

STORAGE NAME: h2251z.edk
DATE: June 19, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-294, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
EDUCATION K-12
FINAL ANALYSIS**

BILL #: HB 2251 (Formerly PCB EDK 00-02, Passed as SB 1870)

RELATING TO: Education/Rulemaking Authority

SPONSOR(S): Committee on Education K-12 and Representative Lynn

TIED BILL(S): None

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

- (1) EDUCATION K-12 YEAS 10 NAYS 0
 - (2) GOVERNMENTAL RULES & REGULATIONS YEAS 8 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The 1999 Legislature amended the Administrative Procedures Act to establish that an “agency may only adopt rules that implement or interpret the specific powers and duties granted by the enabling statute” (s. 120.536(1), F.S.). Agencies were charged with submitting a list of rules adopted before June 18, 1999, which exceed the new standard for rulemaking authority to the Joint Administrative Procedures Committee (JAPC) by October 1, 1999 (Chapter 99-379, LOF; s. 120.536(2)(b), F.S.). The Commissioner of Education provided a list of rules determined to exceed the statutory authority of the Department of Education and recommended changes to the statutes to provide specific authority. According to the Department of Education, these changes are necessary to maintain consistency with long established procedures and to facilitate the current accountability movement.

HB 2251 provides the State Board of Education with specific authority to adopt rules regarding the comprehensive management information system, course requirements for basic education programs, policies governing absences for religious reasons, funding and credit generation for courses in grades 9 through 12, classifications of students as resident or nonresident for postsecondary tuition purposes, and scholarship programs for children of deceased or disabled veterans.

There is no fiscal impact to the state and the act takes effect upon becoming a law.

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

The 1999 Legislature amended the Administrative Procedures Act to establish that an “agency may only adopt rules that implement or interpret the specific powers and duties granted by the enabling statute” (s. 120.536(1), F.S.). Agencies were charged with submitting a list of rules adopted before June 18, 1999, which exceed the new standard for rulemaking authority to the Joint Administrative Procedures Committee (JAPC) by October 1, 1999 (Chapter 99-379, LOF; s. 120.536(2)(b), F.S.). The Commissioner of Education provided a list of rules determined to exceed statutory authority as follows:

- Rule 6A-1.09412, F.A.C., regarding the Commissioner of Education’s authority under s. 229.565(1), F.S., to publish a directory specifying essential course content and course requirements for each course in grades 6 through 12; and
- Rule 6A-1.09441, F.A.C., regarding the Commissioner of Education’s authority under s. 236.081, F.S., to specify which elective courses in grades 9 through 12 will provide student credit and generate funding under the Florida Education Finance Program.

The Department of Education also proposed statutory changes to identified areas and requested specific authority for the following rules:

- Rule 6A-1.0014, F.A.C., regarding the State Board of Education’s authority under s. 229.555, F.S., to adopt rules to implement the comprehensive management information system for data compilation and reporting;
- Rule 6A-1.09514, F.A.C., regarding the State Board of Education’s authority under s. 232.0225, F.S., to specify the parameters district school boards use to adopt policies that allow excused student absences for religious reasons;
- Rule 6A-10.044, F.A.C., regarding the State Board of Education’s authority under s. 240.1201, F.S., to designate which categories of aliens will be treated as nonresident aliens for tuition purposes and to provide an option for residency classification upon production of proof of residency for at least 12 months; and
- Rule 6A-20.019, F.A.C., regarding the State Board of Education’s authority under s. 295.01, F.S., to establish scholarship eligibility criteria for children of deceased or disabled veterans.

The proposed changes were reviewed by legislative staff and other interested parties. HB 2251 represents the final work product of these efforts.

C. EFFECT OF PROPOSED CHANGES:

HB 2251 provides the State Board of Education with the specific authority to adopt rules to implement the comprehensive management information system, to establish course requirements for basic education programs in grades 6 through 12, to provide students with a consistent method to obtain an excused absence for religious reasons, to establish certain courses and programs in grades 9 through 12 that may or may not provide credit toward high school graduation, to designate classifications of students as resident or nonresident for postsecondary tuition purposes, and to establish scholarship eligibility criteria for children of deceased or disabled veterans.

D. SECTION-BY-SECTION ANALYSIS:

- Section 1.** Amends s. 229.555, F.S., regarding educational planning and information systems to authorize the State Board of Education to adopt rules to implement provisions for the comprehensive management information system (MIS), to ensure consistent data collection of student, facility, faculty and finance information, to provide compatibility, compilation and reporting of such data, and to facilitate efficiency and effectiveness of the MIS.
- Section 2.** Amends s. 229.565(1), F.S., regarding educational evaluation procedures and student performance standards, to authorize the State Board of Education to adopt rules that establish course requirements for basic education programs for grades 6 through 12 and adult secondary education programs.
- Section 3.** Amends s. 232.0225, F.S., regarding absence for religious instruction or holiday, to authorize the State Board of Education to adopt rules by which district school boards establish policies authorizing students' absences from school for religious instruction or religious holidays.
- Section 4.** Amends s. 236.081, F.S., regarding funds for operations of schools, to authorize the State Board of Education to adopt rules establishing which high school courses and programs may provide high school credit toward graduation.
- Section 5.** Amends s. 240.1201, F.S., regarding determination of resident status for tuition purposes, to require the State Board of Education to adopt rules that designate classifications of students as resident or nonresident for tuition purposes at community colleges and public universities.
- Section 6.** Amends s. 295.01, F.S., regarding education of children of deceased or disabled veterans, to authorize the State Board of Education to adopt rules that establish scholarship eligibility criteria for these children.
- Section 7.** Establishes an effective date upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Since most of the changes have already been implemented, the Department of Education indicates that there is no fiscal impact.

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 spend 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:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

HB 2251 provides the State Board of Education with specific authority to adopt rules regarding the comprehensive management information system, course requirements for basic education programs, policies governing absences for religious reasons, funding and credit generation for courses in grades 9 through 12, classifications of students as resident or nonresident for postsecondary tuition purposes, and scholarship programs for children of deceased or disabled veterans.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 19, 2000, the Committee on Governmental Rules & Regulations adopted the following amendment and reported the bill favorably, as amended:

Amendment 1 - removed language regarding eligible aliens and authorized rulemaking for the State Board of Education to designate classifications of students as residents or non-residents.

On May 2, 2000, SB 1870 was passed by the Senate [YEAS 39, NAYS 0]. On May 4, 2000, the House passed SB 1870 [YEAS 117, NAYS 0]. The original House bill, HB 2251, died on the Calendar on May 5, 2000. This bill analysis applies to SB 1870.

SB 1870 differs from HB 2251 by adding authorization for the State Board of Education to adopt rules regarding scholarship programs for children of deceased veterans, and by not including authorization for the State Board of Education to adopt rules regarding daily checking and recordkeeping of student attendance.

VII. SIGNATURES:

COMMITTEE ON EDUCATION K-12:

Prepared by:

Raylene H. Strickler

Staff Director:

Patricia W. Levesque

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

Prepared by:

Shari Z. Whittier

Staff Director:

David M. Greenbaum

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON EDUCATION K-12:

Prepared by:

Staff Director:

Patricia W. Levesque

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