

**STORAGE NAME:** h1495.ei.doc

**DATE:** April 1, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
EDUCATION INNOVATION  
ANALYSIS**

**BILL #:** HB 1495

**RELATING TO:** School Safety

**SPONSOR(S):** Representative(s) Carassas and Needelman

**TIED BILL(S):** None

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

- (1) EDUCATION INNOVATION
  - (2) STATE ADMINISTRATION
  - (3) EDUCATION APPROPRIATIONS
  - (4) COUNCIL FOR LIFELONG LEARNING
  - (5)
- 

**I. SUMMARY:**

HB 1495 creates the "Safe Passage Act" to establish a school safety accountability program to enhance the safe passage of students in the kindergarten through grade 12 public school system. This bill defines the Safety and Security Best Practices developed pursuant to current law, and provides definitions for "persistently dangerous" schools and school districts; "safety conscious" schools and school districts, and "serious school-based offense." These definitions do not currently exist in statute.

This bill provides for a mandatory, state-funded, third-party audit of school districts by professional state contracted auditors. The audit must provide evidence on the actual safety conditions of the district's schools, including accountability mechanisms and a regular review of the organizational structure, district safety and security plans and procedures, school crisis response checklists, and district and school safety training.

School boards must conduct a review of the audit recommendations and within 60 days adopt an action plan that identifies steps required at the district and school levels to implement the recommendations. The school board must institute the action plan and cause the plan to be instituted at the school level, and must submit a written report to the commissioner no later than July 1 of the following year. The report must describe in detail the changes that occurred at the district and the kindergarten through the 12<sup>th</sup> grade levels with corrected deficiencies noted in the audit report.

When a school district fails to timely adopt, initiate, progress in, or complete the implementation of the action plan, the State Board of Education (SBE), may: (1) permanently withhold all or a portion of discretionary funds; (2) permanently withhold or condition use of all or a portion of salaries and associated expenses of district-based instructional and noninstructional administrators; and (3) impose a fine against the school district and each school board member, collect the fines, in an amount not to exceed \$1,000 for each day of noncompliance, and hold the school board jointly and severally liable for the fine.

According to the Department of Education, the state would incur a non-recurring fiscal impact in the amount of \$3,100,000 to audit all of the districts in the first year the bill is implemented. The non-

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recurring impact to school districts of \$200,000 is the cost of establishing a Safety Hotline in 45 school districts that do not currently have active hotlines.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

This bill does not support the principle of less government because this bill requires:

- State-mandated audits of all the districts;
- The school districts to implement audits and to have a safety hotline; and
- The school boards to adopt and implement action plans.

B. PRESENT SITUATION:

The auditing of schools for safety is essentially a new program. Although a few districts have participated in the best practices audits for safety, implementing the recommendations has been purely voluntary. No safety designation has ever been assigned to schools or to school districts. About one third of the districts currently have a safety hotline through the School Safety Hotline Project, funded by the Department of Education (DOE) and assigned to the Florida Sheriff's Task Force.

**Statewide Crime-Watch Program**

The 1995 Legislature, s. 230.23185, F.S., created a Statewide-Crime Watch Program in the public schools to reduce student actions that are in violation of the code of student conduct. The goal of the program was to develop a crime-watch program in each elementary school, middle school or junior high school, and high school. The Department of Education was authorized to establish criteria for the program that include (1) student involvement at each school in the design and implementation of the program; and (2) a competitive focus with statewide recognition and awards given to schools with the most effective programs in each school district.

The 1996 Legislature amended s. 230.23185, F.S., to include a toll-free school safety hotline in the Statewide Crime-Watch Program to provide an avenue for student's to report criminal activity, such as violations of the code of student conduct, and to provide for the safety and welfare of students, faculty, and staff. The DOE was authorized to contract with the Florida Sheriff's Association to establish and operate a statewide toll-free School Safety Hotline to report incidents that affect the safety and well-being of the school's population. The hotline was to be a conduit for anonymously reporting activity that might adversely affect the school population. Current law requires, if a toll-free school safety hotline is established, the Florida Sheriff's Association must produce a quarterly report that evaluates the incidents that have been reported to the hotline.

