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HOUSE OF REPRESENTATIVES
LIFELONG LEARNING COUNCIL
ANALYSIS

BILL #: HB 2017 (PCB LLC 02-01)
RELATING TO: Florida School Code
SPONSOR(S): Council for Lifelong Learning and Rep. Melvin
TIED BILL(S): HB 2019 (PCB LLC 02-02)

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

- (1) LIFELONG LEARNING COUNCIL YEAS 13 NAYS 5
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

In the 1998 General Election, Floridians amended the State Constitution, effective January 7, 2003, to require a new state board of education consisting of seven members appointed by the Governor and subject to confirmation by the Senate and to require that the State Board of Education appoint the Commissioner of Education.

The 2000 Legislature addressed the constitutional amendment by enacting the Florida Education Governance Reorganization Act of 2000 (Ch. 2000-321, L.O.F.) to transition from the new State Board structure.

The 2001 Legislature enacted the Florida Education Governance Reorganization Implementation Act (Ch. 2001-170, L.O.F.) expediting the transition process. The Act required the Florida Board of Education to make recommendations to the Legislature for the **rewrite of the school code**.

HB 2017 implements many of the recommendations of the Florida Board of Education regarding rewriting the school code. The structure of the school code is changed from 19 chapters of law currently in chapters 228-246, Florida Statutes, to a new 14 chapter structure contained in chapters 1000-1013, Florida Statutes. The bill rearranges, renumbers, rewords, reorders, streamlines, consolidates, and updates the education code.

In addition, the bill contains several provisions relating to the devolution of authority from the State Board of Education to the university boards of trustees.

Except as otherwise provided in the bill, the effective date of the bill is January 7, 2003.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

History of Recent Education Governance Changes

In the 1998 General Election, Floridians amended the State Constitution, effective January 7, 2003, to require a new state board of education consisting of seven members appointed by the Governor and subject to confirmation by the Senate and to require that the State Board of Education appoint the Commissioner of Education.

In 1999, the Commissioner of Education convened a 35-member Blue Ribbon Committee representing all regions of the state and all sectors of the education community to make recommendations for a seamless education system under the new state board. This committee presented its final report prior to the 2000 Legislative Session.

The 2000 Legislature addressed the constitutional amendment by enacting the Florida Education Governance Reorganization Act of 2000 (Ch. 2000-321, L.O.F.). This Act proposes to achieve, within existing resources, true systemic change in education governance by establishing a seamless academic system that fosters an integrated continuum of kindergarten through graduate school education for Florida's citizens. It establishes guiding principles for a coordinated, seamless system for all education that is student-centered in every facet; that maximizes education access and academic success; and that safeguards equity and refuses to compromise academic excellence. The Act provides for the creation of an 11-member Task Force to address implementation issues for transition to the new governance system. The Task Force submitted its recommendations to the Legislature March 1, 2001.

Based on recommendation of the Task Force, the 2001 Legislature enacted the Florida Education Governance Reorganization Implementation Act (Ch. 2001-170, L.O.F.) expediting the transition process. The Reorganization Implementation Act authorized the Governor to appoint the transitional Florida Board of Education members and the Secretary of Education. The Act also created 13 member university boards of trustees at each of the 11 institutions in the State University System. The Board of Regents and the State Board of Community Colleges were abolished and all of their powers and duties were type-two transferred to the Florida Board of Education. The Act required the Florida Board of Education to make recommendations to the Legislature for the **rewrite of the school code**.

The Secretary of Education appointed a workgroup to make consensus recommendations for changes to the school code. The Secretary's Workgroup on School Code Revisions was made up of the following individuals:

