through grade 12.

174 2. Part-time virtual instruction for students enrolled in

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~~grades 9 through 12 courses that are measured pursuant to  
subparagraph (8)(a)2-~~

~~2.3-~~ Full-time or part-time virtual instruction for students enrolled in dropout prevention and academic intervention programs under s. 1003.53, Department of Juvenile Justice education programs under s. 1003.52, core-curricula courses to meet class size requirements under s. 1003.03, or Florida College System institutions under this section.

(2) PROVIDER QUALIFICATIONS.-

(a) The department shall annually publish online a list of providers approved to offer virtual instruction programs. To be approved by the department, a provider must document that it:

1. Is nonsectarian in its programs, admission policies, employment practices, and operations;

2. Complies with the antidiscrimination provisions of s. 1000.05;

3. Locates an administrative office or offices in this state, requires its administrative staff to be state residents, requires all instructional staff to be Florida-certified teachers under chapter 1012, and conducts background screenings for all employees or contracted personnel, as required by s. 1012.32, using state and national criminal history records;

4. Possesses prior, successful experience offering online courses to elementary, middle, or high school students as demonstrated by quantified student learning gains in each subject area and grade level provided for consideration as an instructional program option;

5. Is accredited by a regional accrediting association as defined by State Board of Education rule;

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6. Ensures instructional and curricular quality through a detailed curriculum and student performance accountability plan that addresses every subject and grade level it intends to provide through contract with the school district, including:

a. Courses and programs that meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board.

b. Instructional content and services that align with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards.

c. Mechanisms that determine and ensure that a student has satisfied requirements for grade level promotion and high school graduation with a standard diploma, as appropriate;

7. Provides an independent review of the detailed curriculum and student performance accountability on a form adopted by the department and verifies that the person performing the independent review has examined the curriculum for each course which meets the requirements of this section. The independent review must be performed by a person who:

a. Holds a current Florida educator certificate;

b. Has experience teaching K-12 education in a Florida public school;

c. Has knowledge of the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board; and

d. Has experience teaching in or administering an online education program;

~~8.7-~~ Publishes for the general public, in accordance with disclosure requirements adopted in rule by the State Board of

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Education, as part of its application as a provider and in all contracts negotiated pursuant to this section:

- a. Information and data about the curriculum of each full-time and part-time program.
- b. School policies and procedures.
- c. Certification status and physical location of all administrative and instructional personnel.
- d. Hours and times of availability of instructional personnel.
- e. Student-teacher ratios.
- f. Student completion and promotion rates.
- g. Student, educator, and school performance accountability outcomes; ~~and~~

9.8. If the provider is a Florida College System institution, employs instructors who meet the certification requirements for instructional staff under chapter 1012, 10. Provides independent audit findings or other externally validated summary financial information to document financial stability and sound business principles; and

11. Demonstrates sufficient technology resources and technical support to ensure a quality program.

(7) VIRTUAL INSTRUCTION PROGRAM AND VIRTUAL CHARTER SCHOOL FUNDING.—

(c) For a student enrolled part-time in a kindergarten ~~grades 6~~ through grade 12 program, a "full-time equivalent student" has the same meaning as provided in s. 1011.61(1)(c)1.b.(III) and (IV) ~~1011.61(1)(c)1.b.(IV).~~

~~(f) The school district in which the student resides shall report full-time equivalent students for a virtual instruction~~

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~~program or a virtual charter school to the department in a manner prescribed by the department, and funding shall be provided through the Florida Education Finance Program. Funds received by the school district of residence for a student in a virtual instruction program provided by another school district under this section shall be transferred to the school district providing the virtual instruction program.~~

(f)(g) A Florida College System institution provider may not report students who are served in a virtual instruction program for funding under the Florida College System Program Fund.

(8) ASSESSMENT AND ACCOUNTABILITY.—

(a) Each approved provider contracted under this section must:

1. Participate in the statewide assessment program under s. 1008.22 and in the state's education performance accountability system under s. 1008.31. In order to ensure that the information used for accountability purposes is accurate, a school district must routinely provide to an approved provider information verifying that the reported enrollment data is accurate for the students served in the provider's program.

2. Receive a school grade under s. 1008.34 or a school improvement rating under s. 1008.341, as applicable. The school grade or school improvement rating received by each approved provider shall be based upon the aggregated assessment scores of all students served by the provider statewide. The department shall publish the school grade or school improvement rating received by each approved provider on its Internet website. The department shall develop an evaluation method for providers of

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 291 part-time programs which includes the percentage of students  
 292 making learning gains, the percentage of students successfully  
 293 passing any required end-of-course assessment, the percentage of  
 294 students taking Advanced Placement examinations, and the  
 295 percentage of students scoring 3 or higher on an Advanced  
 296 Placement examination.

297 Section 6. Subsections (2) and (3) of section 1002.455,  
 298 Florida Statutes, are amended to read:

299 1002.455 Student eligibility for K-12 virtual instruction.—

300 (2) A student is eligible to participate in virtual  
 301 instruction if:

302 (a) The student spent the prior school year in attendance  
 303 at a public school in the state and was enrolled and reported by  
 304 the school district for funding during October and February for  
 305 purposes of the Florida Education Finance Program surveys;

306 (b) The student is a dependent child of a member of the  
 307 United States Armed Forces who was transferred within the last  
 308 12 months to this state from another state or from a foreign  
 309 country pursuant to a permanent change of station order;

310 (c) The student was enrolled during the prior school year  
 311 in a virtual instruction program under s. 1002.45, the K-8  
 312 Virtual School Program under s. 1002.415, or a full-time Florida  
 313 Virtual School program under s. 1002.37(8)(a);

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

317 (e) The student is eligible to enter kindergarten or first  
 318 grade;—

319 (f) Beginning with the 2012-2013 school year, the student

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 320 is eligible to enter grade 2 through grade 5;

321 (g) Beginning with the 2013-2014 school year, the student  
 322 is eligible to enter kindergarten through grade 8; or

323 (h) Beginning with the 2014-2015 school year, the student  
 324 is eligible to enter kindergarten through grade 12.

325 (3) The virtual instruction options for which this  
 326 eligibility section applies include:

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

330 (b) Full-time virtual charter school instruction authorized  
 331 under s. 1002.33.

332 ~~(c) Courses delivered in the traditional school setting by~~  
 333 ~~personnel providing direct instruction through a virtual~~  
 334 ~~environment or through a blended virtual and physical environment~~  
 335 ~~pursuant to s. 1003.498 and as authorized pursuant to s.~~  
 336 ~~1002.321(4)(c).—~~

337 ~~(d) Virtual courses offered in the course code directory to~~  
 338 ~~students within the school district or to students in other~~  
 339 ~~school districts throughout the state pursuant to s. 1003.498.~~

340 Section 7. Paragraph (c) of subsection (2) of section  
 341 1003.428, Florida Statutes, is amended to read:

342 1003.428 General requirements for high school graduation;  
 343 revised.—

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

347 (c) Beginning with students entering grade 9 in the 2011-  
 348 2012 school year, at least one course within the 24 credits



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 required in this subsection must be completed through online learning. However, an online course taken during grades 6 through 8 fulfills this requirement. This requirement shall be met through an online course offered by the Florida Virtual School, an online course offered by the high school, or an online dual enrollment course offered pursuant to a district interinstitutional articulation agreement pursuant to s. 1007.235. A student who is enrolled in a full-time or part-time virtual instruction program under s. 1002.45 meets this requirement. This requirement does not apply to a student whose individual education plan under s. 1003.57 indicates an online course would be inappropriate or to a student who is enrolled in a Florida high school for 1 academic year or less. A school district may not require a student to take the online course outside the school day or in addition to the student's courses for any given semester.

