

STORAGE NAME: h0991s1.edk

DATE: March 26, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 991

RELATING TO: High School Athletics

SPONSOR(S): Committee on Education K-12, and Representative Andrews

STATUTE(S) AFFECTED: Creates unassigned new sections of law.

COMPANION BILL(S): SB 786 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) EDUCATION K-12 YEAS 10 NAYS 0

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I. SUMMARY:

The bill designates the Florida High School Activities Association (FHSA) as the governing organization of athletics in Florida public schools, provided that the organization operates and conforms to the provisions of this act by July 15, 1997. The bill provides for the structure, duties, and responsibilities of the organization.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

High school athletic activities are presently supervised and coordinated by the nonprofit Florida High School Activities Association (FHSAA). FHSAA also supervises and coordinates many non-athletic activities, such as the Florida Chapters of the National Honor Society, the Florida Association of Student Councils and the Florida Music Educators Association. Membership in the organization is voluntary. Member schools are subject to regulation and oversight by FHSAA.

Existing FHSAA organizational structure consists of:

- Board of Directors - a 33-member board, including the Commissioner of Education, determines policy and provides guidelines. The Board meets three times a year.
- Executive Committee - a 5-member committee which approves the annual budget, decides hardship cases, and serves as the final court of appeal for the Association. The Committee meets monthly August through April of each year.
- FHSAA Staff - supervised by the commissioner of FHSAA, the staff administers guidelines, policies, procedures, and regulations.
- Advisory Committees - representing athletic directors, contest officials, coaches, and others, the committees meet annually and make recommendations for regulatory changes to the Board of Directors.

A major source of FHSAA operating funds (56%) is generated by the Association's share of gate receipts from State Series competitions and other events. Other sources of funds include membership dues and legal fees (12%), officials' registration fees (11%), and miscellaneous sources such as penalties, fines, investment income, corporate support, media contracts, and merchandising (21%). FHSAA receives no state funds.

Section 232.44, F.S., requires the Auditor General to audit the books and records of any nonprofit association or corporation which operates for the purpose of supervising and controlling interscholastic activities of the public high schools in the state. The Auditor General must perform these audits at least once every 6 months. The nonprofit organizations are required to keep records of moneys received, including sources, amounts, and expenditures. The records must be made available for inspection by the Auditor General. This is the only statute section relating to the regulation of nonprofit interscholastic activities associations.

On March 9, 1996, the Board of Directors of FHSAA authorized the formation of a Public Liaison Advisory Committee (PLAC). The committee was created to serve as a device by which the general public might impact the decision-making process of FHSAA. PLAC was authorized to review all aspects of FHSAA and make recommendations to the Board of Directors. Appointments to the committee included representatives of the Florida Department of Education (DOE), the Florida Legislature, the Florida School Board Association, the Florida Association of District Superintendents, member high school students, the Florida Home Educators Association, the Florida Congress of Parents and Teachers, the news media, member public schools, member private schools, and member school athletic directors.

In a final report dated January 13, 1997, PLAC made the following five recommendations:

- FHSAA should be relieved of all regulation and supervision of non-athletic extracurricular activities, and operate solely as an interscholastic athletic association;
- FHSAA should ensure the right of member schools and student-athletes to due process and appeal when they believe they have been unjustly impacted by any bylaw, regulation, guideline, policy, or procedure;

- FHSAA should revise its eligibility bylaws to allow a student to be eligible at the school in which he or she chooses to attend and first enrolls within the initial ten days of the school year, or at which he or she makes himself or herself a candidate for an athletic team by engaging in an athletic practice;
- ongoing retention of the PLAC; and
- revision of FHSAA's governance structure.

The revised governance structure includes the formation of four Sectional Councils, an Association Council, and a Representative Assembly. The proposed structure is designed to return much of the decision-making process to the local level, establish a two-tiered appeals process, and create two separate "houses" of government. It divides the state into four regions, each containing a Sectional Council with the responsibility of reviewing hardship cases. The second level in the hierarchy includes an Association Council which would serve as an oversight body for the four Sectional Councils. The Association Council would serve as a board of directors, interpret bylaws, handle procedural matters, levy fees, set percentages of contest receipts to be collected, conduct statewide interscholastic activities, and handle appeals. The Representative Assembly would consider and adopt or reject proposed amendments to FHSAA bylaws or other legislation which is of a permanent nature. The proposed structure includes input from various advisory committees, including PLAC and other committees.

B. EFFECT OF PROPOSED CHANGES:

The bill designates FHSAA as the governing organization of athletics in Florida public schools, provided that the organization operates and conforms to the provisions of this act by July 15, 1997. If FHSAA does not comply with the provisions of this act, the Commissioner of Education will designate an organization to govern athletics with the approval of the State Board of Education. The organization is not a state agency under s. 120.52, F.S., and is subject to the provisions of s. 232.44, F.S., relating to the audit of records of nonprofit corporations and associations handling interscholastic activities. A nonpublic school that wishes to compete against a public school may become a member of the organization. Under the bill, athletic programs and participating students of member schools are governed by the bylaws of the organization, unless otherwise provided by statute. Under this act, "high school" includes grades 6 through 12.

