

STORAGE NAME: h2251a.grr

DATE: April 19, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GOVERNMENTAL RULES & REGULATIONS
ANALYSIS**

BILL #: HB 2251 (PCB EDK 00-02)

RELATING TO: Education/Rulemaking Authority

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

TIED BILL(S):

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)
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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 (Ch. 99-379, L.O.F.; 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 appropriate entity (Commissioner of Education or the State Board of Education) the specific authority to adopt rules regarding the comprehensive management information system, course directory specifications, student attendance checking and record keeping, policies governing absences for religious reasons, requirements for funding and credit generation for courses in grades 9 through 12, and policies governing the status of aliens for tuition purposes.

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

There is one amendment traveling with the bill.

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 (Ch. 99-379, L.O.F.; 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 requesting 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-1.044, F.A.C., regarding the State Board of Education's authority under s. 232.022, F.S., to adopt rules regarding daily checking and record keeping of student attendance;
- 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; and
- 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.

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 appropriate entity (the Commissioner of Education or the State Board of Education) with the specific authority to adopt rules to implement the comprehensive management information system, to publish a course directory of content and requirements for each course in grades 6 through 12, to check and record daily student attendance in a consistent manner, to provide students with a consistent method to obtain an excused absence for religious reasons, to require that grades 9 through 12 course credits and funds generation are contingent upon an elective course being approved as established by its inclusion in the published course directory, to designate which category of aliens will be treated as nonresident aliens for tuition purposes, and to clarify that proof of residency for at least 12 months is required to defeat this presumption.

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 Commissioner of Education to develop and publish essential content and course requirements for each course in grades 6 through 12 in a Course Code Directory, and require that course descriptions must incorporate approved student performance standards where appropriate and feasible.

Section 3. Amends s. 232.022, F.S., regarding attendance defined, to authorize the State Board of Education to adopt rules establishing the manner in which public school student daily attendance is checked and recorded.

Section 4. Amends s. 232.0225, F.S., regarding absence for religious instruction or holiday, to authorize the State Board of Education to establish rules by which district school boards adopt policies authorizing students' absences from school for religious instruction or religious holidays.

Section 5. Amends s. 236.081, F.S., regarding computation for funding through the Florida Education Finance Program.

Section 6. Amends s. 240.1201, F.S., regarding determination of resident status for tuition purposes, to authorize the State Board of Education to designate which categories of visas or other classifications of the U.S. Immigration and Naturalization Service require an alien to be treated as a nonresident for postsecondary tuition purposes; provides that certain visa categories that are not issued for the purpose of attending a postsecondary institution in the

United States may permit aliens to be classified as state residents for tuition purposes after proof of 12 months or more of state residency is produced.

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.

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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 appropriate entity (the Commissioner of Education or the State Board of Education) specific authority to adopt rules regarding the comprehensive management information system, Course Code Directory specifications, student attendance checking and record keeping, policies governing absences for religious reasons, requirements for funding and credit generation for courses in grades 9 through 12, and policies governing the status of aliens for tuition purposes.

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.

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

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