

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION PRE-K - 12
Senator Wise, Chair
Senator Bullard, Vice Chair

MEETING DATE: Thursday, March 17, 2011
TIME: 1:15 —3:15 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Wise, Chair; Senator Bullard, Vice Chair; Senators Alexander, Benacquisto, and Montford

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 730 Flores (Compare H 301, S 1814)	Youth and Student Athletes; Requires independent sanctioning authorities to adopt policies to inform youth athletes and their parents of the nature and risk of certain head injuries. Requires that a signed consent form be obtained before the youth participates in athletic practices or competitions. Requires that a youth athlete be immediately removed from an athletic activity following a suspected head injury. Requires the Florida High School Athletic Association to adopt policies to inform student athletes and their parents of the nature and risk of certain head injuries, etc.	ED 03/17/2011 HR RC
2	SB 1466 Simmons	Class Size Requirements; Deletes a reference to the State Constitution regarding class size maximums. Requires that class size maximums be satisfied on or before the October student membership survey each year. Provides that a student who enrolls in a school after the October student membership survey may be assigned to classes that temporarily exceed class size maximums if the school board determines that not assigning the student would be impractical, educationally unsound, or disruptive to student learning, etc.	ED 03/17/2011 BC

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Thursday, March 17, 2011, 1:15 —3:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 534 Wise (Identical H 331)	<p>Firesafety; Revises the rulemaking authority and responsibilities of the State Fire Marshal relating to educational and ancillary plants. Revises requirements and procedures for inspections of buildings and equipment. Abolishes special state firesafety inspector classifications and certifications. Provides criteria, procedures, and requirements for special state firesafety inspectors to be certified as firesafety inspectors. Revises firesafety inspection requirements for educational institution boards to conform to certain codes, etc.</p>	
		BI 03/09/2011 Favorable ED 03/17/2011 CA HE BC	
4	SB 1000 Wise (Identical H 797)	<p>Interscholastic and Intrascholastic Sports; Removes certain provisions relating to a pilot program in which a middle school student or a high school student in a private school may participate in athletics at a public school. Provides for statewide implementation of the program. Requires that the athletic director of each public school maintain the records of students participating in the program. Limits participation in the program to students who are enrolled in non-FHSAA member private schools consisting of a maximum number of students, etc.</p>	
		ED 03/17/2011 HR BC	
5	SB 1254 Wise (Identical H 937)	<p>Auditory-oral Education Programs; Cites this act as the "Auditory Oral-Education Act." Revises provisions relating to public school choice options for parents of public school students to include auditory-oral education programs. Provides that a parent of a child who is deaf or hard of hearing may enroll the child in an auditory-oral education program at a school accredited by OPTION Schools, Inc., or at a school in which the supervisor and the majority of faculty are certified as Listening and Spoken Language Specialists by the Alexander Graham Bell Academy for Listening and Spoken Language, etc.</p>	
		ED 03/17/2011 BC	

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Education Pre-K - 12

Thursday, March 17, 2011, 1:15 —3:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 1996 Education Pre-K - 12 (Compare H 1255, H 1341, S 1696, S 2026)	Student Assessment Program for Public Schools; Deletes a provision requiring that certain middle school students who earned high school credit in Algebra I take the Algebra I end-of-course assessment during the 2010-2011 school year.	ED 03/17/2011 BC

Presentation from the Department of Education on the John M. McKay Scholarship for Students with Disabilities Program, section 504 accommodation plans under the Rehabilitation Act of 1973, and Tier 3 response to intervention plans.

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 Education Pre-K - 12 Committee

BILL: SB 730

INTRODUCER: Senator Flores

SUBJECT: Youth and Student Athletes

DATE: March 15, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Pre-meeting
2.	_____	_____	HR	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill requires independent sanctioning authorities of youth athletic teams, and the Florida High School Athletic Association, to adopt policies regarding educating administrators, parents, and athletes on sports-related concussions and head injuries.

Certain medical professionals are required to issue medical clearances, prior to a head-injured student's return to play.

This bill substantially amends sections 943.0438 and 1006.20 of the Florida Statutes.

II. Present Situation:

Statutory Authority

An independent sanctioning authority is defined as a private, nongovernmental entity that organizes or operates youth athletic teams. This term does not apply to teams affiliated with private schools.¹

The Florida High School Athletic Association (FHSAA), established in s. 1006.20, F.S., is the governing body of Florida public school athletics. Currently, the FHSAA governs 748 public and private member schools.² The Florida Legislature grants the FHSAA authority to adopt bylaws, which it does, and publishes them in a handbook, available online.³

¹ s. 943.0438(1)(b), F.S.

² <http://www.fhsaa.org/about>

³ The handbook is available at the FHSAA website, at: <http://www.fhsaa.org/rules/fhsaa-handbook>

Sports-related Head Injuries

According to the Brain Injury Association of Florida:

- More than 40 percent of serious head-injured high school athletes return to participate in sports before they are fully recovered;
- Approximately 400,000 high school athletes received concussions from sports activities during the 2005-08 school years and this number is likely much higher;
- During the timeframe from 1997-2007, the number of youth athletes seen with sports-related concussions in emergency rooms doubled and for those between 14-19 years old, it more than tripled;
- High school athletes with three or more concussions are 9 times more likely to have permanent mental changes; and
- Children and teens are more likely to get a concussion and take longer to recover than adults.⁴

Advocates of legislative protections for children receiving sports-related concussions promote the following three components: education on the dangers of concussions, removal from participation for head-injured players, and delayed return until a medical professional provides a clearance.⁵ Named for a young football player who sustained serious injury after he returned to play too soon following a concussion, the “Zackery Lystedt Law” has been adopted in several states, including Washington and Oregon, and is under consideration in several other jurisdictions, including in Congress.⁶

III. Effect of Proposed Changes:

This bill requires independent sanctioning authorities and the Florida High School Athletic Association to establish guidelines that provide information on concussions and head injuries to officials, administrators, coaches, parents and children.

In addition to requiring that guidelines be adopted, this bill requires independent sanctioning authorities to adopt bylaws or policies regarding:

- Parental consent forms describing the nature and risk of concussions and head injuries, including the risk of continuing to play post-injury; and
- A requirement that the injured youth be immediately stopped from playing and not be allowed to return until a medical professional provides written clearance.

Qualifying medical professionals, for purposes of issuing medical clearances, are licensed physicians or physician assistants, osteopaths, and advanced registered nurse practitioners who are currently in active clinical practice.

⁴ *Youth Sports Concussion Awareness & Prevention*, Brain Injury Association of Florida (2011).

⁵ Letter from Roger Goodell, National Football League, to Governor Charlie Crist (May 21, 2010).

⁶ *Washington Boy’s Case May Lead to Nationwide Sports Concussion Laws*, King5.com news story (February 1, 2010); available online at: <http://www.king5.com/sports/high-school/Sports-Head-Injuries-83303332.html#>.