GROUP MEMBER NAME	ORGANIZATION WITH WHICH AFFILIATED
HENRY BROWN III	TEACHER OF THE YEAR
WAYNE BLANTON	FLORIDA SCHOOL BOARDS ASSOCIATION
STEVE WALLACE	FLORIDA COMMUNITY COLLEGE OF JACKSONVILLE
RONALD G. MEYER	PRACTICING ATTORNEY SPECIALIZING IN EDUCATION
PATTY HIGHTOWER	FLORIDA PTA
PATRICK HEFFERNAN	FLORIDIANS FOR SCHOOL CHOICE
MAUREEN DINNEN	FLORIDA EDUCATORS ASSOCIATION
LARRY KEOUGH	FLORIDA CATHOLIC CONFERENCE (NON-PUBLIC K-12)
MARY BENNETT	VOLUSIA COUNTY SCHOOLS
GEORGE KIRKPATRICK	INDEPENDENT COLLEGES AND UNIVERSITIES OF FL.
JOY FRANK	FLORIDA ASSOCIATION OF DISTRICT SCHOOL SUPERINTENDENTS
JEFF MUIR	UNIVERSITY OF SOUTH FLORIDA
JANET OWEN	UNIVERSITY OF NORTH FLORIDA
BRENDA DICKINSON	HOME EDUCATION FOUNDATION
DOUG CRAWFORD	FL. ASSOCIATION OF SCHOOL ADMINISTRATORS
DAVID FOY	FLORIDA STUDENT ASSOCIATION
DEBI GALLAY	DIVISION OF COLLEGES AND UNIVERSITIES
R.E. LEMON	DIVISION OF COLLEGES AND UNIVERSITIES
THERESA KLEBACHA	DIVISION OF COMMUNITY COLLEGES
SYD MCKENZIE	DIVISION OF COMMUNITY COLLEGES
KIM MCDOUGAL	EXECUTIVE OFFICE OF THE GOVERNOR
ROBIN SAFLEY	DEPARTMENT OF EDUCATION
JIM ROBINSON	DEPARTMENT OF EDUCATION
KATHY MIZERECK	DEPARTMENT OF EDUCATION
SARA STRUHS	DEPARTMENT OF EDUCATION
ASST. SECRETARY JOHN WINN	FBOE

The recommendations of the Secretary's workgroup were presented, amended, and approved by the Florida Board of Education and subsequently submitted to the Legislature.

C. EFFECT OF PROPOSED CHANGES:

See Section by Section Analysis below.

D. SECTION-BY-SECTION ANALYSIS:

Education Governance Structure

PRESENT SITUATION:

Chapter 2001-170, Laws of Florida, provides the current education governance structure. The current structure consists of 4 divisions within the Department of Education: Division of Independent Education, Division of Public Schools, Division of Community Colleges, and Division of Colleges & Universities.

Section 229.003, Florida Statutes, establishes the following education governance officers:

- Executive Director of Independent Education.
- Chancellor of Public Schools
- Chancellor of Community Colleges
- Chancellor of Colleges & Universities

In addition, 4 offices were created: Office of Technology and Information Services, Office of Workforce and Economic Development, Office of Educational Facilities and SMART Schools Clearinghouse, and Office of Student Financial Assistance.

The Commission on Independent Education is responsible for overseeing all licensed, authorized, and exempt from licensure institutions, except for those independent postsecondary institutions under the Division of Colleges & Universities.

EFFECT OF PROPOSED CHANGES:

HB 2017 changes the education governance structure. The new education governance structure would consist of 3 divisions within the Department of Education: Division of Public Schools, Division of Community Colleges, and Division of Colleges & Universities. The Division of Independent Education is eliminated.

The bill eliminates the Executive Director of Independent Education and renames the education governance officers to the following:

- Deputy Commissioner of Public Schools
- Deputy Commissioner of Community Colleges
- Deputy Commissioner of Colleges & Universities

The bill creates an Office of Private K-12 and Home Education within the Department of Education.

School Code Chapter Structure

PRESENT SITUATION:

Currently, chapters 228 through 246, F.S., are considered the Florida School Code. Outlined below is a brief description of law contained in each of those chapters.

Chapter	Current Structure
228	Public Education – General Provisions Definitions Charter Schools Miscellaneous
229	Functions of State Educational Agencies Part I. Education Governance Reorganization Part II. State Board of Education Part III. Commissioner of Education Part IV. Department of Education
230	District School System Powers and duties of school board
231	Personnel of School System Teacher Certification Teacher Professional Development
232	Compulsory School Attendance; Child Welfare Home Education School Age School Safety
233	Courses of Study and Instructional Aids Instructional Materials
234	Transportation of School Children Student Transportation
235	Education Facilities Community college and public school facilities issues
236	Finance & Taxation of Schools FEFP Public School Funding issues
237	Financial Accounts & Expenditures for Public Schools
238	Retirement System for School Teachers
239	Vocational, Adult, and Community Education Part I. General Provisions Part II. Vocational Education Part III. Adult Education Part IV. Community Education Part V. Special Programs
240	Postsecondary Education Part I. General Provisions Part II. State University System Part III. Community College System Part IV. Scholarship and Financial Aid Part V. Specific Programs and Institutions
241	Distance Learning
242	Specialized State Educational Institutions

