

STORAGE NAME: h2063s1a.ed

DATE: April 18, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB 2063

RELATING TO: Florida On-Line High School

SPONSOR(S): Committee on Education Innovation and Representative Melvin

TIED BILL(S): none

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

- (1) EDUCATION INNOVATION YEAS 10 NAYS 0
 - (2) EDUCATION APPROPRIATIONS YEAS 9 NAYS 0
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 2063 establishes the Florida On-Line High School to be governed by a board of trustees. The committee substitute requires the board of trustees to:

- Meet within 30 days after July 1, 2000, and 4 times each year, at the call of the chair, or at the request of a majority of the members
- Enter into agreements with distance learning providers
- Submit an annual legislative budget request, including funding for computers for public school students who do have access to public school computers
- Administer and maintain personnel programs
- Establish priorities for student admissions
- Distribute information relating to student enrollment procedures
- Submit annually forecasted and actual enrollments, including the number of public, private, and home school students served, by district
- Submit a report on the operations, accomplishments, marketing and operational plan, assets and liabilities, annual financial and compliance audit of accounts and records, recommendations regarding the unit cost of providing services to students and an accountability mechanism to assess the effectiveness of the services

The committee substitute allows the board to acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests. Although the ownership of patents, copyrights, and trademarks and any licenses remains with the state, the board has the full right of use and full right to retain any revenues derived, but they must use any funds to support research and development to improve courseware and services to the school's students. The board may establish a personnel loan or exchange program for academic administrative and instructional staff to be loaned to, or exchanged with persons in public agencies, which are in or out of Florida, or by private industry. The board may adopt rules, policies, and procedures related to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property.

Operational funds, priorities for the admission of students, and the delivery of services for the Florida On-Line High School are subject to the General Appropriations Act. The committee substitute provides that the Orange County District School Board must be the temporary fiscal agent of the Florida On-Line High School. Priority access must be provided equitably statewide.

The House proposed 2000-2001 appropriation is \$6,170,000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The program that has evolved into The Florida High School (FHS) on-line project, originated as two distinct but uniquely similar on-line educational initiatives in Alachua and Orange Counties. Both projects were conceived independently in their respective counties during the 1995-96 school year. During the summer 1996, Orange County piloted its "Web School" with five courses that ultimately became the first five courses offered by The Florida High School. Alachua County was in the preliminary development phase of their on-line project during this same timeframe.

The Florida Department of Education (DOE) acted as the catalyst in initially encouraging the partnership between Orange and Alachua Counties when Alachua County applied to DOE early in the 1996-97 school year for a Break The Mold School grant to support their on-line program effort. In November 1996, DOE provided the two districts with a \$200,000 Break The Mold school grant to develop the FHS project. In effect, the partnership between Orange and Alachua Counties to develop FHS was brokered by the DOE because of the similarities between the fledgling on-line projects in the two respective counties.

Shortly after forming the FHS alliance in the fall of 1996, Orange and Alachua Counties each appointed a co-director to represent their district in developing and implementing the on-line high school. The co-directors informally divided the administrative responsibilities. Orange County assumed responsibility for the curriculum and instruction components of FHS, and Alachua County assumed responsibility for the general administrative aspects of the project.

Following an intensive period of planning and development during the first six months of 1997, FHS was officially launched in August, 1997. Funded by an appropriation of \$1.3 million from the 1997 Legislature, FHS served approximately 150 students, predominately from Orange and Alachua Counties during the 1997-98 school year. FHS's continued developmental and implementation efforts were supported by a \$4.3 million appropriation from the 1998 Florida Legislature and the project began to enroll students on a statewide basis beginning in September, 1998. Currently, there are 1,278 students enrolled at FHS who are registered for 1,851 courses during the 1999-2000 school year.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 2063 establishes the Florida On-Line High School to be governed by a board of trustees. The committee substitute establishes the board as a public agency entitled to sovereign immunity. The members of the board are public officers who bear fiduciary responsibility for Florida On-Line High School. The committee substitute requires the board of trustees to:

