

**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 Committee on Education

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BILL: SB 1164

INTRODUCER: Senator Stargel

SUBJECT: High School Athletics

DATE: April 19, 2013

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	<b>Pre-meeting</b>
2.			RC	
3.				
4.				
5.				
6.				

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**I. Summary:**

SB 1164 expands student rights regarding eligibility, transfers, and due process protections during Florida High School Athletic Association (FHSAA) investigations and eligibility determinations. The bill adds nine members to the FHSAA governing board, prohibits certain funds from being provided to the executive director, and authorizes travel and per diem expenses to Public Liaison Advisory Committee members.

The bill requires the FHSAA to conduct a comprehensive review of its bylaws, policies, and procedures to determine compliance with applicable law. The bill voids noncompliant bylaws, policies and procedures. The bill requires the FHSAA to provide a report of the comprehensive review to the President of the Senate, Speaker of the House, Governor, and Commissioner of Education.

The act takes effect on July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1006.15, and 1006.20.

## II. Present Situation:

### Florida High School Athletic Association

The Florida High School Athletic Association (FHSAA) has been codified in law and designated as the governing nonprofit organization of athletics in Florida public schools.<sup>1</sup> FHSAA's sixteen member Board of Directors (board) is the organization's executive governing body and hires the executive director.<sup>2</sup> The FHSAA is required to adopt bylaws regulating student eligibility, residency, transfer, and recruiting in accordance with applicable law.<sup>3</sup>

### Student Eligibility

To be eligible for participation in interscholastic extracurricular activities, a high school student must meet certain academic and conduct requirements.<sup>4</sup> An eligible student may participate in high school athletics at the school in which he or she first enrolls each school year or, at the school in which the student becomes a candidate for an athletic team by engaging in a practice prior to enrolling in the school.<sup>5</sup> A high school student may be eligible to participate in interscholastic extracurricular activities in the school to which the student has transferred during the school year if the transfer is made by a deadline established by the FHSAA.<sup>6</sup>

### Eligibility Investigations and Determinations

#### Investigations

The FHSAA must adopt bylaws that regulate persons who conduct investigations on behalf of the FHSAA.<sup>7</sup> The bylaws must require an investigator, in part, to undergo level 2 background screening, carry a photo identification card that shows the FHSAA name, logo, and the investigator's official title, and to adhere to specified guidelines.<sup>8</sup>

The guidelines require investigators to: investigate only those alleged violations assigned by the executive director or the board of directors, conduct interviews on Monday through Friday between the hours of 9 a.m. and 7 p.m., allow the parent of any student being interviewed to be present during the interview, and search residences or other private areas only with the consent of the student's parent and only with a parent or a representative of the parent present.<sup>9</sup>

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<sup>1</sup> Section 1006.20, F.S.; Florida High School Athletic Association, *About the FHSAA*, <http://www.fhsaa.org/about> (last visited April 18, 2013).

<sup>2</sup> Section 1006.20(4), F.S.

<sup>3</sup> Section 1006.20, F.S.

<sup>4</sup> Section 1006.15(3)(a), F.S.

<sup>5</sup> Section 1006.20(2)(a), F.S.

<sup>6</sup> Section 1006.20(2), F.S.

<sup>7</sup> Section 1006.20(2)(e), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 1006.20(2)(e), F.S.

### Determinations

The FHSAA must adopt bylaws for the process and standards for FHSAA student eligibility determinations.<sup>10</sup> The bylaws must provide that:

- Ineligibility must be established by clear and convincing evidence;
- Student athletes, parents, and schools must have notice of the initiation of any investigation or other eligibility inquiry and may present information or evidence to the investigator and to the individual making the eligibility determination;
- Eligibility determinations must be made by the executive director or designee for an unbiased and objective determination of eligibility; and
- A determination of ineligibility must be made in writing, setting forth the findings of fact and specific violation upon which the decision is based.<sup>11</sup>

A student may be declared ineligible based upon violation of recruiting rules only if the student or parent has falsified any enrollment or eligibility document, accepted any benefit or promise not generally available to the school's students or family members, or accepted any benefit or promise that is based on athletic interest, potential, or performance.<sup>12</sup>

The FHSAA may not prospectively limit the competition of student athletes for rule violations of their adult representatives, their school or its coaches, nor may a student athlete be unfairly punished for eligibility or recruiting violations perpetrated by a teammate, coach, or administrator.<sup>13</sup>

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

#### **Florida High School Athletic Association**

The bill would increase board membership from 16 to 25 members. Of these new members, three members would be appointed by the Commissioner of Education (bringing the total number of Commissioner appointments to four), and four members each would be appointed by the President of the Senate and the Speaker of the House of Representatives. The members would be appointed from each of the four administrative regions.

