

Tab 2	SB 600 by Berman (CO-INTRODUCERS) Cruz, Jones, Powell, Stewart, Book, Torres, Rodriguez, Farmer; (Similar to CS/H 00599) Upgrades to Education Facilities as Emergency Shelters					
557736	A	S	RCS	ED, Berman	Delete L.34 - 38:	02/02 01:51 PM

Tab 1	SB 390 by Book (CO-INTRODUCERS) Rodrigues, Gibson, Stewart; (Identical to H 00235) Restraint of Students with Disabilities in Public Schools
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Tab 7	SB 1226 by Brandes; (Identical to H 01533) Virtual Learning					
290644	A	S	RCS	ED, Brandes	Delete L.66 - 181:	02/02 01:51 PM

Tab 4	SB 896 by Burgess; (Similar to CS/H 00573) Educator Certification Pathways for Veterans					
512014	A	S	RCS	ED, Burgess	Delete L.17 - 133:	02/02 01:51 PM

Tab 10	SB 1386 by Diaz; (Compare to CS/H 01505) Background Screenings for School Personnel					
289492	D	S	RCS	ED, Diaz	Delete everything after	02/02 01:51 PM
542392	—AA	S	WD	ED, Jones	Delete L.137 - 159.	02/02 01:51 PM

Tab 12	SB 1690 by Diaz; (Identical to H 01347) Charter School Revolving Loan Program
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Tab 9	SB 1284 by Gruters; (Similar to CS/CS/H 00823) Florida Postsecondary Student Assistance Grant Program
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Tab 6	SB 1126 by Harrell; (Similar to H 00243) Exemption from Taxation for Educational Properties
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Tab 8	SB 1240 by Harrell; (Similar to CS/H 00899) Mental Health of Students
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Tab 5	SB 1068 by Jones; (Identical to H 00155) Certificates of Completion
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Tab 11	SB 1404 by Jones (CO-INTRODUCERS) Rouson; (Similar to H 00941) School Counselors
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Tab 3	CS/SB 706 by CA, Perry; (Similar to CS/H 00851) School Concurrency					
971280	A	S	RCS	ED, Perry	Delete L.44 - 45:	02/02 01:51 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION
Senator Gruters, Chair
Senator Jones, Vice Chair

MEETING DATE: Tuesday, February 1, 2022
TIME: 1:00—3:00 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Gruters, Chair; Senator Jones, Vice Chair; Senators Berman, Bradley, Broxson, Diaz, Hutson, Passidomo, and Polsky

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 390 Book (Identical H 235)	Restraint of Students with Disabilities in Public Schools; Prohibiting school personnel from using mechanical restraint on students with disabilities; providing exceptions, etc. ED 02/01/2022 Favorable AED AP	Favorable Yeas 9 Nays 0
2	SB 600 Berman (Similar CS/H 599)	Upgrades to Education Facilities as Emergency Shelters; Exempting costs of less than \$2 million associated with certain upgrades to education facilities from being included in certain cost per student station calculations; prohibiting renewable energy source devices located on the property of an education facility from generating more than a specified amount of energy; requiring costs associated with certain upgrades to be consistent with prevailing market costs in the area where the education facility is located, etc. ED 02/01/2022 Fav/CS AED AP	Fav/CS Yeas 9 Nays 0
3	CS/SB 706 Community Affairs / Perry (Similar CS/H 851)	School Concurrency; Revising provisions specifying when school concurrency is satisfied; specifying that proportionate-share mitigation must be set aside and not spent if an improvement has not been identified, etc. CA 01/25/2022 Fav/CS ED 02/01/2022 Fav/CS RC	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Education

Tuesday, February 1, 2022, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 896 Burgess (Similar CS/H 573)	Educator Certification Pathways for Veterans; Expanding eligibility to seek educator certification to specified military servicemembers who have completed a specified education requirement; authorizing the Department of Education to issue a temporary certificate to specified military servicemembers who have completed a specified education requirement; specifying the duration of a temporary certificate for specified military servicemembers, etc. MS 01/11/2022 Favorable ED 02/01/2022 Fav/CS RC	Fav/CS Yeas 9 Nays 0
5	SB 1068 Jones (Identical H 155)	Certificates of Completion; Providing that students awarded a certificate of completion are eligible to enroll in workforce education programs; providing that students awarded a certificate of completion are eligible to enroll in workforce education programs; requiring charter technical career centers to identify such programs; requiring that students be advised of specified educational options before being awarded a certificate of completion, etc. ED 02/01/2022 Favorable CM RC	Favorable Yeas 9 Nays 0
6	SB 1126 Harrell (Similar H 243)	Exemption from Taxation for Educational Properties; Exempting from taxation property used by an educational institution that holds a leasehold interest in certain leases exceeding a specified number of years, etc. ED 02/01/2022 Favorable FT AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Education

Tuesday, February 1, 2022, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1226 Brandes (Identical H 1533)	Virtual Learning; Revising the purpose of the Florida Virtual School to provide for the development and delivery of blended learning; requiring the Florida Virtual School to give priority to students enrolled in certain Department of Corrections education programs; specifying conditions under which the Florida Virtual School may be funded through the Florida Education Finance Program; requiring students enrolled in the Florida Virtual School Justice Education Program to take specified examinations and assessments at institutions or facilities operated by, or under the supervision of, the Department of Corrections; requiring the Florida Virtual School to establish the Florida Virtual School Justice Education Program, beginning with a specified school year, etc. ED 02/01/2022 Fav/CS AED AP	Fav/CS Yeas 9 Nays 0
8	SB 1240 Harrell (Identical H 899)	Mental Health of Students; Revising data the Department of Children and Families is required to analyze when creating its annual report on the initiation of certain involuntary examinations; requiring charter schools to be in compliance with laws relating to reporting involuntary examinations; requiring the Department of Education, by a specified date, to share with the Department of Children and Families data received from school districts relating to involuntary examinations; revising requirements for plans relating to mental health assistance allocations, etc. CF 01/18/2022 Favorable ED 02/01/2022 Favorable RC	Favorable Yeas 9 Nays 0
9	SB 1284 Gruters (Similar CS/H 823)	Florida Postsecondary Student Assistance Grant Program; Expanding eligibility for the Florida Postsecondary Student Assistance Grant Program to certain students accepted at a competency-based, nonprofit virtual postsecondary institution that meets specified criteria, etc. ED 02/01/2022 Favorable AED AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Education

Tuesday, February 1, 2022, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 1386 Diaz (Compare CS/H 1505, CS/S 1830)	Background Screenings for School Personnel; Requiring each employing entity that employs instructional and noninstructional personnel who have direct contact with students to submit certain individuals' fingerprints to the Department of Law Enforcement; providing that an employing entity has the sole authority for determining the employment eligibility of certain personnel; requiring the Department of Law Enforcement to report the results from background screenings to the employing entity, etc. ED 02/01/2022 Fav/CS AED AP	Fav/CS Yeas 9 Nays 0
11	SB 1404 Jones (Similar H 941)	School Counselors; Citing this act as the "School Counselors Supporting Students Act"; requiring certified school counselors to provide services within the context of a program developed by the Department of Education using a specified framework; prohibiting certified school counselors from performing certain tasks, etc. ED 02/01/2022 Favorable CF RC	Favorable Yeas 9 Nays 0
12	SB 1690 Diaz (Identical H 1347)	Charter School Revolving Loan Program; Establishing the program for a specified purpose; providing that funding for the program shall consist of specified funds; requiring the Department of Education to contract with a third-party administrator to administer the program; requiring all loan documents to include specified language and be expressly agreed to by the third-party administrator and loan recipients; requiring the third-party administrator to electronically provide copies of certain loan documents to the department; requiring all repayments of principal and interest to be returned to the loan fund and made available for loans to other applicants, etc. ED 02/01/2022 Favorable AED AP	Favorable Yeas 7 Nays 2

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 600

INTRODUCER: Education Committee and Senator Berman and others

SUBJECT: Upgrades to Education Facilities as Emergency Shelters

DATE: February 2, 2022 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 600 excludes from the cost per student station limits on public school construction any costs less than \$2 million for upgrades that are designed to improve the capabilities of educational facilities to provide enhanced hurricane protection areas. The bill limits eligible upgrades to those necessary for:

- An area to be designated as an enhanced hurricane protection area.
- Electrical and standby emergency power systems.
- Renewable energy source devices.
- Energy storage devices.

The bill specifies that all costs associated with upgrades must be consistent with prevailing market costs in the area where the education facility is located.

The bill takes effect July 1, 2022.

II. Present Situation:

Florida school construction is guided by three major authorities. The Florida Building Code governs all construction in the state and is administered by the Florida Building Commission at

the Department of Business and Professional Regulation.¹ The Florida Building Code includes specifications for enhanced hurricane protection areas and electrical and standby emergency power systems.² The Florida Fire Prevention Code is administered by the Division of State Fire Marshal, Department of Financial Services. Finally, the State Requirements for Educational Facilities (SREF) is maintained by the Department of Education (DOE). The requirements of the three authorities tend to increase the cost of construction in the state relative to national averages.³

State Requirements for Educational Facilities

The SREF is the uniform statewide building code for the planning and construction of public educational facilities and ancillary plants.⁴ It is enacted as a part of the Florida Building Code adopted by the Florida Building Commission.⁵ District school boards must adhere to the SREF when planning and constructing new facilities. Generally, SREF standards are premised on providing enhanced safety for occupants and increasing the life span of the extensive, publicly funded infrastructure of Florida's public school districts.⁶ Florida law provides school districts with the flexibility to adopt, through resolution, a number of exceptions to SREF requirements. Exceptions include, for example, specifications for site lighting or the use of wood studs in interior nonload-bearing walls.⁷

Education Facilities as Emergency Shelters

The DOE, in consultation with school boards and county and state emergency management offices, must develop public shelter design criteria that are incorporated as standards into the Florida Building Code. These criteria must be designed to ensure that appropriate new educational facilities can serve as public shelters for emergency management purposes.⁸

If a regional planning council in which the county is located does not have a hurricane evacuation shelter deficit as determined by the Division of Emergency Management, educational facilities within the planning council region are not required to incorporate the public shelter criteria.⁹

¹ Section 553.73, F.S. The Florida Building Code, 7th Edition (2020) has been adopted by the Florida Building Commission. Rule 61G20-1.001, F.A.C.

² Sections 453.25.1.1 and 453.25.5, Florida Building Code, 7th Edition (2020).

³ Florida Department of Education, *Review and Adjustment for Florida's Cost per Student Station* (January 1, 2020), available at <http://www.fldoe.org/core/fileparse.php/7738/urlt/2020AnnCSSR.pdf>, at 14.

⁴ The State Requirements for Educational Facilities (SREF) is incorporated in Rule 6A-2.0010, F.A.C., is available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-04664>. The SREF is applicable to all public educational facilities and plants: pre-kindergarten (pre-K) through grade 12, including conversion charter schools; area vocational educational schools; area vocational/technical centers; adult education; Florida colleges and universities; the Florida School for the Deaf and the Blind (FSDB), where referenced; ancillary plants; relocatables; factory-built structures, reconstructable facilities, modular buildings and manufactured buildings; lease and lease-purchase; and new construction, remodeling, renovation, improvements and site-development projects. *Id.* The SREF does not apply to charter schools. Section 1002.33(18), F.S.

⁵ Section 1013.37(1), F.S.

⁶ *See, e.g.*, s. 1013.12, F.S. (casualty, safety, sanitation, and fire safety standards and inspection of property) and s. 1013.451, F.S. (life-cycle cost comparison).

⁷ *See* s. 1013.385(2), F.S.

⁸ Section 1013.372(1), F.S.

⁹ *Id.*

By January 31 of each even-numbered year, the Division of Emergency Management must prepare and submit a statewide emergency shelter plan to the Governor and Cabinet for approval.¹⁰

Cost Per Student Station

In Florida, construction costs for traditional K-12 public school facilities are reported based on the cost per student station.¹¹ In 2005, the DOE conducted a study on overall inflation of school construction costs, including the Consumer Price Index (CPI) and other factors. The cost per student station levels adopted in 2006 were based on the DOE's study recommendations and is adjusted to reflect increases and decreases in the CPI.¹² The DOE and the Office of Economic and Demographic Research (EDR)¹³ are required to work together to calculate and disseminate the new statutory caps.¹⁴

The December 2021 forecast by EDR for the March 2022 cost per student station caps are:¹⁵

- \$25,095 for an elementary school.
- \$27,100 for a middle school.
- \$35,200 for a high school.

A district school board may not use funds from any sources for new construction of educational plant space with a total cost per student station that exceeds these amounts.¹⁶ The cost per student station includes, for example, contract costs, fees of architects and engineers, and the cost of furniture and equipment.¹⁷ The cost per student station specifically does not include the cost of purchasing or leasing the site for the construction, legal and administrative costs, the cost of related site or offsite improvements, and costs for school safety and hardening items and other capital construction items approved by the school safety specialist to ensure building security for new educational, auxiliary, or ancillary facilities.¹⁸

Solar Energy Systems in Schools

District school boards are encouraged to invest in energy conservation measures including the use of "renewable energy systems, such as solar, biomass, and wind."¹⁹ Florida law defines "solar energy system" as "the equipment and requisite hardware that provide and are used for

¹⁰ Section 1013.372(2), F.S.

¹¹ Section 1013.64(6), F.S.

¹² Section 1013.64(6)(b)1., F.S.

¹³ The Office of Economic and Demographic Research (EDR) is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. Office of Economic and Demographic Research, *Welcome*, <http://edr.state.fl.us/Content/> (last visited January 27, 2022).

¹⁴ Section 1013.64(6)(b)1., F.S.

¹⁵ Office of Economic and Demographic Research, *Student Station Cost Factors* (December 2021), available at <http://edr.state.fl.us/Content/conferences/peco/studentstation.pdf>.

¹⁶ Section 1013.64(6)(b)3., F.S.

¹⁷ Section 1013.64(6)(d), F.S.

¹⁸ Section 1013.64(6)(d), F.S. Such safety improvements include the cost for securing entries, checkpoint construction, lighting specifically designed for entry point security, security cameras, automatic locks and locking devices, electronic security systems, fencing designed to prevent intruder entry into a building, or bullet-proof glass. *Id.*

¹⁹ Section 1013.23, F.S.

collecting, transferring, converting, storing, or using incident solar energy for water heating, space heating, cooling, or other applications that would otherwise require the use of a conventional source of energy such as petroleum products, natural gas, manufactured gas, or electricity.”²⁰

III. Effect of Proposed Changes:

CS/SB 600 modifies s. 1013.372, F.S., to exclude from the cost per student station limits on public school construction any costs less than \$2 million for upgrades that are designed to improve the capabilities of educational facilities to provide enhanced hurricane protection areas. The bill limits eligible upgrades to those necessary for:

- An area to be designated as an enhanced hurricane protection area.
- Electrical and standby emergency power systems.
- Renewable energy source devices.²¹
- Energy storage devices.²²

The bill specifies that all costs associated with upgrades must be consistent with prevailing market costs in the area where the education facility is located.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²⁰ Section 212.02(26), F.S.

²¹ A renewable energy source device is a device that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits. Section 193.624(1), F.S.

²² An energy storage device is used in a power system network to store the surplus energy during the off-peak period and utilize the stored energy during peak period. Vasundhara Mahajan et al., *Reliability modeling of renewable energy sources with energy storage devices*, Energy Storage in Energy Markets (2021), Academic Press, <https://www.sciencedirect.com/topics/engineering/storage-device> (last visited Jan. 27, 2022).

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s.1013.372 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Education on February 1, 2022:

The committee substitute removes from the bill the provision that would prohibit a renewable energy source device located on the property of an education facility from generating a cumulative amount of energy during a calendar year which is greater than the energy that the facility consumes during the calendar year.

B. Amendments:

None.



557736

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

The Committee on Education (Berman) recommended the following:

Senate Amendment (with title amendment)

Delete lines 34 - 38
and insert:
energy storage devices.

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

And the title is amended as follows:

Delete lines 8 - 10
and insert:
made;

By Senator Berman

31-00186B-22

2022600__

A bill to be entitled

An act relating to upgrades to education facilities as emergency shelters; amending s. 1013.372, F.S.; exempting costs of less than \$2 million associated with certain upgrades to education facilities from being included in certain cost per student station calculations; specifying eligible updates that may be made; prohibiting renewable energy source devices located on the property of an education facility from generating more than a specified amount of energy; requiring costs associated with certain upgrades to be consistent with prevailing market costs in the area where the education facility is located; providing an effective date.

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

Section 1. Present subsection (3) of section 1013.372, Florida Statutes, is redesignated as subsection (4), and a new subsection (3) is added to that section, to read:

1013.372 Education facilities as emergency shelters.—

(3) Any costs of less than \$2 million associated with upgrades to an education facility which are designed to improve the capabilities of the facility to provide enhanced hurricane protection areas in accordance with the Florida Building Code may not be included in calculating the total cost per student station for purposes of meeting the limits under s. 1013.64(6)(b).

(a) Eligible upgrades under this subsection are limited to

Page 1 of 2

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31-00186B-22

2022600__

those necessary for an area to be designated as an enhanced hurricane protection area; electrical and standby emergency power systems as provided in the Florida Building Code; renewable energy source devices as defined in s. 193.624(1); and energy storage devices. A renewable energy source device located on the property of an education facility may not generate a cumulative amount of energy during a calendar year which is greater than the energy that the facility consumes during the calendar year.

(b) All costs associated with upgrades made pursuant to this subsection must be consistent with prevailing market costs in the area where the education facility is located.

Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 390

INTRODUCER: Senators Book and Rodrigues

SUBJECT: Restraint of Students with Disabilities in Public Schools

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	Favorable
2.			AED	
3.			AP	

I. Summary:

SB 390 prohibits the use of mechanical restraint by school personnel except for school resource officers, school safety officers, school guardians, or school security guards, who may use mechanical restraint in the exercise of their duties to restrain students in grades 6 through 12.

The bill takes effect July 1, 2022.

II. Present Situation:

The Individuals with Disabilities Education Act (IDEA)¹ was enacted to ensure that all children with a disability have available to them a free appropriate public education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and ensuring that the rights of children with disabilities and parents of such children are protected.² Accordingly, Florida law specifies conditions regarding the use of restraint and seclusion on students with a disability.³

School District Responsibilities

School districts are required to have policies and procedures governing the use of restraint on students with disabilities, including the designation of school personnel authorized to use positive behavioral interventions and supports and restraint.⁴

¹ 20 U.S.C. s. 1400 et seq.

² U.S. Department of Education, *IDEA Purpose*, <https://sites.ed.gov/idea/about-idea> (last visited Jan. 27, 2022).

³ Section 1003.573, F.S.

⁴ Section 1003.573(4), F.S.

Prohibitions on the use of Restraint

Authorized school personnel may only use mechanical or physical restraint after all positive behavioral interventions and supports have been exhausted and only when there is an imminent risk of serious injury.⁵ The use of restraint must end once the imminent risk of serious injury has ended.⁶

School personnel are prohibited from using certain methods of restraint. Specifically, personnel may never use:⁷

- Restraint to inflict pain to induce compliance.
- Restraint for student discipline.
- Mechanical or physical restraint techniques or devices such as straightjackets, zip ties, handcuffs, or tie downs in a manner that may obstruct or restrict breathing or blood flow or that place a student in a face down position with the student's hands restrained behind the student's back.

Reporting of Incidents of Restraint

Florida law requires a school to prepare an incident report within 24 hours after a student is released from restraint or seclusion. The incident report must contain:⁸

- The name, age, grade, ethnicity, and disability of the student restrained or secluded.
- The date and time of the event and the duration of the restraint or seclusion.
- A description of the type of restraint.
- A description of the incident.

During August through November of the 2021-2022 school year, school districts reported 2,175 incidents of restraint on 1,546 students. Approximately three to four percent of the incidents involved mechanical restraint.⁹

Safe-School Officers

For the protection and safety of school personnel, property, students, and visitors, each district school board and school district superintendent is required to partner with law enforcement agencies or security agencies to establish or assign one or more safe-school officers options at each school facility within the district, including charter schools. These options include:¹⁰

- Establishing a School Resource Officer (SRO) program through a cooperative agreement with law enforcement agencies. SROs are certified law enforcement officers¹¹ who must

⁵ Section 1003.573(3)(a), F.S. The degree of force applied during the use of physical restraint must be limited to the degree of force necessary to protect the student or others from imminent risk of serious injury. Section 1003.573(3)(c), F.S.

⁶ Section 1003.573(3)(a), F.S.

⁷ Section 1003.573(a) and (b), F.S.

⁸ Section 1003.573(1), F.S. If the student's release occurs on a day before the school closes for the weekend, a holiday or another reason, the incident report must be completed by the end of the school day on the day the school reopens. *Id.*

⁹ Florida Department of Education, *Program Accountability, Assessment & Data Systems*, <https://www.fldoe.org/academics/exceptional-student-edu/data/> (last visited Jan. 27, 2022). (Tabulate the data in the pdf files in the section on SWD Restraint Data – SY 2021-22.)

¹⁰ Section 1006.12, F.S.

¹¹ “Law enforcement officer” means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary

meet specified screening requirements¹² and also complete mental health crisis intervention training.

- Commissioning one or more school safety officers. School safety officers are certified law enforcement officers with the power of arrest on district school property, who are employed by either a law enforcement agency or by the district school board. School safety officers must undergo the same screening requirements and crisis intervention training as an SRO.
- Participating in the Coach Aaron Feis Guardian Program.
- Contracting with a security agency¹³ to employ as a school security guard an individual who holds a Class “D” and Class “G” license¹⁴ and completes the same training and evaluation requirements as a school guardian.

Employing a school guardian is an option for district school boards to meet the safe-school officer requirements in law.¹⁵ Persons certified as school guardians have no authority to act in any law enforcement capacity except to the extent necessary to prevent or abate an active assailant incident.¹⁶

III. Effect of Proposed Changes:

SB 390 prohibits the use of mechanical restraint by school personnel except for school resource officers, school safety officers, school guardians, or school security guards, who may use mechanical restraint in the exercise of their duties to restrain students in grades 6 through 12.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. Section 943.10(1), F.S.

¹² SROs must undergo criminal background checks, drug testing, and a psychological evaluation. Section 1006.12(1)(a), F.S.

¹³ “Security agency” means any person who, for consideration, advertises as providing or is engaged in the business of furnishing security services, armored car services, or transporting prisoners. This includes any person who utilizes dogs and individuals to provide security services. Section 493.6101(18), F.S.

¹⁴ License requirements are specified in chapter 493.

¹⁵ Section 1006.12(3), F.S.

¹⁶ Section 30.15(1)(k), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1003.573 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Book

32-00444-22

2022390__

1 A bill to be entitled
 2 An act relating to restraint of students with
 3 disabilities in public schools; amending s. 1003.573,
 4 F.S.; prohibiting school personnel from using
 5 mechanical restraint on students with disabilities;
 6 providing exceptions; conforming provisions to changes
 7 made by the act; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Subsection (3) of section 1003.573, Florida
 12 Statutes, is amended to read:
 13 1003.573 Seclusion and restraint of students with
 14 disabilities in public schools.—
 15 (3) RESTRAINT.—
 16 (a) School personnel may not use mechanical restraint. This
 17 paragraph does not apply to school resource officers, school
 18 safety officers, school guardians, or school security guards as
 19 described in s. 1006.12, who may use mechanical restraint in the
 20 exercise of their powers and duties to restrict students in
 21 grades 6 through 12.
 22 (b) Authorized school personnel may use physical restraint
 23 only when all positive behavior interventions and supports have
 24 been exhausted. Physical restraint may be used only when there
 25 is an imminent risk of serious injury and must shall be
 26 discontinued as soon as the threat posed by the dangerous
 27 behavior has dissipated. ~~Techniques or devices such as~~
 28 ~~straightjackets, zip ties, handcuffs, or tie downs may not be~~
 29 ~~used in ways that may obstruct or restrict breathing or blood~~

Page 1 of 2

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2022390__

30 ~~flow or that place a student in a facedown position with the~~
 31 ~~student's hands restrained behind the student's back. Physical~~
 32 ~~restraint techniques may not be used to inflict pain to induce~~
 33 ~~compliance.~~
 34 ~~(c)(b)~~ Notwithstanding the authority provided in s.
 35 1003.32, physical restraint ~~may shall~~ be used only to protect
 36 the safety of students, school personnel, or others and may not
 37 be used for student discipline or to correct student
 38 noncompliance.
 39 ~~(d)(e)~~ The degree of force applied during physical
 40 restraint must be only that degree of force necessary to protect
 41 the student or others from imminent risk of serious injury.
 42 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 1226
 INTRODUCER: Education Committee and Senator Brandes
 SUBJECT: Virtual Learning
 DATE: February 2, 2022 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:
 COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1226 creates the Florida Virtual School Justice Education Program (FLVS JEP) to serve specified Department of Correction (DOC) inmates, and makes a number of modifications to Florida Virtual School (FLVS) responsibilities and funding provisions. Specifically the bill:

- Authorizes the FLVS to offer online distance and blended learning courses.
- Removes authorization for the FLVS Board of Trustees to adopt specified procedures.
- Requires the FLVS, beginning in the 2022-2023 school year, to establish the FLVS JEP to offer inmates younger than 22 years of age the opportunity to earn a standard high school diploma.
- Adds students enrolled in the FLVS JEP as a priority population to be served by the school.
- Authorizes funding for full-time FLVS JEP students enrolled in online or blended learning courses, including during a specified summer school period.
- Requires students enrolled in the FLVS JEP to take all industry certification exams, national and statewide standardized assessments at the institution under the supervision of the DOC.
- Requires the FLVS JEP school performance be assessed based on demonstrated student learning gains and student progression.
- Requires blended or online learning courses to be delivered in an educational setting under the supervision of the DOC by FLVS certified personnel.
- Authorizes a student who turns 22 years of age to remain in the program if approved, but funding for such a student through the Florida Education Finance program is prohibited.

- Requires the DOE, with the assistance of the FLVS and the DOC, to select a common student assessment instrument and protocol for measuring student learning gains.
- Authorizes a student who is removed from the program to appeal to the DOE to seek reinstatement, subject to the final determination by the Commission of Education.
- Requires by July 1, 2023, and annually thereafter, the FLVS to negotiate a specified cooperative agreement with the DOC to implement the FLVS JEP.
- Specifies that the FLVS JEP does not prohibit a student from participating in other DOC educational programs.

The bill also modifies the definition of an FLVS full-time equivalent student to differentiate between online learning and blended learning funding models. In addition, the bill adds that students enrolled in the FLVS JEP are authorized for funding beyond the 180-day regular term.

The fiscal impact of the bill is indeterminate, but significant. See Section V.

The bill takes effect on July 1, 2022.

II. Present Situation:

Digital Learning Now Act

In 2011, the Florida Legislature created the Digital Learning Now Act to provide all kindergarten through grade 12 students with access to multiple high quality part-time and full-time digital learning options, including:¹

- Part-time or full-time virtual charter school instruction.
- Florida Virtual School (FLVS).
- School district operated part-time or full-time virtual instruction program options.
- Other online and blended courses.

Blended Learning

School districts and charter schools may deliver blended learning courses consisting of both traditional classroom and online instructional techniques. Students in a blended learning course must be full-time students of the school, and the funding, performance, and accountability requirements for blended learning courses are the same as those for traditional courses.²

District virtual schools, virtual charter schools, and the FLVS are not expressly authorized to offer blended learning courses and are only funded through the Florida Education Finance Program (FEFP) for online courses completed through virtual learning.³

¹ Section 1002.321(4) and Section 1002.455, F.S.

² Section 1003.498(1), F.S. Section 1002.33(7)(a), F.S.

³ Section 1011.61, F.S.

Virtual Learning

Florida defines a virtual instruction program as a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.⁴

Virtual learning has grown significantly over the last decade and, more recently, was thrust into the spotlight because of the shift to remote instruction caused by the COVID-19 pandemic. In the 2019-2020 school year, full-time virtual schools enrolled more than 330,000 students, and statewide programs provided over 1 million courses.

The Florida Virtual School

The FLVS was established to develop and deliver online and distance learning education,⁵ and is part of the Florida public school system.⁶ The Commissioner of Education (commissioner) is charged with monitoring the FLVS.⁷ The FLVS is required to serve any student in the state who meets the profile for success, giving priority to students:⁸

- Who need expanded access to courses in order to meet their educational goals.
- Seeking accelerated access to obtain a high school diploma at least one semester early.
- Who are children of an active duty member of the United States Armed Forces whose home of record or state of legal residence is Florida.

FLVS Governance

The FLVS is governed by a Board of Trustees (BOT), comprised of seven members appointed by the Governor to four-year staggered terms that must, among other requirements:⁹

- Be responsible for the development of a state-of-the-art technology-based education delivery system that is cost-effective, educationally sound, marketable, and self-sufficient.
- Aggressively seek avenues to generate revenue to support future endeavors, and enter into agreements with distance learning providers.
- Be responsible for the administration and control of all local school funds.
- Administer and maintain personnel programs for all employees.
- Establish priorities for student enrollment.
- Maintain financial records and accounts.

The BOT must submit an annual report to the Governor, the Legislature, the commissioner, and the SBE that addresses the FLVS and FLVS Global.¹⁰ The report must describe operations, marketing, finances, accomplishments, recommendations regarding the unit cost of providing

⁴ Section 1002.45(1), F.S.

⁵ Section 1002.37(1), F.S.

⁶ Section 1000.04(4), F.S.

⁷ Section 1002.37(1)(a), F.S.

⁸ *Id.*

⁹ Section 1002.37(2), F.S.

¹⁰ FLVS Global provides instruction courseware, training, and expertise to online and blended programs for schools, districts, states, and international agencies. FLVS Global is now known as Flexpoint Education Cloud. FlexPoint Education Cloud, *About us*, <https://www.flvsglobal.net/about-us/> (last visited Jan. 27, 2022).Section 1002.37(7), F.S.

services to students, and recommendations regarding an accountability mechanism to assess the effectiveness of the services provided.

FLVS Operations

The FLVS is authorized to provide full-time and part-time instruction for students in kindergarten through grade 12.¹¹ Public school students receiving full-time and part-time instruction by the FLVS must take all statewide assessments required pursuant to law.¹² In addition, the FLVS offers a comprehensive selection of courses that fulfill all state standards, including core courses, world language electives, Advanced Placement,¹³ Advanced International Certificate of Education,¹⁴ and Career and Technical Education (CTE)¹⁵ courses.

