

**STORAGE NAME:** h0659s1.ei.doc  
**DATE:** February 20, 2002

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

**BILL #:** CS/HB 659  
**RELATING TO:** Students with Disabilities  
**SPONSOR(S):** Committee on Education Innovation and Representative(s) Ausley and Littlefield  
**TIED BILL(S):** None

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

- (1) EDUCATION INNOVATION YEAS 14 NAYS 0
  - (2) EDUCATION APPROPRIATIONS
  - (3) COUNCIL FOR LIFELONG LEARNING
  - (4)
  - (5)
- 

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

CS/HB 659 requires students with disabilities that take the Florida Comprehensive Assessment Test (FCAT) or the High School Competency Test (HSCT) to be eligible for accommodations that are currently used during classroom instruction or testing if the accommodations are included in the students' individual education plan (IEP) or 504 Plan. A student who receives such accommodations is eligible for a standard high school diploma upon successful completion of coursework required for graduation. Such accommodations may not be currently authorized and may alter the underlying content that is being measured by the tests or negatively affect the tests' reliability or validity.

The bill requires students with disabilities to be exempt from taking the FCAT or the HSCT if the students' disabilities are so severe that the disabilities are a major barrier to earning passing scores on the tests and if an exemption is included in the students' IEP or 504 Plan. A student who receives such an exemption is eligible to receive a standard high school diploma upon successful completion of coursework required for graduation. Additionally, the bill requires a student with disabilities to be eligible for a reasonable substitution of coursework for any high school graduation requirement and for a standard high school diploma if certain criteria are met. Consequently, this bill may contribute to the devaluation of a standard high school diploma if students with disabilities are eligible for a standard high school diploma even if they receive an exemption from taking the FCAT or substitute coursework for any high school graduation requirement.

CS/HB 659 appears to expand the definition of students with disabilities to include students that are not specifically classified as disabled pursuant to current statute or the Individuals with Disabilities Education Act (IDEA).

Lastly, this bill requires the Department of Education to provide sufficient funding, which may be significant, in order to enable each school district to provide appropriate accommodations for statewide assessment for all students with disabilities.

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

This bill does not appear to support the principle of less government because it essentially requires school districts to provide additional accommodations that are not currently authorized to students with disabilities that take statewide assessments. Additionally, this bill requires the Florida Board of Education to adopt rules in order to implement the provisions of the bill.

This bill does not appear to support the principle of personal responsibility because it may restrict the ability of students with disabilities to provide for their own general welfare due to the exemptions and accommodations that the bill provides them.

This bill appears to support the principle of individual freedom because it increases the likelihood that students with disabilities can earn a standard high school diploma.

B. PRESENT SITUATION:

Since 1975, the Individuals with Disabilities Education Act (IDEA) has required states to provide all children with disabilities, ages three through twenty-one, with the right to a free appropriate public education in the "least restrictive environment." Serving children in the "least restrictive environment" means that where appropriate, students with disabilities are educated in the regular education setting with supports and services. The IDEA assists states in meeting these requirements by providing for the funding of each state based on the number of identified disabled children residing within its borders (20 U.S.C. 1400-1485). The IDEA defines children with disabilities as:

Children with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities.

The IDEA defines "other health impairments" as:

Having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and adversely affects a child's educational performance.

According to the Department of Education, Florida has approximately 376,000 disabled children.

### **Students with Disabilities**

Currently, section 228.041(18), F.S., defines students with disabilities as students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospital and homebound, autistic, developmentally delayed children, ages birth through 5 years, or children with established conditions ages birth through 2 years.

### **High School Graduation Requirements**

Currently, section 232.246, F.S., provides the high school graduation requirements each student in Florida must meet. Each student must successfully complete either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits must be distributed in the following way:

- Four credits in English, with major concentration on composition and literature.
- Three credits in mathematics, with one of these credits in Algebra I or an equivalent course.
- Three credits in science, two of which must have a laboratory component.
- One credit in American history.
- One credit in world history.
- One-half credit in economics.
- One-half credit in American government.
- One credit in practical arts career education, exploratory career education, or performing fine arts or one-half credit in practical arts career education or exploratory career education and one-half credit in performing fine arts.
- One-half credit in life management skills.
- One credit in physical education.
- Eight and one-half elective credits.

School boards are authorized and encouraged to establish additional requirements for high school graduation, in excess of the minimum requirements. In addition to the above requirements, students must also graduate with a 2.0 GPA on a 4.0 scale and earn passing scores on the HSCT or the FCAT.

### **Special Diploma Options**

According to section 232.247, F.S., a student who has been properly classified, in accordance with rules established by the Commissioner of Education as “educable mentally handicapped,” “trainable mentally handicapped,” “hearing impaired,” “specific learning disabled,” “physically or language impaired,” or “emotionally handicapped” is not required to meet all of the high school graduation requirements in section 232.246, F.S., and must be awarded a special diploma in the form prescribed by the Commissioner of Education upon completing the requirements prescribed by the school board.

