

CHAMBER ACTION

1 The Education Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to interscholastic athletics; requiring
7 the Florida High School Athletic Association to hold
8 certain bylaws in abeyance; providing for creation of a
9 task force to review student athlete recruiting issues;
10 providing for task force membership and duties; requiring
11 recommendations to the Governor and the Legislature;
12 requiring the Office of Program Policy Analysis and
13 Government Accountability to conduct a review of
14 recruiting violations by Florida High School Athletic
15 Association member schools; providing an appropriation;
16 amending s. 1006.20, F.S.; requiring the Florida High
17 School Athletic Association to facilitate a 1-year drug
18 testing program to randomly test for anabolic steroid use
19 by students in grades 9 through 12 who participate in
20 postseason competition in football, baseball, and
21 weightlifting in its member schools; requiring schools to
22 consent to the provisions of the program as a prerequisite
23 for membership in the organization; requiring the

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24 organization to establish procedures for the conduct of
25 the program, including contracting with a testing agency
26 to administer the program; providing that the finding of a
27 drug test shall be separate from a student's educational
28 records; providing for disclosure; requiring students and
29 their parents to consent to the provisions of the program
30 as a prerequisite for eligibility to participate in
31 interscholastic athletics; providing penalties for
32 students selected for testing who fail to provide a
33 specimen; requiring the administration of a school to meet
34 with a student who tests positive and his or her parent to
35 review the finding, penalties, and procedure for challenge
36 and appeal; providing penalties for positive findings;
37 providing due process procedures for challenge and appeal;
38 requiring the organization to provide a report to the
39 Legislature on the results of the program; providing an
40 exemption from civil liability resulting from
41 implementation of the program; requiring the Department of
42 Legal Affairs to provide defense in claims of civil
43 liability; requiring program expenses to be paid through
44 legislative appropriation; providing for expiration of the
45 program; providing an effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. (1) The Florida High School Athletic
50 Association shall, until July 1, 2007, hold in abeyance the
51 2006-2007 revisions to sections 11.01, 11.02, 11.2, 11.3, and

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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52 11.4, Bylaws of the Florida High School Athletic Association,
53 relating to student athlete residence and transfer, adopted
54 pursuant to s. 1006.20, Florida Statutes.

55 (2) A Student Athlete Recruiting Task Force shall be
56 created to review issues concerning recruiting of secondary
57 school student athletes. The task force shall make
58 recommendations that preserve the parental right to school
59 choice while protecting the integrity of Florida's
60 interscholastic athletic programs. The task force shall
61 consider:

62 (a) The definition of recruiting.

63 (b) Current and proposed procedures governing recruiting
64 of secondary school student athletes.

65 (c) Documented past recruiting practices and violations.
66 Practices to be reviewed shall include, but not be limited to,
67 the provision of tuition scholarships and other inducements,
68 recruitment of foreign athletes, and active solicitation of
69 student athletes and parents by school employees or boosters.

70 (d) The impact of student athlete recruiting rules on
71 parental school choice.

72 (e) The relationship between student athlete transfers and
73 recruiting, including the role of student athlete transfer rules
74 in preventing recruiting.

75 (f) Measures for preventing improper student athlete
76 recruiting and penalties for recruiting violations.

77 (3) The task force shall be comprised of representatives
78 from home school and public and private secondary school
79 proponents and opponents of the 2006-2007 revisions to the

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80 bylaws specified in subsection (1). The task force members shall
81 be appointed as follows:

82 (a) Three proponents of the bylaws and three opponents of
83 the bylaws each appointed by the President of the Senate.

84 (b) Three proponents of the bylaws and three opponents of
85 the bylaws each appointed by the Speaker of the House of
86 Representatives.

87 (c) A task force chair appointed by the Governor.

88 (4) Task force members shall serve without compensation
89 but shall be reimbursed for per diem and travel expenses in
90 accordance with s. 112.061, Florida Statutes.

91 (5) The task force shall be staffed by the Office of
92 Program Policy Analysis and Government Accountability and be
93 monitored by the Department of Education. The chair shall
94 convene meetings of the task force as needed and shall ensure
95 that the recommendations are completed and forwarded on time.