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:

Independent sanctioning authorities and the FHSAA would have to expend resources developing guidelines and bylaws or policies. This bill also would result in some recordkeeping duties. Provisions relating to informed consent and a prohibition on return to play until medically cleared may reduce liability for sports-related injuries, and therefore, have a positive impact.

Adoption of this legislation would hopefully lessen the severity of sports-related head injuries to children, with possible reduction of medical and other costs long-term.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Education Pre-K - 12 (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 50 - 53
and insert:
clearance to return from a physician who is licensed under chapter 458 or chapter 459. Before issuing a written clearance to return to practice or competition, a physician may:
 a. Delegate the performance of medical care to a health care provider who is licensed or certified under s. 464.012, s. 458.347, s. 459.022, or s. 468.701, with whom the physician maintains a formal supervisory relationship or established written protocol that identifies the medical care or evaluations



353882

13 to be performed, identifies conditions for performing medical
14 care or evaluations, and attests to proficiency in the
15 evaluation and management of concussions; and

16 b. May consult with or use testing and the evaluation of
17 cognitive functions performed by a neuropsychologist licensed
18 under chapter 490.

19

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

21 And the title is amended as follows:

22 Delete line 13

23 and insert:

24 activities; authorizing a physician to delegate the
25 performance of medical care to certain licensed or
26 certified health care providers and consult with or
27 use testing and the evaluation of cognitive functions
28 performed by a licensed neuropsychologist; amending s.
29 1006.20, F.S.; requiring the



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Education Pre-K - 12 (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 76 - 80
and insert:
student receives written clearance to return from a physician who is licensed under chapter 458 or chapter 459. Before issuing a written clearance to return to practice or competition, a physician may:
a. Delegate the performance of medical acts to a health care practitioner who is licensed or certified under s. 464.012, s. 458.347, s. 459.022, or s. 468.701, with whom the physician maintains a formal supervisory relationship or established



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13 written protocol that identifies the medical care or evaluations
14 to be performed, the conditions for their performance, and
15 attests to proficiency in the evaluation and management of
16 concussions; and

17 b. May consult with or use testing and the evaluation of
18 cognitive functions performed by a neuropsychologist licensed
19 under chapter 490.

20

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

22 And the title is amended as follows:

23 Delete line 23

24 and insert:

25 the student resumes athletic activities; authorizing a
26 physician to delegate the performance of medical acts
27 to certain licensed or certified health care
28 practitioner and consult with or use testing and the
29 evaluation of cognitive functions performed by a
30 licensed neuropsychologist; providing an

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 Education Pre-K - 12 Committee

BILL: SB 1466

INTRODUCER: Senator Simmons

SUBJECT: Class size

DATE: March 16, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Pre-meeting
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill redefines the terms “core-curricula courses” as follows:

- Language arts/reading, mathematics, and science courses in prekindergarten through grade 3;
- Courses in grades 4 through 8 in subjects that are measured by state assessment at any grade level;
- Courses in grades 9 through 12 in subjects that are measured by state assessment at any grade level;
- Courses that are specifically identified by name in statute as required for high school graduation and that are not measured by state assessments, excluding any extracurricular courses;
- Exceptional student education courses; and
- English for Speakers of Other Languages courses.

The bill also:

- Specifies the maximum number of students for a core-curricula high school course in which a student in grades 4 through 8 is enrolled for high school graduation credit;
- Redefines the term “extracurricular courses” to include courses that may result in college credit;
- Specifies a timeframe for satisfying and maintaining class size maximums, with specific exceptions for an extreme emergency beyond the district’s control and when a student enrolls after the October survey period;

- Provides requirements and limitations on the maximum number of students who can be assigned to a teacher when an existing class temporarily exceeds the class size maximums; and
- Provides that only a school district that meets the maximum class size requirements may use the class size reduction operational categorical funds for any lawful operating expenditure.

This bill substantially amends sections 1003.01, 1003.03, and 1011.685 of the Florida Statutes:

II. Present Situation:

Constitutional Amendment

In November 2002, s. 1, Art. IX of the State Constitution was amended to provide that by the beginning of the 2010 school year the maximum number of students assigned to a teacher who teaches core-curricula courses in public school classrooms shall be as follows:

- Prekindergarten through grade 3, the number of students may not exceed 18;
- Grades 4 through 8, the number of students may not exceed 22; and
- Grades 9 through 12, the number of students may not exceed 25.

The amendment required that beginning with the 2003-2004 fiscal year, the Legislature must provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the number of students per classroom does not exceed the maximum required by the beginning of the 2010 school year.

Implementation

Section 1003.03(2)(b), F.S., establishes an implementation schedule for reducing the average number of students per classroom by at least two students per year as follows:

- 2003-2004 through 2005-2006 at the district level;
- 2006-2007 through 2009-2010¹ at the school level; and
- 2010-2011 and thereafter, at the classroom level.

To implement the class size reduction provisions of the constitutional amendment, the Legislature created an operating categorical fund for the following purposes:²

- If the district has not met the constitutional maximums specified, or has not reduced its class size by the required average two students per year toward the constitutional maximums, the categorical funds must be used to reduce class size; and
- If the district has met the constitutional maximums or has successfully made the average two student reduction towards meeting those maximums, the funds may be used for any lawful operating expenditure. Priority, however, shall be given to increase salaries of classroom teachers and to implement the differentiated pay provisions in s. 1012.22, F.S.

¹ ch. 2009-59, L.O.F.

² s. 3, ch. 2003-391, L.O.F., codified in s. 1011.685, F.S.

In addition, in order to provide capital outlay funds to school districts for school construction for class size reduction, the Legislature created the Classrooms for Kids program to allocate funds appropriated for this purpose.³ A district is required to spend these funds only on the construction, renovation, remodeling, or repair of educational facilities, or the purchase or lease-purchase of relocatables that are in excess of the projects and relocatables identified in the district’s five-year work program adopted before March 15, 2003.⁴

The Legislature has appropriated over \$13 billion in the Class Size Reduction categorical for operations and \$2.5 billion for facilities funding for the Classrooms for Kids program.⁵ The following provides historical funding amounts appropriated by the Legislature for operations and school construction to meet the constitutional class size requirements:

Year	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Operating Funds	\$ 468,198,634	\$ 972,191,216	\$1,507,199,696	\$2,108,529,344	\$2,640,719,730	\$2,729,491,033	\$2,845,578,849
Facilities Funds	\$ 600,000,000	\$ 100,000,000	\$ 83,400,000	\$1,100,000,000	\$ 650,000,000	\$0	\$0
Total	\$1,068,198,634	\$1,072,191,216	\$1,590,599,696	\$3,208,529,344	\$3,290,719,730	\$2,729,491,033	\$2,845,578,849

A district must consider specific options to implement the class size requirements and the average two-student-per-year reduction, including: adopting policies to encourage students to take dual enrollment courses and courses from the Florida Virtual School; repealing district school board policies that require students to have more than 24 credits to graduate from high school; maximizing the use of instructional staff; using innovative methods to reduce the cost of school construction; adopting alternative methods of class scheduling, such as block scheduling; and redrawing school attendance zones to better utilize under-capacity schools.⁶

Charter schools are not exempt from the constitutional class size requirement. However, on March 14, 2008, two charter schools challenged the authority of the DOE to apply the maximum class size statute to charter schools in the absence of a rule. On December 17, 2008, a final order was issued determining that the class size statute did not to apply to charter schools pursuant to the provisions in s. 1002.33(16), F.S., which exempts charter schools from all provisions of the School Code with certain exceptions.⁷ Because of this ruling, no funding transfers were calculated for non-compliant charter schools for 2008-2009 and 2009-10, even though charter schools receive full funding from the state for the class size reduction categorical. The 2010 Legislature provided that the calculation for class size compliance is at the school level.⁸

Accountability and Compliance

The 2010 Legislature revised the accountability provisions by providing for the following:⁹

- Compliance determination based on the October student enrollment survey;

³ s. 4, ch. 2003-391, L.O.F., codified in s. 1013.735, F.S.

