



The bill takes effect on July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

### FULL ANALYSIS I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Regional Professional Development Academies**

Current Florida law provides for a coordinated system of professional development for teachers, managers, and administrators to enable the education community to meet state and local student achievement standards and state education goals.<sup>1</sup> Each school district must develop a professional development system and master plan for inservice activities. School district plans must be approved by the Department of Education (DOE).<sup>2</sup>

Legislation enacted in 1999 authorized the establishment of a statewide system of inservice professional development. It authorized the creation of regional professional development academies (RPDAs) to be the delivery mechanism for this system.<sup>3</sup> Statute requires RPDAs to collaborate with local business partners to develop training programs, and market such programs to schools or individuals in the region.<sup>4</sup>

**Organization & Funding:** Statute establishes RPDAs to be private sector entities and not a component of any school district or governmental unit to which it provides services.<sup>5</sup> RPDAs may receive start-up funding from the Commissioner of Education or legislative appropriation. Statute provides several eligibility criteria for receipt of start-up funds. A RPDA must:

- Be established in collaboration with one or more district school boards, local businesses, and postsecondary institutions, which may award college credit for courses offered by RPDA programs;
- Demonstrate capacity to improve: teaching skills in mathematics, reading, and algebra; the use of instructional technology; and classroom management via varied delivery methods;
- Propose a plan for providing professional development training and follow-up coaching for educators, schools, and school districts to improve student achievement and meet state and local educational goals;
- Own or lease a facility. A participating district school board may: (1) lease a site or facility to the RPDA for a nominal fee; and (2) pay all or part of the cost to renovate it. The RPDA must be responsible for all operational, maintenance, and repair costs;
- Be operated under contract with its public partners and governed by an independent board;

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<sup>1</sup> Section 1012.98, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 64, ch. 99-398, L.O.F

<sup>4</sup> Section 1012.985, F.S.

<sup>5</sup> Section 1012.985(2)(b), F.S.

- Match start-up funds with an equal or greater amount of funding from private sources during its first year of operation, unless the RPDA is operated by a regional educational consortium;
- Demonstrate the ability to be self-supporting within one-year after opening through fees for service, grants, or private funds; and
- Be under contract to provide professional development services to participating school districts. It may also market services to other school districts, private schools, or individuals not under contract.<sup>6</sup>

A RPDA is required to achieve financial self sufficiency after its first year of operation through the collection of service fees, grants, or private funds.<sup>7</sup> It may receive subsequent funding to develop, expand, or assess existing programs or to create new programs.<sup>8</sup>

**Status of RPDAs currently in Florida:** The initial legislation envisioned a system of regionally based academies to be established in each region of the state to deliver inservice training.<sup>9</sup> This never materialized. The Schultz Center for Teaching and Leadership in Jacksonville, FL is Florida's sole RPDA. The Center is a nonprofit corporation and is operated by an independent board. A chief executive officer is appointed by the board to oversee day-to-day operations.<sup>10</sup> It provides professional development services to Baker, Clay, Duval, Nassau, and St. John's County schools.<sup>11</sup> It leases its facility from the Duval County School Board. The district operates and maintains the facility.<sup>12</sup>

**Audit Findings:** The financial relationship between the Duval County school district and the Schultz Center has been reviewed in recent annual audits conducted by the Auditor General (AG). Audit reports for FY 2003-2004 and FY 2006-2007 indicate the following state law issues:

- The Center is not financially self-sufficient. Section 1012.985(1)(f), F.S., requires the Center to be financially self sufficient after its first year of operation. The AG reports state that it is unlikely that the Center could operate without district financial support. It notes that a substantial portion of the Center's funding is provided by the district and most training programs are conducted by district staff.<sup>13</sup>
- The district, not the Center, pays the operating, maintenance, and repair costs for the facility that the Center leases from the district. According to Duval County representatives, the district pays these costs because it owns the building. They also note that the Center funded \$8 million in renovations for the facility.<sup>14</sup> Under s. 1012.985(1)(g), F.S., the district is authorized to pay for facility renovations and the Center is to be responsible for the facility's operating, maintenance, and repair costs.<sup>15</sup>

The AG reports also find that district use of federal professional development grant funds to pay for teacher training services provided by the Center does not comply with federal guidelines for use of grant funds. Its payments to the Center for training exceeded the Center's costs to provide such services. Federal requirements stipulate that the amount paid must be "necessary and reasonable."<sup>16</sup>

<sup>6</sup> Section 1012.985(1), F.S.

