

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2576

SPONSOR: Senator Wise

SUBJECT: Access to Postsecondary Education

DATE: April 1, 2003

REVISED: 4/3/03

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
2.	<u></u>	<u></u>	<u>AED</u>	<u></u>
3.	<u></u>	<u></u>	<u>AP</u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

## I. Summary:

The bill creates the "Enhanced New Needed Opportunity for Better Life and Education for Students with Disabilities (ENNOBLES) Act" and defines the term "student with a disability." The bill also eliminates the requirement that students complete the credit for life management skills in grade 9 or grade 10. District school boards must provide instruction to prepare students with disabilities to demonstrate proficiency in the skills and competencies needed for successful grade-to-grade progression and high school graduation.

The bill provides for waiving the requirement to earn a passing score on the Florida Comprehensive Assessment Test (FCAT) in order to receive a standard high school diploma. This waiver applies to a student with a disability, as defined in s. 1007.02(2), F.S., for whom the individual educational plan (IEP) committee determines that the FCAT cannot accurately measure the student's abilities, taking into consideration all allowable accommodations. The bill provides the criteria for the waiver to be granted.

Students who have been awarded a special diploma or a certificate of completion are eligible to enroll in certificate career education programs. Students with disabilities may be eligible for reasonable substitution for admission, graduation, and upper-level division requirements of public postsecondary educational institutions, in accordance with the newly created provisions of law.

The rules of the community college boards of trustees must include admissions counseling for all students entering career credit programs and requires counseling to include the option of using tests to measure achievement of basic skills for career programs, as prescribed in s. 1004.91, F.S.

Under the bill, the State Board of Education must:

- adopt rules, including those for test accommodations and modifications of procedures, as needed for students with disabilities;
- develop substitute admission requirements where appropriate;
- conduct a review of the extent to which authorized acceleration mechanisms are currently used by school districts and public postsecondary educational institutions; and
- submit a report to the Governor and the Legislature by December 31, 2003.

The bill specifies the contents of the review.

This bill creates ss. 1007.02, 1007.265, and 1007.27, F.S., and substantially amends ss.1002.21, 1003.43, 1007.263, 1007.264, and 1008.22, F.S.

The bill provides an effective date of upon becoming a law.

## II. Present Situation:

Florida provides specially designed instruction and related services to over 375,000 students with disabilities, grades PreK-12 and ages birth–21, which includes approximately:

- 168,750 students identified with specific learning disabilities (45 percent of the students with disabilities served);
- 56,250 students identified with speech impairments (15 percent of the students with disabilities served);
- 37,500 students identified with emotional handicaps or as severely emotionally disturbed (10 percent of the students with disabilities served);
- 33,750 students identified with language impairments (9 percent of the students with disabilities served);
- 30,000 students identified as educable mentally handicapped (8 percent of the students with disabilities served);
- 48,750 students identified with other disabilities, such as visual or hearing impairments, profound or trainable mental handicaps, deaf-blindness, other health impairments, or students with disabilities who are homebound or hospitalized (13 percent of the students with disabilities served).<sup>1</sup>

### Postsecondary Access to Education

Chapter 1007, F.S., relating to articulation and access to postsecondary education, provides for building and sustaining relationships for the efficient and effective progression and transfer of students within the education system and to allow students to proceed toward their educational objectives as rapidly as their circumstances permit.

Current law ( s. 1007.27, F.S.) establishes various articulation acceleration methods, including dual enrollment, early admission, advanced placement, the International Baccalaureate Program, the Advanced International Certificate of Education Program, and credit earned through the Virtual High School.