⁴ *Id.*

⁵ DOE presentation to the Senate Pre-K–12 Education Appropriations Committee, January 21, 2010, on file with the committee.

⁶ s. 1003.03(3), F.S.

⁷ *The Renaissance Charter School, Inc., and the Lee Charter Foundation, Inc., v. Department of Education*, DOAH Case No. 08-1309RU.

⁸ ch. 2010-154, L.O.F.

⁹ *Id.*

- A reduction calculation to class size funding for noncompliant districts which may be adjusted for good cause;
- A reallocation bonus of up to five percent of the base student allocation for compliant districts, not to exceed 25 percent of the reduced funds;
- An add-back of the remaining 75 percent of the reduced funds if districts submit a plan to meet the requirements by October of the subsequent year;
- A requirement, for the 2010-2011 school year, that school boards hold public hearings on strategies to meet class size requirements before the district budget is adopted; and
- Authorization of virtual instruction programs as an option to meet class size requirements.

Considerations¹⁰

Compliance for fiscal year 2010-2011 is calculated at the classroom level for traditional public schools and at the school level for charter schools. The adjustment is calculated by the DOE and verified by the Florida Education Finance Program Allocation Conference. The amount of funds adjusted is to be the lesser of the amount calculated or the undistributed balance of the district's class size reduction operating categorical. The Commissioner of Education may make a recommendation to the Legislative Budget Commission for an alternate amount of funds for the compliance calculation, if the Commissioner has evidence that a district was unable to meet the class size requirement despite appropriate efforts to do so or because of an extreme emergency.¹¹

For the initial calculation completed on December 29, 2010, there were 44,556 traditional public school classrooms in 35 school districts and 3 lab schools that were not in compliance with class size requirements, for a potential total compliance calculation amount from the class size compliance calculation operating categorical of \$40,795,637. There were 44 charter schools that were not in compliance with school level class size requirements, for a potential total compliance calculation amount from the class size compliance calculation operating categorical of \$2,292,191.

Following the review of evidence, the Commissioner determined that data reporting errors were factors to be considered in the appeal process. After reviewing appeals related to data reporting errors, the potential compliance calculation amount for traditional public schools was decreased by \$1,757,302, for an adjusted potential compliance calculation amount of \$39,038,335. The potential compliance calculation amount for charter schools was decreased by \$1,935,249, for an adjusted potential compliance calculation amount of \$356,942.

Following the appeal process, the Commissioner recommended an adjustment for unexpected student growth that resulted in an additional decrease in the potential class size operating categorical compliance calculation amount of \$7,733,211 for traditional public schools and \$1,403 for charter schools. After the appeal process and adjustments for unexpected growth, the adjusted total potential compliance calculation amount was \$31,305,124 for traditional public schools and \$355,539 for charter schools.

¹⁰ Legislative Budget Commission Meeting materials for March 16, 2011, on file with the committee.

¹¹ s. 1003.03(4)(c), F.S.

The Commissioner recommends that the Legislative Budget Commission approve the alternate compliance calculation amounts of \$31,305,124 for traditional public schools and \$355,539 for charter schools.

Following approval of the alternate compliance calculation amounts by the Legislative Budget Commission, the Commissioner will reallocate a portion of the compliance calculation amounts to districts and charter schools that have fully met class size requirements.¹² This reallocation may be up to five percent of the base student allocation multiplied by the total district FTE students, but cannot exceed 25 percent of the total funds reduced, resulting in a reallocation of \$7,826,281 for traditional schools and \$88,885 for charter schools. The funds remaining after the reallocation will be returned to districts and charter schools that: were not in compliance with class size requirements; and submitted a plan by February 15 describing the specific actions that will be taken to fully comply with class size requirements by October of the 2011-2012 school year.¹³ For this year, all districts and charter schools not in compliance submitted a plan by the deadline, so that the remaining funds, or 75 percent will be returned.

III. Effect of Proposed Changes:

Core-curricula and Extracurricular Courses

The bill redefines the terms “core-curricula courses. Under current law, the DOE defines the courses as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and course taught in traditional, self-contained elementary school classrooms.¹⁴ Under the bill, these courses are specified by grade levels, subjects measured by state assessments, required high school graduation requirements, and subgroups of students:

- Language arts/reading, mathematics, and science courses in prekindergarten through grade 3;
- Courses in grades 4 through 8 in subjects that are measured by state assessment at any grade level;
- Courses in grades 9 through 12 in subjects that are measured by state assessment at any grade level;
- Courses that are specifically identified by name in statute as required for high school graduation and that are not measured by state assessments, excluding any extracurricular courses;
- Exceptional student education courses; and
- English for Speakers of Other Languages courses.

For a core-curricula high school course in which a student in grades 4 through 8 is enrolled for high school graduation credit, the maximum number of students would be 25. Finally, the term “extracurricular courses” would also be redefined to include courses that may result in college

¹² s.1003.03(4)(d)

¹³ s. 1003.03(4)(e), F.S.

¹⁴ Courses offered under ss. 1002.37 (the Florida Virtual School), 1002.415 (the K-8 Virtual School Program), and 1002.45 (the school district virtual instruction (VIP) programs), F.S., are excluded.

credit. Current law specifies that these courses include physical education, fine arts, performing fine arts, and career education.

Florida high school students are currently required to complete 24 credits in order to earn a high school diploma. Students must also earn passing scores on the Florida Comprehensive Assessment Test (FCAT) or attain a passing score on the SAT or ACT. Beginning in the 2010-2011 school year, high school graduation requirements increase to include more rigorous courses. Students will be required to pass statewide, standardized end-of-course (EOC) assessments in specific courses beginning with the 2011-2012 school year. Beginning with students entering grade 9 in the following school years, courses include Geometry (2010-2011), Biology I (2011-2012), Algebra II (2012-2013), Chemistry or physics (2013-2014), and an additional equally rigorous science course (2013-2014).¹⁵

The DOE notes that in 2010-2011, there were 849 core courses. Under the current bill, there would be 288 core courses.¹⁶ The decrease would primarily be based on foreign languages, honors and advanced courses at the middle and secondary grade levels, courses without state assessments, and courses that are not required for graduation at the middle and high school level.