Any student who meets all of the special requirements of the school board but is unable to meet the appropriate special state minimum requirements must be awarded a special certificate of completion in a form prescribed by the Commissioner of Education.

### **Course Modifications**

Pursuant to Rule 6A-6.0312, F.A.C., a school board must modify basic courses to assure exceptional students<sup>1</sup> the opportunity to meet the graduation requirements for a standard high school diploma. Additionally, a school board must modify vocational courses and programs of study to assure handicapped students the opportunity to meet high school graduation requirements for a standard or special diploma.

According to Rule 6A-6.0312(1), F.A.C., modifications to basic courses must not include modifications to the curriculum frameworks or student performance standards. When modifying vocational courses, the particular outcomes and student performance standards that a student must master to earn credit must be specified in the student's IEP.

Pursuant to Rule 6A-6.0312(2), F.A.C, modifications to basic or vocational courses may include any of the following:

- The instructional time may be increased or decreased.
- Instructional methodology may be varied.
- Special communications systems may be used by the teacher or the student.
- Classroom and district test administration procedures and other evaluation procedures may be modified pursuant to Rule 6A-1.0943, F.A.C., to accommodate the student's handicap.

Provisions in Rule 6A-6.0312(3), F.A.C., require a school board to use one of the following strategies when modifying basic courses:

- Assignment of the exceptional student to an exceptional education class for instruction in a basic course with the same student performance standards as those required of non-exceptional students in the district pupil progression plan.
- Assignment of the exceptional student to a basic education class for the instruction which is modified to accommodate the student's exceptionality.

### **Florida Comprehensive Assessment Test (Statewide Assessment)**

The Florida Comprehensive Assessment Test (FCAT) is a combination of norm-referenced and criterion-referenced items that require students to produce information or perform tasks in such a way that the Sunshine State Standards skills and competencies can be measured. According to section 229.57, F.S., the primary purpose of the statewide assessment program is to provide information needed to improve the public schools by maximizing the learning gains of all students and to inform parents of the educational progress of their public school children. The Sunshine State Standards outline the skills and competencies Florida students should have in seven subject areas at certain stages of their school career. Pursuant to section 229.57(3)(c), F.S., student achievement testing must be administered annually in grades 3 through 10 as follows:

- Mathematics tests (administered in grades 3 through 10).
- Reading tests (administered in grades 3 through 10).
- Writing test (administered in grades 4,8, and 10).

According to section 229.57(3)(c)6., F.S., students enrolling in the 9<sup>th</sup> grade in the fall of 1999 and thereafter must earn a passing score on the 10<sup>th</sup> grade FCAT in order to graduate with a standard high school diploma.

---

<sup>1</sup> Pursuant to s. 228.041(18), F.S., exceptional students include students who are gifted and students with disabilities.

### **Statewide Assessment Exemptions for Students with Disabilities**

Provisions in Rule 6A-1.0943(1)(a), F.A.C., provide that any decision to exempt a student with a disability, as defined in section 228.041(18), F.S., from statewide or district assessment programs must be made by the IEP team and recorded in the IEP. Additionally, students may be excluded from statewide or district assessment programs if the following criteria are met:

- The student's demonstrated cognitive ability prevents the student from completing required coursework and achieving the Sunshine State Standards, even with appropriate and allowable course modifications.
- The student requires extensive direct instruction to accomplish the application and transfer of skills and competencies needed for domestic, community living, leisure, and vocational activities.

Rule 6A-1.0943(c), F.A.C., provides that students who are excluded from the FCAT based on the aforementioned criteria are not eligible for a standard high school diploma.

According to Rule 6A-1.09431, F.A.C., students with disabilities as defined in section 228.041(18), F.S., are eligible for consideration of a special exemption from the statewide assessment test requirement under extraordinary circumstances that create a situation where the results of the administration of the test reflect a student's impaired sensory, manual, or speaking skills rather than the student's achievement. Extraordinary circumstances are events or conditions that prevent the student from physically demonstrating mastery of skills that have been acquired and are measured by the test. Learning process deficits and cognitive deficits do not constitute extraordinary circumstances. The Commissioner of Education may exempt a student with a disability from meeting the testing requirement for high school graduation and the student will still be eligible for a standard high school diploma. Students who are granted an exemption by the Commissioner of Education from the test must meet all other criteria for graduation with a standard high school diploma as outlined in section 232.246, F.S.