---

<sup>1</sup> Florida Department of Education. Memorandum from Commissioner Jim Horne, January 27, 2003. <http://info.firn.edu/dscgi/ds.py/Get/File-880/ESEUpdate.pdf>

**Recent Reports**

On April 3, 2002, Governor Bush established a Blue Ribbon Task Force with responsibilities that included developing recommendations on high school credentials and access to postsecondary education for students with disabilities. The Task Force report details the recommendations related to postsecondary access.<sup>2</sup>

**High School Graduation Requirements**

Current law (s, 1003.43, F.S.) establishes the general requirements for high school graduation, but encourages school districts to make them more rigorous. To earn a standard high school diploma a student must:

- Earn passing scores on the 10<sup>th</sup> grade FCAT.
- Earn the required grade point average.
- Successfully complete any other requirements prescribed by the local school board.
- Successfully complete the 24 credits shown on the following table:

REQUIRED SUBJECT	NUMBER OF CREDITS
English	4.0
Math (includes algebra for those entering in 1997-1998 and thereafter)	3.0
Science	3.0
American History	1.0
World History	1.0
Economics	0.5
American Government (includes Florida government for those entering in 1997-1998 and thereafter)	0.5
Practical Arts or Exploratory Career Education/Performing Fine Arts	1.0
Physical Education or two full seasons of sports participation at specific levels	1.0
Life Management Skills	0.5
<b>TOTAL ELECTIVE CREDITS</b>	8.5
<b>TOTAL CREDITS</b>	24

Districts must modify basic courses, as needed, to assure exceptional students the opportunity to meet the graduation requirements for a standard high school diploma. Administrative rules provide procedures for considering a special exemption from the graduation test requirements for students with disabilities who want a standard high school diploma. By rule, the Commissioner may grant this exemption under extraordinary circumstances.

To earn a special high school diploma under s. 1003.438, F.S., a student is not required to meet all the requirements for a standard high school diploma.<sup>3</sup> The student must meet all school board requirements. The individual educational plan (IEP) must document whether the student is pursuing a course of study leading to a standard or special diploma.

Section 1003.43(9), F.S., specifies the requirements that must be met to earn a certificate of completion. Any student who is otherwise entitled to a certificate of completion may elect to remain in the secondary school either as a full-time student or a part-time student for up to 1

<sup>2</sup> Report of the Governor’s Blue Ribbon Task Force on Accommodations and Access for Students with Disabilities. Submitted to the Florida Board of Education, December 10, 2002.

<sup>3</sup> This refers to a student who has been properly classified, in accordance with rules established by the State Board of Education, as "educable mentally handicapped," "trainable mentally handicapped," "hearing impaired," "specific learning disabled," "physically or language impaired," or "emotionally handicapped."

additional year and receive special instruction designed to remedy his or her identified deficiencies.

### **Student Assessment**

Current law (s. 1008.22(3), F.S.) requires the Commissioner of Education to develop and implement a student achievement testing program, the Florida Comprehensive Assessment Test (FCAT), as part of the statewide educational assessment program that provides information for improving public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the Commissioner. Parents of students who do not participate in the assessment program must be provided with specific information about possible consequences. School districts must provide appropriate remediation instruction to students who score below the levels established for each subject area.

The FCAT is administered each year to students in grades 3 through 10 to measure reading, writing, science, and mathematics. All eligible students in grades 3 through 10 take the reading and mathematics tests. All eligible students in grades 4, 8, and 10 take the writing test. This year the science test is being administered to students in grades 5, 8, and 10.

Students must earn a passing score on the 10<sup>th</sup> grade assessment test in reading, writing, and mathematics to qualify for a regular high school diploma. State Board of Education rule (Rule 6A-1.09422, F.A.C.) designates the passing scores for each part of the assessment test and specifies the passing scores for the 10<sup>th</sup> grade FCAT. Under the 2002-2003 Florida Statewide Assessment Schedule, reexaminations in reading and mathematics are offered three times each year in grades 11 and 12 to each student who fails part of the 10<sup>th</sup> grade test, for a total of 6 reexaminations.<sup>4</sup>

### **Accommodations and statewide assessment instruments**

Unless participation in particular tests is individually determined to be inappropriate for a particular student, federal law generally requires inclusion of all students in assessments. The recent rules, for example, for assessments under the No Child Left Behind Act, requires the inclusion of students with disabilities and the provision of alternate assessments for students with disabilities who cannot participate in all or part of the assessments even with appropriate accommodations.<sup>5</sup>

While student participation in the testing program is mandatory for all students in Florida, exceptions may be made by the Commissioner. Current administrative rules allow accommodations to the statewide assessment instruments and procedures for students with disabilities. The term “accommodations” means:

- adjustments to the presentation of the assessment questions;
- method of recording the student’s responses to the questions;
- schedule for administration of the assessment; or
- the use of assistive devices to help in administering the test.

