

STORAGE NAME: h3951z.edk
DATE: June 9, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
EDUCATION K-12
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3951
RELATING TO: School Attendance
SPONSOR(S): Representative Trovillion
COMPANION BILL(S): S 2110

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) EDUCATION K-12 YEAS 9 NAYS 1
- (2)
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

PASSED BY THE LEGISLATURE - CHAPTER #98-272, Laws of Florida

On April 14, 1998, HB 3951 was read a second time on the House Floor. The bill was heard a third time and passed the House [YEAS 114, NAYS 1] on April 15, 1998.

On April 21, 1998, the Senate received HB 3951 and referred the bill to Education and Ways & Means Committees. On April 23, 1998, the bill was withdrawn from these committees and substituted for CS/SB 2110. Two amendments were adopted on second reading. The first amendment requires a parent or guardian to sign a student's declaration of school termination, and the second amendment provides that if a home education student selects a state student assessment test, the test must be administered at a location and under testing conditions approved by the school district. On April 24, 1998, HB 3951 was read a third time and passed as amended [YEAS 39, NAYS 0].

On April 29, 1998, the House concurred with the two Senate amendments and passed the bill as amended [YEAS 110, NAYS 4].

The bill was presented to the Governor on May 12, 1998, and on May 28, 1998, became law without the Governor's signature.

II. SUMMARY:

The bill transfers and renumbers the portion of s. 232.02, F.S., related to home education programs as s. 232.0201, F.S. The bill amends the statutory definition of a home education program to clarify that such a program is not required to be conducted at the home of the parent or guardian and corrects cross references to reflect the newly renumbered home education section.

The bill provides that home education programs are not included in the category of "nonpublic schools", for purposes of annual nonpublic school survey requirements.

The bill clarifies that the parent or guardian of a home schooled student is not required to provide attendance records and reports to state and district boards.

The bill includes private tutoring as a means of meeting regular school attendance requirements and provides requirements for private tutoring programs.

The bill clarifies the regulations governing the preparation and preservation by the parent or guardian of the academic portfolio of the home schooled student. Although the superintendent *may* inspect the

portfolio, the bill states that nothing shall *require* the superintendent to perform the inspection. Regulations governing the annual educational progress evaluation of a home schooled student are clarified to ensure that the parent or guardian is afforded the right to select the evaluation method and that results of the annual educational evaluation are submitted to the superintendent.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Definition

A home education program is a program in which a student is provided sequentially progressive instruction in his or her home by his or her parent or guardian. (s. 228.041(34), F.S.)

Annual Nonpublic School Survey

The Department of Education (DOE) must organize, maintain and annually update a database of educational institutions in Florida. Nonpublic schools are required to execute and file a database survey form with the DOE for purposes of database accuracy. For purposes of this requirement, a "nonpublic school" is defined as follows: "an individual, association, copartnership, or corporation, or department, division, or section of such organization, which designates itself as an educational center which includes kindergarten or a higher grade or as an elementary, secondary, business, technical or trade school below college level or any organization which provides instructional services which meet the intent of s. 232.02..." (s. 229.808, F.S.)

School Attendance

Regular school attendance is the actual attendance of a pupil during the school day. (s.232.02, F.S.) Currently, regular school attendance may be achieved by attendance in:

- a public school supported by public funds;
- a parochial, religious, or denominational school;
- a private school supported in whole or in part by tuition charges or by endowment or gifts; or
- a home education program.

Currently, as a "nonpublic school", a home education program's curricula or academic program is not overseen or controlled by the district school board.

If a student over the age of 16 years wants to drop out of school, he or she must file a formal declaration of intent to terminate school enrollment with the district school board. The declaration must acknowledge that terminating school enrollment is likely to reduce the student's earning potential, and must be signed by the child. The school district must notify the child's parent or legal guardian of the declaration of intent.

Instructor Requirements, Attendance Rules, and Reporting Requirements of Home Education Programs

A student may satisfy the regular school attendance requirements of ss. 232.01 and 232.02, F.S., through attendance in a home education program, provided the parent supplying instruction holds a valid regular Florida certificate to teach the subjects or grades in which instruction is given and complies with any other requirements or rules of the State Board, or meets the following requirements:

- notifies the superintendent of schools of the county in which the parent resides of the intent to establish and maintain a home education program;

- maintains a portfolio of records and materials; and
- provides for an annual education evaluation which documents the pupil's demonstration of educational progress at a level commensurate with her or his ability.

