

# SENATE STAFF ANALYSIS AND ECONOMIC 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: Education Pre-K - 12 Committee

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BILL: CS/SB 1228

INTRODUCER: Education Pre-K – 12 Committee and Senator Gaetz

SUBJECT: High-Performing School Districts

DATE: February 21, 2007

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

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

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## I. Summary:

The bill provides for designating academically high-performing school districts, which must meet the following criteria:

- Earn a grade of “A,” under s. 1008.34(7), F.S., for 2 consecutive years, beginning with the 2004-2005 school year;
- Have no district-operated school that earns a grade of “F”;
- Comply with all class size requirements;
- Have no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted under s. 218.39, F.S.; and
- Report the specific State Board of Education (SBE) rules and statutes from which the school district is exempt.

The designation may be retained for 3 years, if the district complies with all the initial eligibility criteria and earns at least a grade of “A” for 2 years within a 3-year period. However, a district may not retain the designation if a district-operated school earns a grade of “F” during the 3-year period.

The bill also provides for exempting these districts from complying with the law relating to the following: program expenditure levels in the Florida Education Finance Program (FEFP) for kindergarten through grade 12; annual K-12 comprehensive reading plans; requirements for covered walkways for relocatable facilities (portables); the use of relocatable facilities; procurement of instructional materials; and the use of the instructional materials allocation. This bill creates an additional use for discretionary millage levied by a district school board. A high-performing school district may pay for property and casualty insurance with revenues generated from its discretionary two mill tax levy.

The bill also specifies the provisions of law from which a high performing district may not be exempt, provides for renewing the designation at the end of 3 years, and specifies a district's requirements for reporting academic performance to the SBE and the Legislature.

The SBE must make recommendations to the Legislature for eliminating any reporting requirements in state law that duplicate those in the federal No Child Left Behind Act.

This bill creates section 1003.621 of the Florida Statutes.

## II. Present Situation:

### Florida Statewide Assessment Program and Accountability System

Student achievement data from the Florida Comprehensive Assessment Test (FCAT) in grades 3-10 are used to establish both proficiency levels and annual progress for individual students, schools, districts, and the state.<sup>1</sup> Results are also used as the primary criteria in calculating school performance grades, school rewards and recognition, and performance-based funding.<sup>2</sup> The results of the statewide assessment program must be annually reported by the Commissioner of Education.

The following letter grades are used to designate school performance:

- "A," for schools making excellent progress;
- "B," for schools making above average progress;
- "C," for schools making satisfactory progress;
- "D," for schools making less than satisfactory progress; and
- "F," for schools failing to make adequate progress.<sup>3</sup>

The criteria for designating school performance grades are based on a combination of the following:<sup>4</sup>

- Student achievement scores, including achievement scores for students seeking a special diploma;
- Student learning gains as measured by annual FCAT assessments in grades 3 through 10; and
- Improvement of the lowest 25th percentile of students in the school in reading, math, or writing on the FCAT, unless these students are exhibiting satisfactory performance.

Student assessment data used in determining school grades includes:<sup>5</sup>

- Aggregate scores of all eligible students enrolled in the school who have been:
  - Assessed on the FCAT; and

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<sup>1</sup> Section 1008.34, F.S.

<sup>2</sup> Rule 6A-1.09981, F.A.C.

<sup>3</sup> Section 1008.34, F.S.

<sup>4</sup> *Ibid.*

<sup>5</sup> Two performance categories (math for the lowest 25 percent of students and science) will be added beginning in the 2006-2007 school year. See Rule 6A-1.09981(8)(a)(b), F.A.C.

- Assessed on the FCAT, including Florida Writes, with scores at or in the lowest 25th percentile of students in the school in reading, math, or writing, unless these students are exhibiting satisfactory performance; and
- Achievement scores and learning gains of eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53, F.S.