Chapter	Current Structure
243	Educational Institutions law; Revenue Certificates Part I. Educational Institutions Law Part II. Counties Higher Educational Facilities Authorities Law
244	Educational Compacts Part I. Southern Regional Compact Part II. National Compact Part III. Compact on Qualifications of Educational Personnel
245	Disposition of Dead Bodies
246	Nonpublic Postsecondary Institutions

EFFECT OF PROPOSED CHANGES:

The Council for Lifelong Learning established a new structure for the Florida Education Code. The new structure provided in HB 2017 is listed below.

NEW Chapter	Recommended Structure "TITLE XLVIII – Education"
1000	K-20 General Provisions Part I – General Provisions Part II – Systemwide Definitions Part III – Educational Compacts
1001	K-20 Governance Part I.a. State Board of Education Part I.b. Commissioner of Education Part I.c. Department of Education Part II.a. District School Boards Part II.b. District School Superintendents Part II.c. School Principals Part III Community Colleges Part IV State Universities
1002	Rights and Choices Part I. Definitions Part II. Student and Parental Rights Part III. Educational Choice Part IV. Home Education, Private schools, Other Education Options
1003	Public K-12 Education Part I. General Provisions Part II. School Attendance Part III. Control of Students Part IV. Public K-12 Educational Instruction Part V. Specializes Instruction for Certain Public K-12 Students Part VI. Pilot Public K-12 Education Programs

1004	Public Postsecondary Education Part I. General Provisions Part II. State Universities Part II.a. General Provisions Part II.b. Branch Campuses, centers, institutes, and special programs Part III Community colleges Part III.a. General Provisions Part III.b. Special programs; centers Part IV. Workforce development education
1005	Nonpublic Postsecondary Education Part I. General Provisions Part II. Commission for Independent Education Part III. Licensure of nonpublic postsecondary educational institutions
1006	Support for Learning, Student Services, and Safety Part I. Public K-12 Educational Support for Learning and Student Services Part I.a. Learning Services Generally Part I.b. Student Food and Health Services Part I.c. Student Discipline and School Safety Part I.d. Student Extracurricular Activities and Athletics Part I.e. Transportation of Public K-12 Students Part I.f. Instructional Materials for K-12 Public Education Part II. Postsecondary Educational Institutions
1007	Access & Articulation Part I. General Provisions Part II. Articulation Part III. Access to Postsecondary Education
1008	Assessment & Accountability Part I. Assessment (K-20) Part II. Accountability (K-20) Part III. CEPRI
1009	Educational Scholarships, Fees, and Financial Part I. General Provisions Part II. Postsecondary Student Fees Part III. Financial Assistance Part III.a. General Provisions Part III.b. Scholarships, Grants, and other aid Part III.c. Role of the Department of Education Part IV. Prepaid College Program Part V. Florida Higher Education Loan Authority
1010	Financial Matters Part I. General Accounting Requirements Part II. Financial Reporting Part III. Audit Requirements & Procedures Part IV. Provisions Relating to Bonding Part V. Trust Funds

1011	<p>Planning and Budgeting</p> <p>Part I. Preparation, Adoption and Implementation of Budgets</p> <p>Part I.a. District school boards: Preparation, Adoption, and Implementation of Budgets</p> <p>Part I.b. Community Colleges: Preparation, Adoption, and Implementation of Budgets</p> <p>Part I.c. Universities: Preparation, Adoption, and Implementation of Budgets</p> <p>Part I.d. Florida School for the Deaf and Blind: Preparation, Adoption, and Implementation of Budgets</p> <p>Part II. Funding for School Districts</p> <p>Part III. Funding for Workforce Education</p> <p>Part IV. Funding for Community Colleges</p> <p>Part V. Funding for State Universities</p>
1012	<p>Personnel</p> <p>Part I. General Provisions</p> <p>Part II. K-20 Personnel Issues</p> <p>Part III. Public Schools; Personnel</p> <p>Part III.a. Department of Education, district school board, district school superintendent, and school principal duties</p> <p>Part III.b. Personnel files, qualifications, contracts, assessments</p> <p>Part III.c. Personnel (instructional and noninstructional); authorizations; requirements</p> <p>Part III.d. Educator certification; renewal, duties</p> <p>Part III.e. Leave, Retirement, Worker's Compensation</p> <p>Part III.f. Educator Benefits; liability protection; awards</p> <p>Part III.g. Personnel discipline; assistance</p> <p>Part IV. Public Postsecondary Institutions; Personnel</p> <p>Part IV.a. General Provisions</p> <p>Part IV.b. Community colleges; personnel</p> <p>Part IV.c. Universities; personnel</p> <p>Part V. Professional Development</p> <p>Part VI. Interstate compact on qualifications of educational personnel</p>
1013	<p>Educational Facilities</p> <p>Part I. Functions; Department of Education</p> <p>Part II. Use and management of Educational Facilities</p> <p>Part III. Planning and Construction of Educational Facilities</p> <p>Part III.a. Campus Master Plans and Educational Plant Surveys</p> <p>Part III.b. Building Codes and Construction for Educational Facilities</p> <p>Part III.c. Contracting for Educational Facilities</p> <p>Part III.d. Cooperative Development of Educational Facilities</p> <p>Part IV. Funding for Educational Facilities</p>

