

SB 66 by **Flores (CO-INTRODUCERS) Margolis**; (Similar to H 0113) Discretionary Sales Surtaxes

SB 160 by **Bullard**; (Similar to H 0023) Canned or Perishable Food Distributed Free of Charge

SB 188 by **Hukill (CO-INTRODUCERS) Negron, Bradley, Simpson, Flores, Brandes, Stargel, Galvano**; Use of Biometric Information

264330 PCS S RCS ED 02/04 12:27 PM

SPB 7026 by **ED**; Education

876892 D S FAV ED, Legg Delete everything after 02/04 12:27 PM

267294 AA S FAV ED, Legg Delete L.8 - 15: 02/04 12:27 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION
Senator Legg, Chair
Senator Montford, Vice Chair

MEETING DATE: Tuesday, February 4, 2014
TIME: 10:00 a.m.—12:00 noon
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Legg, Chair; Senator Montford, Vice Chair; Senators Benacquisto, Brandes, Bullard, Galvano, Sachs, Simmons, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 66 Flores (Similar H 113)	Discretionary Sales Surtaxes; Authorizing a county defined in s. 125.011(1), F.S., to levy a surtax up to a specified amount for the benefit of a Florida College System institution and a state university in the county pursuant to an ordinance conditioned to take effect upon approval in a county referendum; establishing an oversight board with specified duties, responsibilities, and requirements relating to the expenditure of surtax proceeds; requiring that the board of trustees of each institution receiving surtax proceeds prepare an annual plan for submission to the oversight board for approval; providing that state funding may not be reduced because an institution receives surtax funds, etc. ED 02/04/2014 Favorable CA AFT AP	Favorable Yeas 8 Nays 1
2	SB 160 Bullard (Similar H 23)	Canned or Perishable Food Distributed Free of Charge; Limiting the liability of public schools with respect to canned or perishable food donated to charitable or nonprofit organizations, etc. ED 02/04/2014 Favorable CF JU	Favorable Yeas 9 Nays 0

A proposed committee substitute for the following bill (SB 188) is expected to be considered:

COMMITTEE MEETING EXPANDED AGENDA

Education

Tuesday, February 4, 2014, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 188 Hukill (Identical H 195)	Use of Biometric Information; Defining the term "biometric information" as it relates to student and parental rights and educational choices; providing that parents have a right not to have their children submit any form of biometric information; requiring each school district of a public elementary, middle, and high school that collects biometric information from students to develop, adopt, and implement policies that govern collection and use of the information; requiring the superintendent of a school district to determine persons who may have access to student biometric information, etc. ED 02/04/2014 Fav/CS CJ JU	Fav/CS Yeas 9 Nays 0
Consideration of proposed committee bill:			
4	SPB 7026	Education; Prohibiting a school district from administering certain local assessments during a specified time, etc.	Submitted as Committee Bill Yeas 9 Nays 0
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 66

INTRODUCER: Senator Flores

SUBJECT: Discretionary Sales Surtaxes

DATE: February 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Letarte	Klebacha	ED	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	AFT	_____
4.	_____	_____	AP	_____

I. Summary:

SB 66 authorizes a new discretionary sales surtax under section 212.055, Florida Statutes, which is titled the “Higher Education Surtax.” The bill allows a county, as defined in section 125.011(1), Florida Statutes, to levy a voter-approved sales surtax of up to 0.5 percent for the benefit of a Florida College System (FCS) institution and a state university located in the county. The FCS institution and state university are to receive 90 percent and 10 percent, respectively, of the surtax proceeds. Currently, Miami-Dade County is the only county eligible to levy this surtax. The bill also establishes procedures and requirements for surtax deposits, investments, and usage. An oversight board will review and then accept or amend the expenditures of the surtax proceeds. An approved Higher Education Surtax expires after five years.

The bill takes effect upon becoming law.

II. Present Situation:

Local Discretionary Sales Surtax

A “surtax” is an “additional tax imposed on something being taxed or on the primary tax itself.”¹ The Florida Statutes authorize Florida counties to charge a discretionary sales surtax if the surtax is specifically designated as a subsection of section 212.055, Florida Statutes.²

Section 212.055, Florida Statutes, authorizes counties to impose eight local discretionary sales surtaxes, which are the:

¹ *Black’s Law Dictionary* 704 (3d ed. 2006).

² Sections 212.054, 212.055, F.S.

- Charter County and Regional Transportation System Surtax,
- Local Government Infrastructure Surtax,
- Small County Surtax,
- Indigent Care and Trauma Center Surtax,
- County Public Hospital Surtax,
- School Capital Outlay Surtax,
- Voter-Approved Indigent Care Surtax, and
- Emergency Fire Rescue Services and Facilities Surtax.³

Currently, the maximum surtax actually imposed is 1.5 percent in several counties.⁴ The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered, and is levied in addition to the state tax.⁵ The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose a surtax.⁶ Discretionary sales surtax applies to the first \$5,000 on any item of tangible personal property.⁷ The \$5,000 cap does not apply to:

- sales of admissions,
- sales of warranties,
- sales and uses of services,
- charges for prepaid calling arrangements,
- leases, rentals, and licenses to use real property or transient accommodations,
- leases or renting of parking or storage space for motor vehicles in parking lots or garages,
- docking or storage space in boat docks and marinas, and
- tie-down or storage space for aircraft.⁸

Miami-Dade County currently imposes two local discretionary surtaxes: the Charter County Transit System Surtax at a 0.5 percent rate and the County Public Hospital Surtax at a 0.5 percent rate.⁹

Postsecondary Education Institutions

Section 1000.21, Florida Statutes, provides system-wide definitions used within the Florida K-20 Education Code. There are 28 postsecondary educational institutions designated as Florida

³ Section 212.055(1)-(8), F.S.

⁴ Florida Department of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2014*, available at http://dor.myflorida.com/dor/forms/current/dr15dss_1113.pdf (listing the following counties as having a 1.5% surtax rate in 2014: Calhoun, Escambia, Gadsden, Jackson, Leon, Liberty, Madison, Monroe, and Walton).

⁵ Florida Department of Revenue, *Florida's Discretionary Sales Surtax*, available at <http://dor.myflorida.com/dor/forms/current/gt800019.pdf>.

⁶ *Id.*

⁷ *Id.* This surtax applies to the “sale, use, lease rental, or license to use any item of tangible personal property,” and tangible personal property is “personal property that you can see, weigh, measure, or touch or is in any manner perceptible to the senses, including electric power or energy.” *Id.*

⁸ *Id.*

⁹ Office of Economic and Demographic Research, *2013 Local Discretionary Sales Surtax Rates in Florida's Counties*, available at <http://edr.state.fl.us/content/local-government/data/county-municipal/2013LDSSrates.pdf>.

College System (FCS) institutions.¹⁰ Among the FCS institutions is Miami Dade College, which is the only FCS institution listed as serving Miami-Dade County. There are 12 state universities¹¹ and Florida International University is the only state university located in Miami-Dade County.¹²

Home-Rule Charter Counties

Section 125.011(1), Florida Statutes, defines a county as:

. . . any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” within the above provisions shall include “board of county commissioners” of such county.

The local governments authorized to operate under a home rule charter, referenced in the definition above, in the State Constitutions of 1885 and 1968 are the city of Key West and Monroe County,¹³ Dade County,¹⁴ and Hillsborough County.¹⁵ Of these, only Miami-Dade County operates under a home-rule charter, which was adopted on May 21, 1957, under this constitutional provision.¹⁶

Previous Tax in Miami-Dade County for the Benefit of Miami Dade College

A referendum in September 1992 authorized Miami-Dade County to levy an ad valorem tax of $\frac{3}{4}$ of a mill, exceeding the constitutional millage limitation, for a two-year period.¹⁷ The proceeds of the tax were “for the purpose of maintenance, improvement, and expansion of occupational, vocational, and educational programs at the College.”¹⁸ The designated purpose of the proceeds that would benefit Miami-Dade from the surtax in this bill is similar to the purpose of the

¹⁰ Section 1000.21(3), F.S.

¹¹ Section 1000.21(6), F.S.

¹² Florida International University, *Campuses*, <http://www.fiu.edu/about-us/campuses/index.html> (last visited Jan. 27, 2014).

¹³ Art. VIII, s. 6, n. 2, Fla. Const.

¹⁴ Art. VIII, s. 6, n. 3, Fla. Const.

¹⁵ Art. VIII, s. 6, n. 4, Fla. Const.

¹⁶ Miami-Dade County Florida, *The Home Rule Amendment and Charter*, available at <http://www.miamidade.gov/charter/library/charter.pdf>; see Hillsborough County Florida, *Home Rule Charter*, <http://www.hillsboroughcounty.org/DocumentCenter/Home/View/376>, Creation: Section 1.01 Chartered County (last visited Jan. 27, 2014) (providing that the county is chartered under Article VIII, Section 1 of the Florida Constitution as opposed to Article VIII, Section 6 of the Florida Constitution); Monroe County Florida, *County Commission*, <http://www.monroecounty-fl.gov/index.aspx?NID=27> (last visited Jan. 27, 2014) (citing Article VIII, Section 1 of the Florida Constitution stating “[e]xcept when otherwise provided by county charter, the governing body of each county shall be a [b]oard of [c]ounty [c]ommissioners composed of five [or seven] members serving staggered terms of four years,” on the page titled “County Commission” and displaying five “Commission Members”); see also Florida Association of Counties, *Charter County Information*, <http://www.fl-counties.com/about-floridas-counties/charter-county-information> (last visited Jan. 27, 2014) (listing the twenty chartered counties in Florida, which does not include Monroe).

¹⁷ State of Florida Auditor General, *Miami Dade College: Financial Audit for the Fiscal Year Ended June 30, 2011, 27* (2012), available at <https://www.mdc.edu/businessaffairs/Papers/Documents/MDC%20AFR%202010-11%202012-155.pdf>.

¹⁸ *Id.*

proceeds from the 1992 referendum.¹⁹ The proceeds of the 1992 referendum were approximately \$94 million and were deposited into the College's quasi-endowment fund.²⁰ As of June 30, 2011, the College noted a total of \$86.1 million in quasi-endowment investments.²¹

III. Effect of Proposed Changes:

SB 66 amends section 212.055, Florida Statutes, to add a ninth discretionary sales surtax, known as the Higher Education Surtax, authorizing a county as defined in section 125.011(1), Florida Statutes, to levy up to 0.5 percent for the benefit of a Florida College System (FCS) institution and a state university located in the county. The surtax requires an ordinance conditioned upon approval by a majority of county electors voting in a referendum.

The ordinance must outline a plan, developed by each of the institutions' board of trustees, for using the surtax proceeds for the benefit of the FCS institution and state university. Proceeds of the surtax must be set aside and invested as allowed by law, with the principal and income to be used for purposes including, but not limited to, maintenance, improvement, and expansion of academic and workforce training programs, teaching enhancements, capital expenditures and infrastructure projects, and fixed capital costs. A state university may use the surtax proceeds for land acquisition for parcels that are contiguous with its existing main campus.

The bill states that costs associated with the referendum shall only be paid with funds from private sources or with college auxiliary funds and may not be paid with student fees or moneys an institution receives from the state. Referendum ballot guidelines are specified and include a question format currently utilized for other discretionary surtax referenda. Ninety percent of the proceeds from the surtax must be deposited into a Florida Prime account managed by the State Board of Administration for use by the FCS institution, and 10 percent of the surtax proceeds must be deposited into a Florida Prime account managed by the State Board of Administration for use by the state university.

Upon approval of the referendum, an oversight board is charged with accepting or amending expenditures of the surtax proceeds. Each institution must prepare annual plans specifying how the board of trustees intends to allocate the surtax proceeds. Appointment requirements are outlined for the seven-member board and members serve a four-year term and may be reappointed.