Compliance

Under the bill, a timeframe is specified for satisfying and maintaining class size maximums, with specific exceptions for an extreme emergency beyond the district's control and when a student enrolls after the October survey period. Based on a school district's determination that not assigning the student would be impractical, educationally unsound, or disruptive to student learning, a student could be assigned to an existing class that temporarily exceeds the class size maximums. However, the maximum number of students who can be assigned to a teacher may not exceed the following:

- Prekindergarten through 3rd grade, the number of students may not exceed 21;
- 4th grade through 8th grade, the number of students may not exceed 27; and
- 9th grade through 12th grade, the number of students may not exceed 30.

This temporary exception is also contingent upon a district school board's plan for providing that a school will be in full compliance with the maximum class size requirements by the following year's October survey.

Finally, the bill provides that only a school district that meets the maximum class size requirements may use the class size reduction operational categorical funds for any lawful operating expenditure.

¹⁵ See ch. 2010-22, L.O.F., codified in ss. 1003.428 and 1003.429, F.S.

¹⁶ DOE, March 15, 2010, on file with the committee.

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:

This bill may be subject to constitutional challenge, based on the class size provision contained in s. 1, Art. IX, state constitution. Specifically, a potential argument exists that this proposed language authorizes maximums in excess of the caps provided in the Florida constitution. In an advisory opinion to the Attorney General on the validity of the class size constitutional amendment, the Florida Supreme Court referred to the Legislature's role as intended by the initiative as follows:

Rather than restricting the Legislature, the proposed amendment gives the Legislature latitude in designing ways to reach the class size goal articulated in the ballot initiative....¹⁷

The court also indicated that the primary purpose of the amendment is the legislative funding of reduced class size. This bill does not address the amount the Legislature appropriates for class size. Rather, it provides operational flexibility to school districts to meet the class size maximums, while assuring that children attending public schools obtain a high quality education.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

¹⁷ *Advisory Opinion to the Attorney General re: Florida's Amendment to Reduce Class Size*, 816 So.2d 580, 584-85 (S.Ct. 2002).

C. Government Sector Impact:

The bill would provide greater operational flexibility to school districts in meeting the class size requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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 Community Affairs Committee

BILL: SB 534

INTRODUCER: Senator Wise

SUBJECT: Firesafety

DATE: March 15, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Burgess</u>	<u>BI</u>	Favorable
2.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	Pre-Meeting
3.	_____	_____	<u>CA</u>	_____
4.	_____	_____	<u>HE</u>	_____
5.	_____	_____	<u>BC</u>	_____
6.	_____	_____	_____	_____

I. Summary:

- Coordinates state fire marshal law with educational facilities law regarding firesafety inspections on educational property;
- Abolishes the classification of the special state firesafety inspector and leaves intact the classification of full firesafety inspector, and provides for a contingent grandfathering in of existing special state firesafety inspectors;
- Provides that uniform firesafety standards and an alternate system be governed by fire officials certified by the State Fire Marshal;
- Reduces the number of mandatory inspections at educational facilities from two to one annually, and provides for the inspection report to be distributed at the local level only;
- Clarifies the firesafety inspection process for charter schools and for public postsecondary institutions;
- Requires all boards to use only certified fire officials and other inspectors in monitoring compliance with the Florida Building Code, the Florida Fire Prevention Code, and the State Requirements for Educational Facilities; and
- Requires public education boards to submit for approval the site plan for new construction to the local entity providing fire-protection services to the facility and outlines the compliance process.

The provisions in the bill represent a collaborative effort among school districts, community colleges, the Department of Education, and the State Fire Marshal to provide consistency, streamline practices, reduce cost, and ensure safety regarding firesafety inspections.

The bill substantially amends the following sections of the Florida Statutes: 633.01, 633.021, 633.081, 1013.12, 1013.371, and 1013.38.

II. Present Situation:

Division of the State Fire Marshal (State Fire Marshal)

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.01, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.¹ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.²

The Division of the State Fire Marshal (Division) consists of the following four bureaus: fire and arson investigations, fire standards and training, forensic fire and explosives analysis, and fire prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.³

Firesafety Inspections of Florida's Educational Facilities

Chapter 1013, F.S., governs the safety requirements for educational facilities. Unless otherwise specified, the term "board" can indicate any public education board, including: a district school board, a community college board of trustees, a university board of trustees, and the Board of Trustees for the Florida School for the Deaf and the Blind.⁴ Section 1013.37, F.S., requires the State Fire Marshal to develop firesafety criteria for educational facilities in conjunction with the Florida Building Commission and the Department of Education.⁵ However, ch. 663, F.S., does not similarly provide for the cooperative development of standards.

Currently, public schools are required to be inspected by two separate authorities annually, some of which are conducted simultaneously.⁶ Opponents of this practice argue that this is a duplicative effort and the State Fire Marshall states that these inspections have generated conflicting interpretations of code requirements and jurisdictional authority.⁷

¹ The agency head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.

² s. 633.01(1), F.S.

³ State Fire Marshal website: <http://www.myfloridacfo.com/sfm/>; last checked February 22, 2011.

⁴ s. 1013.01(3), F.S.

⁵ s. 1013.37(1)(c), F.S.

⁶ Both the local fire official and the fire inspector for each school board are required to conduct these inspections. See Rule 69A-58.004(1), F.A.C.

⁷ Department of Financial Services Bill Analysis and Fiscal Impact Statement, February 14, 2011, on file with the Banking and Insurance Committee.

Section 633.01, F.S., requires the State Fire Marshal to adopt and administer rules regarding health and safety standards for educational and ancillary facilities.⁸ In addition, the State Fire Marshal also assumes the duties of the local fire official for counties that do not employ or appoint an official.

Special Fire Instructors

Section 633.021, F.S., defines a “firesafety inspector” to be:

An individual officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district....⁹

A “special state firesafety inspector” is defined as:

An individual officially assigned to the duties of conducting firesafety inspections required by law on behalf of or by an agency of the state having authority for inspections other than the Division of State Fire Marshal.¹⁰

There are a small number of people that are employed as “Special Firesafety Inspectors” across the state. A recent survey by the Florida State College found a total of 44 Special Firesafety Inspectors employed in the 67 school districts and 28 community colleges.¹¹ The current training requirement for this type of inspector is only 120 hours, in contrast to the 200 hours of training required for full firesafety inspector status. For several years the Division has pushed to eliminate the “special firesafety inspector” license and require all firesafety inspectors to have a full “firesafety inspector” license.

Charter Schools

Charter schools are public schools that operate under a performance contract or charter with a sponsor.¹² The charter school must comply with its charter to maintain its status.¹³ There is disagreement as to which governmental agency is charged with conducting firesafety inspections of charter schools. Section 1002.33(18), F.S., requires charter schools to meet the same annual inspection requirements of the Florida Fire Prevention Code, unless the charter adopts the State Requirements for Education Facilities pursuant to s. 1013.37, F.S.¹⁴ Charter schools located off school district or community college property are subject to the requirements of the local jurisdiction.¹⁵

⁸ s. 633.01(7), F.S.