Section 8. Subsection (1) of section 1003.49, Florida Statutes, is amended to read:

1003.49 Graduation and promotion requirements for publicly operated schools.—

(1) Each state or local public agency, including the Department of Children and Family Services, the Department of Corrections, the boards of trustees of universities and Florida College System institutions, the board of trustees of the Florida Virtual School, and the Board of Trustees of the Florida School for the Deaf and the Blind, ~~which agency~~ is authorized to operate education ~~educational~~ programs for students in at any level of grades kindergarten through grade 12 ~~and is shall be~~ subject to all applicable requirements of ss. 1003.4156,

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 1003.428, 1003.43, 1008.23, and 1008.25. Within the content of these cited statutes each ~~such~~ state or local public agency or entity shall be considered a "district school board."

Section 9. Subsection (5) is added to section 1003.57, Florida Statutes, to read:

1003.57 Exceptional students instruction.—

(5) The Florida Virtual School shall fulfill the obligations of a school district under this section for exceptional public school students who are enrolled in a full-time Florida Virtual School program. A student whose individual education plan indicates that full-time virtual education is inappropriate may not be enrolled in a Florida Virtual School full-time program, but must be enrolled in the school district in which the student resides. This subsection does not alter a parent's right to decline exceptional education services.

Section 10. Paragraph (e) is added to subsection (3) of section 1006.15, Florida Statutes, to read:

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

(3)

(e)1. A full-time student attending the Florida Virtual School under s. 1002.37 is eligible to participate in any interscholastic extracurricular activity at a public school to which the student would be assigned, pursuant to district school board attendance policies, or at a public school that the student could choose to attend, pursuant to district or interdistrict controlled open-enrollment provisions, unless the activity is provided by the student's virtual school, and if the

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following conditions are met:

a. The virtual school student meets the requirements of the virtual education program as provided in s. 1002.37.

b. During the period of participation at the public school, the virtual school student demonstrates educational progress as required in paragraph (b).

c. The virtual school student meets the same residency requirements as other students in the public school at which the student participates.

d. The virtual school student meets the same standards of acceptance, behavior, and performance which are required of other students in extracurricular activities.

e. The virtual school student registers with the public school at which he or she intends to participate in interscholastic extracurricular activities as a representative of the school before the beginning date of the season for the activity in which he or she wishes to participate.

2. A virtual school student must be allowed to participate in curricular activities at the public school if that is a requirement for an extracurricular activity.

3. A student who transfers from a virtual school program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year as provided in sub-subparagraph 1.b.

4. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to

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participate in the activities as a virtual school student until the student successfully completes one grading period in a virtual school.

Section 11. Paragraph (g) of subsection (3) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

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

(g) Beginning with the 2014-2015 school year, all statewide end-of-course assessments shall be administered electronically online.

Section 12. Section 1008.32, Florida Statutes, is amended to read:

1008.32 State Board of Education oversight enforcement authority.—The State Board of Education shall oversee the performance of district school boards, the Florida Virtual

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465 School board of trustees, and Florida College System institution  
466 boards of trustees in enforcement of all laws and rules.  
467 District school boards, the Florida Virtual School board of  
468 trustees, and Florida College System institution boards of  
469 trustees shall be primarily responsible for compliance with law  
470 and state board rule.

471 (1) In order to ensure compliance with law or state board  
472 rule, the State Board of Education shall have the authority to  
473 request and receive information, data, and reports from school  
474 districts, the Florida Virtual School, and Florida College  
475 System institutions. District school superintendents, the  
476 chairperson of the Florida Virtual School board of trustees, and  
477 Florida College System institution presidents are responsible  
478 for the accuracy of the information and data reported to the  
479 state board.

480 (2) The Commissioner of Education may investigate  
481 allegations of noncompliance with law or state board rule and  
482 determine probable cause. The commissioner shall report  
483 determinations of probable cause to the State Board of Education  
484 which shall require the district school board, the Florida  
485 Virtual School board of trustees, or Florida College System  
486 institution board of trustees to document compliance with law or  
487 state board rule.

488 (3) If the district school board, the Florida Virtual  
489 School board of trustees, or Florida College System institution  
490 board of trustees cannot satisfactorily document compliance, the  
491 State Board of Education may order compliance within a specified  
492 timeframe.

493 (4) If the State Board of Education determines that a

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494 district school board, the Florida Virtual School board of  
495 trustees, or Florida College System institution board of  
496 trustees is unwilling or unable to comply with law or state  
497 board rule within the specified time, the state board shall have  
498 the authority to initiate any of the following actions:

499 (a) Report to the Legislature that the school district, the  
500 Florida Virtual School, or Florida College System institution  
501 has been unwilling or unable to comply with law or state board  
502 rule and recommend action to be taken by the Legislature.

503 (b) Reduce the discretionary lottery appropriation until  
504 the school district, the Florida Virtual School, or Florida  
505 College System institution complies with the law or state board  
506 rule.

507 (c) Withhold the transfer of state funds, discretionary  
508 grant funds, or any other funds specified as eligible for this  
509 purpose by the Legislature until the school district, the  
510 Florida Virtual School, or Florida College System institution  
511 complies with the law or state board rule.

512 (d) Declare the school district, the Florida Virtual  
513 School, or Florida College System institution ineligible for  
514 competitive grants.

515 (e) Require monthly or periodic reporting on the situation  
516 related to noncompliance until it is remedied.

517 (5) ~~Nothing in This section does not shall be construed to~~  
518 create a private cause of action or create any rights for  
519 individuals or entities in addition to those provided elsewhere  
520 in law or rule.

521 Section 13. Paragraph (c) of subsection (1) of section  
522 1011.61, Florida Statutes, is amended to read:

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1011.61 Definitions.—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(1) A "full-time equivalent student" in each program of the district is defined in terms of full-time students and part-time students as follows:

(c)1. A "full-time equivalent student" is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2. The difference between that fraction or sum of fractions and the maximum value as set forth in subsection (4) for each full-time student is presumed to be the balance of the student's time not spent in such special education programs and shall be recorded as time in the appropriate basic program.

(II) A prekindergarten handicapped student shall meet the requirements specified for kindergarten students.

(III) A full-time equivalent student for students in kindergarten through grade 5 in a virtual instruction program under s. 1002.45 or a virtual charter school under s. 1002.33

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shall consist of a student who has successfully completed a basic program listed in s. 1011.62(1)(c)1.a. or b., and who is promoted to a higher grade level.

(IV) A full-time equivalent student for students in grades 6 through 12 in a virtual instruction program under s. 1002.45(1)(b)1. or ~~2. or 3.~~ or a virtual charter school under s. 1002.33 shall consist of six full credit completions in programs listed in s. 1011.62(1)(c) ~~1.b. or c. and 3.~~ Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.

