

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1059 w/CS Florida School for the Deaf and the Blind
SPONSOR(S): State Administration, Wiles and others
TIED BILLS: none **IDEN./SIM. BILLS:** SB 2918(i)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education K-20	22 Y, 3 N	Porter	Bohannon
2) State Administration	5 Y, 2 N w/CS	Bond	Everhart
3) Appropriations	40 Y, 0 N	Mizereck	Baker
4)			
5)			

SUMMARY ANALYSIS

Founded in 1885, the Florida School for the Deaf and the Blind is a state-supported boarding school for eligible hearing-impaired and visually-impaired students pre-school through 12th grade. The school serves approximately 700 students from its St. Augustine campus. In a 2002 report, the Auditor General found numerous operational and accounting problems with the school's operation. This bill addresses some of the audit findings by limiting the powers of the school and directing that the school be audited annually.

This bill increases expenditures of the Auditor General by \$125,000 every other year, and has an indeterminate negative impact on state expenditures of the Department of Education. This bill does not appear to have a fiscal impact on local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1059e.ap.doc
DATE: April 25, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill increases the responsibilities of the Auditor General and the Department of Education.

B. EFFECT OF PROPOSED CHANGES:

Background

Founded in 1885, the Florida School for the Deaf and the Blind is a state-supported boarding school for eligible hearing-impaired and visually-impaired students pre-school through 12th grade. The school serves approximately 700 students from its St. Augustine campus. The Florida School for the Deaf and the Blind operates under the leadership and direction of its Board of Trustees. The Board consists of seven members who are appointed by the Governor and confirmed by the Senate. One of its members is required to be a blind person and one is required to be a deaf person. Each member is required to have been a Florida resident for at least ten years and the term of office for each member is four years.

The Auditor General issued Audit Report No. 03-095, regarding the Florida School for the Deaf and the Blind, on December 19, 2002. The Auditor General's summary of findings, at pages 3-4, is:

Finding No. 1: The internal audit function was underutilized and reported to School management rather than to the Board of Trustees or an Internal Audit Committee.

Finding No. 2: Contrary to State law, for the fiscal years ended June 30, 2001, and 2002, the School deposited approximately \$1.17 million and \$1.22 million, respectively, in accounts outside the State Treasury.

Finding No. 3: Incompatible duties were assigned to two Student Bank employees.

Finding No. 4: Emergency and single source procurements were inadequately documented, or inappropriately applied, to eight contracts totaling approximately \$1.2 million.

Finding No. 5: Contrary to State law, the School hired a lobbyist to represent the School in legislative matters for the fiscal years ended June 30, 2001, and 2002. Additionally, the \$80,000 annual payments made to the lobbyist were not reported on the School's semiannual lobbyist expenditure reports.

Finding No. 6: Payments totaling approximately \$34,000 for consultants' travel were not properly documented and paid in accordance with Section 112.061, Florida Statutes.

Finding No. 7: Acquisitions of real estate totaling approximately \$2.2 million (including those currently under contract) were not made in accordance with applicable laws and rules, and good business practice.

Finding No. 8: The School's campus planning documents were not comprehensive and up-to-date, and did not agree with one another in certain details; consequently, they did not provide assurance that the School's projected six-year, \$67 million expansion and renovation efforts would be conducted in an organized and logical manner, and only as necessary to meet the legitimate needs of the School.

Finding No. 9: The School did not adequately monitor and review the performance of its construction manager, or the payment requests submitted by that manager, for approximately \$239,000 of work related to the construction of an \$8 million vocational-technical high school on the School's campus.

Finding No. 10: Controls and documentation related to the disposal of surplus tangible personal property were inadequate to support the disposal of approximately \$448,000 of such property during the fiscal year ended June 30, 2001.

Finding No. 11: Contrary to Section 112.313(3), Florida Statutes, the School contracted for services with the privately held corporation of an Other Personal Services (OPS) employee. The related payments, which totaled approximately \$49,000, were used by the corporation to compensate another employee who had been placed on leave without pay status.

Finding No. 12: Fourteen of the 30 position descriptions reviewed had not been updated within the last three years.

Finding No. 13: The \$579,000 medical services program with the University of Florida was not efficiently administered and the related reporting to the Legislature was not complete.