⁹ s. 633.021(11), F.S.

¹⁰ s. 633.021(24), F.S.

¹¹ Susan Lehr, Vice President of Government Relations, Florida State College, Jacksonville, *Education Facilities Firesafety Legislation: Q and A*. Many of these 44 special firesafety inspectors also hold a higher firesafety inspection license.

¹² s. 1002.33(1), F.S., stating that “all charter schools in Florida are public schools.”

¹³ See subsection (9) of s. 1002.33, F.S., CHARTER SCHOOL REQUIREMENTS.—

¹⁴ Section 1002.33(18)(a)-(b), F.S., See also Memorandum to Florida Fire Chiefs from Tom Gallagher, State Fire Marshal, *Charter School Inspections* (Nov. 25, 2003)

¹⁵ Email and telephone correspondence with staff of the Board of Governors, March 15, 2011.

Annual Report on Firesafety

Section 1013.12(8), F.S., requires the State Fire Marshal to produce a statewide annual report on school firesafety inspections of schools.¹⁶ In conducting the annual report, the State Fire Marshal is required to interpret all of the reports that were submitted by the 67 school districts, 28 community colleges, and hundreds of local fire departments for each building at each educational site.¹⁷ Opponents of the annual report requirement assert that diverging local reports formats have complicated the ability to organize them into a singular statewide report. As a result, they argue that the comprehensive statewide report is underutilized and provides minimal information to citizens.

III. Effect of Proposed Changes:**Additional Clarification of Duties of the State Fire Marshal**

The bill requires the State Fire Marshal to consult with the Department of Education regarding the adoption of rules pertaining to safety and health standards at educational facilities. If a county does not employ or appoint a certified firesafety inspector, the bill provides that the State Fire Marshal shall conduct the firesafety inspection of educational property.

Elimination of Special Firesafety Inspector

As of July 1, 2013, the classification of “special state firesafety inspector” is abolished. Special state firesafety inspectors may, however, be grandfathered in as full firesafety inspectors provided that the following conditions are met:

- The inspector has at least five years of experience as of July 1, 2011, and passes the firesafety inspection examination prior to July 1, 2013;
- The inspector does not have five years of experience as a special state firesafety inspector but takes an additional 80 hours of courses and passes the examination; or
- The inspector has at least five years of experience, fails the examination, but takes 80 additional hours of courses, retakes, and passes the examination.

The bill redefines the term “firesafety inspector” as a person who is certified by the State Fire Marshal, pursuant to s. 633.081, F.S.

Streamlining of Process

The bill requires all administration and enforcement of uniform firesafety standards and the alternate evaluation system to be conducted by certified fire officials. Effective July 1, 2013, all firesafety inspectors are subject to the same certification process.

The bill also reduces the number of mandatory annual inspections from two to one and the report generated remains at the local level.

¹⁶ Section 1013.12(8), F.S.

¹⁷ For more information visit MYFLORIDACFO.COM, DEPARTMENT OF FINANCIAL SERVICES, SCHOOL FIRESAFETY, available online at <http://www.myfloridacfo.com/sfm/sfmschoolsafety.htm> (last visited on February 22, 2011).

The bill deletes the requirement for the State Fire Marshal to compile each local report into one document for submission to the Legislature, the Governor, the Commissioner of Education, the State Board of Education, and the Board of Governors.

School District Firesafety Inspections (Including Charter and Postsecondary Schools)

The bill establishes parity for firesafety inspections for district schools, other public secondary schools (charter schools), and postsecondary institutions.

Inspection of Property by District School Boards

Boards¹⁸ are responsible for appointing certified firesafety inspectors to conduct annual inspections of educational and ancillary plant property. The bill requires inspections to begin no sooner than one year after a building certificate of occupancy is issued. The applicable board must submit a copy of the report to the county, municipality, or independent special fire control district providing fire protection services within 10 business days after the inspection, unless immediate corrective action is required, due to life-threatening deficiencies. The entity conducting the firesafety inspection is required to certify to the State Fire Marshal that the annual inspection has occurred.

Inspection of Educational Property by Other Public Agencies

Annual firesafety inspections must be conducted of educational and ancillary plant property operated by a school board or community college. The bill requires inspections to begin no sooner than one year after a building certificate of occupancy is issued. Immediate corrective action is required by the county, municipality, or independent special fire control district in conjunction with the appointed fire official where life-threatening deficiencies are noted.

Inspection of Charter Schools Not Located on Board-owned or Leased Property, or Otherwise Operated by a School Board

The bill requires a firesafety inspection to be conducted each fiscal year of educational facilities not owned or leased by the board or a community college, in accordance with State Fire Marshal standards. The bill clarifies that the inspection report is to be submitted to the charter school sponsor. The inspector must include a corrective plan of action in the report, with prompt response¹⁸ for life-threatening deficiencies. If corrective action is not taken, the county, municipality, or independent special fire control district must immediately report the deficiency to the State Fire Marshal and the charter school sponsor. The bill also expressly extends the State Fire Marshal's enforcement authority to charter school educational facilities and property.

Inspections of Public Postsecondary Education Facilities

The bill requires inspections of community college facilities, including charter schools located on board-owned or board-leased facilities or otherwise operated by community college boards, to comply with the Florida Fire Prevention Code, without exception via local amendment. Both an annual inspection by a certified inspector and a corrective plan of action are required. The community college must provide a copy of the report to the appropriate county, municipality, or independent special fire control district. Firesafety inspections of state universities must comply with the Florida Fire Prevention Code. If a school board, community college board, or charter

¹⁸ Section 1013.01(3), F.S., defines the term *Board* to mean “a district school board, a community college board of trustees, a university board of trustees and the Board of Trustees for the School for the Deaf and Blind,” unless otherwise specified.

school does not take corrective action, the bill requires the inspecting authority to immediately report the deficiency to the State Fire Marshal.

Approval of New Construction/Site Plans

Each board must provide for a periodic inspection of proposed educational or ancillary plants to ensure that the construction complies with the Florida Building Code and the Florida Fire Prevention Code, in addition to the State Requirements for Educational Facilities.

The bill requires local boards to submit for approval new facility site plans to the local county, municipality, or independent special fire control district, and outlines the process for compliance and informal appeal. Site plans must also be submitted for new facility additions that exceed 2,500 feet in size. The State Fire Marshal has final administrative authority to resolve disputes pertaining to the requirements or application of the Florida Fire Prevention Code.

This bill provides for an effective date of July 1, 2011.

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:

Individuals that are currently classified as special state firesafety inspectors who do not have five years or fail the firesafety inspection examination will have to undergo the new training requirements provided in the bill to become certified as a general firesafety inspector.