There are also current chapters that are not included in the new Education Code:

Retirement System for Teachers (ch. 238)

Higher Education Facilities Financing Authority (ch. 243)

Disposition of Dead Bodies (ch. 245)

Enforcement Authority

PRESENT SITUATION:

Chapter 2001-170, Laws of Florida, requires that the State Board of Education become an enforcement body. The legislation provides for the state board to be the entity responsible for ensuring that school districts and public postsecondary institutions comply with law and state board rule.

EFFECT OF PROPOSED CHANGES:

Section 1008.32, F.S., in the bill establishes a “toolbox” of provisions which the State Board of Education may use to enforce the law and state board rule. District school boards and public postsecondary educational institution boards are primarily responsible for enforcement of law and state board rule.

University Issues

Legal Entity Status

State universities are currently designated as state agencies.

The bill removes universities from state agency status by designating them as “public corporations.”

Personnel Systems/personnel classification and pay systems

The State Board of Education currently prescribes the uniform personnel systems to be used by all universities.

The bill allows universities to establish their own personnel programs and systems in accordance with law and state board rule. The bill requires the State Board of Education to adopt minimum guidelines and criteria for university personnel systems.

Collective Bargaining

The State Board of Education is the public employer for all state universities and as such handles collective bargaining. One set of terms and conditions of employment is bargained centrally for all universities, by unit. Issues at impasse are handled by the Legislature. There are five labor organizations recognized as the bargaining agents for employees in the State University System: Florida Public Employees Council 79 (AFSCME)(x4); Florida Nurses Association, Inc. (FNA); Florida Police Benevolent Association (PBA); Graduate Assistants United (GAU)(x3); and United Faculty of Florida (UFF).

The bill allows university boards to collectively bargain locally and designates universities as the public employers for collective bargaining.

Purchasing/Contracting/MIS

The State Board of Education currently prescribes the uniform purchasing and contracting systems to be used by all universities.

The bill allows universities to establish their own purchasing and contracting systems in accordance with law and state board rule. The bill requires the State Board of Education to adopt minimum guidelines and criteria for university purchasing and contracting.

Deposit of Funds outside the State Treasury/Investment of Funds

Current law requires the deposit of most university funds in the State Treasury with limited exceptions (i.e., student deposits, private funds, faculty practice plan funds, etc.)

The bill allows universities to deposit funds in a qualified depository for public funds as defined by law. The bill establishes a biweekly disbursement schedule of state appropriated funds to each university.

Eminent Domain

The Florida Board of Education can exercise the right of eminent domain with approval from the State Board of Education (elected Cabinet).

The bill allows university boards to exercise the right of eminent domain with the approval of the State Board of Education (appointed body in 2003).

Florida Financial Management Information System (FFMIS) and FLAIR

Current law requires all state agencies to utilize FFMIS and FLAIR. Five universities (USF, UCF, FIU, FGCU, and FAU) have been authorized to prepare plans to be exempted from the use of these systems; however, none of the universities are ready to change for the 2002-2003 fiscal year.

The bill establishes an orderly process whereby each university may prepare a plan to move off of the FFMIS and FLAIR systems. Universities must establish a parallel system and demonstrate the adequacy and effectiveness of the new system to meet the needs of the university and to provide information required for Legislative budgeting and state level information systems. The State Board of Education may then certify to the Legislature that a university has an acceptable alternative budgeting and MIS process to transition to their own new system.