Annual apportionment of state funds to an FCS institution or a state university may not be reduced because the institution or university has received surtax funds. A discretionary sales surtax approved by voters expires after five years.

The bill takes effect upon becoming law.

¹⁹ *Infra* Part III. (providing that the portion of proceeds received by Miami-Dade College would be used for, but not limited to, maintenance, improvement, and expansion of academic workforce training programs, teaching enhancements, capital expenditures and infrastructure projects, and fixed capital costs).

²⁰ State of Florida Auditor General, *supra* note 17 at 27.

²¹ *Id.*

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:

Article III, section 11(a)(2) of the Florida Constitution states that there “shall be no special law or general law of local application pertaining to: . . . assessment or collection of taxes for state or county purposes.”

A specific law, as defined by the Florida Supreme Court, is a law that is “relating to or designed to operate on, particular persons or things, or one that purports to operate on classified persons or things when classification is not permissible or the classification adopted is illegal.”²²

In contrast, a general law “operates universally throughout the state, uniformly upon subjects as they may exist throughout the state, or uniformly within a permissible classification.”²³ The Legislature has wide discretion in creating classifications provided the classifications are reasonable.²⁴ A classification by the Legislature carries a presumption of reasonableness.²⁵

This bill authorizes counties, as defined in section 125.011(1), Florida Statutes, to levy a non-ad valorem surtax. Three counties are potentially eligible to levy the bill’s surtax in the future; however, only Miami-Dade County is currently eligible to levy the surtax.²⁶ However, “the [Florida Supreme] Court never addressed the question as to whether the classification based on a home-rule charter was an impermissible closed class because it potentially applied to only three counties.”²⁷ Although the specific definition of “county”

²² *Village of Wellington v. Palm Beach Cnty.*, 941 So. 2d 595, 599 (Fla. 4th DCA 2006) (citing *Schrader v. Fla. Keys Aqueduct Auth.*, 840 So. 2d 1050 (Fla. 2003)).

²³ *Id.* (citing *Martin Mem’l Med. Ctr., Inc. v. Tenet Healthsystem Hosp. Inc.*, 875 So. 2d 797 (Fla. 1st DCA 2004)).

Additionally, a general law is “[a] statute relating to subdivisions of the state or to subjects, persons or things of a class, based upon proper distinctions and differences that inhere in or are peculiar or appropriate to the class.” *Carter v. Norman*, 38 So. 2d 30, 32 (Fla. 1948).

²⁴ *Metro. Dade Cnty. v. Golden Nugget Grp.*, 448 So. 2d 515, 519 (Fla. 3^d DCA 1984), *aff’d*, 464 So. 2d 535 (Fla 1985).

²⁵ *Id.* at 520.

²⁶ See *City of Miami v. McGrath*, 824 So. 2d 143, 152 (Fla. 2002) (noting that Dade, Hillsborough, and Monroe Counties potentially meet the statutory definition of “county” as defined in section 125.011(1), Florida Statutes, but that only Dade County had adopted a home-rule charter) (citing *Golden Nugget Grp. v. Metro. Dade Cnty.*, 464 So. 2d 535, 536 (Fla. 1985)).

²⁷ *Id.*

from section 125.011(1), Florida Statutes, has been previously used to identify the same three counties,²⁸ the Court focused on a shared characteristic of the counties and not on the home-rule charter aspect of the specific definition of “county.”²⁹ The affected counties in *Metropolitan Dade County* shared a characteristic of having substantial tourist-oriented economies, which the Florida Supreme Court determined was a reasonable classification because the purpose of the tax at issue was to construct or improve convention centers for promoting tourism.³⁰

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Sales tax would increase in Miami-Dade County if an ordinance is approved to levy the Higher Education Surtax up to 0.5 percent. The Higher Education Surtax expires five years after the effective date of the surtax.

C. Government Sector Impact:

The Office of Economic and Demographic Research has stated that “[i]f Miami-Dade were to levy this tax, it would generate \$234.7 m[illion] annually.”³¹

Miami Dade College and Florida International University would receive surtax proceeds if an ordinance is approved to levy the Higher Education Surtax. The Higher Education Surtax expires five years after the effective date of the surtax.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 212.055 of the Florida Statutes.

²⁸ *Golden Nugget Grp.*, 464 So. 2d at 536-537.

²⁹ *City of Miami*, 824 So. 2d at 152; *Golden Nugget Grp.*, 464 So. 2d at 537.

³⁰ *Id.*

³¹ Office of Economic and Demographic Research, *Revenue Estimating Conference: Impact Conference*, <http://edr.state.fl.us/Content/conferences/revenueimpact/index.cfm> (select “2014 Session Index of Issues and Links to Backup Materials,” select the link for “Discretionary Surtax Florida College System” under the “Issue” column) (last visited Jan. 27, 2014).

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

By Senator Flores

37-00130-14

201466__

A bill to be entitled

An act relating to discretionary sales surtaxes; amending s. 212.055, F.S.; authorizing a county defined in s. 125.011(1), F.S., to levy a surtax up to a specified amount for the benefit of a Florida College System institution and a state university in the county pursuant to an ordinance conditioned to take effect upon approval in a county referendum; requiring the ordinance to include a plan for the use of the proceeds; providing referendum requirements and procedures; requiring that the proceeds from the surtax be transferred into a specified account and managed in a specified manner; establishing an oversight board with specified duties, responsibilities, and requirements relating to the expenditure of surtax proceeds; providing for the appointment of members of the oversight board; requiring that the board of trustees of each institution receiving surtax proceeds prepare an annual plan for submission to the oversight board for approval; providing that state funding may not be reduced because an institution receives surtax funds; providing for the scheduled expiration of the surtax; providing an effective date.

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

Section 1. Subsection (9) is added to section 212.055, Florida Statutes, to read:

Page 1 of 5

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

37-00130-14

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212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(9) HIGHER EDUCATION SURTAX.—A county as defined in s. 125.011(1), pursuant to an ordinance that is conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum, may levy a surtax of up to 0.5 percent for the benefit of a Florida College System institution and a state university as defined in s. 1000.21 located in the county.

(a) The ordinance must set forth a plan for using the surtax proceeds for the benefit of the Florida College System institution and the state university prepared by each of the institutions' boards of trustees. Such plans must provide for the permissible uses of the surtax proceeds, including, but not limited to, the maintenance, improvement, and expansion of academic and workforce training programs; teaching enhancements; capital expenditures and infrastructure projects; fixed capital costs associated with the construction, reconstruction,

Page 2 of 5

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

37-00130-14

201466__

59 renovation, maintenance, or improvement of facilities and
 60 campuses that have a useful life expectancy of at least 5 years;
 61 deferred maintenance; land improvement, design, and engineering
 62 costs related thereto; and the expansion and enhancement of
 63 facilities at all institution sites within the county. The
 64 proceeds from the surtax may be used by a state university for
 65 land acquisition for parcels that are contiguous with its
 66 existing main campus. The proceeds of the surtax must be set
 67 aside and invested as allowed by law, with the principal and
 68 income to be used for the purposes listed in this subsection as
 69 administered by the board of trustees.

70 (b) The expense of holding the referendum may not be paid
 71 with student fees or moneys that the institution receives from
 72 the state, but shall be paid only with funds received from
 73 private sources or with college auxiliary funds. The county must
 74 provide at least 30 days' notice of the election as provided
 75 under s. 100.342.

76 (c) The referendum providing for the imposition of the
 77 surtax must include a statement that provides a brief and
 78 general description of the purposes for which the proceeds of
 79 the surtax may be used, conform to the requirements of s.
 80 101.161, and be placed on the ballot by the governing body of
 81 the county. The following questions shall be placed on the
 82 ballot:

83
 84 FOR THE. . . CENTS TAX

85 AGAINST THE. . . CENTS TAX

86
 87 (d) Upon approval of the referendum, 90 percent of the

37-00130-14

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88 proceeds from the surtax must be transferred by the Department
 89 of Revenue into a Florida Prime account managed by the State
 90 Board of Administration and used only for the operation,
 91 maintenance, and administration of the Florida College System
 92 institution within that county and 10 percent of the proceeds
 93 from the surtax must be transferred by the Department of Revenue
 94 into a Florida Prime account managed by the State Board of
 95 Administration and used only for the operation, maintenance,
 96 land acquisition, and administration of the state university.

97 (e) Upon approval of the referendum, an oversight board
 98 shall be established to review and accept or amend expenditures
 99 of the proceeds of the surtax and to review the plan prepared by
 100 the boards of trustees pursuant to paragraph (f). Annually, or
 101 as needed, the oversight board shall meet to approve each
 102 proposed spending plan.

103 1. The board shall be composed of seven members who are
 104 residents of the county and appointed as follows:

105 a. One member appointed by the board of directors of the
 106 chamber of commerce of the county in which the institutions are
 107 located.

108 b. One member of the board of directors of the chapter of
 109 the United Way in the county in which the institutions are
 110 located appointed by the board of directors of that chapter of
 111 the United Way.

112 c. One member appointed by the board of trustees of the
 113 state university, who may not be a member of the board of
 114 trustees of the state university.

115 d. Two members appointed by the board of trustees of the
 116 Florida College System institution, who may not be members of

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117 the board of trustees of the Florida College System institution.

118 e. Two members appointed by the chair of the county
119 legislative delegation.

120 2. Initial appointments to the oversight board shall be
121 made by the respective entities within 60 days after the passage
122 of the referendum. Each member shall be appointed for a 4-year
123 term and may be reappointed. A vacancy on the board shall be
124 filled for the unexpired portion of the term in the same manner
125 as the original appointment. No member appointed to fill a
126 vacancy may serve for more than the remaining portion of a
127 previous member's unexpired term.

128 (f) Consistent with the purposes set forth in the plan
129 included in the ordinance under paragraph (a), the board of
130 trustees of the Florida College System institution and the board
131 of trustees of the state university shall annually prepare plans
132 that specify how each board of trustees intends to allocate and
133 expend the funds for the institutions' upcoming fiscal year and
134 submit such plans to the oversight board for approval.

135 (g) The annual apportionment of state funds for the support
136 of a state university and a Florida College System institution
137 allocated under general law may not be reduced because the
138 institutions have received funds pursuant to a sales surtax
139 levied under this subsection.

140 (h) A surtax imposed under this subsection expires 5 years
141 after the effective date of the surtax.

142 Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/4/14

Meeting Date

Topic Discretionary Sales Surtax

Bill Number SB 66

(if applicable)

Name Adriana Pereira

Amendment Barcode _____

(if applicable)

Job Title Director, government relations

Address 11200 SW 8 ST., PC 539

Phone (305) 348-3505

Street

Miami

FL

33199

State

Zip

E-mail APEREI@FIU.EDU

Speaking: For Against Information

Representing FLORIDA INTERNATIONAL UNIVERSITY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/4/14
Meeting Date

Topic Local referendum

Bill Number SB 66
(if applicable)

Name Armando Ferrer

Amendment Barcode _____
(if applicable)

Job Title Campus president

Address 950 NW 20 ST.
Street

Phone 305 237 4400

Miami FL 33127
City State Zip

E-mail Aferrer@mdc.edu

Speaking: For Against Information

Representing Miami Dade College

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/4/14

Meeting Date

Topic Local Defenders

Bill Number 66
(if applicable)

Name Maril Cancu Johnson

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 139 E End Dr.