---

<sup>4</sup> See <http://www.firn.edu/doe/sas/fcat/pdf/fcschedl.pdf>

<sup>5</sup> 34 CFR Part 200, effective August 5, 2002.

As well, allowable accommodations include those that have been used by the student in classroom instruction, as long as they are within the limits in the rule. The district school superintendent or his or her designee determines which of these accommodations are allowed for testing. To use any unique accommodation that is not listed in the rule requires the Commissioner's approval. Statewide assessment accommodations may only be used if they do not alter the underlying content that is being measured or negatively affect the assessment's reliability or validity. The rules provide that the use of these accommodations has no bearing on the type of diploma or certificate issued to the student for completing school.

For each eligible student, accommodations must be identified and recorded in the student's IEP or a plan developed under section 504 of the federal Rehabilitation Act. Similarly, the decision to exclude any student with a disability from either statewide or district assessment programs is made by the IEP team and recorded on the IEP. The criteria for excluding the student are:

- the student's demonstrated cognitive ability prevents the student from completing required coursework and achieving the Sunshine State Standards, even with appropriate and allowable course modifications; and
- the student requires extensive direct instruction to accomplish the application and transfer of skills and competencies needed for domestic, community living, leisure, and vocational activities.

These students must be assessed through an alternative assessment procedure that is recorded in the IEP. However, students who are excluded from the state-required graduation test using these criteria are not eligible for a standard high school diploma.

### **Postsecondary Student/Parental Rights**

The rights for learning disabled students are set forth in s. 1002.21, F.S., and includes eligibility for reasonable substitution for admission, graduation, and upper level division requirements.

### **Community College Admissions**

Section 1007.263, F.S., allows each community college board of trustees to adopt rules related to the admissions of students, subject to State Board of Education rules. The rules must include admissions counseling.

### **Reasonable Substitutions**

Under s. 1007.264, F.S., a person who is hearing impaired, visually impaired, or dyslexic, or who has a specific learning disability is eligible for reasonable substitutions for any requirement for admission into a public postsecondary educational institution, admission into a program of study, or graduation. Eligibility is contingent upon documentation that the person's failure to meet the requirement is related to the disability and where the failure to meet the graduation requirement or program admission requirement does not constitute a fundamental alteration in the nature of the program. Current administrative rules provide for substitutions for persons with hearing impairments, visual impairment, and specific learning disabilities at state universities, community colleges, and postsecondary vocational institutions.

### III. Effect of Proposed Changes:

**Section 1.** The bill creates s.1007.02, F.S., the "Enhanced New Needed Opportunity for Better Life and Education for Students with Disabilities (ENNOBLES) Act." The term "student with a disability" means any student who is documented as having mental retardation, autism, or:

- a hearing impairment, including deafness;
- a speech or language impairment;
- a visual impairment, including blindness;
- a serious emotional disturbance, including an emotional handicap;
- an orthopedic impairment;
- a traumatic brain injury; or
- a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia.

**Section 2.** The bill amends s, 1003.43, F.S., related to the general requirements for high school graduation, to eliminate the requirement that students complete the credit for life management skills in grade 9 or grade 10; however, the credit must still be completed. The State Board of Education must adopt rules to provide for test accommodations and modifications of procedures as needed for students with disabilities. The rules must demonstrate the student's abilities rather than reflect the student's impaired sensory, manual, speaking, or psychological process skills.

District school boards must provide instruction to prepare students with disabilities to demonstrate proficiency in the skills and competencies needed for successful grade-to-grade progression and high school graduation.

