

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 8-B
SPONSOR: Education Committee and Senator Diaz de la Portilla
SUBJECT: High School Graduation
DATE: June 17, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Fav/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

For 11th and 12th grade students who transfer to a Florida public school from another state or a foreign country, the bill prohibits these students from being required to spend additional time in school in order to meet high school course requirements, if they have met all the requirements of the originating school district, state, or country. Students who are not proficient in English should receive immediate and intensive English language instruction. Transfer students must meet the following requirements to receive a standard high school diploma: earn a 2.0 grade point average; and pass either the 10th grade Florida Comprehensive Assessment Test (FCAT) or an alternative assessment in the newly created provision of the bill.

The bill requires additional learning opportunities for students who meet all the requirements for a standard high school diploma except for passing the 10th grade FCAT or an alternative assessment by the end of grade 12. The bill provides an exemption from tuition and fees, including lab fees, for students attending adult basic, adult secondary or vocational-preparatory instruction. Also, students attending the adult general education program must have the opportunity to take the 10th grade FCAT for an unlimited number of times in order to receive a high school diploma.

The bill allows a student to receive immersion English language instruction during the summer following his or her senior year, if the student:

- has been enrolled in an ESOL program for fewer than two school years; and
- has met all requirements for a standard high school diploma except for passing the 10th grade FCAT or an alternative assessment.

Students who receive this instruction may take the 10th grade FCAT or an alternative assessment and receive a standard high school diploma if they pass one of the assessments. This provision

must be implemented to the extent that funds are provided in the General Appropriations Act. The bill provides rulemaking authority for the State Board of Education.

In order to qualify for a regular high school diploma, students must earn a passing score on an alternative assessment in reading, writing, and mathematics. This provides an alternative to meeting the 10th grade FCAT assessment requirements. The bill requires the Commissioner of Education to determine the comparable validity of other available standardized tests and to approve the use of valid and reliable alternative assessments to the 10th grade FCAT for the 2002-2003 school year. Students who attain scores that equate to the FCAT passing rate on any of the approved tests satisfy the assessment requirement for a standard high school diploma for the 2002-2003 school year graduation class. The bill provides that prior to the application of these alternative assessments in subsequent years, the Legislature must review the continued use of these tests. The bill provides for construction of legislation passed during the 2003 Regular and Session and Special Session A in conformity with the bill if possible.

The bill amends s. 1008.22, F.S., and creates s. 1003.433, F.S., as well as an undesignated section of law.

The bill provides an effective date of upon becoming a law.

II. Present Situation:

Postsecondary Access to Education

Chapter 1007, F.S., relating to articulation and access to postsecondary education, provides for building and sustaining relationships between educational institutions for the efficient and effective progression and transfer of students within the education system and to allow students to proceed toward their educational objectives as rapidly as their circumstances permit.

Current law (s. 1007.27, F.S.) establishes various articulation acceleration methods, including dual enrollment, early admission, advanced placement, the International Baccalaureate Program, the Advanced International Certificate of Education Program, and credit earned through the Virtual High School.

High School Graduation Requirements

Current law (s, 1003.43, F.S.) establishes the general requirements for high school graduation, but encourages school districts to make them more rigorous. To earn a standard high school diploma a student must:

- Earn passing scores on the 10th grade FCAT.
- Earn the required grade point average.
- Successfully complete any other requirements prescribed by the local school board.
- Successfully complete 24 credits.¹

¹ Section 12 of Senate Bill 30-A establishes course requirements for accelerated high school graduation requirements. Section 1003.43(6), F.S., establishes graduation requirements for students enrolled in adult general education in pursuit of a high school diploma.

Section 1003.43(9), F.S., specifies the requirements that must be met to earn a certificate of completion. Any student who is otherwise entitled to a certificate of completion may elect to remain in the secondary school either as a full-time student or a part-time student for up to 1 additional year and receive special instruction designed to remedy his or her identified deficiencies.

Student Assessment

Unless participation in particular tests is individually determined to be inappropriate for a particular student, federal law generally requires inclusion of all students in assessments. For example, the recent rules for assessments under the No Child Left Behind Act, requires the inclusion of students with limited English proficiency (LEP) and the provision of reasonable accommodations for these students.² The scores of LEP students, including those taking alternate assessments, will be included in the calculation of annual yearly progress under P.L.107-110. Also, the scores of LEP students participating in the FCAT are included in Florida's accountability system. The scores for students who take alternative assessments to the FCAT will also be collected and reported by the number of students who are scoring at a proficient level and the number who are not scoring at a proficient level.