Phone 305 582 0729

Street

Key Biscayne FL 33149

City

State

Zip

E-mail Maril.Cancu@CSEIOW.COM

Speaking: For Against Information

Representing Miami Dade College

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 160

INTRODUCER: Senator Bullard

SUBJECT: Canned or Perishable Food Distributed Free of Charge

DATE: February 3, 2014

REVISED: 02/05/14

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McLaughlin	Klebacha	ED	Favorable
2.			CF	
3.			JU	

I. Summary:

SB 160 adds public schools to the list of defined donors protected from civil and criminal liability when they donate food to charitable organizations. Current law protects most donors who give food to a charitable organization from civil and criminal liability related to injury caused by such donated food.

The bill takes effect July 1, 2014.

II. Present Situation:

Section 768.136, F.S., provides that a donor or gleaner of canned or perishable food apparently fit for human consumption may donate the food to charity while enjoying liability protection.¹ The term "donor" includes grocery stores and any place where food is regularly prepared for sale, take-out, or delivery. A "gleaner" is a person who harvests for free distribution an agricultural crop that has been donated by the owner. Where the food is apparently fit for human consumption and donated for free distribution to a bona fide charitable or nonprofit organization, the donor is not liable for an injury caused by the food unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the donor or gleaner.² Likewise, a nonprofit or charitable organization or a representative of such organization which distributes donated food for free is protected from criminal and civil penalties under the same conditions.

Public schools in Florida participate in school lunch and breakfast programs subsidized by the federal government, but are not specifically included in the list of donors protected from liability by state law. Federal law governing the requirements for the National School Lunch Program was amended in 2011 to include: "[e]ach school and local educational agency participating in the

¹ Section 768.136, F.S.

² Section 768.136(2), F.S.

school lunch program under this chapter may donate any food not consumed under such program to eligible local food banks or charitable organizations."³

III. Effect of Proposed Changes:

The bill adds public schools to the list of defined donors protected from civil and criminal liability when they donate food to charitable organizations under the terms set forth in the statute.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 768.136 of the Florida Statutes.

³ 42 U.S.C. §1758(l)(1)

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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

By Senator Bullard

39-00107-14

2014160__

1 A bill to be entitled
 2 An act relating to canned or perishable food
 3 distributed free of charge; amending s. 768.136, F.S.;
 4 revising the definition of the term "donor"; limiting
 5 the liability of public schools with respect to canned
 6 or perishable food donated to charitable or nonprofit
 7 organizations; making grammatical changes; providing
 8 an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Subsection (1) of section 768.136, Florida
 13 Statutes, is reordered and amended to read:
 14 768.136 Liability for canned or perishable food distributed
 15 free of charge.—
 16 (1) As used in this section, the term:
 17 (b)(a) "Donor" means a person, business, organization, or
 18 institution, including a public school, which owns, rents,
 19 leases, or operates:
 20 1. A ~~Any~~ building, vehicle, place, or structure, or a ~~any~~
 21 room or division in a building, vehicle, place, or structure,
 22 which ~~that~~ is maintained and operated as a place where food is
 23 regularly prepared, served, or sold for immediate consumption on
 24 or in the vicinity of the premises; or to be called for or taken
 25 out by customers; or to be delivered to factories, construction
 26 camps, airlines, locations where catered events are being held,
 27 and other similar locations for consumption at any place;
 28 2. A ~~Any~~ public location with vending machines dispensing
 29 prepared meals; or

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

39-00107-14

2014160__

30 3. A ~~Any~~ retail grocery store.
 31 (c)(b) "Gleaner" means a person who harvests for free
 32 distribution an agricultural crop that has been donated by the
 33 owner.
 34 (a)(e) "Canned food" means any food that ~~which~~ has been
 35 commercially processed and prepared for human consumption and
 36 ~~which has been~~ commercially packaged in such a manner as to
 37 remain nonperishable without refrigeration for a reasonable
 38 length of time.
 39 (d) "Perishable food" means any food that may spoil or
 40 otherwise become unfit for human consumption because of its
 41 nature, type, or physical condition. The term "Perishable food"
 42 includes, but is not limited to, fresh or processed meats,
 43 poultry, seafood, dairy products, bakery products, eggs in the
 44 shell, fresh fruits or vegetables, and foods that have been
 45 noncommercially packaged, that have been frozen or otherwise
 46 require refrigeration to remain nonperishable for a reasonable
 47 length of time, or that have been prepared at a public food
 48 service establishment licensed under chapter 509.
 49 Section 2. This act shall take effect July 1, 2014.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: PCS/SB 188 (264330)

INTRODUCER: Committee on Education

SUBJECT: Education Data Privacy

DATE: February 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Pre-meeting
2.			CJ	
3.			JU	

I. Summary:

PCS/SB 188 tightens state and local requirements to emphasize the rights of students and parents, and bolster the privacy of student education records. The bill specifically:

- Strengthens existing local requirements to emphasize the rights of students and parents;
- Limits the collection of certain student, parent, and sibling information by entities that are part of, or perform services for, Florida’s public education system;
- Reaffirms the prohibition on disclosing confidential and exempt education records by entities that are part of, or perform services for, Florida’s public education system, unless the disclosure is authorized by law, and
- Requires governing boards, in a public meeting, to identify which student education records the board intends to include as publicly available student directory information; and
- Requires school districts to transition from using student social security numbers to using a unique Florida student identification number.

The bill takes effect upon becoming a law.

II. Present Situation:

Privacy of Student Education Records

The privacy of student education records is established by a comprehensive system of federal and state laws. This system ensures that student education records at the public school district, college, university, and state level are accessible by students and parents, while also safeguarding the privacy of student education records.

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that applies to educational agencies or institutions that receive United States Department of Education (U.S.

DOE) program funds.¹ The purpose of FERPA is two-fold: to assure that students and parents can access the student's education records,² and to protect the privacy rights of students and parents by limiting the transferability of the student's education records without student or parent consent.³ Compliance with FERPA is a condition for receiving federal funds.⁴

FERPA ensures that public school districts, colleges, universities, and state educational agencies protect student or parent rights and do not disclose student education records without student or parent consent, unless authorized by FERPA.

Florida has codified FERPA in state law. Additionally, as explained herein, Florida has also generally utilized state law to build upon and strengthen FERPA's provisions.⁵

Parent or Student Rights

FERPA obligates school districts, colleges, universities, and state educational agencies to ensure that students or parents enjoy their rights to:

- Inspect, review, and contest the student's educational records;⁶ and
- Authorize the disclosure of student education records by written consent.⁷

Florida law codifies FERPA into state law, further ensuring the responsibility of school districts, colleges, universities, and state educational agencies to guard these student and parent rights.⁸ However, there are differences between FERPA and state law. For example:

¹ 20 U.S.C., s. 1232g; 34 C.F.R. 99.1

² The phrase "student education records," as used herein, encompasses two intertwined categories of student information – "education records" and "personally identifiable information." FERPA prohibits funds from being made available under any applicable program to any educational agency or institution (i.e., any public or private agency or institution which is the recipient of funds under any applicable program) which has a policy or practice of: (1) "permitting the release of education records (or personally identifiable information contained therein...)" or (2) "releasing or providing access to, any personally identifiable information in education records..." unless otherwise permitted by FERPA. 20 U.S.C. 1232g(b)(1) & (2) "Education records" means those records, files, documents, and other materials which contain information directly related to a student, and are maintained by an educational agency or institution. 20 U.S.C. 1232g(b)(4); *Owasso Independent School Dist. v. Falvo*, 534 U.S. 426 (2002)(FERPA implies that education records are institutional records kept by a single central custodian). "Personally identifiable information" is essentially information that would allow a reasonable person in the school community to identify the student with reasonable certainty. See 34 C.F.R. 99.3

³ 73 FR 74831 (December 9, 2008); "As such, FERPA is not an open records statute or part of an open records system." *Id.*

⁴ 20 U.S.C. 1232g(a)(1); 34 C.F.R. 99.67

⁵ Section 1002.22, F.S.; Florida law states that a student's education records, as defined in FERPA and the federal regulations issued pursuant thereto, are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, Fla. Const. See Section 1002.221(1), F.S.; s. 1006.52(1), F.S. In light of FERPA, and the federal regulations and preamble issued thereto (see footnote 2), Florida's public record exemption encompasses both "education records" (i.e., institutional records), and the subset of "personally identifiable information" (i.e., information that identifies a student, regardless of format). See 20 U.S.C. 1232g; 34 C.F.R. Part 99; s. 1002.221, F.S.; s. 1006.52, F.S.

⁶ 34 C.F.R. 99.5; 34 C.F.R. 99.10; 34 C.F.R. 99.12; 34 C.F.R. 99.20-99.22

⁷ 34 C.F.R. 99.30

⁸ Section 1002.22(2), F.S.

- FERPA requires school districts, colleges, and universities to annually notify students or parents of their rights pertaining to educational records.⁹ Florida law does not specifically identify how frequently the notice is to be provided to students or parents.¹⁰
- FERPA allows a parent or student to file a written complaint with U.S. DOE, but does not explicitly authorize students or parents to file a lawsuit to protect their rights.¹¹ Florida law authorizes a student or parent to file a lawsuit seeking an injunction to protect their rights. Additionally, Florida law allows attorney's fees and court costs to be awarded if the rights "are vindicated."¹²

Authorized Disclosure of Student Education Records

FERPA authorizes school districts, colleges, and universities¹³ to disclose student education records¹⁴ without consent of the student or parent if the disclosure meets limited conditions.¹⁵ Examples of conditions include, but are not limited to, disclosure of student education records to:

- Other school officials within the school or school district determined to have a legitimate educational interest;¹⁶
- Schools to which a student is transferring;¹⁷
- A contractor, consultant, or other party to whom an agency has outsourced institutional services or functions;¹⁸ and
- Organizations conducting studies for, or on behalf of, school districts, colleges, or universities to: develop, validate or administer predicative tests; administer student aid programs; or improve instruction;¹⁹

Florida law provides that student education records are confidential and exempt from disclosure, and may not be released without student or parent consent, except as permitted by FERPA.²⁰

For a student attending a public school in Florida, the student's education records are created by the school or school district.²¹ Thus, the student's education records may initially be disclosed

⁹ 20 U.S.C. 1232g(e); 34 C.F.R. 99.7

¹⁰ Section 1002.22(2)(e), F.S.

¹¹ 34 C.F.R. 99.63; *see* 34 C.F.R. 99.60-.67 for the enforcement procedures in general. Enforcement action may include withholding payments or terminating program eligibility. 34 C.F.R. 99.67(a); *Gonzaga University v. Doe*, 536 U.S. 273, 290 (2002)

¹² Section 1002.22(4), F.S.