(V) A Florida Virtual School full-time equivalent student shall consist of six full credit completions or the prescribed level of content that counts toward promotion to the next grade in the programs listed in s. 1011.62(1)(c) ~~1.a. and b. for kindergarten through grade 8 and the programs listed in s. 1011.62(1)(c)1.c. for grades 9 through 12.~~ Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.

(VI) Each successfully completed full-credit course earned

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through an online course delivered by a district other than the one in which the student resides shall be calculated as 1/6 FTE.

(VII) Each successfully completed credit earned under the alternative high school course credit requirements authorized in s. 1002.375, which is not reported as a portion of the 900 net hours of instruction pursuant to subparagraph (1)(a)1., shall be calculated as 1/6 FTE.

2. A student in membership in a program scheduled for more or less than 180 school days or the equivalent on an hourly basis as specified by rules of the State Board of Education is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to students enrolled in juvenile justice education programs and the Florida Virtual School.

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department to operate for less than the minimum school day.

Section 14. Paragraphs (e) and (g) of subsection (1) and subsection (11) of section 1011.62, Florida Statutes, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the

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annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

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

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

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

b. In order to generate funds using one of the two weighted cost factors, a matrix of services must be completed at the time of the student's initial placement into an exceptional student education program and at least once every 3 years by personnel who have received approved training. Nothing listed in the matrix shall be construed as limiting the services a school or school district must provide in order to ensure that exceptional

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students are provided a free, appropriate public education.

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

2. For students identified as exceptional who do not have a matrix of services and students who are gifted in kindergarten ~~grades K~~ through grade 8, there is created a guaranteed allocation to provide these students with a free appropriate public education, in accordance with s. 1001.42(4)(m) and rules of the State Board of Education, which shall be allocated annually to each school district and the Florida Virtual School in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program, and the amount allocated for each school district and the Florida Virtual School may shall not be recalculated during the year. These funds shall be used to provide special education and related services for exceptional students and students who are gifted in kindergarten ~~grades K~~ through grade 8. ~~Beginning with the 2007-2008 fiscal year,~~ A district's expenditure of funds and the Florida Virtual School's expenditure of funds from the guaranteed allocation for students in grades 9 through 12 who are gifted may not be greater than the amount expended during the 2006-2007 fiscal year for gifted students in grades 9

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through 12.

(g) *Education for speakers of other languages.*—A school district and the Florida Virtual School ~~are shall be~~ eligible to report full-time equivalent student membership in the ESOL program in the Florida Education Finance Program if provided the following conditions are met:

1. The school district and the Florida Virtual School has a plan approved by the Department of Education.

2. The eligible student is identified and assessed as limited English proficient based on assessment criteria.

3.a. An eligible student may be reported for funding in the ESOL program for a base period of 3 years. However, a student whose English competency does not meet the criteria for proficiency after 3 years in the ESOL program may be reported for a fourth, fifth, and sixth year of funding, provided his or her limited English proficiency is assessed and properly documented prior to his or her enrollment in each additional year beyond the 3-year base period.

b. If a student exits the program and is later reclassified as limited English proficient, the student may be reported in the ESOL program for funding for an additional year, or extended annually for a period not to exceed a total of 6 years pursuant to this paragraph, based on an annual evaluation of the student's status.

4. An eligible student may be reported for funding in the ESOL program for membership in ESOL instruction in English and ESOL instruction or home language instruction in the basic subject areas of mathematics, science, social studies, and computer literacy.

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697 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may  
698 annually provide in the Florida Education Finance Program a  
699 virtual education contribution. The amount of the virtual  
700 education contribution shall be the difference between the  
701 amount per FTE established in the General Appropriations Act for  
702 virtual education and the amount per FTE for each district and  
703 the Florida Virtual School, which may be calculated by taking  
704 the sum of the base FEFP allocation, the discretionary local  
705 effort, the state-funded discretionary contribution, the  
706 discretionary millage compression supplement, the research-based  
707 reading instruction allocation, and the instructional materials  
708 allocation, and then dividing by the total unweighted FTE. This  
709 difference shall be multiplied by the virtual education  
710 unweighted FTE for programs and options identified in s.  
711 1002.455(3) (a) and, (b) ~~and~~ ~~(d)~~ and the Florida Virtual School  
712 and its franchises to equal the virtual education contribution  
713 and shall be included as a separate allocation in the funding  
714 formula.  
715 Section 15. This act shall take effect July 1, 2012.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12  
Meeting Date

Topic Education (Virtual)

Bill Number 1402  
(if applicable)

Name Adam Potts

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Director of Governmental Relations

Address 325 W. Gaines  
Street

Phone 591-5921

Tallahassee FL 32399  
City State Zip

E-mail adam.potts@fldoe.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Department of Education

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

*Waive*

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-12

*Meeting Date*

Topic Commissioner of Education

Bill Number 1402

*(if applicable)*

Name Patricia Levesque

Amendment Barcode 161362

*(if applicable)*

Job Title Executive Director, Foundation for Florida's Future

Address 215 South Monroe Street

Phone 850-391-3070

*Street*

Tallahassee

FL

32302

*City*

*State*

*Zip*

E-mail patricia@afloridapromise.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Foundation for Florida's Future

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

Feb 6<sup>TH</sup> 2012

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic Virtual Education

Bill Number 1402  
(if applicable)

Name Ryan West

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Policy Director

Address 136 South Bromagh Street

Phone 850 521-1200

Tallahassee FL 32307  
City State Zip

E-mail rwest@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

Spoke

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12

Meeting Date

Topic Virtual Schools / Digital Learning Bill Number 1402  
(if applicable)

Name Jay Frank Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title General Counsel

Address 208 S. Monroe St. Phone 850-457-5184  
Street  
Tall. FL 32301 E-mail JFRANK@FAD35.org  
City State Zip

Speaking: ☐ For ☐ Against ☒ Information and questions

Representing Fl. Assoc. of District School Superint.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

spoke

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/16/12

Meeting Date

Topic Virtual Classes

Bill Number 1402  
(if applicable)

Name Scott White

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Teacher

Address 2904 Callahan Dr Ct

Phone 893 - 3134

Street

Tallahassee FL

City

State

Zip

E-mail \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 / 6 / 2012

Meeting Date

Topic \_\_\_\_\_

Bill Number 1402  
(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727/897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☒ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

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BILL: SB 1462

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: American Founders' Month

DATE: February 2, 2012

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR  | REFERENCE | ACTION           |
|----|---------|-----------------|-----------|------------------|
| 1. | Abrams  | deMarsh-Mathues | ED        | <b>Favorable</b> |
| 2. |         |                 | BC        |                  |
| 3. |         |                 |           |                  |
| 4. |         |                 |           |                  |
| 5. |         |                 |           |                  |
| 6. |         |                 |           |                  |

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**I. Summary:**

The bill authorizes the Governor to issue a proclamation each year designating the month of September as “American Founders’ Month” to encourage the observance of this occasion by civic, fraternal, and religious organizations, as well as public and private educational institutions.