In July 1999, the DOE, for the second time, allocated funding provided by the Florida Legislature to implement the School Safety Hotline. The April 2000 report of The Florida Sheriff's Association states that the School Safety Hotline has been implemented in 20 counties and 30 other counties have requested information on the hotline.

### **Partnership for School Safety and Security**

The 2000 Legislature created the Partnership for School Safety and Security in s. 229.8347, F.S. The 11 member Partnership for School Safety and Security performs the responsibilities listed below:

- Evaluates school safety and security programs and recommends information to be included in the electronic clearinghouse;
- Creates an electronic clearinghouse of safety and security information that includes best practices, model programs, and construction prototypes that are compatible with the requirements for frugal schools;
- Assesses the extent to which best practices are being followed;
- Trains and offers technical assistance to school district staff; and
- Fosters coordination among schools, law enforcement personnel, and crisis-management teams.

The partnership must submit an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the Senate and House of Representatives, and the Commissioner of Education.

### **The Office of Program Policy Analysis and Government Accountability (OPPAGA)**

The 1994 Legislature created the Office of Program Policy Analysis and Government Accountability (OPPAGA) to improve the performance and accountability of state government. OPPAGA is a research unit that conducts studies on Florida agencies and programs to identify opportunities to improve services to citizens and reduce government costs.

OPPAGA produces policy analyses and performance reviews on state government programs. These studies assess the efficiency, effectiveness, and long-term implications of state policies and programs, and make recommendations to Florida government. OPPAGA also produces program evaluation and justification reviews of Florida agencies that are operating under Performance-Based Program Budgeting. Currently, OPPAGA administers two types of reviews of Florida school districts: school district performance reviews and best financial management practices reviews.

OPPAGA and the Office of the Auditor General are authorized in s. 230.23025, F.S., to develop a system for reviewing the financial management practices of school districts. In this system, OPPAGA and the Auditor General must jointly examine district operations to determine whether they meet "best financial management practices." The "best financial management practices" are developed by the Commissioner of Education and may be updated periodically after consultation with the Legislature, the Governor, the SMART School Clearinghouse, OPPAGA, and the Auditor General. Pursuant to s. 230.23025(e), F.S., the best financial management practices must instill public confidence by addressing safety and security practices at the district and school levels and must at least address the following areas:

- Efficient use of resources, use of lottery proceeds, student transportation and food service operations, management structures, and personnel systems and benefits, instructional materials, and administrative and instructional technology;
- Compliance with generally accepted accounting principles and state and federal laws relating to financial management;
- Performance accountability systems, including performance measurement reports to the public, internal auditing, financial auditing, and information made available to support decision making;

- Cost control systems, including asset, risk, and financial management, purchasing, and information system controls; and
- Safety and security practices at the district and school levels.

### **Safety and Sanitation Standards and Inspection of Property**

Current law s. 235.06, F.S., requires the Commissioner of Education to adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary plants as part of the State Uniform Building Code for Public Educational Facilities Construction. These standards must be used by all public agencies when inspecting public educational and ancillary plants. In accordance with the standards, each board must prescribe policies and procedures to establish a comprehensive program of safety and sanitation for the protection of occupants of public educational and ancillary plants. Each board must inspect each educational and ancillary plant at least once during each fiscal year to determine compliance with standards of sanitation and casualty safety prescribed in the rules of the commissioner.

### **State Uniform Building Code for Public Educational Facilities Construction**

The Commissioner of Education must adopt a uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards and community college district boards of trustees. The code must be entitled the State Uniform Building Code for Public Educational Facilities Construction. The code must be flexible enough to cover all phases of construction so as to afford reasonable protection for the public safety, health, and general welfare. The department may secure the service of other state agencies or such other assistance as it finds desirable in revising the code.