As a public school, federal law¹⁶ requires FLVS to provide full-time enrolled students, regardless of disability, with an equal opportunity to participate in and benefit from the school's education program.¹⁷

The FLVS must receive a school grade for students receiving full-time instruction.¹⁸

Students enrolled full-time may earn a standard high school diploma from FLVS.¹⁹ However, the FLVS does not currently offer a General Education Development (GED)²⁰ high school equivalency diploma program.²¹

¹¹ Section 1002.37(9), F.S.

¹² Section 1002.37(10), F.S.

¹³ The AP program offers students the opportunity to take college-level courses and exams in high school and earn college credit. CollegeBoard, *Advanced Placement Program (AP)*, <https://parents.collegeboard.org/college-board-programs/advanced-placement-program#:~:text=Advanced%20Placement%20Program%20%28AP%29%201%20Fast%20Facts.%20There,just%20like%20when%20they%20take%20any%20other%20course.> (last visited Jan. 28, 2022).

¹⁴ The Cambridge Advanced International Certificate of Education (AICE) Diploma is an international curriculum and examination system that emphasizes the value of broad and balanced study. Cambridge Assessment International Education, *Cambridge AICE Diploma*, <https://www.cambridgeinternational.org/programmes-and-qualifications/cambridge-advanced/cambridge-aice-diploma/> (last visited Jan. 28, 2022).

¹⁵ FLVS offers industry certification pathways in web application development and programming, applied cybersecurity, agriculture communications, finance, education and training, and hospitality and tourism management. FLVS, *Get Inspired with Career and Technical Education at FLVS, Find Your Path*, <https://www.flvs.net/online-courses/career-education-courses?source=courses/flex> (last visited Jan. 28, 2021).

¹⁶ The Individuals with Disabilities Education Act (IDEA) requires a FAPE to eligible children¹⁶ with disabilities and ensures special education and related services are provided to those children. Children from birth through age 21 may receive intervention, special education and related services. U.S. Department of Education, *IDEA Individuals with Disabilities Education Act*, <https://sites.ed.gov/idea/about-idea/#IDEA-Purpose> (last visited Jan. 27, 2022).

¹⁷ FLVS, *FLVS Full Time Frequently Asked Questions*, <https://www.flvs.net/full-time/more?source=2020info#faqs> (last visited Jan. 28, 2022).

¹⁸ Section 1002.37(11), F.S.

¹⁹ FLVS, *FLVS Full Time Frequently Asked Questions*, <https://www.flvs.net/full-time/more?source=2020info#faqs> (last visited Jan. 28, 2022).

²⁰ Florida offers the 2014 GED for Florida students seeking a high school equivalency diploma. Rule 6A-6.0201, F.A.C. Florida Department of Education, *High School Equivalency Diploma Program – GED Testing*, <https://www.fldoe.org/academics/career-adult-edu/hse/> (last visited Jan. 28, 2022).

²¹ FLVS, *FLVS High School Courses*, <https://www.flvs.net/online-high-school-courses> (last visited Jan. 28, 2022). Email, Mike Miller, FLVS (Jan. 28, 2022).

FLVS Funding

The FEFP is the primary mechanism for funding the operating costs of FLVS. Under the FEFP, financial support for education is based on the full-time equivalent²² (FTE) student membership in public schools.²³ An FTE student in a virtual instruction program, virtual charter school, or FLVS is funded on performance and only funded if the student completes the course with a passing grade or credits earned.²⁴

Student membership in programs scheduled for more than 180 days is limited to students enrolled in Department of Juvenile Justice (DJJ) education programs, FLVS, and other specified virtual instruction programs.²⁵ Funding on the basis of FTE membership beyond the 180-day regular term is provided only for students enrolled in DJJ programs.²⁶

During the 2019-2020 school year, FLVS served 12,567 full-time students and over 360,753 semester courses were completed by part-time students.²⁷

Florida High School Diploma

Requirements

Florida law establishes academic requirements for earning a standard high school diploma to include five options.²⁸

- 24-credit program;²⁹
- Career and Technical Education Pathway;³⁰
- An International Baccalaureate curriculum;³¹
- An Advanced International Certificate of Education curriculum;³² or
- 18-credit Academically Challenging Curriculum to Enhance Learning option.³³

The 24 credits required for a standard high school diploma include:³⁴

²² A “full-time student” is one student on the membership roll of one school program or a combination of school programs for the school year or the equivalent for instruction in a standard school, comprising not less than 900 net hours for a student in or at the grade level of 4 through 12, or not less than 720 net hours for a student in or at the grade level of kindergarten through grade 3 or in an authorized prekindergarten exceptional program. Section 1011.61(1), F.S.

²³ Section 1011.62, F.S.

²⁴ DOE, *FTE General Instructions 2021-22* (2021), available at <https://www.fldoe.org/core/fileparse.php/7508/urlt/2122FTEGeneralInstructions.pdf>, at 39-50. Section 1011.61(1)(c)1.b(III)-(VI), F.S.

²⁵ Section 1011.61 (1)(c)2., F.S.

²⁶ Section 1011.62(1)(f), F.S.

²⁷ DOE, *Fact Sheet, Office of Independent Education and Parental Choice* (2021), available at <http://www.fldoe.org/core/fileparse.php/5606/urlt/Virtual-Sept.pdf>.

²⁸ In addition to the five options available for students to earn a standard diploma, students with disabilities have two additional options. Rule 6A-1.09963, F.A.C. DOE, *Standard Diploma Requirements*, <https://www.fldoe.org/core/fileparse.php/7764/urlt/StandardDiplomaRequirements.pdf> (last visited Jan., 25, 2022).

²⁹ Section 1003.4282(1)(a), F.S.

³⁰ Section 1003.4282(10), F.S.

³¹ Section 1003.4282(1)(a), F.S.

³² *Id.*

³³ Section 1002.3105(6), F.S.

³⁴ Section 1003.4282(3)(a)-(g), F.S.

- Four credits in English Language Arts (ELA);
- Four credits in mathematics;
- Three credits in science;
- Three credits in social studies;
- One credit in fine or performing arts, speech, and debate, or practical arts;
- One credit in physical education; and
- Eight credits in electives.

Within the 24 credits, at least one course must be completed through online learning.³⁵ In addition to successful completion of the required courses a student must earn a cumulative grade point average (GPA) of 2.0 on a 4.0 scale³⁶ and must pass the following required statewide standardized assessments:

- Grade 10 ELA assessment or earn a concordant score;³⁷ and
- Algebra I end-of-course (EOC) assessment or earn a comparative score.³⁸

School Grading System

School grades provide an easily understandable way to measure the performance of a school. Parents and the general public can use the school grade and its components to understand how well each school is serving its students.³⁹ School grades are used in the state system of school improvement and accountability to determine the need for school intervention and support,⁴⁰ or to determine whether a school is eligible for school recognition funds.⁴¹

School improvement rating

School improvement ratings are calculated for alternative schools and exceptional student education center schools that choose to receive a school improvement rating in lieu of a school grade.⁴² The commissioner prepares an annual report on the performance of each school receiving a school improvement rating.⁴³ Schools that elect a school improvement rating in lieu of a school grade will have the rating based on student learning gains for statewide, standardized assessments for ELA and mathematics⁴⁴

³⁵ Section 1003.4282(4), F.S.

³⁶ Section 1003.4282(3) and s. 1003.4282(6)(a), F.S.

³⁷ Section 1003.4282(3)(a), F.S. Students and adults who have not yet earned their required passing score on the Grade 10 FSA ELA Assessment, may meet this testing requirement to qualify for a high school diploma by earning a concordant passing score on the SAT or ACT. Rule 6A-1.09422(8)(a)2., F.A.C.

³⁸ Section 1003.4282(3)(b)1. and (9)(d)2., F.S. Students and adults who have not yet earned their required passing score on the Algebra 1 EOC assessment, may meet this testing requirement to qualify for a high school diploma by earning a comparative passing score on the Math section of the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), the SAT or the ACT or on the Geometry EOC assessment. Rule 6A-1.09422(8)(b)2., F.A.C.

³⁹ DOE, *2019 School Grades Overview* (2019), available at

<http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesOverview19.pdf>.

⁴⁰ See s. 1008.33(4), F.S.

⁴¹ See s. 1008.36, F.S.

⁴² Section 1008.341; 1008.3415, F.S.; Rule 6A-1.099822 and 6A-1.099828, F.A.C.

⁴³ Section 1008.341(1), F.S.

⁴⁴ DOE, *2020-21 Guide to Calculating School Improvement Ratings, July 2021*, available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SIRCalcGuide19.pdf>.

The DJJ education program also includes the school improvement ratings required for alternative schools, however, the calculation is customized to meet the needs of the DJJ population.⁴⁵

Department of Corrections

The Department of Corrections (DOC) by mission is to provide a continuum of services to meet the needs of those entrusted to its care, creating a safe and professional environment with the outcome of reduced victimization, safer communities, and an emphasis on the premium of life.⁴⁶ One aspect of the DOC's responsibility to affect positive results for the reintegrating the population and Florida's communities is to operate the Correctional Education Program (CEP).⁴⁷

Education for State Prisoners

Section 944.801, F.S., establishes the CEP under the DOC, which must be composed of the educational facilities and services of all institutions and facilities housing inmates operated by the DOC. The duties of the CEP, in part, include:⁴⁸

- Developing guidelines for collecting education-related information during the inmate reception process and for disseminating such information to specified staff.
- Monitoring, assessing, and reporting inmate education program services as required.
- Approving educational programs and developing procedures for admission.
- Entering into agreements, as appropriate, with colleges, universities, and public or private school districts, including charter schools and the FLVS.
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution.
- Selecting programs to add or delete from the vocational curriculum.
- Ensuring that every inmate who has 2 years or more remaining to serve on his or her sentence and who lacks basic and functional literacy skills⁴⁹ attends not fewer than 150 hours of sequential instruction in a correctional adult basic education⁵⁰ program.
- Recommending the award of additional incentives for inmates who receive a high school equivalency diploma or a vocational certificate.
- Ensuring that all education staff are certified in accordance with the DOE standards.

The CEP is established in 51 state-operated institutions and 7 privately owned facilities across Florida.⁵¹ It is designed to prepare students for the GED examination and receipt of a State of

⁴⁵ DOE, *2020-21 Guide to Calculating DJJ Accountability Ratings* (2020), available at, <https://www.fldoe.org/core/fileparse.php/18534/urlt/DJJCalcGuide21.pdf>. Section 1003.52(3)(d), F.S.

⁴⁶ DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022) at 2.

⁴⁷ *Id.*

⁴⁸ Section 944.801(3), F.S. The Secretary of Corrections is the head of the DOC and is responsible for, among other duties, to provide for the direct management of all departmental programs, including the coordination and delivery of education and job training to the offenders in the custody of the department. Section 20.315(3), F.S.

⁴⁹ "Functional literacy," which is also referred to as "intermediate adult basic education," means the demonstration of academic competence from 6.0 through 8.9 educational grade levels as measured by means approved for this purpose by the State Board of Education. Section 1004.02(15), F.S.

⁵⁰ "Adult basic education" means courses of instruction designed to improve the employability of the state's workforce through instruction in mathematics, reading, language, and workforce readiness skills at grade level equivalency. Section 1004.02(1), F.S.

⁵¹ DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022) at 2.

Florida high school equivalency diploma in accordance with DOE adult education curriculum frameworks and performance standards.⁵² The CEP also offers CTE programs that are also aligned with DOE curriculum frameworks and performance standards. In addition to the opportunity to complete the GED and a variety of CTE certifications, the DOC offers job assignment credentialing programs that provide job-related instruction and industry-related credentials designed to improve the employability of Florida's workforce.⁵³ The DOC holds active and outcome-based agreements and contracts with community providers, universities, and colleges to provide credits and credentials leading to licensure within the existing training courses in several state-operated institutions.⁵⁴

Participation in the CEP is not mandatory. The CEP operates by an assessment-based student progress monitoring process to gauge academic skills and readiness for the GED exam with educational services directed to inmates with the most critical need. This educational approach has been deliberately developed to address the educational needs of incarcerated adults while avoiding some of the challenges of treating them as youthful learners.⁵⁵

Not considered to be primarily an educational agency, but rather the state corrections agency for adjudicated adults, the CEP does not receive funding through the FEFPP, tabulate grade point averages, monitor credit accrual, nor retain or issue official transcripts for adult students.⁵⁶

As of January 2021, the DOC incarcerates approximately 80,000 persons. During 2020-2021, a total of 14,877 inmates participated in academic education programs resulting in the conferring of 812 GEDs with an operational cost of approximately \$1,300 per student. As measured through progress monitoring, 3,968 students made the following learning gains:⁵⁷

- 45.2 percent demonstrated gains of 1 or more levels in mathematics;
- 54.1 percent advanced 1 or more levels in reading; and
- 51 percent showed academic gains of 1 or more levels in language.

Traditionally the DOC tends to concentrate educational needs on the younger demographic, especially those who qualify under IDEA⁵⁸ and are entitled to education services until the age of 22. Not all such inmates qualify for special education services, but for those that do, the DOC provides the required accommodations and modifications.⁵⁹

Currently there are 1,634 inmates under 22 years of age, housed at 100 institutions across the state, including 595 located at a privately operated facility managed by the Department of Management Services. Others are located at work camps and community release centers. Of

⁵² DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022) at 2.

⁵³ *Id.*

⁵⁴ DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022), at 4.

⁵⁵ *Id.* at 2.

⁵⁶ *Id.*

⁵⁷ *Id.* at 3.

⁵⁸ The Individuals with Disabilities Education Act (IDEA) is a federal law that makes available a FAPE to eligible children⁵⁸ with disabilities throughout the nation and ensures special education and related services are provided to those children. Children from birth through age 21 may receive intervention, special education and related services. U.S. Department of Education, *IDEA Individuals with Disabilities Education Act*, <https://sites.ed.gov/idea/about-idea/#IDEA-Purpose> (last visited Jan. 27, 2022).

⁵⁹ DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022).

these, 1,196 are listed as not having a high school diploma or GED, and 206 are currently in restrictive housing or a disciplinary confinement setting. The highest level of education claimed is as follows:⁶⁰

Grade Level	Number of Inmates
Fourth Grade	2
Fifth Grade	2
Sixth Grade	15
Seventh Grade	25
Eighth	89
Ninth Grade	147
Tenth Grade	205
Eleventh Grade	258
Twelfth Grade	126
First Year of College	1
None	256
Unknown	70
Total	1196

Within this demographic, 380 are verified to have cognitive disabilities and are federally required to receive special education services. Of the 380 special education eligible inmates, 133 refused services and programming.⁶¹

In addition, the DOC has received \$750,000 in state funds to provide an online career education and high school diploma program for the same demographic of students. As authorized in the appropriation, the DOC may contract with the FLVS or similar provider to provide the program.⁶²

III. Effect of Proposed Changes:

CS/SB 1226 creates s. 1002.371, F.S., to establish the Florida Virtual School Justice Education Program (FLVS JEP) to serve specified Department of Correction (DOC) inmates, and makes a number of modifications to Florida Virtual School (FLVS) responsibilities and funding provisions.

Florida Virtual School

The bill modifies the purpose of the FLVS to replace the development and delivery of online and distance learning education with the development and delivery of online distance and blended learning education. In addition the bill:

- Adds students enrolled in the FLVS JEP as a priority population to be served by the school.

⁶⁰ DOC, 2022 Legislative Bill Analysis of SB 1226 (Jan. 26, 2022), at 4.

⁶¹ Inmate participation in the CEP is voluntary. DOC, 2022 Legislative Bill Analysis of SB 1226 (Jan. 26, 2022), at 4.

⁶² *Id.* at 6. s. 4, ch. 2020-111, L.O.F. Specific Appropriation, 714, s. 4, ch. 2021-36, L.O.F. The DOC posted a request for proposal for this program in Oct. 2020. Due to the lack of response, the DOC initiated a new procurement, an Intent to Negotiate (ITN-21-041) in November 2021 with responses scheduled back in March 2022. Email, Senate Appropriations Subcommittee on Education (Jan. 28, 2022).

- Requires the Board of Trustees (BOT) to enter into agreements with online distance and blended learning providers, rather than distance learning providers, and requires the BOT to submit to the State Board of Education (SBE) the number of students enrolled in the FLVS JEP program.
- Removes authorization for the BOT to adopt specified procedures.
- Beginning in 2022-2023, requires the FLVS to include specified FLVS JEP information in the required annual report submitted to the Governor, Legislature, Commissioner of Education (commissioner), and SBE.
- Requires students enrolled in the FLVS JEP to take all industry certification exams, national assessments, and statewide standardized assessment at the institution or facility operated by, or under the supervision of the DOC.
- Requires that FLVS JEP school performance be assessed based on demonstrated student learning gains and student progression.

Florida Virtual School Justice Education Program

The bill requires the FLVS to establish the FLVS JEP beginning in the 2022-2023 school year to offer inmates younger than 22 years of age housed in institutions and facilities operated by, or under the supervision of, the DOC the opportunity to earn a standard high school diploma. Specifically the bill:

- Requires blended or online learning courses to be delivered in an educational setting under the supervision of the DOC by FLVS-certified personnel.
- Defines a blended learning course as a course consisting of both traditional classroom and online instructional techniques. Students in such courses must be full-time students of the school, and that the funding, performance, and accountability requirements for such courses are the same as those for traditional classroom courses.
- Requires the FLVS JEP to include and receive funding for a specified summer school period.
- Authorizes a student who turns 22 years of age to remain in the program if approved, however funding for such a student through the FEFP is prohibited.
- Requires the DOE, with the assistance of the FLVS and the DOC, to select a common student assessment instrument and protocol for measuring student learning gains for students enrolled in the FLVS JEP. The assessment instrument and protocol must be jointly reviewed for effectiveness with changes implemented as necessary.
- Authorizes a student who is removed from the program to appeal to the DOE to seek reinstatement, subject to the final determination by the commissioner.
- Requires by July 1, 2023, and annually thereafter, the FLVS to negotiate a cooperative agreement with the DOC for the delivery of educational services to implement the FLVS JEP, which includes:
 - Roles and responsibilities of the FLVS and the DOC.
 - Resolution of administrative issues.
 - Allocation of resources.
 - Procedures for educational evaluation for exceptional education students.
 - Procedures for individualized progress monitoring plans.
 - Curriculum and delivery of instruction, including resources required for technology.
 - Procedures for assessments.
 - Classroom management procedures and attendance policies.
 - Procedures for the provision of qualified personnel.

- Provisions for improving skills in teaching and working with students in the FLVS JEP.
- Transition plans for student moving into and out of the FLVS JEP.
- Procedures for the documentation of credits earned.
- Methods and procedures for dispute resolution.
- Provisions for ensuring the safety of educational personnel and support of the FLVS JEP.
- Provides that FLVS is not required to provide more services than can be supported by the funds generated by students participating in the FLVS JEP.
- Specifies that participation in the FLVS JEP does not prohibit a student from participating in other DOC educational programs.
- Requires the SBE to adopt rules to administer the FLVS JEP.

The bill also modifies the definition of an FLVS full-time equivalent student to differentiate between online learning and blended learning funding models. In addition, the bill adds that students enrolled in the FLVS JEP are authorized for funding beyond the 180-day regular term.

The establishment of the FLVS JEP may offer additional opportunities for up to 1,196 inmates to earn a standard high school diploma. It is unclear if this program competes with the \$750,000 allocation provided through the General Appropriations Act to the DOC for a similar program.⁶³

Clarification may also be needed to ensure eligible inmates at a privately operated facility managed by the Department of Management Services may participate in the FLVS JEP.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁶³ DOC, 2022 *Legislative Bill Analysis of SB 1226* (Jan. 26, 2022).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is an indeterminate significant negative fiscal impact to the future costs for adding the additional FTE students to the Florida Education Finance Program.⁶⁴

The Department of Corrections (DOC) recommends adding additional full-time equivalent (FTE) positions and costs as follows:⁶⁵

- Two FTE in the central office for infrastructure and security at a cost of \$194,472.
- One FTE per site at cost of \$73,462 per site to support the lifecycle management of the equipment, infrastructure, and related security to support the Florida Virtual School Justice Education Program (FLVS JEP). To scale the program statewide, the DOC recommends 50 site-based FTE at a cost of \$3,673,103.

In addition, the DOC estimates a technology impact to provide for the computer workstations, infrastructure, software licensing for a single site with 200 workstations to cost \$400,000-\$550,000 with \$200,000-\$250,000 of recurring funding annually.⁶⁶ It is unclear what the technology impact may be to scale the program across the 100 facilities where eligible inmates are currently housed.

It is also unclear how these costs may be shared between the DOC and Florida Virtual School (FLVS) and if there is an additional fiscal impact to the FLVS or Department of Education to implement the FLVS JEP.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There may be a conflict in statutory responsibilities authorizing the Commissioner of Education to act as the ultimate decision-maker in hearing inmate student appeals regarding reinstatement of a student inmate who has been removed from the Florida Virtual School Justice Education Program. Decisions impacting the daily lives of inmates are under the purview of the Secretary of Correction pursuant to s. 20.315, F.S.⁶⁷

⁶⁴ Email, Senate Appropriations Subcommittee on Education (Jan. 30, 2022).

⁶⁵ DOC, *2022 Legislative Bill Analysis of SB 1226* (Jan. 26, 2022).

⁶⁶ *Id.*

⁶⁷ *Id.* at 11.

VIII. Statutes Affected:

This bill substantially amends sections 1002.37, 1011.61, and 1011.62 of the Florida Statutes.

This bill creates section 1002.371 of the Florida Statutes.

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

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

CS by Education on February 1, 2022:

The committee substitute modifies provisions of s. 1002.37, F.S., the Florida Virtual School (FLVS). Specifically, the committee substitute:

- Revises the purpose of the FLVS to provide for the development and delivery of online distance and blended learning education rather than the development and delivery of online and blended learning education.
- Requires the Board of Trustees (BOT) to enter into agreements with online distance and blended learning providers, rather than blended learning providers,
- Removes authorization for the FLVS BOT to adopt specified procedures.
- Restores to current law, FLVS funding provisions under s. 1002.37, F.S.

B. Amendments:

None.



290644

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

The Committee on Education (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 66 - 181

and insert:

Section 1. Paragraphs (a) and (b) of subsection (1) and subsections (2), (7) and (11) of section 1002.37, Florida Statutes, are amended, and paragraph (e) is added to subsection (10) of that section, to read:

1002.37 The Florida Virtual School.—

(1) (a) The Florida Virtual School is established for the development and delivery of online ~~and~~ distance and blended



290644

12 learning education. The Commissioner of Education shall monitor
13 the school's performance and report its performance to the State
14 Board of Education and the Legislature.

15 (b) The mission of the Florida Virtual School is to provide
16 students with technology-based educational opportunities to gain
17 the knowledge and skills necessary to succeed. The school shall
18 serve any student in this ~~the~~ state who meets the profile for
19 success in this educational delivery context and shall give
20 priority to:

21 1. Students who need expanded access to courses in order to
22 meet their educational goals, such as home education students
23 and students in inner-city and rural high schools who do not
24 have access to higher-level courses.

25 2. Students seeking accelerated access in order to obtain a
26 high school diploma at least one semester early.

27 3. Students who are children of an active duty member of
28 the United States Armed Forces who is not stationed in this
29 state whose home of record or state of legal residence is
30 Florida.

31 4. Students enrolled in the Florida Virtual School Justice
32 Education Program pursuant to s. 1002.371.

33
34 The board of trustees of the Florida Virtual School shall
35 identify appropriate performance measures and standards based on
36 student achievement that reflect the school's statutory mission
37 and priorities, and shall implement an accountability system for
38 the school that includes assessment of its effectiveness and
39 efficiency in providing quality services that encourage high
40 student achievement, seamless articulation, and maximum access.



41 (2) The Florida Virtual School shall be governed by a board
42 of trustees comprised of seven members appointed by the Governor
43 to 4-year staggered terms. The board of trustees shall be a
44 public agency entitled to sovereign immunity pursuant to s.
45 768.28, and board members shall be public officers who shall
46 bear fiduciary responsibility for the Florida Virtual School.
47 The board of trustees shall have the following powers and
48 duties:

49 (a)1. The board of trustees shall meet at least 4 times
50 each year, upon the call of the chair, or at the request of a
51 majority of the membership.

52 2. The fiscal year for the Florida Virtual School shall be
53 the state fiscal year as provided in s. 216.011(1)(o).

54 (b) The board of trustees shall be responsible for the
55 Florida Virtual School's development of a state-of-the-art
56 technology-based education delivery system that is cost-
57 effective, educationally sound, marketable, and capable of
58 sustaining a self-sufficient delivery system through the Florida
59 Education Finance Program.

60 (c) The board of trustees shall aggressively seek avenues
61 to generate revenue to support its future endeavors, and shall
62 enter into agreements with online distance and blended learning
63 providers. The board of trustees may acquire, enjoy, use, and
64 dispose of patents, copyrights, and trademarks and any licenses
65 and other rights or interests thereunder or therein. Ownership
66 of all such patents, copyrights, trademarks, licenses, and
67 rights or interests thereunder or therein shall vest in the
68 state, with the board of trustees having full right of use and
69 full right to retain the revenues derived therefrom. Any funds



290644

70 realized from patents, copyrights, trademarks, or licenses are
71 ~~shall be~~ considered internal funds as provided in s. 1011.07.
72 Such funds shall be used to support the school's marketing and
73 research and development activities in order to improve
74 courseware and services to its students.

75 (d) The board of trustees shall be responsible for the
76 administration and control of all local school funds derived
77 from all activities or sources and shall prescribe the
78 principles and procedures to be followed in administering these
79 funds.

80 (e) The Florida Virtual School may accrue supplemental
81 revenue from supplemental support organizations, which include,
82 but are not limited to, alumni associations, foundations,
83 parent-teacher associations, and booster associations. The
84 governing body of each supplemental support organization shall
85 recommend the expenditure of moneys collected by the
86 organization for the benefit of the school. Such expenditures
87 shall be contingent upon the review of the executive director.
88 The executive director may override any proposed expenditure of
89 the organization that would violate Florida law or breach sound
90 educational management.

91 (f) In accordance with law and rules of the State Board of
92 Education, the board of trustees shall administer and maintain
93 personnel programs for all employees of the board of trustees
94 and the Florida Virtual School. The board of trustees may adopt
95 rules, policies, and procedures related to the appointment,
96 employment, and removal of personnel.

97 1. The board of trustees shall determine the compensation,
98 including salaries and fringe benefits, and other conditions of



290644

99 employment for such personnel.

100 2. The board of trustees may establish and maintain a
101 personnel loan or exchange program by which persons employed by
102 the board of trustees for the Florida Virtual School as academic
103 administrative and instructional staff may be loaned to, or
104 exchanged with persons employed in like capacities by, public
105 agencies either within or without this state, or by private
106 industry. With respect to public agency employees, the program
107 authorized by this subparagraph shall be consistent with the
108 requirements of part II of chapter 112. The salary and benefits
109 of board of trustees personnel participating in the loan or
110 exchange program shall be continued during the period of time
111 they participate in a loan or exchange program, and such
112 personnel shall be deemed to have no break in creditable or
113 continuous service or employment during such time. The salary
114 and benefits of persons participating in the personnel loan or
115 exchange program who are employed by public agencies or private
116 industry shall be paid by the originating employers of those
117 participants, and such personnel shall be deemed to have no
118 break in creditable or continuous service or employment during
119 such time.

120 3. The employment of all Florida Virtual School academic
121 administrative and instructional personnel shall be subject to
122 rejection for cause by the board of trustees, and shall be
123 subject to policies of the board of trustees relative to
124 certification, tenure, leaves of absence, sabbaticals,
125 remuneration, and such other conditions of employment as the
126 board of trustees deems necessary and proper, not inconsistent
127 with law.



290644

128 4. Each person employed by the board of trustees in an
129 academic administrative or instructional capacity with the
130 Florida Virtual School shall be entitled to a contract as
131 provided by rules of the board of trustees.

132 5. All employees except temporary, seasonal, and student
133 employees may be state employees for the purpose of being
134 eligible to participate in the Florida Retirement System and
135 receive benefits. The classification and pay plan, including
136 terminal leave and other benefits, and any amendments thereto,
137 shall be subject to review and approval by the Department of
138 Management Services and the Executive Office of the Governor
139 prior to adoption.

140 (g) The board of trustees shall establish priorities for
141 admission of students in accordance with paragraph (1)(b).

142 (h) The board of trustees shall establish and distribute to
143 all school districts and high schools in the state procedures
144 for enrollment of students in courses offered by the Florida
145 Virtual School.

146 (i) The board of trustees shall establish criteria defining
147 the elements of an approved franchise. The board of trustees may
148 enter into franchise agreements with Florida district school
149 boards and may establish the terms and conditions governing such
150 agreements. The board of trustees shall establish the
151 performance and accountability measures and report the
152 performance of each school district franchise to the
153 Commissioner of Education.

154 (j) The board of trustees shall submit to the State Board
155 of Education both forecasted and actual enrollments and credit
156 completions for the Florida Virtual School, according to



290644

157 procedures established by the State Board of Education. At a
158 minimum, such procedures must include the number of public,
159 private, and home education students served, by program and by
160 county of residence, and the number of students enrolled in the
161 Florida Virtual School Justice Education Program pursuant to s.
162 1002.371.

163 (k) The board of trustees shall provide for the content and
164 custody of student and employee personnel records. Student
165 records shall be subject to the provisions of s. 1002.22.
166 Employee records shall be subject to the provisions of s.
167 1012.31.

168 (l) The financial records and accounts of the Florida
169 Virtual School shall be maintained under the direction of the
170 board of trustees and under rules adopted by the State Board of
171 Education for the uniform system of financial records and
172 accounts for the schools of the state.

173
174 The Governor shall designate the initial chair of the board of
175 trustees to serve a term of 4 years. Members of the board of
176 trustees shall serve without compensation, but may be reimbursed
177 for per diem and travel expenses pursuant to s. 112.061. The
178 board of trustees shall be a body corporate with all the powers
179 of a body corporate and such authority as is needed for the
180 proper operation and improvement of the Florida Virtual School.
181 The board of trustees is specifically authorized to adopt rules
182 and, policies, ~~and procedures~~, consistent with law and rules of
183 the State Board of Education related to governance, personnel,
184 budget and finance, administration, programs, curriculum and
185 instruction, travel and purchasing, technology, students,



290644

186 contracts and grants, and property as necessary for optimal,
187 efficient operation of the Florida Virtual School. Tangible
188 personal property owned by the board of trustees shall be
189 subject to the provisions of chapter 273.