Individuals that fail the course of study or firesafety inspection examination will not be permitted to perform firesafety inspections on or after July 1, 2013.

C. Government Sector Impact:

Deleting the annual state-level report requirement will save the Division of State Fire Marshal's office funds and resources that were formerly used to generate the report. The bill reduces the number of mandatory annual inspections from two to one, which will also save money and resources.

The Department of Education (DOE) reports that the reduction of inspections from two to one annually would result in an annual cost savings of \$55,538 to the 28 colleges collectively. Thirty-six school districts responded to the DOE that savings would be realized in the amount of \$246,988. Extrapolating this to all 67 districts reflects a total annual cost savings of \$459,672 among the districts.

The fiscal costs incurred for preparation and submission of the site plan for new construction are unknown; however, they are expected to be minimal.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

¹⁹ Email correspondence from the Florida Department of Education, Office of Governmental Relations, March 15, 2011.

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 Education Pre-K - 12 Committee

BILL: SB 1000

INTRODUCER: Senator Wise

SUBJECT: Interscholastic and Intrascholastic Sports

DATE: March 16, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Matthews</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>HR</u>	_____
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill removes from statute the two-year pilot program which provided for sports participation of private middle and high school students of three counties at public high schools within the residential zoning area, and makes permanent its applicability statewide.

Student records relating to eligibility, compliance and participation in the program are required to be maintained by the athletic director at the participating FHSAA member public school. A non-FHSAA private school is required to provide student records to the FHSAA upon request.

This bill limits participation of a non-FHSAA private school student at a public school to those students enrolled at private schools with a student population of no greater than 125 students.

This bill substantially amends section 1006.15, of the Florida Statutes.

II. Present Situation:

FHSAA

The Florida High School Athletic Association, established in law in s. 1006.20, F.S., is the governing body of Florida public school athletics. The FHSAA is organized by an Executive Director, a Board of Directors, a Representative Assembly, and Sectional Committees. Currently, the FHSAA governs 748 public and private member schools.¹ Section 1006.15, F.S., imposes general eligibility requirements for participating students, based on academic thresholds and

¹ <http://www.fhsaa.org/about>

satisfactory conduct, and also addresses participation by private, charter, and home education students.

The Legislature grants the FHSAA authority to adopt bylaws, which it does, and publishes them in a handbook, available online.²

Participation in Sports by Students at Schools They Are Not Attending

Home education students are authorized to participate in sports at the public school to which the student would be assigned, or a private school under certain conditions.³ Charter school students are also authorized to participate in sports at the public school to which they would have been assigned.⁴

Pilot Program for Private School Students to Participate in Sports at Public Schools

The 2007 Legislature passed a law which implemented a two-year pilot program to enable middle and high private school students to participate in interscholastic or intrascholastic sports at public schools within the zoning area of the student. Participation was limited to students residing in Bradford, Duval, and Nassau counties.⁵ The two years included in the program were the 2008-09 and 2009-10 academic years.⁶

The legislation required certain conditions for participation, including:

- The private school must be a non-FHSAA member that does not offer an interscholastic or intrascholastic program;
- The student meets conduct guidelines established by the FHSAA and participating district school boards;
- Transportation arrangements are to be borne by the parents, and the public school, district school board, and the FHSAA are exempt from any related civil liability;
- The private school student is limited to participation at one public school for each academic year.

In addition to requiring provision of a copy of the guidelines to the Governor, Senate President, and House Speaker, this legislation required the FHSAA and the district school boards to produce a report on specific information about the student participants, and recommendations on program improvements.

Program Report

The FHSAA provided a report, dated December 15, 2009, which detailed the following regarding interest and participation:

- As of the date of the letter, 23 students submitted the appropriate application form;
- Of those, 11 were middle school, and 12 were high school students;

² The handbook is available at the FHSAA website, at: <http://www.fhsaa.org/rules/fhsaa-handbook>

³ s. 1006.15(3)(c), F.S.

⁴ s. 1006.15(3)(d), F.S.

⁵ ch. 2008-228, L.O.F.

⁶ s. 1006.15, F.S.

- Of the 23, 11 were from Bradford county, 10 were from Duval county, and two were from Nassau county;
- Of the applicants, 15 were approved, two were denied, and six failed to provide additional information required for eligibility determinations; and
- Two students later transferred to the public school in which they participated.

The report also indicated that no problems existed other than coordination between start and end times of the schools and transportation. No recommendations were made regarding expansion or continuation of the program.⁷

III. Effect of Proposed Changes:

This bill removes language which established the pilot program which tested private school student sports participation at public schools in certain circumstances. This bill would expand the program's current limited application to Bradford, Duval and Nassau counties to all counties. In addition to maintaining qualifying conditions, this bill addresses the keeping and production of participant student records.

Public schools at which the eligible private school student participates in sports are required to maintain student records of the private school students. A non-FHSAA private school is required to provide student records to the FHSAA upon request. It is up to the individual school to determine how these records are to be kept.

This bill limits participation of a non-FHSAA private school student at a public school to those students enrolled at private schools with a student population of no greater than 125 students.

This bill would make non-FHSAA member private school students eligible to participate in sports at public schools, just as home education students and charter school students are now. These students would be subject to the same standards as other participants.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁷ Governor Letter, Dr. Roger Dearing, Executive Director, FHSAA (December 15, 2009).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be local school costs associated with maintaining and providing records of students; however, these are expected to be insignificant.

According to the Florida Department of Education, there are 1,600 private schools with a student population of under 125 students. It is unknown how many students would pursue the option provided in this bill, and how many would qualify as eligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

None.

B. Amendments:

None.

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 Education Pre-K - 12 Committee

BILL: SB 1254
INTRODUCER: Senator Wise
SUBJECT: Auditory-oral Education Programs
DATE: March 15, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Pre-meeting
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill allows a parent to enroll an eligible child who is deaf or hard of hearing in an auditory-oral education program at a school that meets specific accreditation or certification requirements. The level of services is determined by the child’s individual educational (IEP) team or individualized family support (IFS) plan team. The student is eligible for services until the end of the school year in which he or she reaches the age of seven years or grade 2, whichever comes first. The bill also requires the Department of Education to review and revise the matrix of services, which is used to determine exceptional education cost factors.

This bill substantially amends sections 1002.20 and 1011.62 and creates section 1002.391 of the Florida Statutes.

II. Present Situation:

Exceptional Education

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.¹ As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.²

¹ 20 U.S.C. § 1400 et. seq., as amended by P.L. 108-446.