The executive director's salary would not exceed that set by law for the Governor. The executive director would not receive a car allowance, nor would the executive director receive per diem and travel expenses. However, Public Liaison Advisory Committee members would receive per diem and travel expenses per s. 112.061, F.S..

By October 1, 2013, the FHSAA would conduct a comprehensive review of its bylaws, policies, and administrative procedures to determine compliance with these requirements. The FHSAA would provide to the Commissioner of Education (Commissioner), the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed report articulating how each violation or requirement in the bylaws, policies, and administrative procedures is

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<sup>10</sup> Section 1006.20(2)(g), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 1006.20(2)(b), F.S.

<sup>13</sup> Section 1006.20(2)(i), F.S.

substantially related to an identified, important objective and any necessary corrective action. Noncompliant bylaws, policies, or administrative procedures would be void as of July 1, 2013.

### **Student Eligibility**

A student would be presumed eligible to participate in interscholastic extracurricular activities and would remain eligible if the student complies with existing eligibility criteria. A student would remain eligible so long as the student remains enrolled in school and complies with applicable requirements.

A student enrolled in a public school that does not offer a specific extracurricular activity would be able to participate in that extracurricular activity at the public school for which the student would be assigned, or could choose to attend, subject to applicable requirements.

Student residence and transfer approvals would be determined by the school district, in the case of a public school student, or by the private school, in the case of a private school student. Once the student residence or transfer would be approved, the student would remain eligible to participate in competitions under the jurisdiction of the FHSAA. The FHSAA would be able to challenge the eligibility determination by filing a petition for a hearing with the Division of Administrative Hearings. The FHSAA would need to demonstrate by clear and convincing evidence that the student is ineligible. If the student remains eligible, the final order would award all reasonable costs and attorney fees to be paid by the FHSAA. The FHSAA would not be able to recoup these costs from any other person, entity, or party.

### **Eligibility Investigations and Determinations**

#### Investigations

The student, parent, coach, and school would be provided notice of the assignment of an investigation within two business days, unless the executive director certified in writing that a compelling need to withhold notice exists. The executive director would provide a copy of the certification to the Commissioner within one business day after signing the certification.

During the investigation, the investigator and the individual making the determination would receive and consider all evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

The student, parent, coach, and school would be provided a copy of the investigation, report, and any recommendation made by the investigator, executive director, or board, within five business days after completion of the investigation.

#### Determinations

FHSAA bylaws would have to ensure that violations would be substantially related to specific, important objectives and would only address the minimal requirements necessary to accomplish the objectives. Ineligibility requirements would be applied to public and private school students as well as to transfer and non-transfer students equally.

A student would be declared ineligible if the student or parent had intentionally and knowingly:

- Falsified an enrollment or eligibility document; or
- Accepted any significant benefit or a promise of significant benefit not reasonably available to the school's students or family members and is provided based primarily on the student's athletic interest, potential, or performance.

Any rule, eligibility, and recruiting violations by a teammate, coach, administrator, school, or adult representative would not be used against a student.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is unknown whether the proposed process would result in increased or decreased costs for the parties should the FHSAA challenge the eligibility of a transfer student.

The FHSAA may incur additional costs from additional members on the board of directors, and payment of per diem of travel costs for Public Liaison Advisory Committee members.

The FHSAA may reduce costs from the cap on the executive director's salary, and the prohibitions on a car allowance, cellular telephone allowance, per diem expense, and travel expense.

C. Government Sector Impact:

It is unknown whether the proposed process would result in increased or decreased costs for the school district should the FHSAA challenge the eligibility of a transfer student.

**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.