On an individual basis, it may be determined that the FCAT is not an appropriate measure of academic performance for LEP students who have been enrolled in an approved English for Speakers of Other Languages (ESOL) program for 12 months or less. However, the academic achievement of these students is measured and reported using locally-determined alternate assessments. According to the Department of Education, this represents a very small percentage of LEP students. The department is currently working with representatives of school districts to ensure that the alternate assessments being used are valid and reliable.

Current law (s. 1008.22(3), F.S.) requires the Commissioner of Education to develop and implement a student achievement testing program, the FCAT, as part of the statewide educational assessment program that provides information for improving public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the Commissioner. Parents of students who do not participate in the assessment program must be provided with specific information about possible consequences of nonparticipation. School districts must provide appropriate remediation instruction to students who score below the levels established for each subject area.

The FCAT is administered each year to students in grades 3 through 10 to measure reading, writing, science, and mathematics. All eligible students in grades 3 through 10 take the reading and mathematics tests. All eligible students in grades 4, 8, and 10 take the writing test. This year the science test is being administered to students in grades 5, 8, and 10.

² See 34 CFR part 200, effective August 5, 2002, and Florida Department of Education, *No Child Left Behind Consolidated State Application Accountability Workbook* (excerpts from material related to limited English proficient students), submitted to the U.S. Department of Education, 2003. In Florida, there are 215,777 students classified and served as LEP students. These students speak 207 different languages and come from 257 different countries. The four largest language groups are Spanish, Haitian-Creole, French and Portuguese.

Students must earn a passing score on the 10th grade assessment test in reading, writing, and mathematics to qualify for a regular high school diploma. State Board of Education rule (Rule 6A-1.09422, F.A.C.) designates the passing scores for each part of the assessment test and specifies the passing scores for the 10th grade FCAT.³ Under the 2002-2003 Florida Statewide Assessment Schedule, reexaminations in reading and mathematics are offered three times each year in grades 11 and 12 to each student who fails part of the 10th grade test, for a total of 6 reexaminations.⁴

Chapter 2003-8, L.O.F., created the “Enhanced New Needed Opportunity for Better Life and Education for Students with Disabilities (ENNOBLES) Act” and provides for waiving the requirement to earn a passing score on the FCAT in order to receive a standard high school diploma. This waiver applies to a student with a disability, as defined in s. 1007.02(2), F.S., for whom the individual educational plan (IEP) committee determines that the FCAT cannot accurately measure the student’s abilities, taking into consideration all allowable accommodations. The waiver may be granted if the student:

- completes the minimum number of credits and other requirements prescribed by subsections (1) and (4) of s. 1003.43, F.S.; and
- does not earn a passing score on the FCAT, after one opportunity in 10th grade and one opportunity in 11th grade.

Accommodations and Statewide Assessment Instruments

Students with disabilities

Current administrative rules allow accommodations to the statewide assessment instruments and procedures for students with disabilities. The term “accommodations” means:

- adjustments to the presentation of the assessment questions;
- method of recording the student’s responses to the questions;
- schedule for administration of the assessment; or
- the use of assistive devices to help in administering the test.

Allowable accommodations include those that have been used by the student in classroom instruction, as long as they are within the limits in the rule. The district school superintendent or his or her designee determines which of these accommodations are allowed for testing. To use any unique accommodation that is not listed in the rule requires the Commissioner’s approval. Statewide assessment accommodations may only be used if they do not alter the underlying content that is being measured or negatively affect the assessment’s reliability or validity. The rules provide that the use of these accommodations has no bearing on the type of diploma or certificate issued to the student for completing school.

³ A passing score of 300 is required for receiving a standard diploma, starting with students who took the 10th grade FCAT in reading and mathematics for the first time in March 2002. Students who took the 10th grade FCAT in reading and mathematics during the 2000-2001 school year had to earn passing scores of 287 in reading and 295 in mathematics.

⁴ See <http://www.firn.edu/doe/sas/fcat/pdf/fcschedl.pdf> More recently, the Commissioner of Education has identified options for those 12th graders who did not pass the FCAT this year, but who completed all requirements for a high school diploma. The options include adult education programs that provide fast track FCAT remediation classes and GED accelerated preparation.

For each eligible student, accommodations must be identified and recorded in the student's IEP or a plan developed under section 504 of the federal Rehabilitation Act. Similarly, the decision to exclude any student with a disability from either statewide or district assessment programs is made by the IEP team and recorded on the IEP. The criteria for excluding the student are:

- 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; and
- 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.

These students must be assessed through an alternative assessment procedure that is recorded in the IEP. However, students who are excluded from the state-required graduation test using these criteria are not eligible for a standard high school diploma.

Limited English proficient students

Administrative rule (Rule 6A-6.09091, F.A.C.) provides for accommodations in the statewide assessment program instruments and procedures for limited English proficient students. The Department of Education must provide accommodations for limited English proficient students to enable them to fully participate in the statewide assessment program.