² 34 C.F.R. s. 300.149

Funding

Exceptional Student Education (ESE) programs and services are provided by federal, state, and local funds. Under the Individuals with Disabilities Education Improvement Act (IDEA), federal special education funds are distributed through state grant programs and discretionary grant programs. Part B of the law, the main program, authorizes grants to state and local education agencies to offset part of the costs of the education needs of children with disabilities, ages 3 through 21. It also authorizes pre-school state grants for children with disabilities, ages 3 through 5. Part C authorizes infant and toddler state grants for early intervention services, for infants and toddlers with disabilities from birth through 36 months.³

Beginning with the 1997-1998 school year, districts were required to complete a matrix of services for every exceptional student at least annually to calculate school district funding based on the intensity of services provided to ESE students.⁴ In 2000, the Florida Education Finance Program (FEFP) for ESE programs was revised to require a matrix for exceptional students funded at the highest level of need, support levels 4 and 5.⁵

Consistent with the services identified through the IEP or IFS, the matrix is used to determine which one of five cost factors would apply to each eligible exceptional education student. The matrix document contains checklists of services in each of the five domains (curriculum and learning environment; social/emotional behavior; independent functioning; health care; and communication) and a special considerations section. The sum of these domain ratings and any special considerations points corresponds to one of the five cost factors.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) published two reports related to the use of the matrix. The 2003 report concluded that the matrix on which funding is based had not been effectively or consistently implemented by school districts.⁶ To improve the accuracy of district application of the funding matrix and help ensure that state ESE funds are appropriately used, OPPAGA recommended that the DOE and the Florida Diagnostic Learning and Resources System provide additional training to district-level ESE directors on properly implementing the funding matrix. OPPAGA also recommended that the DOE create a stronger accountability system to ensure the accuracy of district classifications of students within the matrix, thereby ensuring correct district funding amounts.

Subsequently, OPPAGA noted that stronger accountability is still needed. Specifically, the report noted that the department had not made changes to its monitoring process to better ensure the accuracy of the highest funded matrix categories. Past department reviews indicate a potential for significant over-funding.⁷ OPPAGA recommended that the DOE provide additional training for

³ Part C is administered by the Florida Department of Health (DOH), pursuant to s. 391.308, F.S.

⁴ Section 43, ch. 97-307, L.O.F.

⁵ ch. 2000-171, L.O.F. Pursuant to s. 1011.62(1)(c), F.S., the Commissioner of Education must specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors. Levels 1 through 3 represent the lowest level of service. For these students, school districts receive an ESE Guaranteed Allocation in addition to the base funding in the FEFP.

⁶ *Special Report: Exceptional Student Education Population Grows Dramatically; More Accountability and Better Training Needed to Implement Funding Matrix*, OPPAGA Report No. 03-40, July 2003.

⁷ *Steps Taken to Implement the Exceptional Student Education Funding Matrix, But More Monitoring Needed*, OPPAGA Report No. 08-24, April 2008.

personnel who complete the training at the school site and that future editions of the matrix handbook provide needed levels of detail with examples to meet district needs.

Children with Hearing Impairments

Current law provides for a statewide program of universal hearing impairment screening, identification, and follow-up care for newborns and infants.⁸ The bill requires licensed hospitals or other state licensed birthing facilities to provide for universal hearing screening for all newborns, prior to discharge from the facility. In the instance of a home birth, the health care provider in attendance is responsible for referral for the hearing screening. The goal is to screen all newborns for hearing impairment in order to alleviate the adverse effects of hearing loss on speech and language development, academic performance, and cognitive development.

Children with disabilities, including those who are deaf or hard-of-hearing, may receive ESE services if they meet specific requirements. Educational options for students with hearing impairments have expanded significantly in the last 30 years in that students are increasingly attending traditional schools and being educated in general education classrooms.⁹ Other developments have changed the classroom experiences of students with hearing impairments in the last three decades as well, including the evolution of cochlear implant technology and technologies such as visual or text communication devices and speech-to-print software.

For a student who is deaf or hard-of-hearing, the IEP or IFS team must consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.¹⁰

III. Effect of Proposed Changes:

Students

A parent would be permitted to enroll a child who is deaf or hard of hearing¹¹ in an auditory-oral education program, which is defined as a program that develops and relies solely on listening skills and uses an implant or assistive hearing device to rely on speech and spoken language skills as the method of communication. A child is eligible for the program if he or she is a resident of the state, has received an implant or assistive hearing device, and is between the ages of 3 and 7 or between the ages of 2 and 7, if the district serves children under 3. The level of services would be determined by the child's IEP or IFS team. The student would be eligible for services until the end of the school year in which he or she is seven years old or reaches grade 2, whichever comes first.

Providers

The bill permits a parent to enroll his or her child in a program at a public or private school that is accredited by OPTION Schools, Inc., or that has a supervisor or a majority of faculty who

⁸ s. 383.145, F.S.

⁹ *The Secondary School Experiences and Academic Performance of Students With Hearing Impairments*, U.S. Department of Education Institute of Education Sciences National Center for Special Education Research, February 2011.

¹⁰ Rule 6A-6.03028(3)(g)9., F.A.C.

¹¹ See Rule 6A-6.03013, F.A.C., and 20 U.S.C.A. § 1401(3)(A)(i).

provides direct services and meet Listening and Spoken Language Specialists (LSLS) certification requirements.

OPTION Schools Inc., is an international coalition of schools offering auditory-oral education for children who are deaf or hard of hearing. To be eligible for membership, a school must meet the following criteria:¹²

- Support the philosophy of listening and spoken language education;
- Operate listening and spoken language classes for children who are deaf and hard of hearing in an exclusively auditory-oral environment; and
- Be approved, licensed, or accredited by a recognized agency.

Member schools may be accredited through the organization's accreditation process.¹³ In the past two years, three schools have been accredited.¹⁴ The Clarke School campus in Jacksonville and the Debbie School are certified by OPTION Schools, Inc., and are in the process of becoming accredited.¹⁵

The AG Bell Academy for Listening and Spoken Language is an independently governed, subsidiary corporation of the Alexander Graham Bell Association for the Deaf and Hard of Hearing.¹⁶ The academy certifies individuals as either LSLS auditory-verbal therapists or LSLS auditory-verbal educators.¹⁷ To be eligible for certification, an applicant must meet the eligibility requirements (formal education, credential, professional experience, and post-graduate study), earn approved LSLS continuing education credits, and work with a LSLS-certified mentor before taking the LSLS written test.¹⁸ In order to be certified, an applicant must have a master's degree, or international equivalent post-baccalaureate degree or diploma, in audiology, speech-language pathology, or education of the deaf and hard of hearing.¹⁹ As of March 3, 2011, there were 15 LSLS certified professionals in Florida.²⁰

The number of schools that will meet the accreditation or certification requirements is unknown. The bill does not require schools to meet these requirements. For the 2010-2011 school year, the DOE reported that six of 55 districts contracted with a private provider for an auditory-oral

¹² OPTION Schools, Inc., by-laws, as of March 3, 2011. See <http://auditoryoralschools.org/gov.aspx>.

¹³ *OPTION Schools Accreditation, 2003*, on file with the committee.

¹⁴ Sunshine Cottage School (Texas), Clarke East School (Boston), and Listen and Talk School (Seattle, Washington). The organization has certified 50 schools in the past. E-mail, March 15, 2011, on file with the committee.