In the school's reply to the audit findings, the president of the school took the unique position that the school is free to manage its own affairs without regard to any statutory or rule provisions that do not specifically mention the school.¹ There is no constitutional, statutory, or case law support for this position.²

Effect of Bill

This bill requires the Auditor General to audit the Florida School for the Deaf and the Blind annually.

This bill adds the Florida School for the Deaf and the Blind to the list of entities supervised by the Office of Inspector General of the Department of Education.

This bill specifies that the school is located in St. John's County, is a component of the public education system in the state, and must comply with all laws and rules generally applicable to state agencies.

Under current law, a proposed administrative rule promulgated by the school must be submitted to the Board of Education for approval, although approval is deemed automatic if the board does not disapprove of the proposed rule in 60 days. This bill removes 60-day automatic approval, thus requiring all proposed rules to be affirmatively approved by the Board of Education.

Under current law, state agencies must receive approval of the attorney general to procure legal services from a private law firm. This bill allows the board to procure legal services without the Attorney General's approval.

¹ Auditor General Report 03-095, page 4.

² The Attorney General has twice opined that the school is subject to state general law. See AG Opinions 078-162 and 94-95.

Current law provides that the school presents its budget request directly to the legislature. This bill requires the board to submit its budget request through the Department of Education, which must approve the request before it is submitted to the legislature.

Current law allows the school to invest its monies in any investment that the State Board of Administration is authorized to invest in. This bill provides that the school is limited to the same list of investments authorized of local governments (enumerated at s. 218.415(16)(a)-(f), F.S.), except for monies invested subject to a contract or agreement existing on March 1, 2005.

This bill provides that current laws applicable to all state agencies are specifically applicable to the school. Those provisions require the school to

- Deposit all funds other than gifts, donations, bequests, or student funds, into the State Treasury.
- Utilize state purchasing laws in ch. 287, F.S.
- Provide a veteran's preference in hiring.
- Comply with travel and per diem rates set forth in s. 112.061, F.S.

Section 1013.30, F.S., requires universities and community colleges to create and maintain campus master plans and campus development agreements. The relationship between the universities and community colleges, and the communities that they are located in, is governed by s. 1013.30, F.S. This bill requires the Florida School for the Deaf and the Blind to comply with the same requirements.

C. SECTION DIRECTORY:

Section 1 amends s. 11.45, F.S., to require auditing of the school annually by the Auditor General.

Section 2 amends s. 1001.20, F.S., to place the school under the supervision of the Inspector General of the Department of Education.

Section 3 amends s. 1002.36, F.S., regarding the duties and responsibilities of the school.

Section 4 amends s. 1011.55, F.S., to require the school to submit its legislative budget request through the Department of Education.

Section 5 amends s. 1013.30, F.S., to provide that the school is subject to the same requirements regarding campus master plans and campus development agreements as are universities and community colleges.

Section 6 republishes s. 163.3177, F.S.

Section 7 provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None. This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

The Auditor General estimates that the cost of an annual audit of the school is \$125,000. Current law requires audits every other year, this bill amends the schedule to annual audits.

This bill appears to require additional expenditures by the Department of Education because of additional oversight activities and the requirement that the school budget be approved by DOE. The DOE has yet to provide a fiscal analysis of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None. This bill does not create, modify, amend, or eliminate a local government revenue source.

2. Expenditures:

None. This bill does not create, modify, amend, or eliminate a local government expenditure.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

The school's assertion that it is allowed to deposit and keep school revenues in an account at a private banking institution is contrary to art. 4, s. 4(c), Fla.Const.

B. RULE-MAKING AUTHORITY:

This bill limits the rulemaking authority of the school.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 24, 2004, the Committee on State Administration adopted one amendment to this bill. The amendment:

- Specifies that the school is a public school located in St. Johns County.
- Removes unnecessary references to retirement provisions in ch. 121, F.S.
- Minimizes the risk of investment loss for the school's foundation by recognizing an existing contract.³

³ The year in the amendment appears to be incorrect.

- Allows for student funds to be deposited in an account other than the state treasury.
- Amends s. 1011.55, F.S., regarding school budgeting, to conform to changes made by this bill.

The bill was then reported favorably with a committee substitute.