190

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

192 And the title is amended as follows:

193 Delete lines 5 - 16

194 and insert:

195 delivery of online distance and blended learning;
196 requiring the Florida Virtual School to give priority
197 to students enrolled in certain Department of
198 Corrections education programs; conforming a reporting
199 requirement to changes made by the act; deleting
200 authorization for the board of trustees of the Florida
201 Virtual School to adopt procedures; revising the
202 requirements of a report

By Senator Brandes

24-01095A-22

20221226__

1 A bill to be entitled
 2 An act relating to virtual learning; amending s.
 3 1002.37, F.S.; revising the purpose of the Florida
 4 Virtual School to provide for the development and
 5 delivery of blended learning; requiring the Florida
 6 Virtual School to give priority to students enrolled
 7 in certain Department of Corrections education
 8 programs; conforming a reporting requirement to
 9 changes made by the act; revising the calculation of
 10 funding for the Florida Virtual School; requiring
 11 full-time equivalent students enrolled in a certain
 12 blended learning program to be reported to the
 13 Department of Education in a specified manner;
 14 specifying conditions under which the Florida Virtual
 15 School may be funded through the Florida Education
 16 Finance Program; revising the requirements of a report
 17 that the board of trustees of the Florida Virtual
 18 School must annually submit to certain entities,
 19 beginning with a specified school year; requiring
 20 students enrolled in the Florida Virtual School
 21 Justice Education Program to take specified
 22 examinations and assessments at institutions or
 23 facilities operated by, or under the supervision of,
 24 the Department of Corrections; providing for the
 25 determination of Florida Virtual School performance
 26 related to the Justice Education Program; creating s.
 27 1002.371, F.S.; requiring the Florida Virtual School
 28 to establish the Florida Virtual School Justice
 29 Education Program, beginning with a specified school

Page 1 of 18

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24-01095A-22

20221226__

30 year; providing the purpose of the program; specifying
 31 criteria for course delivery; requiring the Florida
 32 Virtual School to report program students separately
 33 from other students for funding purposes; providing
 34 for funding of students enrolled in the program;
 35 authorizing students who turn 22 years of age while
 36 enrolled in the program to remain enrolled under
 37 certain circumstances; prohibiting funding for such a
 38 student from being reported through the Florida
 39 Education Finance Program; requiring the Department of
 40 Education, with assistance from specified entities, to
 41 select a common student assessment instrument and
 42 protocol for measuring student learning gains and
 43 progression; requiring specified entities to jointly
 44 review such assessment instrument and protocol and
 45 implement changes as necessary; authorizing students
 46 to appeal removal from the Florida Virtual School
 47 Justice Education Program, subject to a final
 48 determination on the appeal by the Commissioner of
 49 Education; requiring the Florida Virtual School to
 50 negotiate by a specified date and annually thereafter
 51 a cooperative agreement with the Department of
 52 Corrections to implement the Florida Virtual School
 53 Justice Education Program for the delivery of
 54 educational services to students under the
 55 jurisdiction of the Department of Corrections;
 56 providing requirements for such agreement; providing
 57 construction; requiring the state board and the
 58 Department of Corrections to adopt rules; amending s.

Page 2 of 18

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24-01095A-22

20221226__

59 1011.61, F.S.; revising the definition of the term
60 "full-time equivalent student"; amending s. 1011.62,
61 F.S.; conforming a provision to changes made by the
62 act; providing an effective date.

63
64 Be It Enacted by the Legislature of the State of Florida:

65
66 Section 1. Present paragraphs (c) through (g) of subsection
67 (3) of section 1002.37, Florida Statutes, are redesignated as
68 paragraphs (d) through (h), respectively, a new paragraph (c)
69 and paragraph (i) are added to that subsection, paragraph (e) is
70 added to subsection (10) of that section, and paragraphs (a) and
71 (b) of subsection (1), paragraphs (c) and (j) of subsection (2),
72 paragraph (a) of subsection (3), and subsections (7) and (11) of
73 that section are amended, to read:

74 1002.37 The Florida Virtual School.—

75 (1) (a) The Florida Virtual School is established for the
76 development and delivery of online and blended ~~distance~~ learning
77 education. The Commissioner of Education shall monitor the
78 school's performance and report its performance to the State
79 Board of Education and the Legislature.

80 (b) The mission of the Florida Virtual School is to provide
81 students with technology-based educational opportunities to gain
82 the knowledge and skills necessary to succeed. The school shall
83 serve any student in this ~~the~~ state who meets the profile for
84 success in this educational delivery context and shall give
85 priority to:

86 1. Students who need expanded access to courses in order to
87 meet their educational goals, such as home education students

Page 3 of 18

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24-01095A-22

20221226__

88 and students in inner-city and rural high schools who do not
89 have access to higher-level courses.

90 2. Students seeking accelerated access in order to obtain a
91 high school diploma at least one semester early.

92 3. Students who are children of an active duty member of
93 the United States Armed Forces who is not stationed in this
94 state whose home of record or state of legal residence is
95 Florida.

96 4. Students enrolled in the Florida Virtual School Justice
97 Education Program pursuant to s. 1002.371.

98
99 The board of trustees of the Florida Virtual School shall
100 identify appropriate performance measures and standards based on
101 student achievement that reflect the school's statutory mission
102 and priorities, and shall implement an accountability system for
103 the school that includes assessment of its effectiveness and
104 efficiency in providing quality services that encourage high
105 student achievement, seamless articulation, and maximum access.

106 (2) The Florida Virtual School shall be governed by a board
107 of trustees comprised of seven members appointed by the Governor
108 to 4-year staggered terms. The board of trustees shall be a
109 public agency entitled to sovereign immunity pursuant to s.
110 768.28, and board members shall be public officers who shall
111 bear fiduciary responsibility for the Florida Virtual School.
112 The board of trustees shall have the following powers and
113 duties:

114 (c) The board of trustees shall aggressively seek avenues
115 to generate revenue to support its future endeavors, and shall
116 enter into agreements with blended ~~distance~~ learning providers.

Page 4 of 18

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24-01095A-22

20221226__

117 The board of trustees may acquire, enjoy, use, and dispose of
 118 patents, copyrights, and trademarks and any licenses and other
 119 rights or interests thereunder or therein. Ownership of all such
 120 patents, copyrights, trademarks, licenses, and rights or
 121 interests thereunder or therein shall vest in the state, with
 122 the board of trustees having full right of use and full right to
 123 retain the revenues derived therefrom. Any funds realized from
 124 patents, copyrights, trademarks, or licenses ~~are shall be~~
 125 considered internal funds as provided in s. 1011.07. Such funds
 126 shall be used to support the school's marketing and research and
 127 development activities in order to improve courseware and
 128 services to its students.

129 (j) The board of trustees shall submit to the State Board
 130 of Education both forecasted and actual enrollments and credit
 131 completions for the Florida Virtual School, according to
 132 procedures established by the State Board of Education. At a
 133 minimum, such procedures must include the number of public,
 134 private, and home education students served, by program and by
 135 county of residence, and the number of students enrolled in the
 136 Florida Virtual School Justice Education Program pursuant to s.
 137 1002.371.
 138

139 The Governor shall designate the initial chair of the board of
 140 trustees to serve a term of 4 years. Members of the board of
 141 trustees shall serve without compensation, but may be reimbursed
 142 for per diem and travel expenses pursuant to s. 112.061. The
 143 board of trustees shall be a body corporate with all the powers
 144 of a body corporate and such authority as is needed for the
 145 proper operation and improvement of the Florida Virtual School.

Page 5 of 18

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24-01095A-22

20221226__

146 The board of trustees is specifically authorized to adopt rules,
 147 policies, and procedures, consistent with law and rules of the
 148 State Board of Education related to governance, personnel,
 149 budget and finance, administration, programs, curriculum and
 150 instruction, travel and purchasing, technology, students,
 151 contracts and grants, and property as necessary for optimal,
 152 efficient operation of the Florida Virtual School. Tangible
 153 personal property owned by the board of trustees shall be
 154 subject to the provisions of chapter 273.

155 (3) Funding for the Florida Virtual School shall be
 156 provided as follows:

157 (a)1. The calculation of a "full-time equivalent student"
 158 enrolled in an online learning program must ~~shall~~ be as
 159 prescribed in s. 1011.61(1)(c)1.b.(V) and is subject to s.
 160 1011.61(4).

161 2. The calculation of a "full-time equivalent student"
 162 enrolled in a blended learning program offered pursuant to s.
 163 1002.371 must be as prescribed in s. 1011.61(1)(c)1.b.(I) and is
 164 subject to s. 1011.61(4).

165 3. For a student in a home education program, funding shall
 166 be provided in accordance with this subsection upon course
 167 completion if the parent verifies, upon enrollment for each
 168 course, that the student is registered with the school district
 169 as a home education student pursuant to s. 1002.41(1)(a).

170 (c) A full-time equivalent student enrolled in a blended
 171 learning program offered pursuant to s. 1002.371, including a
 172 student enrolled during the summer, must be reported to the
 173 Department of Education in the manner the department prescribes
 174 and must be funded through the Florida Education Finance

Page 6 of 18

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24-01095A-22

20221226__

175 Program.

176 (i) The Florida Virtual School may be funded for blended
 177 learning through the Florida Education Finance Program only for
 178 full-time students enrolled in the Florida Virtual School
 179 Justice Education Program pursuant to s. 1002.371. However, such
 180 students may enroll in online courses and be funded as provided
 181 in paragraph (3) (a).

182 (7) The board of trustees shall annually submit to the
 183 Governor, the Legislature, the Commissioner of Education, and
 184 the State Board of Education the audit report prepared pursuant
 185 to subsection (6) and a complete and detailed report setting
 186 forth:

187 (a) The operations and accomplishments of the Florida
 188 Virtual School within this ~~the~~ state and those occurring outside
 189 this ~~the~~ state as Florida Virtual School Global and, beginning
 190 with the 2022-2023 school year, the Florida Virtual School
 191 Justice Education Program established under s. 1002.371.

192 (b) The marketing and operational plan for the Florida
 193 Virtual School, ~~and~~ Florida Virtual School Global, and,
 194 beginning with the 2022-2023 school year, the Florida Virtual
 195 School Justice Education Program established under s. 1002.371,
 196 including recommendations regarding methods for improving the
 197 delivery of education through the Internet and other distance
 198 learning technology.

199 (c) The assets and liabilities of the Florida Virtual
 200 School and Florida Virtual School Global at the end of the
 201 fiscal year.

202 (d) Recommendations regarding the unit cost of providing
 203 services to students through the Florida Virtual School, ~~and~~

24-01095A-22

20221226__

204 Florida Virtual School Global, and, beginning with the 2022-2023
 205 school year, the Florida Virtual School Justice Education
 206 Program established under s. 1002.371. In order to most
 207 effectively develop public policy regarding any future funding
 208 of the Florida Virtual School, it is imperative that the cost of
 209 the program is accurately identified. The identified cost of the
 210 program must be based on reliable data.

211 (e) Recommendations regarding an accountability mechanism
 212 to assess the effectiveness of the services provided by the
 213 Florida Virtual School, ~~and~~ Florida Virtual School Global, and,
 214 beginning with the 2022-2023 school year, the Florida Virtual
 215 School Justice Education Program established under s. 1002.371.

216 (10)

217 (e) Students enrolled in the Florida Virtual School Justice
 218 Education Program pursuant to s. 1002.371 must take all industry
 219 certification examinations, national assessments, and statewide,
 220 standardized assessments at the institution or facility operated
 221 by, or under the supervision of, the Department of Corrections.

222 (11) The Florida Virtual School shall receive a school
 223 grade pursuant to s. 1008.34 for students receiving full-time
 224 instruction pursuant to this section. School performance for the
 225 Florida Virtual School as it relates to the Justice Education
 226 Program must be assessed based on student learning gains and
 227 student progression as demonstrated by the student assessment
 228 instrument and protocol selected pursuant to s. 1002.371(6).

229 Section 2. Section 1002.371, Florida Statutes, is created
 230 to read:

231 1002.371 Florida Virtual School Justice Education Program.-

232 (1) Beginning with the 2022-2023 school year, the Florida

24-01095A-22 20221226__

233 Virtual School shall establish the Florida Virtual School
 234 Justice Education Program to offer inmates younger than 22 years
 235 of age housed in institutions and facilities operated by, or
 236 under the supervision of, the Department of Corrections the
 237 opportunity to earn a standard high school diploma pursuant to
 238 s. 1003.4282. Courses must be delivered in an educational
 239 setting under the supervision of the Department of Corrections
 240 by Florida Virtual School personnel certified pursuant to s.
 241 1012.55 who provide instruction through online courses pursuant
 242 to s. 1002.37 or through blended learning courses consisting of
 243 both traditional classroom and online instructional techniques.
 244 Students in blended learning courses must be full-time students
 245 of the school as provided in s. 1011.61(1)(a)1. The funding,
 246 performance, and accountability requirements for blended
 247 learning courses are the same as those for traditional classroom
 248 courses.

249 (2) The Florida Virtual School shall separately report all
 250 students enrolled in the program for purposes of the Florida
 251 Education Finance Program.

252 (3) The Florida Virtual School shall receive state funds
 253 for operating purposes as provided in the General Appropriations
 254 Act for students enrolled in the program. The calculation to
 255 determine the amount of state funds shall be as prescribed in s.
 256 1002.37(3)(f).

257 (4) The program must include and receive funding for a
 258 summer school period that must begin on the day immediately
 259 following the end of the regular school year and end on the day
 260 immediately preceding the subsequent regular school year.
 261 Students may not be funded for more than 25 hours per week of

24-01095A-22 20221226__

262 instruction.

263 (5) A student who turns 22 years of age while enrolled in
 264 the program may remain enrolled if his or her continued
 265 enrollment is approved by the Florida Virtual School and the
 266 Department of Corrections; however, funding for such a student
 267 may not be reported through the Florida Education Finance
 268 Program.

269 (6) The Department of Education, with the assistance of the
 270 Florida Virtual School and the Department of Corrections, shall
 271 select a common student assessment instrument and protocol for
 272 measuring student learning gains and student progression for
 273 students receiving full-time instruction pursuant to this
 274 section. The Department of Education, the Florida Virtual
 275 School, and the Department of Corrections, jointly, shall review
 276 the effectiveness of such assessment instrument and protocol and
 277 implement changes as necessary.

278 (7) A student who is removed from the program may appeal to
 279 the Department of Education to seek reinstatement, subject to a
 280 final determination on the appeal by the Commissioner of
 281 Education.

282 (8) By July 1, 2023, and annually thereafter, the Florida
 283 Virtual School shall negotiate a cooperative agreement with the
 284 Department of Corrections for the delivery of educational
 285 services to students under the jurisdiction of the Department of
 286 Corrections to implement the program. Such agreement must
 287 provide for, but is not limited to:

288 (a) Roles and responsibilities of the Florida Virtual
 289 School and the Department of Corrections, including the roles
 290 and responsibilities of contract providers.

24-01095A-22 20221226__

291 (b) Resolution of administrative issues, including
 292 procedures for sharing information.

293 (c) Allocation of resources, including the maximization of
 294 state and federal funding.

295 (d) Procedures for educational evaluation for exceptional
 296 education students and those with special needs.

297 (e) Procedures for individualized progress monitoring plans
 298 developed for all students not classified upon entry to the
 299 program as exceptional education students. These plans must
 300 address academic, literacy, career, and technical skills and
 301 must include provisions for intensive remedial instruction in
 302 areas of weakness.

303 (f) Curriculum and delivery of instruction, including
 304 resources required for delivery of instruction through
 305 technological means.

306 (g) Procedures for assessments, including, but not limited
 307 to, industry certification examinations, national assessments,
 308 and statewide, standardized assessments administered pursuant to
 309 s. 1008.22 at an institution or facility operated by the
 310 Department of Corrections.

311 (h) Classroom management procedures and attendance
 312 policies.

313 (i) Procedures for provision of qualified personnel,
 314 whether supplied by the Florida Virtual School or the Department
 315 of Corrections, and for the performance of their duties in a
 316 Department of Corrections setting.

317 (j) Provisions for improving skills in teaching and working
 318 with students in the program.

319 (k) Transition plans for students moving into and out of

24-01095A-22 20221226__

320 the program, including graduates transitioning to postsecondary
 321 education or into the workforce.

322 (l) Procedures and timelines for the timely documentation
 323 of credits earned and the transfer of student records.

324 (m) Methods and procedures for dispute resolution.

325 (n) Provisions for ensuring the safety of education
 326 personnel and support for the agreed-upon education program.

327 (9) This section and the cooperative agreement required
 328 under subsection (8) do not require the Florida Virtual School
 329 to provide more services than can be supported by the funds
 330 generated by students participating in the program.

331 (10) This section does not prohibit a student from
 332 participating in the Correctional Education Program pursuant to
 333 s. 944.801.

334 (11) The State Board of Education and the Department of
 335 Corrections shall adopt rules to administer this section.

336 Section 3. Paragraph (c) of subsection (1) of section
 337 1011.61, Florida Statutes, is amended to read:
 338 1011.61 Definitions.—Notwithstanding the provisions of s.
 339 1000.21, the following terms are defined as follows for the
 340 purposes of the Florida Education Finance Program:
 341 (1) A “full-time equivalent student” in each program of the
 342 district is defined in terms of full-time students and part-time
 343 students as follows:
 344 (c)1. A “full-time equivalent student” is:
 345 a. A full-time student in any one of the programs listed in
 346 s. 1011.62(1)(c); or
 347 b. A combination of full-time or part-time students in any
 348 one of the programs listed in s. 1011.62(1)(c) which is the

24-01095A-22 20221226__

349 equivalent of one full-time student based on the following
350 calculations:

351 (I) A full-time student in a combination of programs listed
352 in s. 1011.62(1)(c) shall be a fraction of a full-time
353 equivalent membership in each special program equal to the
354 number of net hours per school year for which he or she is a
355 member, divided by the appropriate number of hours set forth in
356 subparagraph (a)1. The difference between that fraction or sum
357 of fractions and the maximum value as set forth in subsection
358 (4) for each full-time student is presumed to be the balance of
359 the student's time not spent in a special program and shall be
360 recorded as time in the appropriate basic program.

361 (II) A prekindergarten student with a disability shall meet
362 the requirements specified for kindergarten students.

363 (III) A full-time equivalent student for students in
364 kindergarten through grade 12 in a full-time virtual instruction
365 program under s. 1002.45 or a virtual charter school under s.
366 1002.33 shall consist of six full-credit completions or the
367 prescribed level of content that counts toward promotion to the
368 next grade in programs listed in s. 1011.62(1)(c). Credit
369 completions may be a combination of full-credit courses or half-
370 credit courses.

371 (IV) A full-time equivalent student for students in
372 kindergarten through grade 12 in a part-time virtual instruction
373 program under s. 1002.45 shall consist of six full-credit
374 completions in programs listed in s. 1011.62(1)(c)1. and 3.
375 Credit completions may be a combination of full-credit courses
376 or half-credit courses.

377 (V) A Florida Virtual School full-time equivalent student

24-01095A-22 20221226__

378 in an online program shall consist of six full-credit
379 completions or the prescribed level of content that counts
380 toward promotion to the next grade in the programs listed in s.
381 1011.62(1)(c)1. and 3. for students participating in
382 kindergarten through grade 12 part-time virtual instruction and
383 the programs listed in s. 1011.62(1)(c) for students
384 participating in kindergarten through grade 12 full-time virtual
385 instruction. Credit completions may be a combination of full-
386 credit courses or half-credit courses.

387 (VI) Each successfully completed full-credit course earned
388 through an online course delivered by a district other than the
389 one in which the student resides shall be calculated as 1/6 FTE.

390 (VII) A full-time equivalent student for courses requiring
391 passage of a statewide, standardized end-of-course assessment
392 under s. 1003.4282 to earn a standard high school diploma shall
393 be defined and reported based on the number of instructional
394 hours as provided in this subsection.

395 (VIII) For students enrolled in a school district as a
396 full-time student, the district may report 1/6 FTE for each
397 student who passes a statewide, standardized end-of-course
398 assessment without being enrolled in the corresponding course.

399 2. A student in membership in a program scheduled for more
400 or less than 180 school days or the equivalent on an hourly
401 basis as specified by rules of the State Board of Education is a
402 fraction of a full-time equivalent membership equal to the
403 number of instructional hours in membership divided by the
404 appropriate number of hours set forth in subparagraph (a)1.;
405 however, for the purposes of this subparagraph, membership in
406 programs scheduled for more than 180 days is limited to students

24-01095A-22 20221226__

407 enrolled in:

408 a. Juvenile justice education programs.

409 b. The Florida Virtual School.

410 c. Virtual instruction programs and virtual charter schools

411 for the purpose of course completion and credit recovery

412 pursuant to ss. 1002.45 and 1003.498. Course completion applies

413 only to a student who is reported during the second or third

414 membership surveys and who does not complete a virtual education

415 course by the end of the regular school year. The course must be

416 completed no later than the deadline for amending the final

417 student enrollment survey for that year. Credit recovery applies

418 only to a student who has unsuccessfully completed a traditional

419 or virtual education course during the regular school year and

420 must retake the course in order to be eligible to graduate with

421 the student's class.

422

423 The full-time equivalent student enrollment calculated under

424 this subsection is subject to the requirements in subsection

425 (4).

426

427 The department shall determine and implement an equitable method

428 of equivalent funding for schools operating under emergency

429 conditions, which schools have been approved by the department

430 to operate for less than the minimum term as provided in s.

431 1011.60(2).

432 Section 4. Paragraph (f) of subsection (1) of section

433 1011.62, Florida Statutes, is amended to read:

434 1011.62 Funds for operation of schools.—If the annual

435 allocation from the Florida Education Finance Program to each

24-01095A-22 20221226__

436 district for operation of schools is not determined in the

437 annual appropriations act or the substantive bill implementing

438 the annual appropriations act, it shall be determined as

439 follows:

440 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR

441 OPERATION.—The following procedure shall be followed in

442 determining the annual allocation to each district for

443 operation:

444 (f) *Supplemental academic instruction allocation.*—

445 1. There is created the supplemental academic instruction

446 allocation to provide supplemental academic instruction to

447 students in kindergarten through grade 12.

448 2. The supplemental academic instruction allocation shall

449 be provided annually in the Florida Education Finance Program as

450 specified in the General Appropriations Act. These funds are in

451 addition to the funds appropriated on the basis of FTE student

452 membership in the Florida Education Finance Program and shall be

453 included in the total potential funds of each district.

454 Beginning with the 2018-2019 fiscal year, each school district

455 that has a school earning a grade of "D" or "F" pursuant to s.

456 1008.34 must use that school's portion of the supplemental

457 academic instruction allocation to implement intervention and

458 support strategies for school improvement pursuant to s. 1008.33

459 and for salary incentives pursuant to s. 1012.2315(3) or salary

460 supplements pursuant to s. 1012.22(1)(c)5.c. that are provided

461 through a memorandum of understanding between the collective

462 bargaining agent and the school board that addresses the

463 selection, placement, and expectations of instructional

464 personnel and school administrators. For all other schools, the

24-01095A-22

20221226__

465 school district's use of the supplemental academic instruction
 466 allocation may include, but is not limited to, the use of a
 467 modified curriculum; reading instruction; after-school
 468 instruction; tutoring; mentoring; a reduction in class size;
 469 extended school year; intensive skills development in summer
 470 school; dropout prevention programs as defined in ss. 1003.52
 471 and 1003.53(1)(a), (b), and (c); and other methods of improving
 472 student achievement. Supplemental academic instruction may be
 473 provided to a student in any manner and at any time during or
 474 beyond the regular 180-day term identified by the school as
 475 being the most effective and efficient way to best help that
 476 student progress from grade to grade and to graduate.

477 3. The supplemental academic instruction allocation shall
 478 consist of a base amount that has a workload adjustment based on
 479 changes in unweighted FTE. The supplemental academic instruction
 480 allocation shall be recalculated during the fiscal year. Upon
 481 recalculation of funding for the supplemental academic
 482 instruction allocation, if the total allocation is greater than
 483 the amount provided in the General Appropriations Act, the
 484 allocation shall be prorated to the level provided to support
 485 the appropriation, based on each district's share of the total.

486 4. Funding on the basis of FTE membership beyond the 180-
 487 day regular term shall be provided in the FEFP only for students
 488 enrolled in juvenile justice education programs, the Florida
 489 Virtual School Justice Education Program pursuant to s.
 490 1002.371, or in education programs for juveniles placed in
 491 secure facilities or programs under s. 985.19. Funding for
 492 instruction beyond the regular 180-day school year for all other
 493 K-12 students shall be provided through the supplemental

Page 17 of 18

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

24-01095A-22

20221226__

494 academic instruction allocation and other state, federal, and
 495 local fund sources with ample flexibility for schools to provide
 496 supplemental instruction to assist students in progressing from
 497 grade to grade and graduating.

498 Section 5. This act shall take effect July 1, 2022.

Page 18 of 18

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 896

INTRODUCER: Education Committee and Senator Burgess

SUBJECT: Educator Certification Pathways for Veterans

DATE: February 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Caldwell	MS	Favorable
2.	Brick	Bouck	ED	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 896 creates an additional pathway for veterans to qualify for educator certification. The bill removes the requirement that an applicant for a temporary educator certificate hold a baccalaureate degree if the applicant has completed:

- At least 48 months of active-duty military service with an honorable discharge or medical separation; and
- At least 60 college credits with a minimum cumulative grade point average of 2.5 on a 4.0 scale, as provided by one or more accredited institutions of higher learning or a nonaccredited institution of higher learning that the Department of Education has identified as having a quality program resulting in a bachelor's degree or higher.

The exception in the bill authorizing a temporary certificate for less than a baccalaureate degree applies only to subject area specializations requiring only a bachelor's degree. The bill provides that a temporary certificate issued under this pathway is valid for five school fiscal years and is nonrenewable.

The bill also removes the requirement for an honorably discharged veteran to have served on active duty to qualify for the waiver of initial general knowledge, professional education, and subject area examination fees and certification fees.

The bill takes effect July 1, 2022.

II. Present Situation:

Florida's public school system enrolls approximately 2.8 million students annually across 67 school districts in grades pre-Kindergarten through 12.¹ During the 2020-2021 school year, these students were supported by almost 340,000 personnel in administrative, instructional, and support positions, with 60 percent identified as instructional staff.² Teachers represent 87 percent of instructional personnel.³ Instructional staff also include other personnel who interact with students outside of the traditional classroom setting, such as guidance counselors, librarians, social workers, and school psychologists.

Educator Certification Requirements

Educational personnel in public schools must possess appropriate skills in reading, writing, and mathematics; adequate pedagogical knowledge; and relevant subject matter competence so as to demonstrate an acceptable level of professional performance.⁴

The State Board of Education (SBE) designates the certification subject areas, establishes competencies, and adopts rules in accordance with which education certificates are issued by the Department of Education (DOE) to applicants who meet the requirements.⁵

Initial Eligibility

In order to seek educator certification, a person must attest to uphold the principles of the United States (U.S.) and meet other general eligibility requirements, which include receipt of a bachelor's or higher degree from an approved postsecondary institution and minimum age, background screening, moral character, and competence requirements.⁶

Professional Educator Certificate

A professional certificate is awarded to an applicant who meets the basic eligibility requirements for certification and demonstrates mastery of:⁷

- General knowledge, only if serving as a classroom teacher;
- Subject area knowledge; and
- Professional preparation and education competence.

Mastery of general knowledge may be demonstrated through several methods, including the passing of one of several different examinations identified by the SBE, having a teacher

¹ Florida Department of Education, *About Us*, <https://www.fldoe.org/about-us/> (last visited Jan. 28, 2022).

² Florida Department of Education, *Staff in Florida Public Schools – Full Time Staff Summary, 2020-21, Final Summary 2, State/District Level Report*, <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.html> (last visited Jan. 28, 2022).

³ Florida Department of Education, *Staff in Florida's Public Schools, Full-Time Instructional Staff Summary, 2020-2021, Final Survey 2, State/District Report*, <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.html> (last visited Jan. 28, 2022).

⁴ Section 1012.54, F.S.

⁵ Section 1012.55(1)(a), F.S.

⁶ Section 1012.56(2), F.S., and Rule 6A-4.003, F.A.C.

⁷ Section 1012.56(2)(g)-(i), F.S.

education certification from another state, or teaching at a state college or university or private college level for a minimum of two semesters in either full-time or part-time status.⁸

Acceptable means of demonstrating mastery of subject area knowledge are specified in law and include passing a subject area or other alternative examination as approved by the SBE, a valid teaching certificate from another state, a valid certificate from the National Board for Professional Teaching Standards (NBPTS), or a passing score or program completion of a specified defense language proficiency test or program.⁹

A candidate for a professional certificate may demonstrate professional preparation and education competence through completion of a teacher preparation program and a passing score on the corresponding professional education competency exam required by the SBE.¹⁰ Other means include:¹¹

- Documentation of a valid professional standard teaching certificate issued by another state, the NBPTS, or a national educator credentialing board approved by the SBE.
- Passing the professional education competency examination and documentation of two semesters of successful, full-time or part-time teaching in a state college or university or a private college or university approved by the DOE.
- Successful completion of professional preparation courses, successful completion of a professional preparation and education competence program, and achievement of a passing score on the professional education competency examination;
- Successful completion of a professional development certification and education competency program.
- Successful completion of a competency-based certification program and achievement of a passing score on the professional education competency.

Teacher Preparation Programs

Teacher preparation programs are accountable for producing individuals with the competencies and skills necessary to achieve state education goals.¹² Each teacher preparation program must be approved by the DOE based on criteria specified in law.¹³ Teacher preparation programs result in qualification for an initial Florida Professional Educator's Certificate and include:¹⁴

- Initial teacher preparation programs, which are offered by Florida postsecondary institutions to prepare instructional personnel.
- Educator preparation institutes, which are offered by Florida postsecondary or qualified private providers that provide instruction for non-education baccalaureate or higher degree holders.

⁸ Section 1012.56(3), F.S.; and Fla Admin. Code. R. 6A-4.004(2020).

⁹ Section 1012.56(5), F.S.

¹⁰ Florida Department of Education, *Competencies and Skills Required for Teacher Certification in Florida* (Oct. 1, 2020), incorporated by reference in rule 6A-4.0021, F.A.C., available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-10344>.

¹¹ Section 1012.56(6), F.S.

¹² Section 1004.04(1)(b), F.S.

¹³ Section 1004.04(3), F.S.

¹⁴ Section 1004.04, F.S.; Rule 6A-5.066(1)(k), (r), and (y), F.A.C.

- Professional development certification programs, in which a school district, charter school, or charter management organization may provide instruction for members of its instructional staff who are non-education baccalaureate or higher degree holders.

