

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government.—The bill will increase reporting requirements for school districts relating to gifted identification, programming, and expenditures.

Empower Families.—The bill’s reporting requirements will increase state oversight of district gifted identification, programming, and expenditures and in turn, will provide policymakers with the data they need to make informed decisions for future improvements in this state’s gifted education programming for students in grades K-12. The bill will also benefit families by requiring school districts to annually inform parents of students in grades K-12 of gifted eligibility criteria and the procedures for having their children evaluated.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Background: State Board of Education (SBE) rule defines “gifted” as “one who has superior intellectual development and is capable of high performance.”¹ The rule provides two methods for determining gifted eligibility status. A student must either:

- (a) Demonstrate superior intellectual development as measured by an intelligence quotient (IQ) of at least two standard deviations above the norm,² possess gifted characteristics according to a standard checklist, and need a special program; or
- (b) Be limited English proficient (LEP) or of low socioeconomic status and meet district-determined criteria set forth in an approved school district plan for increasing participation in gifted education by underrepresented groups.³

The latter method for determining gifted status is known as “Plan B.” Plan B students need not meet the IQ requirement to obtain gifted status if they otherwise meet the criteria set forth in the school district’s plan. Currently, 53 of 67 Florida school districts have an approved alternative identification plan for determining gifted eligibility.⁴

The methods used by school districts to select students who will be evaluated for gifted eligibility vary. Generally, districts consider a student’s academic performance, teacher referrals, and review of student records.⁵ In the majority of Florida’s school districts, testing to identify a gifted student occurs only upon school employee referral or parental request. A minority of districts use screening of the general student population to identify students whose performance warrants further testing for gifted status.⁶ In such cases, the district either requires screening of all students in a particular grade or screens all students upon entry into the district system.⁷

¹ Rule 6A-6.03019, F.A.C.

² Two standard deviations above the norm is approximately a 130 IQ as measured by most IQ tests. See Office of Program Policy Analysis and Government Accountability, *Florida’s Gifted Student Population Grew Faster Than the Overall School Enrollment*, Report No. 08-01 (January 2008).

³ Rule 6A-6.03019, F.A.C.

⁴ OPPAGA, Report No. 08-01 (January 2008).

⁵ *Id.*

⁶ Presentations by representatives of the Department of Education and Florida Association for the Gifted at the January 23, 2007 meeting of the Committee on Education Innovation and Career Preparation.

⁷ OPPAGA, Report No. 08-01 (January 2008).

Methods Used by School Districts to Select Students for Gifted Screening⁸

Criteria Used to Select Students for Screening	Districts
Teacher Referral	62
Student Record Review	60
Parent Referral	44
Screen All Students in a Particular Grade	13
Screen All Students Upon Entry Into the District System	10

According to the Department of Education (DOE), 126,775 students were provided gifted education services during the 2006-2007 school year.⁹

K-12 Students Enrolled in Gifted Education Courses: 2006-2007¹⁰

White	African American	Hispanic	Asian	American Indian	Multi-Racial	Total Gifted
75,819	12,101	28,152	5,794	405	4,504	126,775

The data above describes the total number of gifted students statewide. Data regarding which of these students qualified for gifted status under Plan B is not reported by school districts to the DOE.

Gifted Evaluation and Services: Gifted students are classified as exceptional students, which classification also includes students with disabilities.¹¹ Exceptional students in grades K-12 are statutorily required to be provided with appropriate diagnosis, evaluation, special instruction, facilities, and services.¹²

The evaluation and written services plan required for a gifted student is referred to as an educational plan (EP). The EP must describe the student's educational needs and the services that will be provided to meet those needs. The EP is developed by a multidisciplinary team that includes school and district staff and other experts, if necessary. Parents must participate in the development of the plan.¹³ The EP must be developed by district staff within 30 days of determining that the student is eligible for gifted services. A gifted student must have an EP at the beginning of each school year and it must be reviewed every three years for primary and middle school students and every four years for high school students.¹⁴

