

STORAGE NAME: h0991.edk

DATE: March 13, 1997

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

BILL #: HB 991

RELATING TO: High School Athletics

SPONSOR(S): Representative Andrews

STATUTE(S) AFFECTED: Creates unassigned new sections of law.

COMPANION BILL(S): SB 786 (I)

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

(1) EDUCATION K-12

(2)

(3)

(4)

(5)

I. SUMMARY:

The bill establishes a nonprofit organization to govern high school athletics. The bill provides for the structure, duties, and responsibilities of the organization.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

High school athletic activities are presently supervised and coordinated by the nonprofit Florida High School Activities Association (FHSAA). FHSAA also supervises and coordinates many non-athletic activities, such as the Florida Chapters of the National Honor Society, the Florida Association of Student Councils and the Florida Music Educators Association. Membership in the organization is voluntary. Member schools are subject to regulation and oversight by FHSAA.

Existing FHSAA organizational structure consists of:

- Board of Directors - a 33-member board which determines policy and provides guidelines. The Board meets three times a year.
- Executive Committee - a 5-member committee which approves the annual budget, decides hardship cases, and serves as the final court of appeal for the Association. The Committee meets monthly August through April of each year.
- FHSAA Staff - supervised by the Commissioner of Education, the staff administers guidelines, policies, procedures, and regulations.
- Advisory Committees - representing athletic directors, contest officials, coaches, and others, the committees meet annually and make recommendations for regulatory changes to the Board of Directors.

A major source of FHSAA operating funds (56%) is generated by the Association's share of gate receipts from State Series competitions and other events. Other sources of funds include membership dues and legal fees (12%), officials' registration fees (11%), and miscellaneous sources such as penalties, fines, investment income, corporate support, media contracts, and merchandising (21%). FHSAA receives no state funds.

Section 232.44, F.S., requires the Auditor General to audit the books and records of any nonprofit association or corporation which operates for the purpose of supervising and controlling interscholastic activities of the public high schools in the state. The Auditor General must perform these audits at least once every 6 months. The nonprofit organizations are required to keep records of moneys received, including sources, amounts, and expenditures. The records must be made available for inspection by the Auditor General. This is the only statute section relating to the regulation of nonprofit interscholastic activities associations.

On March 9, 1996, the Board of Directors of FHSAA authorized the formation of a Public Liaison Advisory Committee (PLAC). The committee was created to serve as a device by which the general public might impact the decision-making process of FHSAA. PLAC was authorized to review all aspects of FHSAA and make recommendations to the Board of Directors. Appointments to the committee included representatives of the Florida Department of Education (DOE), the Florida Legislature, the Florida School Board Association, the Florida Association of District Superintendents, member high school students, the Florida Home Educators Association, the Florida Congress of Parents and Teachers, the news media, member public schools, member private schools, and member school athletic directors.

In a final report dated January 13, 1997, PLAC made the following five recommendations:

- FHSAA should be relieved of all regulation and supervision of non-athletic extracurricular activities, and operate solely as an interscholastic athletic association;
- FHSAA should ensure the right of member schools and student-athletes to due process and appeal when they believe they have been unjustly impacted by any bylaw, regulation, guideline, policy, or procedure;

- FHSAA should revise its eligibility bylaws to allow a student to be eligible at the school in which he or she chooses to attend and first enrolls within the initial ten days of the school year, or at which he or she makes himself or herself a candidate for an athletic team by engaging in an athletic practice;
- ongoing retention of the PLAC; and
- revision of FHSAA's governance structure.

The revised governance structure includes the formation of four Sectional Councils, an Association Council, and a Representative Assembly. The proposed structure is designed to return much of the decision-making process to the local level, establish a two-tiered appeals process, and create two separate "houses" of government. It divides the state into four regions, each containing a Sectional Council with the responsibility of reviewing hardship cases. The second level in the hierarchy includes an Association Council which would serve as an oversight body for the four Sectional Councils. The Association Council would serve as a board of directors, interpret bylaws, handle procedural matters, levy fees, set percentages of contest receipts to be collected, conduct statewide interscholastic activities, and handle appeals. The Representative Assembly would consider and adopt or reject proposed amendments to FHSAA bylaws or other legislation which is of a permanent nature. The proposed structure includes input from various advisory committees, including PLAC and other committees.