## **C. EFFECT OF PROPOSED CHANGES:**

### **Safe Passage Act**

HB 1495 creates the "Safe Passage Act" to establish a school safety accountability program to enhance the safe passage of students in the kindergarten through grade 12 public school system. This bill defines the "best safety and security practices" as those practices identified in s. 230.23025, F.S., that have been developed by OPPAGA and the Office of the Auditor General and approved by the Commissioner of Education in consultation with the Partnership for School Safety and Security as established in current law. This bill provides definitions for "persistently dangerous" schools and school districts; "safety conscious" schools and school districts, and "serious school-based offense." The definitions do not currently exist in statute.

HB 1495 designates kindergarten through grade 12 schools and school districts as "persistently dangerous schools" and "persistently dangerous school districts" if the schools and the school districts have failed to adopt and implement the best safety and security practices for two (2) consecutive years following issuance of the safety audit report required by this section.

In addition, elementary and secondary public schools and school districts are designated as a "safety conscious schools and school districts" if elementary or secondary public schools or school districts have adopted and implemented the best safety and security practices. "Serious school-based offenses" are offenses committed against students on school property, during school-sponsored transportation, or during a school-sponsored activity, and includes offenses that result in serious significant physical injury or psychological trauma.

### **Mandatory, State-Funded, Third-Party Audits**

This bill provides for a mandatory, state-funded, third-party audit of school districts by professional state contracted auditors. At least one member of the audit team must have expertise in school psychology, social work, or guidance counseling. The audit must provide evidence on the actual

safety conditions of the district's schools, including accountability mechanisms and a regular review of the organizational structure, district safety and security plans and procedures, school crisis response checklists, and district and school safety training.

#### **School Board to Conduct a Review of the Audit**

This bill requires the school board to conduct a review of the audit recommendations and adopt within 60 days after issuance of the audit report an action plan identifying those steps required at the district and school levels to implement the recommendations. The school board must institute the action plan and cause the plan to be instituted at the school level, and must submit a written report to the commissioner no later than July 1 of the following year. The report must describe in detail the changes that occurred at the district and the kindergarten through 12th grade levels with corrected deficiencies noted in the audit report and otherwise complied with audit recommendations.

#### **Failure to Adopt or Implement Recommended Action Plans**

If a school district fails to adopt or implement an action plan that incorporates recommendations contained in the audit report, or if the school board votes not to adopt the action plan, votes to adopt a materially different plan; the commissioner or any resident of the district may request the SBE to issue an order directing the school board to adopt the recommended plan. The order issued by the SBE must provide enough time for the school board to contest the order based on one or more of the following grounds:

- The audit findings on which the audit is based is factually inaccurate;
- The best safety and security practices to be implemented by the plan in the report are not, under the circumstances, better than the district's existing practices; or
- The best safety and security practices recommended in the audit report are not, under the circumstances, better than those contained in an alternate action plan adopted and implemented, or in the process of being adopted and implemented.

When the best safety and security practices recommended in the audit are compared to a school district's current practices or to practices in a school district's alternative action plan, the recommended order and the final order must specify and require the implementation of whichever practices are more likely to result in enhanced school safety and security.

#### **Penalties for Noncompliance**

When a school district fails to timely adopt, initiate, progress in, or complete the implementation of the action plan, the SBE, on its own initiative or on the recommendation of the commissioner, may take one of the following actions:

- Permanently withhold all or a portion of discretionary funds that might otherwise be available to the school district during the period of noncompliance;
- Permanently withhold or condition the use of all or a portion of funds that would otherwise be available to the school district during the period of noncompliance for salaries and associated expenses of district-based instructional administrators and district-based noninstructional administrators; and
- Impose a fine against the school district and each member of the school board, and collect the fines, in an amount not to exceed \$1,000 for each day of noncompliance, with the school board being jointly and severally liable for the fine.

Final orders issued must be enforceable in the circuit court for the Second Judicial Circuit in and for Leon County.

### **School Safety Choice Program**

HB 1495 provides a School Safety Choice Program for the parents or guardians of students that attend a school designated as “persistently dangerous” for two consecutive years. Districts must notify the parents or guardians of each student in a school designated “persistently dangerous” for two consecutive years of that designation. The district must offer each student an opportunity to enroll in another school in the district or a school in an adjacent district that is not designated as being “persistently dangerous” and is not designated with a school grade less than “C”. This choice is also available to a student who has been a victim of a “serious school-based offense.”

