

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.)

Prepared By: Ethics and Elections Committee

BILL: CS/CS/SB 2252

INTRODUCER: Education Committee and Senator Webster

SUBJECT: District School Boards; Chair

DATE: April 21, 2006

REVISED: 04/24/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Fav/CS
2.	Kruse	Rubinas	EE	Fav/CS
3.				
4.				
5.				
6.				

I. Summary:

Committee Substitute for Committee Substitute for Senate Bill 2252 provides an alternative procedure for selecting a school board chair. The alternative procedure proposed allows the school board district electors to elect an additional member of the school board to serve as chair if the electors approve a proposition calling for the election of a district school board chair. In addition, the CS/CS resolves tie votes in a district school board meeting in favor of the side on which the chair casts his or her vote. The CS/CS applies to charter counties with a population of between 800,000 and 900,000, based on the latest federal decennial census. The bill provides legislative findings for this application.

The CS/CS substantially amends section 1001.371, and creates sections 1001.364 and 1001.365 of the Florida Statutes.

The CS/CS has an effective date of July 1, 2006.

II. Present Situation:

Florida law grants local district school boards authority to control K-12 education operations in the district.¹ Section 4 of Article IX of the Florida Constitution provides that each school district must have a school board comprised of 5 members or more. School board members are elected to serve four year staggered terms, in nonpartisan elections.² Florida law provides 3 options for electing school board members:

¹ Section 4, Article IX, Florida Constitution and s. 1003.02, F.S.

² Section 4, Article IX, Florida Constitution

- Five member boards elected from five member-residence areas;
- Seven member boards elected from five member-residence areas, with two members elected at-large; and
- Seven member boards elected from seven member-residence areas.³

All school district voters may vote for one candidate from each member residence area.⁴

Florida law provides an alternate procedure that, upon approval by school district voters, allows for single member representation within each district.⁵ Under this procedure, voters may only vote for one candidate from the school board member residence area in which they reside, and at-large candidates if applicable.

Currently, the district school board chair and vice chair are selected by the district school board each year at the school board's annual organizational meeting.⁶

III. Effect of Proposed Changes:

Section 1. Provides legislative findings for the application of the proposed language.

Section 2. Creates section 1001.364, F.S.; the proposed language establishes an alternative procedure by which school board district electors may elect, by a districtwide vote, a school board chair as an additional member of the school board. A proposition calling for the school board district electors to elect an additional member to serve as school board chair must be submitted to the school district electors at any primary, general, or otherwise-called special election. The proposed language provides two means by which the proposition to elect a school board chair may secure ballot placement. First, the district school board may adopt a formal resolution that the proposition be placed on the ballot. Second, the school district electors may petition to have the proposition placed on the ballot. In order for electors to secure ballot placement of the proposition, they must register as a political committee as provided in s. 106.03, F.S., and must designate a chair to act for the committee. The electors must present the school board with petitions signed by at least 10% of the electors residing in the school district. This number is determined by the supervisor of elections and is based on the number of registered electors in the school district as of the date the petitioning electors register as a political committee.

Petitions must contain: a petition statement, the specific wording of which is provided in the CS/CS, a space for the signature and address of the elector, the signature of the elector, and the date when the signature was made. The proposed language specifically provides that signatures are valid for 4 years after the date the signature is made.

The chair of the petitioning committee must file the petitions with the school board. The district school board then submits the petitions to the supervisor who has 30 days to verify the signatures

³ Section 1001.36, F.S.

⁴ Section 1001.361, F.S.

⁵ Section 1001.362, F.S.

⁶ Section 1001.371, F.S.

on the petitions and ascertain whether the petitions contain the required number of signatures. The committee must pay the supervisor 10 cents per signature checked.

Once the supervisor determines that the required signatures are present, he or she must certify the petitions to the district school board, which then adopts a formal resolution requesting an election date at the earliest primary, general, or otherwise called special election occurring at least 30 days after petition certification. A special election may not be called for the sole purpose of presenting the proposition to the voters. If the supervisor determines that the required signatures are not present, the supervisor must notify the district school board, which must file the petitions without taking any further action. Signatures may not be added at this point to meet the required number and the filed petitions may not be used again.

If the proposition is approved, the office of the district school board chair must be filled at the next general election. The vice chair of the district school board must be elected by the school board members pursuant to section 1001.371, F.S.