While statute requires districts to provide services to gifted students, it does not mandate or describe the specific types of services required.¹⁵ Each district school board is statutorily required to submit a proposed plan for providing ESE services to the DOE every three years.¹⁶ This plan should include identification of gifted education services. In practice, districts typically provide only a summary of gifted services offered and do not specifically identify the grade-level or the number of schools in which the services are provided.¹⁷

School district gifted education services generally fall into one of two categories: (a) enrichment; and (b) acceleration. Enrichment activities provide students with more complex and in-depth study of subjects than

⁸ *Id.*

⁹ Florida Department of Education, Bureau of Education Information and Accountability Services, *Statistical Brief: Membership in Programs for Exceptional Students: Fall 2006*, Series 2007-07B (January 2007) available at <http://www.fldoe.org/eias/eiaspubs/pdf/eseemem.pdf>. (Data current through October 2006).

¹⁰ *Id.*

¹¹ Section 1003.01(3), F.S.

¹² Section 1003.57(1), F.S.

¹³ Rule 6A-6.030191, F.A.C. See also Florida Department of Education, Bureau of Exceptional Education and Student Services, *Technical Assistance Paper: Development of Educational Plans for Students Who Are Gifted*, No. 2006-3 (November 2005) available at <http://www.fldoe.org/ESE/pdf/y2006-3.pdf>.

¹⁴ Rule 6A-6.030191, F.A.C. See also Florida Department of Education, Bureau of Exceptional Education and Student Services, *Technical Assistance Paper: Development of Educational Plans for Students Who Are Gifted*, No. 2006-3 (November 2005) available at <http://www.fldoe.org/ESE/pdf/y2006-3.pdf>.

¹⁵ Section 1003.57(1), F.S.

¹⁶ Section 1003.57(1)(d), F.S.

¹⁷ OPPAGA, Report No. 08-01 (January 2008).

is available via the regular education curriculum. Acceleration allows a student to work at a faster pace or engage in higher level work and may include whole-grade or subject matter acceleration, as well as the mechanisms for high school students.¹⁸ Currently, there are no statewide DOE-developed whole-grade and subject matter acceleration policies. Development and implementation of such policies is left to the discretion of the school districts.¹⁹

Statutorily required acceleration mechanisms for high school students include: dual enrollment; early admission to a postsecondary institution; advanced placement; credit by examination; the International Baccalaureate Program, and the Advanced International Certificate of Education program.²⁰ These programs are often utilized to serve both gifted and academically talented high school students.

Teacher Preparation and Gifted Students: Statute requires the SBE to adopt rules establishing a uniform core curriculum (UCC) for state-approved teacher preparation programs. Among other things, such teacher preparation programs must include instruction in teaching LEP students and teaching reading literacy and computational skills at all grade levels.²¹ Currently, state-approved teacher preparation programs do not require instruction related to gifted identification and programming.

Only practicing teachers who seek a gifted education endorsement are required to receive instruction pertaining to gifted students. Persons seeking the gifted endorsement must possess a baccalaureate or higher degree with certification and complete fifteen semester hours in gifted education coursework. Gifted education coursework must address gifted characteristics and strategies for providing instruction, creative learning opportunities, guidance, and counseling to gifted students. Such coursework must also address strategies for teaching gifted students with diverse backgrounds and learning styles.²²

Gifted Funding: Funding for exceptional students is calculated using a system of weighted cost factors. Cost factors are determined using a matrix of services (MOS) that the exceptional student will receive.²³ If an exceptional student does not receive a MOS, e.g., a low or moderately disabled student typically does not receive a MOS nor does a gifted student, funding for his or her services is provided through the ESE Guaranteed Allocation.²⁴ The ESE Guaranteed Allocation is a lump sum allocation that districts receive in addition to base student funding via the Florida Education Finance Program (FEFP).