Under the statewide accountability system, districts are also graded.<sup>6</sup> District grades are weighted district average grades by level, for all elementary, middle, and high schools in the district. The grade is calculated by weighting individual school grades by school enrollment. According to the DOE, district grades are calculated in the same manner as are school grades, which are determined by the accumulation of percentage points for measures of achievement, including learning gains, the percent of students tested, and adequate progress of the lowest performing students. For the 2004-2005 school year, there were 15 districts that earned an “A,”<sup>7</sup> while there were 24 districts that earned an “A” for the 2005-2006 school year.<sup>8</sup>

### **Current School District Flexibility**

- *Pilot Charter School Districts*

In 1999, the law authorized the SBE to enter into a performance contract with up to six school districts to establish them as pilot charter school districts.<sup>9</sup> The designation was based on a proposal approved by the SBE for the district to be exempt from statutes and administrative rules if the district agreed to meet specific performance goals. The law was substantially amended in 2003, to allow for the designation of “academic performance-based charter school districts,”<sup>10</sup> establish additional statutes from which a district may not be exempt, decrease the number of years that a charter is valid (from 3 years to 1 year), and grandfather the original four pilot programs until July 1, 2007, or the end of a 5-year renewal contract between the SBE and the districts, whichever is later.<sup>11</sup>

Four school districts (Palm Beach, Hillsborough, Orange, and Volusia) currently operate as pilot charter school districts. The performance contracts for Orange and Palm Beach expire in 2007

<sup>6</sup> Section 1008.34(7), F.S.

<sup>7</sup> Brevard, Calhoun, Charlotte, Clay, Gilchrist, Indian River, Leon, Martin, Nassau, Okaloosa, Palm Beach, St. Johns, Santa Rosa, Sarasota, and Seminole. See [http://schoolgrades.fldoe.org/xls/2006\\_district\\_grades.xls](http://schoolgrades.fldoe.org/xls/2006_district_grades.xls)

<sup>8</sup> Alachua, Bay, Brevard, Broward, Calhoun, Charlotte, Citrus, Clay, Gilchrist, Hillsborough, Leon, Marion, Martin, Monroe, Nassau, Okaloosa, Palm Beach, St. Johns, Santa Rosa, Sarasota, Seminole, Sumter, Wakulla, and Walton. To earn an “A” in 2005-2006, a district needed at least 410 points, testing of at least 95 percent of eligible students, and having at least half of the lowest performing students make learning gains in reading. Rule 6A-1.09981, F.A.C. See also Florida Department of Education, *2006 Guide to Calculating School Grades, Technical Assistance Paper, 2005-2006*.

<http://schoolgrades.fldoe.org/pdf/2006SchoolGradesTAP.pdf>

<sup>9</sup> Section 228.058, F.S., was created by ch. 99-374, L.O.F.

<sup>10</sup> To be considered an academic performance-based charter district under s. 1003.62, F.S., at least 50 percent of schools in the district must earn an “A” or a “B” and no schools may earn a “D” or “F” for 2 consecutive years. A charter may not be renewed for districts in which the percentage of schools that earn an “A” or “B” is less than 50 percent for 2 consecutive years.

<sup>11</sup> Section 1003.62, F.S.

and the contracts for Hillsborough, and Volusia expire in 2008. The law prohibits any other districts from being designated as a pilot charter district.

The pilot districts differ in the number and types of statutes and rules waived.<sup>12</sup> However, some districts waived the same statutes. For example, Volusia and Hillsborough waived the requirements for covered walkways for relocatable facilities (portables)<sup>13</sup> to save costs. Additionally, the districts waived the requirement for spending 50 percent of the instructional materials allocation on state-adopted materials.<sup>14</sup> According to the districts, this waiver provides flexibility in selecting supplementary materials to accelerate student achievement.

- ***Deregulated Public Schools and Other Provisions***

Section 1003.63, F.S. allows the following school districts to participate in a pilot program for deregulated public schools until the end of the 2003-2004 school year: Citrus, Lee, Leon, Palm Beach, Pinellas, Seminole, and Walton. Schools in these districts could be given deregulated status and be exempt from all statutes in the School Code, with some exceptions (e.g., those pertaining to civil rights and student health, safety, and welfare).<sup>15</sup> Currently, this status and the exemptions may be provided to schools that earn an “A” and schools that have improved at least two performance grades.<sup>16</sup>

Other statutes that provide for school district flexibility include the following:

- Section 1011.62(6)(b), F.S., relating to a district’s ability to transfer certain categorical funds to the appropriate account for expenditures, upon resolution of the school board based on urgent need;
- Section 1011.64, F.S., relating to minimum classroom expenditures and failure to meet academic performance standards;<sup>17</sup> and
- Section 1011.68(7), F.S., relating to the use of transportation funds.