### **Statewide Assessment Accommodations for Students with Disabilities**

Rule 6A-1.0943(2), F.A.C., requires each school board to provide students with disabilities with appropriate accommodations when taking the statewide assessment test. Accommodations are defined as adjustments to the presentation of the assessment questions, methods of recording the examinee responses to the questions, schedule for the administration of the assessment test, or use of devices of assistance to facilitate the administration of the assessment test.

According to Rule 6A-1.0943(2), F.A.C., statewide assessment accommodations may be used only if they do not alter the underlying content that is being measured by the assessment or negatively affect the assessment's reliability or validity.

Pursuant to Rule 6A-1.0943(2), F.A.C., appropriate statewide assessment accommodations may include:

- Presentation: The student may be administered any statewide assessment through the following presentation formats:
  - Regular print version of the test may be enlarged through mechanical or electronic means.
  - The district test coordinator may request large print versions.
  - Braille versions may be requested for students who use Braille materials.
  - Signed or oral presentation may be provided for all directions and items other than reading items. The student through visual or tactile means must read all reading items.
  - The student may use means to maintain or enhance visual attention to test items.

- Presentation formats not covered in Rule 6A-1.0943, F.A.C., may be requested from the Department of Education and will be provided upon approval by the Commissioner of Education.
- Responding: The student may use varied methods to respond to the test, including written, signed, and verbal responses.
  - Written responses may include the use of mechanical or electronic devices.
  - A test administrator or proctor may transcribe student responses to the format required by the test.
  - Transcribed responses must accurately reflect the response of the student, without edification or addition by the proctor.
- Scheduling: The student may be administered a test during several brief sessions allowing frequent breaks or additional time for the administration of the test.
- Setting: The student may be administered a test individually or in a small group setting. The student may be provided with adaptive or special furniture and special lighting or acoustics.
- Devices of Assistance: The student may use the following devices of assistance typically used in classroom instruction:
  - Calculators may be used for complex computation.
  - Visual magnification and auditory amplification devices may be used.
  - An abacus may be used for students with visual impairments.
  - Technology may be used without accessing spelling or grammar-checking applications for writing assignments and without using speech output programs for reading items assessed.
  - Other technology typically used in the classroom may be used provided the purpose of the testing is not violated.

Pursuant to Rule 6A-1.0943(4), F.A.C., any other needs for unique accommodations for use on state assessments by students with disabilities must be approved by the Commissioner of Education. The use of the above mentioned accommodations have no bearing upon the type of diploma or certificate issued to the student with a disability for completing school.

#### C. EFFECT OF PROPOSED CHANGES:

CS/HB 659 requires students with disabilities that take the Florida Comprehensive Assessment Test (FCAT) or the High School Competency Test (HSCT) to be eligible for accommodations that are currently used during classroom instruction or testing if the accommodations are included in the students' individual education plan (IEP) or 540 Plan. Accommodations must be permitted, considered to be valid, and able to be scored. A student who receives such accommodations is eligible for a standard high school diploma upon successful completion of coursework required for graduation.

The bill requires students with disabilities to be exempt from taking the FCAT or the HSCT if the students' disabilities are so severe that the disabilities are a major barrier to earning passing scores on the tests and if an exemption is included in the students' IEP or 504 Plan. A student who receives such an exemption is eligible for a standard high school diploma upon successful completion of coursework required for graduation and demonstration of competency through alternative assessment based on the standards used for the FCAT or the HSCT.

The bill requires a student with disabilities to be eligible for a reasonable substitution of coursework for any high school graduation requirement and be eligible for a standard high school diploma if (1) documentation is provided that the student's disability is related to the student's inability to meet the graduation requirement and (2) failure to meet the graduation requirement does not constitute a fundamental alteration in the nature of the student's high school program of study.

The bill defines students with disabilities to include students with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities including but not limited to, dyslexia, dyscalculia, and aphasia, or any student who is hospitalized or homebound.

Any assessment and coursework accommodations or exemptions that this bill provides a student with disabilities must be identified by the student's individual education plan team or 504 Plan team and parents.

Lastly, the bill requires the Florida Board of Education to adopt rules to implement the provisions of this bill and requires the Department of Education to provide sufficient funding to enable each school district to provide appropriate accommodations for statewide assessment for all students with disabilities.

### **Statewide Assessment Accommodations for Student with Disabilities**

By providing students with disabilities that take the FCAT or the HSCT certain accommodations that are not currently authorized, this bill may alter the underlying content that is being measured by the tests or negatively affect the tests' reliability or validity. Specifically, if the reading portion of the FCAT or HSCT is read orally to a visually impaired student, the Department of Education reports that the student's scores do not reflect his or her reading skills but rather his or her listening skills. It is possible that a visually impaired student that receives such an accommodation, passes the 10<sup>th</sup> grade-reading portion of the FCAT, and graduates from high school may not truly know how to read.