If a school district adopts the alternative procedure proposed for electing a school board chair, it may return to the original procedure as provided by law; however, to do so, it must follow the petition procedure set forth in subsection (2) of the CS/CS.

The language of this section applies only to charter counties with a population between 800,000 and 900,000, based on the latest federal decennial census.⁷

Section 3. Creates section 1001.365, F.S.; the proposed language states that unless otherwise provided by law, when a tie vote occurs on the board, the prevailing side will be determined as the side for which the chair voted. Any action taken as a result of a vote cast in this manner satisfies the requirement for a majority or simple majority vote. The language of this section applies only to charter counties with a population between 800,000 and 900,000, based on the latest federal decennial census.

Section 4. Amends section 1001.371, F.S.; provides that section 1001.371, F.S., does not apply to school districts which elect a school board chair by districtwide vote.

Section 5. Provides that the effective date of the CS/CS is July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁷ According to U.S. Census Bureau, the 2000 federal decennial census reports that Orange County, population 896,344 would meet the criteria of the proposed language in the CS/CS/SB 2252.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

A question arises as to whether the CS/CS would be classified as a general law or a special law. A general law has been defined by the Florida Supreme Court as a law:

operat[ing] universally throughout the state, or uniformly upon subjects as they may exists throughout the state, or uniformly within permissible classifications by population of counties or otherwise, or is a law relating to a state function or instrumentality.⁸

“A general law may contain classifications, and the legislature has wide discretion in making such classifications, so long as they are reasonable.”⁹ The Florida Constitution defines a “special law” as “a special or local law;”¹⁰ however, the Florida Supreme Court has further defined a “special law” as a law:

relating to, or designed to operate upon, particular persons or things, or one that purports to operate upon classified persons or things when classification is not permissible or the classification adopted is illegal; a local law is one relating to, or designed to operate only in, a specifically indicated part of the state, or one that purports to operate within classified territory when classification is not permissible or the classification adopted is illegal.¹¹

In *State v. Gulfstream Park Racing Ass’n*, 912 So. 2d 616 (Fla. 1st DCA 2005), the First District Court of Appeal identified as a difference between a special law and a general law whether the law is potentially applicable to others who may come under the classification in the future. The court stated:

A statute that applies to a limited class of entities or in a limited area at the time it is enacted may nevertheless qualify as a general law if it could be applied to other entities or in other areas in the future. Indeed, a statute may be a general law even though it was enacted for the benefit of a single business entity or a single geographic area. The critical question is not one of legislative intent; rather, it is whether the class regulated by the statute is open.¹²

⁸ *Schrader v. Florida Keys Aqueduct Authority*, 840 So. 2d 1050, 1055 (Fla. 2003), citing *State ex rel. Landis v. Harris*, 120 Fla. 555, 163 So. 237, 240 (1934).

⁹ *Metro. Dade County v. Gold Nugget Group*, 448 So. 2d 515, 519 (Fla. 1st DCA 1984).

¹⁰ See Section 12(g), Art. X, Florida Constitution.

¹¹ *Schrader*, *supra* note 8.

¹² *State v. Gulfstream Park Racing Ass’n*, 912 So. 2d 616, 621 (Fla. 1st DCA 2005)(citations omitted).

Thus, given that the language of the CS/CS bases its population classification on the “latest federal decennial census,” an argument can be made that others may come into the regulated class after the next federal decennial census is taken. Furthermore, the proposed language of the bill provides reasons setting forth the purpose of the classification. Therefore, it appears that the CS/CS may be classified as a general law. However, should a court determine the CS/CS to be a special law, sec. 10, Art. III of the State Constitution may require proof of published notice prior to its passage.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the election of the district school board chair is by proposition, the political committee that collects the petitions must pay the supervisor of elections ten cents per signature checked.

C. Government Sector Impact:

If the election of the district school board chair is by proposition, supervisors of elections will incur costs related to verifying petition signatures. Furthermore, if an additional school board member is elected to serve as chair, the county will incur the expense related to an additional school board member.

VI. Technical Deficiencies:

While the proposed language requires space to be included on the petition for the elector’s signature and address, it specifically does not require the elector’s address to be entered on the petition. This may make the verification process more difficult for a supervisor of elections.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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