96 (6) The task force shall hold its initial meeting not
97 later than June 1, 2006, and shall submit its recommendations to
98 the Governor, the President of the Senate, and the Speaker of
99 the House of Representatives by January 1, 2007. The task force
100 shall dissolve upon rendering its recommendations.

101 Section 2. The Office of Program Policy Analysis and
102 Government Accountability shall conduct an independent review of
103 secondary school recruiting violations among Florida High School
104 Athletic Association member schools and shall have full access
105 to Florida High School Athletic Association records for the
106 purpose of this review.

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107 Section 3. The sum of \$60,000 is appropriated from the
108 General Revenue Fund to the Office of Program Policy Analysis
109 and Government Accountability for the 2006-2007 fiscal year to
110 support the work of the Student Athlete Recruiting Task Force.

111 Section 4. Subsection (10) is added to section 1006.20,
112 Florida Statutes, to read:

113 1006.20 Athletics in public K-12 schools.--

114 (10) RANDOM DRUG TESTING PROGRAM.--

115 (a) Contingent upon funding, and to the degree funded, the
116 organization shall facilitate a 1-year program during the 2006-
117 2007 academic year in which students in grades 9 through 12 in
118 its member schools who participate in postseason competition in
119 football, baseball, and weightlifting governed by the
120 organization shall be subject to random testing for the use of
121 anabolic steroids as defined in s. 893.03(3)(d). All schools,
122 both public and private, shall consent to the provisions of this
123 subsection as a prerequisite for membership in the organization
124 for the duration of the program.

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

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

132 2. A maximum of 1 percent of the total students who
133 participate in postseason competition in football, baseball, and
134 weightlifting shall be randomly selected to undergo a test.

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135 3. Each member school shall report to the organization the
136 names of students who will represent the school in football,
137 baseball, and weightlifting. A student shall not be eligible to
138 participate in interscholastic athletics in any of these sports
139 in a member school until the student's name has been reported to
140 the organization.

141 4. The organization shall provide to the testing agency
142 all names of students that are submitted by its member schools.
143 The testing agency shall make its random selections for testing
144 from these names.

145 5. The testing agency shall notify not fewer than 7 days
146 in advance both the administration of a school and the
147 organization of the date on which its representatives will be
148 present at the school to collect a specimen from a randomly
149 selected student. However, the name of the student from which a
150 specimen is to be collected shall not be disclosed.

151 6. The finding of a drug test shall be separate from a
152 student's educational records and shall be disclosed by the
153 testing agency only to the organization, the student, the
154 student's parent, the administration of the student's school,
155 and the administration of any school to which the student may
156 transfer during a suspension from participation in
157 interscholastic athletics resulting from a positive finding.

158 (c) Each student who wishes to participate in football,
159 baseball, or weightlifting and his or her parent must consent to
160 the provisions of this subsection as a prerequisite for athletic
161 eligibility. This consent shall be in writing on a form
162 prescribed by the organization and provided to the student by

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163 his or her school. Failure to complete and sign the consent form
164 shall result in the student's ineligibility to participate in
165 all interscholastic athletics. The consent form shall include
166 the following information:

167 1. A brief description of the drug testing program.

168 2. The penalties for a positive finding.

169 3. The procedure for challenging a positive finding.

170 4. The procedure for appealing a prescribed penalty.

171 (d) A student who is selected for testing and fails to
172 provide a specimen shall be immediately suspended from
173 interscholastic athletic practice and competition until such
174 time as a specimen is provided.

175 (e) If a student tests positive in a test administered
176 under this subsection, the administration of the school the
177 student attends shall immediately:

178 1. Suspend the student from participation in all
179 interscholastic athletic practice and competition.

180 2. Notify and schedule a meeting with the student and his
181 or her parent during which the principal or his or her designee
182 shall review with them the positive finding, the procedure for
183 challenging the positive finding, the prescribed penalties, and
184 the procedure for appealing the prescribed penalties.