The bill provides for waiving the requirement to earn a passing score on the Florida Comprehensive Assessment Test (FCAT) in order to receive a standard high school diploma. This waiver applies to a student with a disability, as defined in s. 1007.02(2), F.S., for whom the individual educational plan (IEP) committee determines that the FCAT cannot accurately measure the student's abilities, taking into consideration all allowable accommodations. The waiver may be granted if the student:

- completes the minimum number of credits and other requirements prescribed by subsections (1) and (4).
- does not earn a passing score on the FCAT, after one opportunity in 10th grade and one opportunity in 11th grade.

**Section 3.** The bill amends s.1007.263, F.S., related to admissions to community colleges, to:

- require boards of trustees' rules to include admissions counseling for all students entering career credit programs; and
- require counseling to include the option of using tests to measure achievement of basic skills for career programs, as prescribed in s. 1004.91, F.S.

Students who have been awarded a special diploma or a certificate of completion are eligible to enroll in certificate career education programs. Also, students with a documented disability may be eligible for reasonable substitutions, as prescribed in law.

**Section 4.** The bill amends s. 1007.264, F.S., related to impaired and learning disabled persons, to provide that any student with a disability, as defined in s. 1007.02(2), F.S., is eligible for reasonable substitution for any requirement for admission into a public postsecondary educational institution when documentation can be provided that the person's failure to meet the admission requirement is related to the disability. There is an exception to the eligibility provided for in this section for students who have been documented as having mental retardation. The State Board of Education must develop substitute admission requirements where appropriate.

**Section 5.** The bill amends s. 1007.265, F.S., to provide that any student with a disability, as defined in s. 1007.02(2) F.S., in a public postsecondary educational institution is eligible for reasonable substitution for any requirement for graduation, for admission into a program of study, or for entry into the upper division where:

- documentation can be provided that the person's failure to meet the requirement is related to the disability; and
- failure to meet the graduation requirement or program admission requirement does not constitute a fundamental alteration in the nature of the program.

There is an exception to the eligibility provided for in this section for students who have been documented as having mental retardation. The State Board of Education must adopt rules to implement this section, as well as develop appropriate substitute requirements.

**Section 6.** The bill amends s. 1007.27, F.S., to require the State Board of Education to conduct a review of the extent to which authorized acceleration mechanisms are currently used by school districts and public postsecondary educational institutions. The bill requires the board to submit a report to the Governor and the Legislature by December 31, 2003. The report must include a summary of ongoing activities and a plan to increase and enhance the use of acceleration mechanisms as a way to shorten the length of time, as well as the funding required, for all students to obtain a postsecondary degree.

The bill specifies the contents of the review and plan, including the extent to which the secondary instruction associated with acceleration options can be offered at sites other than public K through 12 school sites, to assist in meeting class size reduction needs.

**Section 7.** The bill amends s. 1008.22, F.S., related to the student assessment program for public schools, to include a reference to the newly created exception in s. 1003.43(11)(b), F.S., to earning a passing score on the 10<sup>th</sup> grade assessment test.

**Section 8.** The bill amends s. 1002.21, F.S., to provide that impaired and learning disabled students may be eligible for reasonable substitution for admission, graduation, and upper-level division requirements of public postsecondary educational institutions, in accordance with the newly created provisions of s 1007.265, F.S.

**Section 9.** The bill provides an effective date of becoming a law.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Students with disabilities who meet the eligibility requirements will be able to earn a standard high school diploma, based on a waiver of the FCAT requirement. Eligible students with disabilities will benefit from the substitutions provided for in the bill. These provisions do not, however, apply to persons with an exceptionality of mental retardation.

**C. Government Sector Impact:**

The State Board of Education must conduct a review of the extent to which authorized acceleration mechanisms are currently used by school districts and public postsecondary educational institutions. The Board may incur some costs associated with the study, if it is unable to use existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

On page 7 (lines 23-26) and page 8, lines 11-13, the bill refers to rules adopted by the State Board of Education for postsecondary institutions. Since the passage of the recent constitutional amendment (Amendment 11 to Article IX, section 7 of the Florida Constitution) for the governance of the state university system, the authority of the State Board of Education vis a vis the state universities has not yet been delineated in statute. It is unclear as to whether the State Board of Education will retain rulemaking authority over the state universities.



**VIII. Amendments:**

None.

---

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

---