- Meet within 30 days after July 1, 2000, and 4 times each year, at the call of the chair, or at the request of a majority of the members
- Enter into agreements with distance learning providers
- Submit annually a legislative budget request, which includes funding requests for computers for public school students who do have access to public school computers
- Administer and maintain personnel programs
- Establish priorities for student admissions
- Distribute information relating to student enrollment procedures
- Submit annually forecasted and actual enrollments, including the number of public, private, and home school students served, by district
- Submit a report on the operations and accomplishments, the marketing and operational plan, the assets and liabilities, a copy of an annual financial and compliance audit of accounts and records, recommendations regarding the unit cost of providing services to students and an accountability mechanism to assess the effectiveness of the provided services

The committee substitute allows the board to acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests. Although the ownership of patents, copyrights, and trademarks and licenses remains with the state, the board has the full right of use and full right to retain any revenues derived, but they must use any funds to support research and development to improve courseware and services to the school's students. The board may establish a personnel loan or exchange program for academic administrative and instructional staff to be loaned to, or exchanged with persons in public agencies, which are in or out of Florida, or by private industry. The board may adopt rules, policies, and procedures related to governance, personnel, budget and finance, administration, programs, curriculum and instruction, travel and purchasing, technology, students, contracts and grants, and property.

The board will be comprised of seven members appointed by the Governor. Of those seven, one must be the current chair of the Florida High School Advisory Board, and one must be the current Orange County Public School District representative on the Florida High School Advisory Board. The members will serve 4-year staggered terms. They will receive no compensation, but will receive reimbursement for per diem and travel expenses as provided in state law for other state employees.

Funding and Fiscal Provisions

The committee substitute requires the board of trustees to use the same format, procedures, and time lines for their budget request as required for the submission of the Department of Education's legislative budget. The Commissioner of Education must include the Florida On-Line High School as a grant-in-aid appropriation in the department's legislative budget request; however, operational funds are subject to any guidelines imposed in the General Appropriations Act. Funds will be requested and appropriated

within the department until the Legislature authorizes a different funding mechanism. The committee substitute provides that the Orange County District School Board must be the temporary fiscal agent of the Florida On-Line High School. The committee substitute requires that priorities for the admission of students be established in accordance with the General Appropriations Act. The credit of the state may not be pledged on behalf of the Florida On-Line High School.

Priorities for the delivery of services must be identified in the General Appropriations Act and must ensure that priority access is provided equitably statewide. Proviso language in the House proposed General Appropriations committee substitute currently provides that first priority for funds must be to increase the availability of and provide access to Advanced Placement and college preparatory courses for students in D and F schools, and that those students must be given priority for courses offered by the school.

The required report from the board which is due by January 1, 2001, must contain recommendations regarding the cost of the services. The identification of the cost is important to be able to develop policies regarding future funding. The cost data in the report must be based on reliable data and include the costs associated with maintaining a state-of-the-art on-line high school and a high-quality research and development effort to locate, assimilate, or develop Internet-based courses. The Auditor General may conduct an audit of the Florida On-Line High School.

Personnel

The committee substitute allows the board of trustees to adopt rules, policies, and procedures related to the appointment, employment, and removal of personnel. The committee substitute requires the board to determine the compensation, including salaries and fringe benefits and other conditions of employment for personnel. The committee substitute requires that the classification and pay plan, including terminal leave and other benefits, are subject to review and approval by the Department of Management Services and the Executive Office of the Governor before the plan is adopted. The committee substitute provides that if the board assumes responsibility for governance before obtaining approval, the employees must be compensated under the fiscal agent's system for employees.