Carry forward funds

Universities' carry forward funds cannot exceed 5% of the total operating budget of the university.

The bill eliminates the 5% cap on university carry forward funds, but establishes a policy where universities must notify the State Board of Education at any time, when the unencumbered balance in the general fund goes below 5%.

Ownership of Property

As a state agency, most university lands and buildings are state property and subject to the control and authority of the Board of Trustees of the Internal Improvement Trust Fund. Properties are then leased to the State Board of Education.

The bill would do the following: title to property currently held with the state would remain with the state, title to property purchased in the future with state appropriated funds would remain with the state, and title to property purchased in the future with funds not appropriated by the Legislature would be held by the university boards.

Risk Management

The State Risk Management Trust Fund (RMTF) provides insurance coverage from specified losses to universities due to their state agency status.

The bill continues coverage for the universities under the Risk Management Trust Fund. However, the bill authorizes the State Board of Education to allow university boards to purchase or provide as a self-insurer comprehensive general liability insurance.

SUNCOM

Section 282.103, F.S., requires all state agencies to use the SUNCOM system.

The bill continues to require universities to use SUNCOM.

Tuition and Fees

Currently universities have authority to go up to 10% above or below the legislatively set matriculation and tuition as long as they are given the spending authority for those funds. However, the Legislature has rarely given the spending authority for the differential tuition; therefore, all state universities charge the same matriculation and tuition.

The bill makes no changes to current tuition and fee policy. However, it provides that universities can be given flexibility to charge differential tuition to nonresident and graduate students as determined by the General Appropriations Act.

University admissions

Current law provides a 5% exception for the SUS admissions requirement relating to foreign languages. This 5% cap is a system wide cap. Therefore, the percentage of students provided exceptions varies by institution.

The bill eliminates the 5% system wide cap and authorizes the State Board of Education to establish the percent cap which could vary by institution

Summer semester coursework

State Board of Education rule requires students who attend a state university to take 9 credit hours of education during a summer term. This provision was enacted to better utilize facility space.

Since the Legislature has required that institutions must give credit towards the required 120 hours for program completion to students for successful passage of AP, IB, and CLEP exams and dual enrollment courses, many students will be accelerating the completion of their degree. Many of these students will be leaving the university system in less than 4 years.

The bill allows students who receive credit using an acceleration mechanism to count these credits towards the university required 9 summer school credits.

Law enforcement

The bill allows university law enforcement to have authority on the university's direct-support organization property.

Student government

The bill changes the responsibility of the approval of student government association internal procedures from the authority of the university president to the university board of trustees.

Community College Issues

Unencumbered fund balances

Community colleges must maintain an unencumbered fund balance of between 4% and 10% of funds available in the current operating budget. If the 10% level is exceeded for more than two consecutive years, appropriations to that community college must be reduced.

The bill eliminates the unencumbered fund balance on community colleges, but establishes a policy where the community college must notify the State Board of Education at any time, when the unencumbered balance in the general fund goes below 5%.

Remedial Education

The bill provides that remedial education students are subject to the same rules regardless of remediation provider.

Institutional budget requests

As part of the uniform K-20 budget process, the bill requires each community college to submit an institutional budget request to the Department of Education.

Community college presidents; powers and duties

The bill creates section 1001.65, F.S., relating to powers and duties of community college presidents. This section is patterned after the university presidents powers and duties section.

Fees

The bill gives community colleges whose district borders another state authority to establish differential out-of-state fees. This is similar to the authority that universities currently have.

Law enforcement

The bill allows community college law enforcement to have authority on the community college's direct-support organization property.

Matching fund programs

The bill combines several community college matching fund programs (Dr. Philip Benjamin Matching Grant program, Academic Improvement Program, Scholarship Matching Program, and the Health Care Education Quality Enhancement Challenge Grant Program) into the Dr. Philip Benjamin Matching Grant Program.

Employment and Admissions

The bill allows community college boards to consider past actions of students and employees in denying admissions or employment, respectively.

School District Issues

Average Daily Attendance

Section 236.081(1)(a), F.S., requires that a district's full-time equivalent membership be adjusted by multiplying by an average daily attendance factor. This provision has not been implemented by the Legislature since its establishment in 1999.