### **Discretionary Two mill Tax Levy**

Section 9(b) of Article VII of the State Constitution authorizes school districts to levy ad valorem taxes for school purposes. Ad valorem taxes levied for school purposes are capped at 10 mills.

Local school districts are permitted a discretionary levy of up to 2 mills to fund the following:<sup>18</sup>

- New construction and remodeling projects;
- Maintenance, renovation, and repair of existing school plants or of leased facilities to correct non-conformity with the Florida Building Code or the Fire Safety Prevention Code;

<sup>12</sup> See *Addendum to State Board of Education Contract with Palm Beach Charter School District, 2006*; *State Board of Education Contract with Volusia Charter School District Agreement Renewal, 2002*; and *Hillsborough County Charter District Contract Annual Report, 2006*. The contracts include academic performance goals.

<sup>13</sup> Section 1013.20, F.S. (previously s. 235.061, F.S.).

<sup>14</sup> Section 1006.40(3)(a), F.S.

<sup>15</sup> Section 1003.63, F.S.

<sup>16</sup> Rule 6A-1.09981, F.A.C.

<sup>17</sup> Districts that meet academic standards are not subject to the requirements in this section.

<sup>18</sup> Section 1011.71(2), F.S.

- Purchase, lease-purchase, or lease of school buses; drivers' education vehicles; motor vehicles used to maintain or operate plants and equipment; security vehicles; or storage or distribution vehicles;
- Purchase, lease-purchase, or lease of new and replacement equipment;
- Payment for educational facilities and sites per certain lease-purchase agreements;
- Payment of loans incurred for specific school-related purposes;
- Payment of costs needed to comply with state and federal environmental laws, rules, and regulations;
- Payment of costs for renting and leasing educational facilities; and
- Payment of the cost of school buses when a school district contracts with a private entity.

Sixty-four school districts opted to levy this tax in 2005-2006.<sup>19</sup> Three districts, Calhoun, Jackson, and Liberty, did not levy the tax. Insurance premiums are currently paid from a local school district's operating budget.

### III. Effect of Proposed Changes:

#### Definition of High-Performing School Districts

The bill provides for designating academically high-performing school districts, which must meet the following criteria:

- Earn a grade of "A," under s. 1008.34(7), F.S., for 2 consecutive years, beginning with the 2004-2005 school year;
- Have no district-operated school that earns a grade of "F";
- Comply with all class size requirements;<sup>20</sup> and
- Have no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted under s. 218.39, F.S.<sup>21</sup>

Currently, the following school districts meet these criteria: Calhoun, Charlotte, Gilchrist, Martin, Nassau, Okaloosa, St. Johns, and Santa Rosa.<sup>22</sup>

The designation may be retained for 3 years, if the district complies with all the initial eligibility criteria and earns an "A" for 2 years within a 3-year period. However, a district may not retain the designation if a district-operated school earns a grade of "F" during the 3-year period. The district must meet the initial eligibility criteria in order to be re-designated as a high-performing district.

<sup>19</sup> Office of the Auditor General, February 13, 2007.

<sup>20</sup> Section 1, Article IX of the State Constitution and s. 1003.03, F.S.

<sup>21</sup> Section 218.39(1)(d), F.S., requires annual financial audits of district school boards. The scope of these audits includes an examination of a district's basic financial statements and compliance with federal requirements applicable to the district's major federal programs as of and for the end of a fiscal year.

<sup>22</sup> These districts had no audit finding that was considered to be a material weakness in the audit of the financial statements for the 2004-2005 Fiscal Year. The final audits of district school boards are not complete for the 2005-2006 Fiscal Year. Office of the Auditor General, February 18, 2007. See *Report on Significant Findings and Financial Trends in Audits of District School Boards for the Fiscal Year Ended June 30, 2005*, Report 2007-011, August 2006. These districts also met the class size requirements for 2006-2007; however the 2006-2007 list of districts has not yet been approved by the SBE.