In 2007, the Legislature appropriated \$1,125,846,285 for the ESE Guaranteed Allocation for the 2007-2008 school year.²⁵ Of this amount, approximately \$290 million was generated by gifted students. Each school district receives \$9,177 for each gifted student. This amount is comprised of basic student funding in the amount of \$6,879 and \$2,298 in ESE Guaranteed Allocation funding.²⁶

According to the Office of Program Policy Analysis and Government Accountability (OPPAGA), the Legislature increased gifted student funding by 26% from 2005-2006 to 2007-2008. The OPPAGA attributes this increase to a 6.7% rise in the statewide number of gifted students. This increase in gifted students caused the amount of ESE Guaranteed Allocation funding for gifted students to increase from \$243 million in 2005-2006 to \$276 million in 2006-2007.²⁷ In response to these increases, the 2007 Legislature amended the FEFP statute to provide that a school district's expenditure of ESE Guaranteed

¹⁸ Florida Department of Education, Bureau of Exceptional Education and Student Services, Information Brief: Acceleration of Gifted Students (2003) available at http://www.fldoe.org/ESE/pdf/gift_accel.pdf.

¹⁹ Although, whole-grade and subject matter acceleration for elementary and middle school students is not specifically addressed in statute, many school districts have adopted policies addressing these issues pursuant to their statutory authority to adopt rules to admit, classify, promote, and graduate students. See Section 1003.02(1)(a), F.S.

²⁰ See Sections 1007.27 and 1007.271, F.S. (requiring public schools to offer secondary and postsecondary students acceleration methods that shorten the time normally required to complete a high school diploma or college degree).

²¹ Section 1004.04(2), F.S.

²² Rule 6A-4.01791, F.A.C.

²³ Section 1011.62(1)(e), F.S.

²⁴ *Id.*

²⁵ Specific Appropriation 86 of the Conference Committee Report on Senate Bill 2800, Enrolled Chapter 2007-72, L.O.F., as amended by Chapter 2007-326, L.O.F.

²⁶ OPPAGA, Report No. 08-01 (January 2008).

²⁷ *Id.*

Allocation funds for gifted students in grades nine through 12 may not exceed the amount it expended in 2006-2007.²⁸

In order to participate in the FEFP, school districts are required to maintain accurate financial records.²⁹ Each school district must annually report its expenditures of all state, local, and federal funds.³⁰ School districts, however, are not currently required to separately identify the amounts of ESE Guaranteed Allocation funding expended to provide education services to disabled students and gifted students.

Effect of Bill

Parental Notice and District Reporting: The bill creates s. 1003.527, F.S., to require district school boards to annually provide written notice to parents of students in grades K-12 of the eligibility criteria for gifted student classification and the procedures for requesting an evaluation of their children. The bill also requires district school boards to annually report to the DOE by school and grade level:

- The number of students classified as gifted under the generally applicable criteria set forth in SBE rule and the number classified under Plan B.
- The types of gifted student education services that it provides and the number of students receiving each service. Additionally, districts are directed to specify: the number of hours per week each service is provided to each student; whether the service consists of direct instruction in a gifted-only class, differentiated instruction in a class with both gifted and non-gifted students, or non-instructional consultation services; and whether the service is provided by a gifted endorsed teacher.
- Performance data for students receiving gifted services.

Student data must be disaggregated by race, ethnicity, LEP status, and free or reduced price lunch eligibility status. The DOE is required to develop data elements to facilitate district reporting and the SBE must adopt rules to implement the section.

Acceleration: The bill creates s. 1003.573, F.S., to require the DOE to develop, and district school boards to implement, statewide policies that set forth procedures and eligibility criteria for whole-grade and subject matter acceleration for students in grades K-12. Currently, as discussed above in the "Present Situation," whole-grade and subject matter acceleration policies are left to the discretion of each district school board.

The bill also requires district school boards to annually report to the DOE by school and grade:

- The number of, and performance data for, students who were accelerated one or more whole grades.
- The types of subject matter acceleration programs offered.
- The number of, and performance data for, students who participated in subject matter acceleration programs.

Student data must be disaggregated by race, ethnicity, LEP status, and free or reduced price lunch eligibility status. The DOE is required to develop data elements to facilitate district reporting and the SBE must adopt rules to implement the section.