The bill eliminates the Average Daily Attendance requirement within the Florida Education Finance Program (FEFP).

Categorical Flexibility

School districts currently have complete discretion over the vast majority of their budgets (92.9%). The remaining funds are provided to districts through categoricals for specific purposes. In the

2002 Special Session C, school districts were given flexibility over expenditures of certain categorical funds for 1 year only.

The bill establishes flexibility for school districts over certain categorical expenditures. Funding for categorical programs and other funding allocations which school boards are given flexibility to transfer to specified academic classroom instruction include: Student Transportation, Teacher Training, Safe Schools Activities, Public School Technology, Teacher Recruitment Signing Bonuses, and Supplemental Academic Instruction. Accountability and reporting procedures are specified.

School board action on personnel nominations

Section 230.23(5)(b), F.S., requires school boards to act on personnel nominations of the superintendent by no later than 3 weeks after the end of the regular legislative session. This provision was placed into law after the last redistricting session. Since the legislative session begins early this year, this provision will cause school boards to take action on nominations prior to the superintendent having sufficient information on which positions need to be filled for the next school year.

Section 1012.22(1)(b), F.S. changes the time for school boards to act on nominations to “not later than 3 weeks after the end of regular session or May 31, whichever is later.”

Full credit for teaching experience

Section 231.36(3)(g), F.S., created in Chapter 2001-47, Laws of Florida, provides that for purposes of pay, school districts must recognize and accept each year of full-time teaching service for which an employee receives a satisfactory performance evaluation.

The bill eliminates a confusing provision that provided that this requirement was not intended to interfere with collective bargaining agreement except to the extent that it requires the agreement to treat years of teaching experience out of the district the same as years of teaching experience within the district.

Therefore, for purposes of pay, school districts must recognize and accept each year of full-time teaching service for which an employee receives a satisfactory performance evaluation. This provision does not require that a district provide a pay increase for every year that a teacher has experience. It does require that the district “recognize” and “accept” each year of full-time teaching experience, so that a new teacher would fall into the same pay step as a current teacher with the same years of experience.

The bill also clarifies that the full-credit for teaching service applies to in-state and out-of-state experience in public schools and charter schools.

Alternative Certification Programs

Section 231.17(7)(a), F.S., requires school districts to provide, by July 1, 2002, a cohesive competency-based alternative certification program. The statute outlines the minimum criteria that must be included in the DOE developed program.

Section 1012.56(7)(a), F.S., amends this requirement to allow school districts to choose between implementing the state developed alternative certification program or implementing their own program that meets the same minimum requirements and is approved by DOE.

FEFP repeal

In the 2000 session, the Legislature passed Chapter 2000-181, Laws of Florida, that set up a Public School Funding Task Force. The task force was to review the FEFP and make recommendations for changes to the formula. The legislation contained a repeal of the FEFP in 2004. The task force has not been able to reach any consensus on the issues. The current FEFP has withstood several Supreme Court challenges and continues to be highly regarded nationally. The law required the task force to submit draft recommendations by September 1, 2001, and final recommendations to the Governor, President of the Senate, and Speaker of the House by February 1, 2002.

The bill repeals the future repeal of the FEFP.

Education Facilities / Construction / Relocatables

The bill excludes hurricane shelter construction from the construction that is counted for purposes of receiving a School Infrastructure Thrift Award. This will allow more schools to be eligible for the award.

The bill requires school boards to develop a plan to be approved by the Commissioner of Education for the use of existing satisfactory relocatables during the district's 5-year work program. This extends the deadline for districts to eliminate relocatables that do not meet the new long-term use standards.

The bill prohibits school districts from abandoning or disposing of satisfactory facilities that were constructed with Public Education Capital Outlay (PECO) funds, if the district does not have excess student stations in the 5-year work plan.

The bill requires school boards to conduct appropriate due diligence to determine the existence of any potential air, water or soil contamination that may exist on or adjacent to a proposed school site.

10th Grade FCAT scores

The bill grandfathers the 10th grade FCAT scores of students who took the FCAT in spring of 2001. The bill also requires that any rules adopted by the state board which raise the required passing score on the 10th grade FCAT must only apply to students taking the 10th grade FCAT after those rules are adopted.

Parental Notification

The bill requires that school districts notify parents of students with disabilities when classroom accommodations cannot be made on the FCAT. The bill requires that parental consent be given prior to these accommodations being made in the classroom.