¹³ FERPA uses the term "educational agencies or institutions," which refers to local education agencies (i.e., school districts), elementary and secondary schools, postsecondary institutions (i.e., colleges and universities), and schools operated by the United States Department of Interior Bureau of Indian Education. 76 F.R. 75606 (Dec. 2, 2011). The term does not generally include a state education agency (i.e., the Florida Department of Education). *Id.*

¹⁴ "Education records" means those records that are directly related to a student, and maintained by an educational agency or institution or by a party acting for the educational agency or institution. 34 C.F.R. 99.3

¹⁵ 20 U.S.C. s. 1232g(b)(1) and (2); 34 C.F.R. 99.30(a)

¹⁶ 20 U.S.C. s. 1232g(b)(1)(A); 34 C.F.R. 99.31(a)(1)(i)(A)

¹⁷ 20 U.S.C. s. 1232g(b)(1)(B); 34 C.F.R. 99.31(a)(2)

¹⁸ 20 U.S.C. s. 1232g(b)(1)(A); 34 C.F.R. 99.30(a)(1)(i)(B)

¹⁹ 20 U.S.C. s. 1232g(b)(1)(F); 34 C.F.R. 99.31(a)(6)

²⁰ Section 1002.221(1), F.S.; s. 1006.52(1), F.S. Florida law defines "education records," as defined in FERPA. *Id.*

²¹ 76 F.R. 75606 (Dec. 2, 2011); The definition of "student" means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records. 34 C.F.R. 99.3

by the school district (as authorized by FERPA and state law) to a state educational agency — which in Florida is generally the Florida Department of Education (DOE). DOE, as authorized by FERPA and state law, may “redisclose” student education records in the same manner that an initial disclosure is authorized.²²

Directory Information

FERPA defines “directory information” as “information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.”²³ Examples of directory information are: the student’s name, address, telephone listing, e-mail address, photograph, date and place of birth, grade level, dates of attendance, and participation in sports.²⁴ Directory information does not include a student’s social security number.²⁵

FERPA authorizes school districts, colleges, and universities to disclose directory information if they give public notice to students or parents of the types of student information that is being designated as directory information.²⁶ As directory information constitutes a permissible disclosure of student education records without student or parent consent,²⁷ Florida’s codification of FERPA into statute also incorporates these requirements.²⁸

Social Security Numbers

FERPA does not prohibit the use of a student social security number (SSN) as a personal identifier or as a linking variable.²⁹ However, according to the U.S. DOE, best practices dictate that states should limit use of student SSNs to instances in which there is no feasible alternative.³⁰

Florida law requires school districts to use SSNs as student identification numbers in the school district’s management information system.³¹

Florida Department of Education Legislative Recommendations

On September 23, 2013, Governor Scott issued Executive Order Number 13-276. The executive order directed the Commissioner of Education to “immediately conduct a data security review” and to “make recommendations regarding any needed rule or legislative change to safeguard the privacy of our students’ data....”³²

²² 34 C.F.R. 99.33

²³ 34 C.F.R. 99.3

²⁴ *Id.*

²⁵ *Id.*

²⁶ 34 C.F.R. 99.37; This notice includes the ability to opt-out of being included in the student directory. *Id.*

²⁷ 20 U.S.C. 1232g(a)(5); 34 C.F.R. 99.31(11); 34 C.F.R. 99.37

²⁸ Section 1002.221, F.S.; S. 1006.52, F.S.

²⁹ 76 F.R. 75611 (Dec. 2, 2011); However, the U.S. Department of Education recognizes the importance of limiting SSN use, as FERPA prohibits schools from designating student SSNs as directory information; 34 C.F.R. 99.3; 76 F.R. 75611 (Dec. 2, 2011)(referring to the definition of “directory information”).

³⁰ 76 F.R. 75611 (Dec. 2, 2011)

³¹ Section 1008.386, F.S.

³² Executive Order No. 13-276, dated September 23, 2013.

DOE subsequently issued a report covering security initiatives, school district activities, and information technology security reviews.³³ The report contained various recommendations, including legislative changes to:

- Require that school districts give annual notice to students and parents of their rights with respect to education records;
- Clarify that a student or parent who has received injunctive relief to enforce his or her rights may be awarded attorney's fees and court costs;
- Establish limitations on the collection of student information by entities that are part of, or perform services for, Florida's public education system, to prohibit collecting, obtaining, or retaining: biometric information; political affiliation; voting history; religious affiliation; health information; and correspondence from community agencies or private professionals;
- Establish limitations on the disclosure of confidential and exempt student education records, entities that are part of, or perform services for, Florida's public education system, except when the disclosure is authorized by state or federal law, or in response to a lawfully issued subpoena or court order;
- Require directory information to be designated in accordance with FERPA at regularly scheduled governing board meetings, and the governing board must consider the extent to which the disclosure would put students at risk; and
- Establish a computer generated student identifier for state and local systems.³⁴

In sum, the DOE report identifies areas where state law could be strengthened to further ensure that public school districts, colleges, universities, and state educational agencies protect student or parent rights and the privacy of student education records.

III. Effect of Proposed Changes:

PCS/SB 188 tightens state and local requirements to emphasize the rights of students and parents, and bolsters the privacy of student education records.

The bill implements the recommendations of the DOE Student Data Privacy report. The bill:

- Specifies that school districts, colleges, and universities must annually, rather than at their discretion, provide students and parents notice of their education record rights;
- Clarifies existing law to authorize attorney's fees and court costs to be awarded upon receipt of injunctive relief, rather than when the parent or student's rights are "vindicated;"
- Creates a new law prohibiting entities that are part of, or perform services for, Florida's public education system from collecting, obtaining, or retaining the political affiliation, voting history, religious affiliation, or biometric information of a student, parent, or sibling of the student. The bill also defines, identifies characteristics, and gives examples of biometric information;

³³ Florida Department of Education, Student Data Privacy Recommendations, *available at* <http://www.fldoe.org/pdf/DataSecurityReport.pdf>

³⁴ *Id.*

- Reaffirms the prohibition of disclosure of confidential and exempt student education records by entities that are part of, or perform services for, Florida's public education system without parent consent, unless authorized or required by law;
- Creates new obligations in law to require the governing board of a school district, college, or university, in a regularly scheduled public meeting, to: identify which student information the governing board will designate as directory information; and consider whether the disclosure of the identified directory information would put students at risk. The bill also confirms the ability for the school district, college, or university, to charge fees for providing directory information in response to public records requests; and
- Deletes the requirement in state law that school districts use student social security numbers as student identification numbers. Once DOE completes a process for creating a (non-SSN) Florida student identification number, school districts will be required to use the (non-SSN) Florida student identification number.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.22, 1008.386 and 1011.622.

This bill creates the following sections of the Florida Statutes: 1002.222.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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



581-01529-14

Proposed Committee Substitute by the Committee on Education

A bill to be entitled

An act relating to education data privacy; amending s. 1002.22, F.S.; providing for annual notice to K-12 students and parents of rights relating to education records; revising provisions relating to remedy in circuit court with respect to education records and reports of students and parents; creating s. 1002.222, F.S.; providing limitations on the collection of information and the disclosure of confidential and exempt student records; defining the term "biometric information"; authorizing fees; amending s. 1008.386, F.S.; revising provisions relating to the submission of student social security numbers and the assignment of student identification numbers; requiring the Department of Education to establish a process for assigning student identification numbers; amending s. 1011.622, F.S.; conforming provisions; providing an effective date.

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

Section 1. Paragraph (e) of subsection (2) and subsection (4) of section 1002.22, Florida Statutes, are amended to read:

1002.22 Education records and reports of K-12 students; rights of parents and students; notification; penalty.-

(2) RIGHTS OF STUDENTS AND PARENTS.-The rights of students and their parents with respect to education records created, maintained, or used by public educational institutions and



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agencies shall be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, the implementing regulations issued pursuant thereto, and this section. In order to maintain the eligibility of public educational institutions and agencies to receive federal funds and participate in federal programs, the State Board of Education shall comply with the FERPA after the board has evaluated and determined that the FERPA is consistent with the following principles:

(e) Students and their parents shall receive annual notice of their rights with respect to education records.

(4) PENALTY.-If any official or employee of an institution refuses to comply with this section, the aggrieved parent or student has an immediate right to bring an action in circuit court to enforce his or her rights by injunction. Any aggrieved parent or student who receives injunctive relief ~~brings such action and whose rights are vindicated~~ may be awarded attorney ~~attorney's~~ fees and court costs.

Section 2. Section 1002.222, Florida Statutes, is created to read:

1002.222 Limitations on collection of information and disclosure of confidential and exempt student records.-

(1) An agency or institution as defined in s. 1002.22(1) may not:

(a) Collect, obtain, or retain information on the political affiliation, voting history, religious affiliation, or biometric information of a student or a parent or sibling of the student. For purposes of this subsection, the term "biometric information" means information collected from the electronic



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58 measurement or evaluation of any physical or behavioral
59 characteristics that are attributable to a single person,
60 including fingerprint characteristics, hand characteristics, eye
61 characteristics, vocal characteristics, and any other physical
62 characteristics used for the purpose of electronically
63 identifying that person with a high degree of certainty.
64 Examples of biometric information include, but are not limited
65 to, a fingerprint or hand scan, a retina or iris scan, a voice
66 print, or a facial geometry scan.

67 (b) Provide education records made confidential and exempt
68 by s. 1002.221 or federal law to:

69 1. A person as defined in s. 1.01(3) except when authorized
70 by s. 1002.221 or in response to a lawfully issued subpoena or
71 court order;

72 2. A public body, body politic, or political subdivision as
73 defined in s. 1.01(8) except when authorized by s. 1002.221 or
74 in response to a lawfully issued subpoena or court order; or

75 3. An agency of the Federal Government except when
76 authorized by s. 1002.221, required by federal law, or in
77 response to a lawfully issued subpoena or court order.

78 (2) The governing board of an agency or institution may
79 only designate information as directory information in
80 accordance with 20 U.S.C. s. 1232g and applicable federal
81 regulations. Such designation must occur at a regularly
82 scheduled meeting of the governing board. The governing board of
83 an agency or institution must consider whether designation of
84 such information would put students at risk of becoming targets
85 of marketing campaigns, the media, or criminal acts. An agency
86 or institution may charge fees for copies of designated



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87 directory information as provided in s. 119.07(4).

88 Section 3. Section 1008.386, Florida Statutes, is amended
89 to read:

90 1008.386 ~~Florida Social security numbers used as student~~
91 ~~identification numbers.-~~

92 (1) When a student enrolls in a public school in this
93 state, the ~~Each~~ district school board shall request that the
94 ~~each~~ student enrolled in a public school in this state provide
95 his or her social security number and shall indicate whether the
96 student identification number assigned to the student is a
97 social security number. A student satisfies this requirement by
98 presenting his or her social security card or a copy of the card
99 to a school enrollment official. ~~Each school district shall use~~
100 ~~social security numbers as student identification numbers in the~~
101 ~~management information system maintained by the school district.~~
102 However, a student is not required to provide his or her social
103 security number as a condition for enrollment or graduation. A
104 student satisfies this requirement by presenting to school
105 enrollment officials his or her social security card or a copy
106 of the card. ~~The school district shall include the social~~
107 ~~security number in the student's permanent records and shall~~
108 ~~indicate if the student identification number is not a social~~
109 ~~security number.~~ The Commissioner of Education shall assist
110 ~~provide assistance to school districts with to assure that the~~
111 assignment of student identification numbers ~~other than social~~
112 ~~security numbers is kept to a minimum and to avoid duplication~~
113 of any student identification number.

114 (2) The department shall establish a process for assigning
115 a Florida student identification number to each student in the



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116 state, at which time a school district may not use social
117 security numbers as student identification numbers in its
118 management information systems.

119 (3) The State Board of Education may adopt rules to
120 implement this section.

121 Section 4. Section 1011.622, Florida Statutes, is amended
122 to read:

123 1011.622 Adjustments for students without a Florida ~~common~~
124 student identification number identifier.—The Florida Education
125 Finance Program funding calculations, including the calculations
126 authorized in ss. 1011.62, 1011.67, 1011.68, and 1011.685, shall
127 include funding for a student only when all of the student's
128 records are reported to the Department of Education under a
129 Florida ~~common~~ student identification number identifier. The
130 State Board of Education may adopt rules pursuant to ss.
131 120.536(1) and 120.54 to implement this section.

132 Section 5. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 188

INTRODUCER: Education Committee, Senator Hukill and others

SUBJECT: Education Data Privacy

DATE: February 5, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Fav/CS
2.			CJ	
3.			JU	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 188 tightens state and local requirements to emphasize the rights of students and parents, and bolster the privacy of student education records. The bill specifically:

- Strengthens existing local requirements to emphasize the rights of students and parents;
- Limits the collection of certain student, parent, and sibling information by entities that are part of, or perform services for, Florida's public education system;
- Reaffirms the prohibition on disclosing confidential and exempt education records by entities that are part of, or perform services for, Florida's public education system, unless the disclosure is authorized by law, and
- Requires governing boards, in a public meeting, to identify which student education records the board intends to include as publicly available student directory information; and
- Requires school districts to transition from using student social security numbers to using a unique Florida student identification number.