Before program completion, each candidate must demonstrate his or her ability to positively impact student learning growth in the candidate's area or areas of program concentration during a prekindergarten through grade 12 field experience and must pass each portion of the Florida Teacher Certification Examination required for a professional certificate in the area or areas of program concentration.¹⁵

Temporary Educator Certificate

A temporary teaching certificate is valid for 3 school fiscal years and is nonrenewable.¹⁶ The DOE is required by law to issue a temporary certificate to any applicant who:¹⁷

- Completes applicable subject area content requirements or demonstrates mastery of subject area knowledge by, for example, successful completion of an approved exam; and
- Holds an accredited degree or a degree approved by the DOE at the level required for the subject area specialization in state board rule.

The DOE offers a variety of pathways to transition from a temporary to professional teaching certification, including certification programs, professional training programs, and professional preparation college courses.¹⁸

A professional education competence program allows instructional personnel with a temporary certificate may demonstrate mastery of professional preparation and education competence through classroom application of Florida's core standards for effective educators and instructional performance.¹⁹

Additions to Certificates

Once an educator holds a valid Florida Temporary or Professional Certificate, the educator may be eligible to add another subject coverage according to subject specialization requirements in the SBE rule.²⁰ Add-on programs are offered by colleges, universities, and school districts and must be approved by the department. Currently, 34 school districts operate their own certification add-on programs.²¹

¹⁵ Section 1004.04(2)(d), F.S.

¹⁶ Section 1012.56(7), F.S.

¹⁷ Section 1012.56(7)(b), F.S.

¹⁸ Florida Department of Education, Certification Pathways and Routes, *Pathways to Upgrade from a Temporary to a Professional Certificate*, <https://www.fldoe.org/teaching/certification/pathways-routes/> (last visited Jan. 3, 2022).

¹⁹ Rule 6A-5.066(1)(u), F.A.C.

²⁰ Florida Department of Education, *Certificate Additions*, <https://www.fldoe.org/teaching/certification/additions/> (last visited December 10, 2021).

²¹ Florida Department of Education, *Professional Development Certification Programs*, <https://www.fldoe.org/teaching/preparation/pdcp.stml> (last visited Jan. 28, 2022).

Non-certificated Personnel

District school boards are authorized to employ selected non-certificated personnel to provide instructional services in the individuals' fields of specialty or assist instructional staff members as education paraprofessionals.²² School board and charter school governing board policies for non-certificated instructional are required to include specified provisions to create parity with certificated personnel. For example, policies are required to assure that non-certificated personnel possess the necessary relevant knowledge and a clear understanding of all relevant instructional practices and policies.²³

Out-of-Field Instructors

An instructor may be approved by the district school board or charter school governing board to teach a field in which the instructor lacks certification after a determination that a teacher with appropriate certification coverage is not available. While employed, approved out-of-field instructors must satisfy specified college credit or equivalent inservice training in an approved district add-on program or district approved subject content professional development program.²⁴

Out of 644,437 courses in public schools that received a school grade in 2018-19, 6.79 percent were taught by an out-of-field instructor.²⁵

Adjunct Teachers

District school boards are also authorized to issue an adjunct teaching certificate to any applicant who satisfies general eligibility requirements for certification and has expertise in the subject area to be taught. An applicant is considered to have expertise in the subject area if the applicant demonstrates sufficient subject area mastery through passage of a subject area test.²⁶

Non-Degreed Teachers of Career Education

Qualifications for part-time and full-time non-degreed teachers of career and technical education programs are based primarily on successful occupational experience rather than academic training.²⁷ A holder of a certificate based on nonacademic preparation which entitled him or her to employment to teach classes in career or adult education may not be assigned to teach in a regular academic field of the kindergarten through grade 12 school program.²⁸

²² Section 1012.55(1)(c), F.S.

²³ Rule 6A-1.0502, F.A.C.

²⁴ Rule 6A-1.0503(3), F.A.C.

²⁵ Florida Department of Education, *Identification of Critical Teacher Shortage Areas for 2021-2022*, available at <https://www.fldoe.org/core/fileparse.php/7766/urlt/CTSA2122.pdf>, at 9.

²⁶ Section 1012.57(1), F.S.

²⁷ Section 1012.43, F.S.

²⁸ Section 1012.43(2), F.S.

Military Personnel, Veterans, and Spouses

Fee Waivers

The SBE is required to waive initial general knowledge, professional education, and subject area examination fees and certification fees for:²⁹

- A member of the U.S. Armed Forces or a reserve component thereof who is serving or has served on active duty or the spouse of such a member.
- The surviving spouse of a member of the U.S. Armed Forces or a reserve component thereof who was serving on active duty at the time of death.
- An honorably discharged veteran of the U.S. Armed Forces or a veteran of a reserve component thereof who served on active duty and the spouse or surviving spouse of such a veteran.

A fee waiver is valid for up to five years after the veteran or his or her spouse is determined eligible and can be requested online.³⁰

Military Extensions to Certificates

If an educator with a temporary certificate is called to active duty or volunteers, whether in wartime or peacetime, the educator may request an extension of time to his or her temporary certificate equal to the amount of time spent in service. A spouse of an active duty service member or reserve unit may also request a two-year military extension to a temporary certificate to complete the requirements for a Professional Certificate.³¹

Federal Troops to Teachers Program

In 1993, the Department of Defense (DOD) established the Troops to Teachers (TTT) program to assist transitioning service members and veterans in beginning careers as school teachers. The program provided counseling and referral services to assist members and veterans in meeting education and licensing requirements to secure a teaching position.³²

Within the program, the DOD provided assistance of up to \$5,000 to eligible members to obtain certification or licensing as educators, and up to \$10,000 in bonuses to participants who agree to teach in high-poverty schools.³³

Members of the armed forces who wish to receive the program's assistance for placement are required to have a bachelor's or advanced degree, and priority is given to those members who

²⁹ Section 1012.59(3), F.S.

³⁰ Rule 6A-4.0012(8)(e), F.A.C.

³¹ Section 1012.56(7)(c), F.S.

³² United States Army, *Troops to Teachers (TTT)*, [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Troops-to-Teachers-\(TTT\)?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Troops-to-Teachers-(TTT)?serv=122) (last visited Jan. 28, 2022).

³³ U.S. Department of Education, *Troops to Teachers Program*, <https://www2.ed.gov/programs/troops/index.html> (last visited Jan. 12, 2022).

have educational or military experience in science, mathematics, special education, or vocational/technical subjects.³⁴ To receive the stipend, participants are required to:³⁵

- Be enrolled in an accredited institution that would result in licensure as a full-time teacher;
- Commit to full-time teaching in an eligible or high need school for three years; and
- If not retired or discharged due to service-connected physical disability, commit to serving three years in reserves.

The program's goals include reducing veteran unemployment, increasing the number of male and minority teachers in classrooms, and addressing the teacher shortage issues in schools that serve low-income families and in the critical subject areas including math, science, special education, foreign language, and career and technical education. Since the program's launch in 1993, more than 100,000 veterans have transitioned to a career in education.³⁶

The TTT program was extended through July 1, 2025, in the National Defense Authorization Act for Fiscal Year 2022.³⁷

III. Effect of Proposed Changes:

CS/SB 896 creates an additional pathway for veterans to qualify for educator certification. The bill removes the requirement that an applicant for a temporary educator certificate hold a baccalaureate degree if the applicant has completed:

- At least 48 months of active-duty military service with an honorable discharge or medical separation; and
- At least 60 college credits with a minimum cumulative grade point average of 2.5 on a 4.0 scale, as provided by one or more accredited institutions of higher learning or a nonaccredited institution of higher learning that the Department of Education has identified as having a quality program resulting in a bachelor's degree or higher.

The exception in the bill authorizing a temporary certificate for less than a baccalaureate degree applies only to subject area specializations requiring only a bachelor's degree. A temporary certificate issued under this pathway is valid for five school fiscal years and is nonrenewable.

The bill requires that temporary certificate holders be assigned a teacher mentor during their first two years of employment. The teacher mentor must hold a valid professional teaching certification, have at least three years of teaching experience, and have earned an effective or highly effective rating on the prior year's performance evaluation.

The bill also removes the requirement for an honorably discharged veteran to have served on active duty to qualify for the waiver of initial general knowledge, professional education, and subject area examination fees and certification fees.

³⁴ U.S. Department of Education, *Troops to Teachers Program*, <https://www2.ed.gov/programs/troops/index.html> (last visited Jan. 12, 2022).

³⁵ United States Army, *Troops to Teachers (TTT)*, [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Troops-to-Teachers-\(TTT\)?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Troops-to-Teachers-(TTT)?serv=122) (last visited Jan. 28, 2022).

³⁶ United States Army, *Troops to Teachers (TTT)*, [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Troops-to-Teachers-\(TTT\)?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Troops-to-Teachers-(TTT)?serv=122) (last visited Jan. 28, 2022).

³⁷ Pub. L. No. 117-81, s. 1605 (Dec. 27, 2021).

The potential availability of additional educators, especially as Florida faces a teacher shortage in certain regions and in specific instructional subject matters could provide district school board with enhanced options and expanded personnel choices. Experienced military leaders who have mentored and educated military service members for years may have skills and experiences that can translate easily to the classroom and would be a ready-made workforce for Florida's public and charter schools and could address short and long-term workforce needs.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 1012.56 and 1012.59 of the Florida Statutes.

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

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

CS by Education on February 1, 2022:

The committee substitute:

- Clarifies that the provision in the bill that provides a waiver of the requirement that an applicant for an educator certificate possess a baccalaureate degree applies only to a temporary certificate.
- Requires veterans that are issued a temporary certificate without a baccalaureate degree under the bill to be assigned a teacher mentor for a minimum of 2 school years commencing employment.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

The Committee on Education (Burgess) recommended the following:

Senate Amendment (with title amendment)

Delete lines 17 - 133

and insert:

Section 1. Paragraph (b) of subsection (7) of section 1012.56, Florida Statutes, is amended, and paragraphs (d) and (e) are added to that subsection, to read

1012.56 Educator certification requirements.—

(7) TYPES AND TERMS OF CERTIFICATION.—

(b) The department shall issue a temporary certificate to any applicant who:



512014

12 1. Completes the requirements outlined in paragraphs
13 (2)(a)-(f) and completes the subject area content requirements
14 specified in state board rule or demonstrates mastery of subject
15 area knowledge pursuant to subsection (5) and holds an
16 accredited degree or a degree approved by the Department of
17 Education at the level required for the subject area
18 specialization in state board rule; or

19 2. For a subject area specialization for which the state
20 board otherwise requires a bachelor's degree, documents 48
21 months of active-duty military service with an honorable
22 discharge or a medical separation; completes the requirements
23 outlined in paragraphs (2)(a), (b), (d), (e), and (f); completes
24 the subject area content requirements specified in state board
25 rule or demonstrates mastery of subject area knowledge pursuant
26 to subsection (5); and documents completion of 60 college
27 credits with a minimum cumulative grade point average of 2.5 on
28 a 4.0 scale, as provided by one or more accredited institutions
29 of higher learning or a nonaccredited institution of higher
30 learning identified by the Department of Education as having a
31 quality program resulting in a bachelor's degree or higher.

32 (c) The department shall issue one nonrenewable 2-year
33 temporary certificate and one nonrenewable 5-year professional
34 certificate to a qualified applicant who holds a bachelor's
35 degree in the area of speech-language impairment to allow for
36 completion of a master's degree program in speech-language
37 impairment.

38 (d) A person who is issued a temporary certificate under
39 subparagraph (b)2. must be assigned a teacher mentor for a
40 minimum of 2 school years commencing employment. Each teacher



512014

41 mentor selected by the school district, charter school, or
42 charter management organization must:

43 1. Hold a valid professional certificate issued pursuant to
44 s. 1012.56;

45 2. Have earned at least 3 years of teaching experience in
46 prekindergarten through grade 12; and

47 3. Have earned an effective or highly effective rating on
48 the prior year's performance evaluation under s. 1012.34.

49 (e)1. A ~~each~~ temporary certificate issued under
50 subparagraph (b)1. is valid for 3 school fiscal years and is
51 nonrenewable.

52 2. A temporary certificate issued under subparagraph (b)2.
53 is valid for 5 school fiscal years, is limited to a one-time
54 issuance, and is nonrenewable.

55
56 At least 1 year before an individual's temporary certificate is
57 set to expire, the department shall electronically notify the
58 individual of the date on which his or her certificate will
59 expire and provide a list of each method by which the
60 qualifications for a professional certificate can be completed.
61 The State Board of Education shall adopt rules to allow the
62 department to extend the validity period of a temporary
63 certificate for 2 years when the requirements for the
64 professional certificate were not completed due to the serious
65 illness or injury of the applicant, the military service of an
66 applicant's spouse, other extraordinary extenuating
67 circumstances, or if the certificateholder is rated highly
68 effective in the immediate prior year's performance evaluation
69 pursuant to s. 1012.34 or has completed a 2-year mentorship



512014

70 program pursuant to s. 1012.56(8). The department shall extend
71 the temporary certificate upon approval by the Commissioner of
72 Education. A written request for extension of the certificate
73 shall be submitted by the district school superintendent, the
74 governing authority of a university lab school, the governing
75 authority of a state-supported school, or the governing
76 authority of a private school.
77

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

79 And the title is amended as follows:

80 Delete lines 3 - 11

81 and insert:

82 veterans; amending s. 1012.56, F.S.; authorizing the
83 Department of Education to issue a temporary
84 certificate to specified military servicemembers who
85 meet certain criteria; requiring a teacher mentorship
86 for specified military servicemembers who hold a
87 temporary certificate; specifying the duration and
88 issuance of a temporary certificate for specified
89 military servicemembers; amending s..

By Senator Burgess

20-00922A-22

2022896__

1 A bill to be entitled
 2 An act relating to educator certification pathways for
 3 veterans; amending s. 1012.56, F.S.; expanding
 4 eligibility to seek educator certification to
 5 specified military servicemembers who have completed a
 6 specified education requirement; authorizing the
 7 Department of Education to issue a temporary
 8 certificate to specified military servicemembers who
 9 have completed a specified education requirement;
 10 specifying the duration of a temporary certificate for
 11 specified military servicemembers; amending s.
 12 1012.59, F.S.; making a technical change; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Paragraph (c) of subsection (2) and subsection
 18 (7) of section 1012.56, Florida Statutes, are amended to read:

19 1012.56 Educator certification requirements.—

20 (2) ELIGIBILITY CRITERIA.—To be eligible to seek
 21 certification, a person must:

22 (c) 1. Document receipt of a bachelor's or higher degree
 23 from an accredited institution of higher learning, or a
 24 nonaccredited institution of higher learning that the Department
 25 of Education has identified as having a quality program
 26 resulting in a bachelor's degree, or higher. Each applicant
 27 seeking initial certification must have attained a minimum
 28 cumulative at least a 2.5 overall grade point average of 2.5 on
 29 a 4.0 scale in the applicant's major field of study; or

Page 1 of 5

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

20-00922A-22

2022896__

30 2. Document 48 months of active-duty military service with
 31 an honorable discharge or a medical separation and completion of
 32 60 college credits with a minimum cumulative grade point average
 33 of 2.5 on a 4.0 scale, as provided by one or more accredited
 34 institutions of higher learning or a nonaccredited institution
 35 of higher learning identified by the Department of Education as
 36 having a quality program resulting in a bachelor's degree or
 37 higher.

38
 39 The applicant may document the required education by submitting
 40 official transcripts from institutions of higher education or by
 41 authorizing the direct submission of such official transcripts
 42 through established electronic network systems. The bachelor's
 43 or higher degree may not be required in areas approved in rule
 44 by the State Board of Education as nondegreed areas. The State
 45 Board of Education may adopt rules that, for purposes of
 46 demonstrating completion of specific certification requirements,
 47 allow for the acceptance of college course credits recommended
 48 by the American Council for Education (ACE), as posted on an
 49 official ACE transcript.

50 (7) TYPES AND TERMS OF CERTIFICATION.—

51 (a) The Department of Education shall issue a professional
 52 certificate for a period not to exceed 5 years to any applicant
 53 who fulfills one of the following:

54 1. Meets all the applicable requirements outlined in
 55 subsection (2).

56 2. For a professional certificate covering grades 6 through
 57 12:

58 a. Meets the applicable requirements of paragraphs (2) (a)–

Page 2 of 5

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20-00922A-22

2022896__

59 (h) .

60 b. Holds a master's or higher degree in the area of
61 science, technology, engineering, or mathematics.

62 c. Teaches a high school course in the subject of the
63 advanced degree.

64 d. Is rated highly effective as determined by the teacher's
65 performance evaluation under s. 1012.34, based in part on
66 student performance as measured by a statewide, standardized
67 assessment or an Advanced Placement, Advanced International
68 Certificate of Education, or International Baccalaureate
69 examination.

70 e. Achieves a passing score on the Florida professional
71 education competency examination required by state board rule.

72 3. Meets the applicable requirements of paragraphs (2) (a)-
73 (h) and completes a professional preparation and education
74 competence program approved by the department pursuant to
75 paragraph (8) (c) or an educator preparation institute approved
76 by the department pursuant to s. 1004.85. An applicant who
77 completes one of these programs and is rated highly effective as
78 determined by his or her performance evaluation under s. 1012.34
79 is not required to take or achieve a passing score on the
80 professional education competency examination in order to be
81 awarded a professional certificate.

82 (b) The department shall issue a temporary certificate to
83 any applicant who:

84 1. Completes the requirements outlined in paragraphs
85 (2) (a)-(f); and

86 2. Completes the subject area content requirements
87 specified in state board rule or demonstrates mastery of subject

20-00922A-22

2022896__

88 area knowledge pursuant to subsection (5); and

89 3.a. Holds an accredited degree or a degree approved by the
90 Department of Education at the level required for the subject
91 area specialization in state board rule; or

92 b. For a subject area specialization for which the state
93 board otherwise requires a bachelor's degree, has completed 48
94 months of active-duty military service with an honorable
95 discharge or medical separation and 60 college credits with a
96 minimum cumulative grade point average of 2.5 on a 4.0 scale, as
97 provided by one or more accredited institutions of higher
98 learning or a nonaccredited institution of higher learning that
99 the Department of Education has identified as having a quality
100 program resulting in a bachelor's degree or higher.

101 (c) The department shall issue one nonrenewable 2-year
102 temporary certificate and one nonrenewable 5-year professional
103 certificate to a qualified applicant who holds a bachelor's
104 degree in the area of speech-language impairment to allow for
105 completion of a master's degree program in speech-language
106 impairment.

107 (d)1. Except for a temporary certificate issued under sub-
108 paragraph (b)3.b., each temporary certificate is valid for 3
109 school fiscal years and is nonrenewable.

110 2. Each temporary certificate issued under sub-subparagraph
111 (b)3.b. is valid for 5 school fiscal years and is nonrenewable.

112
113 At least 1 year before an individual's temporary certificate is
114 set to expire, the department shall electronically notify the
115 individual of the date on which his or her certificate will
116 expire and provide a list of each method by which the

20-00922A-22

2022896

117 qualifications for a professional certificate can be completed.
118 The State Board of Education shall adopt rules to allow the
119 department to extend the validity period of a temporary
120 certificate for 2 years when the requirements for the
121 professional certificate were not completed due to the serious
122 illness or injury of the applicant, the military service of an
123 applicant's spouse, other extraordinary extenuating
124 circumstances, or if the certificateholder is rated highly
125 effective in the immediate prior year's performance evaluation
126 pursuant to s. 1012.34 or has completed a 2-year mentorship
127 program pursuant to s. 1012.56(8). The department shall extend
128 the temporary certificate upon approval by the Commissioner of
129 Education. A written request for extension of the certificate
130 shall be submitted by the district school superintendent, the
131 governing authority of a university lab school, the governing
132 authority of a state-supported school, or the governing
133 authority of a private school.

134 Section 2. Paragraph (c) of subsection (3) of section
135 1012.59, Florida Statutes, is amended to read:

136 1012.59 Certification fees.—

137 (3) The State Board of Education shall waive initial
138 general knowledge, professional education, and subject area
139 examination fees and certification fees for:

140 (c) An honorably discharged veteran of the United States
141 Armed Forces or a veteran of a reserve component thereof ~~who~~
142 ~~served on active duty~~ and the spouse or surviving spouse of such
143 a veteran.

144 Section 3. This act shall take effect July 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: CS/SB 1386

INTRODUCER: Education Committee and Senator Diaz

SUBJECT: School Personnel

DATE: February 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	Fav/CS
2.			AED	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1386 addresses requirements for school personnel. Specifically, the bill:

- Adds criminal penalties for failing to report offenses against students by authority figures.
- Shifts from the district school board to the employing entity the entity with whom a complete set of fingerprints must be filed to complete the background screening required upon employment for personnel in a virtual instruction program, an alternative school, or a charter school other than a school of hope.
- Provides that the procedures established by the district school superintendent for evaluating the performance of instructional, administrative, and supervisory personnel set the standards of service to be offered to the public and are not subject to collective bargaining.

The bill takes effect upon becoming a law.

II. Present Situation:

Offenses Against Students by Authority Figures

The Department of Education (DOE) is required to maintain a disqualification list to include:¹

- The identity of any person who has been permanently denied an educator certificate or whose certificate was permanently revoked and has been placed on the list.

¹ Section 1001.10(4)(b), F.S.

- The identity of any person who has been permanently disqualified by the Commissioner of Education as an owner or operator of a private school participating in a state scholarship program.
- The identity of any person who has been terminated, or has resigned in lieu of termination, from employment as a result of sexual misconduct with a student.
- The identity of any person who is ineligible for educator certification or employment under educator screening standards.

An individual on the disqualification list is prohibited from serving or applying to serve as an employee or contracted personnel at any public school, charter school, or private school participating in a state scholarship program.²

An individual who violates the requirements of the disqualification list commits a third-degree felony.³ In addition, it is a second-degree felony for an authority figure in a school to solicit or engage in sexual conduct, a relationship of a romantic nature, or lewd conduct with a student.⁴

Criminal History Background Screening

Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students in an alternative school⁵ or any public school, including a charter school, and instructional staff of any approved virtual instruction program⁶ must file with the district school board for the district in which the school serves or is located a complete set of fingerprints. The fingerprints must be:⁷

- Taken by an authorized law enforcement agency or an employee of the school or district school board who is trained to take fingerprints.⁸
- Submitted to the Florida Department of Law Enforcement (FDLE) for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation (FBI) for national criminal records checks.

The screening cost is borne by the district school board, the charter school, the employee, the contractor, or other person subject to the screening requirements.⁹ A district school board is required to reimburse a charter school the cost of background screening if it does not notify the charter school of the eligibility of a governing board member or instructional or noninstructional personnel within the earlier of 14 days after receipt of the background screening results from the FDLE or 30 days of submission of fingerprints by the governing board member or instructional or noninstructional personnel.

² Sections 1002.33(g)1., 1002.421(1)(o), F.S., 1012.315, F.S.

³ Section 1012.796(10), F.S.

⁴ Section 800.101(1)(c), F.S.

⁵ An alternative school is a school that provides dropout prevention and academic intervention services. Section 1008.341(2), F.S.

⁶ Section 1002.45(2)(a)3., F.S. A virtual instruction program is a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both. Section 1002.45(1)(a)2., F.S.

⁷ Section 1012.32(2), F.S. This requirement is subject to limited exceptions for noninstructional contractors who meet the requirements specified in s. 1012.468, F.S.

⁸ Section 1012.32(2)(b), F.S.

⁹ *Id.*

A person is ineligible for employment if the person has committed certain disqualifying offenses specified in law¹⁰ or rule¹¹ of the state board of education. FBI criminal history record information may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies, or other authorized entities.¹²

Retention of Applicant Fingerprints

The FDLE must retain the fingerprints and report any arrest record of a person that is identified with the retained fingerprints to the employing or contracting district school board or the district school board with which the person is affiliated.¹³ Employees and contracted personnel subject to these fingerprinting requirements must be rescreened every five years.¹⁴

Each school district is required to participate in this search process by payment of an annual fee to the FDLE and by informing the FDLE of any change in the affiliation, employment, or contractual status or place of affiliation, employment, or contracting of its instructional and noninstructional personnel whose fingerprints are retained. The FDLE is required to set the amount of the annual fee to be imposed upon each school district for performing these searches and establishing the procedures for the retention of instructional and noninstructional personnel fingerprints and the dissemination of search results. The fee may be borne by the district school board, the contractor, or the person fingerprinted.¹⁵

Evaluation System Approval and Reporting

It is the right of the public employer to determine unilaterally the purpose of each of its constituent agencies, set standards of services to be offered to the public, and exercise control and discretion over its organization and operations.¹⁶

The district school superintendent is required to establish procedures for evaluating the performance of duties and responsibilities of all instructional, administrative, and supervisory personnel employed by the school district. The district school superintendent must also:¹⁷

- Provide instructional personnel the opportunity to review their class rosters for accuracy and to correct any mistakes.
- Report accurate class rosters for the purpose of calculating district and statewide student performance and annually report the evaluation results of instructional personnel and school administrators to the DOE.

¹⁰ See s. 1012.315, F.S., for a list of disqualifying offenses.

¹¹ Rule 6A-5.056(8), F.A.C.

¹² 28 C.F.R. s. 50.12(b).

¹³ Section 1012.32(3), F.S.

¹⁴ Sections 1012.465 and 1012.56(10), F.S.

¹⁵ Section 1012.32(3)(b), F.S.

¹⁶ Section 447.209, F.S.

¹⁷ Section 1012.34(1)(a), F.S.

III. Effect of Proposed Changes:

CS/SB 1386 addresses requirements for school personnel, including penalties related to offenses against students by authority figures, background screening requirements, and district school board personnel evaluation procedures and criteria.

Offenses Against Students by Authority Figures

The bill addresses penalties for failing to report offenses against students by authority figures. Specifically, the bill provides that:

- A person who is required to make a report regarding an incident of sexual misconduct with a student which could impact an educator's inclusion on the disqualification list maintained by the Department of Education and knowingly or willfully fails to make such report, or knowingly or willfully prevents another person from doing so, commits a misdemeanor of the first degree.
- A person who knowingly or willfully submits inaccurate, incomplete, or untruthful information with respect to a report regarding an incident of sexual misconduct with a student which could impact an educator's inclusion on the disqualification list commits a misdemeanor of the first degree.
- A person who knowingly or willfully coerces or threatens any other person with the intent to alter testimony or a written report regarding an incident of sexual misconduct with a student which could impact an educator's inclusion on the disqualification list commits a misdemeanor of the first degree.

School Personnel Background Screening Requirements

The bill shifts from the district school board to the employing entity the entity with whom the complete set of fingerprints must be filed to complete the background screening required upon employment for personnel in a virtual instruction program, an alternative school, or a charter school other than a school of hope. Consequently, the bill provides that:

- The cost of background screening is borne by the employing entity.
- The FDLE must report arrests of school personnel to the employing entity instead of the school district
- Unless a person is otherwise disqualified by law, the employing entity has the sole authority for determining a person's employment eligibility.

The bill defines "employing entity" as a district school board, charter school, alternative school, or any other entity that requires employees to complete a background screening to provide services in a district school system.

The shift in screening responsibilities to the employing entity may reduce the time to complete the background screening process for employers other than district school boards. In addition, redundant background screenings for employing entities that contract with or provide services in more than one school district may be reduced or eliminated.

Evaluation System Approval and Reporting

The bill provides that the procedures established by the district school superintendent for evaluating the performance of instructional, administrative, and supervisory personnel set the standards of service to be offered to the public and are not subject to collective bargaining.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The Florida Constitution prohibits public employees from striking.¹⁸ To balance that prohibition, public employees have a constitutional right to bargain collectively.¹⁹ However, the Florida Supreme Court has stated, “in the sensitive area of labor relations between public employees and public employer, it is requisite that the Legislature enact appropriate legislation setting out standards and guidelines and otherwise regulate the subject within the limits of [the constitutional right to work.]”²⁰

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁸ Art. I, s. 6, Fla. Const., provides, “[t]he right of employees, by and through a labor organization, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike.”

¹⁹ *Orange County Classroom Teachers Ass’n v. Sch. Dist. of Orange County*, No. CA18050, at 41 (Fla. PERC May 27, 2021) (Supplemental Recommended Order), *adopted with exceptions* (Fla. PERC Sept. 24, 2021) (Final Order No. 21U-285), available at <http://perc.myflorida.com/co/allorderresults.aspx?CaseID=37365>, *appeal docketed*, No. 5D21-2607 (Fla. 5th DCA Oct. 22, 2021).

²⁰ *Dade County Classroom Teachers’ Ass’n v. Ryan*, 225 So. 2d 903, 906 (Fla. 1969).

B. Private Sector Impact:

The fiscal impact to the private sector is indeterminate. The Florida Department of Law Enforcement (FDLE) reports that there will be a one-time increase in background checks as individuals will be required to be rescreened under the new employing entity holding the fingerprints. Employers or their employees that provide services in only one school district may experience an indeterminate negative fiscal impact associated with the initial rescreening.²¹ Employers that contract with or provide services in more than one school district may experience a cost savings due to the reduction of redundant background screenings.

C. Government Sector Impact:

The fiscal impact is indeterminate. FDLE reports that there will be a one-time increase in background checks as individuals will be required to be rescreened under the new employing entity holding the fingerprints. Charter schools that are public employers or their employees that provide services in only one school district may experience an indeterminate negative fiscal impact associated with the initial one-time rescreening.²²

Charter schools that are public employers that contract with or provide services to more than one district school board may experience a cost savings due to the reduction of redundant background screenings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 800.101, 1012.32, and 1012.34 of the Florida Statutes.

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

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

CS by Education on February 1, 2022:

The committee substitute:

- Adds penalties for failing to report offenses against students by authority figures.
- Provides that the procedures established by the district school superintendent for evaluating the performance of instructional, administrative, and supervisory personnel

²¹ Florida Department of Law Enforcement, *2022 FDLE Legislative Bill Analysis for SB 1386*.

²² *Id.*

set the standards of service to be offered to the public and are not subject to collective bargaining.

- Makes the bill effective upon becoming law.

B. Amendments:

None.

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



289492

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

The Committee on Education (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsection (4) of section 800.101,
Florida Statutes, is redesignated as subsection (5), new
subsection (4) is added to that section, and subsection (3) of
that section is amended, to read:

800.101 Offenses against students by authority figures.—

(3) A person who violates subsection (2) ~~this section~~
commits a felony of the second degree, punishable as provided in



289492

12 s. 775.082, s. 775.083, or s. 775.084.

13 (4) (a) A person who is required to make a report regarding
14 an incident of sexual misconduct with a student which could
15 impact an educator's inclusion on the disqualification list
16 maintained by the Department of Education pursuant to s.
17 1001.10 (4) (b) and who knowingly or willfully fails to make such
18 report, or knowingly or willfully prevents another person from
19 doing so, commits a misdemeanor of the first degree, punishable
20 as provided in s. 775.082 or s. 775.083.