The evaluation shall be annually submitted to the school superintendent and must meet criteria as provided by this section. Continuation in a home education program is contingent upon the pupil demonstrating satisfactory educational progress as determined by the school superintendent upon review of the pupil's annual education evaluation. (s. 232.02(4), F.S.)

Home education programs are currently subject to the provisions which define a "school day" as a day of not less than five net hours for all grades above three, not less than four net hours for the first three grades and not less than three net hours for kindergarten or prekindergarten students with disabilities, or the equivalent as calculated on a weekly basis. (s. 228.041(13), F.S.)

All officials, teachers, and other employees in public, parochial, denominational, and private schools, including private tutors, must keep all records and prepare and submit all reports, including enrollment reports and attendance records that may be required by law and by regulations of state and district boards. (s. 232.021, F.S.) Under current statute, it is unclear whether a home education program is required to comply with this reporting requirement.

Portfolio and Annual Evaluation

After notifying the superintendent of schools in the county of residence of the intention to establish and maintain a home education program, a parent or guardian is required to begin maintaining an instruction portfolio, consisting of a log made contemporaneously with the instruction and lists of educational materials used. This portfolio must be preserved for two years and made available for inspection by the superintendent or his or her agent upon 15 days written notice. (s.232.02(1)(2), F.S.)

Parents or guardians of home schooled students are required to file an annual educational evaluation profiling the student's progress with the district school board office in the county in which the pupil resides. This evaluation must consist of *one* of the following:

- a teacher review of the portfolio and discussion with the pupil;
- scores of nationally normed student achievement tests;
- scores of the state student assessment test;
- an evaluation performed by an individual pursuant to the provisions of s. 490.003(7) or (8), F.S.;
- an evaluation using a measurement tool which is mutually agreed upon by the school superintendent and the pupil's parent or guardian.

The results of the measurement tool chosen must be submitted to the superintendent and the district school board by both the parent or guardian and by the agent performing the review/evaluation or administering the tests.

The evaluation is reviewed and accepted by the superintendent who subsequently contacts the parent or guardian if progress is not being achieved. A period of one year's probation is provided during which the pupil receives remedial instruction. Following the year probation, a reevaluation is performed. Continuation in a home education program is contingent upon the pupil demonstrating progress.

Private Tutors

Pursuant to Rule 6A-1.0951, the State Board of Education regulates private tutors who instruct pupils who do not attend a regular school. These private tutors must:

- hold a valid Florida certificate to teach the subjects or grades in which instruction is given;
- keep records and attendance reports and submit these according to s. 232.17, F.S.;
- require pupils to be in attendance according to s. 228.041(16), F.S. which requires a minimum number of 180 days of instruction or the equivalent on an hourly basis for pupils as specified by regulations of the state board; and
- be subject to prosecution under the provisions of the Compulsory Attendance Law if attendance requirements are not met.

This rule is scheduled for repeal and may not be re-enacted without specific statutory authority.

B. EFFECT OF PROPOSED CHANGES:

Definition

The bill amends the definition of a home education program by eliminating the requirement that the program be directed in the student's home. This permits flexibility for field trips and other educational activities outside the home.

Annual Nonpublic School Survey

The bill excludes home education programs from the definition of a "nonpublic school", exempting home education programs from having to submit an annual nonpublic school survey required of nonpublic schools.

School Attendance

The bill clarifies that the state or school district may not oversee or exercise control over the curricula or academic programs of home education programs. The bill clarifies that attendance reporting requirements do not apply to home education programs.

The bill requires a child's parent or legal guardian to sign the child's declaration of intent to terminate school enrollment. School district's must notify the child's parent or legal guardian of *receipt* of the declaration.

Portfolio and Annual Evaluation

The bill revises the list of programs through which pupils can achieve regular school attendance by including a private tutoring program.

The bill takes current home education provisions located in s. 232.02, F.S., relating to school attendance, and separates them into a new section s. 232.0201, F.S.

The bill amends provisions relating to home education programs as follows:

- the description of the "log" which is included in the portfolio maintained by home educators is clarified to indicate that it is to be composed of "educational activities";
- the parent or guardian providing instruction in a home education program is not required to hold a valid regular Florida certificate, but must meet the other provisions of the section;
- the superintendent is not required to inspect the educational portfolio of a home educated student;

- clarifies that the parent or guardian may select the method of evaluation to be used in the mandatory annual educational evaluation;
- the parent or guardian is required to file a copy of the annual educational evaluation with the superintendent's office, rather than the district school board office;
- a home education program is not required to meet the definition of a school day as provided in s. 228.041, F.S. This permits flexibility with respect to the parent's or guardian's arrangement of instructional time; and
- clarifies that if a student takes a state student assessment test, the test must be used by the school district and administered by a certified teacher, at a location and under testing conditions approved by the school district.