The bill requires the organization to adopt bylaws establishing eligibility requirements for participating students in member schools. The bylaws governing residence and transfer must allow a student to be eligible in the school in which he or she first enrolls each school year, or makes himself or herself a candidate for an athletic team by engaging in a practice prior to enrolling in any member school. The student shall be eligible in that school as long as he or she remains enrolled in that school. Subsequent eligibility will be determined and enforced by the bylaws. Eligibility is determined irrespective of residence, with whom the student lives, or which school the student attended during the previous year.

The organization's bylaws must specifically prohibit recruiting students for athletic purposes and provide penalties for violations and an appeals process.

Organizational Structure

The bill prescribes the governing structure of the organization, which includes a board of directors, representative assembly, public advisory committee, and committee on appeals. It requires each member school to appoint an official representative to the organization on its annual application form. This representative must be the principal or a designated assistant principal or in-house athletic director. The membership of the organization is divided along existing county lines into four contiguous and compact administrative regions, containing approximately the same number of member schools.

Board of Directors

The bill establishes a 15-member board of directors composed of the following:

- four public member school representatives, one elected from public school representatives in each of the four administrative regions;
- four nonpublic member school representatives, one elected from nonpublic school representatives in each of the four administrative regions;
- two representatives appointed by the Commissioner of Education, one appointed from the two northernmost administrative regions and one from the two southernmost regions;
- two district school superintendents;
- two district school board members; and
- the Commissioner of Education, or his or her designee.

The two district school superintendents, and the two district school board members must have one of each group elected from the two northernmost administrative regions and the other elected from the two southernmost administrative regions.

The board of directors must elect a president and vice president from its members, and a quorum consists of nine members. Other than the Commissioner of Education or his or her designee, members serve a maximum of two consecutive 3-year terms. These terms are rotated to prevent the concurrent expiration of terms.

The duties of the board of directors include:

- acting as the incorporated organization's board of directors;
- establishing and interpreting guidelines, regulations, policies, and procedures authorized by the bylaws;
- providing a commissioner for the organization, who has the authority to waive the bylaws to comply with statutory changes;
- organizing and conducting statewide interscholastic competitions;
- acting as an administrative board regarding interpretation of, and final decision on, all questions and appeals arising from the directing of interscholastic athletics of member schools;
- levying annual dues and other fees;
- setting the percentage of contest receipts to be collected by the organization; and
- approving the organization's budget.

Representative Assembly

Under the bill, legislative authority for the organization is vested in a representative assembly. The membership of the assembly consists of the following:

- an equal number of member school representatives from each of the four administrative regions; the number of representatives and method of selection is established in the bylaws;
- four peer-elected district school superintendents, one from each administrative region;
- four peer-elected school board members, one from each administrative region; and
- the Commissioner of Education, or his or her designee.

The assembly must elect a chairperson and vice chairperson from its members and meet once a year. Members serve a maximum of three consecutive 2-year terms. A member of the board of directors *cannot* serve on the representative assembly, with the exception of the Commissioner of Education or his or her designee.

The duties of the assembly are limited to the sole function of considering, adopting, or rejecting amendments to the bylaws. A quorum consists of a simple majority, and the passage of any proposal requires a two-thirds vote.

Public Liaison Advisory Committee

The bill requires the organization to establish, fund, and support a public liaison advisory committee composed of the following members:

- the Commissioner of Education or his or her designee;
- a member public school principal;
- a member nonpublic school principal;
- a member public school principal who is a member of a racial minority;
- an active athletic director;
- a full-time active coach from a member school;
- a student-athlete;
- a district school superintendent;
- a district school board member;
- a member of the Florida House of Representatives;
- a member of the Florida Senate;
- a parent of a high school student;
- a member of a home education association;
- a representative of the business community; and
- a representative of the news media.

The public liaison advisory committee must elect a chair person and vice chairperson from its members. Members of the board of directors, representative assembly, or committee on appeals *cannot* serve on the public liaison advisory committee.

The duties of the public liaison advisory council are to provide a means by which the general public has input into decisions made by the organization and assist the organization in developing procedures regarding the receipt of public input and the disposition of complaints filed relating to high school athletic programs. The advisory committee must conduct annual public hearings in each of the four regions, during which the committee may be addressed regarding the effectiveness of the rules, operation, and management of the organization.

The advisory committee must conduct annual evaluations of the organization and present a report of its findings and recommendations to the board of directors, the Commissioner of Education, and the respective education committees of the Florida House of Representatives and the Florida Senate. The recommendations must specify measures to improve the organization's implementation and oversight of high school athletic programs.