The bill takes effect upon becoming a law.

II. Present Situation:

Privacy of Student Education Records

The privacy of student education records is established by a comprehensive system of federal and state laws. This system ensures that student education records at the public school district, college, university, and state level are accessible by students and parents, while also safeguarding the privacy of student education records.

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that applies to educational agencies or institutions that receive United States Department of Education (U.S. DOE) program funds.¹ The purpose of FERPA is two-fold: to assure that students and parents can access the student's education records,² and to protect the privacy rights of students and parents by limiting the transferability of the student's education records without student or parent consent.³ Compliance with FERPA is a condition for receiving federal funds.⁴

FERPA ensures that public school districts, colleges, universities, and state educational agencies protect student or parent rights and do not disclose student education records without student or parent consent, unless authorized by FERPA.

Florida has codified FERPA in state law. Additionally, as explained herein, Florida has also generally utilized state law to build upon and strengthen FERPA's provisions.⁵

Parent or Student Rights

FERPA obligates school districts, colleges, universities, and state educational agencies to ensure that students or parents enjoy their rights to:

- Inspect, review, and contest the student's educational records;⁶ and

¹ 20 U.S.C., s. 1232g; 34 C.F.R. 99.1

² The phrase "student education records," as used herein, encompasses two intertwined categories of student information – "education records" and "personally identifiable information." FERPA prohibits funds from being made available under any applicable program to any educational agency or institution (i.e., any public or private agency or institution which is the recipient of funds under any applicable program) which has a policy or practice of: (1) "permitting the release of education records (or personally identifiable information contained therein...);" or (2) "releasing or providing access to, any personally identifiable information in education records..." unless otherwise permitted by FERPA. 20 U.S.C. 1232g(b)(1) & (2) "Education records" means those records, files, documents, and other materials which contain information directly related to a student, and are maintained by an educational agency or institution. 20 U.S.C. 1232g(b)(4); *Owasso Independent School Dist. v. Falvo*, 534 U.S. 426 (2002)(FERPA implies that education records are institutional records kept by a single central custodian). "Personally identifiable information" is essentially information that would allow a reasonable person in the school community to identify the student with reasonable certainty. See 34 C.F.R. 99.3

³ 73 FR 74831 (December 9, 2008); "As such, FERPA is not an open records statute or part of an open records system." *Id.*

⁴ 20 U.S.C. 1232g(a)(1); 34 C.F.R. 99.67

⁵ Section 1002.22, F.S.; Florida law states that a student's education records, as defined in FERPA and the federal regulations issued pursuant thereto, are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, Fla. Const. See Section 1002.221(1), F.S.; s. 1006.52(1), F.S. In light of FERPA, and the federal regulations and preamble issued thereto (see footnote 2), Florida's public record exemption encompasses both "education records" (i.e., institutional records), and the subset of "personally identifiable information" (i.e., information that identifies a student, regardless of format). See 20 U.S.C. 1232g; 34 C.F.R. Part 99; s. 1002.221, F.S.; s. 1006.52, F.S.

⁶ 34 C.F.R. 99.5; 34 C.F.R. 99.10; 34 C.F.R. 99.12; 34 C.F.R. 99.20-99.22

- Authorize the disclosure of student education records by written consent.⁷

Florida law codifies FERPA into state law, further ensuring the responsibility of school districts, colleges, universities, and state educational agencies to guard these student and parent rights.⁸ However, there are differences between FERPA and state law. For example:

- FERPA requires school districts, colleges, and universities to annually notify students or parents of their rights pertaining to educational records.⁹ Florida law does not specifically identify how frequently the notice is to be provided to students or parents.¹⁰
- FERPA allows a parent or student to file a written complaint with U.S. DOE, but does not explicitly authorize students or parents to file a lawsuit to protect their rights.¹¹ Florida law authorizes a student or parent to file a lawsuit seeking an injunction to protect their rights. Additionally, Florida law allows attorney's fees and court costs to be awarded if the rights "are vindicated."¹²

Authorized Disclosure of Student Education Records

FERPA authorizes school districts, colleges, and universities¹³ to disclose student education records¹⁴ without consent of the student or parent if the disclosure meets limited conditions.¹⁵ Examples of conditions include, but are not limited to, disclosure of student education records to:

- Other school officials within the school or school district determined to have a legitimate educational interest;¹⁶
- Schools to which a student is transferring;¹⁷
- A contractor, consultant, or other party to whom an agency has outsourced institutional services or functions;¹⁸ and
- Organizations conducting studies for, or on behalf of, school districts, colleges, or universities to: develop, validate or administer predicative tests; administer student aid programs; or improve instruction;¹⁹

⁷ 34 C.F.R. 99.30

⁸ Section 1002.22(2), F.S.

⁹ 20 U.S.C. 1232g(e); 34 C.F.R. 99.7

¹⁰ Section 1002.22(2)(e), F.S.

¹¹ 34 C.F.R. 99.63; *see* 34 C.F.R. 99.60-.67 for the enforcement procedures in general. Enforcement action may include withholding payments or terminating program eligibility. 34 C.F.R. 99.67(a); *Gonzaga University v. Doe*, 536 U.S. 273, 290 (2002)

¹² Section 1002.22(4), F.S.

¹³ FERPA uses the term "educational agencies or institutions," which refers to local education agencies (i.e., school districts), elementary and secondary schools, postsecondary institutions (i.e., colleges and universities), and schools operated by the United States Department of Interior Bureau of Indian Education. 76 F.R. 75606 (Dec. 2, 2011). The term does not generally include a state education agency (i.e., the Florida Department of Education). *Id.*

¹⁴ "Education records" means those records that are directly related to a student, and maintained by an educational agency or institution or by a party acting for the educational agency or institution. 34 C.F.R. 99.3

¹⁵ 20 U.S.C. s. 1232g(b)(1) and (2); 34 C.F.R. 99.30(a)

¹⁶ 20 U.S.C. s. 1232g(b)(1)(A); 34 C.F.R. 99.31(a)(1)(i)(A)

¹⁷ 20 U.S.C. s. 1232g(b)(1)(B); 34 C.F.R. 99.31(a)(2)

¹⁸ 20 U.S.C. s. 1232g(b)(1)(A); 34 C.F.R. 99.30(a)(1)(i)(B)

¹⁹ 20 U.S.C. s. 1232g(b)(1)(F); 34 C.F.R. 99.31(a)(6)

Florida law provides that student education records are confidential and exempt from disclosure, and may not be released without student or parent consent, except as permitted by FERPA.²⁰

For a student attending a public school in Florida, the student's education records are created by the school or school district.²¹ Thus, the student's education records may initially be disclosed by the school district (as authorized by FERPA and state law) to a state educational agency — which in Florida is generally the Florida Department of Education (DOE). DOE, as authorized by FERPA and state law, may “redisclose” student education records in the same manner that an initial disclosure is authorized.²²

Directory Information

FERPA defines “directory information” as “information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.”²³ Examples of directory information are: the student's name, address, telephone listing, e-mail address, photograph, date and place of birth, grade level, dates of attendance, and participation in sports.²⁴ Directory information does not include a student's social security number.²⁵

FERPA authorizes school districts, colleges, and universities to disclose directory information if they give public notice to students or parents of the types of student information that is being designated as directory information.²⁶ As directory information constitutes a permissible disclosure of student education records without student or parent consent,²⁷ Florida's codification of FERPA into statute also incorporates these requirements.²⁸

Social Security Numbers

FERPA does not prohibit the use of a student social security number (SSN) as a personal identifier or as a linking variable.²⁹ However, according to the U.S. DOE, best practices dictate that states should limit use of student SSNs to instances in which there is no feasible alternative.³⁰

Florida law requires school districts to use SSNs as student identification numbers in the school district's management information system.³¹

²⁰ Section 1002.221(1), F.S.; s. 1006.52(1), F.S. Florida law defines “education records,” as defined in FERPA. *Id.*

²¹ 76 F.R. 75606 (Dec. 2, 2011); The definition of “student” means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records. 34 C.F.R. 99.3

²² 34 C.F.R. 99.33

²³ 34 C.F.R. 99.3

²⁴ *Id.*

²⁵ *Id.*

²⁶ 34 C.F.R. 99.37; This notice includes the ability to opt-out of being included in the student directory. *Id.*

²⁷ 20 U.S.C. 1232g(a)(5); 34 C.F.R. 99.31(11); 34 C.F.R. 99.37

²⁸ Section 1002.221, F.S.; S. 1006.52, F.S.

²⁹ 76 F.R. 75611 (Dec. 2, 2011); However, the U.S. Department of Education recognizes the importance of limiting SSN use, as FERPA prohibits schools from designating student SSNs as directory information; 34 C.F.R. 99.3; 76 F.R. 75611 (Dec. 2, 2011)(referring to the definition of “directory information”).

³⁰ 76 F.R. 75611 (Dec. 2, 2011)

³¹ Section 1008.386, F.S.

Florida Department of Education Legislative Recommendations

On September 23, 2013, Governor Scott issued Executive Order Number 13-276. The executive order directed the Commissioner of Education to “immediately conduct a data security review” and to “make recommendations regarding any needed rule or legislative change to safeguard the privacy of our students’ data....”³²

DOE subsequently issued a report covering security initiatives, school district activities, and information technology security reviews.³³ The report contained various recommendations, including legislative changes to:

- Require that school districts give annual notice to students and parents of their rights with respect to education records;
- Clarify that a student or parent who has received injunctive relief to enforce his or her rights may be awarded attorney’s fees and court costs;
- Establish limitations on the collection of student information by entities that are part of, or perform services for, Florida’s public education system, to prohibit collecting, obtaining, or retaining: biometric information; political affiliation; voting history; religious affiliation; health information; and correspondence from community agencies or private professionals;
- Establish limitations on the disclosure of confidential and exempt student education records, entities that are part of, or perform services for, Florida’s public education system, except when the disclosure is authorized by state or federal law, or in response to a lawfully issued subpoena or court order;
- Require directory information to be designated in accordance with FERPA at regularly scheduled governing board meetings, and the governing board must consider the extent to which the disclosure would put students at risk; and
- Establish a computer generated student identifier for state and local systems.³⁴

In sum, the DOE report identifies areas where state law could be strengthened to further ensure that public school districts, colleges, universities, and state educational agencies protect student or parent rights and the privacy of student education records.

III. Effect of Proposed Changes:

CS/SB 188 tightens state and local requirements to emphasize the rights of students and parents, and bolsters the privacy of student education records.

The bill implements the recommendations of the DOE Student Data Privacy report. The bill:

- Specifies that school districts, colleges, and universities must annually, rather than at their discretion, provide students and parents notice of their education record rights;

³² Executive Order No. 13-276, dated September 23, 2013.

³³ Florida Department of Education, Student Data Privacy Recommendations, *available at* <http://www.fldoe.org/pdf/DataSecurityReport.pdf>

³⁴ *Id.*

- Clarifies existing law to authorize attorney’s fees and court costs to be awarded upon receipt of injunctive relief, rather than when the parent or student’s rights are “vindicated;”
- Creates a new law prohibiting entities that are part of, or perform services for, Florida’s public education system from collecting, obtaining, or retaining the political affiliation, voting history, religious affiliation, or biometric information of a student, parent, or sibling of the student. The bill also defines, identifies characteristics, and gives examples of biometric information;
- Reaffirms the prohibition of disclosure of confidential and exempt student education records by entities that are part of, or perform services for, Florida’s public education system without parent consent, unless authorized or required by law;
- Creates new obligations in law to require the governing board of a school district, college, or university, in a regularly scheduled public meeting, to: identify which student information the governing board will designate as directory information; and consider whether the disclosure of the identified directory information would put students at risk. The bill also confirms the ability for the school district, college, or university, to charge fees for providing directory information in response to public records requests; and
- Deletes the requirement in state law that school districts use student social security numbers as student identification numbers. Once DOE completes a process for creating a (non-SSN) Florida student identification number, school districts will be required to use the (non-SSN) Florida student identification number.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.22, 1008.386 and 1011.622.