A district may continue to be designated as a high-performing district after 3 years if it meets the eligibility criteria in the bill. A district that fails to meet the requirements must notify the SBE that it is no longer eligible for this designation. A district school board serves as the governing board and supervisor for a high-performing district.

### **Exemptions from Current Law**

High performing districts may be exempt from any of the following provisions:

- Program expenditure levels in the FEFP for kindergarten through grade 12;<sup>23</sup>
- Submission of an annual K-12 comprehensive reading plan;<sup>24</sup>
- Requirements for covered walkways and the use of relocatable facilities;<sup>25</sup>
- Requirements for obtaining instructional materials from the textbook depository under contract with the publisher;<sup>26</sup> and
- Requirements for using at least 50 percent of the instructional materials allocation.<sup>27</sup>

A district that chooses to be exempt from submitting a reading plan is approved to receive the reading allocation.

This bill also provides an exemption that permits a district to expand the list of permissible uses of the discretionary two mill levy for capital outlay and related purposes.<sup>28</sup> It allows a high-performing school district to use the revenue for payment of property and casualty insurance. The bill does not amend s. 200.065(9)(a), F.S., relating to the district school board's second notice of its intent to levy additional taxes for capital outlay purposes under s. 1011.71(2), F.S. The law requires the second notice to include the specific projects or number of school buses expected to be funded by the additional taxes. Presumably, a district is subject to this notice provision if it chooses to use revenue to pay for property and casualty insurance.

Districts must report to the SBE the specific rules and statutes from which the school districts are exempt.

A district may not be exempt from provisions of law related to the following:

- Services to students with disabilities;
- Civil rights;
- Student health, safety, and welfare;
- Election and compensation of school board members;
- Student assessment program and school grading system;
- Financial matters, planning, and budgeting, other than ss. 1010.20(3)(a)1.,2., and 3., 1011.62(9)(d), and 1011.71(2), F.S.;

<sup>23</sup> Section 1010.20(3)(a)1.,2., and 3., F.S., specifies the minimum percentage of funds that must be spent for specific grade levels: 90 percent for K through grade 3 and 80 percent for grades 4 through 12.

<sup>24</sup> Under s. 1011.62(9)(d), F.S., a district must submit its plan in order to use the research-based reading instruction allocation.

<sup>25</sup> Sections 1013.20 and 1013.21, F.S., respectively.

<sup>26</sup> Section 1006.37, F.S.

<sup>27</sup> Section 1006.40(3)(a), F.S.

<sup>28</sup> Section 1011.71(2), F.S.

- Differentiated pay and performance-pay policies for school administrators and instructional personnel;<sup>29</sup>
- Educational facilities, other than ss. 1013.20 and 1013.21, F.S.; and
- Instructional materials, other than ss. 1006.37 and 1006.40(3)(a), F.S.

Additionally, districts must comply with the law relating to public meetings and public records, financial disclosure, and conflicts of interest by public officials.

High-performing districts are tasked with submitting annual performance reports to the SBE and the Legislature that include: longitudinal student performance data in reading, math, writing, science, and any other subject that is included as a part of the statewide assessment system in s. 1008.22, F.S.; Advance Placement student participation and performance data; evidence of compliance with the eligibility criteria for high-performing districts; and a description and status of each waiver.

#### **Duplicative Reporting Requirements**

The SBE is tasked with making recommendations to the Legislature by December 1, 2007, for eliminating any reporting requirements in state law that duplicate those in the federal No Child Left Behind Act, P.L. 107-110.

The effective date of the bill is upon becoming a law.

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

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

None.

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

None.

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

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

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<sup>29</sup> Professional service contracts are subject to ss. 1012.33 and 1012.34, F.S.

**C. Government Sector Impact:**

The bill allows rather than requires a school district to be designated as an academically high-performing school district. There may be some costs associated with the SBE's review of federal and state reporting requirements.

This bill authorizes a school district to pay for property and casualty insurance with revenues generated from its discretionary two mill tax levy. The fiscal impact is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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