The FCAT accommodations for LEP students include: flexible timing (e.g., additional time to complete each test section and allowing for the entire test to be given over one or more days); access to English-to heritage language and heritage language-to-English dictionaries; and testing in a separate room with the ESOL or heritage teacher serving as a test administrator. Some heritage language assistance may be provided for tests in certain subject areas. For example, students taking the FCAT reading section may be provided with limited assistance by an ESOL or a heritage language teacher using the student's heritage language, within the guidelines set by rule.

School districts are required to offer these accommodations for LEP students who currently receive services in a program operated in accordance with an LEP plan. Also, an exemption from participation in any component of the statewide assessment program for an individual LEP student may only be made by specific action of an LEP committee, and only for a student whose date of LEP classification falls within one year prior to the assessment date.

College Placement Test

The State Board of Education must develop and implement a common placement test to assess the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution. The law (s. 1008.30(4)(a), F.S.) requires public postsecondary educational institution students who have been identified as requiring additional preparation to enroll in college-preparatory or other adult education pursuant to s. 1004.93, F.S., in community colleges to develop needed college-entry skills.

According to the Florida Department of Education, the Florida college entry test is used to place students in either regular college courses or college preparatory courses.⁵ Current Florida administrative rule specifies the required scores for enrollment of first-time-in-college applicants for admissions to community colleges and universities who apply to enter degree programs.⁶ The rule requires testing in reading, writing, and mathematics prior to registration and sets the scores, including the SAT and ACT scores, for admissions during specified years.

Students with scores that meet or exceed those set in rule for either the SAT-1 or the Enhanced ACT test may be exempt from taking the Florida College Entry-Level Placement Test. The exemption is at the option of the president of the community college or university. The rule also provides for negotiated agreements between school districts, community colleges, and universities to administer the Florida college level entry test to high school students at the beginning of the tenth grade for remedial instruction and counseling for career and college planning purposes. Community colleges and universities may identify optional placement tests to supplement the Florida test for admissions beginning August 1, 1995.⁷ According to the Department of Education, community colleges currently use this rulemaking authority for exemptions to and supplements for the Florida test.

Other Tests

The ACT Assessment®, according to the American College Testing Program, is a national college admission examination. The PLAN®, according to the American College Testing Program, is a comprehensive guidance resource that helps students measure their current academic development, explore career/training options, and make plans for the remaining years of high school and post-graduation years. The SAT®, according to the College Board, has become a simple way of referring to the SAT I Reasoning Test that measures verbal and mathematical skills. The SAT II subject tests are primarily multiple-choice tests in specific subjects. The PSAT/NMSQT (Preliminary SAT®/National Merit Scholarship Qualifying Test) contains actual SAT questions and gives the student a chance to qualify for scholarship and recognition programs. The state provides funding for all 10th grade students to take the College Board's PSAT or the American College Testing Program's ACT.⁸

Community College Admissions

Section 1007.263, F.S., allows each community college board of trustees to adopt rules related to the admissions of students, subject to State Board of Education rules. The rules must include admissions counseling.

Adult General Education Program

The law (s. 1003.43(6), F.S.) provides the following graduation requirements for students enrolled in adult general education in accordance with s. 1004.93, F.S., who are pursuing a high school diploma:

⁵ Florida Department of Education, ACT Trends in Florida and the Nation, August 2002.

⁶ Rule 6A-10.0315, F.A.C.

⁷ Rule 6A-10.0315(2), F.A.C., specifies the required scores in reading comprehension, sentence skills, and elementary algebra on the Florida college level entry test for this academic year. Subsection (5) provides the discretionary authority to the institutions.

⁸ Chapter 2002-394, L.O.F., Specific Appropriation 166E and Conference Report on SB 2-A, Specific Appropriation 109.

- one credit in physical education is not required for graduation and must be substituted with elective credit keeping the total credits needed for graduation consistent with s. 1003.43(1), F.S.
- the laboratory component of the science requirement may be waived when such facilities are inaccessible or do not exist.
- any course listed within the Department of Education Course Code Directory in the areas of art, dance, drama, or music may be undertaken by adult secondary education students. Enrollment and satisfactory completion of such a course satisfies the credit in performing fine arts required for high school graduation.

Under s. 1004.93, F.S., the adult education program must provide academic services in the following priority to students:

- who demonstrate skills at less than a fifth grade level, as measured by tests approved for this purpose by the State Board of Education, and who are studying to achieve basic literacy.
- who demonstrate skills at the fifth grade level or higher, but below the ninth grade level, as measured by tests approved for this purpose by the State Board of Education, and who are studying to achieve functional literacy.
- who are earning credit required for a high school diploma or who are preparing for the General Educational Development (GED) test.
- who have earned high school diplomas and require specific improvement in order to:
 - obtain or maintain employment or benefit from certificate technical education programs;
 - pursue a postsecondary degree; or
 - develop competence in the English language to qualify for employment.
- who enroll in lifelong learning courses or activities that seek to address community social and economic issues that consist of health and human relations, government, parenting, consumer economics, and senior citizens.
- who enroll in courses that relate to their recreational or leisure pursuits.