This bill creates section 1002.222 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education on February 4, 2014

CS/SB 188 differs from SB 188 in that:

- SB 188 provided that school districts that wanted to collect student biometric information must: (1) create policies governing the collection and use of the biometric information; and (2) not collect biometric information on a student unless the parent chose to opt-in. CS/SB 188 reframes and expands the concepts in SB 188 to prohibit entities that are part of, or perform services for, Florida's public education system, from collecting, obtaining, and retaining the biometric information, political affiliation, voting history, and religious affiliation of a student, parent, or sibling of the student; and
- CS/SB 188 implements recommendations from the DOE Student Data Privacy report.

- B. **Amendments:**

None.

By Senator Hukill

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1 A bill to be entitled
 2 An act relating to the use of biometric information;
 3 amending s. 1002.01, F.S.; defining the term
 4 "biometric information" as it relates to student and
 5 parental rights and educational choices; amending s.
 6 1002.20, F.S.; providing that parents have a right not
 7 to have their children submit any form of biometric
 8 information; providing that students have a right not
 9 to submit any form of biometric information; providing
 10 definitions; requiring each school district of a
 11 public elementary, middle, and high school that
 12 collects biometric information from students to
 13 develop, adopt, and implement policies that govern
 14 collection and use of the information; requiring each
 15 school district of a public elementary, middle, and
 16 high school that collects student biometric
 17 information to disclose on its website and at school
 18 locations the policies regarding collection and use of
 19 student biometric information; requiring the school
 20 district or the school to notify the student's parent
 21 or legal guardian or the student if there has been a
 22 security breach regarding the student's biometric
 23 information; requiring the superintendent of a school
 24 district to determine persons who may have access to
 25 student biometric information; requiring school
 26 districts and schools that collect biometric
 27 information to ensure the security and protection of
 28 such information; providing criminal penalties;
 29 prohibiting a school district or a school from

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30 refusing or denying a student services due to the
 31 failure of the parent, legal guardian, or student to
 32 provide written permission to collect biometric
 33 information; requiring the collection of student
 34 biometric information to comply with applicable state
 35 and federal laws and requirements; amending ss.
 36 1002.39, 1002.395, and 1002.421, F.S.; conforming
 37 cross-references; providing an effective date.
 38

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

40
 41
 42 Section 1. Section 1002.01, Florida Statutes, is amended to
 43 read:

44 1002.01 Definitions.—As used in this chapter, the term:
 45 (1) "Biometric information" means information collected
 46 from the noninvasive electronic measurement and evaluation of
 47 any physical or behavioral characteristics that are attributable
 48 to a single person, including fingerprint characteristics, hand
 49 characteristics, eye characteristics, vocal characteristics,
 50 facial characteristics, and any other physical characteristics
 51 used for the purpose of electronically identifying that person
 52 with a high degree of certainty. The biometric information may
 53 be collected through a fingerprint or hand scan, a retina or
 54 iris scan, voice print, or face geometry scan. Biometric
 55 information collected from a student is an education record as
 56 defined in the Family Educational Rights and Privacy Act
 57 (FERPA), 20 U.S.C. s. 1232g.

58 (2) ~~(1)~~ A "Home education program" means the sequentially

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59 progressive instruction of a student directed by his or her
60 parent in order to satisfy the attendance requirements of ss.
61 1002.41, 1003.01(13), and 1003.21(1).
62 ~~(3)(2)~~ A "Private school" means ~~is~~ a nonpublic school
63 defined as an individual, association, copartnership, or
64 corporation, or department, division, or section of such
65 organizations, that designates itself as an educational center
66 that includes kindergarten or a higher grade or as an
67 elementary, secondary, business, technical, or trade school
68 below college level or any organization that provides
69 instructional services that meet the intent of s. 1003.01(13);
70 ~~or~~ that gives preemployment or supplementary training in
71 technology or in fields of trade or industry; ~~or~~ that offers
72 academic, literary, or career training below college level; ~~or~~ or
73 any combination of the above, including an institution that
74 performs the functions of these ~~the above~~ schools through
75 correspondence or extension, except those licensed under ~~the~~
76 ~~provisions of~~ chapter 1005. A private school may be a parochial,
77 religious, denominational, for-profit, or nonprofit school. This
78 ~~term definition~~ does not include a home education program
79 ~~programs~~ conducted in accordance with s. 1002.41.
80 Section 2. Subsection (13) of section 1002.20, Florida
81 Statutes, is amended, and subsection (25) is added to that
82 section, to read:
83 1002.20 K-12 student and parent rights.—Parents of public
84 school students must receive accurate and timely information
85 regarding their child's academic progress and must be informed
86 of ways they can help their child to succeed in school. K-12
87 students and their parents are afforded numerous statutory

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88 rights including, but not limited to, the following:
89 (13) STUDENT RECORDS.—
90 (a) Parent rights.—Parents have rights regarding the
91 student records of their children, including right of access,
92 right of waiver of access, right to challenge and hearing, and
93 right of privacy, in accordance with ~~the provisions of~~ s.
94 1002.22. Parents also have a right not to have their children
95 submit any form of biometric information.
96 (b) Student rights.—In accordance with ~~the provisions of~~ s.
97 1008.386, a student is not required to provide his or her social
98 security number as a condition for enrollment or graduation. A
99 student is not required to submit any form of biometric
100 information.
101 (25) STUDENT BIOMETRIC INFORMATION.—
102 (a) Definitions.—As used in this subsection, the term:
103 1. "Algorithmic process" means the comparison of a
104 previously stored template of a biometric scan against a person
105 being scanned for identification purposes to determine a match
106 in the system. The stored template is not a full replication of
107 the original biometric scan but is an encrypted pattern taken
108 from the original that can be compared to a submitted scan of a
109 person to identify a match.
110 2. "School district" means any of the 67 county school
111 districts in this state, including the respective district
112 school board.
113 3. "Written permission" means consent in writing to have a
114 student be biometrically scanned for identification or fraud
115 prevention.
116 (b) Collection and use.—

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117 1. The school district of each public elementary, middle,
 118 and high school that collects student biometric information must
 119 develop, adopt, and implement policies governing the collection
 120 and use of such information which, at a minimum, must:

121 a. Contain a full explanation of what type of biometric
 122 information is collected, how it is collected and stored, and
 123 the purposes for which the information is used.

124 b. Require written permission from the student's parent or
 125 legal guardian, or the student if he or she is 18 years of age
 126 or older, before the collection of any biometric information.
 127 Each school that collects biometric information must give the
 128 parent, legal guardian, or student if he or she is 18 years of
 129 age or older written notice regarding the collection of the
 130 biometric information at least 30 days before the date of the
 131 collection. The written permission must be obtained on a form
 132 that is created for the express purpose of obtaining the
 133 required permission. The granting of permission must not be
 134 included as a part of any form used for enrollment purposes or
 135 any form required by the school's governing authority for any
 136 other purpose.

137 c. Ensure that a student's biometric information is used
 138 only for identification or fraud prevention purposes.

139 d. Ensure that a student's biometric information is not
 140 disclosed to a third party without the written permission of the
 141 student's parent or legal guardian, or the student if he or she
 142 is 18 years of age or older, except in accordance with and as
 143 permitted by s. 1002.221 or the Family Educational Rights and
 144 Privacy Act (FERPA), 20 U.S.C. s. 1232g.

145 e. Ensure that a student's biometric information is not

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146 disclosed to another state, federal, or contractual entity
 147 without the written permission of the student's parent or legal
 148 guardian, or the student if he or she is 18 years of age or
 149 older, except in accordance with and permitted by s. 1002.221 or
 150 FERPA.

151 f. Provide for the secure storage and secure transmission
 152 of all biometric information and for the protection of the
 153 information from unauthorized disclosure.

154 g. Require that a student's biometric information be
 155 encrypted for the purpose of transforming data into a pattern in
 156 which there is a low probability of assigning meaning to such
 157 information without the use of a confidential process or key.

158 h. Ensure that the use of a student's biometric information
 159 is discontinued within 30 days after:

160 (I) The student's graduation or withdrawal from school; or

161 (II) Receipt of a written request to discontinue use of the
 162 information from the student's parent or legal guardian, or the
 163 student if he or she is 18 years of age or older.

164 i. Require that a student's biometric information be
 165 destroyed within 30 days after the use of the information is
 166 discontinued.

167 2. Each school district of a school that collects biometric
 168 information from students shall disclose on its website and at
 169 the school's location the policies regarding the collection of
 170 biometric information as the collection applies to students
 171 attending or planning on attending the school.

172 3. If there is a security breach of a student's biometric
 173 information, the school district or the school shall notify the
 174 student's parent or legal guardian, or the student if he or she

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175 is 18 years of age or older, within 30 days after the breach.

176 4. The superintendent of the school district, or his or her
 177 designee, shall determine the persons who may electronically
 178 have access to student biometric information based on the needs
 179 of the school district. Authorized persons must be kept at the
 180 minimum number of people needed to perform the daily
 181 responsibilities and tasks of maintaining and using the
 182 biometric information. Each school district of a school that
 183 collects student biometric information must:

184 a. Ensure that all biometric information is secure;
 185 confidential in accordance with s. 1002.221 and FERPA; not
 186 compromised; and protected against fraud and unauthorized access
 187 or use; and

188 b. Maintain student biometric information in a manner that
 189 only authorized persons may electronically access.

190 The unauthorized use of a student's biometric information is
 191 punishable as provided in s. 775.082, s. 775.083, or s. 817.568.

192 5. A school district or school may not refuse or deny a
 193 student any services due to the failure of the student's parent
 194 or legal guardian, or the student if he or she is 18 years of
 195 age or older, to provide written permission.

196 6. Collection and maintenance of biometric information from
 197 students must comply with all applicable state and federal laws
 198 and requirements, including s. 1002.221 and FERPA.

200 Section 3. Subsection (3) of section 1002.39, Florida
 201 Statutes, is amended to read:

202 1002.39 The John M. McKay Scholarships for Students with
 203 Disabilities Program.—There is established a program that is

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204 separate and distinct from the Opportunity Scholarship Program
 205 and is named the John M. McKay Scholarships for Students with
 206 Disabilities Program.

207 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
 208 not eligible for a John M. McKay Scholarship:

209 (a) While he or she is enrolled in a school operating for
 210 the purpose of providing educational services to youth in
 211 Department of Juvenile Justice commitment programs;

212 (b) While he or she is receiving a Florida tax credit
 213 scholarship under s. 1002.395;

214 (c) While he or she is receiving an educational scholarship
 215 pursuant to this chapter;

216 (d) While he or she is participating in a home education
 217 program as defined in s. 1002.01 ~~s. 1002.01(1)~~;

218 (e) While he or she is participating in a private tutoring
 219 program pursuant to s. 1002.43;

220 (f) While he or she is participating in a virtual school,
 221 correspondence school, or distance learning program that
 222 receives state funding pursuant to the student's participation
 223 unless the participation is limited to no more than two courses
 224 per school year;

225 (g) While he or she is enrolled in the Florida School for
 226 the Deaf and the Blind;

227 (h) While he or she is not having regular and direct
 228 contact with his or her private school teachers at the school's
 229 physical location; or

230 (i) If he or she has been issued a temporary 504
 231 accommodation plan under s. 504 of the Rehabilitation Act of
 232 1973 which is valid for 6 months or less.

