

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

Use of Prescribed Pancreatic Enzyme Supplements

IDEN./SIM. BILLS: SB 166

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|---|---------------|----------------|-----------------------|
| 1) | PreK-12 Policy Committee | | Duncan | Ahearn |
| 2) | Health Care Regulation Policy Committee | | | |
| 3) | Education Policy Council | | | |
| 4) | | | | |
| 5) | | | | |

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. 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 State Board of Education, in cooperation with the Department of Health, is granted rule-making authority.

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

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 the school personnel designated by the principal have been trained by a registered nurse, licensed practical nurse, physician, or physician's assistant.¹ 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, for each prescribed medication, parents provide to the principal a written statement granting the principal or the principal's designee permission to assist in administering their child's medication. Parents must also explain why the medication is necessary during the school day, including any occasion when the student is away from school grounds on official business.²

Any prescribed medication that is to be administered by school personnel must be received, counted, and stored in its original container. When the medication is not in use, it must be stored in a secured fashion under lock and key in a location designated by the school principal.³

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.⁴

Asthmatic and Severely Allergic Students

Under current law, asthmatic students are permitted to carry a metered dose inhaler while in school. The parent and physician must provide their approval and a copy of the approval must be provided to the principal.⁵

A severely allergic student is authorized to carry and self-administer epinephrine by auto-injector while

¹ s. 1006.062(1)(a), F.S.

² s. 1006.062(1)(b), F.S.

³ s. 1006.062(1)(b)2., F.S.

⁴ s. 1006.062(2), F.S.

⁵ s. 1002.20(3)(h), F.S.

in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if the school has been authorized by the student's parent and physician. 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 an epinephrine auto-injector.⁶

Cystic Fibrosis

Cystic Fibrosis (CF) is a chronic, inherited disease that affects the lungs and digestive system. To treat CF, oral pancreatic enzyme medication is taken with all meals and snacks that contain fat, protein, and/or complex carbohydrates. Children with CF need a high-calorie, high-protein diet and enzymes in order to gain weight and grow. Most children with CF have been taking pancreatic enzymes since infancy and can take them on their own.⁷

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 State Board of Education (SBE), in cooperation with the Department of Health (DOH), is granted rule-making authority. The rules adopted must include provisions to protect the safety of all students from the misuse or abuse of the supplements.

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.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.20(3), F.S., adding new language authorizing certain students to use prescribed pancreatic enzyme supplements under certain circumstances; requiring the SBE, in cooperation with the DOH, to adopt rules for such use; and providing for indemnification from any and all liability of school districts, county health departments, and others by the parents of students.

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.

⁶ s.1002.20(3)(i), F.S.

⁷ <http://www.cff.org/LivingWithCF/AtSchool/SchoolEnzymes/>, Cystic Fibrosis Foundation, Nutrition: Schools, Enzymes, and Sports For the Child with Cystic Fibrosis, Education Committee, 2002.

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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 SBE, in cooperation with the DOH, is granted 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.

DOE comment:

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.⁸

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

N/A

⁸ Department of Education, Analysis of HB 45, November 16, 2009.