¹⁵ E-mail, March 15, 2011, on file with the committee. The Clarke Schools for Hearing and Speech provide children who are deaf and hard of hearing with listening, learning, and spoken language skills. See

<http://www.clarkeschools.org/about/welcome>. The Debbie Institute, a division of the University of Miami Mailman Center for Child Development, is a center for early intervention research, training and service and offers an auditory-oral program. See <http://pediatrics.med.miami.edu/debbie-school/education-services/auditory-oral-education-program>.

¹⁶ See <http://agbell.org/NetCommunity/Document.Doc?id=298>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *2011 Certification Handbook*, available at <http://nc.agbell.org/NetCommunity/Document.Doc?id=638>. An individual seeking certification must hold a current license or credential to practice audiology, speech-language pathology or education of the deaf or hard of hearing in their geographic locale.

²⁰ See <http://agbell.org/NetCommunity/Page.aspx?pid=350>.

program.²¹ Forty-five districts indicated that they did not have any staff members that meet the LSLS certification requirements.²² According to the DOE, Clay and St. Johns County School Districts have a contract with the Clarke School.²³ Under the contract with St. Johns, the students were age two to nine. Eight of the nine students served were age 5 or younger. In Clay, 11 students were served (eight prekindergarten students, two kindergarten students, and one first grade student).

Matrix of Services

Under the bill, the Department of Education would review and revise the matrix of services, which is used to determine exceptional education cost factors. The changes would have to be implemented prior to the 2011-2012 school year.

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:

Private schools with auditory-oral programs that wish to be accredited by OPTION Schools, Inc., will incur the cost of membership and accreditation. The costs related to accreditation are approximately \$5,000.²⁴ Accreditation must be renewed every 5 years.

Individuals who choose to be LSLS certified will incur costs. The LSLS certificate is valid for two years. The certification related fees include:²⁵

²¹ DOE, January 27, 2011, on file with the committee. The survey was conducted between January 17, 2011 and January 21, 2011.

²² *Id.* One district reported that it had LSLS certified staff. Nine reported that it was unknown.

²³ DOE, January 20, 2011. The Clarke Schools for Hearing and Speech is an auditory/oral program, which teaches children to listen and speak, rather than use sign language. Clarke's Jacksonville campus provides a variety of programs and services for children from birth to age 7. See <http://www.clarkeschools.org/>

²⁴ E-mail, March 15, 2011, on file with the committee.

²⁵ *Id.*

Certification Related Fees	Members	Non members
Application and Certification ²⁶	\$295	\$395
Preliminary Review of Academic Background	\$40	\$40
Request for review of continuing education credits	\$20	\$20
Certification Renewal (every two years)	\$120	\$120

C. Government Sector Impact:

Public schools with auditory-oral programs that wish to be accredited by OPTION Schools, Inc., will incur the cost of membership and accreditation.

VI. Technical Deficiencies:

The AG Bell Academy for Listening and Spoken Language is an independently governed, subsidiary corporation of the Alexander Graham Bell Association for the Deaf and Hard of Hearing. The academy is responsible for LSLS certification. On lines 13 and 81, the reference should be corrected to reflect the certification body. Line 79 refers to schools that have a supervisor or majority of faculty who are LSLS certified. In public elementary schools, instructional personnel are not generally referred to as “faculty.”

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

²⁶ This includes one exam session.



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LEGISLATIVE ACTION

Senate	.	House
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The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete line 81

and insert:

AG Bell Academy for Listening and Spoken Language

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

And the title is amended as follows:

Delete line 13

and insert:

Specialists by the AG Bell Academy for

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 Education Pre-K - 12 Committee

BILL: SB 1996

INTRODUCER: Education Pre-K -12 Committee

SUBJECT: Student Assessment

DATE: March 14, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	Matthews	ED	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill repeals the requirement for students who took Algebra I in the middle grades from 2007-2008 through 2009-2010 to take the Algebra I end-of-course assessment in the 2010-2011 school year. Approximately 39,600 students would not have to take the Algebra I assessment, in some cases several years after taking the Algebra I course.

This bill amends section 1008.22(3) of the Florida Statutes.

II. Present Situation:

The 2010 Legislature enacted legislation to require students to take the statewide end-course-assessment (EOC) for Algebra I, beginning in the 2010-2011 school year.¹ Although students have been required to take and pass the Algebra I course for high school graduation, students were not previously required to take an EOC associated with the course. The Algebra I EOC, for the 2010-2011 school year, will count toward 30 percent of the student's grade, and beginning with the 2011-2012 school year, a student must pass the EOC in order to earn the required credit for the course.²

Beginning in the 2010-2011 school year, the Algebra I EOC will replace the mathematics portion of the 10th grade FCAT.³ Federal law requires that all public school students be tested in reading

¹ ch. 2010-22, L.O.F.

² s. 1008.22(3)(c)2.a.(I), F.S.

³ s. 1008.22(3)(c)1., F.S.

and mathematics at least once at the elementary, middle, and high school level.⁴ To comply with federal law, the law requires that students who earned high school credit for Algebra I while in middle school in the 2007-08 through 2009-10 school years and who have not taken the 10th grade mathematics FCAT to take the Algebra I EOC.⁵ This provision was enacted to satisfy the federal testing requirements. The Department of Education estimates that approximately 39,600 students completed Algebra I in the middle grades, did not take the 10th grade FCAT in mathematics, and would be required to take the Algebra I EOC in May, 2010.⁶

Although students who take high school level courses in the middle grades will, most likely, enroll in sequentially more rigorous courses, some school districts raised concerns that the lapse in time between taking the course in middle school and sitting for the EOC in high school would be unfair. As a result, the Department of Education (Department) submitted a request to the USDOE for a waiver from the federal law for the specific cohort of students who would have been affected. The waiver was granted on January 19, 2001.⁷

III. Effect of Proposed Changes:

The bill would repeal the requirement for approximately 39,600 students, who previously took the Algebra I course in the middle grades, but must take the Algebra I assessment in 2010-2011. The bill would enact the waiver granted by the U.S. Department of Education for these students.

If the bill is not enacted before the spring administration of the Algebra I assessment, currently scheduled for early May, the bill will be moot.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴ See Section 1111(b)(3)(C)(v)(I)(cc) of the Elementary and Secondary Education Act (ESEA), available at: <http://www2.ed.gov/policy/elsec/leg/esea02/pg2.html>.

⁵ s. 8, ch. 2010-22, L.O.F., codified in s. 1008.22(3)(c)2.a.(I), F.S.

⁶ Email correspondence from the Department of Education, on file with the committee.

⁷ Letter to Commissioner of Education Eric Smith from the Assistant Secretary of the U.S. Department of Education, on file with the committee.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Education (DOE), there is no expected fiscal impact at this time. The DOE's contract for the end-of-course assessments allows for the number of students taking the Algebra I end-of-course assessment to be 241,579 students. If the number of students taking the assessment is more than five percent above the contract number, there could be an increase in cost. However, the contract does not provide for a reduction in price if fewer students take the Algebra I EOC.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

None.

B. Amendments:

None.