School Principals

The bill provides flexibility for district school boards to hire school principals who do not have educator certification, as long as it is consistent with school board policy.

School Board Member Pay

Section 230.202, F.S., provides school board members with a "base salary" that is based upon population and includes various rates and factors. Currently, the lowest paid school board members earn approximately \$20,000/year and the highest paid school board members earn approximately \$35,000/year. Forty out of 44 states, surveyed do not pay school board members a salary.

The bill requires beginning with the expiration of school board members terms that are in effect January 7, 2003, school board members must serve without compensation but are entitled to reimbursement of travel and per diem.

Physical Education Requirements

The bill allows students who complete one semester with a grade of "C" or better in a marching band class, or in a physical activity class that requires participation in marching band activities as an extracurricular activity to satisfy a ½ credit requirement in physical education.

Florida High School Activities Association (FHSAA)

The bill requires the board of directors of the FHSAA to examine the following: alternative criteria for establishing administrative regions to include, but not be limited to, population; procedures to ensure appropriate diversity in the membership of the board; and opportunities to secure corporate financial support for high school athletic programs. The board must submit their report to the Commissioner of Education, President of the Senate and Speaker of the House by not later than March 1, 2003.

Public School Student Progression

The bill requires the academic improvement plan of a student with a reading deficiency to describe the student's specific areas of deficiency in phonemic awareness, phonics, fluency, comprehension, and vocabulary; the desired levels of performance in these areas; and the instructional and support services to be provided to meet the desired levels of performance. Schools must provide for the frequent monitoring of the student's progress in meeting the desired levels of performance. Additionally, this bill requires school boards to assist schools and teachers to implement proven research-based reading activities that are successful in teaching reading to low performing students.

This bill requires a student with a substantial reading deficiency, which is determined by a local or statewide assessment conducted in grades K-3 or through teacher observations, to be provided with intensive reading instruction. The student's reading proficiency must be reassessed by a local assessment or through teacher observations at the beginning of the grade following the intensive reading instruction. Beginning with the upcoming academic year, the student must be retained if his or her reading deficiency is not remedied by the 3rd grade, as demonstrated by scoring at Level 2 or higher on the 3rd grade reading portion of the FCAT. The Department of Education reports that 29% of students did not score at Level 2 or higher on the 3rd grade reading portion of the FCAT in 2001.

The parent of a student with a substantial reading deficiency must be notified in writing of the current services that are provided to the student; the proposed supplemental instructional services that will be provided to the student in order to remedy the reading deficiency; and the mandatory 3rd grade retention requirement.

This bill authorizes a school board to exempt a student from mandatory retention for good cause. Good cause exemptions are limited to the following:

- Limited English proficient students who have had less than two years of instruction in an English for Speakers of Other Languages program.
- Students with disabilities whose individual education plan (IEP) indicates that participation in the statewide assessment program is not appropriate, consistent with the requirements of State Board of Education rule.

- Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education.
- Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the Sunshine State Standards in reading equal to at least a Level 2 performance on the FCAT.
- Students with disabilities who participate in the FCAT and who have an IEP or a Section 504 plan that reflects that the students have received intensive remediation in reading for more than two years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, 1st or 2nd grade.
- Students who have received the intensive remediation in reading as required by law for two or more years but still demonstrate a deficiency in reading or who were previously retained in kindergarten, grade 1, or grade two for a total of two years.

Students who demonstrate an acceptable level of reading performance through an alternative reading assessment or through a student portfolio may be granted a good cause exemption from mandatory retention if the following criteria are met. A student's teacher must first submit documentation to the principal that demonstrates that the student's academic record warrants the student's promotion. The principal must then review and discuss the teacher's recommendation with the teacher and decide whether the student should be promoted. If the principal determines that the student should be promoted, the principal must submit a written recommendation to the superintendent. The superintendent must then accept or reject the principal's recommendation in writing.

The bill requires school districts to annually publish in the local newspaper and submit a report in writing to the State Board of Education by September 1 of each year, the following information on the prior academic year:

- The provisions of this bill relating to public school student progression and the school board's policies and procedures on student retention and promotion.
- By grade, the number and percent of all students in grades 3 through 10 performing at Levels 1 and 2 on the reading portion of the FCAT.
- By grade, the number and percent of all students retained in grades 3 through 10.
- Information on the total number of students that were promoted for good cause, by each category of good cause listed above.
- Any revisions to the school board's policy on student retention and promotion from the prior year.