### **Toll-Free School Safety Hotline**

HB 1495 requires each school district to create and maintain a toll-free school safety hotline by September 1, 2001, to provide a means for students, parents, school staff, and other persons to anonymously report activity that affects the safety and well-being of the school's population.

The toll-free hotline must be operated so that it ensures a designated official is notified of a complaint received through the hotline if the complaint concerns that school. A complaint concerning an alleged offense directly threatening the safety or well-being of a person or property must be reported to a designated official as soon as possible after the complaint is made, and the designated official must investigate and take appropriate action in a timely manner.

There will be no award or monetary benefit for reporting an incident through the toll-free safety hotline.

### **State Board of Education to Adopt Rules**

HB 1495 requires the SBE to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of the Safe Passage Act. This bill also requires the Commissioner of Education, in conjunction with the Partnership for School Safety and Security, for the purposes of rule development, to hold public workshops in various regions of the state.

### **Reassignment Responsibilities for Safety and Sanitation Inspections**

This bill reassigns the responsibility for safety and sanitation inspections for public educational facilities from the Commissioner of Education to the State Fire Marshall. This section also authorizes the State Fire Marshall to adopt and administer rules that address:

- The designation of serious life safety hazards;
- The occupant load for classrooms, shops, laboratories, etc.;
- The placement of smoke and heat detectors and fire extinguishers; and
- The maintenance of fire doors.

HB 1495 amends s. 633.01, F.S., to authorize the State Fire Marshall to adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary facilities.

According to the DOE, this legislation will dramatically increase the state focus on school safety, increase parental rights, provide additional information to the public, and, most importantly, afford students a much safer learning environment. School districts will need to modify existing programs and codes of student conduct. School districts will need to establish, maintain, and/or fund items identified in the proposed language such as threat assessment methodology, school safety hotline, parent and community outreach strategies, drug and violence prevention needs assessment, curricula development, training, facilities improvement, etc.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Creates s. 229.8349, F.S., in order to (1) create the "Safe Passage Act;" (2) create a school safety accountability program; (3) provide legislative findings and intent; (4) provide definitions; (5) require audits of adoption and implementation of best safety and security practices; (6) require the school board to adopt and institute an action plan to implement audit recommendations; (7) provide procedures for failure to adopt or implement; (8) provide penalties; (9) provide a school safety choice program; (10) provide for enrollment and funding; (11) require a toll-free school safety hotline; and (12) require the adoption of rules.

**Section 2:** Amends s. 235.06, F.S., in order to transfer responsibility for the adoption and administration of rules prescribing standards for educational facilities from the Commissioner of Education to the State Fire Marshall.

**Section 3:** Amends s. 633.01, F.S., in order to authorize the State Fire Marshall to adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary facilities.

**Section 4:** Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

According to the Department of Education, the non-recurring impact amount of \$3,100,000 to the state assumes that all audits would be completed in one year. This timeframe is improbable due to the time involved with requesting and evaluating proposals and awarding contracts. Additionally, staffing the audit teams with the necessary professionals may be problematic; thereby expanding the time needed to conduct the audits.



The non-recurring impact to school districts of \$200,000 is the cost of establishing a Safety Hotline in 45 school districts that do not currently have active hotlines. Recurring effects are the monthly charge for maintaining the hotlines. Usage charges of \$.05 to \$.07 per minute cannot be determined.

The cost to school districts for implementing these provisions cannot entirely be determined. Many school districts are already implementing, to some degree the provisions of the bill.

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 take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities 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 and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional issues.

B. RULE-MAKING AUTHORITY:

HB 1495 requires the State Board of Education to adopt rules to implement the provisions of the Safe Passage Act. Additionally, this bill requires the State Fire Marshall to adopt and administer rules prescribing for the health and safety of occupants of educational and ancillary buildings.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

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Elsie J. Rogers

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Daniel Furman

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