B. EFFECT OF PROPOSED CHANGES:

The bill establishes a nonprofit organization, which is not a state agency, to operate, govern, and oversee high school athletic programs in the public school system. A nonpublic school that wishes to compete against a public school may become a member of the organization. Under the bill, athletic programs and participating students of member schools are governed by the bylaws of the organization, unless otherwise prohibited by statute.

The bill requires the organization to adopt bylaws establishing eligibility requirements for participating students in member schools. The bylaws governing residence and transfer must allow a student to be eligible at the first school to which the student is assigned by the local school board. If the student participates in an athletic practice before the beginning of the school year, he or she must be eligible at that school if attendance is authorized by the school board, irrespective of residence or which school the student attended during the previous school year.

Organizational Structure

The bill prescribes the governing structure of the organization, which includes a sectional council, association council, representative assembly, and public advisory committee. It requires each member school to appoint an official representative to the organization on its annual application form. This representative must be the building principal or a designated assistant principal or in-house athletic director. The membership of the organization must be divided along existing county lines into four contiguous and compact administrative sections, containing approximately the same number of member schools.

Sectional Council

The bill establishes a sectional council in each of the four administrative sections. Each 5-member sectional council includes the following:

- three member-school representatives, with at least one representing a public member-school and one representing a nonpublic member-school;
- one peer-elected district school superintendent or school administrator; and
- one peer-elected county school board member.

Members of the council can serve a maximum of two 3-year terms. Each sectional council must elect a chairperson and vice chairperson, and meet monthly from August through May.

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The authority and duties of the sectional council are to consider requests for exceptions to bylaws and regulations, and to hear appeals.

Association Council

The bill establishes an association council to oversee the sectional councils. This 15-member council is composed of the following:

- four public member-school representatives, one appointed by each sectional council;
- four private member-school representatives, one appointed by each sectional council;
- two representatives appointed by the Commissioner of Education;
- two district school superintendents;
- two county school board members; and
- the Commissioner of Education, or his or her designee.

The two representatives appointed by the Commissioner, the two district school superintendents, and the two county school board members must have one of each group elected from the two northernmost sectional councils and the other elected from the two southernmost sectional councils.

The association council must elect a president and vice president and meet five times a year. Other than the Commissioner of Education or his or her designee, members can serve a maximum of two consecutive 3-year terms.

The authority and duties of the association council include acting as the organization's board of directors; interpreting bylaws; establishing and interpreting guidelines, regulations, policies, and procedures; providing a commissioner for the organization; establishing procedures related to statewide interscholastic activities; and acting as an administrative board regarding interpretation and decisions rendered as a result of questions or appeals arising from the directing of interscholastic activities. Other responsibilities include levying annual dues and other fees; setting the percentage of contest receipts to be collected by the organization; and approving the organization's budget.

Representative Assembly

Under the bill, legislative authority for the organization is vested in a representative assembly. The membership of the assembly consists of the following:

- one member-school representative elected from each of the basic athletic districts to be determined by the organization for the purpose of deciding state championship tournament qualifiers in the senior high school classification;
- two elected middle school/junior high school representatives, one from the northern sections and one from the southern sections;
- four peer-elected district school superintendents, one from each section; and
- the Commissioner of Education, or his or her designee.

The assembly must elect a chairperson and vice chairperson and meet twice a year. Members can serve a maximum of three consecutive 2-year terms. Association and sectional council members *cannot* serve on the representative assembly.

The authority and duties of the assembly are limited to the sole function of considering, adopting, or rejecting amendments to the bylaws. A two-thirds majority vote is required for passage of any proposal.

Public Liaison Advisory Committee

The bill requires the organization to establish, fund, and support a public liaison advisory committee composed of the following members:

- the Commissioner of Education or his or her designee;
- a member public school principal who is a member of a racial minority;
- an active athletic director;

- a full-time active coach from a member school;
- a student-athlete;
- a district school superintendent;
- a district school board member;
- a member of the Florida House of Representatives;
- a member of the Florida Senate;
- a parent of a high school student;
- a member of a home education association;
- a representative of the business community; and
- a representative of the news media.

Members of a sectional council, the association council, or the representative assembly *cannot* serve on the public liaison advisory committee.

The duties of the public liaison advisory council are to provide a means by which the general public has input into decisions made by the organization. The advisory committee assists the organization in developing procedures regarding the receipt of public input and the disposition of complaints filed relating to high school athletic programs. The advisory committee must conduct annual public hears in each of the four sections, during which the committee may be addressed regarding the effectiveness of the rules, operation, and management of the organization. Additional meetings may be called by the chairperson, the organization president, or the organization commissioner.