Florida Virtual High School

The bill changes the name of the Florida Virtual High School to the Florida Virtual School. It requires the school districts to provide access for students to take courses with the school and to inform the public about educational opportunities in the school. The bill allows the school to use patent and trademark revenue for marketing, in addition to research and development.

Charter Schools

The bill requires that information, records, equipment, etc., of nonrenewed charter schools to be held in trust, pending the appeal.

The bill provides that the State Board of Education's decision in charter school appeals is binding.

McKay Scholarship Program

The bill requires school districts to notify the parent of a student with a disability within 10 school days of the parent's application for a McKay scholarship, if a matrix of services is not available on the student. The school district must give the parent a date for completion of the matrix of services and notify the parent within 10 school days upon completion of the matrix of services.

The bill also clarifies that until a district computes a matrix of services for the student, the student's McKay scholarship award will be calculated based upon Support Level I (lowest weighted level).

Character Education

The bill expands character education as required instruction in grades K-12, instead of only in elementary school.

General Equivalency Diploma (GED)

The bill requires the State Board of Education to adopt a rule to allow students with a GED to take and pass assessment in order to earn a regular high school diploma.

Florida School Recognition Program

The bill conforms the Florida School Recognition Program to current practice of administering the program based upon the school grading system. Schools are eligible to receive a bonus if they receive an "A" or improve a letter grade.

The bill establishes November 1 as the deadline for the school staff and school advisory council to make a decision on the use of the school recognition award. If the school staff and school advisory council do not make a decision by that date, the award is to be divided equally among all classroom teachers in the school.

Office of Inspector General

The bill establishes the Office of Inspector General to be responsible for promoting accountability, efficiency, and effectiveness and detecting fraud and abuse within school districts, community colleges, and universities in Florida.

Florida Resident Access Grant (FRAG)

The Florida Resident Access Grant was designed to provide a less expensive alternative for the State to provide access to bachelor's degrees in Florida. An approximately \$2,600 FRAG award would allow many students to pursue their degrees at a Florida private college, instead of requiring the state to increase access in universities. Current requirements for an institution to participate in FRAG are as follows: chartered in the state, SACS accredited, nonprofit, offer bachelor's degrees, have secular purpose.

The bill removes the requirement that FRAG institutions must be nonprofit, since the profit or nonprofit status of the institution does not affect the Legislature's primary purpose of FRAG.

There are 3 institutions in Florida that meet all of these criteria, except the "nonprofit" status: South University (West Palm Beach), International Fine Arts (Miami), Keiser College (various locations). It is estimated that there are approximately 800 additional students that would be eligible for FRAG should the nonprofit status be removed as a requirement. If no additional funding were provided for these students, the award to current students would be reduced by approximately \$80.

Student and Parent Rights

The bill creates s. 1002.20, F.S., relating to K-12 student and parent rights and s. 1002.21, F.S., relating to postsecondary student and parent rights. These new sections provide student and parent friendly sections of law that outline their current rights related to attendance, records, reports, school choice, basic religious freedoms, health issues, etc.

Commissioner's Waiver Authority

Section 229.592(9) allows the Commissioner to waive almost any substantive provision of law in chapters 230 through 239 *and* state board rule, except those pertaining to the allocation and appropriation of state and local funds. This provision was enacted in 1997. Even when the Commissioner was a statewide elected official, this waiver authority could have been considered an unlawful delegation of legislative authority. When the Commissioner is an appointed individual from an appointed board, this will be more problematic.

The bill eliminates the Commissioner's waiver authority over law. However, it authorizes the Commissioner to waive state board rule, if the state board delegates to him that authority.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

The elimination of school board member pay will save school districts approximately \$9.2 million annually.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If no additional funds are provided by the Legislature for FRAG, the inclusion of additional institutions at which students may attend and receive a FRAG award, will reduce the amount of the award for all students participating in the program.

D. FISCAL COMMENTS:

See above.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The 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:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

Commissioner of Education rulemaking authority is eliminated. All state level educational rulemaking authority is by the State Board of Education.

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 6, 2002, the Council for Lifelong Learning adopted 60 amendments, which are reflected in the bill analysis.

VII. SIGNATURES:

LIFELONG LEARNING COUNCIL:

Prepared by:

Council Director:

Patricia Levesque

Patricia Levesque