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233 Section 4. Paragraph (g) of subsection (2) and subsection
 234 (4) of section 1002.395, Florida Statutes, are amended to read:
 235 1002.395 Florida Tax Credit Scholarship Program.—
 236 (2) DEFINITIONS.—As used in this section, the term:
 237 (g) “Eligible private school” means a private school, as
 238 defined in s. 1002.01 ~~s. 1002.01(2)~~, located in this state
 239 ~~Florida~~ which offers an education to students in any grades K-12
 240 and that meets the requirements in subsection (8).
 241 (4) SCHOLARSHIP PROHIBITIONS.—A student is not eligible for
 242 a scholarship while he or she is:
 243 (a) Enrolled in a school operating for the purpose of
 244 providing educational services to youth in Department of
 245 Juvenile Justice commitment programs;
 246 (b) Receiving a scholarship from another eligible nonprofit
 247 scholarship-funding organization under this section;
 248 (c) Receiving an educational scholarship pursuant to
 249 chapter 1002;
 250 (d) Participating in a home education program as defined in
 251 s. 1002.01 ~~s. 1002.01(1)~~;
 252 (e) Participating in a private tutoring program pursuant to
 253 s. 1002.43;
 254 (f) Participating in a virtual school, correspondence
 255 school, or distance learning program that receives state funding
 256 pursuant to the student’s participation unless the participation
 257 is limited to no more than two courses per school year; or
 258 (g) Enrolled in the Florida School for the Deaf and the
 259 Blind.
 260 Section 5. Subsection (2) of section 1002.421, Florida
 261 Statutes, is amended to read:

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262 1002.421 Accountability of private schools participating in
 263 state school choice scholarship programs.—
 264 (2) A private school participating in a scholarship program
 265 must be a ~~Florida~~ private school as defined in s. 1002.01 ~~s.~~
 266 ~~1002.01(2)~~, must be located in this state, must be registered in
 267 accordance with s. 1002.42, and must:
 268 (a) Comply with the antidiscrimination provisions of 42
 269 U.S.C. s. 2000d.
 270 (b) Notify the department of its intent to participate in a
 271 scholarship program.
 272 (c) Notify the department of any change in the school’s
 273 name, school director, mailing address, or physical location
 274 within 15 days after the change.
 275 (d) Complete student enrollment and attendance verification
 276 requirements, including use of an online attendance verification
 277 form, before ~~prior to~~ scholarship payment.
 278 (e) Annually complete and submit to the department a
 279 notarized scholarship compliance statement certifying that all
 280 school employees and contracted personnel with direct student
 281 contact have undergone background screening pursuant to s.
 282 943.0542.
 283 (f) Demonstrate fiscal soundness and accountability by:
 284 1. Being in operation for at least 3 school years or
 285 obtaining a surety bond or letter of credit for the amount equal
 286 to the scholarship funds for any quarter and filing the surety
 287 bond or letter of credit with the department.
 288 2. Requiring the parent of each scholarship student to
 289 personally restrictively endorse the scholarship warrant to the
 290 school. The school may not act as attorney in fact for the

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291 parent of a scholarship student under the authority of a power
 292 of attorney executed by such parent, or under any other
 293 authority, to endorse scholarship warrants on behalf of such
 294 parent.

295 (g) Meet applicable state and local health, safety, and
 296 welfare laws, codes, and rules, including:

297 1. Firesafety.
 298 2. Building safety.

299 (h) Employ or contract with teachers who hold baccalaureate
 300 or higher degrees, have at least 3 years of teaching experience
 301 in public or private schools, or have special skills, knowledge,
 302 or expertise that qualifies them to provide instruction in
 303 subjects taught.

304 (i) Require each employee and contracted personnel who has
 305 ~~with~~ direct student contact, upon employment or engagement to
 306 provide services, to undergo a state and national background
 307 screening, pursuant to s. 943.0542, by electronically filing
 308 with the Department of Law Enforcement a complete set of
 309 fingerprints taken by an authorized law enforcement agency or an
 310 employee of the private school, a school district, or a private
 311 company who is trained to take fingerprints and deny employment
 312 to or terminate an employee if he or she fails to meet the
 313 screening standards under s. 435.04. Results of the screening
 314 shall be provided to the participating private school. For
 315 purposes of this paragraph:

316 1. The term ~~An~~ "employee or contracted personnel with
 317 direct student contact" means any employee or contracted
 318 personnel who has unsupervised access to a scholarship student
 319 for whom the private school is responsible.

8-00025A-14 2014188__

320 2. The costs of fingerprinting and the background check may
 321 ~~shall~~ not be borne by the state.

322 3. Continued employment of an employee or contracted
 323 personnel after notification that he or she has failed the
 324 background screening under this paragraph shall cause a private
 325 school to be ineligible for participation in a scholarship
 326 program.

327 4. An employee or contracted personnel holding a valid
 328 Florida teaching certificate who has been fingerprinted pursuant
 329 to s. 1012.32 is not required to comply with the provisions of
 330 this paragraph.

331 Section 6. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/4/14
Meeting Date

Topic Education Data Privacy

Bill Number SB 188 - PCS
(if applicable)

Name Tanya Cooper

Amendment Barcode 264330
(if applicable)

Job Title Director, Gov. Relations

Address 385 W. Gaines St.

Phone 245-9633

Tallahassee FL 32399
City State Zip

E-mail tanya.Cooper@fldoe.org

Speaking: For Against Information

Representing DOE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-4-14

Meeting Date

Topic Waive in Support

Bill Number PCS for SB 188
(if applicable)

Name Ashley Spicola

Amendment Barcode 2653330
(if applicable)

Job Title Policy Chief

Address 400 S. Monroe Street The Capitol
Street
Tallahassee FL 32304
City State Zip

Phone 850-717-9378

E-mail ashley.spicola@laspsos.state.fl.us

Speaking: For Against Information

Representing Governor's Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SPB 7026

INTRODUCER: Education Committee

SUBJECT: Education

DATE: February 5, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. deMarsh-Mathues	Klebacha	_____	Submitted as Committee Bill

I. Summary:

SPB 7026 provides that a student who must take a statewide, standardized assessment may not take a district assessment within two weeks before or two weeks after the administration of the statewide, standardized assessment taken by that student. The bill provides students with a buffer of non-testing time before and after required statewide assessments. However, the bill permits a student to re-take a statewide, standardized assessment or take a college entrance, AP, IB, AICE, or an industry certification exam within the buffer period of time.

The bill takes effect July 1, 2014.

II. Present Situation:

State Student Assessment Program

The primary purpose of Florida's student assessment program is to provide student academic achievement and learning gains data to students, parents, teachers, school administrators, and school district staff to improve instruction, guide learning objectives, assess national and international education comparisons, and assess the cost benefit of the expenditure of taxpayer dollars.¹ State law requires that the program be designed to:

- Assess the achievement level and annual learning gains of each student in English Language Arts and mathematics and the achievement level in all other subjects assessed.
- Provide data for making decisions regarding school accountability, recognition, and improvement of operations and management, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs.
- Identify the educational strengths and needs of students and the readiness of students to be promoted to the next grade level or to graduate from high school.

¹ Section 1008.22(1), F.S.

- Assess how well educational goals and curricular standards are met at the school, district, state, national, and international levels.
- Provide information to aid in the evaluation and development of educational programs and policies.²

Statewide, Standardized Assessment Program

Current law requires the Commissioner of Education to design and implement a statewide, standardized assessment program aligned to the core curricular content established in Florida's Next Generation Sunshine State Standards.³ The statewide, standardized assessment program must be designed and implemented for the following:

- Florida Comprehensive Assessment Test (FCAT);
 - FCAT Reading (administered annually in grades 3 through 10);
 - FCAT Mathematics (administered annually in grades 3 through 8);
 - FCAT Writing (administered annually at least once at the elementary, middle, and high school levels); and
 - FCAT Science (administered annually at least once at the elementary and middle school grades levels).
- End-of-course (EOC) assessments, which must be statewide, standardized, and developed or approved by the Department of Education (DOE) for mathematics (Algebra I and Geometry), for science (Biology I), and civics; and
- For students with significant cognitive disabilities, the Florida Alternate Assessment (FAA).⁴

The Commissioner may select one or more nationally developed comprehensive examinations for use as EOC assessments if the content knowledge and skills assessed by the examinations meet or exceed the grade-level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards.⁵

The Commissioner is also authorized to establish an implementation schedule for the development and administration of additional statewide, standardized EOC assessments that must be approved by the State Board of Education (SBE).⁶ This provision is contingent upon funding in the General Appropriations Act.⁷

² *Id.*

³ Section 1008.22(3), F.S.

⁴ Section 1008.22(3)(c)4., F.S. For students with significant cognitive disabilities, the DOE must provide for the implementation of the Florida Alternate Assessment (FAA) to accurately measure the core curricular content established in the Next Generation Sunshine State Standards. Except for the FAA, all statewide, standardized EOC assessments must be administered online, pursuant to s. 1008.22(3)(b)6., F.S.

⁵ Section 1008.22(3)(b)4., F.S. These may include examinations for a College Board Advanced Placement (AP) course, International Baccalaureate (IB) course, or Advanced International Certificate of Education (AICE) course, industry-approved examinations to earn national industry certifications identified in the Industry Certification Funding List. The SBE must approve the use of an examination as an EOC assessment.

⁶ Section 1008.22(3)(b)5., F.S.

⁷ *Id.*

Statewide Assessment Schedule

Under current law, the Commissioner must establish schedules for the administration of assessments and the reporting of student assessment results, considering the observance of religious and school holidays.⁸ By August 1st of each year, the Commissioner must notify each school district in writing and publish on the department's website the assessment and reporting schedules for, at a minimum, the school year following the upcoming school year. The assessment and reporting schedules must provide the earliest possible reporting of student assessment results to the school districts. School districts must administer assessments in accordance with the Commissioner's schedule.⁹

For the current 2013-2014 school year, the assessment schedule includes statewide, standardized assessments (FCAT 2.0 Reading, Mathematics, Writing and Science), EOC assessments for Algebra I, Biology I, Geometry, U.S. History, and civics), and the Florida Alternate Assessment. The assessment schedule also includes other statewide assessments (e.g., Florida Kindergarten Readiness Screening (FLKRS), the Comprehensive English Language Learning Assessment (CELLA), and the National Assessment of Educational Progress (NAEP)).¹⁰ Districts have some flexibility within the time allotted to administer statewide, standardized assessments. For example, the spring 2014 assessment window for FCAT 2.0 assessments permits districts to choose a start date for each grade level/subject test within this window.

Local Assessments and Schedules

Except for those subjects and grade levels measured under the statewide, standardized assessment program, measurement of student learning gains in all subjects and grade levels is the responsibility of school districts.¹¹ Schools are required to participate in statewide, standardized assessments in accordance with the Commissioner's published schedule.¹² District school boards are prohibited from establishing school calendars that conflict with or jeopardize implementation of the assessment program.¹³

Beginning with the 2014-2015 school year, each school district must administer for each course offered in the district a student assessment that measures mastery of the content, as described in the state-adopted course description, at the necessary level of rigor for the course.¹⁴ The assessments may include:

⁸ Section 1008.22(3)(f), F.S.

