

CHAMBER ACTION

1 The Committee on Education K-20 recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to instruction for exceptional students;
7 amending s. 1003.57, F.S.; providing guidelines for
8 determining the residency for a student who receives
9 instruction as an exceptional student; requiring the
10 placing authority in a student's state of residence or the
11 student's parent to pay the cost of instruction,
12 facilities, and services in the case of nonresident
13 students; providing responsibilities of the Department of
14 Education; providing responsibilities of residential
15 facilities that educate exceptional students; providing
16 applicability; amending s. 1003.58, F.S.; correcting a
17 cross reference; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Section 1003.57, Florida Statutes, is amended
22 to read:

23 1003.57 Exceptional students instruction.--

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24 (1) Each district school board shall provide for an
25 appropriate program of special instruction, facilities, and
26 services for exceptional students as prescribed by the State
27 Board of Education as acceptable, including provisions that:

28 (a)~~(1)~~ The district school board provide the necessary
29 professional services for diagnosis and evaluation of
30 exceptional students.

31 (b)~~(2)~~ The district school board provide the special
32 instruction, classes, and services, either within the district
33 school system, in cooperation with other district school
34 systems, or through contractual arrangements with approved
35 private schools or community facilities that meet standards
36 established by the commissioner.

37 (c)~~(3)~~ The district school board annually provide
38 information describing the Florida School for the Deaf and the
39 Blind and all other programs and methods of instruction
40 available to the parent of a sensory-impaired student.

41 (d)~~(4)~~ The district school board, once every 3 years,
42 submit to the department its proposed procedures for the
43 provision of special instruction and services for exceptional
44 students.

45 (e)~~(5)~~ No student be given special instruction or services
46 as an exceptional student until after he or she has been
47 properly evaluated, classified, and placed in the manner
48 prescribed by rules of the State Board of Education. The parent
49 of an exceptional student evaluated and placed or denied
50 placement in a program of special education shall be notified of
51 each such evaluation and placement or denial. Such notice shall

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52 contain a statement informing the parent that he or she is
53 entitled to a due process hearing on the identification,
54 evaluation, and placement, or lack thereof. Such hearings shall
55 be exempt from the provisions of ss. 120.569, 120.57, and
56 286.011, except to the extent that the State Board of Education
57 adopts rules establishing other procedures and any records
58 created as a result of such hearings shall be confidential and
59 exempt from the provisions of s. 119.07(1). The hearing must be
60 conducted by an administrative law judge from the Division of
61 Administrative Hearings of the Department of Management
62 Services. The decision of the administrative law judge shall be
63 final, except that any party aggrieved by the finding and
64 decision rendered by the administrative law judge shall have the
65 right to bring a civil action in the circuit court. In such an
66 action, the court shall receive the records of the
67 administrative hearing and shall hear additional evidence at the
68 request of either party. In the alternative, any party aggrieved
69 by the finding and decision rendered by the administrative law
70 judge shall have the right to request an impartial review of the
71 administrative law judge's order by the district court of appeal
72 as provided by s. 120.68. Notwithstanding any law to the
73 contrary, during the pendency of any proceeding conducted
74 pursuant to this section, unless the district school board and
75 the parents otherwise agree, the student shall remain in his or
76 her then-current educational assignment or, if applying for
77 initial admission to a public school, shall be assigned, with
78 the consent of the parents, in the public school program until
79 all such proceedings have been completed.

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80 ~~(f)(6)~~ In providing for the education of exceptional
81 students, the district school superintendent, principals, and
82 teachers shall utilize the regular school facilities and adapt
83 them to the needs of exceptional students to the maximum extent
84 appropriate. Segregation of exceptional students shall occur
85 only if the nature or severity of the exceptionality is such
86 that education in regular classes with the use of supplementary
87 aids and services cannot be achieved satisfactorily.

88 ~~(g)(7)~~ In addition to the services agreed to in a
89 student's individual education plan, the district school
90 superintendent shall fully inform the parent of a student having
91 a physical or developmental disability of all available services
92 that are appropriate for the student's disability. The
93 superintendent shall provide the student's parent with a summary
94 of the student's rights.

95 (2)(a) A student who receives special instruction,
96 facilities, or services as an exceptional student is considered
97 a resident of the state in which the student's parent or
98 guardian is a resident. The cost of such instruction,
99 facilities, and services for a nonresident student shall be
100 provided by the placing authority in the student's state of
101 residence, such as a public school entity, other placing
102 authority, or parent. Nonresident students shall not be reported
103 by any school district for FTE funding in the Florida Education
104 Finance Program.

105 (b) The Department of Education shall provide to each
106 school district a statement of the specific limitations of the
107 district's financial obligation for exceptional students under

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108 federal and state law. The department shall also provide to each
 109 school district technical assistance as necessary for developing
 110 a local plan to impose on the placing authority in the student's
 111 state of residence or the student's parent the fiscal
 112 responsibility for educating a nonresident exceptional student.

113 (c) The Department of Education shall develop a process by
 114 which a school district must review the residency of each
 115 exceptional student who lives in a residential facility in this
 116 state prior to providing services. The residential facility, not
 117 the district, is responsible for billing and collecting from a
 118 nonresident student's placing authority or parent payment for
 119 the student's educational and related services.

120 (d) This subsection applies to any nonresident student who
 121 receives instruction as an exceptional student in any type of
 122 educational facility in this state, including, but not limited
 123 to, a public school, a private school, a group home facility as
 124 defined in s. 393.063(24), an intensive residential treatment
 125 program for children and adolescents as defined in s.
 126 395.002(16), a facility as defined in s. 394.455(10), an
 127 intermediate care facility for the developmentally disabled or
 128 ICF/DD as defined in s. 393.063(28) or s. 400.960(12), or a
 129 community residential home as defined in s. 419.001(1)(a).

130 Section 2. Subsection (3) of section 1003.58, Florida
 131 Statutes, is amended to read:

132 1003.58 Students in residential care facilities.--Each
 133 district school board shall provide educational programs
 134 according to rules of the State Board of Education to students

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135 | who reside in residential care facilities operated by the
136 | Department of Children and Family Services.

137 | (3) The district school board shall have full and complete
138 | authority in the matter of the assignment and placement of such
139 | students in educational programs. The parent of an exceptional
140 | student shall have the same due process rights as are provided
141 | under s. 1003.57(1)(e) ~~s. 1003.57(5)~~.

142 |

143 | Notwithstanding the provisions herein, the educational program
144 | at the Marianna Sunland Center in Jackson County shall be
145 | operated by the Department of Education, either directly or
146 | through grants or contractual agreements with other public or
147 | duly accredited educational agencies approved by the Department
148 | of Education.

149 | Section 3. This act shall take effect July 1, 2004.