Teacher Preparation and Gifted Students: The bill amends s. 1004.04(3)(c), F.S., to require each state-approved teacher preparation program to incorporate gifted student instruction so that program graduates: will be able to recognize the characteristics of gifted students; have knowledge of gifted eligibility criteria and the procedures for referring a student for gifted evaluation; and have knowledge of how to differentiate the general education curriculum for gifted students.

²⁸ Section 1011.62(1)(e), F.S.

²⁹ Section 1011.60(1), F.S.

³⁰ Section 1010.20(2), F.S.

Gifted Education Funding: The bill amends s. 1011.62(1)(e)2., F.S., to require each school district in its annual financial report to the DOE to separately identify the following amounts that it expends from the ESE Guaranteed Allocation: (a) the amount expended for students identified as exceptional who do not have a matrix of services; and (b) the amount expended for gifted students in grades K-12 according to grade level.

Gifted and Academically Talented Task Force: The bill establishes the Gifted and Academically Talented Task Force (task force). The task force is to be composed of the following seven members:

- The chair of the SBE or his or her designee, who shall serve as chair.
- The Commissioner of Education or his or her designee, who shall serve as vice-chair.
- Four members who collectively have experience in gifted and academically talented student screening, identification, and education, one of whom shall be appointed by the Governor, one of whom shall be appointed by the President of the Senate, one of whom shall be appointed by the Speaker of the House of Representatives, and one of whom shall be appointed by the chair of SBE.
- One member who represents an advocacy group for parents of gifted children who shall be appointed by the Governor.

The members must be appointed by July 1, 2008, and the task force must have its first meeting by August 1, 2008. The task force is assigned to the DOE for administrative purposes. Members of the task force are entitled to per diem and travel expenses and are subject to the Code of Ethics for Public Officers and Employees under part III of chapter 112, F.S.

The task force is required to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2009, that provides recommendations, based upon peer-reviewed research and the members' collective expertise, for the following:

- Revisions to statute and rule governing eligibility criteria for gifted student classification generally and in under-represented groups.
- Eligibility criteria for academically talented student classification that identifies students who are not classified as gifted, but who possess high achievement capability in one or more academic subject areas.
- Annual screening procedures for the determination of students who should be further evaluated for identification as gifted or academically talented students.
- Model gifted and academically talented student education programs. Such programs must include:
 - Classroom-based, school-based, and district-based implementation options.
 - Subject matter acceleration opportunities, differentiated curricula that address the exceptional learning needs of gifted and academically talented students, and enrichment activities that extend learning opportunities available in the classroom.
- Procedures for annually evaluating the effectiveness of model gifted and academically talented student education programs.
- Procedures for evaluating students participating in gifted or academically talented student education programs to determine student performance and whether the students are benefiting from, and continue to be eligible to participate in, the programs.

The bill specifies that the task force is abolished upon delivery of its final report and recommendations.

C. SECTION DIRECTORY:

Section 1.: Creating s. 1003.572, F.S.; requiring district school boards to provide parental notice of gifted eligibility requirements and procedures for requesting evaluations for gifted classification; requiring district school board reporting of gifted classification, services, and performance data; requiring the DOE to develop data elements for district reporting; and requiring rulemaking.

Section 2.: Creating s. 1003.573, F.S.; requiring the DOE to develop procedures and eligibility criteria for whole-grade and subject matter acceleration; requiring district school boards to implement procedures and eligibility criteria; requiring district school board reporting of student acceleration data; requiring the DOE to develop data elements for district reporting; and requiring rulemaking.

Section 3.: Amending s. 1004.04, F.S.; requiring state-approved teacher preparation programs to incorporate specified gifted student instruction.

Section 4.: Amending s. 1011.62, F.S.; requiring certain school district guaranteed allocation expenditures to be reported separately.

Section 5.: Creating the Gifted and Academically Talented Task Force within the DOE; designating members; providing for per diem and travel expenses; requiring the task force to submit a report to the Governor and Legislature; providing report requirements; and providing for the future abolishment of the task force.