Should the bill negatively affect the FCAT's reliability or validity, the Department of Education reports that the bill may contribute to inflation in school grades. Inflation in school grades may contribute to a negative fiscal impact on the state because more schools may become eligible for financial awards and incentives provided through the Florida School Recognition Program.

Since this bill requires students with disabilities that take the FCAT or the HSCT to be eligible for accommodations that are currently used during classroom instruction or testing and does not specifically limit the accommodations, this bill may have a negative fiscal impact on school districts because some accommodations may require an expensive one-on-one interaction during the administration of the tests, thereby requiring school districts to provide additional personnel during the administration of the tests.

### **Standard High School Diplomas**

Because all students are currently required to earn passing scores on the 10<sup>th</sup> grade FCAT, earn 24 rigorous academic credits, and earn a 2.0 GPA in order to graduate from high school and receive a standard high school diploma, it can be assumed that an individual that possesses a standard high school diploma has mastered a certain level of academic standards. This bill may contribute to the devaluation of a standard high school diploma if students with disabilities are eligible for a standard high school diploma even if they receive an exemption from taking the FCAT or substitute coursework for any high school graduation requirement.

The Department of Education reports that such exemption and coursework substitution may negatively impact the public perception of what a standard high school diploma represents and

eliminates the necessity for the special diploma option that is currently afforded to students with disabilities. Consequently, the Department of Education reports that the value of a standard high school diploma may diminish and may provide a false perception of an individual's performance and mastery of the Sunshine State Standards.

### **Definition of Students with Disabilities**

By including students that are dyslexic, dyscalculic, and aphasic, this bill appears to expand the definition of students with disabilities to include students that are not specifically classified as disabled pursuant to current statute or the Individuals with Disabilities Education Act (IDEA). As a result of expanding the definition of students with disabilities, this bill may perpetuate an increase in the number of students that are eligible for accommodations when taking the FCAT or HSCT, are exempt from taking the FCAT or HSCT, and are eligible for a reasonable substitution of coursework for any high school graduation requirement.

#### **D. SECTION-BY-SECTION ANALYSIS:**

**Section 1:** Creates section 232.2464, F.S., in order to (1) provide that a student with disabilities is eligible for accommodations when taking the Florida Comprehensive Assessment Test or the High School Competency Test required for high school graduation; (2) provide that the student with disabilities may be exempt from such tests under certain circumstances; (3) provides for the substitution of coursework required for graduation if certain conditions are met; (4) provides for the adoption of rules and funding for accommodations.

**Section 2:** Establishes an effective date of July 1, 2002.

#### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

##### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

###### **1. Revenues:**

Please see fiscal comments.

###### **2. Expenditures:**

##### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

###### **1. Revenues:**

Please see fiscal comments.

###### **2. Expenditures:**

Please see fiscal comments.

##### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Please see fiscal comments.



D. FISCAL COMMENTS:

The bill requires the Department of Education to provide sufficient funding, which may be significant, to enable each school district to provide appropriate accommodations for statewide assessment for all students with disabilities. However, the Legislature and not the Department of Education, through the Florida Education Finance Program (FEFP) and categorical programs, provides operating education funds to school districts.

Should the bill negatively affect the FCAT's reliability or validity, the Department of Education reports that the bill may contribute to inflation in school grades. Inflation in school grades may contribute to a negative fiscal impact on the state because more schools may become eligible for financial awards and incentives provided through the Florida School Recognition Program.

Since this bill requires students with disabilities that take the FCAT or the HSCT to be eligible for accommodations that are currently used during classroom instruction or testing and does not specifically limit the accommodations, this bill may have a negative fiscal impact on school districts because some accommodations may require an expensive one-on-one interaction during the administration of the tests, thereby requiring school districts to provide additional personnel during the administration of the tests.

III. 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.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional provisions.

B. RULE-MAKING AUTHORITY:

This bill requires Florida Board of Education to adopt rules to implement the provisions of this bill.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 12, 2002, the Committee on Education Innovation adopted a strike-everything amendment that differs from the original bill in the following ways:

**STORAGE NAME:** h0659s1.ei.doc

**DATE:** February 20, 2002

**PAGE:** 10

- It redefines the term “student with disabilities.”
- It provides students that have a 504 Plan with the same accommodations and exemptions that the original bill provides to students that have an IEP.
- It additionally requires a student with disabilities that is exempt from taking the FCAT or the HSCT to demonstrate competency through alternate assessment based on standards used for the FCAT or the HSCT before being eligible for a standard high school diploma.

The Committee on Education Innovation reported the bill favorably as a committee substitute.

VI. SIGNATURES:

COMMITTEE ON EDUCATION INNOVATION:

Prepared by:

Staff Director:

---

Ryan Visco

---

Daniel Furman