The bill also requires district school boards to observe “American Founders’ Month.” Celebrations during this month may be coordinated with Celebrate Freedom Week. During “American Founders’ Month,” the bill authorizes each district school board to provide instruction that focuses on the moral and civic virtue, self-sacrifice, intellectual genius, and patriotism of the founding fathers and the importance of the founding documents and the principles inherent in such documents. The bill authorizes district school boards to integrate instruction into the existing school curriculum.

The bill creates s. 683.147, F.S., and amends s. 1003.44 of the Florida Statutes.

**II. Present Situation:**

**Required Instruction in Public Schools**

Each district school board is required to provide courses that meet the State Board of Education standards in the various subject areas including social studies.<sup>1</sup> Current law requires instruction in the history and content of the Declaration of Independence, the Constitution of the United

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<sup>1</sup> s. 1003.42 (1), F.S.

States, flag education, and the arguments in support of adopting our republican form of government.<sup>2</sup>

### **Patriotic Programs**

Each district school board is authorized to adopt rules that require programs of a patriotic nature in public schools to encourage respect for the United States government, its national anthem and flag.<sup>3</sup> Current law addresses the observance of patriotic events such as requiring students to stand and place their right hand over their heart during the rendition of the pledge of allegiance to the flag of the United States.<sup>4</sup> The pledge of allegiance to the flag must be recited at the beginning of the day in each public elementary, middle, and high school in the state.<sup>5</sup> Students must be excused from reciting the pledge if their parents opt out in writing.<sup>6</sup>

Any teacher or school administrator may read or post specified historical documents (e.g., the national motto, the national anthem, the pledge of allegiance, the Constitution of the United States, and the Constitution of the State of Florida) in a public school building, classroom, or at any school-related event.<sup>7</sup> Such documents may be read, posted, or taught only from a historical perspective in a non-proselytizing manner.<sup>8</sup> If an excerpt from a specified historical document is used, the selection must reflect the sentiment of the entire document.<sup>9</sup> If the document refers to laws or judicial decisions that are no longer valid, a statement of explanation must be included.<sup>10</sup>

Florida law requires that the last full week of classes in September must be recognized as Celebrate Freedom Week in public schools.<sup>11</sup> This week must include at least three hours of instruction involving in-depth study of the intent, meaning, and importance of the Declaration of Independence in each social studies class, as determined by each school district.<sup>12</sup>

The Florida Department of Education (DOE) is required to distribute a copy of the law on patriotic programs to each district school board for distribution to all teachers and administrators in the school district.<sup>13</sup>

### **Recitation of the Declaration of Independence**

Public school principals and teachers must conduct an oral recitation by students of the Declaration of Independence at the beginning of each school day or in homeroom to reaffirm the

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<sup>2</sup> s. 1003.42 (2)(a)-(d), F.S.

<sup>3</sup> s. 1003.44 (1), F.S.

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

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

<sup>6</sup> *Id.* Under federal law, September 17<sup>th</sup> is designated as Constitution Day and Citizenship Day. The law encourages civil and educational authorities of States, counties, cities, and towns to make plans for the proper observance of Constitution Day and Citizenship Day and for the complete instruction of citizens in their responsibilities and opportunities as citizens of the United States and of the State and locality in which they reside. 36 U.S.C., s. 106.

<sup>7</sup> s. 1003.44(2), F.S.

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

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

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

<sup>11</sup> s. 1003.421, F.S.

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

<sup>13</sup> *Id.*

American ideals of individual liberty.<sup>14</sup> Students must be excused from reciting the Declaration of Independence if their parents opt out in writing.<sup>15</sup>

### **III. Effect of Proposed Changes:**

The bill authorizes the Governor to issue a proclamation each year designating the month of September as “American Founders’ Month” to encourage the observance of this occasion by civic, fraternal, and religious organizations, as well as public and private educational institutions.

The bill also requires district school boards to observe “American Founders’ Month.” Celebrations during this month may be coordinated with Celebrate Freedom Week. During “American Founders’ Month,” the bill authorizes each district school board to provide instruction that focuses on the moral and civic virtue, self-sacrifice, intellectual genius, and patriotism of the founding fathers and the importance of the founding documents and the principles inherent in such documents. The bill authorizes district school boards to integrate instruction into the existing school curriculum.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

#### **C. Government Sector Impact:**

If the district school board elects to incorporate “American Founders’ Month” instruction into the existing curriculum, the fiscal impact, if any, may be mitigated.

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<sup>14</sup> *Id.*

<sup>15</sup> s. 1003.421, F.S.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Diaz de la Portilla

36-01255-12

20121462\_\_

A bill to be entitled

An act relating to American Founders' Month; providing a short title; creating s. 683.147, F.S.; designating the month of September as "American Founders' Month"; authorizing the Governor to annually issue a proclamation designating the month and urging participation; amending s. 1003.44, F.S.; requiring district school boards to celebrate the American Founders and the principles inherent in the country's founding documents by observing American Founders' Month; specifying the focus of instruction during the month; providing that instruction may be integrated into the existing school curriculum; requiring distribution to school personnel of certain information; providing an effective date.

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

Section 1. This act may be cited as the "American Founders' Month Act."

Section 2. Section 683.147, Florida Statutes, is created to read:

683.147 American Founders' Month.—

(1) The month of September of each year is designated as "American Founders' Month."

(2) The Governor may annually issue a proclamation designating the month of September as "American Founders' Month" and urging all civic, fraternal, and religious organizations and public and private educational institutions to recognize and

36-01255-12

20121462\_\_

observe this occasion through appropriate programs, meetings, services, or celebrations in which state, county, and local governmental officials are invited to participate.

Section 3. Subsection (2) of section 1003.44, Florida Statutes, is amended, and subsections (3) and (4) are added to that section, to read:

1003.44 Patriotic programs; rules.—

(2) Each district school board may allow any teacher or administrator to read, or to post in a public school building or classroom or at any school-related event, any excerpt or portion of the following historic material: the national motto; the national anthem; the pledge of allegiance; the Constitution of the State of Florida, including the Preamble; the Constitution of the United States, including the Preamble; the Bill of Rights; the Declaration of Independence; the Mayflower Compact; the Emancipation Proclamation; the writings, speeches, documents, and proclamations of the presidents of the United States, the signers of the Constitution of the United States and the Declaration of Independence, and civil rights leaders; and decisions of the United States Supreme Court. However, any material that is read, posted, or taught pursuant to this provision may be presented only from a historical perspective and in a nonproselytizing manner. When less than an entire document is used, the excerpt or portion must include as much material as is reasonably necessary to reflect the sentiment of the entire document and avoid expressing statements out of the context in which they were originally made. If the material refers to laws or judicial decisions that have been superseded, the material must be accompanied by a statement indicating that

36-01255-12 20121462  
 59 such law or decision is no longer the law of the land. No  
 60 material shall be selected to advance a particular religious,  
 61 political, or sectarian purpose. ~~The department shall distribute~~  
 62 ~~a copy of this section to each district school board, whereupon~~  
 63 ~~each district school superintendent shall distribute a copy to~~  
 64 ~~all teachers and administrators.~~

65 (3) (a) Each district school board shall celebrate the  
 66 American Founders and the principles inherent in the country's  
 67 founding documents by observing American Founders' Month in  
 68 September of each year as provided in s. 683.147. This month may  
 69 be coordinated with Celebrate Freedom Week, which is observed  
 70 pursuant to s. 1003.421.