III. Effect of Proposed Changes:

Section 1. Creates s. 1003.433, F.S.

Transfer Students

The bill prohibits 11th and 12th grade students who transfer to a Florida public school from another state or a foreign country from being required to spend additional time in school in order to meet high school course requirements, if they have met all the graduation requirements of the originating school district, state, or country.

Students who are not proficient in English should receive immediate and intensive English language instruction. Transfer students must meet the following requirements to receive a standard high school diploma:

- earn a 2.0 grade point average; and
- pass either the 10th grade FCAT or an alternative assessment in the newly created s. 1008.22(9), F.S.

This provision codifies part of a current administrative rule (Rule 6-1.099, F.A.C.) relating to the transfer of high school credits.

Additional Learning Opportunities

The bill requires specific learning opportunities for students who meet all the requirements for a standard high school diploma except for passing the 10th grade FCAT or an alternative assessment by the end of grade 12. This applies to a student:

- participating in accelerated summer high school equivalency diploma preparation programs;
- taking the College Placement Test and being admitted to remedial or credit courses at a state community college, upon receipt of a certificate of completion; and
- participating in adult general education programs until the student masters any of the subjects required for high school graduation.

Students in Adult Programs

The bill provides an exemption from tuition and fees, including lab fees, for students attending adult basic, adult secondary or vocational-preparatory instruction. Also, students attending the adult general education program must have the opportunity to take the 10th grade FCAT for an unlimited number of times in order to receive a high school diploma.

Students in ESOL Programs

The bill allows a student to receive immersion English language instruction during the summer following his or her senior year, if the student:

- has been enrolled in an ESOL program for fewer than two school years; and
- has met all requirements for a standard high school diploma except for passing the 10th grade FCAT or an alternative assessment.

Students who receive this instruction may take the 10th grade FCAT or an alternative assessment and receive a standard high school diploma if they pass one of the assessments. This subsection must be implemented to the extent that funds are provided in the General Appropriations Act.

The bill provides rulemaking authority to the State Board of Education to implement this section.

Section 2. Amends s. 1008.22, F.S., related to the statewide assessment program, to provide an alternative to earning a passing score on the 10th grade FCAT in order to qualify for a regular high school diploma.

The Commissioner of Education must determine the comparable validity of other available standardized tests, including the SAT, ACT, College Placement Test, PSAT, PLAN, and tests used for entry into the military. The Commissioner is required to approve the use of these tests as an alternative assessment to the 10th grade FCAT, if they are valid and reliable measures for the 2002-2003 school year.

Students who attain scores that equate to the 10th grade FCAT passing scores on any of the approved tests satisfy the assessment requirement for a standard high school diploma for the 2002-2003 school year graduation class. The bill provides that prior to the application of these alternative assessments in subsequent years, the Legislature must review the continued use of these tests.

Current law (section 2 of chapter 2003-80, L.O.F.) requires the State Board of Education to conduct a related study. If equivalent scores can be determined, the law allows the State Board to adopt the scores for students who are eligible to graduate in the 2003-2004 academic year and thereafter in lieu of the

FCAT for high school graduation purposes. The Department of Education conducted a concordance study to determine the score relationship between FCAT and the SAT and ACT.⁹

Section 3. Provides for the interpretation of legislation passed during the 2003 Regular Session and Special Session A to conform with the provisions of the bill.

Section 4. Provides an effective date of upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides an exemption from tuition and fees, including lab fees, for students attending adult basic, adult secondary or vocational-preparatory instruction.

C. Government Sector Impact:

The state (Conference Report on SB 2-A, Specific Appropriation 109,) provides funding for all 10th grade students to either take the PSAT or the ACT. Specifically, \$1,600,000 in General Revenue is for the statewide administration to all tenth grade students of the preliminary SAT or ACT college entrance examinations. The Department of Education must pay the cost of the preliminary college entrance examinations directly to the providers.

VI. Technical Deficiencies:

None.

⁹ Florida Department of Education, *Report of FCAT Concordance Studies*, 2003.

VII. Related Issues:

The legislation under consideration appears to conflict with the provisions of chapter 2003-80, L.O.F., in that it requires the Commissioner to make a determination on the comparative validity of the same standardized tests. However, one possible interpretation is for the Commissioner to make additional recommendations to the State Board of Education based on further analyses of other tests that could be used for alternative assessments to the 10th grade FCAT, for the 2002-2003 school year.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