The advisory council must conduct annual evaluations of the organization and present a report of its findings and recommendations to the association council, the Commissioner of Education, and the respective education committees of the Florida House of Representatives and the Florida Senate. The recommendations must specify measures to improve the organization's implementation and oversight of high school athletic programs.

The bill provides that a student-athlete or member school receiving an unfavorable ruling from a sectional council is entitled to appeal the decision to the association council at its next regularly scheduled meeting. The association council has the authority to uphold, reverse, or amend a sectional council decision by a majority vote.

The bill specifies that organization members, advisory committees, or the organization commissioner can propose or sponsor amendments to the bylaws. The amendments are filed directly with the representative assembly which may then adopt, reject, or revise proposed amendments. The assembly *cannot* propose amendments for its own considerations.

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?

Yes, the bill creates a nonprofit organization to operate, govern, regulate, and oversee high school athletic programs, including eligibility requirements.

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

Yes, see (1), above.

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

No.

- 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?

The restructured nonprofit organization regulates high school athletic programs. Presumably, non-athletic extracurricular programs, which used to be under the FHSAA, would now be the responsibility of the individual schools or other entity.

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

Indeterminate.

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

The newly structured nonprofit organization is designed to operate as a representative democracy in which the sovereign authority is within its member schools.

2. Lower Taxes:

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

No.

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

Yes, the bill provides that the nonprofit organization has an association council to act as its board of directors, and authorizes the council to levy annual dues and other fees.

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

No.

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

No.

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

No.

3. Personal Responsibility:

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

No.

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

Assuming the member schools are the "beneficiaries," the bill authorizes the association council to levy annual dues.

4. Individual Freedom:

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

No.

- 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?

Not applicable.

- (2) Who makes the decisions?

The nonprofit organization determines whether a high school student is eligible for interscholastic athletic activities, and at which school.

- (3) Are private alternatives permitted?

Not applicable. The nonprofit organization appears to be quasi-public.

- (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?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

The newly structured quasi-public nonprofit organization.

ACADEMIC EXCELLENCE COUNCIL'S ADDITIONAL CONSIDERATIONS:

1. Does it improve instruction?

Not applicable.

2. Does it allow teachers to teach?

Not applicable.

3. Does it improve student character?

Not applicable.

4. Does it prepare our students to be a part of the 21st century workforce?

Not applicable.

5. Does it empower parents to make decisions?

Not applicable.

6. Does it create educational options?

Not applicable.

7. Does it create an environment where students can learn?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

- Section 1: Establishes a nonprofit organization to operate, govern, and oversee high school athletic programs.
- Section 2: Requires the organization to adopt bylaws regarding student eligibility requirements.
- Section 3: Establishes the governing structure of the organization.
- Section 4: Establishes a sectional council in each of the four administrative sections, and provides its membership, term limits, and duties.
- Section 5: Establishes an association council to oversee the four sectional councils, and provides its membership, term limits, and duties.
- Section 6: Establishes a representative assembly, and provides its membership, term limits, and duties.
- Section 7: Requires the organization to establish, sustain, fund, and provide staff support to a public liaison advisory committee for the purpose of acting as a conduit through which the general public has input into the decision-making process, and provides its membership, term limits, and duties.
- Section 8: Establishes an appeals process by which a student-athlete or member school who receives an unfavorable ruling from a sectional council may appeal the decision to the association council.
- Section 9: Establishes an amendment process to the organization bylaws.
- Section 10: Provides an effective date upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

- 1. Non-recurring Effects:
None.
- 2. Recurring Effects:
None.
- 3. Long Run Effects Other Than Normal Growth:
None.
- 4. Total Revenues and Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

See Fiscal Comments.

2. Recurring Effects:

If FHSAA assumes the role of the nonprofit organization described in this bill, reorganization of the FHSAA governance structure, including retention of the PLAC, would be necessary. Such action may result in an increase in the fees charged to member schools.

3. Long Run Effects Other Than Normal Growth:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

See B.2. above, and Fiscal Comments.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

The association council, acting as the board of directors of the nonprofit organization, levies annual dues and other fees and sets the percentage of contest receipts to be collected.

IV. 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.

V. COMMENTS:

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

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