71 (b) During American Founders' Month, students may be  
 72 provided instruction that focuses on:

73 1. The leading figures present at the country's founding  
 74 who were instrumental in crafting the founding documents that  
 75 institutionalized individual liberty and limited government that  
 76 derives its power from the consent of the governed.

77 2. The moral and civic virtue, self-sacrifice, intellectual  
 78 genius, and patriotism demonstrated by the country's founding  
 79 fathers.

80 3. The founding documents, including, but not limited to,  
 81 the Declaration of Independence, the Constitution of the United  
 82 States, the Bill of Rights, and the Federalist Papers.

83 4. The historical and philosophical importance of the  
 84 Declaration of Independence with its emphasis that all people  
 85 "are endowed by their Creator with certain unalienable rights,  
 86 that among these are life, liberty, and the pursuit of  
 87 happiness."

36-01255-12 20121462  
 88 5. The principles inherent in the founding documents,  
 89 including, but not limited to, individual freedom, equality,  
 90 limited representative government, a free market system, civic  
 91 virtue, natural law, and self-evident truth.

92 (c) The instruction may be integrated into the existing  
 93 school curriculum through methods including, but not limited to,  
 94 supplementing lesson plans, holding school assemblies, or  
 95 providing school-related activities.

96 (4) The department shall distribute a copy of this section  
 97 to each district school board, whereupon each district school  
 98 superintendent shall distribute a copy to all school  
 99 administrators and instructional personnel at the beginning of  
 100 each school year.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Spoke*

2/6/2012

Meeting Date

Topic \_\_\_\_\_

Bill Number 1962  
(if applicable)

Name MR. BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH  
Street

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705  
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☒ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: CS/SB 1654

INTRODUCER: Education Pre-K - 12 Committee and Senator Detert

SUBJECT: Certified School Counselors

DATE: February 7, 2012

REVISED: \_\_\_\_\_

|    | ANALYST         | STAFF DIRECTOR  | REFERENCE | ACTION        |
|----|-----------------|-----------------|-----------|---------------|
| 1. | deMarsh-Mathues | deMarsh-Mathues | ED        | <b>Fav/CS</b> |
| 2. |                 |                 | BC        |               |
| 3. |                 |                 |           |               |
| 4. |                 |                 |           |               |
| 5. |                 |                 |           |               |
| 6. |                 |                 |           |               |

**Please see Section VIII. for Additional Information:**

- |                              |  |   |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>                   | Technical amendments were recommended   |
|                              | <input type="checkbox"/>                   | Amendments were recommended             |
|                              | <input type="checkbox"/>                   | Significant amendments were recommended |

**I. Summary:**

The bill establishes an overall ratio of certified school counselors to students, as well as ratios for elementary schools, middle schools, and high schools. Additionally, after attaining these maximum ratios, each school would be required to have at least a full-time certified school counselor and would assign additional half-time or full-time certified counselors. School district audits would be required to include the ratio of counselors to students.

Under the bill, counselors may not be used as support staff for administrative duties, including, but not limited to, working bus or cafeteria lines, substitute teaching, or performing academic assessment functions. The bill provides that counselors must provide counseling to students, develop and deliver curriculum at the appropriate grade level, coordinate activities and programs for each curriculum, and consult with school administrators, teachers, parents, and students. Finally, district school boards must adopt rules outlining the responsibilities of certified school counselors.

This bill substantially amends sections 381.0057, 1003.21, 1003.4156, 1003.43, 1008.42, and 1012.01 and creates an undesignated section of the Florida Statutes.

## II. Present Situation:

Instructional personnel, under current law, are any K-12 staff member whose function includes the provision of direct instructional services to students.<sup>1</sup> The term includes K-12 personnel who provide direct support in the learning process of students. Included in this classification are student services personnel who are responsible for:<sup>2</sup>

- Advising students with regard to their abilities and aptitudes, educational and occupational opportunities, and personal and social adjustments;
- Providing placement services; and
- Performing educational evaluations and similar functions.

Included in this classification are guidance counselors, social workers, career specialists, and school psychologists.<sup>3</sup>

The specialization requirements for certification by the Department of Education in guidance and counseling in prekindergarten through grade 12 are specified in rules of the State Board of Education.<sup>4</sup>

According to the Florida School Counselor's Association, many of Florida's schools do not have a certified counselor or have an insufficient number of counselors.<sup>5</sup> Additionally, the association notes that many counselors are assigned to non-school counseling related tasks which prevent them from fully implementing their programs in compliance with the Florida's School Counseling and Guidance Framework<sup>6</sup> and the student development program standards.<sup>7</sup> These programs include activities implemented or monitored by counselors to promote best practices for all students in the areas of academic development; career development and planning; personal and social development; and community involvement.

Current law requires each district school board to annually submit a district guidance report to the Commissioner of Education that includes: student access to guidance counselors; the degree to which the district has a guidance model program; the evaluation of information and training available to guidance counselors and career specialists to advise students on areas of critical

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<sup>1</sup> 1. s. 1012.01(2), F.S.

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

<sup>3</sup> Social workers are regulated under the provisions of chapter 491, F.S., while school psychologists are licensed under the provisions of chapter 490, F.S.

<sup>4</sup> Rule 6A-4.0181, F.A.C. See <http://www.fldoe.org/edcert/rules/6A-4-0181.asp>. To be certified, a person must hold a master's or higher degree with a graduate major in guidance and counseling or counselor education which includes three semester hours in a supervised counseling practicum in an elementary or secondary school. Alternatively, he or she must hold a master's or higher degree with 30 semester hours of graduate credit in guidance and counseling to include areas specified in rule.

<sup>5</sup> *Florida School Counselor Association Advocacy Platform 2010-2011*. According to the association, the number of certified professional school counselors should be at a ratio of 1:250 per school, as recommended by the American School Counselor Association, the American Counseling Association, the American Psychological Association, the American Medical Association, and other organizations. See <http://www.flaschoolcounselor.org/downloads/FSCA%20Platform%202010.pdf>.

<sup>6</sup> The 2010 framework is for districts and schools to develop, restructure, or improve comprehensive counseling and guidance programs. See [http://www.fldoe.org/workforce/programs/cd\\_guide.asp](http://www.fldoe.org/workforce/programs/cd_guide.asp).

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

need, labor market trends and technical training requirements; progress toward incorporation of best practices; and consideration of alternative guidance systems or ideas.<sup>8</sup>

### **III. Effect of Proposed Changes:**

The bill establishes an overall ratio of at least one certified school counselor for every 400 students, with each elementary school having at least one certified school counselor for every 450 students, each middle school having at least one certified school counselor for every 400 students, and each high school having at least one certified school counselor for every 350 students. Additionally, after attaining these maximum ratios, each school would be required to have at least a full-time certified school counselor and would assign additional half-time or full-time certified counselors. School district audits would be required to include the ratio of counselors to students.