185 (f) For a positive finding, the student shall be suspended
186 from all interscholastic athletic practice and competition for a
187 period of 90 school days and shall be subject to a mandatory
188 exit test for restoration of eligibility no sooner than the 60th
189 school day of the suspension. If the exit test is negative, the
190 organization shall restore the eligibility of the student at the

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191 conclusion of the 90-school-day period of suspension. If the
192 exit test is positive, the student shall remain suspended from
193 all interscholastic athletic practice and competition until such
194 time as a subsequent retest of the student results in a negative
195 finding. The student shall be subject to repeated tests for the
196 duration of his or her high school athletic eligibility.

197 (g) In addition to the penalties prescribed in paragraph
198 (f), a student who tests positive in a test administered under
199 this subsection shall attend and complete an appropriate
200 mandatory drug education program conducted by the student's
201 school, the student's school district, or a third-party
202 organization contracted by the school or school district to
203 conduct such an education program.

204 (h) The following due process shall be afforded each
205 student who tests positive in a test administered under this
206 subsection:

207 1. The member school may challenge a positive finding and
208 must challenge a positive finding at the request of the student.
209 A sample of the original specimen provided by the student and
210 retained by the testing agency shall be analyzed. The member
211 school or the student's parent shall pay the cost of the
212 analysis. If the analysis results in a positive finding, the
213 student shall remain ineligible until the prescribed penalty is
214 fulfilled. If the analysis results in a negative finding, the
215 organization shall immediately restore the eligibility of the
216 student and shall refund to the member school or student's
217 parent the cost of the analysis. The student shall remain

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218 suspended from interscholastic athletic practice and competition
219 during the challenge.

220 2.a. A member school may appeal to the organization's
221 commissioner the period of ineligibility imposed on a student as
222 a result of a positive finding and must appeal at the request of
223 the student. The commissioner may require the student to
224 complete the prescribed penalty, reduce the prescribed penalty
225 by one-half, or provide complete relief from the prescribed
226 penalty. Regardless of the decision of the commissioner, the
227 student shall remain ineligible until the student tests negative
228 on the mandatory exit test and the student's eligibility is
229 restored by the organization.

230 b. Should the school or student be dissatisfied with the
231 decision of the commissioner, the school may pursue the appeal
232 before the organization's board of directors and must do so at
233 the request of the student. The board of directors may require
234 the student to complete the prescribed penalty, reduce the
235 prescribed penalty by one-half, or provide complete relief from
236 the prescribed penalty. Regardless of the decision of the board
237 of directors, the student shall remain ineligible until the
238 student tests negative on the mandatory exit test and the
239 student's eligibility is restored by the organization. The
240 decision of the board of directors on each appeal shall be
241 final.

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

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245 (i) No later than October 1, 2007, the organization shall
246 submit to the President of the Senate and the Speaker of the
247 House of Representatives a report on the results of the program.
248 The report shall include statistics on the number of students
249 tested; the number of violations; the number of challenges and
250 their results; the number of appeals and their dispositions; and
251 the costs incurred by the organization in the administration of
252 the program, including attorney's fees and other expenses of
253 litigation.

254 (j) The organization, members of its board of directors,
255 and its employees and member schools and their employees are
256 exempt from civil liability arising from any act or omission in
257 connection with the program conducted under this subsection. The
258 Department of Legal Affairs shall defend the organization,
259 members of its board of directors, and its employees and member
260 schools and their employees in any action against such parties
261 arising from any such act or omission. In providing such
262 defense, the Department of Legal Affairs may employ or utilize
263 the legal services of outside counsel.

264 (k) The program shall be conducted to the extent funded by
265 the Legislature. In order to conduct the program within
266 appropriated funds, the organization is authorized to implement
267 the program in only one or two of the named sports. All expenses
268 of the program shall be paid with funds appropriated by the
269 Legislature. Such expenses shall include, but not be limited to,
270 all fees and expenses charged by the testing agency for
271 administrative services, specimen collection services, and
272 specimen analysis; all administrative expenses incurred by the

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273 | organization in the facilitation of the program; and all
 274 | attorney's fees and other expenses of litigation resulting from
 275 | legal challenges related to the program.

276 | (1) The provisions of this subsection shall expire on June
 277 | 30, 2007, or at such earlier date as appropriated funds are
 278 | exhausted.

279 | Section 5. This act shall take effect upon becoming a law.