The advisory committee meets four times a year, and additional meetings may be called by the chairperson, the organization president, or the organization commissioner.

Committee on Appeals

The organization must establish a procedure of due process to ensure each student the opportunity to appeal an unfair ruling regarding the eligibility to compete. The bylaws must establish committees on appeals, including the specific number, size and composition.

The duties of a committee on appeals are to consider requests by member schools seeking exceptions to the bylaws, hear undue hardship eligibility cases, and hear appeals.

No member of the board of directors is eligible to serve on the committee on appeals. Members serve a maximum of two consecutive 3-year terms. The bylaws must establish a rotation of terms to prevent concurrent expiration of terms.

The bill provides that a student-athlete or member school receiving an unfavorable ruling from a committee on appeals is entitled to appeal the decision to the board of directors at its next regularly scheduled meeting. The board of directors has the final authority to uphold, reverse, or amend a decision rendered by a committee on appeals.

The bill specifies that each member school representative, the board of directors or member of the board, advisory committees, and the organization commissioner can propose or sponsor amendments to the bylaws. Others may propose amendments by obtaining sponsorship of the previous individuals. The amendments are filed directly with the representative assembly which

may adopt, reject, or revise proposed amendments. The assembly *cannot* propose amendments for its own considerations.

The bylaws must require member schools to adopt rules for sports, which have been established by a nationally recognized sanctioning body, unless waived by at least a two-thirds vote of the board of directors.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill designates FHSAA to operate, govern, regulate, and oversee high school athletic programs, including eligibility requirements.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, see (1), above.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

The restructured FSHAA regulates high school athletic programs. Presumably, non-athletic extracurricular programs, which used to be under FHSAA, would now be the responsibility of the individual schools or other entity.

(2) what is the cost of such responsibility at the new level/agency?

Indeterminate.

(3) how is the new agency accountable to the people governed?

The restructured FSHAA is designed to operate as a representative democracy in which the sovereign authority is within its member schools.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Assuming the member schools are the "beneficiaries," the bill authorizes the board of directors to levy annual dues.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

FHSAA determines whether a high school student is eligible for interscholastic athletic activities.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

No.

- (5) Are families penalized for not participating in a program?

No.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

ACADEMIC EXCELLENCE COUNCIL'S ADDITIONAL CONSIDERATIONS:

1. Does it improve instruction?

Not applicable.

2. Does it allow teachers to teach?

Not applicable.

3. Does it improve student character?

Not applicable.

4. Does it prepare our students to be a part of the 21st century workforce?

Not applicable.

5. Does it empower parents to make decisions?

Not applicable.

6. Does it create educational options?

Not applicable.

7. Does it create an environment where students can learn?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

- Section 1: The bill designates FHSA as the governing organization of athletics in Florida public schools, provided that the organization operates and conforms to the provisions of this act by July 15, 1997. For the purposes of this act, "high school" includes grades 6 through 12.
- Section 2: Requires the organization to adopt bylaws regarding student eligibility requirements and prohibiting student athlete recruiting.
- Section 3: Establishes the governing structure of the organization.
- Section 4: Establishes a board of directors, and provides membership, term limits, and duties.
- Section 5: Establishes a representative assembly, and provides membership, term limits, and duties.
- Section 6: Establishes a public liaison advisory committee, and provides membership, term limits, and duties.
- Section 7: Establishes committees on appeals, and provides term limits and duties. The specific number, size, and composition of the committees is established in the organization's bylaws.
- Section 8: Establishes an amendment process to the organization bylaws.
- Section 9: Requires member schools to adopt rules for sports, which have been established by a nationally recognized sanctioning body, unless waived by at least a two-thirds vote of the board of directors.
- Section 10: Provides an effective date upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See Fiscal Comments.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

The board of directors levies annual dues and other fees and sets the percentage of contest receipts to be collected. Indicators are that this can be a significant amount of money. (see "High School Football Finals Return to Gainesville," The Gainesville Sun, March 8, 1997)

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

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

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 25, 1997, HB 991 passed favorably out of the Committee on Education K-12 and was made a committee substitute. The committee substitute differs from the proposed committee substitute in the following ways.

The committee substitute designates the Florida High School Activities Association (FHSA) as the governing organization of athletics in Florida public schools, provided that the organization operates pursuant to the provisions of the act by July 15, 1997. If FHSA fails to comply, the Commissioner of Education must designate another organization with the approval of the State Board. For the purposes of the act, "high school" includes grades 6 through 12.

The committee substitute revises language relating to the bylaws governing residence and transfer, and authorizes the bylaws to require member schools to adopt rules for sports, which have been established by a nationally recognized sanctioning body, unless waived by at least a two-thirds vote of the board of directors.

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

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