Section 6.: Providing an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

In its fiscal analysis, the DOE projects that it will incur the following costs due to the bill:

- \$1,840 for two data elements that will be required by the bill's new reporting requirements for school districts (a cost of \$920 per data element).³¹ The DOE also states that it will incur costs to train school district staff in how to use the new data elements. In past years, the cost of adding data elements and/or revising data elements has been absorbed within existing resources.
- \$5,050 per meeting of the task force created by the bill. This amount assumes that all seven members of the task force will have travel expenses from Tallahassee to attend meetings in Orlando.³² As the individual members and travel requirements of the task force are unknown, the cost for travel and per diem is indeterminate. The task force should be encouraged to use teleconferencing and video conferencing to mitigate travel costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

³¹ The DOE's fiscal analysis indicates that three data elements will be required the bill; however, the bill, as amended by the Schools and Learning Council on April 8, 2008, eliminated the requirement for district reporting of the number of students screened for gifted identification. Thus, only two data elements appear to be required. See DOE, 2008 Bill Analysis for HB 297, as revised on April 7, 2008.

³² *Id.*

2. Expenditures:

The bill does not appear to have a fiscal impact on local expenditures; however, please see FISCAL COMMENTS below regarding school districts.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

The DOE's fiscal analysis indicates that the bill's reporting requirements relating to gifted programming and acceleration data will necessitate the creation of two new data elements by each district. Three districts submitted the following cost estimates to the DOE for each element: (1) \$500; (2) \$3,240; and (3) \$50,000.³³ Thus, total non-recurring costs for the two data elements could vary from \$1,000 to \$100,000. Additionally, the DOE analysis indicates that districts may incur recurring data collection, entry, and verification costs.³⁴ In past years, such costs have been absorbed by existing resources as school districts are routinely required to update their reporting systems due to directives from the DOE or legislative requirements.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules to implement the provisions of: (a) s. 1003.572, F.S., which requires annual parental notice of gifted eligibility procedures and specified gifted data reporting by districts; and (b) s. 1003.573, F.S., which requires the DOE to develop statewide whole-grade and subject matter acceleration policies and requires district reporting regarding the implementation of those policies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

³³ Representatives of the DOE state that the disparity in cost estimates among the three districts is due to differences in their reporting systems. Telephone conference with DOE representatives on April 7, 2008.

³⁴ *Id.*

D. STATEMENT OF THE SPONSOR

Representative Legg submitted the following sponsor statement:

Florida's gifted and academically talented students deserve the best education we can provide. I believe HB 297 is an excellent step in the journey toward teaching our best and brightest at a challenging and effective level.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 8, 2008, the Schools and Learning Council adopted a Proposed Council Substitute to HB 297 and reported the bill favorably as a Council Substitute (CS). The differences between the CS and the bill are:

- In s. 1003.572, F.S., as created by the bill, the CS:
 - Removes the bill's requirements for: (a) the DOE to develop, and school districts to implement, screening procedures, eligibility criteria for gifted and academically talented students, and model gifted and academically talented programming; and (b) school districts to annually notify parents of screening availability.
 - Adds a requirement that school districts annually notify parents of students in grades K-12 of gifted eligibility criteria and procedures for requesting an evaluation of their children.
 - Revises the bill's school district reporting provisions to require districts to report: the number of students classified as gifted under generally applicable criteria in SBE rule and under Plan B; the types of gifted student services provided; the number of students receiving each service; the number of hours per week each service is provided; and methods of providing services.
 - Adds a requirement that the DOE develop reporting data elements to facilitate district reporting.
- The CS creates s. 1003.573, F.S., to require:
 - The DOE to develop, and district school boards to implement, statewide grade and subject matter acceleration policies for students in grades K-12.
 - Specified school district reporting for students who are accelerated.
 - The SBE to adopt rules to implement the section.
 - The DOE to develop reporting data elements to facilitate district reporting.
- The CS adds that teacher preparation programs must include instruction on differentiating the general education curriculum for gifted students in addition to the bill's requirements for instruction on gifted characteristics and eligibility criteria.
- The CS requires district reporting of ESE Guaranteed Allocation funds to be disaggregated by grade level.
- The CS creates the Gifted and Academically Talented Student Task Force and specifies membership, duties, and reporting requirements.

This analysis is drafted to the CS.