21 (b) A person who knowingly or willfully submits inaccurate,
22 incomplete, or untruthful information with respect to a report
23 regarding an incident of sexual misconduct with a student which
24 could impact an educator's inclusion on the disqualification
25 list maintained by the Department of Education pursuant to s.
26 1001.10 (4) (b) commits a misdemeanor of the first degree,
27 punishable as provided in s. 775.082 or s. 775.083.

28 (c) A person who knowingly or willfully coerces or
29 threatens any other person with the intent to alter testimony or
30 a written report regarding an incident of sexual misconduct with
31 a student which could impact an educator's inclusion on the
32 disqualification list maintained by the Department of Education
33 pursuant to s. 1001.10 (4) (b) commits a misdemeanor of the first
34 degree, punishable as provided in s. 775.082 or s. 775.083.

35 Section 2. Subsection (2) and paragraph (b) of subsection
36 (3) of section 1012.32, Florida Statutes, are amended, and
37 subsection (4) is added to that section, to read:

38 1012.32 Qualifications of personnel.—

39 (2) (a) Instructional and noninstructional personnel ~~who are~~
40 hired or contracted to fill positions that require direct



289492

41 contact with students in any district school system or
42 university lab school must, upon employment or engagement to
43 provide services, undergo background screening as required under
44 s. 1012.465 or s. 1012.56, whichever is applicable.

45 (b)1. Instructional and noninstructional personnel ~~who are~~
46 hired or contracted to fill positions in a charter school other
47 than a school of hope as defined in s. 1002.333, and members of
48 the governing board of such charter school, in compliance with
49 s. 1002.33(12)(g), upon employment, engagement of services, or
50 appointment, shall undergo background screening as required
51 under s. 1012.465 or s. 1012.56, whichever is applicable, by
52 filing with the employing entity ~~district school board for the~~
53 ~~school district in which the charter school is located a~~
54 complete set of fingerprints taken by an authorized law
55 enforcement agency or an employee of the school ~~or school~~
56 ~~district~~ who is trained to take fingerprints.

57 2. Instructional and noninstructional personnel ~~who are~~
58 hired or contracted to fill positions in a school of hope as
59 defined in s. 1002.333, and members of the governing board of
60 such school of hope, shall file with the school of hope a
61 complete set of fingerprints taken by an authorized law
62 enforcement agency, by an employee of the school of hope ~~or~~
63 ~~school district~~ who is trained to take fingerprints, or by any
64 other entity recognized by the Department of Law Enforcement to
65 take fingerprints.

66 (c) Instructional and noninstructional personnel ~~who are~~
67 hired or contracted to fill positions that require direct
68 contact with students in an alternative school that operates
69 under contract with a district school system must, upon



289492

70 employment or engagement to provide services, undergo background
71 screening as required under s. 1012.465 or s. 1012.56, whichever
72 is applicable, by filing with the alternative school district
73 ~~school board for the school district to which the alternative~~
74 ~~school is under contract~~ a complete set of fingerprints taken by
75 an authorized law enforcement agency or an employee of the
76 school ~~or school district~~ who is trained to take fingerprints.

77 (d) Student teachers and persons participating in a field
78 experience pursuant to s. 1004.04(5) or s. 1004.85 in any
79 district school system, lab school, or charter school must, upon
80 engagement to provide services, undergo background screening as
81 required under s. 1012.56.

82
83 Required fingerprints must be submitted to the Department of Law
84 Enforcement for statewide criminal and juvenile records checks
85 and to the Federal Bureau of Investigation for federal criminal
86 records checks. A person subject to this subsection who is found
87 ineligible for employment under s. 1012.315, or otherwise found
88 through background screening to have been convicted of any crime
89 involving moral turpitude as defined by rule of the State Board
90 of Education, may ~~shall~~ not be employed, engaged to provide
91 services, or serve in any position that requires direct contact
92 with students. Probationary persons subject to this subsection
93 who are terminated because of their criminal record have the
94 right to appeal such decisions. Except for a person's
95 ineligibility for employment as provided in this section, an
96 employing entity has the sole authority for determining a
97 person's employment eligibility. The cost of the background
98 screening may be borne by the employing entity ~~district school~~



289492

99 ~~board, the charter school, the employee, the contractor, or a~~
100 ~~person subject to this subsection. A district school board shall~~
101 ~~reimburse a charter school the cost of background screening if~~
102 ~~it does not notify the charter school of the eligibility of a~~
103 ~~governing board member or instructional or noninstructional~~
104 ~~personnel within the earlier of 14 days after receipt of the~~
105 ~~background screening results from the Florida Department of Law~~
106 ~~Enforcement or 30 days of submission of fingerprints by the~~
107 ~~governing board member or instructional or noninstructional~~
108 ~~personnel.~~

109 (3)

110 (b) The Department of Law Enforcement shall search all
111 arrest fingerprints received under s. 943.051 against the
112 fingerprints retained in the statewide automated biometric
113 identification system under paragraph (a). Any arrest record
114 ~~that is~~ identified with the retained fingerprints of a person
115 subject to the background screening under this section must
116 ~~shall~~ be reported to the employing entity ~~or contracting school~~
117 ~~district or the school district with which the person is~~
118 ~~affiliated.~~ Each employing entity ~~school district~~ is required to
119 participate in this search process by payment of an annual fee
120 to the Department of Law Enforcement and by informing the
121 Department of Law Enforcement of any change in the ~~affiliation,~~
122 ~~employment,~~ or contractual status ~~or place of affiliation,~~
123 ~~employment,~~ or ~~contracting~~ of its instructional and
124 noninstructional personnel whose fingerprints are retained under
125 paragraph (a). The Department of Law Enforcement shall adopt a
126 rule setting the amount of the annual fee to be imposed upon
127 each employing entity ~~school district~~ for performing these



289492

128 searches and establishing the procedures for the retention of
129 instructional and noninstructional personnel fingerprints and
130 the dissemination of search results. The fee may be borne by the
131 employing entity ~~district school board, the contractor,~~ or the
132 person fingerprinted.

133 (4) For purposes of this section, the term "employing
134 entity" means a district school board, charter school,
135 alternative school, or any other entity that requires employees
136 to complete a background screening pursuant to this section.

137 Section 3. Paragraph (a) of subsection (1) of section
138 1012.34, Florida Statutes, is amended to read:

139 1012.34 Personnel evaluation procedures and criteria.—

140 (1) EVALUATION SYSTEM APPROVAL AND REPORTING.—

141 (a) For the purpose of increasing student academic
142 performance by improving the quality of instructional,
143 administrative, and supervisory services in the public schools
144 of this ~~the~~ state, the district school superintendent shall
145 establish procedures for evaluating the performance of duties
146 and responsibilities of all instructional, administrative, and
147 supervisory personnel employed by the school district. The
148 procedures established by the district school superintendent set
149 the standards of service to be offered to the public within the
150 meaning of s. 447.209 and are not subject to the collective
151 bargaining process. The district school superintendent shall
152 provide instructional personnel the opportunity to review their
153 class rosters for accuracy and to correct any mistakes. The
154 district school superintendent shall report accurate class
155 rosters for the purpose of calculating district and statewide
156 student performance and annually report the evaluation results



157 of instructional personnel and school administrators to the
158 Department of Education in addition to the information required
159 under subsection (5).

160 Section 4. This act shall take effect upon becoming a law.

161

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

163 And the title is amended as follows:

164 Delete everything before the enacting clause

165 and insert:

166

A bill to be entitled

167

An act relating to school personnel; amending s.

168

800.101, F.S.; prohibiting a person who is required to

169

make certain reports concerning sexual misconduct with

170

a student from knowingly or willfully failing to make

171

such report or knowingly or willfully preventing

172

another person from doing so; prohibiting a person

173

from knowingly or willfully submitting inaccurate,

174

incomplete, or untruthful information with respect to

175

a report concerning sexual misconduct with a student;

176

prohibiting a person from knowingly or willfully

177

coercing or threatening any other person with the

178

intent to alter testimony or a written report

179

concerning sexual misconduct with a student; providing

180

criminal penalties; amending s. 1012.32, F.S.;

181

specifying that certain instructional and

182

noninstructional personnel must file fingerprints with

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the employing entity or alternative school, as

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applicable, rather than the district school board;

185

conforming provisions to changes made by the act;



289492

186 providing that an employing entity has the sole
187 authority for determining the employment eligibility
188 of certain personnel; providing an exception;
189 requiring the Department of Law Enforcement to report
190 the results from background screenings to the
191 employing entity; defining the term "employing
192 entity"; amending s. 1012.34, F.S.; providing that
193 certain procedures established by district school
194 superintendents set the standards of service to be
195 offered to the public within the meaning of a
196 specified provision and are not subject to the
197 collective bargaining process; providing an effective
198 date.



542392

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/02/2022	.	
	.	
	.	
	.	

The Committee on Education (Jones) recommended the following:

1 **Senate Amendment to Amendment (289492) (with title**
2 **amendment)**

3
4 Delete lines 137 - 159.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 192 - 197

9 and insert:

10 entity"; providing an effective

By Senator Diaz

36-01581-22

20221386__

A bill to be entitled

An act relating to background screenings for school personnel; amending s. 1012.32, F.S.; requiring each employing entity that employs instructional and noninstructional personnel who have direct contact with students to submit certain individuals' fingerprints to the Department of Law Enforcement; conforming provisions to changes made by the act; providing that an employing entity has the sole authority for determining the employment eligibility of certain personnel; providing an exception; requiring the Department of Law Enforcement to report the results from background screenings to the employing entity; defining the term "employing entity"; providing an effective date.

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

Section 1. Subsection (2) and paragraph (b) of subsection (3) of section 1012.32, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

1012.32 Qualifications of personnel.—

(2) (a) Instructional and noninstructional personnel ~~who are~~ hired or contracted to fill positions that require direct contact with students in any district school system or university lab school must, upon employment or engagement to provide services, undergo background screening as required under s. 1012.465 or s. 1012.56, whichever is applicable.

(b) 1. Instructional and noninstructional personnel ~~who are~~

Page 1 of 5

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

36-01581-22

20221386__

hired or contracted to fill positions in a charter school other than a school of hope as defined in s. 1002.333, and members of the governing board of such charter school, in compliance with s. 1002.33(12)(g), upon employment, engagement of services, or appointment, shall undergo background screening as required under s. 1012.465 or s. 1012.56, whichever is applicable, by filing with the employing entity ~~district school board for the school district in which the charter school is located~~ a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school ~~or school district~~ who is trained to take fingerprints.

2. Instructional and noninstructional personnel ~~who are~~ hired or contracted to fill positions in a school of hope as defined in s. 1002.333, and members of the governing board of such school of hope, shall file with the school of hope a complete set of fingerprints taken by an authorized law enforcement agency, by an employee of the school of hope ~~or school district~~ who is trained to take fingerprints, or by any other entity recognized by the Department of Law Enforcement to take fingerprints.

(c) Instructional and noninstructional personnel ~~who are~~ hired or contracted to fill positions that require direct contact with students in an alternative school that operates under contract with a district school system must, upon employment or engagement to provide services, undergo background screening as required under s. 1012.465 or s. 1012.56, whichever is applicable, by filing with the alternative school district school board for the school district to which the alternative school is under contract a complete set of fingerprints taken by

Page 2 of 5

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36-01581-22 20221386__

59 an authorized law enforcement agency or an employee of the
60 school ~~or school district~~ who is trained to take fingerprints.

61 (d) Student teachers and persons participating in a field
62 experience pursuant to s. 1004.04(5) or s. 1004.85 in any
63 district school system, lab school, or charter school must, upon
64 engagement to provide services, undergo background screening as
65 required under s. 1012.56.

66
67 Required fingerprints must be submitted to the Department of Law
68 Enforcement for statewide criminal and juvenile records checks
69 and to the Federal Bureau of Investigation for federal criminal
70 records checks. A person subject to this subsection who is found
71 ineligible for employment under s. 1012.315, or otherwise found
72 through background screening to have been convicted of any crime
73 involving moral turpitude as defined by rule of the State Board
74 of Education, may ~~shall~~ not be employed, engaged to provide
75 services, or serve in any position that requires direct contact
76 with students. Probationary persons subject to this subsection
77 who are terminated because of their criminal record have the
78 right to appeal such decisions. Except for a person's
79 ineligibility for employment as provided in this section, an
80 employing entity has the sole authority for determining a
81 person's employment eligibility. The cost of the background
82 screening may be borne by the employing entity ~~district school~~
83 ~~board, the charter school, the employee, the contractor,~~ or a
84 person subject to this subsection. ~~A district school board shall~~
85 ~~reimburse a charter school the cost of background screening if~~
86 ~~it does not notify the charter school of the eligibility of a~~
87 ~~governing board member or instructional or noninstructional~~

Page 3 of 5

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36-01581-22 20221386__

88 ~~personnel within the earlier of 14 days after receipt of the~~
89 ~~background screening results from the Florida Department of Law~~
90 ~~Enforcement or 30 days of submission of fingerprints by the~~
91 ~~governing board member or instructional or noninstructional~~
92 ~~personnel.~~

93 (3)
94 (b) The Department of Law Enforcement shall search all
95 arrest fingerprints received under s. 943.051 against the
96 fingerprints retained in the statewide automated biometric
97 identification system under paragraph (a). Any arrest record
98 ~~that is~~ identified with the retained fingerprints of a person
99 subject to the background screening under this section must
100 shall be reported to the employing entity ~~or contracting school~~
101 ~~district or the school district with which the person is~~
102 affiliated. Each employing entity ~~school district~~ is required to
103 participate in this search process by payment of an annual fee
104 to the Department of Law Enforcement and by informing the
105 Department of Law Enforcement of any change in the ~~affiliation,~~
106 ~~employment,~~ or contractual status ~~or place of affiliation,~~
107 ~~employment, or contracting~~ of its instructional and
108 noninstructional personnel whose fingerprints are retained under
109 paragraph (a). The Department of Law Enforcement shall adopt a
110 rule setting the amount of the annual fee to be imposed upon
111 each employing entity ~~school district~~ for performing these
112 searches and establishing the procedures for the retention of
113 instructional and noninstructional personnel fingerprints and
114 the dissemination of search results. The fee may be borne by the
115 employing entity ~~district school board, the contractor,~~ or the
116 person fingerprinted.

Page 4 of 5

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

36-01581-22

20221386__

117 (4) For purposes of this section, the term "employing
118 entity" means a district school board, charter school,
119 alternative school, or any other entity that requires employees
120 to complete a background screening pursuant to this section.

121 Section 2. This act shall take effect July 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 1690

INTRODUCER: Senator Diaz

SUBJECT: Charter School Revolving Loan Program

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazesi	Bouck	ED	Favorable
2.			AED	
3.			AP	

I. Summary:

SB 1690 creates the Charter School Revolving Loan Program (loan program) to provide assistance to charter school operators to meet school building financing needs for charter schools. The bill requires the loan program to consist of funds appropriated by the Legislature, philanthropic contributions, money received from the repayment of loans made from the program, and interest earned.

The bill requires the Department of Education (DOE) to contract with a third-party administrator to administer the loan program, under specified requirements. The bill requires the DOE to report on certain components of the loan program.

The bill provides an appropriation of \$10 million in nonrecurring general revenue funds. See Section V.

The bill provides an effective date of July 1, 2022.

II. Present Situation:

Charter Schools

Charter schools are public schools that operate under a performance contract, or a “charter” which frees them from many regulations created for traditional public schools while holding them accountable for academic and financial results. The charter contract between the charter school governing board and the sponsor details the school’s mission, program, goals, students served, methods of assessment and ways to measure success.¹ As of the 2018-2019 school year,

¹ Florida Department of Education, *FAQ, What are charter schools?* <http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml> (last visited Jan. 28, 2022).

over 3.3 million students attend charter schools in over 44 states, representing 6.5 percent of all public school students in the United States.²

National Charter School Facilities Funding

Credit Enhancement for Charter School Facilities Program

The Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 (ESSA) reauthorized the Credit Enhancement for Charter School Facilities Program.³ The purpose of the Credit Enhancement program is to award grants to eligible entities that demonstrate innovative methods of helping charter schools address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans and bond financing.⁴ An eligible entity receiving a grant must use the funds deposited in the reserve account to assist one or more charter schools to access private-sector capital to accomplish one or more of the following objectives:⁵

- The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.
- The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.
- The pre-development costs required to assess sites and to commence or continue the operation of a charter school.

In Fiscal Year 2021-2022, \$42,000,000 was allocated for the Charter School Facilities Program.⁶ Four entities were awarded funding through the program: California School Finance Authority, Massachusetts Development Finance Agency, BlueHub Loan Fund, Inc., Equitable Facilities Fund, Inc.⁷

Charter Schools in Florida

All charter schools in Florida are public schools and are part of the state's program of public education. In the 2020-2021 school year, 341,926 students were enrolled in 687 charter schools

² National Alliance for Public Charter Schools, *FAQ, How many charter schools and students are there?* <https://data.publiccharters.org/digest/charter-school-data-digest/how-many-charter-schools-and-students-are-there/> (last visited Nov. 23, 2021).

³ 20 U.S.C.7721.

⁴ United States Department of Education, *Credit Enhancement for Charter School Facilities*, <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/credit-enhancement-for-charter-school-facilities-program/> (last visited January 28, 2022). Eligible entities are: a public entity such as a state or local entity; a private nonprofit entity; a consortium of state/local agencies and/or a private nonprofit entity.

⁵ *Id.*

⁶ United States Department of Education, *Credit Enhancement for Charter School Facilities, Funding and Legislation*, <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/credit-enhancement-for-charter-school-facilities-program/funding-and-legislation/> (last visited Jan. 28, 2022).

⁷ United States Department of Education, *Credit Enhancement for Charter School Facilities, Awards*, <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/charter-school-programs/credit-enhancement-for-charter-school-facilities-program/awards/> (last visited Jan. 28, 2022).

in 47 school districts.⁸ Approximately 70 percent of the students served by charter schools were minorities. Hispanic students comprised 45 percent of Florida's charter school enrollment and 19 percent were African-American students.⁹

Charter School Funding for Operations

Charter school operations, like other public schools, are funded through the Florida Education Finance Program (FEFP). Each charter school reports student enrollment to its sponsor for inclusion in the district's report of student enrollment for FEFP funding. Operating funds from the FEFP are distributed to the charter school by the sponsor. A charter school is entitled to receive its proportionate share of categorical funds included in the FEFP for qualifying students.¹⁰ Categorical funds must be spent for specified purposes, such as student transportation, safe schools, and supplemental academic instruction.

Charter School Funding for Capital Expenditures

Capital outlay funding for charter schools consists of state funds when appropriated in the General Appropriations Act (GAA) and revenue resulting from discretionary millage authorized in law.¹¹ In 2021-2022, the legislature appropriated \$182,864,353 for the Charter School Capital Outlay Allocation.¹² To be eligible to receive capital outlay funds, a charter school must:

- Have operated for two or more years and meet specified requirements.¹³
- Have an annual audit that does not reveal any financial emergency conditions.
- Have satisfactory student achievement based on state accountability standards.
- Have received final approval from its sponsor for operation during that fiscal year.
- Serve students in facilities that are not provided by the charter school's sponsor.¹⁴

Charter Schools may use charter school capital outlay funding for the:¹⁵

- Purchase of real property;
- Construction of school facilities;
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities;
- Purchase of vehicles to transport students to and from the charter school;
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer;
- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities;

⁸ Florida Department of Education, Office of Independent Education & Parental Choice, *Fact Sheet, Florida's Charter Schools*, (2021) available at <https://www.fldoe.org/core/fileparse.php/7778/urlt/Charter-Sept-2021.pdf>.

⁹ *Id.*

¹⁰ Section 1002.33(17)(a) and (b), F.S.

¹¹ Section 10013.62, F.S.

¹² Specific Appropriation 19, s. 2, ch. 2021-36 L.O.F.

¹³ Specified requirements include being governed by a governing board established in the state for two or more years which operates both charter schools and conversion charter schools within the state; being an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds; having been accredited by a regional accrediting association as defined by State Board of Education rule; or serving students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s.1002.33(15)(b). Section 1013.62(1)(a), F.S.

¹⁴ Section 1013.62(1)(a), F.S.

¹⁵ Section 1013.62(4)(a)-(h), F.S.

- Purchase, lease-purchase, or lease of driver’s education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment;
- Purchase, lease-purchase, or lease of computer and device hardware and operating system software necessary for gaining access to or enhancing the use of electronic and digital instructional content and resources; and
- Payment of the cost of the opening day collection for the library media center of a new school.

Charter School Facilities

Charter schools, with the exception of conversion charter schools, are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to s. 1013.37, F.S.¹⁶ A library, community service, museum, performing arts, theatre, cinema, church, FCS institution, college, and university facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations without obtaining a special exception, rezoning, or a land use change.¹⁷ In the 2019-2020 school year, 477 charter schools reported to the Department of Education that they lease their facility and 179 charter schools reported that they own their facility.¹⁸

III. Effect of Proposed Changes:

SB 1690 creates the Charter School Revolving Loan Program (loan program) to provide assistance to charter school operators to meet school building financing needs for charter schools. The bill requires the program to consist of funds appropriated by the Legislature, philanthropic contributions, money received from the repayment of loans made from the loan program, and interest earned.

The bill requires the Department of Education (DOE) to contract with a third-party administrator to administer the program for the purpose of financing charter school facilities projects. The bill provides requirements for the third-party administrator that include:

- Earned a rating of “A” or higher from a major credit rating agency;
- The infrastructure and expertise necessary to underwrite, source, and close charter school loans; and
- Be able to leverage funds appropriated by the Legislature to support the fund.

The bill specifies that loans made through the loan program do not imply the full faith and credit of the state and do not imply any consideration of credit worthiness, project viability, construction quality, ability to repay, or any other guarantee by the state. All loan documents are required to include that the loan program does not imply the full faith and credit of the state. The bill provides that the loans granted by the third-party administrator under this program are at the

¹⁶ Section 1002.33(18)(a), F.S.. Section 1013.37, F.S., delineates the uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards.

¹⁷ Section 1002.33(18)(c), F.S.

¹⁸ Email, Jessica Fowler, Deputy Legislative Affairs Director, Florida Department of Education (Jan. 28, 2022) (on file with the Senate Committee on Education). Of the 477 charter schools that reported they lease their facility, 23 charter schools reported they lease their facility from the school district where the school resides.

discretion of the third-party administrator and that repayments of principal and interest must be returned to the loan fund to be available for other applicants. The bill allows that interest on the loans can be used to cover administration costs of the loan program.

In addition, the bill the DOE to post on its website:

- The projects that have received loans;
- The geographic distribution of the projects;
- The status of the projects;
- The costs of the program; and
- The student outcomes for students enrolled in the schools receiving funds.

The bill provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

The bill requires that for the 2022-2023 fiscal year, the sum of \$10 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Education to create the Charter School Revolving Loan Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the section 1002.336 of the Florida Statutes.

IX. Additional Information:

A. **Committee Substitute – Statement of Changes:**

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

None.

B. **Amendments:**

None.

By Senator Diaz

36-01408A-22

20221690__

A bill to be entitled

An act relating to the Charter School Revolving Loan Program; creating s. 1002.336, F.S.; establishing the program for a specified purpose; providing that funding for the program shall consist of specified funds; requiring the Department of Education to contract with a third-party administrator to administer the program; providing requirements for such third-party administrator; providing that loans made through the program do not imply the full faith and credit of the state; providing that all loans provided by the third-party administrator are at the sole discretion of the third-party administrator; providing the purpose of the loans; requiring all loan documents to include specified language and be expressly agreed to by the third-party administrator and loan recipients; requiring the third-party administrator to electronically provide copies of certain loan documents to the department; requiring the department to post specified information on its website; requiring all repayments of principal and interest to be returned to the loan fund and made available for loans to other applicants; authorizing interest paid on loans to be used to defray the costs of program administration; providing an appropriation; providing an effective date.

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

Page 1 of 3

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

36-01408A-22

20221690__

Section 1. Section 1002.336, Florida Statutes, is created to read:

1002.336 Charter School Revolving Loan Program.—

(1) The Charter School Revolving Loan Program is established to provide assistance to charter school operators to meet school building financing needs for charter schools. The program shall consist of funds appropriated by the Legislature, philanthropic contributions, money received from the repayment of loans made from the program, and interest earned.

(2) The Department of Education shall contract with a third-party administrator to administer the program. Funds shall be granted to the third-party administrator to create a revolving loan fund for the purpose of financing charter school facilities projects.

(3) The third-party administrator must:

(a) Have earned a rating of "A" or higher from a major credit rating agency;

(b) Have the infrastructure and expertise necessary to underwrite, source, and close charter school loans; and

(c) Be able to leverage funds appropriated by the Legislature to support the fund.

(4) All loans made through the Charter School Revolving Loan Program do not imply the full faith and credit of the state and do not imply any consideration of credit worthiness, project viability, construction quality, ability to repay, or any other guarantee by the state.

(5) Loans provided by the third-party administrator under this program are at the discretion of the third-party administrator. The third-party administrator shall provide loans

Page 2 of 3

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36-01408A-22

20221690__

59 to enhance access to high-quality charter schools.

60 (6) The language in subsection (4) must be included on all
61 loan documents and expressly agreed to by the third-party
62 administrator and any recipients of loans made under this
63 program. All such loan documents must be electronically provided
64 to the department.

65 (7) The department shall post on its website the projects
66 that have received loans, the geographic distribution of the
67 projects, the status of the projects, the costs of the program,
68 and student outcomes for students enrolled in the schools
69 receiving funds.

70 (8) All repayments of principal and interest must be
71 returned to the loan fund and made available for loans to other
72 applicants.

73 (9) Interest on loans provided under this program may be
74 used to defray the costs of administration.

75 Section 2. For the 2022-2023 fiscal year, the sum of \$10
76 million in nonrecurring funds is appropriated from the General
77 Revenue Fund to the Department of Education to create the
78 Charter School Revolving Loan Program established by this act.

79 Section 3. This act shall take effect July 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 1284

INTRODUCER: Senator Gruters

SUBJECT: Florida Postsecondary Student Assistance Grant Program

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	Favorable
2.			AED	
3.			AP	

I. Summary:

SB 1284 expands award eligibility to full-time degree-seeking students accepted to a competency-based, nonprofit virtual postsecondary institution that is accredited by a member of the Council of Regional Accrediting Commissions and is created by the governors of several states.

The bill has no impact on state revenues or expenditures. The bill may have a fiscal impact on availability of funds for institutions eligible for grants. See section V.

The bill takes effect July 1, 2022.

II. Present Situation:

Florida Student Assistance Grant Program

The Florida Student Assistance Grant (FSAG) Program, created in 1972, is Florida’s largest need-based grant program, consisting of FSAG Public, FSAG Career Education, FSAG Private, and FSAG Postsecondary.¹ The FSAG Program provides state need-based assistance grants to students who meet general eligibility requirements,² demonstrate financial need, and meet enrollment requirements as specified by each program. The FSAG Program is administered by participating institutions in accordance with State Board of Education (SBE) rule.³

¹ Florida Department of Education Office of Student Financial Assistance, *Annual Report to the Commissioner 2019-20* (2020), at 11, available at <https://www.floridastudentfinancialaidsg.org/pdf/annualreportcurrent.pdf>.

² Section 1009.40, F.S.

³ Sections 1009.50(6), 1009.505(5), 1009.51(6), and 1009.52(7), F.S. See also Rule 6A-20.031, F.A.C. Postsecondary educational institution administrative responsibilities for state student aid and tuition assistance programs are outlined in Rule 6A-20.002, F.A.C.

The funds appropriated for the FSAG Program must be distributed to eligible institutions in accordance with a formula approved by the SBE. The formula must consider at least the prior year's distribution of funds, the number of eligible applicants who did not receive awards, the standardization of the EFC, and provisions for unused funds. The formula must account for changes in the number of eligible students across all student assistance grant programs.⁴

In 2020-2021, the FSAG programs disbursed approximately \$267 million to over 167,000 students.⁵

Florida Postsecondary Student Assistance Grant Program

The Florida Postsecondary Student Assistance Grant Program (FSAG Postsecondary) is available to students who attend eligible independent institutions⁶ that meet one of the following criteria:

- A private nursing diploma school which is approved by the Florida Board of Nursing, is located in Florida, and administers the Pell Grant.⁷
- An independent college or university located in Florida, which is licensed by the Commission for Independent Education (CIE), offers degrees, administers the Pell Grant and does not participate in the FSAG Private grant.⁸
- An aviation maintenance school that is located in this state, certified by the Federal Aviation Administration, and licensed by the CIE.⁹

A FSAG Postsecondary grant is only awarded to full-time degree seeking students (enrolled in a minimum of 12 credit hours per term, or the equivalent)¹⁰ who meet general requirements for student eligibility,¹¹ and attend an eligible institution.¹² The student must have been accepted at the eligible institution.¹³ A student applying for a FSAG Postsecondary grant must apply for the Pell Grant, and any federal aid provided is considered when assessing financial resources available to the student.¹⁴

The total FSAG Postsecondary grant a student receives must be for the amount of demonstrated unmet need for tuition and fees and may not exceed the maximum annual award amount specified in the General Appropriations Act (GAA).¹⁵ For fiscal year (FY) 2021-2022, the GAA

⁴ Sections 1009.50(4)(a), 1009.51(4)(a), and 1009.52(4)(a), F.S.

⁵ Florida Department of Education, Office of Student Financial Assistance, *2020-21 End of Year Reports*, <https://www.floridastudentfinancialaidsg.org/SAPSPEOYR/SAPSPEOYR> (last visited January 26, 2022).

⁶ Section 1009.52(2)(a) and (b), F.S.

⁷ Section 1009.52(2)(a)1., F.S.; *see also* Florida Department of Education, Office of Student Financial Assistance, *2021-22 Institutional Eligibility Program Requirements for Participation in State Scholarship & Grant Programs*, at 2, available at https://www.floridastudentfinancialaidsg.org/pdf/Institution_Eligibility_Requirements.pdf.

⁸ Section 1009.52(2)(a)2., F.S.

⁹ Section 1009.52(2)(b), F.S.

¹⁰ Florida Department of Education, Office of Student Financial Assistance, *Florida Student Assistance Grant Fact Sheet* (2021-22), at 2, available at, <https://www.floridastudentfinancialaidsg.org/PDF/factsheets/FSAG.pdf>.

¹¹ Section 1009.40, F.S. *see also* 6A-20.033(1), F.A.C. General eligibility includes acceptance at an eligible postsecondary institution, residency for tuition purposes, and a certification by the student of eligibility to receive an award.

¹² Section 1009.52(2)(a) and (b), F.S.

¹³ *Id.*

¹⁴ Section 1009.52(2)(d), F.S.