The bill provides that counselors may only perform the duties and functions specified in law, such as advising students, providing placement services, performing educational evaluations, and developing and delivering curriculum at the appropriate grade level). Under the bill, counselors may not be used as support staff for administrative duties, including, but not limited to, working bus or cafeteria lines, acting as a substitute teacher, or coordinating, administering, or monitoring academic assessments. Finally, a district school board must adopt rules outlining the responsibilities of certified school counselors. The rules would be aligned with a certified school counselor's training, certification, and statutory duties.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

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<sup>8</sup> s. 1006.025, F.S.

C. Government Sector Impact:

The cost of implementing the ratios provided in the bill is indeterminate at this time.

**VI. Technical Deficiencies:**

The bill amends several provisions of law to replace the term “guidance counselors” with the term “certified school counselors.” However, other statutes (e.g., s. 1004.04(5), F.S.) that reference “guidance counselors” have not been similarly amended.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by the Committee on Pre-K – 12 on February 6, 2012:**

The committee substitute:

- Clarifies that after attaining a maximum ratio of counselor to students, each school would be required to have at least one full-time certified school counselor and would assign additional full-time or half-time counselors;
- Provides that district school board rules would align the duties of certified school counselors with their training, certification, and statutory duties;
- Provides that certified school counselors may only perform statutorily assigned duties; and
- Prohibits certified school counselors from performing specific assessment related duties.

B. Amendments:

None.





814726

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/07/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Education Pre-K - 12 (Altman) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 34 - 36  
and insert:

(b) Each school shall have a minimum of one full-time  
certified school counselor and shall assign additional half-time  
or full-time certified school counselors only after

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

And the title is amended as follows:

Delete lines 9 - 11  
and insert:



814726

13        have a minimum of one full-time certified school  
14        counselor and assign additional half-time or full-time  
15        certified school counselors only after



860704

LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 02/07/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Education Pre-K - 12 (Altman) recommended the following:

**Senate Amendment**

Delete line 41  
and insert:  
counselors which are commensurate with their training and  
certification and pursuant to the requirements in s.  
1012.01(2)(b), Florida Statutes.



587252

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RS   | . |       |
| 02/07/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Education Pre-K - 12 (Altman) recommended the following:

**Senate Amendment**

Delete line 283  
and insert:  
coordinating, administering, or monitoring academic testing and testing programs.



263356

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 02/07/2012 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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The Committee on Education Pre-K - 12 (Altman) recommended the following:

**Senate Substitute for Amendment (587252)**

Delete lines 278 - 283  
and insert:  
workers, career specialists, and school psychologists. Certified school counselors shall perform only the duties and functions as provided by law and may not be used as support staff for administrative duties, including, but not limited to, coordinating, administering, or monitoring academic testing and testing programs, working bus or cafeteria lines, or substitute teaching.

By Senator Detert

23-01145A-12

20121654

A bill to be entitled

An act relating to certified school counselors; requiring that each school district have an overall ratio of at least one certified school counselor for every 400 students; requiring that each elementary, middle, and high school within the school district have a specified maximum ratio of certified school counselors to students; requiring that each school have a full-time certified school counselor and assign half-time certified school counselors or an additional full-time certified school counselor only after reaching the maximum ratio; requiring that each school district include the ratio of certified school counselors to students in its annual audit and adopt rules; providing the duties of certified school counselors; amending ss. 381.0057, 1003.21, 1003.4156, 1003.43, and 1008.42, F.S.; revising provisions to conform to changes made by the act; amending s. 1012.01, F.S.; prohibiting certified school counselors from being used as support staff for administrative duties; providing an effective date.

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

Section 1. Certified school counselors in public schools; duties.

(1)(a) Each school district shall have an overall ratio of at least one certified school counselor for every 400 students, with each elementary school having at least one certified school

Page 1 of 10

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

23-01145A-12

20121654

counselor for every 450 students, each middle school having at least one certified school counselor for every 400 students, and each high school having at least one certified school counselor for every 350 students.

(b) Each school shall have a full-time certified school counselor and shall assign half-time certified school counselors or an additional full-time certified school counselor only after reaching the maximum ratio as provided in paragraph (a).

(c) Each school district shall include the ratio of certified school counselors to students in its annual audit and shall adopt rules outlining the duties of certified school counselors.

(2) Each certified school counselor shall provide counseling to students; develop and deliver curriculum at the appropriate grade level; coordinate activities and programs for each curriculum; and consult with school administrators, teachers, parents, and students.

Section 2. Paragraph (b) of subsection (4) of section 381.0057, Florida Statutes, is amended to read:

381.0057 Funding for school health services.—

(4) Any school district, school, or laboratory school which desires to receive state funding under the provisions of this section shall submit a proposal to the joint committee established in subsection (3). The proposal shall state the goals of the program, provide specific plans for reducing teenage pregnancy, and describe all of the health services to be available to students with funds provided pursuant to this section, including a combination of initiatives such as health education, counseling, extracurricular, and self-esteem

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

23-01145A-12

20121654

components. School health services shall not promote elective termination of pregnancy as a part of counseling services. Only those program proposals which have been developed jointly by county health departments and local school districts or schools, and which have community and parental support, shall be eligible for funding. Funding shall be available specifically for implementation of one of the following programs:

(b) *Student support services team program.*—The program shall include a multidisciplinary team composed of a psychologist, social worker, and nurse whose responsibilities are to provide basic support services and to assist, in the school setting, children who exhibit mild to severely complex health, behavioral, or learning problems affecting their school performance. Support services shall include, but not be limited to: evaluation and treatment for minor illnesses and injuries, referral and followup for serious illnesses and emergencies, onsite care and consultation, referral to a physician, and followup care for pregnancy or chronic diseases and disorders as well as emotional or mental problems. Services also shall include referral care for drug and alcohol abuse and sexually transmitted diseases, sports and employment physicals, immunizations, and in addition, effective preventive services aimed at delaying early sexual involvement and aimed at pregnancy, acquired immune deficiency syndrome, sexually transmitted diseases, and destructive lifestyle conditions, such as alcohol and drug abuse. Moneys for this program shall be used to fund three teams, each consisting of one half-time psychologist, one full-time nurse, and one full-time social worker. Each team shall provide student support services to an

23-01145A-12

20121654

elementary school, middle school, and high school that are a part of one feeder school system and shall coordinate all activities with the school administrator and certified school guidance counselor at each school. A program ~~that which~~ places all three teams in middle schools or high schools may also be proposed.

Funding may also be available for any other program that is comparable to a program described in this subsection but is designed to meet the particular needs of the community.

Section 3. Paragraph (c) of subsection (1) of section 1003.21, Florida Statutes, is amended to read:

1003.21 School attendance.—

(1)

(c) A student who attains the age of 16 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. Public school students who have attained the age of 16 years and who have not graduated are subject to compulsory school attendance until the formal declaration of intent is filed with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential and must be signed by the student and the student's parent. The school district must notify the student's parent of receipt of the student's declaration of intent to terminate school enrollment. The student's certified school guidance counselor or other school personnel must conduct an exit interview with the

23-01145A-12 20121654  
 student to determine the reasons for the student's decision to  
 terminate school enrollment and actions that could be taken to  
 keep the student in school. The student must be informed of  
 opportunities to continue his or her education in a different  
 environment, including, but not limited to, adult education and  
 GED test preparation. Additionally, the student must complete a  
 survey in a format prescribed by the Department of Education to  
 provide data on student reasons for terminating enrollment and  
 actions taken by schools to keep students enrolled.