Private Tutors

The bill creates section 232.0202, F.S., addressing private tutoring programs and requiring that the tutor hold a valid Florida certificate to teach, keep all records and make all reports required by the state and school board concerning attendance and ensure that students attend instruction as prescribed by statute. This section codifies rule 6A-1.0951 of the State Board Rules.

Cross References and Conforming Language

The bill corrects cross references and conforms language and provisions in the following subsections pertaining to home education programs:

- s. 232.425, F.S., relating to student standards for participation in interscholastic extracurricular student activities and their regulation;
- s. 240.116, F.S., relating to articulated acceleration;
- s. 240.321, F.S., relating to the community college district board of trustees and rules for the admission of students;
- s. 240.40202, F.S., relating to Florida Bright Futures Scholarship Program and student eligibility for initial awards;
- s. 240.40205, F.S., relating to the Florida Academic Scholars award; and
- s. 240.40206, F.S., relating to the Florida Merit Scholars award.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

- (3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill clarifies that home education programs are not required to be conducted at the home or adhere to the statutory definition of a school day, providing the intended flexibility to the parent or guardian.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

The parent or guardian selects a method of annual educational evaluation in which the student must demonstrate educational progress at a level commensurate with his or her ability.

- (2) Who makes the decisions?

The evaluation is submitted to the school district superintendent who must determine if such progress has been achieved.

- (3) Are private alternatives permitted?

The opportunity to send children to private schools is still available, and not affected by this bill.

- (4) Are families required to participate in a program?

No.

- (5) Are families penalized for not participating in a program?

No.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

B. STATUTE(S) AFFECTED:

The bill amends ss. 228.041, 229.808, 232.01, 232.02, 232.021, 232.425, 240.116, 240.321, 240.40202, 240.40205, and 240.40206, F.S.

The bill amends s. 232.02(4) and renumbers as s. 232.0201, F.S.

The bill creates s. 232.0202, F.S.

C. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 228.041, F.S., relating to home education programs; clarifying the definition of the term "home education program".

Section 2: Amends s. 229.808, F.S., relating to the annual nonpublic school survey; providing that the definition of the term "nonpublic school" does not include home education programs for the purpose of survey requirements.

Section 3: Amends s. 232.01, F.S., relating to school attendance; clarifying provisions relating to state or school district control of home education programs; requires a child's parent or legal guardian to sign the child's declaration of intent to terminate school enrollment.

Section 4: Amends s. 232.02, F.S., relating to home education programs; providing that private tutoring may be used to meet regular school attendance requirements; revising provisions relating to home education programs; clarifying inspection of portfolio; providing for parental selection of method of evaluation; revising process for reporting and submitting written evaluation and test results to superintendent.

Section 5: Creates s. 232.0202, F.S., relating to private tutoring programs; providing requirements for private tutoring programs.

Section 6: Amends s. 232.021, F.S., relating to attendance records and reports required by state and district boards; providing that attendance reporting requirements do not apply to home education programs.

Section 7: Amends s. 232.425, F.S., relating to student standards for participation in interscholastic extracurricular student activities; correcting cross-references.

Section 8: Amends s. 240.116, F.S., relating to articulated acceleration and dual enrollment provisions for home education programs; correcting cross-references.

Section 9: Amends s. 240.321, F.S., relating to rules for admission of students to community colleges; correcting cross references.

- Section 10: Amends s. 240.40202, F.S., relating to eligibility requirements for the Florida Bright Futures Scholarship Program; correcting cross references.
- Section 11: Amends s. 240.40205, F.S., relating to the Florida Academic Scholars award; correcting cross references.
- Section 12: Amends s. 240.40206, F.S., relating to the Florida Merit Scholars award; correcting cross references.
- Section 13: Provides that the act shall take effect upon becoming a law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. **FISCAL COMMENTS:**

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to expend funds or to take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

VI. COMMENTS:

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 26, 1998, HB 3951 was voted favorably out of the House Education K-12 Committee.

VIII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

Prepared by:

Legislative Research Director:

Susan E. Pratt

M. Elizabeth Atkins

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