⁹ *Id.* The administration of FCAT Writing and the Florida Alternate Assessment (FAA) may be no earlier than the week of March 1st. The FAA is the only statewide, standardized assessment given in March, according to the DOE schedule. DOE memorandum, August 16, 2013. See <http://info.fldoe.org/docushare/dsweb/Get/Document-6799/1314ScheduleRevisions1415ScheduleReleaseDelay.pdf> and the updated schedule <http://info.fldoe.org/docushare/dsweb/Get/Document-6453/clarif1213release1314a.pdf> (last visited January 30, 2014).

¹⁰ *Id.*

¹¹ Section 1008.22, F.S.

¹² Section 1008.22(4), F.S.

¹³ *Id.*

¹⁴ *Id.*

- Statewide assessments;
- Other standardized assessments, including nationally recognized standardized assessments;
- Industry certification examinations; or
- District-developed or district-selected end-of-course assessments.¹⁵

Legislation enacted in 2013 requires each school district to establish schedules for the administration of any district-mandated assessment.¹⁶ The schedules must be approved as an agenda item at a district school board meeting.¹⁷ The school district must publish the testing schedules on its website, clearly specifying the district-mandated assessments, and report the schedules to the DOE by October 1st of each year.¹⁸

Based on the schedules posted on district websites, some students take local assessments in subjects that are also assessed by statewide, standardized assessments. For example, fourth grade students in some districts take an additional writing assessment.¹⁹ Some districts do not specifically distinguish between state and district assessments.²⁰

The district website schedules also include other assessments that students choose to take, such as college-entrance exams, Advanced Placement exams, International Baccalaureate (IB) exams, Advanced International Certificate of Education (AICE) exams, or industry-approved examinations to earn national industry certifications.²¹ Additionally, the schedules also include local assessments associated with progress monitoring plans.²²

¹⁵ *Id.*

¹⁶ Chapter 2013-185, L.O.F., codified in s. 1008.22(6)(d), F.S.

¹⁷ *Id.*

¹⁸ The DOE requested a copy of each district's 2013-2014 local assessment schedule. DOE Memorandum to school districts, December 2, 2013. See <http://www.fldoe.org/asp/k12memo/pdf/1314District-LevelAssessmentSchedules.pdf> (last visited January 29, 2014).

¹⁹ See http://oneclay.net/wp-content/uploads/2013/12/assessment_cal_elem.pdf and http://flaglerschools.com/sites/default/files/flagler_county_assessment_calendar_2013-4_es_only_3.pdf (last visited February 1, 2014).

²⁰ See https://pcsb.org/index.php?option=com_content&view=article&id=3439&Itemid=202, (last visited on February 2, 2014), [2013-2014 Test Calendar - Sarasota County Public Schools](http://www.sarasota.k12.fl.us/2013-2014-Test-Calendar) and high school and middle school calendar, and <http://wakulla.schooldesk.net/Calendar/tabid/22949/Default.aspx> (last visited February 2, 2014).

²¹ For example, see <http://www.broward.k12.fl.us/sar/docs/references/TestingCalendar.pdf>, http://www.citrus.k12.fl.us/departments/research_%26_accountability/testingcalendars/2013-14_Testing_Calendar.pdf, <https://www.ocps.net/cs/services/accountability/StudentAssessment/Documents/TESTING%20CALENDAR%2013-14.pdf>, and <http://www.scps.k12.fl.us/Portals/0/assets/pdf/frontpage/Districtwide%20assessment%20schedule%20081413.pdf> (last visited on February 2, 2014).

²² Section 1008.25(4), F.S. Under current law, each student who does not meet specific levels of performance on the required assessments as determined by the district school board or who scores below Level 3 on FCAT Reading or FCAT Mathematics or on the next English Language Arts or mathematics assessments, as applicable, must be provided with additional diagnostic assessments. The purpose of this student-centered approach is to determine the nature of the student's difficulty, the areas of academic need, and strategies for appropriate intervention and instruction. The school in which the student is enrolled must develop, in consultation with the student's parent, and must implement a progress monitoring plan. A progress monitoring plan is intended to provide the school district and the school flexibility in meeting the academic needs of the student and to reduce paperwork. The state does not dictate which assessments must be used for progress monitoring. E-mail, DOE, February 3, 2014. On file with the Senate Education Committee.

III. Effect of Proposed Changes:

Currently, the DOE publishes a schedule providing a window of time for administering each statewide, standardized assessment.²³ For some test administrations, districts may choose a start date within the time allotted to administer the assessments.

A student who must take a statewide, standardized assessment may not take a district assessment within two weeks before or two weeks after the administration of the statewide, standardized assessment taken by that student. The bill provides students with a buffer of non-testing time before and after required statewide assessments. However, the bill permits a student to re-take a statewide, standardized assessment or take a college entrance, AP, IB, AICE, or an industry certification exam within the buffer period of time.

While this bill will require school districts to carefully plan their district assessment schedules around the administration of statewide, standardized assessment dates, the buffer of non-testing time before and after statewide, standardized assessments will afford students time for instructional or other activities.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

²³ DOE memorandum, August 16, 2013. See <http://info.fldoe.org/docushare/dsweb/Get/Document-6799/1314ScheduleRevisions1415ScheduleReleaseDelay.pdf> and the updated schedule <http://info.fldoe.org/docushare/dsweb/Get/Document-6453/clarif1213release1314a.pdf> (last visited January 30, 2014).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.



876892

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/04/2014	.	
	.	
	.	
	.	

The Committee on Education (Legg) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:
Section 1. A student may not take a district-developed
assessment, a district-selected assessment, or a district-
mandated assessment within the 2 weeks before or the 2 weeks
after taking a statewide, standardized assessment. However, a
student may take an Advanced Placement examination, an
International Baccalaureate examination, an Advanced
International Certificate of Education examination, or an



876892

12 industry-approved examination to earn national industry
13 certifications identified in the Industry Certification Funding
14 List within the 2 weeks before or the 2 weeks after taking a
15 statewide, standardized assessment.

16 Section 2. This act shall take effect July 1, 2014.
17
18

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

20 And the title is amended as follows:

21 Delete everything before the enacting clause
22 and insert:

23 A bill to be entitled
24 An act relating to education; prohibiting a student
25 from taking certain local assessments during a
26 specified time; providing an exception for students
27 taking an Advanced Placement examination, an
28 International Baccalaureate examination, an Advanced
29 International Certificate of Education examination, or
30 an industry-approved examination; providing an
31 effective date.



267294

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/04/2014	.	
	.	
	.	
	.	

The Committee on Education (Legg) recommended the following:

1 **Senate Amendment to Amendment (876892) (with title**
2 **amendment)**

3
4 Delete lines 8 - 15
5 and insert:
6 after taking a statewide, standardized assessment. However, a
7 student may, within the 2 weeks before or the 2 weeks after
8 taking a statewide, standardized assessment:

9 (a) Take a college entrance examination, an Advanced
10 Placement examination, an International Baccalaureate
11 examination, an Advanced International Certificate of Education



267294

12 examination, or an industry-approved examination to earn
13 national industry certifications identified in the Industry
14 Certification Funding List; or

15 (b) Retake a statewide, standardized assessment.

16

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

18 And the title is amended as follows:

19 Delete lines 26 - 30

20 and insert:

21 specified time; providing exceptions for certain
22 examinations; providing an

FOR CONSIDERATION By the Committee on Education

581-01150A-14

20147026__

1 A bill to be entitled
2 An act relating to education; prohibiting a school
3 district from administering certain local assessments
4 during a specified time; providing an effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. A school district may not administer a district-
9 mandated assessment, a district-developed assessment, or a
10 district-selected assessment within 2 weeks before through 2
11 weeks after the district's adopted schedule for the
12 administration of any statewide, standardized assessment,
13 including a statewide, standardized end-of-course assessment.

14 Section 2. This act shall take effect July 1, 2014.

CourtSmart Tag Report

Room: KN 412
Caption: Senate Education

Case:
Judge:

Type:

Started: 2/4/2014 10:01:43 AM

Ends: 2/4/2014 10:19:13 AM

Length: 00:17:31

10:01:45 AM Meeting called to order by Chairman Legg
10:01:49 AM Roll call by Administrative Assistant, Tamra Lyon
10:02:03 AM Comments from Chairman Legg
10:02:13 AM Tab 1 SB 66 presented by Senator Flores
10:02:50 AM Comments from Chairman Legg
10:03:00 AM Adriana Pereira, Director, Government Relations, Florida International University waives in support
10:03:07 AM Armando Ferrer, Campus President, Miami Dade College waives in support
10:03:18 AM Maril Canco Johnson, Trustee, Miami Dade College waives in support
10:03:28 AM Comments from Chairman Legg
10:03:38 AM Senator Flores waives closure
10:03:40 AM Roll call by Administrative Assistant, Tamra Lyon
10:03:48 AM SB 66 reported favorably
10:03:56 AM Tab 3, Senator Hukill, Sen. Galvano moves for Committee Substitute
10:04:19 AM Explanation of SB 188 by Senator Hukill
10:04:56 AM Question from Senator Sachs
10:05:09 AM Response from Senator Hukill
10:06:01 AM Statement from Senator Sachs
10:06:21 AM Response from Senator Hukill
10:06:27 AM Statement from Senator Montford
10:06:55 AM Response from Senator Hukill
10:07:15 AM Additional statement from Senator Montford
10:07:41 AM Response from Senator Hukill
10:07:48 AM Question from Senator Stargel
10:08:05 AM Response from Senator Hukill
10:08:23 AM Comments from Chairman Legg
10:08:31 AM Tanya Cooper, Director Governmental Relations, DOE waives in support
10:08:37 AM Ashley Spicola, Policy Chief, Governor's Office waives in support
10:08:43 AM Comments from Chairman Legg
10:08:52 AM Comments from Senator Stargel
10:09:25 AM Closure on SB 188 by Senator Hukill
10:09:36 AM Senator Stargel moves for Committee Substitute on SB 188
10:09:44 AM Roll call by Administrative Assistant, Tamra Lyon on CS/SB 188
10:09:52 AM CS/SB 188 reported favorably
10:10:03 AM Comments from Chairman Legg regarding Senator Bullard's birthday
10:10:25 AM Explanation of SB 160 by Senator Bullard
10:10:44 AM Comments from Chairman Legg
10:10:53 AM Closure on SB 160 by Senator Bullard
10:11:01 AM Roll call by Administrative Assistant, Tamra Lyon
10:11:09 AM SB 160 reported favorably
10:11:28 AM Gavel passed to Senator Montford
10:11:37 AM Comments from Senator Montford
10:11:46 AM Explanation of SPB 7026 by Chairman Legg
10:13:04 AM Comments from Senator Montford regarding Strike-all Amendment 876892 and Amendment 267294
10:13:29 AM Explanation of Strike-all Amendment 876892 by Chairman Legg
10:13:49 AM Comments from Senator Montford regarding Amendment 267294
10:14:06 AM Explanation of Amendment 267294 by Senator Legg
10:14:17 AM Comments from Senator Montford
10:14:24 AM Chairman Legg waives closure on Strike-all Amendment
10:14:31 AM Strike-all Amendment adopted
10:14:44 AM Question from Senator Bullard
10:15:06 AM Response from Chairman Legg
10:15:40 AM Follow-up question from Senator Bullard

10:16:09 AM Chairman Legg waives closure on Amendment 267294
10:16:23 AM Strike-all Amendment as amended adopted
10:16:39 AM Closure on bill by Chairman Legg
10:16:56 AM Roll call by Administrative Assistant, Tamra Lyon
10:17:33 AM SPB 7026 reported favorably
10:17:51 AM Gavel returned to Chairman Legg
10:18:04 AM Comments from Chairman Legg
10:18:26 AM Senator Brandes states that he would like to vote against SB 66, vote for CS/SB 188 and SB 160
10:19:00 AM Senator Sachs moves to rise