Section 4. Paragraph (a) of subsection (1) of section  
 1003.4156, Florida Statutes, is amended to read:

1003.4156 General requirements for middle grades  
 promotion.—

(1) Promotion from a school composed of middle grades 6,  
 7, and 8 requires that:

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

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

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

23-01145A-12 20121654  
 assessment, and beginning with the 2012-2013 school year, to  
 earn high school credit for a geometry course, a middle school  
 student must pass the geometry end-of-course assessment.

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

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

5. One course in career and education planning to be  
 completed in 7th or 8th grade. The course may be taught by any  
 member of the instructional staff; must include career  
 exploration using Florida CHOICES or a comparable cost-effective  
 program; must include educational planning using the online  
 student advising system known as Florida Academic Counseling and



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20121654

Tracking for Students at the Internet website FACTS.org; and shall result in the completion of a personalized academic and career plan. The required personalized academic and career plan must inform students of high school graduation requirements, high school assessment and college entrance test requirements, Florida Bright Futures Scholarship Program requirements, state university and Florida College System institution admission requirements, and programs through which a high school student can earn college credit, including Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, career academy opportunities, and courses that lead to national industry certification.

A student with a disability, as defined in s. 1007.02(2), for whom the individual education plan team determines that an end-of-course assessment cannot accurately measure the student's abilities, taking into consideration all allowable accommodations, shall have the end-of-course assessment results waived for purposes of determining the student's course grade and completing the requirements for middle grades promotion. Each school must hold a parent meeting either in the evening or on a weekend to inform parents about the course curriculum and activities. Each student shall complete an electronic personal education plan that must be signed by the student; the student's instructor, certified school guidance counselor, or academic advisor; and the student's parent. The Department of Education shall develop course frameworks and professional development materials for the career exploration and education planning course. The course may be implemented as a stand-alone course or

23-01145A-12

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integrated into another course or courses. The Commissioner of Education shall collect longitudinal high school course enrollment data by student ethnicity in order to analyze course-taking patterns.

Section 5. Paragraph (d) of subsection (7) of section 1003.43, Florida Statutes, is amended to read:

1003.43 General requirements for high school graduation.—

(7) No student may be granted credit toward high school graduation for enrollment in the following courses or programs:

(d) Any Level I course unless the student's assessment indicates that a more rigorous course of study would be inappropriate, in which case a written assessment of the need must be included in the student's individual educational plan or in a student performance plan, signed by the principal, the certified school guidance counselor, and the parent of the student, or the student if the student is 18 years of age or older.

Section 6. Paragraph (b) of subsection (2) of section 1008.42, Florida Statutes, is amended to read:

1008.42 Public information on career education programs.—

(2) The dissemination shall be conducted in accordance with the following procedures:

(b)1. Each district school board shall publish, at a minimum, the most recently available placement rate for each career certificate program conducted by that school district at the secondary school level and at the career degree level. The placement rates for the preceding 3 years shall be published if available, shall be included in each publication that informs the public of the availability of the program, and shall be made

23-01145A-12 20121654  
 233 available to each certified school guidance counselor. If a  
 234 program does not have a placement rate, a publication that lists  
 235 or describes that program must state that the rate is  
 236 unavailable.

237 2. Each Florida College System institution shall publish,  
 238 at a minimum, the most recent placement rate for each career  
 239 certificate program and for each career degree program in its  
 240 annual catalog. The placement rates for the preceding 3 years  
 241 shall be published, if available, and shall be included in any  
 242 publication that informs the public of the availability of the  
 243 program. If a program does not have a placement rate, the  
 244 publication that lists or describes that program must state that  
 245 the rate is unavailable.

246 3. If a school district or a Florida College System  
 247 institution has calculated for a program a placement rate that  
 248 differs from the rate reported by the department, and if each  
 249 record of a placement was obtained through a process that was  
 250 capable of being audited, procedurally sound, and consistent  
 251 statewide, the district or the Florida College System  
 252 institution may use the locally calculated placement rate in the  
 253 report required by this section. However, that rate may not be  
 254 combined with the rate maintained in the computer files of the  
 255 Department of Education's Florida Education and Training  
 256 Placement Information Program.

257 4. An independent career, trade, or business school may not  
 258 publish a placement rate unless the placement rate was  
 259 determined as provided by this section.

260 Section 7. Paragraph (b) of subsection (2) of section  
 261 1012.01, Florida Statutes, is amended to read:

23-01145A-12 20121654  
 262 1012.01 Definitions.—As used in this chapter, the following  
 263 terms have the following meanings:

264 (2) INSTRUCTIONAL PERSONNEL.—“Instructional personnel”  
 265 means any K-12 staff member whose function includes the  
 266 provision of direct instructional services to students.  
 267 Instructional personnel also includes K-12 personnel whose  
 268 functions provide direct support in the learning process of  
 269 students. Included in the classification of instructional  
 270 personnel are the following K-12 personnel:

271 (b) *Student personnel services*.—Student personnel services  
 272 include staff members responsible for: advising students with  
 273 regard to their abilities and aptitudes, educational and  
 274 occupational opportunities, and personal and social adjustments;  
 275 providing placement services; performing educational  
 276 evaluations; and similar functions. Included in this  
 277 classification are certified school guidance counselors, social  
 278 workers, career specialists, and school psychologists. Certified  
 279 school counselors shall perform only the duties and functions  
 280 described in this paragraph and may not be used as support staff  
 281 for administrative duties, including, but not limited to,  
 282 working bus or cafeteria lines, substitute teaching, or  
 283 monitoring tests.

284 Section 8. This act shall take effect July 1, 2012.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

Waive

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-12

Meeting Date

Topic School Counselors

Bill Number 1654  
(if applicable)

Name Carole Green

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title lobbyist

Address PO Box 07463

Phone 850

Street

City

Fort Myers

State

Zip

FL

33919

E-mail Carole@capitol  
Strategies inc.  
com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida School Counselor Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

waive

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-6-12

Meeting Date

Topic school counselors

Bill Number 1654

(if applicable)

Name Nan Worsowicz

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title Supervisor, School Counseling, Duval County Public Schools

Address 4756 Sussex Ave.

Phone 904-238-1274

Street

Jacksonville

FL

32210

City

State

Zip

E-mail tworsowicz@aol.com

Speaking:

☒

For

☐

Against

☐

Information

Representing

Florida School Counselor Association

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

Waive

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/6/12

Meeting Date

Topic Certified School Counselors Bill Number 1654  
(if applicable)

Name Joni Shook Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title School Counselor, Duval County Public Schools

Address 123 Fairway Oaks Dr. Phone 904-269-3723  
Street  
Fleming Island FL 32003 E-mail jonishook@clearwire.net  
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida School Counselor Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Spoke*

2 / 6 / 2012

Meeting Date

Topic \_\_\_\_\_

Bill Number 1654

(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727/897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

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BILL: SB 982

INTRODUCER: Senator Bogdanoff

SUBJECT: Tax on Sales, Use and Other Transactions

DATE: January 31, 2012

REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR  | REFERENCE | ACTION           |
|----|---------|-----------------|-----------|------------------|
| 1. | Brown   | deMarsh-Mathues | ED        | <b>Favorable</b> |
| 2. |         |                 | BC        |                  |
| 3. |         |                 |           |                  |
| 4. |         |                 |           |                  |
| 5. |         |                 |           |                  |
| 6. |         |                 |           |                  |

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## I. Summary:

This bill authorizes a sales tax holiday for specific clothing, footwear, and school supplies, and provides exclusions. The bill excludes sales tax purchases from the exemption that take place at certain establishments and locations. The sales tax holiday is a one-time holiday, and is scheduled from August 10, 2012 through August 12, 2012.