¹⁵ Section 1009.52(2), F.S.

established a maximum award amount of \$3,260 to any student from the FSAG Postsecondary.¹⁶ A student is not eligible for a FSAG Postsecondary grant if demonstrated unmet need is less than \$200.¹⁷ Priority of grant money may be given to students who are within one semester of completing a degree or certificate program and an institution is prohibited from awarding a grant to a student whose EFC exceeds one and one-half times the maximum Pell Grant-eligible family contribution.¹⁸

To maintain eligibility for an FSAG Postsecondary grant, a student must have earned a minimum institutional cumulative grade point average (GPA) of 2.0 on a 4.0 scale for 12 credit hours for each term the award was received.¹⁹ A student is eligible to receive a FSAG Postsecondary grant for nine semesters or 14 quarters of full-time enrollment.²⁰ A student receiving a FSAG Postsecondary grant to attend an eligible aviation maintenance school is eligible for an award of up to 110 percent of the number of clock hours required to complete the program in which the student is enrolled.²¹

Reporting and Distribution Requirements

Each participating institution determines an applicant's eligibility and award amount,²² and reports to the Department of Education (DOE) the students who are eligible for the FSAG Postsecondary for each academic term, including necessary demographic and eligibility date for such students.²³

The funds appropriated for the FSAG Postsecondary must be distributed to eligible institutions in accordance with a formula approved by the State Board of Education (SBE).²⁴ The formula must consider at least the prior year's distribution of funds and the number of eligible applicants who did not receive awards.²⁵ The formula must account for changes in the number of eligible students across all student assistance grant programs.²⁶ Institutions must comply with disbursement and remittance requirements specified in law.²⁷

Each institution that receives money through the FSAG Postsecondary must prepare a biennial report, which includes a financial audit of the institution's administration of the program and a complete account of moneys for the program, submitted to the DOE by March 1 every other year.²⁸ The DOE may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and financial audit

¹⁶ Specific Appropriations 6 and 72, s. 2, ch. 2021-36, L.O.F.

¹⁷ Section 1009.52(2), F.S.

¹⁸ Section 1009.52(2)(c), F.S. An institution may not impose additional criteria to determine a student's eligibility to receive a grant award.

¹⁹ Section 1009.40(1)(b)1., F.S.

²⁰ Section 1009.52(2)(c), F.S.

²¹ *Id.*

²² Florida Department of Education, Office of Student Financial Assistance, *Florida Student Assistance Grant Fact Sheet* (2021-22), at 4, available at, <https://www.floridastudentfinancialaidsg.org/PDF/factsheets/FSAG.pdf>.

²³ Section 1009.52(2)(f), F.S.

²⁴ Section 1009.52(4)(a), F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Section 1009.52(4)(d), F.S.

²⁸ Section 1009.52(4)(e), F.S.

report.²⁹ The DOE may suspend or revoke an institution's eligibility to receive future moneys for the program or request a refund of any moneys overpaid to the institution for the program if the department finds noncompliance.³⁰

In 2020-2021, the FSAG Postsecondary grant disbursed \$5.8 million dollars to 4,990 students with an average student award amount of \$1,172.16.³¹

Duties of Institutions Receiving State Funds for Tuition Assistance Programs

In 2021, the Legislature established additional requirements for postsecondary educational institutions that receive state funds for state financial aid and tuition assistance programs.³² The new requirements include, but are not limited to, the following:³³

- Maintenance of complete, accurate, and auditable records documenting the institution's administration of state financial aid and tuition assistance funds.
- Verification of student eligibility with the DOE each academic term.
- Timely completion of reporting requirements implemented by the DOE and the Legislature.
- Retention of records for the later of 5 year or until the completion of an audit (including the resolution of any audit exceptions).

The DOE is required to adopt rules implementing this section and are permitted to adopt higher standards than those in statute.³⁴ Institutions that fail to comply with statute must be placed on probationary status and may be suspended or revoked if they fail to provide required audits, fail to resolve audit findings, or fail to timely provide required reports.³⁵

Council of Regional Accrediting Commissions

The Council of Regional Accrediting Commissions (C-RAC) represents the seven organizations responsible for the accreditation³⁶ of approximately 3,000 of the nation's colleges and universities:³⁷

- Accrediting Commission for Community and Junior Colleges.
- Higher Learning Commission.
- Middle States Commission on Higher Education.
- New England Commission of Higher Education.
- Northwest Commission on Colleges and Universities.

²⁹ *Id.*

³⁰ Section 1009.52(4)(e), F.S.

³¹ Florida Department of Education, Office of Student Financial Assistance, *End-of-Year Report 2020-21 Florida Student Assistance Grant Postsecondary*, at 1, available at https://www.floridastudentfinancialaidsg.org/PDF/PSI/FSAGPO_2020_2021.pdf.

³² Chapter 2021-232, L.O.F.

³³ Section 1009.46(1), F.S.

³⁴ Section 1009.46(2), F.S.

³⁵ Section 1009.46(3), F.S.

³⁶ Defined as "a process of external review used by the higher education community to assure quality and spur ongoing improvement." Council of Regional Accrediting Commissions, *Accreditation 101*, <https://www.c-rac.org/accreditation-101> (last visited January 27, 2022).

³⁷ Council of Regional Accrediting Commissions, *Who We Are*, <https://www.c-rac.org/copy-of-about-us> (last visited Jan. 11, 2022).

- Southern Association of Colleges and Schools Commission on Colleges (SACSCOC).
- Western Association of Schools and Colleges (WASC) Senior College and University Commission.

As of 2017, C-RAC members help assure quality at 2,866 Title IV institutions in 3,524 locations across the United States.³⁸

SACSCOC accredits 74 Florida public and private colleges and universities,³⁹ including 12 universities that make up the State University System of Florida, 28 institutions in the Florida College System, and 34 private colleges and universities.

III. Effect of Proposed Changes:

SB 1284 modifies s. 1009.52, F.S., by expanding award eligibility for the Florida Postsecondary Student Assistance Grant Program (FSAG Postsecondary) to full-time degree-seeking students accepted to a competency-based, nonprofit virtual postsecondary institution that is accredited by a member of the Council of Regional Accrediting Commissions and is created by the governors of several states.

Western Governors University

Western Governors University (WGU) is an institution that appears to meet several of the qualifications for participation in the grant program. WGU is a competency-based, private online university offering a bachelor's or master's degree. Created in 1995 by 19 United States governors, WGU is accredited by the Northwest Commission on Colleges and Universities, a regional accreditation body represented under the Council of Regional Accrediting Commissions. Students enrolled at WGU earn degrees through demonstration of competencies in required areas through assessments. As such, the degree programs allow students to move at their desired pace as well as accelerate their programs through prior experience.⁴⁰

WGU serves students in all 50 states as an online university, but maintains an on-the-ground presence at its eight state affiliates: WGU Indiana, WGU Missouri, WGU Nevada, WGU North Carolina, WGU Ohio, WGU Tennessee, WGU Texas and WGU Washington.⁴¹

WGU students do not receive letter-grades or a GPA as part of their degree program.⁴² Students progress through courses as they demonstrate mastery of the material, rather than advancing only at the end of the semester or term.⁴³

³⁸ Council of Regional Accrediting Commissions, *Quick Facts*, <https://www.c-rac.org/quick-facts> (last visited January 27, 2022).

³⁹ Southern Association of Colleges and Schools Commission on Colleges, *SACSCOC Accredited and Candidate List* (July 2021), available at <https://sacscoc.org/app/uploads/2019/11/Institutionswebmemlist.pdf>.

⁴⁰ Education Commission of the States, *Policy Snapshot: Competency-Based Education* (June 2017), available at <http://www.ecs.org/wp-content/uploads/PS-Competency-Based-Education.pdf>, at 4.

⁴¹ Western Governors University, *About Us*, <https://www.wgu.edu/about.html> (last visited January 28, 2022).

⁴² Western Governors University, *Commonly asked questions about WGU* (Nov. 17, 2020), <https://www.wgu.edu/blog/commonly-asked-questions-wgu2011.html> (last visited January 28, 2022).

⁴³ Western Governors University, *Competency-based education*, <https://www.wgu.edu/about/competency-based-education.html> (last visited January 28, 2022).

In 2019, 6,242 Florida students from Florida were enrolled in programs at WGU, with 1,574 graduating.⁴⁴

Allowing full-time degree-seeking students who have been accepted at a competency-based nonprofit virtual postsecondary institution to receive an FSAG Postsecondary grant may allow additional students to receive the grant.

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may provide a cost savings to eligible students enrolled in postsecondary education institutions now authorized to participate in the Florida Postsecondary Student Assistance Grant Program.

C. Government Sector Impact:

The bill does not have an impact on state revenues or expenditures. This bill expands eligibility for the Florida Postsecondary Student Assistance Grant Program which may

⁴⁴ Western Governors University, *Available online degrees in Florida*, <https://www.wgu.edu/online-degree-florida.html> (last visited January 28, 2022).

increase in the number of eligible students. However, without an increase in state appropriations, the number of unfunded eligible students may increase.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1009.52 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Gruters

23-01243A-22

20221284__

A bill to be entitled

An act relating to the Florida Postsecondary Student Assistance Grant Program; amending s. 1009.52, F.S.; expanding eligibility for the Florida Postsecondary Student Assistance Grant Program to certain students accepted at a competency-based, nonprofit virtual postsecondary institution that meets specified criteria; providing an effective date.

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

Section 1. Present paragraphs (b) through (f) of subsection (2) of section 1009.52, Florida Statutes, are redesignated as paragraphs (c) through (g), respectively, a new paragraph (b) is added to that subsection, and present paragraph (c) of that subsection is amended, to read:

1009.52 Florida Postsecondary Student Assistance Grant Program; eligibility for grants.—

(2) Florida postsecondary student assistance grants may be made to students who meet the general requirements for student eligibility as provided in s. 1009.40, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed the maximum annual award amount specified in the General Appropriations Act. A demonstrated unmet need of less than \$200 shall render the applicant ineligible for a Florida postsecondary student assistance grant.

(b) Awards may be made to full-time degree-seeking students who have been accepted to a competency-based, nonprofit virtual

Page 1 of 2

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23-01243A-22

20221284__

postsecondary institution that is accredited by a member of the Council of Regional Accrediting Commissions and is created by the governors of several states.

~~(d)(e)~~ If funds are available, a student who received an award in the fall or spring term may receive an award in the summer term. Priority in the distribution of summer awards shall be given to students who are within one semester, or equivalent, of completing a degree or certificate program. No student may receive an award for more than the equivalent of 9 semesters or 14 quarters of full-time enrollment, except as otherwise provided in s. 1009.40(3). A student specified in paragraph (c) ~~(b)~~ is eligible for an award of up to 110 percent of the number of clock hours required to complete the program in which the student is enrolled.

Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 1126

INTRODUCER: Senator Harrell

SUBJECT: Exemption from Taxation for Educational Properties

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazes	Bouck	ED	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 1126 provides an educational institution tax exemption if the educational institution is a lessee that owns the leasehold interest in a bona fide lease for a nominal amount per year having an original term of 98 years or more.

The Revenue Estimating Conference has not analyzed the bill. See Section V. Fiscal Impact Statement for more information.

The bill takes effect on July 1, 2022.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.¹ The property appraiser annually determines the “just value”² of property within the taxing jurisdiction and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”³ Tax bills are mailed in November of

¹ Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

² Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. See *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

³ See s. 192.001(2) and (16), F.S.

each year based on the previous January 1 valuation, and payment is due by March 31 of the following year.

The Florida Constitution prohibits the state from levying ad valorem taxes,⁴ and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.⁵

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;⁶ however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often results in lower assessments. Properties that receive classified use treatment in Florida include agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;⁷ land used for conservation purposes;⁸ historic properties when authorized by the county or municipality;⁹ and certain working waterfront property.¹⁰

Educational Institution Property Tax Exemption

Florida exempts from ad valorem tax property owned by an educational institution and used exclusively for educational purposes.¹¹ The exemption applies to any educational institution that uses the property for educational purposes; the institution can be for-profit or private. Property used exclusively for educational purposes is deemed owned by an educational institution if:¹²

- The entity that owns the educational institution is owned by the individuals that own the property.
- The entity that owns the educational institution and the entity that owns the property are owned by the same individuals.

The exemption has been expanded to include unique ownership situations. For instance, land, buildings, and other improvements used exclusively for educational purposes is deemed to be owned by an educational institution (and therefore exempt) if the entity that owns the land is a nonprofit entity and the land is leased by an educational institution that is a 501(c)(3) entity that provides education limited to kindergarten through grade 8.¹³

An entity, institution, or organization that teaches students to perform services in connection with motion picture production may receive a sales tax exemption for their purchase or lease of

⁴ FLA. CONST. art. VII, s. 1(a).

⁵ See FLA. CONST. art. VII, s. 4.

⁶ Section 193.011(2), F.S.

⁷ FLA. CONST. art. VII, s. 4(a).

⁸ FLA. CONST. art. VII, s. 4(b).

⁹ FLA. CONST. art. VII, s. 4(e).

¹⁰ FLA. CONST. art. VII, s. 4(j).

¹¹ Section 196.198, F.S. The exemption includes sheltered workshops providing rehabilitation and retraining for specified individuals with disabilities, property of fraternities and sororities as designated by the college or university president, and specified public fairs and expositions. *Id.*

¹² *Id.*

¹³ *Id.*

tangible personal property or real property. Such institution must have enrolled at least 500 students and conduct classes at a fixed location in this state.¹⁴

III. Effect of Proposed Changes:

SB 1126 extends the educational institution exemption to include if the educational institution is a lessee that owns the leasehold interest in a bona fide lease for a nominal amount per year having an original term of 98 years or more.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Revenue Estimating Conference has not analyzed the bill. However, analysis of the companion House bill, although substantively different, estimated a reduction to local property tax revenue of \$0.1 million recurring in FY 2022-2023.

¹⁴ Section 212.0606, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.198 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Harrell

25-01074A-22

20221126__

1 A bill to be entitled
 2 An act relating to exemption from taxation for
 3 educational properties; amending s. 196.198, F.S.;
 4 exempting from taxation property used by an
 5 educational institution that holds a leasehold
 6 interest in certain leases exceeding a specified
 7 number of years; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Section 196.198, Florida Statutes, is amended to
 12 read:
 13 196.198 Educational property exemption.—Educational
 14 institutions within this state and their property used by them
 15 or by any other exempt entity or educational institution
 16 exclusively for educational purposes are exempt from taxation.
 17 Sheltered workshops providing rehabilitation and retraining of
 18 individuals who have disabilities and exempted by a certificate
 19 under s. (d) of the federal Fair Labor Standards Act of 1938, as
 20 amended, are declared wholly educational in purpose and are
 21 exempt from certification, accreditation, and membership
 22 requirements set forth in s. 196.012. Those portions of property
 23 of college fraternities and sororities certified by the
 24 president of the college or university to the appropriate
 25 property appraiser as being essential to the educational process
 26 are exempt from ad valorem taxation. The use of property by
 27 public fairs and expositions chartered by chapter 616 is
 28 presumed to be an educational use of such property and is exempt
 29 from ad valorem taxation to the extent of such use. Property

Page 1 of 3

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25-01074A-22

20221126__

30 used exclusively for educational purposes shall be deemed owned
 31 by an educational institution if the entity owning 100 percent
 32 of the educational institution is owned by the identical persons
 33 who own the property, ~~or~~ if the entity owning 100 percent of the
 34 educational institution and the entity owning the property are
 35 owned by the identical natural persons, or if the educational
 36 institution is a lessee that owns the leasehold interest in a
 37 bona fide lease for a nominal amount per year having an original
 38 term of 98 years or more. Land, buildings, and other
 39 improvements to real property used exclusively for educational
 40 purposes shall be deemed owned by an educational institution if
 41 the entity owning 100 percent of the land is a nonprofit entity
 42 and the land is used, under a ground lease or other contractual
 43 arrangement, by an educational institution that owns the
 44 buildings and other improvements to the real property, is a
 45 nonprofit entity under s. 501(c)(3) of the Internal Revenue
 46 Code, and provides education limited to students in
 47 prekindergarten through grade 8. Land, buildings, and other
 48 improvements to real property used exclusively for educational
 49 purposes are deemed owned by an educational institution if the
 50 educational institution that currently uses the land, buildings,
 51 and other improvements for educational purposes is an
 52 educational institution described in s. 212.0602, and, under a
 53 lease, the educational institution is responsible for any taxes
 54 owed and for ongoing maintenance and operational expenses for
 55 the land, buildings, and other improvements. For such leasehold
 56 properties, the educational institution shall receive the full
 57 benefit of the exemption. The owner of the property shall
 58 disclose to the educational institution the full amount of the

Page 2 of 3

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25-01074A-22

20221126

59 benefit derived from the exemption and the method for ensuring
60 that the educational institution receives the benefit.
61 Notwithstanding ss. 196.195 and 196.196, property owned by a
62 house of public worship and used by an educational institution
63 for educational purposes limited to students in preschool
64 through grade 8 shall be exempt from ad valorem taxes. If legal
65 title to property is held by a governmental agency that leases
66 the property to a lessee, the property shall be deemed to be
67 owned by the governmental agency and used exclusively for
68 educational purposes if the governmental agency continues to use
69 such property exclusively for educational purposes pursuant to a
70 sublease or other contractual agreement with that lessee. If the
71 title to land is held by the trustee of an irrevocable inter
72 vivos trust and if the trust grantor owns 100 percent of the
73 entity that owns an educational institution that is using the
74 land exclusively for educational purposes, the land is deemed to
75 be property owned by the educational institution for purposes of
76 this exemption. Property owned by an educational institution
77 shall be deemed to be used for an educational purpose if the
78 institution has taken affirmative steps to prepare the property
79 for educational use. The term "affirmative steps" means
80 environmental or land use permitting activities, creation of
81 architectural plans or schematic drawings, land clearing or site
82 preparation, construction or renovation activities, or other
83 similar activities that demonstrate commitment of the property
84 to an educational use.

85 Section 2. This act shall take effect July 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 1240

INTRODUCER: Senator Harrell

SUBJECT: Mental Health of Students

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Berger</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Jahnke</u>	<u>Bouck</u>	<u>ED</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1240 requires charter schools to report the removal of a student from school, school transportation, or a school-sponsored activity for an involuntary mental health examination. The bill provides that the Department of Education (the DOE) must share data comprised of both public and charter school reporting with the Department of Children and Families (the DCF) by July 1 of each year. The bill also provides specific data the DCF is required to analyze when preparing its biannual report on the involuntary examinations of minors.

The bill modifies requirements for annual mental health assistance allocation plans prepared by school districts by requiring districts to:

- Provide parents of students receiving mental health services with information regarding other services available through the student's school or local community-based mental health providers; and
- Provide other individuals living in the same household as a student receiving mental health services with information about other services the student may qualify for that would contribute to the student's improved well-being.

The bill will have an indeterminate fiscal impact on charter schools, the DOE, and the DCF. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Baker Act

The Florida Mental Health Act, otherwise known as the Baker Act, was enacted in 1971 to revise

the state's mental health commitment laws.¹ The Act includes legal procedures for mental health examination and treatment, including voluntary and involuntary examinations. It additionally protects the rights of all individuals examined or treated for mental illness in Florida.²

Involuntary Examination and Receiving Facilities

Individuals in an acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.³ An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:⁴

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.⁵

The involuntary examination may be initiated by:

- A court entering an ex parte order stating that a person appears to meet the criteria for involuntary examination, based on sworn testimony;⁶
- A law enforcement officer taking a person who appears to meet the criteria for involuntary examination into custody and delivering the person or having him or her delivered to a receiving facility for examination;⁷ or
- A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker executing a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination, including a statement of the professional's observations supporting such conclusion.⁸

Involuntary patients must be taken to either a public or a private facility that has been designated by the DCF as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate

¹ Sections 394.451-394.47891, F.S.

² Section 394.459, F.S.

³ See Sections 394.4625 and 394.463, F.S.

⁴ Section 394.463(1), F.S.

⁵ Section 394.463(1), F.S.

⁶ Section 394.463(2)(a)1., F.S. Additionally, the order of the court must be made a part of the patient's clinical record.

⁷ Section 394.463(2)(a)2., F.S. The officer must execute a written report detailing the circumstances under which the person was taken into custody, and the report must be made a part of the patient's clinical record.

⁸ Section 394.463(2)(a)3., F.S. The report and certificate shall be made a part of the patient's clinical record.

service provider.⁹ A public receiving facility is a facility that has contracted with a managing entity to provide mental health services to all persons, regardless of their ability to pay, and is receiving state funds for such purpose.¹⁰ Funds appropriated for Baker Act services may only be used to pay for services to diagnostically and financially eligible persons, or those who are acutely ill, in need of mental health services, and who are the least able to pay.¹¹ Currently, there are 128 Baker Act receiving facilities in the state, including 54 public receiving facilities and 68 private receiving facilities.¹²

Under the Baker Act, a receiving facility must examine an involuntary patient within 72 hours of arrival.¹³ During those 72 hours, an involuntary patient must be examined by a physician or a clinical psychologist, or by a psychiatric nurse performing within the framework of an established protocol with a psychiatrist at a facility to determine if the criteria for involuntary services are met.¹⁴ If the patient is a minor, the examination must be initiated within 12 hours.¹⁵

Within that 72-hour examination period, or if the 72 hours ends on a weekend or holiday, no later than the next business day, one of the following must happen:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to a placement as a voluntary patient and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.¹⁶

Mental Health Services for Students

The DOE, through the Bureau of Exceptional Education and Student Services and the Office of Safe Schools, promotes a system of support, policies, and practices that focus on prevention and early intervention to improve student mental health and school safety. Florida law requires instructional personnel to teach comprehensive health education that addresses concepts of mental and emotional health, as well as substance use and abuse.¹⁷

Student Services personnel, which includes school psychologists, school social workers, and school counselors, are classified as instructional personnel responsible for advising students regarding personal and social adjustments, and provide direct and indirect services at the district and school level.¹⁸ State funding for school districts' mental health services is provided primarily

⁹ Section 394.455(40), F.S. This term does not include a county jail.

¹⁰ Section 394.455(38), F.S.

¹¹ Rule 65E-5.400(2), F.A.C.

¹² Hospitals can also be designated as public receiving facilities. The DCF *Designated Baker Act Receiving Facilities*, available at <https://www.myflfamilies.com/service-programs/samh/crisis-services/docs/baker/Baker%20Act%20Receiving%20Faciliites.pdf> (last visited January 26, 2022).

¹³ Section 394.463(2)(g), F.S.

¹⁴ Section 394.463(2)(f), F.S.

¹⁵ Section 394.463(2)(g), F.S.

¹⁶ *Id.*

¹⁷ Section 1003.42(2)(n), F.S.

¹⁸ Section 1012.01(2)(b), F.S.

by legislative appropriations, the majority of which is distributed through an allocation through the Florida Education Finance Program (FEFP) to each district. In addition to the basic amount for current operations for the FEFP, the Legislature may appropriate categorical funding for specified programs, activities, or purposes.¹⁹ Each district school board must include the amount of categorical funds as a part of the district annual financial report to the DOE and the DOE must submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were spent.²⁰

The law allows district school boards and state agencies administering children's mental health funds to form a multiagency network to provide support for students with severe emotional disturbance.²¹ The program goals for each component of the multiagency network are to:

- Enable students with severe emotional disturbance to learn appropriate behaviors, reduce dependency, and fully participate in all aspects of school and community living;
- Develop individual programs for students with severe emotional disturbance, including necessary educational, residential, and mental health treatment services;
- Provide programs and services as close as possible to the student's home in the least restrictive manner consistent with the student's needs; and
- Integrate a wide range of services necessary to support students with severe emotional disturbances and their families.²²

The DOE awards grants to district school boards for statewide planning and development of the multiagency Network for Students with Emotional or Behavioral Disabilities (SEDNET).²³ SEDNET is a network of 19 regional projects that are composed of major child-serving agencies, community-based service providers, and students and their families. Local school districts serve as fiscal agents for each local regional project.²⁴ SEDNET focuses on developing interagency collaboration and sustaining partnerships among professionals and families in the education, mental health, substance abuse, child welfare, and juvenile justice systems serving children and youth with and at risk of emotional and behavioral disabilities.²⁵ Currently, the school districts file a primary report with the DOE yearly, and charter schools are not statutorily required to file a yearly report regarding involuntary examinations of students.

Mental Health Allocation

The mental health assistance allocation was established in 2018²⁶ to provide funding to assist school districts in establishing or expanding school-based mental health care. These funds must be allocated annually in the General Appropriations Act or other law to each eligible school

¹⁹ Section 1011.62(6), F.S.

²⁰ *Id.*

²¹ See s. 1006.04(1)(a), F.S.

²² Section 1006.04(1)(b), F.S.

²³ Section 1006.04(2), F.S.

²⁴ Fiscal agencies include the Brevard, Broward, Clay, Columbia, Miami-Dade, Escambia, Hendry, Hernando, Hillsborough, Levy, Liberty, Orange, Palm Beach, Pinellas, Polk, St. Lucie, Volusia, and Washington school districts. The DOE, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects* (January 2017), at p. 11, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf>.

²⁵ The DOE, Bureau of Exceptional Education and Student Services, *BEESS Discretionary Projects* (January 2017), at p. 11, available at <http://www.fldoe.org/core/fileparse.php/7567/urlt/projectslisting.pdf>.

²⁶ Section 29, ch. 2018-4, L.O.F.

district. Each school district must receive a minimum of \$100,000 with the remaining balance allocated based on each school district's proportionate share of the state's total unweighted fulltime equivalent student enrollment. Eligible charter schools are entitled to a proportionate share of district funding.

At least 90 percent of a district's allocation must be expended on the elements specified in law. The allocated funds may not replace funds that are provided for this purpose from other operating funds or be used to increase salaries or provide bonuses. School districts are encouraged to maximize third-party health insurance benefits and Medicaid claiming for services, where appropriate.²⁷

Before the distribution of the allocation:

- The school district must develop and submit a detailed plan outlining the local program and planned expenditures to the district school board for approval.
- A charter school must develop and submit a detailed plan outlining the local program and planned expenditures to its governing body for approval and it must be provided to the charter school's sponsor after the plan is approved by the governing body.
- The required plans must be focused on delivering evidence-based mental health care treatment to children and include all of the following elements:
 - Provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or co-occurring substance abuse diagnoses and students at high risk of such diagnoses.
 - Coordination of such services with a student's primary care provider and with other mental health providers involved in the student's care.
 - Direct employment of such service providers, or a contract-based collaborative effort or partnership with one or more local community mental health programs, agencies, or providers.²⁸

School districts must submit approved plans, including approved plans of each charter school in the district, to the commissioner by August 1 of each fiscal year.²⁹

Beginning September 30, 2019, and annually by September 30, each school district must submit to the DOE a report on its program outcomes and expenditures for the previous fiscal year which, at a minimum, must include the number of each of the following:

- Students who receive screenings or assessments.
- Students who are referred for services or assistance.
- Students who receive services or assistance.
- Direct employment service providers employed by each school district.
- Contract-based collaborative efforts or partnerships with community mental health programs, agencies, or providers.³⁰

²⁷ Section 1011.62(16), F.S.

²⁸ Section 1011.62(16)(b), F.S.

²⁹ Section 1011.62(16)(c), F.S.

³⁰ Section 1011.62(16)(d), F.S.

Children and the Baker Act

Over a 15-year period, the number of children subject to involuntary commitments under the Baker Act have increased at a faster pace than any other age group.³¹ Children are incapable of legally consenting to medical intervention needed to gauge whether an involuntary examination under the Baker Act is necessary.³² School officials and mental health professionals have stressed the need for additional mobile response teams, greater access to telehealth technology in accessing the teams, and more school psychologists as methods of addressing the growing number of children subjected to the Baker Act.³³ Over 130 law enforcement agencies across the state have policies in place requiring a parent or family member of a minor to be contacted prior to initiating a Baker Act.³⁴

Mental Health Data Reporting and Analysis

Professionals who initiate Baker Acts are required to capture the circumstances of the mental health crisis and make an affirmative statement that the person examined meets statutory criteria.³⁵ This information is recorded on a standardized form and reported to the DCF.³⁶ The DCF contracts with the Louis de la Parte Florida Mental Health Institute at the University of South Florida (the Institute) to perform the data analysis and provide an annual report using, among other things, the information provided on the forms.³⁷ The Institute also analyzes other information relating to mental health and acts as a provider of crisis services to certain patients.³⁸

Report on Involuntary Examinations of Minors

In 2017, the Legislature created a task force within the DCF³⁹ to address the issue of involuntary examination of minors age 17 years or younger, specifically by:⁴⁰

- Analyzing data on the initiation of involuntary examinations of minors.
- Researching the root causes of and trends in such involuntary examinations.
- Identifying and evaluating options for expediting the examination process.
- Identifying recommendations for encouraging alternatives to or eliminating inappropriate initiations of such examinations.

The task force found that specific causes of increases in involuntary examinations of children are unknown. Possible factors cited in the task force report include:

³¹ Lynn Hatter, WFSU Public Media, *Committed: Improving Florida's Baker Act for Children a Challenge*, December 17, 2020, available at <https://news.wfsu.org/2020-12-17/committed-improving-floridas-baker-act-for-children-a-challenge>.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ Section 394.463(2)(a)3., F.S.; Rule 65E-5.280(3), F.A.C.

³⁶ Section 394.463(2)(a)3., F.S.; Rules 65E-5.120 and 65E-5.280(3), F.A.C.

³⁷ The University of South Florida, Baker Act Reporting Center, *About Us*, <https://www.usf.edu/cbcs/baker-act/about/index.aspx> (last visited January 18, 2022).

³⁸ See University of South Florida, Baker Act Reporting Center, *What We Do*, <https://www.usf.edu/cbcs/baker-act/about/whatwedo.aspx> (last visited January 18, 2022); and University of South Florida, Louis de la Parte Florida Mental Health Institute, *About the Institute*, <https://www.usf.edu/cbcs/fmhi/about/> (last visited January 27, 2022).

³⁹ Chapter 2017-151, LO.F.

⁴⁰ The DCF, *Task Force Report on Involuntary Examination of Minors*, (November 2017), at p. 1, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/S17-005766-TASK%20FORCE%20ON%20INVOLUNTARY%20EXAMINATION%20OF%20MINORS.pdf>.