Academic administrative and instructional personnel -- The committee substitute requires that all academic administrative and instructional personnel are subject to rejection for cause by the board of trustees and subject to board policies regarding certification, tenure, leaves of absence, sabbaticals, remuneration, and other conditions of employment which the board deems necessary and proper and which are not inconsistent with the law. These personnel are entitled to a contract as provided by rules of the board.

All employees -- The committee substitute allows all employees (except temporary, seasonal, and student) to be state employees for the purpose of eligibility to participate in the Florida Retirement System and receive benefits.

Personnel loan or exchange program -- The salary and benefits must be continued during the time the personnel participate in the program and the program must be consistent with Part II of Chapter 112 with respect to public agency employees. The participants must be deemed to have no break in creditable or continuous service or employment during participation. The salary and benefits of participants who are employed by public agencies or private industry must be paid by the originating employers.

Admission and Enrollment of Students

The committee substitute provides that the board of trustees establish priorities for admission of students in accordance with the General Appropriations Act. The board is required to distribute to all school districts and high schools in the state procedures for enrollment of students into the on-line courses of the Florida On-line High School. The procedures must be designed to minimize paperwork and maximize participation by students. The board is required to annually submit both forecasted and actual enrollments according to procedures established by the Department of Education. The procedures must, at least, include the number of public, private, and home school students served, by district.

The committee substitute gives rulemaking authority to the State Board of Education for the purpose of implementing reporting requirements.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

The House proposed 2000-2001 appropriation is \$6,170,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This committee substitute does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This committee substitute does not reduce the authority of counties or municipalities to raise revenue.

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

This committee substitute does not reduce the percentages of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee substitute differs from the original bill in the following ways.

- Specifies that the terms of board members are staggered 4-year terms.
- Requires that board be a public agency entitled to sovereign immunity and that board members are public officers who bear the fiduciary responsibility for the school.
- Allows the current governance structure to remain in place until the first meeting of the new board and specifies that the fiscal year is the same as the state fiscal year.
- Clarifies type of agreement boards can enter into (deleted word "informal").
- Clarifies that ownership of all patents, copyrights, trademarks, licenses, and rights or incentives thereunder and therein must vest in the state, with the board having full right of use and full right to retain the revenues derived therefrom.
- Specifies that boards' legislative budget request will include all "funding" requests (versus just capital outlay requests for computers).
- Specifies that personnel loan or exchange program will be consistent with Part II of Chapter 112 with respect to public agency employees.
- Makes a technical date correction.
- Requires the classification and pay plan to be subject to the review and approval by the Department of Management Services and the Executive Office of the Governor and provides that, if the board assumes responsibility for governance before the plan is

approved, the employees will be compensated pursuant to the system in effect for the employees of the fiscal agent.

- Provides that tangible property owned by the board of trustees will be subject to the provisions of Chapter 273, which relates to state-owned tangible personal property.
- Requires that the financial records and accounts be maintained under the direction of the board and regulations prescribed by State Board of Education for the uniform system of financial records and accounts for Florida schools.
- Requires board to annually prepare and submit legislative budget rather than requiring for 2001-2002.
- Allows all employees (except temporary, seasonal, and student), rather than just academic administrative and instructional employees to be state employees for the purpose of retirement and benefits.
- Authorizes State Board of Education to adopt rules.

On April 18, 2000, the Education Appropriations Committee passed the Committee Substitute unanimously and adopted four amendments which are traveling with the bill. The amendments address the following:

Amendment #1 - requires one of the board members to be a representative of the fiscal agent and one to be the Chief Information Officer from the State Technology Office pursuant to HB 2075 rather than the Orange County School District representative on the Florida High School Advisory Board

Amendment #2 - technical regarding the timing of the first meeting of the board of trustees

Amendments #3 and #4 - remove the requirement to place priorities for admission of students and the delivery of services in the General Appropriations Act.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

Alex Amengual

Ouida Ashworth

AS REVISED BY THE COMMITTEE ON EDUCATION APPROPRIATIONS:

Prepared by:

Staff Director:

John Newman

John Newman