

A bill to be entitled

An act relating to public records and public meetings exemptions; amending s. 1006.20, F.S.; exempting from public records requirements the finding of a drug test administered to a student by a testing agency with which the Florida High School Athletic Association has contracted; exempting from public meetings requirements a meeting at which a challenge or an appeal is made; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Paragraphs (b) and (h) of subsection (10) of section 1006.20, Florida Statutes, as created by HB 1003, 2006 Regular Session, are amended to read:

1006.20 Athletics in public K-12 schools.--

(10) RANDOM DRUG TESTING PROGRAM.--

(b) The organization's board of directors shall establish procedures for the conduct of the program that, at a minimum, shall provide for the following:

1. The organization shall select and enter into a contract with a testing agency that will administer the testing program. The laboratory utilized by the testing agency to analyze specimens shall be accredited by the World Anti-Doping Agency.

2. A minimum of 1 percent of the total students who participate in each interscholastic sport, based on

29 participation numbers reported to the organization during the
30 preceding academic year, shall be randomly selected to undergo a
31 test in each year of the program.

32 3. Each member school shall report to the organization
33 each year the names of students who will represent the school in
34 interscholastic athletics during that year. A student shall not
35 be eligible to participate in interscholastic athletics in a
36 member school until the student's name has been reported to the
37 organization by the school in the year in which such
38 participation is to occur.

39 4. Each year, the organization shall provide to the
40 testing agency all names of students that are submitted by its
41 member schools. The testing agency shall make its random
42 selections for testing from these names.

43 5. The testing agency shall notify not fewer than 7 days
44 in advance both the administration of a school and the
45 organization of the date on which its representatives will be
46 present at the school to collect a specimen from a randomly
47 selected student. However, the name of the student from which a
48 specimen is to be collected shall not be disclosed.

49 6. The finding of a drug test shall be separate from a
50 student's educational records and shall be disclosed by the
51 testing agency only to the organization, the student, the
52 student's parent, the administration of the student's school,
53 and the administration of any school to which the student may
54 transfer during a suspension from participation in
55 interscholastic athletics resulting from a positive finding. The
56 finding of each drug test held by a school or the organization

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57 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
58 I of the State Constitution. This subparagraph is subject to the
59 Open Government Sunset Review Act in accordance with s. 119.15
60 and shall stand repealed on October 2, 2011, unless reviewed and
61 saved from repeal through reenactment by the Legislature.

62 (h) The following due process shall be afforded each
63 student who tests positive in a test administered under this
64 subsection:

65 1. The member school may challenge a positive finding and
66 must challenge a positive finding at the request of the student.
67 A sample of the original specimen provided by the student and
68 retained by the testing agency shall be analyzed. The member
69 school or the student's parent shall pay the cost of the
70 analysis. If the analysis results in a positive finding, the
71 student shall remain ineligible until the prescribed penalty is
72 fulfilled. If the analysis results in a negative finding, the
73 organization shall immediately restore the eligibility of the
74 student and shall refund to the member school or student's
75 parent the cost of the analysis. The student shall remain
76 suspended from interscholastic athletic practice and competition
77 during the challenge.

78 2.a. A member school may appeal to the organization's
79 commissioner the period of ineligibility imposed on a student as
80 a result of a positive finding and must appeal at the request of
81 the student. The commissioner may require the student to
82 complete the prescribed penalty, reduce the prescribed penalty
83 by one-half, or provide complete relief from the prescribed
84 penalty. Regardless of the decision of the commissioner, the

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85 student shall remain ineligible until the student tests negative
86 on the mandatory exit test and the student's eligibility is
87 restored by the organization.

88 b. Should the school or student be dissatisfied with the
89 decision of the commissioner, the school may pursue the appeal
90 before the organization's board of directors and must do so at
91 the request of the student. The board of directors may require
92 the student to complete the prescribed penalty, reduce the
93 prescribed penalty by one-half, or provide complete relief from
94 the prescribed penalty. Regardless of the decision of the board
95 of directors, the student shall remain ineligible until the
96 student tests negative on the mandatory exit test and the
97 student's eligibility is restored by the organization. The
98 decision of the board of directors on each appeal shall be
99 final.

100 c. Technical experts may serve as consultants to both the
101 organization's commissioner and its board of directors in
102 connection with such appeals.

103 3. The challenge and appeal procedures described in this
104 paragraph are exempt from s. 286.011 and s. 24(b), Art. I of the
105 State Constitution. This subparagraph is subject to the Open
106 Government Sunset Review Act in accordance with s. 119.15 and
107 shall stand repealed on October 2, 2011, unless reviewed and
108 saved from repeal through reenactment by the Legislature.

109 Section 2. The Legislature finds that it is a public
110 necessity that the finding of a drug test administered by a
111 testing agency with which the Florida High School Athletic
112 Association has contracted that has been disclosed to the

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113 association or the administration of a school, pursuant to s.
114 1006.20(10), Florida Statutes, be made confidential and exempt
115 from public records requirements. The Legislature finds that
116 harm caused by releasing such information outweighs any public
117 benefit that might be derived from releasing the information.
118 Such information is of a sensitive and personal nature, could be
119 used to discriminate against a student, and could cause harm to
120 a student's reputation. The Legislature further finds that it is
121 a public necessity that a meeting at which a challenge to a
122 positive finding is made or an appeal is made to the Florida
123 High School Athletic Association's commissioner or board of
124 directors regarding the period of student ineligibility,
125 pursuant to s. 1006.20(10), Florida Statutes, be made exempt
126 from public meetings requirements. The Legislature finds that
127 the exemption of these proceedings from public meetings
128 requirements minimizes the possibility of unnecessary scrutiny
129 by the public or media of sensitive, personal information
130 concerning a student. Furthermore, without such exemption,
131 release of confidential and exempt information via a public
132 meeting defeats the purpose of the public records exemption.

133 Section 3. This act shall take effect on the same date
134 that HB 1003 or similar legislation takes effect, if such
135 legislation is adopted in the same legislative session or an
136 extension thereof and becomes law.