- Increase in mental health concerns:
 - In 2017, 31.5 percent of high school students experienced periods of persistent feelings of sadness or hopelessness within the past year, an increase from 28.5 percent in 2007.
 - In 2017, 17.2 percent of high school students seriously considered attempting suicide in the past year, an increase from 14.5 percent in 2007.⁴¹
- Social stressors such as parental substance use, poverty and economic insecurity, mass shootings, and social media and cyber bullying.⁴²
- Lack of availability of mental health services, due to wait lists for services, limitations on coverage or approval, lack of funding for prevention and diversion, and shortage of psychiatrists and other mental health professionals.
 - Among children ages 12 to 17 in Florida, approximately 13 percent experienced a major depressive episode in the past year, but only about 33 percent of children experiencing a major depressive episode in the past year receive treatment.⁴³

In 2019, as a follow up to the 2017 task force report, the Legislature instructed the DCF to prepare a report on the initiation of involuntary examinations of minors age 17 and younger and submit it by November 1 of each odd numbered year.⁴⁴ As part of the 2019 report, the DCF was required to:

- Analyze data on the initiation of involuntary examinations of minors.
- Identify any patterns or trends and cases in which involuntary examinations are repeatedly initiated on the same child.
- Study root causes for such patterns, trends, or repeated involuntary examinations.
- Make recommendations for encouraging alternatives to and eliminating inappropriate initiations of such examinations.⁴⁵

In 2021, the Legislature⁴⁶ required the DCF to include in its analysis data on the initiation of Baker Acts of students who are removed from schools, to identify trends in Baker Acts involving students, and to make recommendations to encourage the use of alternatives to Baker Acts.⁴⁷ To aid the DCF in this task, school districts are required to annually report to the DOE the number of Baker Acts initiated at a school, on school transportation, or at a school-sponsored event.⁴⁸ The Office of Safe Schools is required to provide data to support the evaluation of mental health services performed by the Institute,⁴⁹ however there is no explicit requirement that the data be shared with the DCF.

In its 2021 biennial analysis of Bakers Acts of minors, the DCF reported 24,171 Baker Acts of minors under the age of 18 for FY 2019-2020 and that these made up 18 percent of all (128,193)

⁴¹ The DCF, *Task Force Report on Involuntary Examination of Minors*, (November 2019), p. 6, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors.pdf>.

⁴² *Id.* at p. 3.

⁴³ *Id.* at p. 5.

⁴⁴ Chapter 2019-134, L.O.F.

⁴⁵ *Id.*

⁴⁶ Chapter 2021-176, L.O.F.

⁴⁷ Section 394.463(4), F.S.

⁴⁸ Section 1006.07(10), F.S.

Baker Acts that year.⁵⁰ Based on preliminary data from FY 2020-2021, the DCF reports a decrease in Baker Acts of children occurring in the school setting, with fewer than 15 percent of such Baker Acts being initiated at schools.⁵¹

III. Effect of Proposed Changes:

Data Collection and Reporting Requirements

The bill amends s. 394.463, F.S, requiring the DCF to include data received from the DOE on Baker Acts of students from both public and charter schools in preparing its biennial report on the involuntary examinations of minors.

Additionally, the bill amends s. 1002.33, F.S., subjecting all charter schools to the same reporting requirements regarding Baker Acts of minors that currently apply to public schools.

The bill amends s. 1006.07, F.S. requiring the DOE to share Baker Act data annually with the DCF no later than July 1 each year.

Procedures Regarding Mental Health Assistance Allocation

The bill also amends s. 1011.62, F.S., revising the requirements of mental health assistance allocation plans, which are prepared by school districts annually. Specifically, the bill adds the following requirements for the plans:

- After a student’s assessment and identification, parents of students receiving services must be provided with information regarding other services available through the student’s school or community.
- Any individual living in the same household as a student receiving services must be provided with information about behavioral health services available through other delivery systems or payors for which they may qualify, if such services appear to be needed or enhancements in their behavioral health would contribute to the improved well-being of the student.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁵⁰ The DCF, *Report of Involuntary Examinations of Children*, (November 2021), at p. 8, available at <https://www.myflfamilies.com/service-programs/samh/publications/docs/Report%20on%20Involuntary%20Examination%20of%20Minors%20-%202021.pdf>.

⁵¹ *Id.* at 9. The report does note that for eight percent of Baker Acts the setting of the initiation was not reported.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will likely have an indeterminate impact on charter schools as they will be required to collect, maintain, and share data on Baker Acts of students.

C. Government Sector Impact:

The bill will likely have an indeterminate impact on the DOE and the DCF due to the additional data sharing and analysis requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.463, 1002.33, 1006.07, and 1011.62.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Harrell

25-01131-22

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1 A bill to be entitled
 2 An act relating to the mental health of students;
 3 amending s. 394.463, F.S.; revising data the
 4 Department of Children and Families is required to
 5 analyze when creating its annual report on the
 6 initiation of certain involuntary examinations;
 7 amending s. 1002.33, F.S.; requiring charter schools
 8 to be in compliance with laws relating to reporting
 9 involuntary examinations; amending s. 1006.07, F.S.;
 10 requiring the Department of Education, by a specified
 11 date, to share with the Department of Children and
 12 Families data received from school districts relating
 13 to involuntary examinations; amending s. 1011.62,
 14 F.S.; revising requirements for plans relating to
 15 mental health assistance allocations; providing an
 16 effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Subsection (4) of section 394.463, Florida
 21 Statutes, is amended to read:
 22 394.463 Involuntary examination.—
 23 (4) DATA ANALYSIS.—Using data collected under paragraph
 24 (2)(a) and s. 1006.07(10), the department shall, at a minimum,
 25 analyze data on both the initiation of involuntary examinations
 26 of children and the initiation of involuntary examinations of
 27 students who are removed from a school; identify any patterns or
 28 trends and cases in which involuntary examinations are
 29 repeatedly initiated on the same child or student; study root

Page 1 of 8

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25-01131-22

20221240__

30 causes for such patterns, trends, or repeated involuntary
 31 examinations; and make recommendations to encourage the use of
 32 alternatives to eliminate inappropriate initiations of such
 33 examinations. The department shall submit a report on its
 34 findings and recommendations to the Governor, the President of
 35 the Senate, and the Speaker of the House of Representatives by
 36 November 1 of each odd-numbered year.
 37 Section 2. Paragraph (b) of subsection (16) of section
 38 1002.33, Florida Statutes, is amended to read:
 39 1002.33 Charter schools.—
 40 (16) EXEMPTION FROM STATUTES.—
 41 (b) Additionally, a charter school shall be in compliance
 42 with the following statutes:
 43 1. Section 286.011, relating to public meetings and
 44 records, public inspection, and criminal and civil penalties.
 45 2. Chapter 119, relating to public records.
 46 3. Section 1003.03, relating to the maximum class size,
 47 except that the calculation for compliance pursuant to s.
 48 1003.03 shall be the average at the school level.
 49 4. Section 1012.22(1)(c), relating to compensation and
 50 salary schedules.
 51 5. Section 1012.33(5), relating to workforce reductions.
 52 6. Section 1012.335, relating to contracts with
 53 instructional personnel hired on or after July 1, 2011.
 54 7. Section 1012.34, relating to the substantive
 55 requirements for performance evaluations for instructional
 56 personnel and school administrators.
 57 8. Section 1006.12, relating to safe-school officers.
 58 9. Section 1006.07(7), relating to threat assessment teams.

Page 2 of 8

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25-01131-22

20221240__

59 10. Section 1006.07(9), relating to School Environmental
 60 Safety Incident Reporting.

61 11. Section 1006.07(10), relating to reporting of
 62 involuntary examinations.

63 12. Section 1006.1493, relating to the Florida Safe Schools
 64 Assessment Tool.

65 ~~13.12.~~ Section 1006.07(6)(c), relating to adopting an
 66 active assailant response plan.

67 ~~14.13.~~ Section 943.082(4)(b), relating to the mobile
 68 suspicious activity reporting tool.

69 ~~15.14.~~ Section 1012.584, relating to youth mental health
 70 awareness and assistance training.

71 Section 3. Subsection (10) of section 1006.07, Florida
 72 Statutes, is amended to read:

73 1006.07 District school board duties relating to student
 74 discipline and school safety.—The district school board shall
 75 provide for the proper accounting for all students, for the
 76 attendance and control of students at school, and for proper
 77 attention to health, safety, and other matters relating to the
 78 welfare of students, including:

79 (10) REPORTING OF INVOLUNTARY EXAMINATIONS.—Each district
 80 school board shall adopt a policy to require the district
 81 superintendent to annually report to the department the number
 82 of involuntary examinations, as defined in s. 394.455, which are
 83 initiated at a school, on school transportation, or at a school-
 84 sponsored activity. By July 1 of each year, the department shall
 85 share such data received from school districts during the
 86 previous year with the Department of Children and Families.

87 Section 4. Paragraph (b) of subsection (14) of section

Page 3 of 8

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25-01131-22

20221240__

88 1011.62, Florida Statutes, is amended to read:

89 1011.62 Funds for operation of schools.—If the annual
 90 allocation from the Florida Education Finance Program to each
 91 district for operation of schools is not determined in the
 92 annual appropriations act or the substantive bill implementing
 93 the annual appropriations act, it shall be determined as
 94 follows:

95 (14) MENTAL HEALTH ASSISTANCE ALLOCATION.—The mental health
 96 assistance allocation is created to provide funding to assist
 97 school districts in establishing or expanding school-based
 98 mental health care; train educators and other school staff in
 99 detecting and responding to mental health issues; and connect
 100 children, youth, and families who may experience behavioral
 101 health issues with appropriate services. These funds shall be
 102 allocated annually in the General Appropriations Act or other
 103 law to each eligible school district. Each school district shall
 104 receive a minimum of \$100,000, with the remaining balance
 105 allocated based on each school district's proportionate share of
 106 the state's total unweighted full-time equivalent student
 107 enrollment. Charter schools that submit a plan separate from the
 108 school district are entitled to a proportionate share of
 109 district funding. The allocated funds may not supplant funds
 110 that are provided for this purpose from other operating funds
 111 and may not be used to increase salaries or provide bonuses.
 112 School districts are encouraged to maximize third-party health
 113 insurance benefits and Medicaid claiming for services, where
 114 appropriate.

115 (b) The plans required under paragraph (a) must be focused
 116 on a multitiered system of supports to deliver evidence-based

Page 4 of 8

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25-01131-22 20221240__
 117 mental health care assessment, diagnosis, intervention,
 118 treatment, and recovery services to students with one or more
 119 mental health or co-occurring substance abuse diagnoses and to
 120 students at high risk of such diagnoses. The provision of these
 121 services must be coordinated with a student's primary mental
 122 health care provider and with other mental health providers
 123 involved in the student's care. At a minimum, the plans must
 124 include the following elements:

1. Direct employment of school-based mental health services
 125 providers to expand and enhance school-based student services
 126 and to reduce the ratio of students to staff in order to better
 127 align with nationally recommended ratio models. These providers
 128 include, but are not limited to, certified school counselors,
 129 school psychologists, school social workers, and other licensed
 130 mental health professionals. The plan also must identify
 131 strategies to increase the amount of time that school-based
 132 student services personnel spend providing direct services to
 133 students, which may include the review and revision of district
 134 staffing resource allocations based on school or student mental
 135 health assistance needs.

2. Contracts or interagency agreements with one or more
 137 local community behavioral health providers or providers of
 138 Community Action Team services to provide a behavioral health
 139 staff presence and services at district schools. Services may
 140 include, but are not limited to, mental health screenings and
 141 assessments, individual counseling, family counseling, group
 142 counseling, psychiatric or psychological services, trauma-
 143 informed care, mobile crisis services, and behavior
 144 modification. These behavioral health services may be provided
 145

25-01131-22 20221240__
 146 on or off the school campus and may be supplemented by
 147 telehealth.

3. Policies and procedures, including contracts with
 148 service providers, which will ensure that:

a. Students referred to a school-based or community-based
 150 mental health service provider for mental health screening for
 151 the identification of mental health concerns and students at
 152 risk for mental health disorders are assessed within 15 days of
 153 referral. School-based mental health services must be initiated
 154 within 15 days after identification and assessment, and support
 155 by community-based mental health service providers for students
 156 who are referred for community-based mental health services must
 157 be initiated within 30 days after the school or district makes a
 158 referral.

b. Parents of a student receiving services under this
 160 subsection are provided information about other behavioral
 161 health services available through the student's school or local
 162 community-based behavioral health services providers. A school
 163 may meet this requirement by providing information about and
 164 Internet addresses for web-based directories or guides for local
 165 behavioral health services.

c. Individuals living in a household with a student
 167 receiving services under this subsection are provided
 168 information about behavioral health services available through
 169 other delivery systems or payors for which such individuals may
 170 qualify, if such services appear to be needed or enhancements in
 171 those individuals' behavioral health would contribute to the
 172 improved well-being of the student ~~students who are referred to~~
 173 ~~a school-based or community-based mental health service provider~~
 174

25-01131-22

20221240__

175 ~~for mental health screening for the identification of mental~~
 176 ~~health concerns and ensure that the assessment of students at~~
 177 ~~risk for mental health disorders occurs within 15 days of~~
 178 ~~referral. School based mental health services must be initiated~~
 179 ~~within 15 days after identification and assessment, and support~~
 180 ~~by community based mental health service providers for students~~
 181 ~~who are referred for community based mental health services must~~
 182 ~~be initiated within 30 days after the school or district makes a~~
 183 ~~referral.~~

184 4. Strategies or programs to reduce the likelihood of at-
 185 risk students developing social, emotional, or behavioral health
 186 problems, depression, anxiety disorders, suicidal tendencies, or
 187 substance use disorders.

188 5. Strategies to improve the early identification of
 189 social, emotional, or behavioral problems or substance use
 190 disorders, to improve the provision of early intervention
 191 services, and to assist students in dealing with trauma and
 192 violence.

193 6. Procedures to assist a mental health services provider
 194 or a behavioral health provider as described in subparagraph 1.
 195 or subparagraph 2., respectively, or a school resource officer
 196 or school safety officer who has completed mental health crisis
 197 intervention training in attempting to verbally de-escalate a
 198 student's crisis situation before initiating an involuntary
 199 examination pursuant to s. 394.463. Such procedures must include
 200 strategies to de-escalate a crisis situation for a student with
 201 a developmental disability as that term is defined in s.
 202 393.063.

203 7. Policies of the school district must require that in a

Page 7 of 8

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25-01131-22

20221240__

204 student crisis situation, school or law enforcement personnel
 205 must make a reasonable attempt to contact a mental health
 206 professional who may initiate an involuntary examination
 207 pursuant to s. 394.463, unless the child poses an imminent
 208 danger to themselves or others, before initiating an involuntary
 209 examination pursuant to s. 394.463. Such contact may be in
 210 person or using telehealth as defined in s. 456.47. The mental
 211 health professional may be available to the school district
 212 either by contracts or interagency agreements with the managing
 213 entity, one or more local community behavioral health providers,
 214 or the local mobile response team or be a direct or contracted
 215 school district employee.

216 Section 5. This act shall take effect July 1, 2022.

Page 8 of 8

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 1068

INTRODUCER: Senator Jones

SUBJECT: Certificates of Completion

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	Favorable
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____

I. Summary:

SB 1068 requires that before the award of a certificate of completion, a student must be advised of his or her educational options, to include workforce and adult general education programs. In addition, the bill:

- Provides a student who is awarded a Florida high school certificate of completion, eligibility to enroll in programs offered at a school district career center and charter technical career center.
- Requires a charter technical career center to identify workforce education programs available to a student who has been awarded a certificate of completion.

The bill has no impact on state revenues or expenditures.

The bill takes effect on of July 1, 2022.

II. Present Situation:

Florida High School Diploma

Requirements

Florida law establishes academic requirements for earning a standard high school diploma to include five options:¹

- 24-credit program;²

¹ In addition to the five options available for students to earn a standard diploma, students with disabilities have two additional options. Rule 6A-1.09963, F.A.C. Florida Department of Education, *Standard Diploma Requirements*, <https://www.fldoe.org/core/fileparse.php/7764/urlt/StandardDiplomaRequirements.pdf> (last visited Jan., 25, 2022).

² Section 1003.4282(1)(a), F.S.

- Career and Technical Education Pathway;³
- An International Baccalaureate curriculum;⁴
- An Advanced International Certificate of Education curriculum;⁵ or
- 18-credit Academically Challenging Curriculum to Enhance Learning (ACCEL) option.⁶

The 24 credits required for a standard high school diploma include:⁷

- Four credits in English Language Arts (ELA);
- Four credits in mathematics;
- Three credits in science;
- Three credits in social studies;
- One credit in fine or performing arts, speech, and debate, or practical arts;
- One credit in physical education; and
- Eight credits in electives.

Within the 24 credits, at least one course must be completed through online learning.⁸ In addition to successful completion of the required courses a student must earn a cumulative grade point average (GPA) of 2.0 on a 4.0 scale⁹ and must pass the following required statewide standardized assessments:

- Grade 10 ELA assessment or earn a concordant score;¹⁰ and
- Algebra I end-of-course (EOC) assessment or earn a comparative score.¹¹

Certificate of Completion

A student who earns the required 24 credits, or the required 18 credits through the ACCEL options graduation pathway, but fails to pass the required statewide assessments or achieve a 2.0 GPA must be awarded a certificate of completion in a form prescribed by the State Board of Education (SBE). However, a student who is otherwise entitled to a certificate of completion may elect to remain in high school either as a full-time student or a part-time student for up to one additional year and receive special instruction designed to remedy his or her identified deficiencies.¹²

³ Section 1003.4282(10), F.S.

⁴ Section 1003.4282(1)(a), F.S.

⁵ *Id.*

⁶ Section 1002.3105(6), F.S.

⁷ Section 1003.4282(3)(a)-(g), F.S.

⁸ Section 1003.4282(4), F.S.

⁹ Section 1003.4282(3) and s. 1003.4282(6)(a), F.S.

¹⁰ Section 1003.4282(3)(a), F.S. Students and adults who have not yet earned their required passing score on the Grade 10 FSA ELA Assessment, may meet this testing requirement to qualify for a high school diploma by earning a concordant passing score on the SAT or ACT. Rule 6A-1.09422(8)(a)2., F.A.C.

¹¹ Section 1003.4282(3)(b)1. and (9)(d)2., F.S. Students and adults who have not yet earned their required passing score on the Algebra I EOC assessment, may meet this testing requirement to qualify for a high school diploma by earning a comparative passing score on the Math section of the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), the SAT or the ACT or on the Geometry EOC assessment. Rule 6A-1.09422(8)(b)2., F.A.C.

¹² Section 1003.4282(6)(c), F.S.

Workforce Education Programs

Florida aims to deliver a quality workforce education through a network of public providers, which include Florida public school districts, district technical colleges and centers, and Florida colleges.¹³ The vision of Florida's adult education system is to hold learners at the center and deliver outcomes that promote full participation in the workforce, resulting in high-quality credentials of value and close equity and achievement gaps.¹⁴ Workforce education programs include:¹⁵

- Adult general education programs.¹⁶
- Career certificate programs.
- Applied technology diploma programs.
- Continuing workforce education courses.
- Degree career education programs.
- Apprenticeship and preapprenticeship programs.

Florida College System (FCS) institutions and school districts may conduct workforce education programs; however, only a FCS institution may award college credit for an associate in applied science (AAS) or an associate in science (AS) degree.¹⁷ If an AAS or an AS degree program includes an occupational completion point¹⁸ that confers a certificate or an applied technology diploma, a school district career center can operate that portion of the program.¹⁹

Certificate of Completion - Admission to Postsecondary Education

Florida College System Programs

A student who has been awarded a certificate of completion is eligible to enroll in certificate career education programs at an FCS institution.²⁰ A certificate career education program is defined as a course of study that leads to at least one occupational completion point.²¹ The program may also confer credit that may articulate with a diploma or career degree education program, if authorized by rules of the SBE.²²

¹³ Florida Department of Education, *Career, Technical & Adult Education*, <https://www.fldoe.org/academics/career-adult-edu/funding-opportunities/WIOAGrants.stml> (last visited Jan. 26, 2022).

¹⁴ Florida Department of Education, *Putting Florida's Adult Learners First: Adult Education & Family Literacy Act 2021-2023 Grant Competition*, <https://www.fldoe.org/academics/career-adult-edu/funding-opportunities/WIOAGrants.stml> (last visited Jan. 26, 2022).

¹⁵ Section 1011.80(1), F.S.

¹⁶ Adult general education programs are comprehensive instructional programs designed to improve the employability of the state's workforce through adult basic education, adult secondary education, English for Speakers of Other Languages, applied academics for adult education instruction, and instruction for adults with disabilities. Section 1004.02(3), F.S. See Sections 1004.02(1), (2), (4), (6), and (23), F.S.

¹⁷ Section 1011.80(2), F.S.

¹⁸ See S. 1004.02(21), F.S. An occupational completion point means the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program.

¹⁹ Section 1011.80(2), F.S.

²⁰ Section 1007.263(4), F.S.

²¹ An occupational completion point means the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program. Section 1004.02(20), F.S. See also Section 1004.02(21), F.S.

²² Section 1004.02(20), F.S.

During the 2019-2020 school year, 13 FCS institutions offered adult general education programs enrolling 23,640 students, and 26 FCS institutions offered career certificate programs enrolling 20,757 students.²³

School District Programs

A district school board may operate a career center as part of the district school system.²⁴ A career center is an educational institution which offers terminal courses of a technical nature, as well as courses for adults and out-of-school youth.²⁵ A center operates under the control of the district school board where it is located and each center is directed by a director who is responsible to the district school superintendent.²⁶

In addition to career centers, Florida law allows for the operation of charter technical centers. Charter technical career centers are publicly-funded schools or technical centers operated under a charter granted by a district school board, FCS board of trustees, or a consortium comprised of one or more of each.²⁷ A sponsoring consortium must include the school district in which the facility is located.²⁸ There is only one charter technical center²⁹ operating in Florida, Lake Technical College, sponsored by the Lake County school board.³⁰

Current law does not expressly state that a student who has been awarded a certificate of completion is eligible to enroll in programs at a district career center or charter technical center. Although not expressly provided in law, Florida's career centers generally allow a student who has been awarded a certificate of completion to be eligible to enroll in programs at the institution.³¹

Including Lake Technical College, there are 51 career centers operating in 32 school districts in Florida.³² During the 2019-2020 school year, 55 school districts offered adult general education programs enrolling 126,668 students, and 39 school districts offered career certificate programs enrolling of 43,245 students.³³

²³ Florida Department of Education, *2019-2020 Career and Adult Education Quick Facts* (2020), available at <https://www.fldoe.org/core/fileparse.php/9904/urlt/1920quickfacts.pdf>.

²⁴ Section 1001.44(1), F.S.

²⁵ Section 1001.44(3)(a), F.S.

²⁶ Section 1001.44(3)(a), F.S.

²⁷ Section 1002.34(3)(a)-(b), F.S.

²⁸ Section 1002.34(3)(a) and (11), F.S.

²⁹ Florida Department of Education, Career and Adult Education, *District Postsecondary Institutions Map* (Sept. 25, 2019), available at <http://www.fldoe.org/core/fileparse.php/5398/urlt/DistPSInstMap.pdf>.

³⁰ Florida Department of Education, *Charter Technical Centers Annual Report 2019-2020* (2020), at 5, available at <http://www.fldoe.org/core/fileparse.php/9904/urlt/charterreview20.pdf>.

³¹ Email, Florida Association for Career and Technical Education (Jan. 26, 2022). Admission to a program may be limited to a student with a high school diploma or equivalent to meet program licensure requirements or training partner specified requirements.

³² Florida Department of Education, *Career & Adult Education District Postsecondary Institutions*, <https://www.fldoe.org/academics/career-adult-edu/dist-ps-instit.stml> (last visited Jan. 26, 2022).

³³ Florida Department of Education, *2019-2020 Career and Adult Education Quick Facts* (2020), available at <https://www.fldoe.org/core/fileparse.php/9904/urlt/1920quickfacts.pdf>.

III. Effect of Proposed Changes:

SB 1068 requires that before the award of a certificate of completion, a student must be advised of his or her educational options, to include workforce and adult general education programs. In addition, the bill:

- Provides that a student who is awarded a Florida high school certificate of completion is eligible to enroll in programs offered at a school district career center and charter technical career center.
- Requires a charter technical career center to identify workforce education programs available to a student who has been awarded a certificate of completion.

Such provisions may offer additional opportunities for students to continue their education and expand employment opportunities.

The bill takes effect on of July 1, 2022.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

The bill allows students earning a certificate of completion to enroll in programs offered in career centers to continue their education and expand employment opportunities.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 1011.44, 1002.34, and 1003.4282 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Jones

35-00823-22

20221068__

1 A bill to be entitled
 2 An act relating to certificates of completion;
 3 amending s. 1001.44, F.S.; providing that students
 4 awarded a certificate of completion are eligible to
 5 enroll in workforce education programs; amending s.
 6 1002.34, F.S.; providing that students awarded a
 7 certificate of completion are eligible to enroll in
 8 workforce education programs; requiring charter
 9 technical career centers to identify such programs;
 10 amending s. 1003.4282, F.S.; requiring that students
 11 be advised of specified educational options before
 12 being awarded a certificate of completion; providing
 13 an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Present paragraph (b) of subsection (3) of
 18 section 1001.44, Florida Statutes, is redesignated as paragraph
 19 (c), and a new paragraph (b) is added to that subsection, to
 20 read:

21 1001.44 Career centers.—

22 (3) CAREER CENTER PART OF DISTRICT SCHOOL SYSTEM DIRECTED
 23 BY A DIRECTOR.—

24 (b) A student awarded a certificate of completion under s.
 25 1003.4282 is eligible to enroll in workforce education programs
 26 under s. 1011.80.

27 Section 2. Subsection (8) of section 1002.34, Florida
 28 Statutes, is amended to read:

29 1002.34 Charter technical career centers.—

Page 1 of 3

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35-00823-22

20221068__

30 (8) ELIGIBLE STUDENTS.—A center must be open to all
 31 students as space is available and may not discriminate in
 32 admissions policies or practices on the basis of an individual's
 33 physical disability or proficiency in English or on any other
 34 basis that would be unlawful if practiced by a public school or
 35 a Florida College System institution. A student awarded a
 36 certificate of completion under s. 1003.4282 is eligible to
 37 enroll in workforce education programs under s. 1011.80. A
 38 center may establish reasonable criteria by which to evaluate
 39 prospective students, which ~~criteria~~ must be outlined in the
 40 charter, and must identify workforce education programs in which
 41 a student who has been awarded a certificate of completion under
 42 s. 1003.4282 is eligible to enroll.

43 Section 3. Paragraph (c) of subsection (6) of section
 44 1003.4282, Florida Statutes, is amended to read:

45 1003.4282 Requirements for a standard high school diploma.—

46 (6) AWARD OF A STANDARD HIGH SCHOOL DIPLOMA.—

47 (c) A student who earns the required 24 credits, or the
 48 required 18 credits under s. 1002.3105(5), but fails to pass the
 49 assessments required under s. 1008.22(3) or achieve a 2.0 GPA
 50 shall be awarded a certificate of completion in a form
 51 prescribed by the State Board of Education. However, before the
 52 award of a certificate of completion, a student must be advised
 53 of available educational options, including workforce education
 54 programs under s. 1011.80, adult general education programs as
 55 defined in s. 1004.02(3), and the option ~~who is otherwise~~
 56 ~~entitled to a certificate of completion may elect to remain in~~
 57 high school either as a full-time student or a part-time student
 58 for up to 1 additional year and receive special instruction

Page 2 of 3

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35-00823-22

20221068__

59 designed to remedy his or her identified deficiencies.

60 Section 4. This act shall take effect July 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 1404

INTRODUCER: Senator Jones

SUBJECT: School Counselors

DATE: January 31, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Palazesi	Bouck	ED	Favorable
2.			CF	
3.			RC	

I. Summary:

SB 1404 establishes the “School Counselors Supporting Students Act” and clarifies the responsibilities for school counselors in Florida’s schools and prohibits school counselors from performing certain school-related tasks. The bill requires the Florida Department of Education to develop a program using Florida’s School Counseling Framework for certified school counselors that deliver services within the context of a student-centered, data-informed, and outcome-oriented program. The program is required to integrate into curricula, which prepares public school students in prekindergarten through grade 12 for postsecondary education and training or a career.

The bill takes effect on July 1, 2022.

II. Present Situation:

School Counselors

School Counselors are certified/licensed educators who improve student success for all students by implementing a comprehensive school counseling program.¹ They are responsible for designing and delivering school counseling programs that improve student outcomes² and are trained to be proactive, data driven, and considered essential in the school improvement process.³

¹American School Counselor Association, *The Role of the School Counselor*, (2021), available at <https://www.schoolcounselor.org/getmedia/ee8b2e1b-d021-4575-982c-c84402cb2cd2/Role-Statement.pdf>.

² *Id.*

³American School Counselor Association, *Guidance Counselor vs School Counselor*, (2019), available at, <https://www.schoolcounselor.org/getmedia/c8d97962-905f-4a33-958b-744a770d71c6/Guidance-Counselor-vs-School-Counselor.pdf>.

The primary goal for school counselors' is to encourage, support, and foster positive academic, career, social, and personal development for students in schools.⁴

School Counselors in Florida

Certification Requirements for School Counselors

School counselors are considered instructional personnel within Florida's public school system.⁵ To be employed as a school counselor, a person must be certified as required by law and State Board of Education (SBE) rule.⁶ To be certified as a school counselor an individual must have:⁷

- A master's or higher degree with a graduate major in guidance and counseling or school counseling that includes a minimum of 600 clock hours of supervised internship serving school-aged students in a prekindergarten, an elementary or a secondary school setting; or
- A master's or higher degree with a graduate major in counseling, but not guidance and counseling or school counseling, that includes a minimum of 600 clock hours of supervised internship with school-aged children and their families with at least nine semester hours of specified graduate credit.

In the 2020-21 school year, there were 6,397 guidance counselors working in Florida school districts. Each of the 67 school districts reported at least one guidance counselor on staff.⁸

School Counselor's role in Florida's Schools

The core duties of school counselors in Florida include, providing individual counseling and advising to help students set personal goals, provide academic advising with course selection and graduation requirements, and work with teachers and school administrators to ensure student needs are being met.⁹ School counselors focus their skills, time and energy on direct and indirect services to students.¹⁰ Direct counseling services are in-person interactions between school counselors and students which include:¹¹

- School counseling core curriculum, which are structured lessons delivered in the school's curriculum to help students attain desired competencies;
- Individual Student Planning, which are activities to assist students in establishing personal goals and future plans; and

⁴Florida Department of Education, *Florida's School Counseling Framework*, at 15 (2010), available at <https://www.fldoe.org/core/fileparse.php/7690/urlt/0070167-finalcounselframework2010.pdf>.

⁵ Section 1012.01(2)(b), F.S.

⁶ Section 1012.55(1)(b), F.S.

⁷ Rule 6A-4.0181, F.A.C. if a candidate is earning certification on the second pathway the 9 hours of graduate credit to include: Student appraisal and evaluation methods; College and career planning; Principles, philosophy, organization and administration of a comprehensive school counseling program; Consultation skills and techniques for conferring with groups.

⁸ Florida Department of Education, *Staff in Florida's Public Schools: Full-Time Staff Activity Assignment 2020-21, Final Survey*, (2021) available at <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.stml>.

⁹ Florida Department of Education, *Florida's School Counseling Framework*, at 15 (2010), available at <https://www.fldoe.org/core/fileparse.php/7690/urlt/0070167-finalcounselframework2010.pdf>.

¹⁰ American School Counselor Association, *ASCA National Model A Framework for School Counseling Programs*, (2015), available at <https://www.mlsd.net/Downloads/ANMExecSumm.pdf>.

¹¹ Office of Program Policy Analysis and Government Accountability, *OPPAGA Review of School Counselors*, (2015), <https://www.fla-schoolcounselor.org/wp-content/uploads/2017/04/OPPAGA-Report.pdf>.

- Responsive Services, which are activities designed to meet students’ needs, such as counseling in individual or small-groups or crisis response.

Indirect Counseling Services are services provided on behalf of students as a result of the school counselors’ interactions with others including referrals for additional assistance, and consultation and collaboration with parents.¹²

A 2015 report showed that 71 percent of school counselors spent their time on direct and indirect counseling services and 29 percent on non-counseling duties. The top five duties that were non-counseling related were:¹³

- Student testing/assessment;
- Coordinating 504¹⁴ meetings;
- Attendance duty;
- Cafeteria duty; and
- Hallway supervision.

Florida’s School Counseling Framework

Florida’s School Counseling Framework (Framework) represents the continuing evolution of prekindergarten–12 school counseling programs. Historically, many school counselors spent much of their time responding to the needs of a small percentage of their students, typically the high achieving or high risk. The Framework recommends that the majority of the school counselor’s time be spent in direct service to all students so that every student receives maximum benefits from the program.¹⁵ When first articulated in 1995, this model represented a departure from prior “guidance” program concepts to one that is comprehensive in scope, preventative in design, and developmental in nature. The Framework has been increasingly used by districts to structure their school counseling programs to include a standards-based student development curriculum and activities.¹⁶ The Framework is organized around 15 program standards based on the American School Counselor Association’s structure. The 15 program standards are organized into four areas:¹⁷

- Foundation:
 - Mission Statement;
 - Rationale and Philosophy; and
 - Student Standards and Competencies.
- Management System:
 - District Policy;
 - Advisory Council;

¹² Office of Program Policy Analysis and Government Accountability, *OPPAGA Review of School Counselors*, (2015), <https://www.fla-schoolcounselor.org/wp-content/uploads/2017/04/OPPAGA-Report.pdf>.

¹³ *Id.*

¹⁴ Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. U.S. Department of Education, *Protecting Students with Disabilities*, <https://www2.ed.gov/about/offices/list/ocr/504faq.html> (last visited Jan. 31, 2022).

¹⁵ Florida Department of Education, *Florida’s School Counseling Framework*, at 9 (2010), available at <https://www.fldoe.org/core/fileparse.php/7690/urlt/0070167-finalcounselframework2010.pdf>, at 13.

¹⁶ Florida Department of Education, *Florida’s School Counseling Framework*, at 9 (2010), available at <https://www.fldoe.org/core/fileparse.php/7690/urlt/0070167-finalcounselframework2010.pdf>.

¹⁷ *Id.* at 21

- Program Resources;
- Use of Time; and
- Calendars.
- Delivery System:
 - Curriculum;
 - Individual Student Planning;
 - Responsive Services; and
 - Systems Support.
- Accountability:
 - Use of Data;
 - Program Evaluation; and
 - School Counselor Standards.

III. Effect of Proposed Changes:

SB 1404 creates s. 1006.025, F.S., to specify roles and responsibilities for school counselors in Florida's schools. The bill requires the Department of Education to develop a program using Florida's School Counseling Framework for certified school counselors that deliver services within the context of a student-centered, data-informed, and outcome-oriented program. The program is required to integrate into curricula and which prepares public school students in prekindergarten through grade 12 for postsecondary education and training or a career.

Specifically, the bill provides that certified school counselor may deliver all of the following services:

- Offer advisement appraisal for academic planning, including for postsecondary education, and career coaching.
- Provide orientation, coordination, and academic advising for new students.
- Interpret cognitive aptitude and achievement test results and support school administrators, parents, and students in understanding them.
- Counsel students who are tardy or absent.
- Provide mental health services to students, including, but not limited to: individual and small group counseling, including short-term counseling; suicide screenings and assessments; and collaboration with other school personnel, medical professionals, and community-based partners to provide referrals to both students and their families.
- Support students' social and emotional learning through classroom lessons and counseling.
- Consult with teachers to schedule and present school counseling curriculum lessons based on developmental needs. Such needs must be determined using data analyzed by certified school counselors.
- Interpret student records and protect such records and information as required by state and federal rules and regulations.
- Analyze grade point averages and their relationship to student achievement.
- Consult with teachers about building class connections, effective classroom management, and the role of noncognitive factors in student success.
- Consult with a variety of stakeholders, including school principals, classroom teachers, parents, student services personnel, and other school personnel, to identify and resolve student issues, needs, and problems.

- Advocate for exceptional students by participating in, but not leading, individual education plan meetings, student study teams, responses to intervention plans, 504 meetings, multitiered systems of support, and school attendance review boards.
- Analyze disaggregated schoolwide and school counseling program data for the purpose of delivery of programs and strategies to improve school successes.
- With input from students of diverse backgrounds, work to create a positive and inclusive school culture for all students.

The bill provides that a certified school counselor may perform additional duties required of all instructional personnel during the school year, such as supervision of common areas before or after school or during the lunch hour; however, a school counselor may oversee classes only when teachers are absent or when necessary to create teacher planning time.

The bill requires specifies that a certified school counselor may not:

- Perform administrative personnel tasks, such as building the master schedule;
- Be school test coordinators; and
- Perform purely clerical work of coordinating paperwork and data entry unrelated to school counseling.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1006.025 of the Florida Statutes.

The bill creates an undesignated section of Florida Law.

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

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

None.

B. Amendments:

None.

By Senator Jones

35-01103-22

20221404__

A bill to be entitled

An act relating to school counselors; providing a short title; amending s. 1006.025, F.S.; requiring certified school counselors to provide services within the context of a program developed by the Department of Education using a specified framework; authorizing certified school counselors to deliver specified services; authorizing certified school counselors to perform additional duties required of all instructional personnel during the school year; authorizing certified school counselors to oversee classes only under certain circumstances; prohibiting certified school counselors from performing certain tasks; making technical changes; providing an effective date.

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

Section 1. This act may be cited as the "School Counselors Supporting Students Act."

Section 2. Section 1006.025, Florida Statutes, is amended to read:

1006.025 Certified school counselors ~~Guidance services.~~

(1) A certified school counselor shall deliver services within the context of a student-centered, data-informed, and outcome-oriented program developed by the Department of Education which is integrated into curricula and which prepares public school students in prekindergarten through grade 12 for postsecondary education and training or a career. The department

Page 1 of 5

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35-01103-22

20221404__

shall use Florida's School Counseling Framework in developing the program.

(2) A certified school counselor may deliver all of the following services:

(a) Offer advisement appraisal for academic planning, including for postsecondary education, and career coaching.

(b) Provide orientation, coordination, and academic advising for new students.

(c) Interpret cognitive aptitude and achievement test results and support school administrators, parents, and students in understanding them.

(d) Counsel students who are tardy or absent.

(e) Provide mental health services to students, including, but not limited to: individual and small group counseling, including short-term counseling; suicide screenings and assessments; and collaboration with other school personnel, medical professionals, and community-based partners to provide referrals to both students and their families.

(f) Support students' social and emotional learning through classroom lessons and counseling.

(g) Consult with teachers to schedule and present school counseling curriculum lessons based on developmental needs. Such needs must be determined using data analyzed by certified school counselors.

(h) Interpret student records and protect such records and information as required by state and federal rules and regulations.

(i) Analyze grade point averages and their relationship to student achievement.

Page 2 of 5

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35-01103-22

20221404__

59 (j) Consult with teachers about building class connections,
60 effective classroom management, and the role of noncognitive
61 factors in student success.

62 (k) Consult with a variety of stakeholders, including
63 school principals, classroom teachers, parents, student services
64 personnel, and other school personnel, to identify and resolve
65 student issues, needs, and problems.

66 (l) Advocate for exceptional students by participating in,
67 but not leading, individual education plan meetings, student
68 study teams, responses to intervention plans, 504 meetings,
69 multitiered systems of support, and school attendance review
70 boards.

71 (m) Analyze disaggregated schoolwide and school counseling
72 program data for the purpose of delivery of programs and
73 strategies to improve school successes.

74 (n) With input from students of diverse backgrounds, work
75 to create a positive and inclusive school culture for all
76 students.

77 (3) A certified school counselor may perform additional
78 duties required of all instructional personnel during the school
79 year, such as supervision of common areas before or after school
80 or during the lunch hour; however, a school counselor may
81 oversee classes only when teachers are absent or when necessary
82 to create teacher planning time.

83 (4) Certified school counselors may not:

84 (a) Perform administrative personnel tasks, such as
85 building the master schedule.

86 (b) Be school test coordinators.

87 (c) Perform purely clerical work of coordinating paperwork

35-01103-22

20221404__

88 and data entry unrelated to school counseling.

89 (5) Annually by June 30, each district school board shall
90 annually submit to the Commissioner of Education a district
91 guidance report, which must ~~to the Commissioner of Education by~~
92 June 30.

93 ~~(2) The guidance report shall include, but need not be~~
94 ~~limited to, the following:~~

95 (a) An examination of student access to certified school
96 counselors.

97 (b) The degree to which a district has adopted or
98 implemented a guidance model program.

99 (c) Evaluation of the information and training available to
100 certified school counselors and career specialists to advise
101 students on areas of critical need, labor market trends, and
102 technical training requirements.

103 (d) Any progress made in incorporating ~~toward incorporation~~
104 ~~of~~ best practices for advisement, as identified by the
105 department.

106 (e) Any consideration of alternative guidance systems or
107 ideas, including, but not limited to, a teacher-advisor model,
108 mentoring, partnerships with the business community, web-based
109 delivery, and parental involvement.

110 (f) A district guidance plan ~~for the district.~~

111 ~~(6)(3)~~ The department shall provide resources to district
112 school boards ~~which that~~ may assist districts in preparing the
113 annual guidance report. The resources ~~must shall~~ include, but
114 ~~need are~~ not ~~be~~ limited to, materials relating to guidance model
115 programs, training available through the department for career
116 guidance, adopted best practices, alternative guidance systems

35-01103-22

20221404__

117 or ideas, and a model district guidance plan.

118 Section 3. This act shall take effect July 1, 2022.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: CS/CS/SB 706

INTRODUCER: Education Committee, Community Affairs Committee, and Senator Perry

SUBJECT: School Concurrency

DATE: February 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Fav/CS
2.	<u>Palazesi</u>	<u>Bouck</u>	<u>ED</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 706 concerns school concurrency, the process by which local governments ensure school capacity is not outpaced by population increase created by development. Concurrency requirements are local laws stating that certain infrastructure must be in place and available to serve new development before the local government may allow new citizens to live in the new development.

The bill provides that school concurrency is deemed satisfied when the developer tenders a written legally binding commitment, rather than actually executes such commitment, to provide mitigation proportionate to the demand created by the development.

The bill also provides that such mitigation paid by a developer, rather than being immediately directed toward a school capacity improvement, may be set aside and not spent until an appropriate improvement is identified.

The bill takes effect July 1, 2022.

II. Present Situation:

Concurrency

“Concurrency” is a phrase referring to a set of land use regulations requiring local governments to ensure that new development does not outstrip a local government’s ability to provide necessary services. Developments meet concurrency requirements when the local government has the infrastructure capacity to serve the new growth.

In essence, a concurrency requirement is a law stating that certain infrastructure must be in place and available to serve new development before the local government may allow new citizens to live in the new development.¹ For example, before a local government can approve a building permit to allow a new development, it must consult with its water suppliers to ensure adequate supplies to serve the new development will be available by the time citizens can move in.² Certain services are subject to concurrency statewide (sanitary sewer, solid waste, drainage, and potable water) while other services, such as public transportation or schools, may optionally be subjected to concurrency by a local government.³

School Concurrency

The Legislature prescribes the methods and regulations controlling when public school concurrency is imposed by a local government.⁴ Local governments must include principles, guidelines, standards, strategies, and acceptable levels of service based on data in their comprehensive plans⁵ and school-related interlocal agreements.⁶ Local governments and school boards work in conjunction to determine whether adequate school capacity will be available to accommodate the development.

School concurrency requires a local government to deny an application for new residential development if adequate school capacity will not be available or under construction within three years of approving the application.⁷ Typically the level of service required to be maintained is expressed in terms of student capacity (the maximum number of students a facility is designed to accommodate), student stations (the area necessary for a student to engage in learning), gross square footage of facilities, and facility utilization, versus the total number of students in a district or designated area.⁸ Level of service can be separated into tiers of acceptability, as well

¹ Section 163.3180(2), F.S.

² *Id.*

³ Section 163.3180(1), F.S.

⁴ Section 163.3180(6), F.S.

⁵ Local government comprehensive plans provide the policy foundation for local planning and land use decisions on capital improvements, conservation, intergovernmental coordination, recreation, open space, future land use, housing, transportation, coastal management (where applicable) and public facilities.

⁶ Section 613.3180(6)(a), F.S.

⁷ Section 613.3180(h), F.S.

⁸ See, e.g., Florida Planning and Development Lab at Florida State University, *Recommendations for Implementing School Concurrency*, Dec. 2007, available at <https://fpdl.coss.fsu.edu/sites/g/files/imported/storage/original/application/90a0cefe399a0d8424ca33f8e03d1bf5.pdf> (last visited January 20, 2022).

as divided between different types of school- elementary, middle, high, and special purpose being the typical divisions.⁹

Concurrency Service Areas

Local governments are encouraged, but not required, to apply school concurrency on a districtwide basis.¹⁰ A local government choosing to enforce concurrency on a less than districtwide basis must delineate school attendance zones or concurrency service areas through an interlocal agreement with the school district and other participating governments.¹¹ In order to implement attendance zones, a local government must first show that the utilization of school capacity is being used to its fullest capacity given transportation costs and other factors, and zones must be supported by data and analysis in the comprehensive plan.¹²

The Legislature has implemented some safeguards to encourage growth. Where school capacity is available on a districtwide basis but concurrency service areas constrict capacity, the local government must determine whether the needed capacity for a development exists in an adjacent service area.¹³ If such coverage exists, the local government may not deny an application for the development, and must deduct the capacity from the adjacent area. Nonetheless, students from the development may not be required to attend school in the adjacent service area.¹⁴

Proportionate Share

Proportionate share is a tool local governments may use to require developers to help mitigate the impacts of their development notwithstanding a failure to achieve and maintain the adopted level of service standards.¹⁵ Proportionate share generally requires developers to contribute to costs, or build facilities, necessary to offset a new development's impacts.¹⁶

With respect to school concurrency applied by a local government, when a contribution of land; the construction, expansion, or payment for land acquisition; the construction or expansion of a public school facility, or a portion thereof; or the construction of a specified charter school is used as proportionate-share mitigation, the local government is required to credit such contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by a local ordinance for the same need, on a dollar-for-dollar basis.¹⁷

⁹ Section 163.3180(6)(c), F.S.

¹⁰ Section 163.3180(6)(f), F.S.

¹¹ Section 163.3180(f),(i), F.S.

¹² *Id.*

¹³ Section 163.3180(f) 2. b., F.S.

¹⁴ *Id.*

¹⁵ Florida Department of Community Affairs (now Department of Economic Opportunity), *Transportation Concurrency: Best Practices Guide*, pg. 64 (2007), retrieved from http://www.cutr.usf.edu/pdf/DCA_TCBP%20Guide.pdf (last visited March 18, 2019).

¹⁶ *Id.*

¹⁷ Section 163.3180(6)(h)2.b., F.S.

III. Effect of Proposed Changes:

The bill amends s. 163.3180 (6), F.S., to provide school concurrency is deemed satisfied when the developer tenders a written legally binding, rather than actually executes, a commitment to provide mitigation proportionate to the demand created by the development.

The bill also provides that proportionate-share mitigation paid by a developer, rather than being immediately directed toward a school capacity improvement, may be set aside and not spent until an appropriate improvement is identified.

The bill takes effect July 1, 2022.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Private sector development may benefit to the extent that the bill streamlines school concurrency requirements.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides that school concurrency is deemed satisfied where a developer in good faith offers to execute a contract to provide proportionate share mitigation. The bill does not address how relevant improvements to public education in order to increase school capacity will follow in instances where a developer and local government fail to agree to definite terms on proportionate share mitigation. Such an occurrence would allow development to move forward without increased school capacity following, leaving a larger deficit of capacity before subsequent development.

VIII. Statutes Affected:

This bill substantially amends section 163.3180 Florida Statutes.

IX. Additional Information:

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

CS/CS by Education on February 1, 2022:

The committee substitute provides that school concurrency is deemed satisfied when the developer tenders a written legally binding commitment, rather than actually executes such commitment, to provide mitigation proportionate to the demand created by the development of a property.

CS by Community Affairs on January 25, 2022:

The CS removes a provision requiring all counties which apply school concurrency to do so on a district-wide basis.

- B. **Amendments:**

None.



971280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/02/2022	.	
	.	
	.	
	.	

The Committee on Education (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete lines 44 - 45

and insert:

functional equivalent. School concurrency is deemed satisfied
when ~~if~~ the developer tenders a written, ~~executes a~~ legally

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

And the title is amended as follows:

Delete line 4

and insert:



971280

12
13

school concurrency is deemed satisfied; specifying
that

By the Committee on Community Affairs; and Senator Perry

578-02325-22

2022706c1

A bill to be entitled

An act relating to school concurrency; amending s. 163.3180, F.S.; revising provisions specifying when school concurrency is satisfied; specifying that proportionate-share mitigation must be set aside and not spent if an improvement has not been identified; providing an effective date.

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

Section 1. Paragraph (h) of subsection (6) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(6)

(h)1. In order to limit the liability of local governments, a local government may allow a landowner to proceed with development of a specific parcel of land notwithstanding a failure of the development to satisfy school concurrency, if all the following factors are shown to exist:

a. The proposed development would be consistent with the future land use designation for the specific property and with pertinent portions of the adopted local plan, as determined by the local government.

b. The local government's capital improvements element and the school board's educational facilities plan provide for school facilities adequate to serve the proposed development, and the local government or school board has not implemented that element or the project includes a plan that demonstrates that the capital facilities needed as a result of the project

Page 1 of 4

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

578-02325-22

2022706c1

can be reasonably provided.

c. The local government and school board have provided a means by which the landowner will be assessed a proportionate share of the cost of providing the school facilities necessary to serve the proposed development.

2. If a local government applies school concurrency, it may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency is satisfied if the developer in good faith offers to execute ~~executes~~ a legally binding commitment to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in sub-subparagraph a. Options for proportionate-share mitigation of impacts on public school facilities must be established in the comprehensive plan and the interlocal agreement pursuant to s. 163.31777.

a. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; the construction of a charter school that complies with the requirements of s. 1002.33(18); or the creation of mitigation banking based on the construction of a public school facility in

Page 2 of 4

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578-02325-22

2022706c1

59 exchange for the right to sell capacity credits. Such options
 60 must include execution by the applicant and the local government
 61 of a development agreement that constitutes a legally binding
 62 commitment to pay proportionate-share mitigation for the
 63 additional residential units approved by the local government in
 64 a development order and actually developed on the property,
 65 taking into account residential density allowed on the property
 66 prior to the plan amendment that increased the overall
 67 residential density. The district school board must be a party
 68 to such an agreement. As a condition of its entry into such a
 69 development agreement, the local government may require the
 70 landowner to agree to continuing renewal of the agreement upon
 71 its expiration.

72 b. If the interlocal agreement and the local government
 73 comprehensive plan authorize a contribution of land; the
 74 construction, expansion, or payment for land acquisition; the
 75 construction or expansion of a public school facility, or a
 76 portion thereof; or the construction of a charter school that
 77 complies with the requirements of s. 1002.33(18), as
 78 proportionate-share mitigation, the local government shall
 79 credit such a contribution, construction, expansion, or payment
 80 toward any other impact fee or exaction imposed by local
 81 ordinance for public educational facilities, on a dollar-for-
 82 dollar basis at fair market value. The credit must be based on
 83 the total impact fee assessed and not on the impact fee for any
 84 particular type of school.

85 c. Any proportionate-share mitigation must be directed by
 86 the school board toward a school capacity improvement identified
 87 in the 5-year school board educational facilities plan or must

Page 3 of 4

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578-02325-22

2022706c1

88 be set aside and not spent until such an improvement has been
 89 identified that satisfies the demands created by the development
 90 in accordance with a binding developer's agreement.

91 3. This paragraph does not limit the authority of a local
 92 government to deny a development permit or its functional
 93 equivalent pursuant to its home rule regulatory powers, except
 94 as provided in this part.

95 Section 2. This act shall take effect July 1, 2022.

Page 4 of 4

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

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Education Committee Judge:

Started: 2/1/2022 1:02:34 PM

Ends: 2/1/2022 2:14:36 PM Length: 01:12:03

1:02:36 PM Come to order
1:02:41 PM Roll call
1:02:59 PM Quorum is present
1:03:04 PM Comments from Chair
1:03:12 PM Tab 7 - SB 1226 by Sen Brandes
1:03:20 PM Sponsor explain bill
1:03:49 PM Question from Chair
1:03:56 PM Response of sponsor
1:05:14 PM Amendment 290644 by Sen Brandes
1:05:20 PM Sponsor explains amendment
1:05:35 PM No questions
1:05:36 PM Mike Miller, FLVS, waive in support
1:05:51 PM Waive close
1:05:52 PM Amendment is adopted
1:05:56 PM Back on bill as amended
1:06:02 PM Sen Berman in debate
1:06:38 PM Chair Gruters in debate
1:06:47 PM Sponsor closes on bill
1:07:13 PM CS/SB 1226 is reported favorably
1:07:36 PM Tab 2 - SB 600 by Sen Berman
1:07:44 PM Sponsor explains bill
1:08:46 PM Amendment 557736 by Sen Berman
1:08:52 PM Sponsor explains amendment
1:09:10 PM Waive close
1:09:11 PM Amendment is adopted
1:09:15 PM Back on the bill as amended
1:09:22 PM David Cullen, Sierra Club of Florida, waive in support
1:09:27 PM Cody Rogers, Cleo Institute, waive in support
1:09:44 PM Waive close
1:09:49 PM CS/SB 600 is reported favorably
1:10:08 PM Tab 5 - SB 1068 by Sen Jones
1:10:16 PM Sponsor explains bill
1:11:34 PM David Struhs, Foundation for Florida's Future, waive in support
1:11:39 PM Lawrence Clermont, Florida PTA, waive in support
1:11:48 PM Sponsor closes on bill
1:12:19 PM SB 1068 is reported favorably
1:12:29 PM Tab 11-SB 1404 by Sen Jones
1:12:37 PM Sponsor takes a point of personal privilege
1:12:53 PM Sponsor explains bill
1:13:50 PM Laura Hottenstein, speaking for the bill
1:16:48 PM Erik Hines, Speaking for th bill
1:20:47 PM Polly DeLucia, Seminole HS PTSA, waive in support
1:20:54 PM Lawrence Clermont, FLorida PTA, waive in support
1:21:04 PM Sponsor closes on bill
1:21:57 PM SB 1404 is reported favorably
1:22:11 PM Tab 4 - SB 896 by Sen Burgess
1:22:21 PM Sponsor explains bill
1:23:56 PM Amendment 512014 by Sen Burgess
1:24:13 PM Sponsor explains amendment
1:24:44 PM Lawrence Clermont, Florida PTA, Speaking for Amedment
1:25:41 PM Sponsor closes on amendment
1:25:59 PM Amendment is adopted

1:26:03 PM Back on the bill as amended
1:26:09 PM Keith Flaugh, waive in support
1:26:22 PM James Hartsell, Major General, USMC (Ret9), waive in support
1:26:29 PM Jeffery Allen, waive in support
1:26:33 PM Steven Mosley, waive against
1:26:41 PM Waive close on bill
1:26:47 PM CS/SB 896 is reported favorably
1:27:07 PM Gavel to Sen Jones
1:27:11 PM Tab 8 - SB 1284 by Sen Gruters
1:27:20 PM Sponsor explains bill
1:27:42 PM Dr. Kim Estep waive in support
1:28:02 PM Waive close
1:28:10 PM SB 1284 is reported favorably
1:28:28 PM Gavel back to Sen Gruters
1:28:36 PM Tab 10 - SB 1386 by Sen Diaz
1:28:48 PM Amendment 289492 by Sen Diaz
1:28:52 PM Sponsor explains amendment
1:30:12 PM Amendment to Amendmetn 542392 by Sen Jones
1:31:24 PM Brain Moore, FADSS, speaking against
1:32:42 PM Sen Diaz in debate
1:33:27 PM Sponsor withdraws amendment to amendment
1:33:48 PM Back on main Amendment
1:33:56 PM Sen Berman in questions
1:34:08 PM Response of Sponsor
1:34:48 PM Back and forth in questions
1:37:15 PM Sen Jones in questions
1:37:39 PM Response of Sponsor
1:38:57 PM Wayne Bertsch, Pasco County Schools, waive in support
1:39:04 PM Jason LaGosh, Orange County Public Schools, waive in support
1:39:09 PM Colin Kirkland, St. Johns County School District, waive in support
1:39:12 PM David Struhs, Foundation for Florida's Future, waive in support
1:39:15 PM Brian Moore, FADSS, waive in support
1:39:30 PM Michael Monroe, Speaking Against
1:41:14 PM Waive close on amendment
1:41:20 PM Amendment is adopted
1:41:24 PM BAck on the bill as amended
1:41:30 PM CS/SB 1386 is reported favorably
1:41:52 PM Tab 12 - SB 1690 by Sen Diaz
1:42:06 PM Sponsor explains bill
1:43:38 PM Sen Jones in questions
1:43:50 PM Response of Sponser
1:44:43 PM Senator Jones with question
1:44:50 PM Senator Diaz responds
1:45:53 PM Senator Jones with question
1:45:56 PM Senator Diaz responds
1:46:13 PM Senator Berman with question
1:46:18 PM Senator Diaz responds
1:47:04 PM Senator Berman with follow-up
1:47:31 PM Senator Diaz responds
1:48:17 PM Senator Berman with question
1:48:22 PM Senator Diaz responds
1:48:58 PM Senator Berman with question
1:49:01 PM Senator Diaz responds
1:49:23 PM Senator Jones wth question
1:49:29 PM Senator Diaz responds
1:49:44 PM Senator Jones with question
1:49:48 PM Senator Diaz responds
1:50:12 PM Senator Jones with question
1:50:18 PM Senator Diaz responds
1:50:46 PM Senator Jones with question
1:50:49 PM Senator Diaz responds
1:51:12 PM Senator Jones with question

1:51:14 PM Seantor Diaz responds
1:51:20 PM Senator Polsky with question
1:51:26 PM Senator Diaz responds
1:52:22 PM Senator Polsky with question
1:52:30 PM Senator Diaz responds
1:53:19 PM Seantor Polsky with qestion
1:53:25 PM Senator Diaz responds
1:54:20 PM Appearance Forms
1:54:22 PM Mary Winn, League of Women Voters of Florida speaks against
1:55:44 PM Raphael Arza, The Florida Charter School Alliance speaks for
1:56:35 PM David Struhs Foundation for Florida's Future waives in support
1:56:42 PM Senator Berman in debate
1:57:38 PM Senator Jones in debate
1:59:14 PM Senator Diaz closes on the bill
1:59:35 PM Roll call on SB 1690
2:00:33 PM SB 1690 is reported favorably
2:00:58 PM Tab 3 CS/SB 706
2:01:09 PM Senator Perry explains the bill
2:01:40 PM Amendment Barcode
2:01:46 PM Senator Perry explains the eamendmnet
2:02:03 PM Amendment is adopted
2:02:15 PM Appearance Form
2:02:20 PM Edward Briggs, Homes by West Bay waives in support
2:02:26 PM Benjamin Stearns, Florida Home Builders Association waives in support
2:02:31 PM Senator Perry waives close
2:02:37 PM Roll call on CS/CS/SB 706
2:02:41 PM CS/CS/SB 706 is reported favorably
2:03:01 PM Tab 6 SB 1126
2:03:08 PM Senator Harrell explains the bill
2:03:56 PM Senator Berman with question
2:04:09 PM Senator Harrell responds
2:04:39 PM Senator Berman with question
2:04:45 PM Senator Harrell responds
2:04:55 PM Appearance Form
2:04:58 PM Brewster Brown , ICUF waives in support
2:05:05 PM Senator Harrell waives close
2:05:11 PM Roll call on SB 1126
2:05:14 PM SB 1126 is reported favorably
2:05:28 PM Tab 8 SB 1240
2:05:34 PM Senator Harrell explains the bill
2:07:21 PM Appearance Form
2:07:23 PM Keith Flaugh waives in support
2:07:25 PM Caitlyn Clibbon Disability Rights of Florida waives in support
2:07:30 PM Lawrence Clermont, Florida PTA waives in support
2:07:34 PM Stephanie Dukes waives in support
2:07:39 PM Jared Willis, Committee for Children waives in support
2:07:49 PM Senator Harrell closes on the bill
2:07:57 PM Roll call on SB 1240
2:08:02 PM SB 1240 is reported favorably
2:08:20 PM Tab 1 SB 390
2:08:27 PM Senator Book explains the bill
2:09:14 PM Appearance Form
2:09:17 PM Caitlyn Clibbon, Disability Rights, FL speaks in support
2:11:33 PM Sharon Frazier-Stephens speaks for
2:13:18 PM Stephanie Dukes waives in support
2:13:21 PM Mary Lynn Cullen, Advocacy Institute For Children waives in support
2:13:26 PM Lawrence Clermont waives in support
2:13:41 PM Senator Book waives close
2:13:45 PM Roll call on SB 390
2:13:56 PM SB 390 reported favorably
2:14:02 PM Senator Jones vote motion on Tab 7
2:14:10 PM Senator Bradley vote motionson Tabs, 2,4,5,7,9,11

2:14:22 PM Motions adopted
2:14:24 PM Senator Diaz moves to adjourn
2:14:28 PM Meeting adjourned