The Department of Revenue is provided an appropriation of \$226,284 to implement these provisions, and granted emergency rulemaking authority.

This bill creates an undesignated section of the Florida Statutes.

## II. Present Situation:

### Sales Tax

State sales tax is applied to most purchases of tangible personal property at a rate of 6 percent in Florida.<sup>1</sup> Tax attaches to retail sales.<sup>2</sup>

Sales tax exemptions are provided in s. 212.08, F.S., and apply to a range of specific items, including most food that is not considered prepared food, certain medical supplies, farm equipment, specific industrial machinery and equipment, and kindergarten through grade 12 school books and school lunches.

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<sup>1</sup> s. 212.05(1), F.S.

<sup>2</sup> s. 212.07(1), F.S.

**Sales Tax Holidays**

The Legislature has approved sales tax holidays for a number of years, notably from 2005 through 2007, and then again in 2010 and 2011, and has not adopted them for others (2008 and 2009). The holiday is generally made available for the benefit of families making back-to-school purchases, and the holiday is typically offered just prior to the start of a new school year.

**III. Effect of Proposed Changes:**

This bill creates a sales tax holiday that would apply to purchase of the following items:

- Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags with a sales price of \$75 or less per item. Briefcases, suitcases, and other garment bags are expressly excluded. Clothing is defined as apparel worn on the human body, including shoes, but excluding watches, watchbands, jewelry, umbrellas, handkerchiefs, skis, swim fins, rollerblades and skates;
- School supplies not to exceed \$15 in sales price, including pens, pencils, erasers, crayons, notebooks and paper, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, tape, glue, rulers, computer disks, protractors, compasses and calculators.

Purchases made at a theme park or entertainment complex, public lodging establishments, and airports do not qualify for the exemption. Because of this provision, and the exclusions provided for clothing, it appears that the exemption is tailored more to non-luxury purchases by in-state residents, rather than tourists.

This bill grants the Department of Revenue (DOR) authority to adopt rules through emergency rulemaking. An appropriation of \$226,284 is provided in nonrecurring General Revenue funds to the DOR to implement notice for the sales tax holiday. Any remaining funds shall revert and be reappropriated for the following year.

Although the bill takes effect upon becoming law, the sales tax holiday runs from 12:01 a.m. on Friday, August 10, 2012 through 11:59 p.m. on Sunday, August 12, 2012.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.



**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Private retailers who sell these types of items will likely experience increased sales related to the sales tax holiday. Consumers will benefit from having the ability to purchase items tax-free during the term of the sales tax holiday.

**C. Government Sector Impact:**

The state will lose revenue based upon the sales tax holiday. At the Revenue Estimating Conference held on December 9, 2011, the Conference adopted a negative cash impact to general revenue of \$25.9 million in FY 2012-13, with an accompanying negative cash impact of \$5.9 million to local government.

According to the Office of Economic and Demographic Research, the total impact on revenue in millions would be:<sup>3</sup>

|                       | <b>FY 2012-13</b> |
|-----------------------|-------------------|
| General Revenue       | (25.9)            |
| Revenue Sharing       | (.9)              |
| Local Gov't Half Cent | (2.5)             |
| Local Option          | (2.5)             |
| Total Local Impact    | (5.9)             |
| <b>Total</b>          | <b>(31.8)</b>     |

According to the DOR, it will use the funds appropriated to notify dealers regarding which clothing items and school supplies would be exempt from sales tax. The DOR would use the existing Taxpayer Information Publication (TIP) to notify dealers. The DOR anticipates that it will need to print and mail TIPs to 556,000 sales and use tax dealers prior to the beginning of the sales tax holiday, with an additional print of 5,000 TIPs for mail to retail associations and others upon request.<sup>4</sup>

The total amount appropriated in this bill of \$226,284 that would be expended by the DOR is for printing (\$80,056) and postage (\$146,228).

**VI. Technical Deficiencies:**

None.

<sup>3</sup> Revenue Estimating Conference Analysis (December 9, 2011). On file with the Committee on Education Pre-K – 12.

<sup>4</sup> DOR Bill Analysis (December 13, 2011). On file with the Committee on Education Pre-K – 12.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Bogdanoff

25-00654-12

2012982\_\_

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; specifying a period during this year when the sale of clothing, wallets, bags, and school supplies are exempt from the tax; providing definitions; providing exceptions; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an effective date.

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

Section 1. (1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 10, 2012, through 11:59 p.m. on August 12, 2012, on the sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of \$75 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, or handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of \$15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook

25-00654-12

2012982\_\_

filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax exemptions in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, for the purpose of implementing this section.

Section 2. For the 2011-2012 fiscal year, the sum of \$226,284 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for purposes of administering section 1. Funds remaining unexpended or unencumbered from this appropriation as of June 30, 2012, shall revert and be reappropriated for the same purpose in the 2012-2013 fiscal year.

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

*Waive*

216/2012

*Meeting Date*

Topic \_\_\_\_\_

Bill Number 982  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH  
*Street*

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705  
*City State Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

***This form is part of the public record for this meeting.***

S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Wai JL

2/6/12

Meeting Date

Topic BACK TO SCHOOL SALES TAX HOLIDAY Bill Number SB 982  
(if applicable)

Name RANDY MILLER Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title EXECUTIVE V.P.

Address 227 S. ADAMS ST Phone 850-222-4082  
Street

TALLAHASSEE E-mail \_\_\_\_\_  
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA RETAIL FEDERATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Agriculture, *Vice Chair*  
Education Pre-K - 12, *Vice Chair*  
Budget - Subcommittee on General Government  
Appropriations  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Military Affairs, Space, and Domestic Security  
Reapportionment  
Rules  
Transportation

## SENATOR LARCENIA J. BULLARD

39th District

February 6, 2012

Senator Wise, Chair  
Education Pre K-12 Committee  
415 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator Wise:

Due to my present health challenges, I am requesting excusal from the Education Pre K-12 Committee meeting scheduled Monday, February 6, 2012. I remain on the mend and look forward to improved health.

Sincerely,



Senator Larcenia J. Bullard  
District 39

LJB\rm

CC: Lynda deMarsh-Mathues Staff Director



## REPLY TO:

- ☐ 8603 South Dixie Highway, Suite 304, Miami, Florida 33143 (305) 668-7344
- ☐ 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5127

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

MIKE HARIDOPOLOS  
President of the Senate

MICHAEL S. "MIKE" BENNETT  
President Pro Tempore