<sup>7</sup> Section 64, ch. 99-398, L.O.F.

<sup>8</sup> Section 1012.985(2)(a), F.S.; See § 1, ch. 06-151, L.O.F.

<sup>9</sup> Section 64, ch. 99-398, L.O.F.

<sup>10</sup> See The Schultz Center for Teaching & Leadership, About Us, Questions and Answers, <http://www.schultzcenter.org/history.shtml> (last visited Mar. 22, 2009); See *id.* at Board of Directors/Leadership Council, <http://www.schultzcenter.org/board-leadership.shtml> (last visited Mar. 22, 2009).

<sup>11</sup> See *Id.* at School Districts Served by the Schultz Center, <http://www.schultzcenter.org/schooldistricts.shtml> (last visited Mar. 20, 2009).

<sup>12</sup> See "Finding No. 12," Florida Auditor General, *Duval County District School Board: Operational Audit: FY 2003-2004*, Report No. 2006-002 (July 2005) available at [http://www.myflorida.com/audgen/pages/pdf\\_files/2006-002.pdf](http://www.myflorida.com/audgen/pages/pdf_files/2006-002.pdf); "Finding No. 11," Florida Auditor General, *Duval County District School Board: Financial, Operational, and Federal Single Audit: FY 2006-2007*, Report No. 2008-084 (February 2008) available at [http://www.myflorida.com/audgen/pages/pdf\\_files/2008-084.pdf](http://www.myflorida.com/audgen/pages/pdf_files/2008-084.pdf).

<sup>13</sup> *Id.*

<sup>14</sup> E-mail from Duval County representatives dated March 23, 2009.

<sup>15</sup> *Id.*

<sup>16</sup> See "Federal Awards Finding No. 9," Florida Auditor General, Report No. 2008-084; Federal grants for teacher and principal funding are provided under 20 U.S.C. § 6613. The AG report cited here refers to two circulars issued by the U.S. Office of

In addition, due to the Center's close relationship to the district, the AG determined that the Center is a subrecipient of federal funds and not a vendor. Subrecipients must comply with federal requirements in the same manner as the primary recipient of grant funds. Such compliance is not required of vendors.<sup>17</sup> According to an opinion issued by the district's internal auditor, the federal issues raised in these AG audit reports cannot be appropriately addressed via legislation. Thus, the bill provisions described below are not intended to remedy federal compliance issues cited by the AG.<sup>18</sup>

### **Effect of Proposed Changes**

Current law, established in 1999, addresses the initial creation of RPDAs by:

- Providing for the establishment of a "statewide system" of RPDAs. This system, however, has never materialized.<sup>19</sup> The only RPDA in existence is the Shultz Center.
- Specifying criteria for receiving start-up funds to establish a new RPDA. These criteria include requirements that the RPDA: demonstrate the capacity to improve teaching skills; propose a plan for providing professional development training for educators, schools, and school districts; match start-up funds with private funds during its first year of operation; and demonstrate the ability to be self-supporting within one-year.<sup>20</sup>
- Requiring a RPDA to own or lease a facility to provide on-site instruction and to pay all operational, maintenance, and repair costs for the facility.<sup>21</sup>
- Authorizing a school district to lease a district facility to the RPDA and to pay all or part of any facility renovation costs necessary to accommodate the RPDA.<sup>22</sup>
- Requiring a RPDA to be governed by an independent board and to contract to provide professional development services to districts and others. Current law does not specify what the contract must address.<sup>23</sup>

The bill revises the above-described law so that it addresses existing RPDAs, rather than start-ups. It establishes requirements to govern the day-to-day operations of an existing RPDA and provides greater specification for the contents and fiscal accountability of contracts between a RPDA and school districts.

Under the bill, references in current law to start-up funding and initial proposals to establish a RPDA are removed, but requirements for a RPDA to be governed by an independent board of directors and to operate under contract with its public partners are retained. The bill adds that the contract between a RPDA and a district school board must require:

- The RPDA board of directors to: (a) be responsible for the prudent use of all public and private funds; and (b) ensure that funds are used in accordance with applicable laws, bylaws, and contracts.
- The RPDA to document that: (a) funds received from the district are expended for authorized purposes prescribed in the contract; and (b) services provided by the RPDA are commensurate to the amount paid by the district. Such records must be available for inspection by the school board's auditor and the AG.
- Each district school board to approve RPDA participation in district programs and services, including RPDA use of district property, personnel, and services.
- The RPDA to annually report its activities and expenditures to its board and each party to the contract.

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Management and Budget. Circular A-87 refers to acceptable costs. Circular A-133 refers to recipients and subrecipients. *See* U.S. Office of Management and Budget, Circulars, <http://www.whitehouse.gov/omb/circulars/index.html> (last visited Mar. 20, 2009).

<sup>17</sup> *Id.*

<sup>18</sup> Duval County School District, Impact of SB 2272 and HB 1227 to Duval County School District (March 3, 2009).

<sup>19</sup> Section 1012.985(1), F.S.

<sup>20</sup> Section 1012.985(1)(b), (c), and (f), F.S.

<sup>21</sup> Section 1012.985(1)(g), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 1012.985(1)(c), F.S.

- The RPDA to be audited annually by an independent certified public accountant and to provide a copy of the audit to each party to the contract.

The bill also retains existing law providing that a RPDA may receive funding from the DOE or via legislative appropriation for program assessment, creation, or expansion<sup>24</sup>, and it adds provisions authorizing a RPDA to receive, hold, invest, and administer: property; private, local, state, and federal funds; and income from training services. It further provides that intellectual property generated by school district personnel at the RPDA must be shared by the two entities, as provided in the contract.

Finally, the bill removes provisions in current law which require a RPDA to be financially self-sufficient after one year and to pay operating and maintenance costs for its facility.<sup>25</sup> It also removes the provision that authorizes a school district to pay all or part of any facility renovation costs necessary to accommodate the RPDA.<sup>26</sup> These amendments address the AG's findings regarding the Duval County School District and the Schultz Center, and should enable these parties to continue its current operations without future audit criticism on these points. As discussed above in "*Audit Findings*," the Schultz Center funded the renovations for the facility it leases from the school district and the district, as it owns the facility, pays for facility operating, maintenance, and repair costs. Further, the bill permits the school district to continue to provide significant resources to the Shultz Center, but will require documentation and audits to ensure that funds received from the district are expended by the Center for authorized purposes and that services provided by the Center are commensurate to the amount paid by the district.

**B. SECTION DIRECTORY:**

**Section 1.:** Amending s. 1012.985, F.S.; revising statutory requirements for RPDAs; establishing contract requirements; authorizing RPDAs to manage property and funds.

**Section 2.:** Providing an effective date of July 1, 2009.

**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:

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

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

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

2. Expenditures:

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

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill does not have a direct economic impact on the private sector.

<sup>24</sup> Section 1012.985(2)(a), F.S.

<sup>25</sup> Section 1012.985(1)(f) and (g), F.S.

<sup>26</sup> Section 1012.985(1)(g), F.S.

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 expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 25, 2009, the State & Community Colleges & Workforce Policy Committee adopted a strike-everything amendment and reported the bill favorably as a committee substitute (CS). The CS differs from the original bill as follows:

- The amendment adds new provisions specifying requirements for contracts between RPDA's and district school boards. Under the CS, contracts must: establish board of director responsibility for prudent use of funds and compliance with requirements governing fund use; require the RPDA to document that district funds it receives are commensurate to the services provided to the district and expended for authorized purposes; require school board approval of RPDA participation in district programs and services; require the RPDA to annually report its finances and activities; and require the RPDA to be audited annually.
- The amendment adds new provisions authorizing a RPDA to receive, hold, invest, and administer: property; private, local, state, and federal funds; and income from training services. It also provides that intellectual property generated by school district personnel at the RPDA must be shared by the entities, as provided in the contract.
- The amendment removes original bill provisions requiring one school district to be designated as the fiscal agent for a RPDA.

This analysis is drafted to the CS.