

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1003 High School Athletics
SPONSOR(S): Llorente and others
TIED BILLS: HB 1005 **IDEN./SIM. BILLS:** SB 1928

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>PreK-12 Committee</u>	<u>8 Y, 0 N</u>	<u>Beagle</u>	<u>Mizereck</u>
2) <u>Civil Justice Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Education Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Currently, there is no statewide requirement that high school student athletes be tested for anabolic steroids.

House bill 1003 establishes a three-year random anabolic steroids testing program for student athletes in grades 9 through 12 to be administered by the Florida High School Athletic Association (FHSAA) during the 2006-2007, 2007-2008, and 2008-2009 school years. Public and private schools must participate in the program as a prerequisite to FHSAA membership. The bill provides program requirements, penalties, and challenge and appeal procedures.

The bill requires FHSAA to submit an annual report of program results to the Legislature.

This bill provides an appropriation of \$3 million dollars for program implementation.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides Limited Government: The bill requires FHSAA member schools and student athletes to participate in a mandatory random steroid testing program as a prerequisite to athletic participation.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

A 2004 Information Brief by the Office of Program Policy Analysis and Government Accountability (OPPAGA) indicates that steroid use among high school students is relatively low (about 2% of students report use), but has increased over time. Although survey data indicate that steroid use in Florida is slightly below the national rate, steroid use remains a concern, particularly for young athletes. Steroid use has been linked to more than 70 physical and psychological side effects, many of which are irreversible.¹

Eleven Florida school districts have implemented drug testing programs for students; however, none of these programs specifically test for steroid use. Current law does not explicitly authorize school boards to require students to submit to drug testing.²

Quest Diagnostics and Lab Corporation of America, two companies that perform steroid testing, report that steroid screens or panels can test for at least 20 different steroid drugs or their metabolites. OPPAGA reports that testing for steroids ranges from \$50.00 to \$250.00 per test and that testing facilities are limited. Steroid testing is done in the form of a urinalysis test, but it is a more extensive test that requires sophisticated equipment that many labs do not have. Therefore, the test must be sent to the few labs in the United States that do this type of testing. Additional costs include specimen collection and processing, as well as staff time, specimen collection equipment, and mailing costs.³

The constitutionality of random drug testing programs is governed by the provisions of Section 12 of Article I, Florida Constitution and the Fourth Amendment of the Federal Constitution which protect individuals from unreasonable government searches and seizures. Generally, reasonable school district policies requiring random drug testing of student athletes have been upheld by federal courts.⁴

Section 1006.20, F.S., sets forth the organizational structure and governing authority of the FHSAA. Statutes provide that FHSAA is not a state agency and grant FHSAA authority to adopt bylaws governing participation of member schools and individual student athletes unless specifically provided for in statute. Student athletes are required to pass a medical examination and cardiovascular screening and provide medical history information prior to participating in interscholastic athletics. Currently, there is no statewide requirement that high school student athletes be tested for anabolic steroids.

Effect of Proposed Changes:

House bill 1003 establishes a three-year random anabolic steroids testing program for student athletes to be administered by the FHSAA during the 2006-2007, 2007-2008, and 2008-2009 school years. The bill provides that public and private schools must participate in the program as a prerequisite to FHSAA

¹ OPPAGA Information Brief, Report No. 04-72, *Though the Option is Available, School Districts Do Not Test Students for Steroids*. October, 2004.

² *Id.*

³ *Id.*

⁴ *Vernonia School District v. Acton*, 515 U.S. 646 (1995), *Earls v. Board of Education*, 242 F.3d. 984 (7th Cir. 1998), and *Schail by Kross v. Tippecanoe County School Corp.*, 864 F.2d. 1309 (7th Cir. 1988).

membership. All student athletes in grades 9 through 12 are subject to random testing as a prerequisite to participation in interscholastic athletics.

The bill requires the FHSAA to contract with a testing agency accredited by the World Anti-Doping Agency to administer required steroid tests. The testing agency must randomly select a minimum of one percent of total student athletes for testing in each year. In addition, the bill specifies several program requirements:

- Member schools must report the name of each student athlete participating in the school's athletic programs to FHSAA. The FHSAA must then report the names of all student athletes submitted by member schools to the testing agency.
- The testing agency must provide member school administrations seven days' notice of its intent to test selected student athletes.
- Test results are excluded from the student's educational records.
- Student athletes and their parents must provide written consent to testing as a prerequisite to eligibility to participate in interscholastic athletics.
- School administrators must immediately suspend the eligibility of a student selected for testing who refuses to provide a testing sample or who tests positive for anabolic steroids. School officials must notify the student athlete and his or her parents of the positive test result and schedule a meeting to discuss penalties and appeal procedures.

The bill provides penalties for first, second, and third positive test results. Generally, the bill provides that student athletes who test positive for anabolic steroids are subject to immediate suspension of their eligibility to participate in athletics. Prior to the end of the suspension, the student is subject to a mandatory exit test. If the result of this test is negative, the school must reinstate the student athlete's eligibility at the end of the original suspension period. Student athletes who test positive on the exit test remain suspended until they register a negative result on a subsequent retest and must submit to regular testing for the duration of their remaining high school athletic eligibility. Students registering a third positive test result are permanently suspended from participation in athletics. All student athletes registering a positive test result must complete a mandatory drug education program.

The bill provides a detailed procedure for challenging positive test results and appealing prescribed penalties.

The bill states that all FHSAA and member school officials and employees are exempt from civil liability arising from administration of the steroid testing program.

The bill requires FHSAA to submit an annual report of program results to the Legislature.

The provisions of the bill expire on June 30, 2009 or when appropriated funds are exhausted.

C. SECTION DIRECTORY:

Section 1. Amending s. 1006.20, F.S.; establishing a random steroid testing program to be administered by FHSAA; providing program requirements; providing penalties; providing appeal and challenge procedures; providing conditions for use of appropriated funds; providing an expiration date for the testing program.

Section 2. Providing an appropriation.

Section 3. Providing an effective date of July 1, 2006.

II. 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:

The bill provides an appropriation of \$3 million from the General Revenue Fund. All expenses of the testing program are required to be paid out of this appropriation and unspent funds revert upon expiration of the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES