

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 45  
**SPONSOR(S):** Renuart  
**TIED BILLS:**

Use of Prescribed Pancreatic Enzyme Supplements

**IDEN./SIM. BILLS:** SB 166

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	PreK-12 Policy Committee	10 Y, 0 N	Duncan	Ahearn
2)	Health Care Regulation Policy Committee		Holt	Calamas
3)	Education Policy Council			
4)				
5)				

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**SUMMARY ANALYSIS**

House Bill 45 authorizes K-12 students at risk for pancreatic insufficiency or who have been diagnosed as having cystic fibrosis to use a prescribed pancreatic enzyme supplement while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities.

In addition, the bill provides that parents of a student who uses a prescribed pancreatic enzyme supplement must indemnify certain entities from all liability related to the use of the supplements.

This bill does not appear to have a fiscal impact on state or local government revenues or expenditures.

The bill takes effect July 1, 2010.

## 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:

##### **Background:**

##### *Administering Medication in Schools*

Current law authorizes school personnel to assist students in the administration of prescription medication when designated personnel<sup>1</sup> have received training from a registered nurse, licensed practical nurse, physician, or physician's assistant.<sup>2</sup> The district school board must adopt policies and procedures governing the administration of prescription medication by school personnel. Included in the policies and procedures must be a requirement that:<sup>3</sup>

- With each prescribed medication, parents provide the principal a written statement granting the principal or the principal's designee, permission to assist in the administration of their child's medication and explain why the medication has to be provided during the school day<sup>4</sup>;
- Any prescribed medication that is to be administered by school personnel must be received, counted, and stored in its original container; and
- When the medication is not in use, it must be stored under lock and key in a location designated by the school principal.

There is no liability for civil damages as a result of the administration of the medication when the designated person acts as an ordinarily reasonably prudent person would have acted under the same or similar circumstances.<sup>5</sup>

##### *Asthmatic and Severely Allergic Students*

Under current law, asthmatic students are permitted to carry a metered dose inhaler while in school, if, the students' parent and physician provide a copy of their approval to the principal.<sup>6</sup> A severely allergic

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<sup>1</sup> Individuals are designated by the school principal.

<sup>2</sup> Section 1006.062(1)(a), F.S.

<sup>3</sup> Section 1006.062(1)(b), F.S.

<sup>4</sup> This also includes any occasion when the student is away from school grounds on official school business. See s.1006.062 (1)(b), F.S.

<sup>5</sup> Section 1006.062(2), F.S.

<sup>6</sup> Section 1002.20(3)(h), F.S.

student is also permitted to carry and self-administer epinephrine<sup>7</sup> auto-injector<sup>8</sup> while in school, participating in school-sponsored activities or in transit to or from school, if, the school has been provided parental and physician authorization.<sup>9</sup> The parent must indemnify the school district, county health department, public-private partner, and their employees and volunteers from any and all liability related to the use of the epinephrine auto-injector.<sup>10</sup>

### *Cystic Fibrosis*

Cystic Fibrosis (CF) is a chronic, inherited disease that affects the lungs and digestive system of about 30,000 children and adults in the United States.<sup>11</sup> A defective gene and its protein product cause the body to produce unusually thick, sticky mucus that clogs the lungs and leads to life-threatening lung infections and obstructs the pancreas and stops natural enzymes from helping the body break down and absorb food.<sup>12</sup> This mucous can also prevent pancreatic enzymes from reaching the intestines to digest food and absorb food which results in malnutrition, slow growth, and poor weight gain.<sup>13</sup>

To treat CF, oral pancreatic enzyme medication is taken with all meals and snacks that contain fat, protein, and/or complex carbohydrates.<sup>14</sup> Pancreatic enzyme replacements come in capsule form.<sup>15</sup> Inside each capsule are many small “beads” that contain digestive enzymes.<sup>16</sup> The digestive enzymes are released in the small intestine to help digest food.<sup>17</sup> According to the Cystic Fibrosis Foundation, more than 90% of people who have CF take pancreatic enzyme replacements. Oral pancreatic enzymes are not addictive and will not change the child’s behavior.<sup>18</sup> Pancreatic enzymes do not cause a problem if taken by another child.<sup>19</sup>

### **Effect of Proposed Changes:**

The bill authorizes K-12 students at risk for pancreatic insufficiency or who have been diagnosed as having cystic fibrosis to use a prescribed pancreatic enzyme supplement while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities, if the school has been provided with parental and prescribing practitioner approval.

The parents of students authorized to use a prescribed pancreatic enzyme supplement must indemnify the school district, county health department, public-private partner, and their employees and volunteers from any and all liability related to the use of the prescribed pancreatic enzyme supplements.

The bill provides the State Board of Education (SBE), in cooperation with the Department of Health (DOH), the authority to promulgate rules that include provisions to protect the safety of all students from the misuse or abuse of pancreatic enzyme supplements.

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<sup>7</sup> A form of adrenaline medication used to treat severe allergic reactions, such as anaphylactic shock or insect stings.

<sup>8</sup> A medical device designed to deliver a single dose of a particular (typically life-saving) drug.

<sup>9</sup> Section 1002.20(3)(i), F.S.

<sup>10</sup> *Ibid.*

<sup>11</sup> Cystic Fibrosis Foundation, About Cystic Fibrosis: What you need to know, available at: <http://www.cff.org/AboutCF/> (last viewed February 23, 2010).

<sup>12</sup> Cystic Fibrosis Foundation, About Cystic Fibrosis: Frequently Asked Questions, available at: <http://www.cff.org/AboutCF/Faqs/> (last viewed February 23, 2010).

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Cystic Fibrosis Foundation, Living with CF, Staying Healthy: Pancreatic Enzyme Supplements, available at: <http://www.cff.org/LivingWithCF/StayingHealthy/> (last viewed February 23, 2010).

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> Cystic Fibrosis Foundation, Living with CF, At School: School, Enzymes, and Sports for the Child with Cystic Fibrosis, available at: <http://www.cff.org/LivingWithCF/AtSchool/SchoolEnzymes/> (last viewed February 23, 2010).

<sup>19</sup> *Ibid.*

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1002.20(3), F.S., relating to K-12 student and parent rights.

**Section 2.** Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

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

2. Expenditures:

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

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

1. Revenues:

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

2. Expenditures:

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

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

None identified.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides the SBE, in cooperation with the DOH, sufficient rule-making authority to adopt rules for the use of prescribed pancreatic enzyme supplements.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The indemnity provision does not prohibit a person from filing a lawsuit. This provision merely provides that the school district, county health department, public-private partner, and their employees or volunteers may recover from the parent of the student authorized to carry the prescribed pancreatic

enzyme supplements.

According to the Department of Education, “there is some question of whether the proposal, which creates a statutory right, is necessary given the authority to administer medication under s. 1006.062. Further, there is a potential for liability on the district’s or school’s part, given that immunity is limited in scope to the student’s use.”<sup>20</sup>

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

None.

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<sup>20</sup> Department of Education, Analysis of House Bill 45, November 16, 2009.